

COUNTY OF SAN BENITO
State of California

PERSONNEL POLICIES &
PROCEDURES HANDBOOK

- PERSONNEL ORDINANCE
- PERSONNEL RULES
- EMPLOYER-EMPLOYEE RELATIONS POLICY

County of San Benito
Administrative Office
498 Fifth Street
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PART 1:
PERSONNEL ORDINANCE

Personnel

CHAPTER 12.

PERSONNEL.¹

- § 12-2. Purpose of personnel system.
- § 12-3. Definitions.
- § 12-4. Administration.
- § 12-5. Exempt employees.
- § 12-6. Adoption and amendment of rules.
- § 12-7. Contracts for special service.
- § 12-8. Appointment.
- § 12-9. Compensation.
- § 12-10. Probationary period.
- § 12-11. Disciplinary actions.
- § 12-12. Right of appeal.
- § 12-13. Lay-off and re-employment.
- § 12-14. Political activity.
- § 12-15. Memoranda of understanding.

Sec. 12-2. Purpose of personnel system.

(a) The following personnel system is hereby adopted in order to:

- (1) Establish an equitable and uniform procedure for dealing with personnel matters.
- (2) Attract the most competent and desirable persons available to county service.
- (3) Assure that appointment and advancement of employees are based on merit and ability.
- (4) Provide reasonable security for qualified employees.
- (5) To comply with applicable laws relating to the administration of the personnel process.

(b) The objectives of this personnel system are to facilitate efficient and economical uninterrupted service to the public, maintain harmonious and cooperative relationships between county employees and the county, and to provide for a fair and equitable system of personnel management in the

1. For state law as to county officers generally, see Gov. C., §24000 et seq. As to employees generally, see Gov. C., §31000 et seq. As to civil service for county employees, see Gov. C., §§31100 to 31115.

county government. These objectives are facilitated by the provisions of Section 3500 et seq. of the California Government Code, granting public employees of local governments the rights of organization and collective bargaining concerning the determination of terms and conditions of their employment. (Ord. No. 546, § 1(part).)

Sec. 12-3. Definitions.

The terms used to administer the personnel system shall be defined in the personnel rules. (Ord. No. 546, § 1(part).)

Sec. 12-4. Administration.

The county administrative officer shall administer the county personnel system and may delegate any of the powers and duties, as he/she may deem appropriate to any authorized representative, or may recommend that such powers and duties be performed under contract as provided in Section 12-7 of this chapter. The county administrative officer shall:

(a) Act as the appointing authority for the county except where such authority is conferred on other officers by the personnel rules or retained by the board of supervisors.

(b) Administer all the provisions of this chapter and of the personnel rules not specifically reserved to the board of supervisors.

(c) Prepare and recommend to the board of supervisors personnel rules and revisions and amendments to such rules.

(d) Prepare or cause to be prepared a position classification plan, including class specifications, and revisions of the plan.

(e) Have the authority to discipline employees in accordance with this ordinance and the personnel rules of the county.

(f) Provide for the publishing or posting of notices of tests for positions in the competitive service; the receiving of applications therefor; the conducting and grading of tests; and the certification of a list of all persons eligible for appointment to the appropriate position in the competitive service.

(g) Serve as the county's employee relations officer, with responsibility for administering the county's employer-employee relations.

(h) Perform any other duty that may be required to administer the personnel system. (Ord. No. 546, § 1(part).)

Sec. 12-5. Exempt employees.

(a) The provisions of this chapter shall apply to all offices, positions and employments in the service of the county, except:

(1) Elective officers.

(2) The county administrative officer, assistant to the county administrative officer, emergency services coordinator, and any other professional or staff assistants to the county administrative officer.

(3) Department heads appointed by the board of supervisors and other employees in positions included in the exempt service.

(4) Persons engaged under contract to supply expert, professional, technical or any other services.

(5) Members of appointive boards, commissions, and committees.

(6) Volunteer personnel who are not regular, salaried employees.

(7) Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as extraordinary fire, flood, or earthquake which threatens life or property.

(8) Temporary or extra help employees who are not regularly employed in permanent positions as defined by the personnel rules.

(9) Any position primarily funded under a state or federal employment program.

(10) The undersheriff.

(11) The assistant county auditor.

(12) The buildings and grounds maintenance superintendent.

(13) The migrant camp manager.

(14) The parks manager.

(b) In the event any provision of this chapter, as it may apply to any employee of the county subject to Section 19800 et seq. of the California Government Code, is determined by the State Personnel Board to be in conflict with Local Agency Personnel Standards (Title 2. Administration, Division 5. LAPS), then to such extent the Local Agency Personnel Standards shall supercede and control over the provisions of this chapter. (Ord. No. 546, § 1(part).)

Sec. 12-6. Adoption and amendment of rules.

(a) Personnel rules shall be adopted by resolution of the board of supervisors in compliance with the meet-and-confer process. The rules may establish regulations governing the personnel system, including but not limited to:

(1) Preparation, installation, revision, and maintenance of a position classification plan covering all positions in the competitive service, including employment standards and qualifications for each class.

(2) Appropriate announcement of the selection process and acceptance of applications for employment.

(3) Preparation and conduct of tests and the establishment and use of resulting employment lists containing names of persons eligible for appointment.

(4) Certification and appointment of persons from employment lists, and the making of provisional appointments.

(5) Establishment of probationary testing periods.

(6) Evaluation of employees during the probationary testing period and thereafter.

(7) Transfer, promotion, demotion, lay-off and reinstatement of employees in the competitive service.

(8) Separation of employees from the county service.

(9) The establishment and maintenance of adequate personnel records for the purposes of accounting and legal requirements.

(10) The establishment of any necessary disciplinary procedures.

(11) The establishment of any necessary appeal and grievance procedures.

(12) The establishment of procedures for conducting employer-employee relations pursuant to the provisions of Section 35500 et seq. of the California Government Code.

(13) Establishment of regulations, policies and procedures pertaining to other areas of personnel administration as needed.

(b) The county administrative officer may draft rules, procedures and forms necessary for the administration of the county personnel system and not in conflict with the provisions of this chapter. Employees shall comply with all rules and procedures prescribed and each department head shall enforce such rules, procedures and use of forms.

(c) Department heads are authorized to draft and enforce such further rules, policies, regulations and procedures for the governing of employees in their departments as are determined by the county administrative officer and county counsel to be consistent with county ordinances, resolutions or memoranda of understanding.

(d) All county employees shall hold their positions subject to such rules and regulations which may be established by resolution of the board of supervisors. (Ord. No. 546, § 1 (part).)

Sec. 12-7. Contracts for special service.

The county administrative officer shall consider and make recommendations to the board of supervisors regarding the extent to which the county should contract for the performance of technical services in connection with the establishment or operation of the personnel system. The board of supervisors may contract with any qualified person or public or private agency for the performance of all or any of the following responsibilities and duties imposed by ordinance:

(a) The preparation of personnel rules and subsequent revisions and amendments.

(b) The preparation of a position classification plan and subsequent amendments.

(c) The preparation, conduct and grading of competitive tests.

(d) The conduct of employee training programs.

(e) Special and technical services of an advisory or informational character on matters relating to personnel administration. (Ord. No. 546, § 1(part).)

Sec. 12-8: Appointment.

(a) Appointments to vacant positions in the competitive service shall be made in accordance with the personnel rules. Appointments and promotions shall be based on merit and fitness to be ascertained so far as practicable by competitive examination. Examinations may be used and conducted to aid the selection of qualified employees and shall consist of selection techniques which will test fairly the qualifications of candidates such as achievement and aptitude tests, written tests, personal interview, performance test, physical agility tests, evaluation of daily work performance, work samples or any combination of these or other tests. The probationary period shall be considered an extension of the examination process. Physical, medical and psychological tests may be given as a part of any examination.

(b) The appointing authority of employees in the competitive service is the county administrative officer or other officer designated in the personnel rules.

(c) Appointments to the following positions shall be made as provided elsewhere by law or ordinance:

(1) All elected officials.

(2) Chief administrative officer.

(3) County counsel.

(4) Director of public works/road commissioner/county surveyor.

(5) Architectural commissioner/sealer of weights and measures.

(6) Chief probation officer.

(d) All other department heads shall be appointed by the board of supervisors upon the recommendation of the county administrative officer. Department head positions shall be established by resolution of the board of supervisors.

(e) The position of undersheriff for the county of San Benito shall be a position serving at the pleasure of the sheriff, subject to dismissal without cause. The sheriff shall be the appointing authority.

(f) In the event that an employee in the competitive service is appointed to a position in the exempt service and subsequently is removed or resigns from the exempt service, the employee shall have the right, if not terminated for cause, to be reinstated to the competitive service in their former classification and department without loss of any rights or privileges and upon the same conditions as if he/she had remained in that classification; provided, that a vacancy exists in the former classification and department. (Ord. No. 546 § 1 (part).)

Sec. 12-9. Compensation.

(a) Except as otherwise provided by law, officers and employees shall receive the compensation provided in salary schedule adopted by the board of supervisors by ordinance or resolution for the respective classifications of positions in which they are employed in accordance with the personnel rules and memoranda of understanding.

Salaries shall be paid to officers and employees on the last working day of each calendar month for service rendered during that month. The county auditor shall review monthly time/attendance records to determine that the employees listed have been appointed, employed, promoted, demoted or their salaries increased or decreased in accordance with the provisions of this chapter and the personnel rules before any salaries are paid.

(b) However, all compensation of officers and employees which has been fixed by ordinance before the effective date of the ordinance codified in this chapter shall continue to be in effect until changed by resolution of the board of supervisors as provided in subsection (a) of this section. Copies of all salary resolutions shall be kept on file in the office of the county clerk and shall be available for public inspection.

(c) All fees and commissions allowed by law from whatever source, received or collected by any officer or employee in the course of his/her duties, excepting those of the constable, shall belong to the county and shall be paid into the county treasury unless specifically provided otherwise in this chapter or a resolution adopted by the board of supervisors. All jury fees, except mileage reimbursements, received by any officer or employee of the county shall belong to the county and be paid into the county treasury. (Ord. No. 546, § 1(part); Ord. No. 548, § 1.)

Sec. 12-10. Probationary period.

All regular appointments, including promotional appointments shall be for a probationary period of not less than six months as set forth in the personnel rules adopted pursuant to this chapter. The appointing authority may not extend such probationary period under any circumstances. During the probationary period, the employee may be rejected at any time without the right of appeal, hearing or any grievance procedure. (Ord. No. 546 § 1(part).)

Sec. 12-11. Disciplinary actions.

The county administrative authority or any appointing power shall have the authority to demote, discharge, reprimand, reduce in pay, or suspend, any regular employee for cause in accordance with procedures included in the personnel rules. (Ord. No. 546 § 1(part).)

Sec. 12-12. Right of appeal.

(a) Any employee in the competitive service shall have the right to appeal a demotion, reduction in pay, suspension, or discharge for disciplinary or medical reasons, except in those instances where the right of appeal is specifically prohibited by this chapter or the personnel rules.

(b) All appeals shall be processed in accordance with the requirements and procedures as set forth in the personnel rules adopted pursuant to this chapter. (Ord. No. 546 § 1 (part).)

Sec. 12-13. Lay-off and re-employment.

Lay-off and re-employment actions shall follow the process outlined in the personnel rules. (Ord. No. 546 § 1(part).)

Sec. 12-14. Political activity.

The political activities of county employees shall conform to pertinent provisions of state law and any local provisions adopted pursuant to state law. (Ord. No. 546 § 1 (part).)

Sec. 12-15. Memoranda of understanding.

Provisions of memoranda of understanding approved by the board of supervisors shall become operative on the dates set forth in such memoranda, notwithstanding the fact that some

sections may conflict with provisions of ordinances or resolutions in effect at the time of approval of the memoranda. Pending amendment of any such conflicting ordinance or resolution sections, the provisions of memoranda of understanding shall govern the administration of matters of wages, hours and terms and conditions of employment. (Ord. No. 546 § 1(part).)

PART 2:
PERSONNEL RULES

TABLE OF CONTENTS

RULE 1 - GENERAL PROVISIONS

A. Nondiscrimination in Employment	2
B. Affirmative Action	2
C. Fair Employment Practices	2
D. Violation of Rules	2
E. Administrative Rules and Regulations	2
F. Amendment and Revision of Rules	2
G. Schedule of Authorized Positions	2
H. Temporary Help	2
I. Days and Hours of Work:	
J. Pay Periods	3
K. Conflict with Local Area Personnel Standards	3
L. Conflict with Memoranda of Understanding	3
M. Definitions	4

RULE 2 - CLASSIFICATION PLAN

A. Purpose	7
B. Preparation of the Plan	7
C. Classification of Positions	7
D. Adoption, Amendment and Revision of the Plan	7
E. Allocation of Positions	7
F. Classification of New Positions	7
G. Classification Change	7
H. Classification Changes Subject to Funds Available	8
I. Class Specifications	8
J. Class or Class Series Studies	9
K. Access to Job Descriptions	9
L. Flexible Staffing	9

RULE 3 - RECRUITMENT

A. Policy	10
B. Responsibility	10
C. Job Vacancies	10
D. Preparation for Recruitment	10
E. Scope of Recruitment	10
F. Publicizing Vacancies:	10
G. Recruitment Notice	10
H. Recruitment Process	11
I. Application Filing	11
J. Interest Card Filing	11
K. Applicant Disqualification	11
L. Criminal Conduct and Ineligibility for Employment	12
M. Record Keeping	12

RULE 4 - SELECTION

A. Policy	14
B. Responsibility	14
C. Employee Applicants	14
D. Selection and Interview Procedures	14
E. Conduct of Examination	15
F. Notification of Examination Results and Review of Papers	15

G. Background Checks	15
H. Work and Education Reference Checks	15
I. Appointment Considerations	15

RULE 4 - SELECTION (Continued)

J. Notification of Applicants	15
K. Anniversary Date	16
L. Processing of New Hires	16

RULE 5 - PROBATIONARY PERIOD

A. Purpose	17
B. Duration of Probationary Period	17
C. Successful Completion of Probationary Period	17
D. Rejection of Probationer	17
E. Rejection Following Promotion	17
F. Demotion and Transfer Probationary Period	17
G. Reemployment and Reinstatement Probationary Period	17
H. Interrupted Probationary Period	17
I. Extension of Probationary Period	17

RULE 6 - PERFORMANCE EVALUATION

A. Policy	18
B. Timing and Number of Evaluations	18
C. Responsibility for Preparation	18
D. Evaluation Forms	18
E. Grievability	18

RULE 7 - COMPENSATION PLAN

A. Preparation of the Plan	19
B. Attendance and Time Records	19
C. Application of Salary Ranges and Steps	19
D. Advancement within Range	19
E. Increases Delayed or Not Granted	20
F. Appointment Rates	20
G. Promotion, Reclassification, Demotion or Transfer	20
H. Salary Adjustments upon Range Change for Class	21
I. Compensation for Working Out-of-Class	21
J. Compensation on Reinstatement	21
K. Compensation of Temporary Employees	21

RULE 8 - PROMOTION, TRANSFER, DEMOTION AND REINSTATEMENT

A. Promotion	22
B. Transfer	22
C. Demotion	22
D. Reinstatement	22

RULE 9 - DISCIPLINARY PROCEDURES

A. Policy	24
B. Authority	24
C. Basis for Disciplinary Actions	24
D. Types of Discipline	25
E. Suspension	26
F. Suspension for Investigation - Extraordinary Circumstances	26

G. Demotion	27
H. Reduction in Pay	27
I. Termination	27
J. Releasing of Information Relative to Disciplinary Action	27
K. Appeals from Disciplinary Action	27
RULE 10 - SEPARATION FROM COUNTY SERVICE	29
A. Discharge of Employees	29
B. Resignation	29
C. Retirement	29
D. Disability	29
RULE 11 - LAY-OFF	
A. Policy	30
B. Abolition of Position	30
C. Displacement - (Bumping)	30
D. Reemployment List	30
E. Representation	30
RULE 12 - GRIEVANCE PROCEDURE (NOTE: THIS PROCEDURE DOES NOT APPLY TO LAW ENFORCEMENT UNIT. SEE DSA SUPPLEMENTAL MOU FOR 1990-91).	
A. Policy	31
B. Purpose	31
C. Definition and Matters Subject to Grievance Procedures	31
D. Conduct of Grievance Procedure	32
E. Informal Grievance Procedure	32
F. Formal Procedure	32
G. Judicial Review	33
RULE 13 - EMPLOYEE DEVELOPMENT	
A. Policy	34
B. Responsibility	34
C. Scope	34
D. Definitions	34
RULE 14 - REPORTS AND RECORDS	
A. Service Record	35
B. Change-of-Status Report	35
C. Access to Administrative Records	35
D. Employee Access to Their Personnel Records	35
E. Access to Personnel Records by Department Heads	35
F. Release of Information to the Public or Other Agencies	35
G. Destruction of Records	35
H. Purging of Employee Discipline Records	35
I. Secret Files	35
RULE 15 - OUTSIDE EMPLOYMENT	36
RULE 16 - DRESS CODE	37
RULE 17 - MEAL AND REST PERIODS	
A. Meal Periods	38
B. Rest Periods	38

RULE 18 - OVERTIME

A. Policy	39
B. Responsibility	39
C. Employee Notification	39
D. Overtime Definition	39
E. Overtime Compensation	39
F. Call-Back Time	40
G. On-Call Time	40
H. Travel Time	40

RULE 19 - LEAVE

A. Leave of Absence Without Pay	41
B. Vacation Leave	41
C. Sick Leave	42
D. Bereavement Leave	43
E. Maternity Leave	43
F. Holidays	43
G. Military Leave	44
H. Jury Duty	44
I. Subpoenas	44

RULE 20 - SAFETY AND WORK-INCURRED INJURY OR ILLNESS

A. Policy	46
B. Employee Responsibility	46
C. Procedure in Reporting Injury	46
D. Work-Incurred Injury or Illness	46
E. Light/Modified Duty Assignment	47

RULE 21 - INSURANCE & RETIREMENT BENEFITS

A. Health Insurance	48
B. Employee Health Insurance Committee	48
C. Retirement Plans	48

RULE 22 - VEHICLE OPERATION

48

RULE 23 - HARASSMENT

A. Employment Policy	49
B. Sexual Harassment Policy	49

RULE 24 - DRUG-FREE WORKPLACE

A. Introduction:	50
B. Definition	50
C. Policy Statement	50
D. Employee Assistance	50
E. Distribution	50
F. Additional Notification	50

PREFACE

SCOPE OF PERSONNEL RULES

The San Benito County Personnel Rules contains personnel policies and regulations adopted by resolution of the Board of Supervisors. These Rules apply to all employees except those specifically excluded from coverage by the County's Personnel Ordinance.

ACCESS TO PERSONNEL RULES

Every County department, each member of the Board of Supervisors, and the presiding officer of each recognized employee association shall be provided with at least one copy of the Personnel Rules. Each employee shall have access to a copy of the Personnel Rules.

INTERPRETATION OF PERSONNEL RULES

Questions regarding the interpretation of policies and procedures contained in the Personnel Rules should be referred to the Personnel Officer or County Counsel.

UPDATING THE PERSONNEL RULES

The Personnel Officer is responsible for distributing the contents of the Personnel Rules. The Personnel Officer operates as a County control in the distribution of the Personnel Rules, including back issues and additional sections to the Rules when requested.

Periodically, the Personnel Officer will issue to all holders of the Personnel Rules a checklist of contents. This checklist provides the users with a means of insuring that their copy of the Personnel Rules is up-to-date. As new or revised sections are adopted, they will be issued with a cover letter with appropriate instructions on the placement of the revised materials in the Personnel Rules.

It is the responsibility of each department head to keep the Personnel Rules properly updated and to make it available to employees.

RULE 1 - GENERAL PROVISIONS

- A. **Non-Discrimination in Employment:** No person applying for employment or employed by the County of San Benito shall be unlawfully discriminated against, according to state and federal law, because of race, color, religion, marital status, national origin, ancestry, sex, sexual preference or orientation, pregnancy, parenthood, political affiliation or political belief, physical or mental handicap.
- B. **Affirmative Action:** It is the policy of the County of San Benito to undertake affirmative action for minorities, women, the handicapped, disabled veterans, and Vietnam-era veterans through formally written affirmative action plans adopted by the Board of Supervisors.
- C. **Fair Employment Practices:** Any technique or procedure used in recruitment and selection of employees shall be designed to measure only the job-related qualifications of applicants. No recruitment or selection technique shall be used which, in the opinion of the Personnel Officer, is not justifiably linked to successful job performance.
- D. **Violation of Rules:** Violation of the provisions of these Rules shall constitute grounds for discharge, rejection or suspension. A violation shall not make discharge, rejection or suspension mandatory, but shall be given such weight as shall be appropriate in view of all the circumstances.
- E. **Administrative Rules and Regulations:** These Rules do not preclude the Administrative Officer or individual department heads from developing and administering supplemental departmental rules and regulations as long as they do not conflict with these Rules, other resolutions, Memoranda of Understanding, or ordinances adopted by the Board of Supervisors.
- F. **Amendment and Revision of Rules:** Amendments and revisions to these Rules shall become effective by resolution by the Board of Supervisors following, if necessary, the meet-and-confer process with the exclusive representatives of employees.
- G. **Schedule of Authorized Positions:** The number and classification of positions, as specified in the budget resolution, shall not be exceeded by any County department. The number of positions, as specified in the budget resolution, shall not be exceeded by any County department without securing prior written permission from the County Administrative Officer;
- provided, that such approval may be granted only if the Board of Supervisors has allocated sufficient funds in the budget to cover the cost of such additional positions. Additional positions requiring the expenditure of funds over the amount which has been budgeted shall require the formal approval, by resolution, of the Board of Supervisors.
- H. **Temporary Help:**
- 1) **Authorization to Hire:** Subject to the approval of the County Administrative Officer, department heads are authorized to employ temporary help in order to fulfill such duties as may unexpectedly arise, provided financial provision for such employment has been made in the budget by the Board of Supervisors. Requests to employ extra help must be approved, in writing, by the County Administrative Officer before the effective date of employment. Temporary help appointments shall be made only from among those persons referred to the department head by the Personnel Officer. Any person hired as a temporary employee shall meet the minimum qualifications as required of individuals seeking permanent employment in the class to which they are to be hired.
 - 2) **Budget Restrictions:** The provisions of Section G regarding budgetary limitations and hiring also apply to temporary help.
 - 3) **Compensation:** Compensation for temporary employees shall be established on an hourly, per diem or other basis as may be adopted by resolution of the Board of Supervisors. Temporary employees shall not be eligible for participation in group insurance benefits, the County retirement system, sick leave, paid vacation, paid holiday or any other benefit accorded regular employees unless specifically authorized by provisions in an applicable memorandum of understanding or resolution of the Board of Supervisors.
- Compensation for temporary employees ordinarily will be at the hourly rate equivalent to the first salary step of the appropriate range, but an extra help employee may be compensated at the hourly rate equivalent to the second or third step on request of the department head with the prior written approval of the Personnel Officer and County Administrative Officer.

4) Time Limitations on Employment: The following time limitations shall apply to the employment of temporary help:

a) Seasonal or Limited-Term Appointment

An employee who is employed full-time for seasonal or limited-term work is limited to six months or less in any one fiscal year.

b) Less Than 20 Hours Per Week Appointment

An employee who is employed less than an average of 20 hours per week is not limited to length of employment.

c) Irregular or Intermittent Appointment

An employee who is appointed on an on-call, intermittent, emergency, substitute or other irregular basis is limited to 1,000 hours in any one fiscal year (July 1 through June 30).

d) Provisional or Emergency Appointments

A Department Head, with the approval of the County Administrative Officer, may make provisional emergency appointments to fill vacant regular positions deemed to be critical and essential to the department when no eligibility list exists.

An employee who is appointed temporarily to a regular or permanent position because of the absence of an eligibility list for the class may continue in the appointment until a recruitment is completed and an applicant is selected, but the appointment shall continue no longer than sixty (60) days from the date of appointment.

I. Days and Hours of Work:

Forty (40) hours shall be the established work week. The work week shall be seven (7) days beginning 12:01 a.m. Sunday and ending at 12:00 Midnight the following Saturday, consisting of five (5) eight (8) hour days.

All Departments shall observe and keep office hours necessary for the efficient transaction of business and performance of service as determined by the Department Heads and the Administrative Officer.

The standard work schedule for employees shall be from 8:00 a.m. to 5:00 p.m. every day with a one

(1) hour unpaid lunch break except Saturday, Sunday, and observed holidays.

1) Where the operational requirements of a department require deviations from the standard work schedule, an employee's work hours may be scheduled by a department head to meet these requirements. The department head shall prepare written schedules in advance to support all deviations.

2) The Sheriff's Department, County Jail and Communications Department shall operate on a 24-hour basis, with 40 hours as the established work week. Employees of these departments shall work such weekly hours as determined and scheduled by the department head.

3) The working hours of employees shall be subject to applicable state and/or federal laws and regulations.

4) An employee shall be in attendance during work hours in accordance with these Rules.

J. Pay Periods: All regular and permanent County employees shall be paid on the last working day of the month.

K. Conflict with Local Agency Personnel Standards: In the event any provision of these Rules, as it may apply to any employee of the County subject to Section 19800 et seq of the California Government Code, is determined by the State Personnel Board to be in conflict with Local Agency Personnel Standards (Title 2, Administration, Division 5, LAPS), then to such extent the Local Agency Personnel Standards shall supersede and control over the provisions of these Rules or any Memoranda of Understanding.

L. Conflict with Memoranda of Understanding: Where a specific provision contained in a section of these Personnel Rules conflicts with a specific provision contained in a section of a Memorandum of Understanding, as it may apply to an employee of the County represented by a recognized employee association, the provision of the Memorandum of Understanding shall prevail. Certain provisions of these Personnel Rules deal with matters not within the scope of representation and, as such, remain in full force and effect.

M. Definitions: (In Alphabetical Sequence)

- 1) Absence Without Pay. Absence without pay is any scheduled work period during which an employee is off pay status and is either not eligible for an approved leave with pay or is eligible for an approved leave without pay, but no leave has been authorized.
- 2) Allocation. Allocation means the assignment of an individual position to an appropriate class.
- 3) Anniversary Date. Anniversary date means the date which constitutes one year of service with the County for the purpose of computing salary range increases or fringe benefit accrual. An employee's anniversary date shall be determined by applying the continuity of service requirements of these Rules.
- 4) Applicant. Applicant means a person who has made formal application for a County position on forms provided by the County.
- 5) Board. Board, when used alone, means the Board of Supervisors of the County of San Benito.
- 6) Classification or Class. The term class or classification means the organized designation of all positions in the County service such that positions having substantially similar duties and responsibilities are assigned to the same descriptive title, and the same requirements as to education, experience, knowledge and ability demanded of incumbents, and so that the same schedule of compensation may be made to apply with equity. The class is the basic unit of the classification plan and is also the unit to which the salary plan is applied.
- 7) Class Specification. Class specification means the written description of the characteristics of a class of positions setting forth the definition, typical tasks, minimum qualifications and other relevant standards and information.
- 8) Compensation. Compensation means the salary, wage, fee, allowances and all other forms of valuable consideration earned by, or paid to, any employees by reason of service in any position.
- 9) Compensation Plan. Compensation plan means a schedule of salaries or salary ranges established by resolution or ordinance for the classes recognized in the classification plan, and the provisions of the Personnel Rules pertaining to fixing and changing compensation.
- 10) Competitive Service. Competitive service means all regular full-time and regular part-time positions in the County as set forth in the classification plan. Excluded from the competitive service are all positions of elective officials, extra help or temporary, emergency, contracted fee-for-services or hourly flat-rate positions and those employee positions listed and designated by the board to be exempt from classification. Those County positions not included in the competitive service shall constitute the exempt service.
- 11) Continuous Service. Continuous service means service without break or interruption during which the employee has been employed by the County. In computing continuous service, approved leaves of absence, whether with or without pay because of military service or illness, shall be construed as a break in employment service. Other absences aggregating in excess of fifteen (15) days in any period of twelve (12) months, including layoffs for lack of work, lack of funds, or abolishment of positions, shall be construed as breaking continuous service.
- 12) County. County means the County of San Benito, California.
- 13) County service. County service means all departments, bureaus and offices that are subject to control and regulation by the Board of Supervisors.
- 14) Demotion. Demotion means a voluntary or involuntary change in the status of an employee, from one position to another position which is in a class having a lower salary range maximum or to a lower step within the same salary range.
- 15) Department. Department means one of the officially constituted departments of County government.
- 16) Department head. Department head means an individual designated as the administrative head of an established department.
- 17) Employee. Employee means a person legally occupying a position with the County whether employed by the day, month, year, week, hour or on a piece work basis.
- 18) Flexibly Staffed Position. As an ongoing

- established practice, some positions in the competitive service are flexibly staffed. This means that they can be filled at any level within the noted class series. However, there may be limitations or "caps" placed on the number of positions that can be filled at any particular level.
- 19) Full-time employee. Full-time employee means an employee who is appointed 100 percent of normal full-time working hours of the month for the position on a fixed-time basis.
 - 20) Immediate Family. An immediate family member is defined as a husband, wife, mother, father, grandmother, grandfather, daughter, son, granddaughter, grandson, sister, or brother and step-relatives and in-laws in those relationships.
 - 21) Layoff. Layoff means termination of employment of an employee because of lack of funds or work, because of changes of duties or organization, or in order to permit the exercise of rights established by ordinance, resolution or memorandum of understanding.
 - 22) Officers. Officers means all County elective or appointive officers established by state law or County ordinance. If, for the purpose of the classification plan, the Board by ordinance or resolution should give a title to the position held by an officer, which title is different from the name of the office as established by state law, such title shall not affect any powers or duties vested in or imposed upon such officer by law.
 - 23) Part-time employee. Part-time employee means an employee who is in a position in which he or she is authorized to work less than the standard work day, work week or work month, but which normally follows a predetermined schedule or seasonal recurring pattern of hours.
 - 24) Pay Status. Pay status includes any period of time for which an employee receives pay for time worked, including compensatory time off, or for time on paid leave. Paid leave time includes sick leave, bereavement leave, vacation, holidays, or military leave with pay.
 - 25) Peace Officers' Bill of Rights. The Public Safety Officer Procedural Bill of Rights Act (Govt. Code Secs. 3300-3311) spells out certain limitations and requirements with respect to the manner and means of conducting disciplinary investigations of sworn officers. The Act is also known as the "Peace Officers' Bill of Rights."
 - 26) Permanent employee. Permanent employee means an employee who has successfully completed the probationary period for an authorized position, whether part-time or full-time.
 - 27) Personnel Officer. The Personnel Officer is the Deputy County Administrative Officer. Responsibilities of the Personnel Officer specified in the Personnel Rules may be delegated by the Personnel Officer to an appropriate assistant.
 - 28) Position. A specific office or employment provided by the budget, whether occupied or vacant, regular or temporary, calling for the performance of certain duties.
 - 29) Reclassification. Reclassification means a change in the class or classification of an employee's current position to a title of a different class having a lower salary range maximum (downward reclassification), the same salary range maximum (lateral reclassification), or a higher salary range maximum (upward reclassification).
 - 30) Regular employee. Regular employee means an employee who occupies a position authorized by the budget.
 - 31) Series. Series means one or more occupational groups having classes of positions with duties substantially similar in nature and character, such classes arranged to aid in the process of classification, in determining and fixing compensation and in administering the County classification and compensation plan.
 - 32) Skelly pre-disciplinary procedure: As a result of Court decisions, most notably in the California Supreme Court with Skelly v. State Personnel Board, 15 Cal. 3d 194, 124 Cal. Rptr. 14, 28 (1975), public agencies must comply with certain due process procedures before taking serious disciplinary action against their "tenured" employees.

"Serious" disciplinary action means suspension without pay of more than five (5) days, termination or demotion. These procedures require that:

 - (a) the employee receives a preliminary written notice of the proposed action stating the date it is intended to become effective and the specific grounds and particular facts upon which

the action will be taken;

(b) the employee be provided with any known written materials, reports or documents upon which the action is based; and

(c) the employee be accorded the right to respond either orally, in writing, or both to the proposed charges.

33) Temporary Employee: Temporary employee means any employee who is employed for a period of short duration as specified in Rule 1.H of these Personnel Rules. Temporary employees are not eligible for insurance coverage, paid vacation, paid holidays or paid sick leave.

34) Title or title of class. Title or title of class means the designation or name given to a class, or to each position allocated to such class. It shall have the meaning set forth in the definition of each position of a class as set forth in the class specifications.

RULE 2 - CLASSIFICATION PLAN

- A. **Purpose:** The classification plan provides a complete inventory of all positions in the competitive service and an accurate description and specification for each class of employment. The plan standardizes titles, each of which is indicative of a definite range of duties and responsibilities, and has the same meaning throughout the service.
- B. **Preparation of the Plan:** The Personnel Officer, or a person or agency employed for that purpose, shall ascertain and record the duties and responsibilities of all positions in the competitive service and shall recommend a classification plan for such positions.
- C. **Classification of Positions:** All positions in all departments and offices of the County service shall be allocated to classifications as established and set forth by the Board of Supervisors by ordinance or resolution. Such classifications and allocations of positions shall constitute the classification plan of the County. Classes of positions in the County shall be defined by class specifications. The classification plan shall be so developed and maintained that all positions substantially similar with respect to duties, responsibilities, education, knowledge, skills and abilities, authority, and character of work are included within the same class, and that the same schedules of compensation may be made to apply with equity under similar working conditions to all positions in the same class.
- D. **Adoption, Amendment and Revision of the Plan:** The Classification Plan shall be adopted by the Board of Supervisors. Existing classes of positions may be abolished or changed and new classes may be added to the Classification Plan by the Personnel Officer, subject to approval by resolution of the Board of Supervisors. The Personnel Officer or designee shall advise an affected recognized employee association of any new position or classification to be created or changed in any way and afford the recognized employee association an opportunity to meet and confer on the minimum qualifications and salary of new classes.
- E. **Allocation of Positions:** Following adoption of the classification plan and consultation with any recognized employee organization affected, the Personnel Officer shall allocate every position in the competitive service to one of the classes established by the plan. A position description will be maintained and updated as often as may be necessary for each position in the County service. The position description will be reviewed by the Personnel Officer in conjunction with existing class specifications for proper classification of each position in the County service.
- Such descriptions must be approved by the Personnel Officer and may be used, among other things, for training of employees, assigning tasks and establishing departmental performance evaluation standards.
- F. **Classification of New Positions:** When a new position is authorized by the Board of Supervisors, the Personnel Officer shall recommend the proper assignment of such positions to a class in the classification plan or, when appropriate, create a new class. Allocation of a position to a classification shall be based on the principle that positions should be included in the same classification if:
- 1) they are sufficiently similar with respect to duties and responsibilities so that the same descriptive title may be used;
 - 2) they require substantially similar minimum qualifications as to education, experience, knowledge, skills and abilities required of incumbents;
 - 3) applicants may be selected by substantially similar procedures; and
 - 4) the same compensation may be equitably applied.
- When a new position is created and is classified before it is occupied, such position shall be subject to investigation by the Personnel Officer after it is occupied to determine if the incumbent is performing the duties of the class.
- The Personnel Officer shall give notice to the recognized employee organization of any new classification proposed to be included in the bargaining unit. Upon request, the County shall have at least one meet and confer session with the employee organization for the purpose of negotiating wages for such classification.
- G. **Classification Change:** The Personnel Officer may recommend to the Board of Supervisors through the Administrative Officer the reallocation of a position to a different class or recommend the creation of a new

class whenever the duties of the position change materially. This may occur upon the recommendation of the Department Head, or upon request of an employee and with concurrence of the Department Head and Personnel Officer.

When any change is made within a department which significantly affects the duties and responsibilities of any position, the department head shall report those facts in writing to the Personnel Officer. The Personnel Officer shall make a classification study of the duties and responsibilities and the relationship to other classes of positions.

The Personnel Officer may study any position in the classification plan and make recommendations to the Board of Supervisors through the Administrative Officer for a change in class or the allocation to a more appropriate class. The Department Head shall be consulted before a classification study is begun in his/her department. Studies may be initiated in the following manner.

- 1) An employee may request reclassification of his or her position by submitting such a request, in writing, to the employee's department head.
- 2) If the department head and the employee concur that reclassification is appropriate, the request shall be forwarded to the Personnel Officer between January 1 and March 1 for consideration before the next fiscal year. If no action is taken within thirty (30) days of the date the written request was first submitted to the department head, the request shall automatically be forwarded to the Personnel Officer. If information provided is insufficient to arrive at a classification decision, the Personnel Officer will contact the employee and the department head to clarify the assigned duties and responsibilities. A desk audit will be conducted if necessary.
- 3) If the Personnel Officer affirms the request for reclassification, a joint recommendation will be made to the Board of Supervisors that specific, revised job duties and compensation be adopted. The review of the Personnel Officer shall be completed within one-hundred twenty (120) days of the date the written request for reclassification was first submitted to the department head.
- 4) When possible authorization of a new position is indicated.
- 5) Regular, periodic maintenance of the

classification plan or when the Personnel Officer identifies a need to study an existing position.

- 6) The Personnel Officer shall notify the recognized employee organization when any requests for position classifications are received and shall provide the association with a copy of his/her report of findings and recommendations.
- H. Classification Changes Subject to Funds Available: If the Personnel Officer determines that a position should be upgraded, but funds are not available, the department head will immediately restrict the duties of the employee in the position to be consistent with the classification at the funded level.
- I. Class Specifications: The Personnel Officer shall prepare a written specification for each class of positions. The specifications, when approved and adopted by the Board of Supervisors, shall constitute the official class specifications for the competitive service. The official copy of the specifications for each class shall be maintained in the Personnel or Administrative Office and shall indicate the date of adoption or last revision.

Each specification shall include the class title, a brief description of the scope, nature, and responsibility of the class, a description of the tasks or duties ordinarily performed in the positions allocated to the class; a statement of the minimum qualifications considered necessary for proficient performance of the work, including education, experience, training, knowledge, abilities, physical characteristics, and any additional factors considered pertinent.

Class specifications shall be in a consistent format and shall be periodically reviewed to insure that they remain descriptive of the work performed by the positions in the classification and that qualifications are directly related to the work performed.

Class specifications are descriptive and illustrative in nature and not restrictive. They are intended to indicate the kinds of positions allocated to various classifications and shall not be construed as declaring what the duties and responsibilities of any particular position shall be. The use of particular expressions or illustrations as to duties should not be interpreted to exclude others not mentioned that are of similar kind or quality. In matters of classification or allocation, the specification for each classification should be considered in its entirety and in relation to others in the classification plan. Qualifications commonly required of all incumbents in all positions in the various classifications such as honesty, sobriety,

industry and physical and mental capability to perform the required work should be deemed to be implied as requirements for all classifications even though they may not be specifically mentioned.

The title of the classification to which any position is allocated as set forth in the classification specification shall be used in all official personnel records and in all official personnel transactions of San Benito County. However, the use of these titles shall not preclude deputization of employees or their designation as officers in accordance with the law or the use of working titles for specific positions within classifications which may be more descriptive of particular assignments.

J. Class or Class Series Studies:

Classification studies shall include consideration of the duties and responsibilities of the position, qualifications required, the relationship of the position to others in the County system and whether proposed reclassifications are appropriate for a more consistent and equitable classification plan. In recommending changes in the classification plan, the creation of unnecessary or redundant classifications will be avoided in order to avoid unnecessary proliferation of classifications.

The Personnel Officer shall promptly make available to an recognized employee association, upon request, copies of documents which show the basis on which a class or class series was established and the basis for the salary range assignment.

K. Access to Job Descriptions:

Upon request, the Personnel Officer shall promptly provide an employee with a copy of his/her class specification and job description. A complete set of class specifications and job descriptions for all positions in the County service will be maintained for employee review during normal business hours at the Personnel Office.

L. Flexible Staffing:

1) Flexible staffing refers to positions where the department head has the ability to promote employees from one classification to another based on their gaining the required experience and knowledge to perform higher-level duties. Flexible staffing generally involves only the I and II levels of any class series.

2) Flexible staffing is to be used in a class series in

which both entry and working level classes are assigned the same kinds of duties with the difference being the scope of duties performed, the level of skills required, and the amount of supervision received.

- 3) Flexibly-staffed positions shall be budgeted at the higher class level so that supplemental budget appropriations are not necessary when a promotion takes place.
- 4) Flexible staffing does not preclude department heads from identifying certain positions that will continue to require only performance of the lower-level duties and to assign these positions to one level permanently upon approval of the Personnel Officer.
- 5) All employees in positions allocated to flexibly-staffed classes shall promote from the entry level to the working level upon recommendation of the department head and approval of the County Administrative Officer when the following has occurred:
 - a. The employee has successfully completed the probationary period in the entry-level class.
 - b. The employee is able to satisfactorily perform a majority of the designated duties at the working level classes with limited supervision.
- 6) The following classes shall be flexibly staffed:
 - Accountant I, II
 - Agricultural Biologist Inspector I, II, or III
 - Appraiser I, II
 - Assessment Clerk or Typist Clerk II
 - Auditor-Appraiser I, II
 - Deputy Court Clerk I, or Typist Clerk II
 - Deputy District Attorney I, II
 - Eligibility Worker I, II
 - Employment & Training Services Counselor I, II
 - Employment & Training Worker I, II
 - Engineer I, II, III
 - Legal Stenographer Clerk, or Stenographer Clerk
 - Librarian I, II
 - Library Assistant I, or Typist Clerk II
 - Microfilm Equipment Operator, or Typist Clerk II
 - Migrant Camp Assistant, or Migrant Camp Aide
 - Probation Officer I, II
 - Social Worker I, II
 - Staff Services Analyst I, II
 - Typist Clerk I, II

RULE 3 - RECRUITMENT

- A. **Policy:** The County of San Benito will recruit from both within and outside its work force to obtain qualified applicants.
- B. **Responsibility:** The Personnel Officer shall establish recruitment programs and procedures consistent with the Personnel Rules to implement this policy. The Personnel Officer is responsible for conducting recruitments to find qualified applicants for County positions and referring them to departments for selection interviews.
- C. **Job Vacancies:** The department head shall notify the Personnel Officer of vacant positions to be filled. However, the Personnel Officer shall not recruit if the position is to be filled by the demotion, lateral transfer, or promotion of an employee in a flexibly-staffed position within the department or recall of a laid-off employee according to Rule 11.D.
- D. **Preparation for Recruitment:**
- 1) Whenever a department head desires to fill an authorized position, he/she will submit a request for personnel to the Personnel Officer for review and approval. PAF
 - 2) The department head, assisted by the Personnel Officer, shall analyze the position in order to identify important and critical job duties and tasks and to identify knowledge, skills, abilities, and other qualifications required for successful performance.
 - 3) Before publicizing a job, the Personnel Officer shall approve the classification of the position. The Personnel Officer shall also approve the job announcement statement of duties and required knowledges, skills, abilities, and other qualifications.
 - 4) The establishment of new positions follows the same procedures; that is, forwarding the position description and employee requisition form to the Personnel Officer.
- E. **Scope of Recruitment:** Generally, applicants will be recruited from both within and outside the competitive service. However, recruitment may be limited to employees in the competitive service if, in the judgment of the Personnel Officer, an applicant pool is available of sufficient diversity to allow the
- department head a meaningful choice in obtaining the essential job-related knowledges, skills, abilities, and other qualifications.
- F. **Publicizing Vacancies:** The Personnel Officer shall schedule recruitments based on vacancies or anticipated vacancies to meet the need in the County service. The Personnel Officer shall prepare, announce, and conduct recruitments as follows:
- 1) **In the Department:** To enhance promotional or transfer opportunities, the Department Head shall inform departmental employees in permanent positions of all departmental job vacancies at all classification levels for which recruitment is being conducted.
 - 2) **Interdepartmental:** To assist employees in identifying promotional and transfer opportunities in other departments, the Personnel Officer shall inform employees of all positions for which recruitment is being conducted.
 - 3) **Outside the County Service:** The Personnel Officer may publicize, as appropriate, either specific job vacancies or categories of employment opportunities that are generally available.
- G. **Recruitment Notice:** All persons who completed interest cards or submitted applications for a position within the immediate prior six-month period shall be notified of a recruitment when recruitment outside the County service becomes necessary.
- All recruitments shall be publicized by posting announcements in the in the Personnel Office and by such other methods as the Personnel Officer deems advisable. The announcement shall specify the following:
- 1) the exact title of the position;
 - 2) the salary range for the position;
 - 3) the period during which applications for the recruitment will be accepted;
 - 4) the nature and tentative date for the selection process, when feasible;
 - 5) a brief statement concerning the duties of the position and the selection process;

- 6) the examination process;
- 7) the knowledge, skills, abilities, and other job-related requirements for the position; and
- 8) special conditions of employment.

Recruitments may be postponed or cancelled by placing notice in the Personnel Office and notifying applicants by mail.

H. **Recruitment Process:** The Personnel Officer shall schedule open or promotional recruitments based on vacancies or anticipated vacancies to meet the need in the County service. The Personnel Officer shall prepare, announce, and conduct recruitments as follows:

- 1) **Open Recruitments:** Open recruitments may be scheduled when it is not practical to fill vacancies by promotion or transfer or when specifically requested by the department head, with the concurrence of the Personnel Officer. Open recruitments shall be open to all applicants who meet the minimum qualifications for the position in accordance with these Rules.
- 2) **Promotional Recruitments:** Promotional recruitments are open to County employees who have regular or probationary status and meet the minimum requirements for the position in accordance with these Rules. Each candidate must complete and submit an official application. Upon concurrence between the department head and the Personnel Officer, promotional examinations may be scheduled when there is reason to believe that a qualified person in the competitive service will apply for the examination.

I. **Application Filing:** Each person participating in a scheduled selection process for the competitive service shall have completed and filed an official application for that recruitment. A separate and complete application is required for each class title applied for unless a previous application for the same class title has been submitted to the Personnel Office within the past six (6) months. Application forms shall require information covering training, experience, education, and other pertinent information, and may include certificates of one or more examining physicians, references, and fingerprinting. The burden shall be on the applicant to submit correct and complete information as to qualifications for employment. Failure to do so shall be grounds for rejection of the application.

The official application form must be received by the Personnel Officer no later than 5:00 p.m. on the last filing date published in the announcement. Applications postmarked on or before the final filing date, but received thereafter, may be considered if it is administratively feasible to process them. Each applicant must sign the application form certifying that all statements are correct.

Persons applying for positions in the competitive service must comply with the following conditions:

- 1) meet the general conditions pertaining to filing applications for positions according to these Rules;
- 2) meet the specific requirements as shown on the announcement for a particular position;
- 3) meet citizenship requirement when applying for County positions where required and otherwise be able to provide documentation of identity and eligibility for employment in the United States;
- 4) be willing and able to accept employment in the present vacant position or a future similar vacant position, if employment were offered.

Names of persons applying for County positions or the evaluation of their participation in any selection process shall not be made public.

Application forms will have been officially received when they bear the County's date stamp.

J. **Interest Card Filing:** Applications are accepted only if a recruitment is being conducted. All other interests of employment will be filed on an official interest card provided by the County. When a vacancy occurs, notice shall be mailed to the addressee when recruitment starts for the position indicated on the card. A completed card shall remain on file for a six-month period or until notice has been mailed, whichever occurs first.

K. **Applicant Disqualification:** The Personnel Officer may eliminate from the selection process, remove from the eligible list, or refuse to certify for the personnel transaction, the names of any person:

- 1) who does not meet the minimum qualifications established for the class or position to which they seek appointment;

- 2) who has made a false statement or misrepresentation of material fact or actual or attempted deception, fraud, or misconduct in connection with his/her application;
- 3) who has used or attempted to use any personal or political influence to further his/her eligibility for appointment;
- 4) who has failed to submit an application correctly within the prescribed time limit;
- 5) who has directly or indirectly obtained information regarding examinations to which applicants are not entitled;
- 6) who has made himself or herself unavailable for employment by requesting that his or her name be withheld from certification;
- 7) has failed to reply within a reasonable time, as specified by the Personnel Officer, to communications concerning his or her availability for employment;
- 8) is physically or psychologically unfit for the satisfactory and safe performance of the duties of the position, including addiction to narcotics or drugs or habitually misusing alcoholic beverages;
- 9) is engaged in and would refuse to discontinue employment, activity, or enterprise which, if continued while a County employee, would be incompatible and conflicting with County duties;
- 10) has been dismissed for good cause, released during probationary period, or who otherwise resigned under unfavorable circumstances from the County service; and/or
- 11) has otherwise violated provisions of these Rules.

Applicants with the least desirable qualifications or background among a large number of applicants may be denied further participation in the selection process through an evaluation of their qualifications, thus providing a reasonable number of the best qualified candidates for consideration.

Any person whose application has been rejected under subsection 10 of this Rule may be required by the Personnel Officer to establish a satisfactory work record elsewhere for at least one (1) year before they can be accepted as an applicant for rehire.

Criminal Conduct and Ineligibility for Employment:

Conviction, including pleas of guilty and nolo contendere, of a felony shall be prima facie disqualification of an applicant for employment; provided, however, that the department head may disregard such conviction if it is found and determined by such department head that mitigating circumstances exist. In making such determination, the department head shall consider the following factors:

- 1) the classification, including the sensitivity of the classification, to which the person is applying or being certified and whether the classification is unrelated to the conviction;
- 2) the nature and seriousness of the offense;
- 3) the circumstances surrounding the conviction;
- 4) the length of time elapsed since the conviction;
- 5) the age of the person at the time of conviction;
- 6) the presence or absence of rehabilitation or efforts at rehabilitation;
- 7) contributing social or environmental conditions.

An applicant who is disqualified for employment under this section may appeal the determination of disqualification. Such appeal shall be in writing and filed with the Administrative Officer within ten (10) days of the date of the notice of disqualification. The Administrative Officer shall hear and determine the appeal within ninety (90) days after it is filed. The determination of the Administrative Officer on the appeal is final.

Notwithstanding the foregoing, an applicant for a peace officer position shall be disqualified, without right of appeal, from employment if the applicant shall have been convicted of a felony.

- M. Record Keeping: Completed application forms shall become the property of the County. They shall not be returned to the individual applicant. Applications filed through the selection process may be destroyed after a period of two years.

The following data must be kept for two (2) years on all applicants by the Personnel Officer:

- 1) Records of applicant ethnicity, sex, handicap or veteran status, reasons for consideration/non-consideration;

- 2) Completed Selection Process Sheet (sent to Personnel Officer);
- 3) All information on specific openings, including departmental interview criteria rating forms, applicant evaluations, job publicity, applications, resumes, notes and correspondence.

RULE 4 - SELECTION

A. **Policy:** It is the policy of the County of San Benito, in filling a position, to select that applicant who possesses the qualifications to perform the duties of the position most effectively. Within this policy, the selection process should facilitate the attainment of affirmative action goals and objectives.

B. **Responsibility:**

1) **Personnel Officer:** The Personnel Officer shall be responsible for referral of qualified applicants to the Department. He/she shall advise the Department Head about these Rules, personnel policies and practices, and professional standards for selection methods and shall consult with the Department Head about the availability and qualifications of applicants for specific positions.

2) **Department Head:** The Department Head shall have final responsibility for the selection of an individual to fill an open position. No regular appointments shall be made except from a current eligibility list with the names of applicants certified by the Personnel Officer following completion of a job-related examination.

The Department Head shall select that applicant who, in addition to being certified by Personnel, in his/her evaluation, possesses the qualifications to perform the duties of the position most effectively. In making this judgment, the Department Head shall compare the knowledges, skills, abilities and other qualifications of the applicants with those required for successful performance of the duties of the position.

If, in the Department Head's evaluation, two or more applicants are substantially equally qualified, the Department head, in making a selection, shall give primary consideration to the objective of providing promotional opportunities to regular and probationary employees.

C. **Employee Applicants:**

1) An employee applicant is encouraged to discuss career objectives and promotional opportunities with the employee's supervisor.

2) The supervisor shall grant an employee reasonable time off with pay, as determined by the supervisor, to interview for County positions.

3) The Department Head shall release an employee for transfer as soon as practicable, normally ten (10) working days after notification of the employee's acceptance of another County position.

4) In making a selection from among qualified applicants, an employee applicant should be selected if he/she is as qualified as other applicants.

5) Employees experiencing repeated or extended difficulty in obtaining a transfer or promotion should be referred to the Personnel Officer for counseling.

D. **Selection and Interview Procedures:** The selection techniques used in the examination process shall be impartial and relate to those subjects which, in the judgment of the Personnel Officer, fairly measure the relative capacities of the persons examined to execute the duties and responsibilities of the class to which they seek to be appointed.

1) Examinations shall consist of selection techniques which will test fairly the qualifications of candidates, such as, but not necessarily limited to: achievement and aptitude tests, other written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples, medical examinations, psychological tests, successful completion of prescribed training, or any combination of these or other tests.

2) The interviewing and selection criteria should be clearly defined before starting interviews, and should be in writing. The interview process should be carefully planned and key questions or areas of inquiry should be determined in advance. If others are to be involved in the interview, their role should be defined and an effort made to ensure that they are properly informed on job qualifications and selection criteria and have been instructed on or know acceptable interview techniques. Interviewing techniques must conform to specific legal requirements, including "Preemployment Inquiry Guidelines," published by the State Department of Fair Employment and Housing, which is available from the Personnel Officer. Department heads are encouraged, with the assistance of the Personnel Officer, to develop applicant rating forms or guides to aid

them in evaluating applicants' qualifications.

3) There is no minimum or maximum number of applicants that must be interviewed for a specific job. Reasons for interview or non-interview of applicants must be fully justified by department heads on the basis of job-related requirements and qualifications. Professional assistance in designing selection interview formats, supplemental application forms, tests, rating criteria and evaluation forms is available through the Personnel Officer. Any form or evaluation methods developed by the department head should be submitted to the Personnel Officer for review and approval before use. Use of written tests or performance tests must be approved in advance by the Personnel Officer. Such tests must conform to federal and state applicant testing guidelines.

4) The probationary period shall be considered as a portion of the examination process. Examinations shall be designed to provide equal opportunity to all candidates by being based on an analysis of the essential requirements of the class, covering only factors related to such requirements.

F. **Conduct of Examination:** The Board of Supervisors may contract with any competent agency or individual for the preparing and/or administering of examinations. In the absence of such a contract, the Personnel Officer shall see that such duties are performed. The Personnel Officer shall arrange for the use of public buildings and equipment for the conduct of examinations. Qualified employees may assist in the development and administration of the selection process if requested by the Personnel Officer.

F. **Notification of Examination Results and Review of Papers:** Each candidate in an examination shall be given notice of the results thereof, and if successful, of the final earned score and/or rank on the employment list.

All candidates shall have the right to inspect their own test answer sheet within five (5) working days after the notifications of examination results. Any error in computation, if called to the attention of the Personnel Officer within this period, shall be corrected. Such corrections shall not, however, require invalidation of appointments previously made.

G. **Background Checks:** Upon the recommendation of department heads, the Personnel Officer shall designate certain positions as sensitive, such as those involving the security of buildings, the handling of

money or inventories, law enforcement and corrections, or those positions having access to records and reports of a highly confidential nature. Job-related background checks, which may include fingerprinting of applicants, shall be conducted by the department head prior to appointment of a person to a sensitive position. However, if the background check cannot be completed until after placement, the results shall be used to determine the employee's suitability for continued employment.

H. **Work and Education Reference Checks:** To verify information about an applicant's knowledge, skills, abilities and other qualifications that will be important to successful performance in a new position, job-related inquiries may be made by the department head of current and former supervisors and other persons who can supply relevant information unless the applicant indicates on the space provided on the employment application that he/she does not want a former employer to be contacted. Failure to provide work and education references for purposes of conducting the background check may be used as a factor in determining an applicant's suitability for employment.

I. **Appointment Considerations:**

1) **Age Limitations:** A person over age seventy (70) shall not be appointed by the County. A person under age eighteen (18) who has been neither graduated from a high school or the equivalent nor awarded a certificate of proficiency may be employed with a permit to employ issued in accordance with State law.

2) **Aliens:** Employment of an alien must be in accordance with Federal law, such as the Immigration Reform and Control Act of 1986, and the regulations of the Immigration and Naturalization Service.

3) **Immediate Family:** No person may be appointed to a position where he or she would be in a supervisory relationship with an immediate family member, have the same immediate supervisor as an immediate family member, or have a close working relationship with an immediate family member. An immediate family member is defined as a husband, wife, mother, father, grandmother, grandfather, daughter, son, granddaughter, grandson, sister, or brother and step-relatives and in-laws in those relationships.

J. **Notification of Applicants:** Before appointment, the Department Head shall notify in writing the applicant

who has been appointed and prepare and forward the appointment to payroll to the Personnel Officer who, in turn, shall forward the notice to the County Auditor. The Department Head shall also notify in writing those applicants who were referred to the Department by the Personnel Officer but not selected for the position.

K. **Anniversary Date:** An employee's anniversary date shall be the first day of the month following the starting date of his/her employment with the County, unless the starting date was the first working day of that month in which case the first day of that month shall be the employee's anniversary date.

L. **Processing of New Hires:** On or before the effective date of appointment, the hiring department shall complete or have new employees complete such documents and orientation as may be prescribed by the Personnel Officer. The Payroll Clerk in the County Auditor's Office should be contacted by the hiring department to set up an appointment with the new employee for payroll processing as soon as possible.

Orientation of new employees within the department itself is the responsibility of the hiring department and begins at the time the employee starts work or before.

Departments should establish a personnel folder for the new employee with his/her description of duties. Evaluation forms, copies of all Personnel Action Forms, notices of disciplinary action, letters of commendation, records of counseling, and other pertinent information should be kept in the file.

RULE 5 - PROBATIONARY PERIOD

- A. **Purpose:** The probationary period is the final step in the selection process. It is a continuation of the selection process and is intended to test the ability of the employee to meet the requirements of the position and to determine his or her fitness for the position. Equally important, the probationary period provides the new employee with an opportunity to determine the desirability of a continued working relationship with the County.
- B. **Duration of Probationary Period:** Each appointment or promotion made to a position in the County service shall be tentative and subject to a probationary period. The length of the probationary period shall be six (6) months of continuous service for all employees, except sworn peace officers and correctional officers which shall be twelve (12) months of continuous service. During this period, performance shall be closely monitored by the employee's supervisor and the employee's status followed by the Department Head and Personnel Officer.
- C. **Successful Completion of Probationary Period:** If the employee's performance has been satisfactory and advancement to regular status is warranted, the Department Head shall so state in the employee's final probationary performance evaluation report. The employee shall then be advanced to regular status on his/her anniversary date. Any salary increase shall begin on the anniversary date of the employee.
- D. **Rejection of Probationer:** During the probationary period, an employee may be rejected at any time by the Department Head of the employee without cause and without the right of appeal. Notification of rejection by the Department Head shall be served on the probationer. Department Heads shall consult with the Personnel Officer and County Counsel to determine proper procedures before dismissing a probationary employee.
- E. **Rejection Following Promotion:** A promoted employee who does not successfully complete a probationary period shall be restored to the same or similar position in the same class from which promoted unless charges are filed and the employee is discharged as a result of a disciplinary action as provided for in these Rules.
- F. **Demotion and Transfer Probationary Period:** A new probationary period shall not be required following demotion or transfer to a class of positions in the same department in which a probationary period was previously served. If a probationary period has not previously been completed in the class, a new probationary period shall be served. When an employee transfers or demotes from one department to another department, a new probationary period shall be served in the latter department.
- G. **Reemployment and Reinstatement Probationary Period:** Persons appointed to positions by reemployment or reinstatement must serve a new probationary period, unless the appointment is to the same class in the same department where a probationary period has been previously served.
- H. **Interrupted Probationary Period:** When the probationary period of an employee is interrupted because of an appointment to another class and the employee later returns to the former class in the same or a different department, a new probationary period shall be served. Credit for all or part of the previous probationary period may be granted the employee by recommendation of the Department Head, Personnel Officer, and approval by the Administrative Officer.
- I. **Extension of Probationary Period:** A probationary period shall be extended in an amount equal to any leave of absence in excess of five (5) days during the probationary period. Notwithstanding the provisions of this section and Section H of this Rule, under no other circumstances may a probationary period be extended.

RULE 6 - PERFORMANCE EVALUATION

A. **Policy:** The performance of each employee shall be evaluated periodically and written evaluations may be used as a basis for appropriate personnel actions. The County of San Benito decrees that each employee has a right to know how well he or she is performing their work, where strengths lie, and what areas of performance need to be improved. The County views the evaluation of employees as an ongoing process encompassing regular employee conferences, informal observation and contacts by the supervisor, and the formal written evaluation.

The Personnel Officer and Administrative Officer shall establish necessary procedures and forms to provide a performance evaluation program and to assure that the work performance of each employee is evaluated by the employee's supervisor in accordance with these rules. Performance evaluations shall include:

- 1) Discussions to reach understanding on duties, responsibilities, and objectives;
- 2) Review of progress and performance to date and, as appropriate, planning for more effective performance;
- 3) The opportunity for each employee to ask questions about work assignments and to review interest in upgrading present skills and in future development; and
- 4) Written performance reviews sufficiently specific to inform and guide the employee and to provide direction for management in personnel decisions.

B. **Timing and Number of Evaluations:** Performance evaluations apply to all permanent employees of the County. The supervisor shall conduct written performance evaluations as follows:

- 1) Probationary Status Employees: For employees serving a six-month probationary period, at least at the end of the sixth month of employment. For employees serving a twelve-month probationary period, at least at the end of the sixth and twelfth month of employment.

An employee with unsatisfactory probation must be advised and the performance evaluation form must be so documented and signed by the Department Head, Personnel Officer and Administrative Officer, and served on the

employee on or before the last day of the employee's probation in order to keep the employee from permanent status.

- 2) Promotional Probationary Status Employees: Reports on promoted employees serving a probationary period in a new position shall be completed at the end of the sixth month following appointment.
- 3) Regular Status Employees: For each employee who has attained regular status, at least once each year on the employee's anniversary date.
- 4) Special: Supervisors may evaluate employees between scheduled evaluations as needed to report significant changes in performance

C. **Responsibility for Preparation:** Performance evaluations shall be prepared by the employee's immediate supervisor. In those situations where the employee reports to two or more supervisors, a joint evaluation shall be completed. Performance evaluations for appointed department heads shall be prepared by the Administrative Officer.

D. **Evaluation Forms:** Employee evaluations will be made on forms as may be prescribed by the Personnel Officer.

E. **Grievability:** Performance evaluations are not subject to the grievance procedure. An employee disagreeing with his/her performance evaluation may, however, submit a written rebuttal for inclusion in his/her personnel file.

RULE 7 - COMPENSATION PLAN

- A. **Preparation of the Plan:** The Personnel Officer shall prepare a compensation plan covering all of the positions in the County service. This plan shall be approved by the Administrative Officer and Board of Supervisors.

The compensation plan shall provide salary schedules, salary rates, ranges, and steps. Each class in the County classification plan shall be assigned a salary range or rate established in the compensation plan. All persons employed by the County shall be compensated in accordance with the Compensation Plan in effect.

- B. **Attendance and Time Records:** Each department head shall keep complete and accurate time and attendance records for each employee of his/her department. These records shall be prepared and maintained in the form and manner as prescribed by the County Auditor.

The monthly attendance report or time sheet for each employee shall be certified by the department head or his/her designated representative that the employee has actually been employed in his/her office and that their attendance is correctly reported on the report.

The report shall then be sent to the County Auditor, examined by him/her to determine that the employees listed have been appointed, employed, promoted, demoted or their salaries increased or decreased in accordance with the provisions of this title. If found to be in order, it shall be approved by the County Auditor before any salaries are paid.

- C. **Application of Salary Ranges and Steps:**

- 1) **Range Structure.** The salary schedule shall consist of monthly salary ranges at intervals of approximately 2.5 percent. Each monthly salary range shall be assigned a number and shall consist of five steps at intervals of approximately 5 percent and the equivalent hourly rate for Step "A" in each salary range. Salary ranges with fewer than five steps are established when warranted by comparative pay data.

- 2) **Adjustment of Salary Ranges.** Salary setting for classifications represented by a recognized employee bargaining unit shall be subject to the meet-and-confer process.

Salary rates or ranges for unrepresented classifications shall be determined by the Board of Supervisors.

In recommending salary rates or ranges for new classes, the Personnel Officer shall, to the extent that funds are made available for such purposes, use the following salary-setting guidelines:

(a) payment of salaries which reflect prevailing rates of pay within appropriate labor markets, thereby enabling the County successfully to recruit, retain, and motivate employees;

(b) provisions of any differentials that effectively recognize differences among related classes and occupational groups with regard to skills required, difficulty of duties, and levels of responsibility;

(c) cost of living;

(d) suggestions of Department Heads;

(e) the County's financial condition and policies; and

(f) to other relevant factors.

- D. **Advancement Within Range:** Salary increases are granted to regular employees on the basis of individual performance and improvement in performance, according to the following five-step general plan. The department head shall assure that a written performance evaluation has been completed in a timely manner and that such evaluation justifies a salary increase based on performance. Also, on the basis of performance, no increase may be granted.

Salary adjustments shall be made on the first day of the month in which the required accumulation of months of satisfactory job progress occurs.

However, an accelerated step increase may be granted in extraordinary circumstances upon the recommendation of the Department Head and the approval of the County Administrative Officer.

- 1) The letters A, B, C, D, and E, respectively, denote the various progressive steps within the salary range.

- 2) Designation of Salary Step "A" shall be made upon initial employment, for a period of one year from the employee's anniversary date.
- 3) Designation of Step "B" shall be made upon completion of one year of employment where the employee has demonstrated at least satisfactory job progress and normally increasing productivity, and upon recommendation of the Department Head and approval of the Administrative Officer.
- 4) Designation of Step "C" shall be made upon completion of one year of employment in Step "B" where the employee has demonstrated satisfactory job progress and normally increasing productivity, and upon recommendation of the Department Head and approval of the Administrative Officer.
- 5) Designation of Step "D" shall be made upon completion of one year of employment in Step "C" where the employee has demonstrated satisfactory job progress and normally increasing productivity, and upon recommendation of the Department Head and approval of the Administrative Officer.
- 6) Designation of Step "E" shall be made upon completion of one year of employment in Step "D" where the employee has demonstrated satisfactory job progress and normally increasing productivity, and upon recommendation of the Department Head and approval of the Administrative Officer.

Thirty (30) days before each employee's anniversary date and annually thereafter until the employee reaches the maximum salary step of the appropriate salary range, the Personnel Officer shall advise the department head, in writing, that the employee will be eligible for salary increase, and the department head shall advise the Personnel Officer, in writing before the employee's anniversary date, whether or not he/she recommends that the employee be advanced to the next higher step of the range.

The Personnel Officer shall notify the County Auditor, in writing, of all anniversary increases and this notification shall constitute authorization for the Auditor to make payment to the employee at a higher rate. Should an employee's anniversary date be overlooked through error or oversight, and upon discovery of the error or oversight the employee be recommended for the anniversary increase, the County Auditor shall honor a supplemental payroll compensating the employee for the additional salary

he/she would have received dating from his/her anniversary date.

- E. **Increases Delayed or Not Granted:** When a salary increase is not granted because it is not justified on the basis of the employee's performance, the employee starts a new period of eligibility and shall not be considered for a salary increase prior to twelve months later on the employee's next normal review date.
- F. **Appointment Rates:** It is County policy to appoint an employee at the minimum of the salary range (Step A) for the class. Appointments may be at a higher step not to exceed the maximum of the range when it is exceedingly difficult to obtain qualified personnel at the starting salary or when it appears that the education or experience of proposed employees is substantially superior to that required of the class and justifies a beginning salary in excess of the first step.

The Personnel Officer and Administrative Officer shall approve the proposed appointment rate at the second or third step, subject to the availability of sufficient funds in the hiring department's budget, before the Department Head makes a hiring commitment to the applicant.

G. **Promotion, Reclassification, Demotion or Transfer:**

- 1) **Salary Adjustments upon Promotion:** The change of an employee from one position to another in a class having a higher salary range maximum of approximately 5% or more is termed a promotion.

Upon promotion, an employee's salary shall be adjusted to provide for a minimum increase of approximately 5% or such other step as will provide the next higher dollar amount above his or her former salary, whichever is greater, provided that the new rate does not exceed the maximum of the new class.

A new salary anniversary date shall be assigned to the promoted employee effective on the date of promotion.

- 2) **Salary Adjustments On Upward Reclassification:** The change of an employee's current position title to a class having a higher salary range maximum is termed an upward reclassification.

Whenever the position is reclassified to a class with a higher salary range, the salary of each employee in that position on the effective date shall be increased to the corresponding step

in the new range and their salary anniversary date shall not change.

3) Salary Adjustments On Lateral Reclassification: The change of an employee's current position title to a class having the same salary range maximum is termed a lateral reclassification. Whenever the position is reclassified to a class with the same salary range as the previous class and if the incumbent is appointed to the reclassified position, the salary rate and the salary anniversary date of the employee shall not change.

4) Salary Adjustments upon Transfer: The change of an employee from one position to another in the same class is termed a transfer. An employee who is transferred from one position to another in the same class shall be compensated at the same step in the salary range as he/she previously received. For purposes of further annual increase within the salary range, his/her anniversary date shall remain the same as it was before the transfer.

5) Salary Adjustments upon Demotion: The change of an employee from one position to another position which is in a class having a lower salary range maximum is termed a demotion. Upon demotion for disciplinary reasons, an employee will normally receive a salary decrease.

The specific rate in the lower range, not exceeding the maximum of the new class, shall depend on the circumstances related to the demotion and upon the employee's employment record. In the case of demotions that are not the result of disciplinary action, an employee's salary shall be adjusted to highest step in the new class not exceeding the salary received in the former class.

6) Salary Adjustments On Downward Reclassification: The change of the title of an employee's current position to a title of a different class having a lower salary range maximum is termed a downward reclassification.

Whenever the position is reclassified to a class with a lower salary range, the salary of each incumbent on the effective date shall be set at the same salary rate that they were receiving on the former range, and their salary review date shall not change.

If the employee's salary is greater than the

maximum step of the lower salary range, the salary shall be frozen until such time as any general cost-of-living increase, equity adjustment, or other salary increase results in a monthly salary appropriate for the class. The employee's salary anniversary date shall not change and the employee shall not be required to serve a new probationary period.

H. Salary Adjustments upon Range Change for Class: When an entire class of positions is moved from one salary range to a higher salary range the anniversary date and step placement of the employee shall remain unchanged.

I. Compensation for Working Out-of-Class: An employee who is assigned by his or her Department Head in writing to temporarily perform a significant part of the duties of a position in a higher salary range shall receive "Out-of-Class" compensation for a specified period of time in accordance with provisions of the Memorandum of Understanding currently in effect for the employee's bargaining unit.

An employee is not eligible for out-of-class pay if the assignment is to be made within the same flexibly-staffed classifications.

J. Compensation on Reinstatement: Compensation for employees who are reinstated in the same or comparable class previously held are entitled to compensation in accordance with Rule 8.D.

K. Compensation of Temporary Employees: Compensation for employees who are hired as temporary employees shall be in accordance with Rule 1.H.

RULE 8 - PROMOTION, TRANSFER, DEMOTION AND REINSTATEMENT

- A. Promotion: All full-time, regular or probationary employees meeting the minimum qualifications of a position assigned to a higher salary range under the same or different job classification may be considered for promotion.

Qualification standards used in promotion shall be at least equal to competitive standards and evaluation methods shall be reasonable, applied with fairness and equity to all candidates, and developed with the intent of obtaining the highest degree of validity and reliability possible under the specific circumstances. In considering an employee for transfer and promotion, the department head shall consider the employee's County work experience and performance. Minimum qualifications may be ascertained from job analysis, application forms, tests, examinations, interviews, and/or performance evaluations.

- B. Transfer: At the request of a Department Head and with notice to the Personnel Officer, an employee may be transferred from one position to another position in a comparable class. For transfer purposes, a comparable class is one with the same maximum salary, involves the performance of similar duties and requires substantially the same basic qualifications. However, the employee must meet the minimum qualifications established for the position being transferred to.

Any employee who is transferred from one position to another position in the same or similar class shall be compensated at the same step and salary range the employee received in the previous position; the salary anniversary date shall not change.

The following conditions are required in order for an employee to qualify for transfer:

- 1) The position shall be in the same class, or if in a different class shall have been determined by the Personnel Officer to be appropriate for transfer on the basis of minimum qualifications and qualifying procedure.
 - 2) The employee shall have permanent status in the County service and shall be in good standing.
- C. Demotion: Demotion is the removal of an employee from his or her present position to a lower paying position or salary step. All demotions, unless

voluntary, are considered disciplinary in nature. A Department Head may demote an employee for the following reasons with approval of the Administrative Officer:

- 1) If an employee's job-related performance is not in accordance with the standards of his or her position.
 - 2) At the request of an employee, provided the employee possesses the minimum qualifications for the demoted position. An employee holding permanent status in a class may request a voluntary demotion to a lower class in the same class series and shall retain permanent status in the lower class. Before making an appointment to a position in a lower class not in the same class series, the department head shall ask the Personnel Officer to determine if the lower class is closely related and can be considered the same class series.
 - 3) Failure to meet the job-related standards of a promotional probation. Employees who have been promoted and thereafter are dismissed during probation in such promotional class, shall be restored to their former position in accordance with Rule 5.
 - 4) For disciplinary actions. The demoted employee shall be furnished with a statement in writing setting forth the reasons for the demotion. Any demotion resulting from a disciplinary action must be processed in accordance with Rule 9, which governs disciplinary actions.
 - 5) For displacement.
- D. Reinstatement: The Department Head may initiate reinstatement procedures upon written request of a former employee and as positions become available. The reinstatement must be processed by the Personnel Officer and have the written approval of the Administrative Officer. Reinstatement of a former regular employee who has resigned with a good record may occur within two years of the effective date of resignation, to a vacant position in the same or comparable class. The department head may require a reinstated employee to serve a probationary period as a condition of reinstatement. No credit for former employment shall be granted in computing salary.

vacation, sick leave, or other benefits except on the specific recommendation of the Department Head and with the approval of the County Administrative Officer at the time of appointment.

RULE 9 - DISCIPLINARY PROCEDURES

A. Policy:

- 1) The County's policy on disciplinary actions is founded on the premise that the actions are to be corrective rather than punitive, and any disciplinary actions should reinforce and shape employee behavior in the reasonable and necessary direction for actualizing the County's goals.
- 2) The tenure of every employee in the County service shall be based on reasonable standards of personal conduct and job performance. Failure to meet such standards shall be grounds for appropriate disciplinary action, which shall be commensurate with the seriousness of the offense and with due consideration of the employee's prior performance record.
- 3) Supervisors shall apply necessary and appropriate disciplinary action whenever an employee fails to meet the required standards of conduct or performance.
- 4) Disciplinary actions should be progressively more severe; however, the response for certain first-time, serious offenses may not be the action usually prescribed as an initial step in the normal progressive discipline process, but may include any action up to and including termination. A serious offense may call for immediate suspension pending further investigation.
- 5) Prior to the suspension, demotion, reduction in pay, or discharge of a regular employee for disciplinary purposes, the procedure set forth in this rule shall be complied with.
- 6) Further, it is the policy of the County to adhere to the provisions of Government Code Sections 3300 through 3311, known as the Public Safety Officers Procedural Bill of Rights. Before any meeting with an employee covered by the Public Safety Officer Procedural Bill of Rights involving disciplinary proceedings, or at any point during an interrogation of or interview with the subject employee where disciplinary action becomes a probability, the County shall advise such employees of his/her right to representation.
- 7) Employees shall have the right to be represented at any meeting at which disciplinary action is being considered.

B. Authority:

- 1) A supervisor below the level of a department head may take disciplinary action with regard to an employee after consultation with the Personnel Officer and approval of the Department Head.
- 2) A supervisor at the level of a department head or higher may take disciplinary action after consultation with the Personnel Officer. When the disciplinary action is a written reprimand or a less severe action than that, consultation or approval is not required.
- 3) Employees appointed by the Administrative Officer shall be disciplined by the Administrative Officer.
- 4) Employees appointed by the Board of Supervisors shall be disciplined by the Board of Supervisors.

C. Basis for Disciplinary Actions: All discipline must be for cause. Disciplinary action may be necessary due to employment-related problems, including but not limited to:

- 1) Fraud in securing appointment.
- 2) Incompetency.
- 3) Inefficiency.
- 4) Inexcusable neglect of duty.
- 5) Insubordination.
- 6) Dishonesty.
- 7) Drunkenness on duty.
- 8) Intemperance.
- 9) Addiction to the use of narcotics or habit-forming drugs (substance abuse).
- 10) Inexcusable absence without leave, including absenteeism and tardiness.
- 11) Conviction of a felony or conviction of a misdemeanor involving moral turpitude. A plea or verdict of guilty, or a conviction following a plea of nolo contendere, to a charge of a felony

or any offense involving moral turpitude is deemed to be a conviction within the meaning of this section.

leading to this improvement, and should inform the employee that failure to improve will result in more serious action.

To provide both the supervisor and employee with a permanent record of a specific violation, a written memo should be sent to the employee confirming the conversation. The memo should state the offense and consequences if corrective action is not taken. No record is placed in the employee's personnel file maintained in each department unless subsequent action is necessary.

- 2) Written Reprimand: A written reprimand is a written notice to an employee that further disciplinary action will be taken unless the employee's behavior or performance improves.

The content of the written warning should define what occurred, the date and time of the event which is the cause of the reprimand, what was violated by the employee, what the employee is expected to do to correct the situation, and the employee's rebuttal process.

The written reprimand shall be signed by the supervisor, countersigned by the employee, and filed in the employee's permanent personnel record. If the employee refuses to sign, the employee's refusal shall be noted as such on the memorandum.

When the written warning is issued, the employee shall receive one copy with both signatures affixed; one copy shall be placed in the departmental file; and one copy is placed in the employee's permanent personnel file in the Personnel Department.

The employee shall be granted thirty (30) days after the date that the written reprimand is served on the employee to file a written response to any facts in question; this written answer shall also be placed in the employee's permanent personnel file.

- 3) Suspension, Demotion, Termination: Disciplinary action against an employee involving a suspension, demotion or termination shall be initiated by a Department Head with a written notice of the intended disciplinary action delivered to the affected employee personally or sent to the employee by certified or registered mail, at the last known address, return receipt requested. The notice of proposed disciplinary

12) Fighting on the job.

13) Discourteous treatment of the public or other employees.

14) Illegal political activity.

15) Willful disobedience.

16) Misuse of public property or equipment.

17) Intentional violation of any of the provisions of these Rules, Memoranda of Understanding, or departmental rules and regulations.

18) Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.

19) Divulging confidential information to anyone to whom issuance of such information has not been authorized.

20) Loss or suspension of a driver's license when required for performance of the job.

21) Accepting gratuities or any personal favors in exchange for performance of assigned duties;

22) Willful refusal to respond to an official call during an emergency without a valid excuse.

D. Types of Discipline: The following procedures shall be followed when, in the judgment of the authorized individual, an employee has committed an act or omission that justifies the disciplinary action indicated.

Disciplinary actions may include oral reprimand, written reprimand, suspension without pay, demotion, or any other action deemed appropriate in the circumstances up to and including formal discharge. A typical progressive sequence of disciplinary actions used by the County is:

- 1) Oral Reprimand: The oral warning verbally notifies an employee that his or her performance or behavior must be improved. Oral warnings are given by supervisors when counseling has failed to produce the desired changes.

The warning should define the areas in which improvement is required, set up goals

action shall be delivered to the affected employee ten (10) days before the proposed effective date of the disciplinary action.

a) Review of Notice by Personnel Officer and County Counsel: A copy of the proposed disciplinary actions shall be filed with the Personnel Officer and County Counsel. The Personnel Officer and County Counsel shall review the appropriateness of the proposed disciplinary action before notice is given to the employee.

b) Contents of Notice: The notice of the intended disciplinary actions proposed to be taken shall contain:

1. A statement which clearly defines the intent to take action, the proposed action to be taken, and the effective beginning and ending time of the intended action.

2. A statement of the specific grounds and particular facts upon which the proposed disciplinary action will be taken.

3. A statement that the employee will be provided with any known written materials, reports, or documents upon which the intended action is based.

4. A statement that the employee will be afforded the right to respond, either orally, in writing, or both within ten (10) days upon receipt of the intended disciplinary action.

5. If, within the ten (10) day response period, the employee does not indicate a desire to participate in the Skelly predisciplinary hearing, the proposed action of the County should be considered conclusive and shall take effect as prescribed.

c) Right to Respond: All employees shall have the right to Skelly pre-disciplinary due process procedures; police sworn personnel shall be afforded the Peace Officers' Bill of

Rights. Probationary employees shall have no right of appeal.

d) Modification of Proposed Action: If, as a result of the employee's response, the department head decides to modify the proposed action, the department head shall prepare a new recommendation of proposed disciplinary action. Such action shall be reviewed and evaluated by the Personnel Officer and County Counsel to determine the appropriateness of the proposed disciplinary action. The department head shall obtain the concurrence of the Personnel Officer and County Counsel on the amended notice of discipline before said notice is delivered to the employee.

If the department head decides not to take disciplinary action, he/she shall advise the employee and the Personnel Officer. The original intent to impose disciplinary action sent to the Personnel Officer shall be returned to the department head.

Unless the department head decides to modify the intended discipline, the modified discipline shall be issued on the date so stated in the notice of intent.

E. Suspension: The department head may suspend an employee from his or her position, with or without pay, for disciplinary reasons, or for investigation of extraordinary circumstances. Employees suspended from County service without pay shall forfeit all rights, privileges, and benefits earned during the suspension period with the exception of insurance benefits. Employees suspended with pay shall forfeit all rights and privileges, but shall receive the benefits earned during the suspension period.

F. Suspension for Investigation - Extraordinary Circumstances: In extraordinary circumstances whereby the employee's continued presence constitutes a clear and present threat to the safety of other employees or to the public, the department head may require immediate removal of the employee from the employee's job station rather than waiting to serve the employee with a notice of intended discipline. The department head may, orally or in writing, cause the employee to be suspended with pay pending investigation of whether disciplinary action should be taken against the employee. In case of such an emergency, an employee shall have all of the rights set forth herein, except the right to receive prior written notice of disciplinary action. The Personnel Officer and

County Counsel shall be contacted immediately; such suspension shall not exceed fifteen (15) days.

In the event of an oral suspension, the department head shall confirm the suspension by giving the employee written notice of the suspension as soon as practical, but not later than five (5) days after the original suspension. The notice shall set out fully the reasons for the necessity of taking such emergency action without prior warning to the employee and shall be sent to the employee as outlined above. When an emergency suspension is imposed, the employee shall be assured of due process.

When the investigation is completed and if the facts do not justify the imposed discipline, the employee shall be reinstated. The employee shall receive written notice of reinstatement, a copy of which shall be retained in the employee's permanent personnel file.

If the investigation shows that the imposed discipline was justified, the employee shall be so notified in writing with the proper procedure of due process outlined.

- G. Demotion: Disciplinary action to demote an employee shall be initiated by the supervisor; the intended disciplinary action procedures listed above shall be followed. The effect of this disciplinary action is that the employee is moved from one class to another class having a lower maximum rate of pay.

Department Heads shall not be demoted in classification, but may be demoted in compensation if it is deemed appropriate by the Board of Supervisors or Administrative Officer.

- H. Reduction in Pay: Disciplinary action to reduce an employee's pay shall be initiated by the department head; the intended disciplinary action procedures listed above shall be followed. The effect of this disciplinary action is that the employee is placed at a lower salary step within current range.

- I. Termination: Disciplinary action to terminate an employee shall be initiated by the department head; the intended disciplinary action procedures listed above shall be followed. Employees terminated shall be paid salary, vacation or paid days in lieu of holidays accumulated to the effective date of termination.

Department heads shall consult with the Personnel Officer and County Counsel to determine proper procedures before dismissing an employee who

has attained regular or permanent status.

- J. Releasing of Information Relative to Disciplinary Action: In the interest of preventing undue embarrassment and subsequent loss of ability to perform County work effectively, the following policy will prevail regarding release of information to the news media or entities outside the County on personnel actions:

- 1) No information will be released without prior approval of the Administrative Officer.
- 2) No information will be released until final action has been determined and taken.
- 3) Even after final disposition of the matter, no details will be released other than the exact nature of the action taken.

The foregoing personnel procedures are sanctioned under the Ralph M. Brown Act and related laws. The Attorney General's opinions interpreting Government Code Section 54957 are as follows:

"The purpose of Section 54957 is to protect individual public employees and officers from unfavorable publicity, and to permit private inquiry into the employee's activities, or investigation of charges against such employees."

- K. Appeals from Disciplinary Action: Only permanent employees shall have the right of appeal from disciplinary action. These employees may file a written appeal from disciplinary actions involving suspension, demotion or termination within ten (10) days of the effective date of the disciplinary action.

An employee who is eligible to appeal disciplinary actions under this Rule, may have other disciplinary appeal procedures available to him/her such as, but not limited to, the "LAPS" (Local Agency Personnel Standards) disciplinary appeal procedure. In such cases the employee must, at the time of filing of the initial appeal, indicate which appeal procedure he/she is filing under. This designation of appeal procedure at the time of filing shall constitute a binding election of that appeal procedure and an irrevocable waiver and forfeiture of any and all rights to appeal under any other appeal procedure.

- 1) The written notice of appeal must:
 - a) State the basis of the appeal and contain a specific admission or denial of each of the material allegations contained in the notice

of disciplinary action, and;

- b) Be filed with the Personnel Officer within ten (10) days of the effective date of the disciplinary action for presentation to the Board of Supervisors; and
 - c) Indicate which of the available appeal procedures the appeal is being filed under (for instance, the LAPS procedures or the procedures set forth in this Rule).
- 2) The Board of Supervisors, or their designate, will hear the appeal within thirty (30) days of receipt by the Personnel Officer. The hearing shall be private, unless the employee requests a public hearing. General rules of evidence shall apply. The hearing need not be conducted according to the technical rules of evidence. The employee may be represented by an attorney or other person of their choice. The Board shall render its decision in writing.
- 3) Employees seeking a judicial review of administrative decisions including hearings, suspensions of five (5) or more days without pay, demotions, or terminations shall file a Writ of Mandate (Administrative Mandamus) no later than the ninetieth (90th) day following the date on which the administrative decision becomes final.

The County must, at the time the final administrative decision is made, provide written notice to the employee and his/her representative of the time limits set forth in the Code of Civil Procedure, Section 1094.6, within which judicial review must be sought.

RULE 10 - SEPARATION FROM COUNTY SERVICE

A. **Discharge of Employees:** An employee in the competitive service may be discharged at any time by a department for the following reasons, provided that the Personnel Officer shall be notified and consulted in advance of the proposed action.

- 1) **Abandonment of Position:** Absence without leave for more than five consecutive work shifts may be deemed to be a resignation and may result in termination of employment; absence without leave for sworn peace officers or correctional officers for more than three consecutive work shifts may be deemed to be a resignation and may result in termination of employment. The Department Head shall provide written notice to the employee at the last known address of proposed action to be taken due to abandonment. Said notice shall provide the Skelly pre-action due process procedure.

An employee may be separated from County service if he or she fails to report for duty within five (5) work shifts or, in the case of sworn peace officers and correctional officers within three (3) work shifts, following the expiration of a vacation or leave of absence and did not notify his or her Department Head of the reasons for the absence. Written notice of proposed action shall provide the Skelly preaction due process procedure and be sent to the employee's last known address.

- 2) **Disciplinary Action:** An employee may be terminated for disciplinary actions as provided for in the disciplinary procedures of these Rules.

- 3) **Layoff:** An employee may be terminated because of changes in duties or organization, abolishment of a position, shortage of work or funds.

B. **Resignation:** An employee who voluntarily separates from the service of the County is, by definition, considered to have resigned his/her employment with the County. An employee

wishing to leave the service of the County in good standing, by resignation, shall give the Department Head concerned at least ten (10) working days' written notice unless approval for a shorter notice is obtained from the Department Head.

A resignation made without the notice required may be regarded as cause for denying the resigning employee future employment with the County, and is a resignation not in good standing.

Before the effective date of resignation, a resignation may be rescinded by the employee with approval of the employee's Department Head who, in turn, shall request the Personnel Officer to suspend recruitment to fill the position if such efforts have been initiated.

- C. **Retirement:** Retirement from County service shall be subject to the terms and conditions of the County's retirement system. Whenever an employee meets the conditions set forth in the County's retirement plan regulations, they may elect to retire and receive benefits earned under the retirement plan.

Mandatory retirement shall be in accordance with the provisions of the County's retirement plan regulations and State and Federal law.

- D. **Disability:** An employee may be separated for disability when he or she cannot adequately perform the required duties because of a physical and/or mental impairment. The County, at its expense, may require an examination of the employee performed by a physician, psychologist, or psychiatrist of County choice when any issue of an employee's possible disability arises. A disabled employee may be retained by the County in a position for which qualified, if deemed reasonable and appropriate by the County.

RULE 11 - LAY-OFF

A. Policy: Whenever, in the judgment of the Board of Supervisors, it becomes necessary to layoff employees, the employees holding such position may be laid off or demoted without disciplinary action and without the right of appeal or grievance. The Board of Supervisors, through the Administrative Officer, shall determine the class and number of positions to be affected within the County service, the layoff date, and shall notify the head of the affected department in writing of such reduction. Employees to be laid off shall be given, whenever possible, at least fourteen (14) calendar days prior notice. The layoff procedure is intended to give primary consideration to seniority and job performance.

B. Abolition of Position: When a position within a department is abolished, all employees in that department in the subject classification shall be listed in order of length of service with the County. The least senior employee shall be laid off for each position to be abolished.

If, in any case, length of service should be equal, the tie shall be broken for the purpose of layoff procedure in the following order, in favor of the:

- 1) Employee(s) who have the greatest length of time employed within the class identified for layoff during the current period of continuous service.
- 2) Employee(s) who have the greatest length of time employed with the department during the current period of continuous service.
- 3) The job performance of the employee(s).

C. Displacement - (Bumping): An employee who receives notice of layoff may displace an employee in a lower or same salary range within the same or equivalent class provided that each of the following conditions are met:

- 1) The employee has higher County seniority;
- 2) The employee has held regular status in said lower or equivalent classification within the County;

- 3) The employee is willing to accept the reduced compensation level;
- 4) The employee meets the minimum qualifications for the lower class; and
- 5) The employee submits written displacement action to the Department Head within ten (10) days after receipt of the layoff notice.

D. Reemployment List:

- 1) A reemployment list will be established by the Personnel Officer in the inverse order of layoff within the classification within each department. Persons on this list will be afforded first opportunity for appointment to any future employment in said class.
- 2) Such right to reemployment will be for a period of two (2) years. Said employee, if recalled within that period, will resume employment on the same basis as returning from an unpaid leave of absence and will retain the same salary step of the same salary range assigned his or her classification and have all other rights and benefits as set forth in the Personnel Rules. A person declining offered appointment will be stricken from the reemployment list after three (3) refusals.
- 3) After two (2) years, laid off employees will continue to be encouraged to apply for positions within the County service. Such persons will receive full consideration of such application in light of former service. Nothing in this procedure assigns any rights to such persons.

E. Representation: Recognized employee associations will have the right to represent their members in all aspects of this policy and procedure pursuant to Government Code Section 3500 et seq.

RULE 12 - GRIEVANCE PROCEDURE

NOTE: THIS PROCEDURE DOES NOT APPLY TO LAW ENFORCEMENT UNIT. SEE DSA SUPPLEMENTAL MOU FOR 1990-91.

A. Policy: The County of San Benito desires to create and maintain labor relations harmony and, toward that end, shall promptly and fairly attempt to adjust all complaints, disputes, controversies or other grievances arising between the County and its employees. It shall be the policy of the County of San Benito that all employees who have successfully completed the required probationary period and attained regular status shall have the right of appeal under the grievance procedure. It shall not be applicable to probationary or temporary employees, except as may be otherwise provided for in these Rules. No employee shall be subject to reprisal for using or participating in the Grievance Procedure.

B. Purpose: The purpose of this procedure is:

- 1) To promote improved employer-employee relations by establishing reasonable and uniform grievance procedures on matters for which appeal or hearing is not provided by other regulations.
- 2) To afford employees individually, or through qualified employee organizations, a systematic means of obtaining further considerations of problems after every other reasonable effort has failed to resolve them through discussions.
- 3) To provide that grievances shall be settled as near as possible to the point of origin.
- 4) To provide that grievances shall be heard and settled as informally as possible, not necessarily conducted in accordance with technical rules relating to evidence and witnesses; provided, however, that the evidence is of a nature upon which reasonable persons may rely to ascertain the truth.

C. Definition and Matters Subject to Grievance Procedures:

- 1) A Grievance is Defined as Follows: An alleged violation, improper application of, or non-compliance with a memorandum of understanding, County Personnel Rules or

departmental rules or regulations, ordinance or resolution affecting working conditions. A grievant is an employee who is filing a grievance in accordance with these Rules.

2) Matters Subject to Grievance Procedures: Any County employee with permanent status shall have the right to present a grievance concerning matters listed below for which appeal is not provided or is not prohibited by these Rules.

- a) Improper application of County or departmental rules, regulations, a memorandum of understanding, ordinance or resolution affecting working conditions.
- b) Unfair treatment of employees.
- c) Unlawful discrimination in employment because of race, color, religion, marital status, national origin, ancestry, sex, sexual preference or orientation, pregnancy, parenthood, political affiliation or political belief, physical or mental handicap.
- d) Any disputes regarding disapproval of application for outside employment.

3) Matters Not Subject to Grievance Procedures: Specifically excluded from the grievance procedure are:

- a) Dismissals, suspensions, or reduction in rank or classification.
- b) Probationary dismissals upon original appointment except as otherwise provided by law.
- c) Content of performance evaluations.
- d) The exercise of any County management rights as may be specified in a County ordinance, resolution or memoranda of understanding.
- e) Examination appeals.
- f) Any other matters designated by

these Rules as non-grievable.

D. Conduct of Grievance Procedure: All grievances shall be filed only in accordance with this procedure.

- 1) **Personnel Office:** The Personnel Office shall act as a central repository for all grievance records and shall immediately receive a copy of every grievance as it is filed with a department. Personnel shall also receive a copy of every reply and appeal. The processing of an appeal shall be considered as County business; the aggrieved employee and his/her representative shall receive reasonable time off from duty with pay for this purpose.
- 2) **Representation Rights:** An aggrieved employee, except an employee failing probation, or group of aggrieved employees in a group grievance may be accompanied or represented by one (1) person of their choice following the first informal discussion with the immediate supervisor. However, a County employee who has been designated by a resolution of the Board of Supervisors as a managerial, supervisory or confidential employee shall not represent any employee or group of employees at any step of the Grievance Procedure or in any activity or role provided for in the Grievance Procedure.
- 3) **Time Limits:** The time limits established in the grievance procedure may be extended by mutual agreement in writing of the employee and the reviewer concerned. Failure to meet time limits by the employee shall constitute withdrawal of the grievance. Failure by the County to meet time limits shall entitle the employee to request the next step in the procedure.
- 4) **Forms:** Grievances shall be processed on standard forms obtainable from the Personnel Officer. Presentation of an informal grievance shall be necessary prior to the filing

of a formal grievance.

- E. Informal Grievance Procedure:** Every effort should be made to settle grievances at the lowest level of supervision possible. An employee should first attempt to resolve a grievance or complaint through discussion with his/her immediate supervisor without undue delay; except that where the grievance involves the relationship with the supervisor, it shall be submitted to the next higher level of supervision.

The aggrieved employee and supervisor have a mutual responsibility to find an acceptable solution by informal means at the lowest possible level. If, after such discussion, the employee does not believe the problem has been satisfactorily resolved, he/she shall have the right to discuss it with his/her supervisor's immediate supervisor if necessary.

When a complaint cannot be settled during the initial, informal discussion, there may be further informal discussion between the aggrieved employee, the supervisor, and the employee's representative. If the employee is not in agreement with the decision reached through such discussion, he/she shall then have the right to file a formal grievance in writing within ten (10) days after receiving the informal decision of his/her immediate supervisor or supervisors. An informal grievance shall not be taken above the Department Head.

- F. Formal Procedure:** A formal grievance can only be initiated by completing and filing with the Personnel Office a form provided by the Personnel Officer for this purpose.

The form shall contain: name(s) of the grievant; class title(s); department(s); mailing address(es); a clear statement of the nature of the grievance (citing applicable ordinance, rules or regulations, or contract language); the date upon which the grievance occurred; the date when the informal discussion with the supervisor took place; a proposed solution to the grievance; the date of execution of the grievance form; the signature of the grievant; and the name of the organization, if any, representing the grievant.

Step 1: Immediate Supervisor. The aggrieved employee must complete the first step of the grievance form stating the

problem and a suggested solution.

The form shall be submitted to the immediate supervisor and Personnel Officer within ten (10) days from the time it was deemed a formal grievance and not more than thirty (30) days following the event or events on which the grievance is based or within thirty (30) days from the time an employee might reasonably have been expected to have learned of the alleged misinterpretation or misapplication.

In no event shall a grievance include a claim for money relief for more than the thirty (30) day period plus such reasonable discovery period. Failure of the employee to file a formal grievance with his/her immediate supervisors in a timely manner shall constitute abandonment of the grievance.

The immediate supervisor shall complete the first step portion and return the original form to the employee within ten (10) days.

Step 2: Department Head. Provided the written statement of the immediate supervisor does not satisfactorily dispose of the grievance, the employee may, within ten (10) days after receipt of the immediate supervisor's decision, deliver the original form to the Department Head.

The Department Head and the supervisor shall together discuss the problem with the aggrieved employee. The response shall be made in writing on the grievance form and within ten (10) days delivered to the employee.

Step 3: Administrative Officer. Provided that the written statement of the Department Head does not satisfactorily dispose of the grievance, the aggrieved employee may, within ten days after receipt of the Department Head's answer, deliver the original form to the Administrative Officer.

The Administrative Officer shall investigate the grievance, confer with persons affected and their representatives to the extent deemed necessary, and render a decision in writing within ten (10) days after receipt of the written request.

If the decision of the Administrative Officer resolves the grievance to the satisfaction of the employee, it shall be final and binding.

Step 4: Board of Supervisors. Provided the written statement of the Administrative Officer does not satisfactorily dispose of the grievance, the aggrieved employee may, within ten (10) days after receipt of the Administrative Officer's answer, deliver the original form to the Personnel Officer for presentation to the Board of Supervisors.

The Board of Supervisors, or their designate, will hear all grievances and report all findings within thirty (30) days of the receipt of such grievance by the Board of Supervisors.

G. Judicial Review: Employees seeking a judicial review of administrative decisions including hearings, suspensions, demotions, or terminations shall file a Writ of Mandate (Administrative Mandamus) no later than the ninetieth (90th) day following the date on which the administrative decision becomes final.

The County must, at the time the final administrative decision is made, provide written notice to the employee and his/her representative of the time limits set forth in the Code of Civil Procedure Section 1094.6 within which judicial review must be sought.

RULE 13 - EMPLOYEE DEVELOPMENT

A. **Policy:** It is the policy of the County of San Benito to assist employees to increase the effectiveness of their performance in their present County positions as well as to encourage employees to obtain skills, knowledges, and abilities which may improve their opportunities for career advancement within the County.

B. **Responsibility:** The Administrative Officer and Personnel Officer shall establish procedures necessary to implement this policy within the limitations of available resources.

As the employee has primary responsibility for individual career development, the employee will make a personal career interest known to the supervisor and initiate the request to participate in relevant career-related programs. Supervisors, upon an employee's request, are encouraged to assist the employee in setting career goals that are consonant with the employee's current position and encourage their attainment.

Department heads and supervisors, in consultation with the Personnel Officer, shall assess needs for staff development, consider employee development in their budgetary planning activities, and assure that performance evaluations of employees include training and development objectives when appropriate.

The Personnel Officer shall assess Countywide development needs of employees and, based on the availability of resources, shall sponsor appropriate position-related and career-related development programs.

The Personnel Officer shall review and evaluate the effectiveness of employee development programs in relation to the County's overall training needs and objectives.

C. **Scope:** For the purpose of this policy, employee development programs include on-the-job training, internships, courses, seminars, conferences, institutes, lectures, meetings, workshops, and participation in professional and technical associations.

D. **Definitions:** Programs shall be classified as either position-related, career-related, or

educational enrichment programs based on the judgment of the department head in consultation with the supervisor and, as necessary, the Personnel Officer.

1) **Position-related Programs:** These programs are directly related to work assignments or conditions of the employee's current position. For example, supervisory training is a position-related program for an employee whose current position includes supervisory responsibility.

2) **Career-related Programs:** These programs are related to the development of skills, knowledges, and other qualifications which prepare an employee for additional assignments or positions within the County for which the employee, in the judgment of the department head, has some reasonable chance of attainment.

For example, supervisory training is a career-related program for an employee whose current position does not include supervisory responsibilities but who is interested in competing for County job openings which require supervisory ability.

3) **Educational Enrichment Programs:** These programs are related to an employee's avocation or career talents outside the County and are not related to County positions for which an employee might, in the judgment of the department head, be an effective competitor.

For example, courses such as a music course would be considered an educational enrichment program.

RULE 14 - REPORTS AND RECORDS

A. **Service Record:** The County shall maintain a service record for each employee in the service of the County showing the name, title of the position held, the department to which assigned, salary, changes in employment status, residence data, written performance evaluations, written notices of disciplinary action taken, letters of commendation or recognition, and such other information as may be considered pertinent.

B. **Change-of-Status Report:** Every appointment, transfer, promotion, demotion, change of salary rate, and other temporary and permanent changes in status of employees shall be reported to the Personnel Officer and County Auditor in such manner as may be prescribed.

C. **Access to Administrative Records:** The County Counsel, the Administrative Officer, and the Personnel Officer shall have access to all departmental records, documents, and papers pertaining to employees, the examination of which will aid in the discharge of their duties. All administrative records shall be maintained in a manner which will insure maximum security and preserve their confidentiality.

D. **Employee Access to Their Personnel Records:** At a time which is reasonable to department head and employee, the department head shall, upon the request of employee, provide the opportunity to employee to inspect any materials, records, etc., in his/her personnel file which are used or have been used to determine that employee's qualifications for employment, promotion, additional compensation, termination, or other disciplinary action. This Rule does not apply to records relating to the investigation of a possible criminal offense or to letters of reference.

In a case involving a grievance or disciplinary action, the employee's designated representative may also review his/her personnel file with specific written authorization from the employee.

E. **Access to Personnel Records by Department Heads:** Department Heads shall have access to all records, documents, and papers pertaining to employees in their department, if the examination will aid in the discharge of their

duties. All personnel records are confidential and the Department Head shall maintain this confidentiality.

F. **Release of Information to the Public or Other Agencies:**

1) Information requested regarding official status will be released. This type of information is: employee's name, class title, current salary range and actual salary, date of employment, and length of employment.

2) Information of a personal nature will not be released except upon express written authorization of the employee. This type of information is: employee's birthdate, birthplace, address, telephone number, and spouse's name.

G. **Destruction of Records:** Roster and payroll records shall be retained permanently. Upon approval of the County Counsel, all other records relating to personnel may be destroyed after a three-year period or a more lengthy period if prescribed by law.

H. **Purging of Employee Discipline Records:** Written reprimands and suspension records may be expunged upon sustained corrective behavior after three (3) years. It is the responsibility of the employee to request the purging of discipline records.

The employee wishing to have disciplinary records purged shall make a written request to the Personnel Officer. The Personnel Officer shall consult with the employee's Department Head to substantiate that corrective behavior has been sustained for the three-year period. The Administrative Officer and County Counsel shall approve the request before the records are expunged.

A record of demotion shall remain permanently in the employee's personnel file.

I. **Secret Files:** No secret files shall be kept on any employee.

RULE 15 - OUTSIDE EMPLOYMENT

An employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his/her duties with the County or state law.

Each Department Head shall determine, subject to approval by the Administrative Officer and County Counsel, those activities which are inconsistent, incompatible or in conflict with duties of the employees in his/her department or which will lessen the employee's effectiveness as a County employee.

No County-owned equipment, vehicles, tools, supplies, or any other item shall be used by an employee while the employee is engaged in any outside employment or activity. To avoid public criticism or discredit of the County, employees shall not use the influence of their County employment in non-County business.

Employees engaged in outside employment shall notify their Department Head of such action. Notification should include the nature of the work and the hours involved.

RULE 16 - DRESS CODE

The appearance and dress of employees is important to creating and maintaining a favorable image supportive of public confidence. Employees are to observe good grooming and personal hygiene practices and dress appropriately for their particular job before presenting themselves for work. Good grooming, personal hygiene, and clean clothing are required at all times.

RULE 17 - MEAL AND REST PERIODS

A. Meal Periods: A meal period of not less than thirty (30) minutes or more than one (1) hour shall be allowed approximately midway of each work period or shift of six (6) or more continuous hours. Meal periods are neither time worked nor time on pay status unless an employee is required by their department head to remain on the job at a work station. Such an arrangement must be approved in advance by the department head.

B. Rest Periods:

- 1) Two (2) rest periods of not more than fifteen (15) minutes shall normally be granted during an eight (8) hour shift. Three (3) rest periods of not more than fifteen (15) minutes may be granted at the discretion of the department head during a twelve (12) hour shift. A part-time employee shall normally be granted one fifteen (15) minute rest period for each work period of four (4) hours or more, not to exceed two (2) rest periods per day.
- 2) The department head shall establish reasonable rules governing the taking of such relief or rest periods. Rest periods will be taken away from the immediate work area when the employee works in a public contact office, and where the department head can reasonably provide such separate area.
- 3) Rest periods shall not be taken at the beginning or end of a work period, combined with a meal period or accumulated for use at a later time.
- 4) In such situations where operational requirements, work station or coverage requirements, workloads, staffing levels, leave schedules, vacation schedules, and/or the provision of services to the public or County employees may require the uninterrupted presence of the employee(s), rest breaks will not be granted at the sole non-grievable discretion of the department head.
- 5) Rest periods are not a right but a privilege and are considered as work time.

RULE 18 - OVERTIME

- A. **Policy:** It is the policy of the County of San Benito to comply with all provisions of the federal Fair Labor Standards Act (FLSA). Overtime shall be assigned only in emergency situations or where the overtime is determined by the department head to be necessary to meet essential operating needs of the county. Dual employment that creates an overtime liability for the County is prohibited without permission from the Board of Supervisors. Overtime must be approved in advance by the department head or his/her designee. Department heads are not eligible for overtime pay or compensatory time off.
- B. **Responsibility:** The Administrative Officer shall establish implementing procedures to assure compliance with this policy.
- C. **Employee Notification:** As soon as possible after the need for overtime is determined, the department head shall notify the employee that overtime must be worked as soon as practicable after the need for overtime is determined. Employees are expected to work overtime when such work is assigned. However, in assigning overtime, the department head will take into account employee preference for overtime assignments.
- D. **Overtime Definition:** Overtime is time worked of at least six (6) minutes beyond the employee's normally assigned work hours which exceeds eight (8) hours on paid status in a day or forty (40) hours on paid status in a workweek. Overtime shall be reported to the nearest twelve (12) minute increment with a full twelve (12) minutes to be granted if half or more of the period is worked. Smaller fractional units of overtime worked on different days will not be accumulated. Paid status includes time worked and paid leave such as sick leave, vacation leave, holidays, bereavement leave, and compensatory time off. Overtime hours do not count toward the accumulation of sick leave, vacation, holiday or retirement system credit. Overtime hours are not compensated at the one and one-half (1-1/2) times-rate unless the conditions described in Section E are met.

E. Overtime Compensation:

- 1) **Compensation Rate:** Employees shall be compensated for overtime at their straight-time regular hourly rate, except that employees not designated as exempt from the overtime provisions of the Fair Labor Standards Act by a resolution or ordinance adopted by the Board of Supervisors shall be compensated at one and one-half (1-1/2) times their straight-time regular hourly rate only for those overtime hours which exceed eight (8) hours per day or forty (40) hours on paid status in a workweek. When less than forty (40) hours is worked in one (1) week, overtime will be compensated at the straight-time rate.
- 2) **Compensation Method:** All overtime worked over eight (8) hours per day or forty (40) hours per work week shall be rounded up to the next half hour (15 minute increments for Law Enforcement Unit) and compensated with compensatory time off except that those employees in the general unit or law enforcement unit who have accrued more than sixty (60) hours or one hundred (100) hours, respectively, shall be entitled to paid overtime.
- 3) **Compensatory Time Accrual Limits:** Employees in classifications included in the general unit shall be allowed to accrue a maximum of sixty (60) hours compensatory time off. Employees in classifications included in the law enforcement unit shall be allowed to accrue a maximum of one hundred (100) hours compensatory time off. Employees having more than sixty (60) or one hundred (100) hours accrued on the effective date of these Rules shall use the amount accrued as their CTO maximum until CTO usage has dropped their accrual to or below the sixty (60) or one hundred (100) hour limit, appropriately. Thereafter, either the sixty (60) or one hundred (100) hour limit shall apply.
- 4) **Payment of Overtime Upon Transfer:** An employee who is transferred to another department shall be paid for any accrued, authorized overtime by the department in which the overtime was worked.

F. Call-Back Time:

- 1) Definition: Call-back refers only to those instances when an employee is ordered back to work without prior notice after completing a shift and leaving the premises or in those instances when prior notice is given but the work begins at least three (3) hours after the completion of the regular work schedule. The use of call-back should be resorted to only in emergency situations or unusual instances when it is not possible for the work to be accomplished through normal scheduling or scheduling of overtime.

Responses to phone calls or performing work at home shall not be considered call-back duty.

Travel time to and from work shall not be considered time worked.

- 2) Credit for Work Time: An employee who is called back shall receive credit for a minimum of two (2) hours of work time. The two (2) hours, whether or not actually worked, are subject to the appropriate overtime provisions.

G. On-Call Time:

- 1) Definition: On-call time is a period of time in addition to normal work time during which an employee is not working but is required to restrict activities and be available for return to work. An employee is not considered to be in on-call status unless he/she has previously been informed by their department head of the assignment. Department heads have the right to determine the need for and the assignment of on-call time. Time spent in on-call status but not actually worked is not considered as time worked or time on pay status.

Time spent in answering phone calls or responding to calls by phone is considered time worked which counts toward overtime.

- 2) Administrative Officer Approval: To be assigned on-call duty, an employee must be on a written on-call departmental schedule that has been approved by the County Administrative Officer. Review by the Administrative Officer shall include a

determination of the need for the use of on-call, and a determination that the on-call situation is to be used to the advantage of the County.

- 3) Requirements: On-call duty requires the employee so assigned:

- a. To be reachable by telephone, radio, beeper or other means established by the department head;

- b. To respond to work quickly if called back; and

- c. To refrain from activities which might impair his/her ability to perform his/her assigned duties should he/she be called back.

- 4) Compensation Rate: On-call time shall be compensated at the rate as set forth in the Memorandum of Understanding currently in effect.

H. Travel Time: The following provisions apply, unless exceptions are authorized by the Administrative Officer. Travel time between home and the work place is not time worked. Travel which keeps an employee away from home overnight and which occurs outside the employee's normal working hours is not considered as hours of work. However, travel which does not keep an employee away from home overnight is considered as hours worked, as is travel which occurs during the hours an employee normally works when the travel related to County business occurs on the employee's days off.

RULE 19 - LEAVE

A. **Leave of Absence Without Pay:** Leaves of absence without pay may be granted for pregnancy, in case of emergency or need, extended illness, need to provide care for members of the family, education which will directly increase job effectiveness, adoption of children, or where such absence would not be contrary to the best interests of the County.

Such leaves should be regarded as a privilege and not a right. There should also be the expectation that the employee will return to County employee at the expiration of such leave. No leaves of absence without pay may be granted except in accordance with the following provisions of these Rules.

1) Procedure to Request Leave of Absence:

- a) No such leave shall be granted except upon written request of the employee setting forth the reason for the request, and the approval will be in writing.
- b) The Department Head may grant a permanent or probationary employee a leave of absence without pay not to exceed two (2) calendar weeks.
- c) The Administrative Officer may grant a permanent or probationary employee leave of absence without pay or seniority for a period not to exceed four (4) months.
- d) No personal leave of absence without pay for more than one day shall be granted as long as the employee has accumulated vacation which the employee may use.

2) Time Extensions: Leaves of absence without pay may be extended at two (2) month intervals up to a maximum of eight (8) month extension upon the mutual agreement of the Administrative Officer and the employee involved.

3) Return to Work: Upon expiration of the regularly approved leave, or within a reasonable period of time after notice to return to duty, the employee may be reinstated in the position held at the time leave was granted.

Failure on the part of the employee on leave to report promptly at its expiration, or within a reasonable time after notice to return to duty shall be cause for discharge, in the discretion of the Administrative Officer.

4) Effect on Benefits, Seniority and Anniversary Date:

- a) A leave of absence of less than fifteen (15) calendar days shall not result in an adjustment to the employee's benefits, seniority or anniversary date.
- b) An employee on a leave of absence of fifteen (15) or more calendar days:
 1. Loses all insurance benefits beginning on the first day of the next month after the month in which the 15th calendar day falls. If permitted by the County's current insurance carrier, the employee may keep the policy in force by paying the County for the cost of the insurance premium.
 2. Shall have his/her seniority status adjusted to allow for the time over fifteen (15) days spent on leave.
 3. Shall have his/her anniversary date adjusted by the number of days spent on leave from the fifteenth (15th) day, plus the number of days to the first day of the next succeeding month.

B. **Vacation Leave:** Vacation credit for eligible employees is earned each month on a proportionate basis based on the percent of time or number of hours on pay status for that month at a rate determined by the length of qualifying service. Employees must be on pay status at least one-half of the working hours of a month to earn vacation credits for that month.

1) Accrual: Vacation credit will be earned by an eligible employee on pay status beginning the first of the month during which the required qualifying service is completed, at the following rates:

- a) For full-time employees having less than five (5) years of qualifying service, six and two-thirds (6 2/3) hours per month (10 days per year).
- b) For full-time employees having five (5) but less than fifteen (15) years of qualifying service, ten (10) hours per month (15 days per year).
- c) For full-time employees having more than fifteen (15) years of qualifying service, thirteen and one-third (13 1/3) hours per month (20 days per year).

Vacation credit shall not accrue for time on pay status in excess of the full-time working hours of the month. Employees assigned to part-time positions rated at fifty percent (50%) of full-time equivalent or greater earn vacation credit on a proportionate basis. Temporary employees are not eligible for vacation credits.

- 2) Limits of Accrual: An employee shall not accrue vacation credit in excess of an amount equal to two (2) times the employee's yearly accrual rate. However, the vacation accrual limit shall only be enforced as of December 31 of each year. The intent of this language is to allow employees to exceed their vacation accrual limit at other times during the year so long as they are within the accrual maximum at year end.
- 3) Waiting Period to Take Vacation: An employee shall not use such vacation until completion of his/her probationary period and he/she has received a permanent appointment.
- 4) Scheduling Vacation and Required Approval: Vacation leave shall be scheduled at the convenience of the department. Vacation scheduling by the department head shall be made with consideration of staffing needs and on the basis of seniority. All requests for vacation leave must be approved by the employee's department head. The department head is responsible for insuring that the employee is eligible for the vacation requested. No person shall be allowed paid vacation in excess of that actually accrued at the time such vacation is taken.

NOTE: See current MOUs and any supplements for additional requirements for vacation usage and scheduling.

- 5) Illness Within Vacation Leave: Employees who become ill or injured during vacation leave may have such periods of illness charged to their accumulated sick leave instead of vacation provided that the requirements as set forth in the sick leave rule are complied with.
- 6) Compensation at Termination: Employees leaving the County service with accrued vacation shall be paid the amounts of accrued vacation to the date of termination at the employee's hourly rate.

C. Sick Leave: Sick leave is provided to continue the salary of eligible employees who would otherwise be on pay status but who are unable to work because of illness or disability.

Sick leave is also provided for medical, dental and optical appointments and, on a limited basis, in the event of death or illness of an immediate family member to supplement bereavement leave. Immediate family member is defined as a husband, wife, mother, father, grandfather, grandmother, daughter, son, granddaughter, grandson, sister, or brother and step-relatives and in-laws in those relationships.

Sick leave shall not be considered as a privilege which an employee may use at his/her own discretion, but shall be granted only upon the recommendation of the Department Head.

- 1) Accrual: Sick leave accrues each month based on the percent of time or number of hours on pay status during that month. Employees must be on pay status at least one-half the working hours of a month to accrue sick leave credit for that month. Sick leave accrues at the rate of ten (10) hours per month for full-time employment. Sick leave shall not accrue for time on pay status in excess of forty hours in any workweek. A part-time employee in a position rated at fifty percent (50%) or greater shall accrue proportionate sick leave credit. Temporary employees are not eligible for sick leave.
- 2) Limits of Accrual: Unused accrued sick leave may be accumulated up to and including two hundred fifty (250) working days or two thousand (2,000) hours.
- 3) Use of Sick Leave: An employee shall be permitted to use accrued sick leave as needed and approved, to the point of depletion, at which time the employee will receive no pay for sick leave. Sick leave

may be taken as provided below:

- a) An employee shall not use sick leave prior to the time it is accrued.
- b) As a supplement to and after exhausting their bereavement leave, an employee shall be permitted to use not more than two (2) days of accrued sick leave per incident when that employee's attendance is required due to the death of a member of the employee's immediate family.
- c) The employee shall notify the Department Head no later than the first hour of the day he/she is absent.
- d) After three (3) consecutive days of sick leave, an employee may be required by the Department Head to submit satisfactory proof of illness or disability, i.e. a physician's certificate or a personal affidavit stating the cause of absence or attesting to the employee's inability to resume work.
- e) An employee shall not use accrued sick leave beyond a predetermined date of separation, including retirement or layoff, or any leave without pay.
- f) An employee who becomes ill while on vacation may have such period of illness charged to his/her accumulated sick leave instead of vacation provided that immediately upon return to duty, the employee submits to his/her supervisor a written request for sick leave and a written statement signed by the employee's physician stating the nature and dates of the illness.
- g) Observed holidays occurring during sick leave shall not be counted as a day of sick leave.
- h) A pregnant employee is entitled to use accrued sick leave during such period that she is physically unable to perform the normal duties of her job as attested to by the written statement of her physician.
- i) An employee is entitled to use sick leave when illness within the employee's immediate family requires the attendance of the employee. No supervisor may grant sick leave under

these conditions unless the supervisor is satisfied that the absence of the employee is required to attend the dependent with the medical disability. The supervisor may require doctor's certification showing the requirement that the employee be in attendance.

- 4) Deduction of Sick Leave: Sick leave balances shall be reduced by the actual time not worked and rounded to the nearest half-hour.
 - 5) Payment or Forfeiture of Sick Leave Upon Termination: Employees leaving the County service shall forfeit all accumulated sick leave, except that employees retiring under the Public Employees Retirement System shall be paid for one-half of such sick leave on the next pay day following the effective date of such retirement.
- D. Bereavement Leave: Each regular and permanent employee is entitled to three (3) days of bereavement leave to be used in the case of death in an employee's immediate family as defined pursuant to Rule 4.1.3. Bereavement leave is in addition to an employee's accrued sick leave and vacation leave.
- E. Maternity Leave: A female employee shall be entitled to leave of absence on account of pregnancy for a reasonable period of time not to exceed four (4) months or as otherwise determined by State law. A pregnant employee taking maternity leave shall first use all available sick leave and other paid time before a leave of absence without pay shall be granted.
- F. Holidays:
- 1) Regular Holidays for Pay Purposes: The following holidays are recognized as County holidays for pay purposes and all regular and probationary employees in permanent positions shall have these days off, except as otherwise provided:
 - a) New Year's Day
 - b) Martin Luther King's Birthday
 - c) Lincoln's Birthday
 - d) Washington's Birthday
 - e) Memorial Day

- f) Independence Day
- g) Labor Day
- h) Columbus Day
- i) Veterans Day
- j) Thanksgiving Day
- k) The day after Thanksgiving Day.
- l) Christmas Day
- m) Floating Holiday

The floating holiday is to be taken or lost by the end of each fiscal year (i.e. June 30th), at the employee's discretion, subject to the staffing needs of the Department and with approval of the Department Head. However, an employee who receives credit for the floating holiday late in the fiscal year, that is, on or after April 1, may carry over the floating holiday into the next fiscal year.

n) Administrative Holiday

Subject to scheduling by department heads to insure office coverage, approximately half of the employees in the will be given a half day off on Christmas Eve with remaining employees being eligible to take off a half day on New Year's Eve. Employees in the Law Enforcement Unit are not eligible for this half-day holiday.

2) Eligibility:

- a) A full-time employee in a permanent position shall receive holiday pay if on pay status on the employee's last scheduled work day before the holiday and on the first scheduled work day following the holiday.
- b) No employee shall receive holiday pay for any holiday which is immediately preceded by or followed by an unauthorized absence or a suspension for disciplinary reasons.
- c) Part-time permanent employees shall be entitled to holiday pay on a proportionate basis. Temporary employees and permanent part-time employees who work less than fifty (50) percent time are not eligible for holiday pay.

d) When a designated holiday falls on an employee's scheduled day off, other than Saturday or Sunday, the day off shall be rescheduled to another day within the pay period.

3) Holidays on Saturday or Sunday: When a holiday falls on a Sunday, the following Monday is observed as a holiday. When a holiday falls on a Saturday, the preceding Friday is observed as a holiday unless an alternate day is designated by the Board of Supervisors.

4) Compensation for Holiday Work: An employee who is required by their department head to work on a holiday shall be paid the regular pay at a straight-time rate. In addition, the employee receives either holiday pay at the straight-time rate or compensatory time off on an hour-for-hour basis for every hour of overtime worked.

5) Alternate Full-Time Work Schedule: An employee on an alternate full-time work schedule is entitled to the same number of holidays and the same number of paid holidays as are granted regularly scheduled employees. An employee whose regular day off falls on a holiday observed by the County receives either another day off or compensating holiday pay.

6) Special or Religious Holidays: An employee may observe a special or religious holiday, provided work schedules permit and provided that the time off is charged to accrued vacation, accrued overtime, or is without pay.

G. Military Leave: Employees shall be entitled to any military leave provided by law and shall retain all rights and privileges granted by law arising out of the exercise of military leave. Such military leave will be provided, on a paid status, up to a maximum of thirty (30) days annually. T.H.G.
38
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H. Jury Duty: Employees required to report for jury duty shall be granted a leave of absence with pay from their assigned duties until released by the court, provided the employee remits to the County all fees received for such duties other than the employee's expenses and mileage within thirty (30) calendar days from the termination of jury service.

I. Subpoenas: Employees who are subpoenaed to appear as witnesses in behalf of the County

before a court, legislative committee, judicial or quasi-judicial body shall be granted a leave of absence with pay, provided the employee remits to the County all fees received for such duties other than the employee's expenses and mileage within thirty (30) calendar days from the termination of his/her service.

RULE 20 - SAFETY AND WORK-INCURRED INJURY OR ILLNESS

A. **Policy:** The County shall make reasonable attempts to furnish and maintain in safe working condition the workplace, tools and equipment required, in order that employees might carry out the duties of their positions.

B. **Employee Responsibility:**

- 1) Each employee shall, as part of the job, handle equipment as well as himself/herself in such a way as to avoid accidents. An employee driving or using County equipment shall be responsible for observing all safety rules and using all available mechanical safeguards.
- 2) It shall be the responsibility of any employee to report all unsafe practices or faulty equipment observed on the job. The willful violation of any State or Federal safety law by any employee shall be cause for disciplinary action or discharge.
- 3) No employee shall be disciplined for refusal to violate the safety codes or laws of the State of California.

C. **Procedure in Reporting Injury:**

- 1) Immediate Notification: All employees injured on the job, however slightly, must report the fact immediately to their supervisor or other responsible department official. Failure to do this delays proper medical care and may result in unfavorable action upon a claim for compensation.
- 2) Medical Attention: If an employee is injured to such an extent as to require medical attention or hospitalization, he/she shall be immediately taken to a physician or hospital.
- 3) Workers' Compensation Report: It shall be the responsibility of the injured employee's department head to inform the Administrative Officer immediately and make certain that the proper written reports are made to the Workers' Compensation Division at Sacramento, California.

D. **Work-Incurred Injury or Illness:** Employees who are unable to work due to a work-incurred injury or illness compensable under the California

Workers' Compensation Act are eligible to use sick leave and vacation as provided below:

- 1) Supplemental Sick Leave and Vacation: An employee who accrues sick leave and vacation shall be permitted to use accrued sick leave and vacation to supplement temporary disability payments received under the California Workers' Compensation Act.
- 2) Amount of Payment: Sick leave and vacation payments shall be the difference between the amount payable to the employee under the Workers' Compensation Act and the employee's regular salary. The additional payment made to an employee to provide the employee with full salary prior to receipt of disability payments shall be deemed an advance temporary disability payment within the Workers' Compensation Act. An employee who receives advance temporary disability payment shall reimburse the County for such payment. The reimbursement is used to restore proportionate sick leave and vacation credit as appropriate.

The first (3) days shall be charged to the employee's accrued but unused sick leave. If the temporary disability period exceeds fourteen (14) days, temporary disability will be paid for the first three (3) days and sick leave credits will be restored.

- 3) State Labor Code 4850 pay: Law enforcement officers, as defined in State Labor Code Section 4850, continue to receive full salary benefits in lieu of temporary disability during any absence from work which qualifies for Workers' Compensation benefits.

Currently, the maximum "4850 pay" is one year for any injury or illness. To be eligible for this benefit, the employee must be under the care of a physician. All 4850 pay shall be approved by the Personnel Officer.

Sick leave and vacation shall accrue in accordance with the provision of State Labor Code Section 4850.

E. Light/Modified Duty Assignment:

- 1) Employees desiring light or modified duty assignments shall make their requests in writing to their department head stating their disability and estimated period of disability. A physician's release shall be attached to this written request. The physician's release shall state an authorization to return to work on light or modified duty, and prescribe any work-related limitations and their expected duration.
- 2) Light or modified duty assignments are not mandatory and shall be agreeable to the employee, department head and Personnel Officer before any duties are assigned.
- 3) Light or modified duty assignments shall begin and terminate at the discretion of the department head, with the Personnel Officer's concurrence, and be specified in writing.

RULE 21 - INSURANCE & RETIREMENT BENEFITS

A. Health Insurance: The County shall provide each employee in a permanent full-time or part-time position rated at 50% or more and their dependents a group health insurance plan subject to the provisions of Section C of this rule.

Health insurance benefits may be denied to employees who are in a pay status for less than 50% of the working hours during a calendar month by the withholding of County-paid premiums for the subsequent month.

The amounts contributed by the County toward health insurance premiums shall be as set forth in the current Memorandum of Understanding or management compensation plan as appropriate. Costs in excess of agreed upon amounts are to be paid by the employee through payroll deductions.

B. Employee Health Insurance Committee: The Administrative Officer will establish an insurance committee and include on that committee representatives of the organizations representing County employees in collective bargaining and unrepresented management staff. The Personnel Officer shall serve on the committee and provide staff support and assistance. It shall be the function of the committee to make studies of the health insurance benefits to determine:

- 1) The level of benefits desired by employees; and
- 2) If the present carriers are providing quality programs at competitive costs.

The committee shall prepare their findings and recommendations in writing and annually furnish such findings and recommendations to the employee bargaining associations and the Board of Supervisors at least 60 days prior to renewal time for the current group health plan. If the recommendations are within present costs, they will be implemented as soon as possible.

C. Retirement Plans: The County shall provide eligible employees with membership in the State of California's Public Employees Retirement System (PERS).

RULE 22 - VEHICLE OPERATION

Prior to operating any County vehicle, an employee must provide his/her department head with a copy of his/her valid driver's license issued by the California Department of Motor Vehicles for legal operation of that vehicle. The employee must immediately notify their department head of any action against that license and/or of any moving violations issued while on County business.

The County will adequately maintain and service vehicles used by County employees. Employees with a good faith doubt about the safety of a vehicle which they are required to operate shall have the right to ask first, their department head, and second, the Administrative Officer to review the condition of the vehicle. If the issue is still unresolved, the matter shall revert to the formal Grievance Procedure.

RULE 23 - HARASSMENT

- A. **Employment Policy:** It is the County's policy to offer individuals equal opportunity in all matters of employment. Employment at the County is based solely upon the qualifications of the individual applicant, regardless of race, religion, color, creed, national ancestry, marital status, sex, age, mental or physical handicap. All employees are to be treated with respect and dignity. Any form of harassment—racial, religious, sexual, etc., by another employee or supervisor will not be tolerated under any circumstances. Harassment should be reported immediately to the Personnel Office.
- B. **Sexual Harassment Policy:** The Equal Employment Opportunity Commission has taken the position that when a supervisor solicits sexual favors from an unwilling subordinate in return for promotions, increased wages, continuance of the job, and the like, this amounts to sexual harassment and is a violation of the Civil Rights Act of 1964.

The County will not condone any form of sexual harassment at the workplace. Such conduct by a County employee will not be tolerated, and disciplinary action up to and including termination will be taken against an employee engaging in sexual harassment.

Management and supervisory employees have a responsibility for insuring that the work environment is free of sexual harassment and shall inform all employees under their direction of the County policy and complaint procedure.

Employees who feel supervisors are conditioning promotions, increase in wages, continuance of the job and the like on sexual favors, are urged to contact the Personnel Office.

The Personnel Officer is responsible for administering the complaint procedure, conducting the investigation, reporting the results to the County Administrative Officer, and recommending disciplinary action as may be appropriate.

RULE 24 - DRUG-FREE WORKPLACE

A. **Introduction:** San Benito County has established a policy of maintaining a drug-free workplace. San Benito County has an obligation to provide all employees with a safe working environment. We must also protect county property and ensure that we continue to produce reliable products and services for our customers/clientele. Accordingly, the county is initiating this drug-free workplace policy to prevent drug and alcohol abuse in our workplace. All county employees are required to comply with this policy.

B. **Definitions:**

- 1) Alcohol: Any beverage that has an alcohol content in excess of 0.5% by volume.
- 2) Drug: Any substance, other than alcohol, capable of altering the user's judgment, perception, or mood, or of impairing the user's physical reactions. This term includes the controlled substances defined in Schedules I through V of the Controlled Substances Act, 21 U.S.C., Section 812.
- 3) Illegal Drug: Any drug which is not legally obtained, including prescribed and over-the-counter drugs not legally obtained or not being used for the purpose for which they were prescribed or manufactured.
- 4) Legal Drug: Prescribed drugs and over-the-counter drugs which have been legally obtained and are being used for the purpose for which they were prescribed or manufactured.
- 5) Reasonable Suspicion: A state of facts which would lead a reasonable person, exercising ordinary care and prudence, to believe and entertain a strong suspicion that an employee is under the influence of or impaired by illegal drugs or alcohol. Reasonable suspicion is to be based upon specific observations concerning such things as appearance, behavior or speech of the employee in question.
- 6) Under the Influence: The presence of any detectable level of drugs in the urine, or a blood alcohol level over .08%.
- 7) Substance Abuse: Any and all illegal use of drug(s) or alcohol, is a violation of this Rule.

C. **Policy Statement:** This procedure prohibits use and possession of illegal drugs and unauthorized consumption of alcohol while on duty with the county. In the case of conflict with any other county policy or procedure, this Rule shall be followed.

- 1) The use or possession or unauthorized consumption of alcohol on county property or while on duty is prohibited.
- 2) The manufacture, distribution, dispensation, sale, purchase, transfer, possession, or use of any illegal drug on county property or while on duty is prohibited.
- 3) Reporting to work or working under the influence of illegal drugs or alcohol is prohibited.
- 4) Any employee convicted of a workplace violation of a criminal drug statute must notify the county within five (5) calendar days of the conviction.
- 5) Any violation of these rules is cause for discipline up to, and including, discharge.
- 6) Rules C.1 through C.3 are applicable to employees of vendors and subcontractors. Violation of these Rules or refusal to cooperate with the implementation of this policy by such persons may result in exclusion from county facilities and operations.

D. **Employee Assistance:**

- 1) Employees who require assistance are to be referred to the county's Drug and Alcohol Abuse Program for treatment.
- 2) Employees are urged to seek assistance from the county's Drug and Alcohol Program before alcohol and drug abuse problems lead to disciplinary action.

E. **Distribution:** Each current and new employee of the county will be issued a copy of this policy.

F. **Additional Notification:** Any department which receives federal grant funds should notify the granting agency whenever the department is notified of a conviction under paragraph C.4 of this Rule, within ten (10) days of receipt.

PART 3:
EMPLOYER-EMPLOYEE RELATIONS
POLICY

FILMED

Resolution # 90-148

RESOLUTION OF THE BOARD OF SUPERVISORS
ADOPTING REVISED COUNTY OF SAN BENITO
EMPLOYER/EMPLOYEE RELATIONS POLICY

ARTICLE I - - - - - GENERAL PROVISIONS

Section 1 Statement of Purpose

This Resolution implements Chapter 10, Division 4, Title 1 of the Government Code of the State of California (Sections 3500 et seq.) captioned "Local Public Employee Organizations" by providing orderly procedures for the administration of employer/employee relations between the County and its employee organizations. However, nothing contained herein shall be deemed to supercede the provisions of State Law, County Ordinances, resolution and rules which establish and regulate the personnel system, or which provide for other methods of administering employer/employee relations. The Resolution is intended, instead, to strengthen personnel policies and other methods of administering employer/employee relations through the establishment of uniform and orderly methods of communications between employees, employer organizations and the County.

It is the purpose of this Resolution to provide procedures for meeting and conferring in good faith with Recognized Employee Organization regarding matters that directly affect and primarily involve the wages, hours and other terms and conditions of employment of employees in appropriate units.

Employees of the County of San Benito shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on employer/employee relations matters including, wages, hours and other terms and conditions of employment; except, however, for those rights which are reserved to the employer by law or reserved by provision contained herein. Employees shall also have the right to refuse to join or participate in the activities of employee organizations and shall have the right to be free from intimidation, restraint, coercion, interference, discrimination or reprisal because of their exercise of any of the rights herein enumerated or granted by law.

However, nothing herein shall be construed to restrict any legal or inherent exclusive County rights with respect to matters of general legislative or managerial policy, which include among others: The exclusive right to determine the mission of its constituent departments, commissions and boards; set standards of service; determine the procedures and standards of selection for employment; direct its employees; take disciplinary action; relieve its employees from duty because of lack of work or for

other legitimate reasons; maintain the efficiency of governmental operations; determine the methods, means and personnel by which government operations are to be conducted; require overtime; take all necessary actions to carry out its mission in emergencies; and exercise complete control and discretion over its organization and the technology of performing its work.

Section 2 Definitions

The terms used in this Resolution shall be as defined in the County of San Benito Personnel Rules and in addition as defined below. In case of conflict, the definitions used below shall prevail.

Appropriate Unit(s) A unit of employee classes and/or positions, established pursuant to this resolution.

Association An independent organization of Employees.

Authorization Card A statement signed by an employee designating an Employee Organization as authorized to act as his or her agent in collective bargaining. An employee signature on an authorization card does not necessarily mean that he or she is a member of or has applied for membership in the Employee Organization.

Bargaining Unit An appropriate unit of employees sharing a community of interest which can be served through collective bargaining and formally recognized as such by the County.

Challenged Ballot A vote questioned by one of the parties to a representation election. Common practice is to resolve the challenges and open and count the challenged ballots if it is sufficient to affect the outcome of the election.

Challenging Petition A formal request by an employee organization pursuant to Article II, Section 6 this resolution seeking consideration as a competing employee organization for acknowledgement as the Exclusively Recognized Employee Organization.

Confidential Employee An employee who is privy to decisions of County management affecting employee relations.

Consult/Consultation in Good Faith To communicate orally or in writing for the purpose of presenting and obtaining views or advising of intended actions; and as distinguished from meeting and conferring in good faith regarding matters within the required scope of such meet and confer process, does not involve an exchange of proposals and counterproposals in an endeavor to reach agreement, nor is it subject to Article IV of this resolution.

Day Calendar day unless otherwise specified.

Decertification Petition A formal request by two or more employees or their representative or by an employee organization pursuant to Article II, Section 6 alleging the Exclusively Recognized Employee Organization to longer represents a majority of the employees in the established appropriate unit.

Employee Management A department head, supervisor or other employee having the authority to exercise management rights, develop management policies or to effectively recommend the exercise of such rights or the development of such policies where such recommendations or exercise requires the use of independent judgement and is not of a routine nature.

Employee Organization Any organization which includes employees of the County and which has as one of its primary purposes representing such employees in their relations with County.

Employee Relations Officer The County Administrative Officer or his duly authorized representative.

Employer/Employee Relations The relationship between the County and its employees and their employee organizations, or when used in a general sense, the relationship between management and employees or employee organizations.

Exclusive Recognition Formal acknowledgement by the County that a particular organization has the right to represent employees. Exclusive recognition is accorded an organization supported by a majority of employees in an appropriate bargaining unit and carries with it the sole right to represent all unit employees, members and non-members, in dealing with management.

Impasse When the representatives of the County and Exclusively Recognized Employee Organization have reached a point in their meeting and conferring in good faith where their differences on matters to be included in a Memorandum of Understanding, and concerning which they are required to meet and confer, remain so substantial and prolonged that further meeting and conferring would be futile.

Local Group of organized workers in a specific geographic area which holds a charter from a national or international union.

Mediation Effort by an impartial third party to assist in reconciling an impasse regarding wages, hours and other terms and conditions of employment between representatives of the County and Exclusively Recognized Employee organization through interpretation, suggestion and advice in order that a voluntary resolution can be achieved by the parties.

Meet and Confer in Good Faith the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange information, opinions and proposals, and to endeavor to reach agreement on matters within the scope of representation.

Memorandum of Understanding (MOU) A written memorandum jointly prepared by the parties incorporating matters on which agreement is reached through meeting and conferring between the County's management representatives and representatives of Exclusively Recognized Employee organization. The memorandum shall be presented to the Board of Supervisors for final approval.

Minor Modifications An alternation of an established unit which directly involves less than twenty percent of the total number of employees within that unit.

Payroll Deduction Arrangement under which the County deducts from salary of employees sums of money for various purposes including Association and Union dues.

Supervisory Employee Any employee having authority to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward, or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectually recommend such action if, in connection with the foregoing, the exercise of such authority is not merely of a routine or clerical nature but requiring use of independent judgement.

ARTICLE II - - - - REPRESENTATION PROCEEDINGS

Section 1 Policy and Standards for Determination of Appropriate Units

The policy objectives in determining the appropriateness of units shall be the effect of a proposed unit on (1) the efficient operations of the County and its compatibility with the primary responsibility of the County and its employees to effectively and economically serve the public, and (2) providing employees with effective representation based on recognized community of interest considerations. These policy objectives require that the appropriate unit shall be the broadest feasible grouping of positions that share an identifiable community of interest and that fragmentation and/or proliferation of units be avoided. Factors to be considered shall be:

- a. Similarity of the general kinds of work performed, types of qualifications required, and the general working conditions.
- b. History of representation in the County and similar employment; except however, that no unit shall be deemed

90-148

to be an appropriate unit solely on the basis of the extent to which employees in the proposed unit have organized.

- c. Consistency with the organizational patterns of the County.
- d. Number of employees and classifications, and the effect on the administration of employer/employee relations created by the fragmentation of classifications, and proliferation of units.
- e. Effect on the classification structure and impact on the stability of the employer/employee relationship of dividing a single or related classification among two or more units.

Notwithstanding the foregoing provisions of this Section, managerial and confidential responsibilities, as defined above are determining factors in establishing appropriate units hereunder, and therefore such managerial and confidential employees may only be included in units that do not include non-managerial and non-confidential employees. Managerial and confidential employees may not represent any employee organization which represents other employees on matters within the scope of representation.

The Employee Relations Officer shall, after notice to and consultation with affected employee organizations, allocate new classifications or positions, delete eliminated classifications or positions, and retain, reallocate or delete modified classifications or positions from units in accordance with the provisions of this Section and this Article II where applicable.

Section 2 Filing of Recognition Petition by Employee Organization

An employee organization that seeks to be formally acknowledged as the Exclusively Recognized Employee Organization representing the employees in an appropriate unit shall file a petition with the Employee Relations Officer containing the following information and documentation:

- a. Name and address of the employee organization.
- b. Names and titles of its officers.
- c. Names of employee organization representatives who are authorized to speak on behalf of the organization.
- d. A statement that the employee organization has, as one of its primary purposes, representing employees in their employment relations with the County.

- e. A statement whether the employee organization is a chapter of, or affiliated directly or indirectly in any manner, with a local, regional, state, national or international organization, and, if so, the name and address of each such other organization.
- f. Certified copies of the employee organization's constitution and by-laws or articles of incorporation.
- g. A designation of those persons, not exceeding two in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the employee organization for any purpose.
- h. A statement that the employee organization has no restriction on membership based on race, color, creed, sex or national origin.
- i. The job classifications or titles of employees in the unit claimed to be appropriate and the approximate number of member employee therein.
- j. A statement that the employee organization has in its possession proof of employee support as herein defined to establish that a majority of the employees in the unit claimed to be appropriate have designated the employee organization to represent them in their employment relations with the County. Such written proof shall be submitted for confirmation to the Employee Relations Officer or to a mutually agreed upon disinterested party.
- k. A request that the Employee Relations Officer formally acknowledge the petitioner as the Recognized Employee Organization representing the employees in the unit claimed to be appropriate for the purpose of meeting and conferring in good faith.

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

Section 3 County Response to Recognition Petition

Upon receipt of the Petition, the Employee Relations Officer shall determine whether:

- a. There has been compliance with the requirements of the Recognition Petition, and;
- b. The proposed representation unit is an appropriate unit in accordance with Section 1 of this Article II.

If an affirmative determination is made by the Employee Relations Officer on the foregoing two matters, (s)he shall so inform the petitioning employee organization, shall give written notice of such request for recognition to the employees in the unit and shall take no action on said request for thirty (30) days thereafter. If either of the foregoing matters are not affirmatively determined, the Employee Relations Officer shall offer to consult thereon with such petitioning employee organization, and, if such determination thereafter remains unchanged, shall inform that organization of the reasons therefor in writing. The petitioning employee organization may appeal such determination in accordance with Section 8 of this Resolution.

Section 4 Open Period for Filing Challenging Petition

Within thirty (30) days of the date written notice was given to affected employees that a valid recognition petition for an appropriate unit has been filed, any other employee organization may file a competing request to be formally acknowledged as the Exclusively Recognized Employee Organization of the employees in the same or in an overlapping unit (one which corresponds with respect to some but not all the classifications or positions set forth in the recognition petition being challenged), by filing a petition evidencing proof of employee support in the unit claimed to be appropriate of at least thirty (30) percent and otherwise in the same form and manner as set forth in Section 2 of this Article II. If such challenging petition seeks establishment of an overlapping unit, the Employee Relations Officer shall call for a hearing on such overlapping petitions for the purpose of ascertaining the more appropriate unit, at which time the petitioning employee organization shall be heard. Thereafter, the Employee Relations Officer shall determine the appropriate unit or units in accordance with the standards in Section 1 of this Article II. The petitioning employee organizations shall have fifteen (15) days from the date notice of such unit determination is communicated to them by the Employee Relations Officer to amend their petitions to conform to such determination or to appeal such determination pursuant to Section 8 of this Article II.

Section 5 Election Procedure

The Employee Relations Officer shall arrange for a secret ballot election to be conducted by a party agreed to by the Employee Relations Officer and the concerned employee organization(s), in accordance with its rules and procedures subject to the provisions of this Resolution. All employee organizations who have duly submitted petitions which have been determined to be in conformance with the Article II shall be included on the ballot. The choice of "no organization" shall be included on the ballot. Employees entitled to vote in such election shall be those persons employed in regular permanent positions within the designated appropriate unit who were employed during the pay period immediately prior to the date which ended at

least fifteen (15) days before the date the election commences, including those who did not work during such period because of illness, vacation or other authorized leaves of absence, and who are employed by the County in the same unit on the date of the election. An employee organization shall be formally acknowledged as the Exclusively Recognized Employee Organization for the designated appropriate unit following an election or run-off election if it received a numerical majority of all valid votes cast in the election. If an election involving three or more choices, where none of the choices receives a majority of the valid votes cast, a run-off election shall be conducted between the two choices receiving the largest number of valid votes cast; the rules governing an initial election being applicable to a run-off election.

There shall be no more than one valid election under this Resolution pursuant to any petition in a 12-month period affecting the same unit.

In the event that the parties are unable to agree on a third party to conduct an election, the election shall be conducted by the California State Conciliation Service.

Costs of conducting elections shall be borne in equal shares by the County and by each employee organization appearing on the ballot.

Section 6 Procedure for Decertification of Recognized Employee Organization

A Decertification Petition alleging that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in an established appropriate unit may be filed with the Employee Relations Officer only during the month of March of any year following the first full year of recognition or during the thirty (30) day period commencing one hundred twenty (120) days prior to the termination date of a Memorandum of Understanding then having been in effect less than three (3) years, whichever occurs later. A Decertification Petition may be filed by two or more employees or their representative, or an employee organizations, and shall contain the following information and documentation declared by the duly authorized signatory under penalty of perjury to be true, correct and complete:

- a. The name, address and telephone number of the petitioner and a designated representative authorized to receive notices or requests for further information.
- b. The name of the established appropriate unit and of the incumbent Exclusively Recognized Employee Organization sought to be decertified as the representative of that unit.

- c. All allegation that the incumbent Exclusively Recognized Employee Organization no longer represents a majority of the employees in that appropriate unit, and any other relevant and material facts relating thereto.
- d. Proof of employee support that at least thirty (30) percent of the employees in the established appropriate unit no longer desire to be represented by the incumbent Exclusively Recognized Employee Organization. Such proof shall be submitted for confirmation to the Employee Relations Officer, within the time limits specified in the first paragraph of this Section.

An employee organization may, in satisfaction of the Decertification Petition requirements hereunder, file a Petition under this section in the form of a Recognition Petition that evidences proof of employee support of at least thirty (30) percent and otherwise conforms to the requirements of Section 2 of this Article.

The Employee Relations Officer shall initially determine whether the Petition has been filed in compliance with the applicable provisions of this Article II. If this determination is in the negative, he shall offer to consult thereon with the representative(s) of such petitioning employee or employees organizations, and, if such determination thereafter remains unchanged, shall return such Petition to the employees or employee organization with a statement of the reasons therefor in writing. The petitioning employees or employee organization may appeal such determination in accordance with Section 8 of this Article II. If the determination of the Employee Relations Officer is in the affirmative, or if his negative determination is reversed on appeal, he shall give written notice of such Decertification of Recognition Petition to the incumbent Recognized Employee Organization and to unit employees.

The Employee Relations Officer shall thereupon arrange for a secret ballot election to be held between twenty (20) and thirty (30) days after such notice to determine the wishes of unit employees as to the question of decertification, and, if a Recognition Petition was duly filed hereunder, the question of representation. Such election shall be conducted in conformance with Section 5 of this Article II.

Section 7 Procedure for Modification of Established
Appropriate Units

Requests by employee organizations for modifications of established appropriate units may be considered by the Employee Relations Officer only during the period specified in Section 6 of this Article II. Such requests shall be submitted in the form of Recognition Petition, and, in addition to the requirements set

90-148

forth in Section 2 of this Article, shall contain a complete statement of all relevant facts and citations in support of this proposed modified unit in terms of the policies and standards set forth in Section 1 hereof. The Employee Relations Officer shall process such petitions as other Recognition Petitions under this Article II.

The Employee Relations Officer may on his own motion, during the period specified in Section 6 of this Article, or within thirty (30) days of the adoption of this Resolution, propose that an established unit be modified. The Employee Relations Officer shall give written notice of the proposed modification(s) to any affected employee organization and shall hold a meeting concerning the proposed modification(s), at which time all affected employee organizations shall be heard. Thereafter the Employee Relations Officer shall determine the composition of the appropriate unit or units in accordance with Section 1 of this Article II, and shall give written notice of such determination to the affected employee organizations. The Employee Relations Officer's determination may be appealed as provided in Section 8 of this Article. If a unit is modified pursuant to the motion of the Employee Relations Officer hereunder, employee organizations may thereafter file Recognition Petitions seeking to become the Exclusively Recognized Employee Organization for such new appropriate unit or units pursuant to Section 2 hereof, except in the case of minor modifications. Employee organizations seeking to replace the Exclusively Recognized Employee Organization in a unit which has been subject to a minor modification would be required to file a Decertification Petition and Recognition Petition, as provided for in this Article II.

Section 8 Appeals

An employee organization aggrieved by an appropriate unit determination of the Employee Relations Officer under this Article II may, within ten (10) days of notice thereof, request the intervention of the California State Conciliation Service pursuant to Government Code Sections 3506.1 and 3507.3, or may, in lieu thereof or thereafter appeal such determination to the County Board of Supervisors for final decision within fifteen (15) days of notice of the Employee Relations Officer's determination or the termination of proceedings pursuant to Government Code Section 3507.1 or 3507.3, whichever is later.

An employee organization aggrieved by a determination of the Employee Relations Officer that a Recognition Petition (Section 2); Challenging Petition (Section 4), or Decertification or Recognition Petition (Section 6) -- or employees aggrieved by a determination of the Employee Relations Officer that a Decertification Petition (Section 6) -- has not been filed in compliance with the applicable provisions of this Article, may, within fifteen (15) day of notice of such determination, appeal

the determination to the County Board of Supervisors for final decision.

Appeals to the Board of Supervisors shall be filed in writing with the Clerk of the Board, and a copy thereof provided to the Employee Relations Officer. The Board of Supervisors shall hear the matter within thirty (30) days of the filing of the appeal. The Board of Supervisors may, in its discretion, refer the dispute to a third party hearing process. Any decision of the Board of Supervisors on the use of such procedure, and/or any decision of the Board of Supervisors determining the substance of the dispute shall be final and binding.

Section 9 Delineation of Units

Units and Exclusive Representatives recognized at the time of adoption of this Resolution are those previously recognized by the Board of Supervisors and, as currently exist within the County. A listing of the current units, including the classifications contained in them is attached as Appendix A.

ARTICLE III - - - ADMINISTRATION

Section 1 Submission of Current Information by Recognized Employee Organizations

All changes in the information filed with the County by an Exclusively Recognized Employee Organization under items a. through h. of its Recognition Petition under Section 2 of Article II of this Resolution shall be submitted in writing to the Employee Relations Officer within fifteen (15) days of such change.

Section 2 Payroll Deductions on Behalf of Employee Organizations

Upon recognition by the County of an Exclusively Recognized Employee Organization under this Resolution, the organization may be provided payroll deductions of membership dues, which may include insurance premiums for plans sponsored by the organization upon the written authorization of employees in the unit on approved forms. Payroll deductions shall be contingent upon and in accordance with the provisions of Memoranda of Understanding and/or applicable administrative procedures.

Section 3 Employee Organization Activities - - Use of County Resources

Access to County work locations and the use of County paid time, facilities, equipment and other resources of employee organizations and those representing them shall be authorized only

90-148

to the extent provided for in the Memorandum of Understanding and/or administrative procedures, and shall be limited to activities pertaining directly to the employer/employee relationship and not such internal employee organization business as soliciting membership, campaigning for office, and organization meetings and elections, and shall not interfere with the efficiency, safety and security of County operations.

Section 4 Administrative Rules and Procedures

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

ARTICLE IV - - IMPASSE PROCEDURES

Section 1 Initiation of Impasse Procedures

If the meet and confer process has reached impasse as defined in this Resolution, either party may initiate the impasse procedures by filing with the other party a written request for an impasse meeting, together with a statement of its position on all disputed issues. An impasse meeting shall then be scheduled promptly by the Employee Relations Officer. The purpose of such an impasse meeting shall be:

- a. To identify and specify in writing the issue or issues that remain in dispute.
- b. To review the position of the parties in a final effort to resolve such disputed issue or issues; and
- c. If the dispute is not resolved, to discuss arrangements for the utilization of the impasse procedures provided herein.

Section 2 Impasse Procedures

Impasse procedures are as follows:

- a. If the parties mutually agree to submit the dispute to mediation, and agree on the selection of a mediator, the dispute shall be submitted to mediation.
- b. If the parties agreed to submit the impasse directly to the Board of Supervisors, or if the parties did not agree on mediation or the selection of a mediator, or having so agreed, the impasse has not been resolved through mediation, the Board of Supervisors shall take such action regarding the impasse as it in its discretion deems appropriate as in public interest. Any

90-148

legislative action by the Board of Supervisors on the impasse shall be final and binding.

Section 3 Costs of Impasse Procedures

The costs for the services of a mediator utilized by the parties, and other mutually incurred costs of mediation shall be borne equally by the County and the Recognized Employee Organization. Separately incurred costs shall be borne by the party incurring them.

ARTICLE V - - - - MISCELLANEOUS PROVISIONS

Section 1 Construction

This Resolution shall be administered and construed as follows:

- a. Nothing in this Resolution shall be construed to deny to any person, employee, organization, the County, or any authorized officer, body or other representative of the County, the rights, powers and authority granted by Federal or State Law.
- b. This Resolution shall be interpreted so as to carry out its purpose as set forth in Article I.
- c. Nothing in this Resolution shall be construed as making the provisions of California Labor Code Section 923 applicable to County employees or employee organizations, or of giving employees or employee organizations the right to participate in, support, cooperate or encourage, directly or indirectly, any strike, sickout or other total or partial stoppage or slowdown of work. In the event employees engage in such actions, if said actions are found illegal, they shall subject themselves to discipline up to and including termination and may be deemed to have abandoned their employment; and employee organizations may thereby forfeit all rights accorded them under this Resolution and other County ordinance, policy or practice for a period up to one (1) year from commencement of such activity, if they have not taken all reasonable steps to cease any and all job actions.

BE IT FURTHER RESOLVED that if any provision of this Resolution, or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this Resolution, or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

92-148

PASSED this 4th day of December, 1990,
by the Board of Supervisors of the County of San Benito by the
following vote:

AYES: M. Graves, Kesler, Bowling, Scagliotti, C. Graves

NOES: None

ABSENT: None

Ante C. Leane
Chairman, Board of Supervisors

ATTEST:

Clerk
Board of Supervisors

By *Denise R. Thome*
Deputy

92-148
13