

In order to assist employees, the County has instituted a Stop Smoking Program for employees. Employees are authorized to attend the program without charge and on County time. Employees who continue to smoke in non-designated areas may be subject to discipline under the Disciplinary Procedure up to and including termination.

- Sec. 505 Merit System/Veterans Preference: Appointments and promotions shall be made on the basis of merit and ability except as otherwise provided herein. Each officer shall appoint all necessary employees allowed for his/her agency/department by this Resolution only from among persons certified to him/her by the Human Resources Director as eligible for the respective positions. The Human Resources Director shall determine the methods of evaluating the qualifications of applicants. The methods shall be practical in nature and may involve any combination of written test, oral test, performance test, rating of education, training, and experience and shall take into consideration a system of veteran's preference in accordance with the Veterans' Preference Resolution adopted by the Board of Supervisors. The veteran's preference program shall be administered by the Human Resources Director. County Officers and classifications identified in Appendix II of the Riverside County Salary Ordinance 440 are exempt from the merit system, rather the appropriate County Officer(s) may appoint qualified candidates to these classifications.

ARTICLE 6 PROBATIONARY PERIOD

- Sec. 601 Computation: Each regular employee shall be in an initial probationary status from the effective date of his/her initial employment in a position in a paid status until the required initial probationary period, and any extension, is completed without separation from County employment. Computation of the initial probationary period in a paid status does not include overtime, standby, on-call, or military leave of absence. A regular employee who has not completed the initial probationary period serves at the pleasure of the agency/department head and may be released from employment without cause.
- A. Length of Initial Probation: Except as set out below, the length of the initial probationary period for employees in classifications covered under this Resolution is one (1) year (26 pay periods) in a paid status.

- B. Extension of Initial Probation: The initial probationary period of an employee may be extended by the employing agency/department head with the approval of the Human Resources Director. Extensions of an initial probationary period are discouraged and must be approved by the Human Resources Director or his/her designee in writing at least eighty (80) hours before the end of the existing initial probationary period. Approval is made on a case-by-case basis and must be supported by documentation justifying the request.

The initial probationary period may be extended once by three (3) months or twice by an additional three (3) months.

- C. Initial Probationary Period Affected by Change in Classification: An employee who has not completed an initial probationary period and voluntarily promotes, demotes, or transfers to another classification, shall have his/her initial probationary period automatically extended an additional twelve (12) months (26 pay periods) in a paid status beyond the date of promotion, demotion, or transfer each time the employee voluntarily promotes, demotes, or transfers to another classification prior to completing the initial probationary period, including any extensions thereto.
- D. Probation of Permanent employees following change in classification or lateral transfer: During the first one (1) year (26 pay periods) of service in a paid status following a promotion, transfer or demotion, a regular employee who held permanent status at the time of the promotion, transfer or demotion shall, upon the agency/department head's request, be returned to a position in the previously held classification in the former employing agency/department. If the return involves a change in classification, the salary step shall be the same step which the employee held immediately prior to the promotion, transfer or demotion, and the employee's anniversary date will be re-determined based on the number of pay periods of service in a paid status the employee had in step at the time of promotion, transfer or demotion. Written notice of return to former classification shall be given to the employee prior to the employee completing 26 pay periods in the probationary period and the pay and title changes of the return shall be made prior to the employee completing 26 pay periods following the promotion, transfer, or demotion. Computation of the probationary period in a paid status does not include overtime, standby, on-call or military leave of absence.
- E. At-Will employees: Notwithstanding any other provision of this Resolution to the contrary, and except as provided by State law,

the terms and conditions of employment for employees in the classifications set forth in below shall be as follows:

1. Agency/Department Heads appointed after November 29, 1983, shall serve at the pleasure of the Board of Supervisors (i.e. At-Will). Prior to such appointment, the Human Resources Director shall obtain written acknowledgment from the prospective appointee acknowledging his or her understanding of such At-Will status including the voluntary relinquishment of property rights to any and all former classifications/positions the appointee may have previously held. Such employee may be terminated from service at any time, without notice, cause, or rights of appeal, by the Board of Supervisors. An agency/department head removed from service with the County of Riverside by the Board of Supervisors shall be entitled to one (1) month's salary as severance pay for each year of employment with the County of Riverside up to a maximum severance pay equal to six (6) months' salary.
2. Assistant Department Heads or the equivalent thereto appointed to a position in that classification authorized by the Riverside County Salary Ordinance, No. 440 after May 4, 1989, shall serve at the pleasure of the agency/department head (i.e. At-Will). Prior to such an appointment, the Human Resources Director shall obtain written acknowledgment from the prospective appointee acknowledging his or her understanding of such At-Will status including the voluntary relinquishment of property rights to any and all former classifications/positions the appointee may have previously held. Assistant Department Heads or the equivalent thereto who serve At-Will may be removed from their position at any time without notice, cause, or rights of appeal by the agency/department head only after the agency/department head has a minimum of ninety (90) calendar days of service in that position and after consultation with the Human Resources Director and approval of the County Executive Officer. An assistant department head or the equivalent thereto removed from service with the County of Riverside by his or her agency/department head shall be entitled to one (1) month's salary as severance pay for each year of employment with the County of Riverside up to a maximum severance pay equal to six (6) months' salary. Severance pay is not applicable to a situation involving the layoff of an assistant department head or the equivalent thereto.

3. Employees in the classification of Supervisor's Board Assistant and Supervisor's Legislative Assistant shall be appointed and serve at the pleasure (i.e. At-Will) of the individual Supervisor holding the office to which such employees are assigned. They may be terminated from service at any time by the Supervisor holding that office without notice, cause, or rights of appeal. Prior to an appointment to any of the above mentioned classifications the Human Resources Director shall obtain written acknowledgment from the prospective appointee acknowledging his or her understanding of such At-Will status including the voluntary relinquishment of property rights to any and all former classifications/positions the appointee may have previously held.
 - a. Any employee serving At-Will in the above classifications removed from service by the individual Supervisor holding the office to which the employee is assigned may be entitled to one (1) month's salary as severance pay for each full year of employment in the At-Will classification up to a maximum severance pay equal to three (3) months' salary. Any such severance pay shall be at the sole discretion of the Board of Supervisor. Severance pay is not applicable to a situation involving the layoff of any incumbent of the At-Will classifications.
4. The Local Agency Formation Commission (LAFCO) Executive Officer shall be appointed by the Local Agency Formation Commission and shall serve at the pleasure and will of the Local Agency Formation Commission (i.e. At Will). Prior to such an appointment, the Human Resources Director shall obtain written acknowledgment from the prospective appointee acknowledging his or her understanding of such At-Will status including the voluntary relinquishment of property rights to any and all former classifications/positions the appointee may have previously held. Such employee may be terminated from service at any time, without notice, cause or rights of appeal, by the Local Agency Formation Commission. An Executive Officer of LAFCO removed from service with the Local Agency Formation Commission may be entitled to one (1) month's salary as severance pay for each year of employment with the Local Agency Formation Commission up to a maximum severance pay equal to six (6) months' salary. Any such

severance pay shall be at the sole discretion of the Local Agency Formation Commission.

5. Employees in the classifications of:

37605	Assistant Sheriff
37606	Assistant Sheriff A
37607	Assistant Sheriff B
37582	Chief Deputy Sheriff
37583	Chief Deputy Sheriff A
37584	Chief Deputy Sheriff B
37624	Chief Deputy Director, Sheriff's Administration
52218	Correctional Chief Deputy

appointed to a position in that classification authorized by the Riverside County Salary Ordinance, No. 440 shall serve at the pleasure (i.e., At-Will) of the Sheriff. They may be terminated from service at any time by the Sheriff, without notice, cause, or rights of appeal. Prior to the appointment to any of the above classifications, the Sheriff shall obtain a written agreement from the prospective appointee acknowledging his/her understanding of such At-Will status including the voluntary relinquishment of property rights to any and all former classifications/positions the appointee may have previously held.

Any employee serving At-Will in the above classifications removed from service by the Sheriff may be entitled to one (1) month's salary as severance pay for each year of employment with the County of Riverside up to a maximum severance pay equal to six (6) months' salary. Severance pay is not applicable to a situation involving the layoff of any incumbent of the classifications listed above.

6. Employees in the classification of:

73557	Deputy Director
73523	Chief Veterinarian

appointed to a position in that classification authorized by the Riverside County Salary Ordinance, No. 440 shall serve at the pleasure (i.e., At-Will) of the Director of Public Health/Animal Services Director/Director of Environmental Health. They may be terminated from service at any time by the Director of Public Health/Animal Services Director/Director of Environmental Health, without notice, cause or rights of appeal. Prior to the appointment to any of the above classifications, the Director of Public Health/Animal Services Director/Director of Environmental Health shall obtain a written agreement from the prospective appointee acknowledging his/her understanding of such At-Will status including the voluntary relinquishment of property rights to any and all former classifications/positions the appointee may have previously held.

Any employee serving At-Will in the above classifications removed from service by the agency/department head may be entitled to one (1) month's salary as severance pay for each year of employment with the County of Riverside up to a maximum severance pay equal to six (6) months' salary. Severance pay is not applicable to a situation involving the layoff of any incumbent of the classifications listed above.

7. Employees in the classifications of:

78539	Assistant District Attorney
78535	Chief Deputy District Attorney
37672	Assistant Chief District Attorney Investigator
37678	Chief District Attorney Investigator

appointed to a position in that classification authorized by the Riverside County Salary Ordinance, No. 440 shall serve at the pleasure (i.e., At-Will) of the District Attorney. They may be terminated from service at any time by the District Attorney without notice, cause, or rights of appeal. Prior to the appointment to any of the above classifications, the District Attorney shall obtain a written agreement from the prospective appointee acknowledging his/her understanding of such At-Will status including the voluntary relinquishment of property rights to any and all former

classifications/positions the appointee may have previously held.

Any employee serving At-Will in the above classifications removed from service by the District Attorney may be entitled to one (1) month's salary as severance pay for each year of employment with the County of Riverside up to a maximum severance pay equal to six (6) months' salary. Severance pay is not applicable to a situation involving the layoff of any incumbent of the classifications listed above.

8. In addition to those classifications specifically mentioned above, any employee appointed to a classification authorized by the Riverside County Salary Ordinance, No. 440 and listed in Appendix II of such Ordinance, shall serve at the pleasure of the agency/department head (i.e. At-Will). He/she may be terminated from service at any time by the agency/department head without notice, cause, or rights of appeal. Prior to the appointment to any of these classifications the Human Resources Director shall obtain a written agreement from the prospective appointee acknowledging his/her understanding of such At-Will status including the voluntary relinquishment of property rights to any and all former classifications/positions the appointee may have previously held.
 - a. Any employee serving in any classification of Section 601 (8) of this Article who is removed from service and whose severance was not otherwise stated above may be entitled to one (1) month's salary as severance pay for each full year of employment in the At-Will classification up to a maximum severance pay equal to three (3) months' salary. Any such severance pay shall be at the sole discretion of the County Executive Officer. Severance pay is not applicable to a situation involving the layoff of any incumbent of the At-Will classifications.
9. Severance Provision:
 - a. Any employee who receives severance pay in accordance with this article and who is subsequently hired in a regular position shall forfeit any severance pay received and shall be required to repay the full amount of severance received at time of their prior separation. Such

repayment agreement shall be signed on the date of hire and shall be made within a reasonable period of time.

- b. Any employee who receives severance pay in accordance with this article and who subsequently retires and is rehired into a regular position is not eligible to receive severance pay.

ARTICLE 7
ANNUAL LEAVE

(Not Applicable to Employees in Group 4)

Sec. 701 Annual Leave:

Regular full-time and regular part-time employees, other than elected officials and employees in Group 4, covered under the provisions of this Resolution shall neither accrue vacation nor sick leave. They shall, instead, earn Annual Leave according to each biweekly pay period of service commencing with the effective date of the employee's initial employment during his/her latest period of County employment according to the following schedule. Absence or time not worked and part-time employment shall cause said pay period's accrual of Annual Leave credits to be reduced on a pro-rata basis.

- A. Accrual Rates: (Groups 1, 2, 3, & 5. For Law Enforcement Executive Management, see Article 21.)

<u>MONTHS OF SERVICE</u>	<u>BI-WEEKLY ACCRUAL</u>
(0 to < 36 months)	8.92 hours
(36 to <108 months)	10.46 hours
(108 or more months)	12.00 hours

Accrual Rates: for Group 6 - Supervisor's Board Assistants and Supervisor's Legislative Assistants

<u>ALL SERVICE</u>	<u>BI-WEEKLY ACCRUAL</u>
Supervisor's Board Assistant	10.46 hours
Supervisor's Legislative Assistant	12.00 hours

Annual Leave for Unrepresented Attorney Management:

Effective July 12, 2012, the job classifications listed in Article 22 of this Resolution will receive an additional 4 hours per pay period to their annual leave accrual. This additional leave accrual will expire at the end of the last pay period in June 2014. In addition, the maximum accrual for annual leave (or vacation) will be raised by 200 hours to 2,000.

- B. Accrual Rates - Other: Accrual rates for employees covered under the provisions of this resolution, who have an employment agreement with the County or other benefit level approved by the Board of Supervisors, shall accrue Annual Leave at the rate determined by the County Executive Officer.
- C. Vacation Conversion: Effective July 2, 1998, accrued vacation banks (including extra vacation) for then current employees were converted to Annual Leave on an hour-for-hour basis. Any regular employee who subsequently transfers or promotes into a classification covered under the provisions of this Resolution shall have his/her accrued vacation balance similarly converted to Annual Leave on an hour for hour basis at the time of such transfer/promotion.

Sec. 702 Annual Usage: During the first twenty-six (26) pay periods of employment, employees shall be encouraged to use no less than forty (40) hours of Annual Leave and, thereafter, employees shall be encouraged to use no less than eighty (80) hours of Annual Leave in each succeeding twenty-six (26) pay periods of employment. While on Annual Leave, sick leave, holiday leave, or compensatory time off, an employee shall be compensated and receive benefits at the same rate as if he/she were on the job.

Sec. 703 Maximum Accrual: Unless otherwise approved by the County Executive Officer or indicated below, all employees covered under the terms of this Resolution may accumulate annual leave to a maximum of 1800 hours. Upon approval of the County Executive Officer, additional annual leave may be accrued to a maximum of 2,080 hours. It is the mutual responsibility of the employee and the agency/department head to assure that no employee shall exceed the maximum accrual.

Classifications Supervisor's Board Assistants and Supervisor's Legislative Assistants shall have no maximum accrual.

A regular employee who has been employed in a position, other than a position with the County of Riverside, which has prepared

him/her for an assignment to a position in the Management unit may, with prior approval of the County Executive Officer and the Human Resources Director at time of hire, receive credit for such previous experience in determining their Annual Leave accrual rate (and corresponding maximum accrual), including an immediate credit of Annual Leave time, and/or the period of time before Annual Leave may be taken.

Sec. 704 Annual Leave:

- A. Agency/Department Heads: Effective January 1, 2009, an agency/department head who accrues Annual Leave pursuant to the provisions of this Resolution, may request to receive pay in lieu of up to forty (40) hours of Annual Leave per calendar year. Effective July 1, 2010, an agency/department head who accrues Annual Leave pursuant to the provisions of this Resolution, may request to receive pay in lieu of up to eighty (80) hours of Annual Leave per calendar year. Upon approval of the County Executive Officer, such agency/department head may receive pay in lieu of an additional eighty (80) hours of Annual Leave during the same calendar year provided, however, that no agency/department head shall receive pay in lieu of more than 160 hours of Annual Leave in any calendar year.
- B. Other Eligible Employees: Effective January 1, 2009, an employee, other than an agency/department head, who accrues Annual Leave pursuant to the provisions of this Resolution, may request to receive pay in lieu of up to forty (40) hours of Annual Leave per calendar year. Effective July 1, 2010, an employee, other than an agency/department head, who accrues Annual Leave pursuant to the provisions of this Resolution, may request to receive pay in lieu of up to eighty (80) hours of Annual Leave per calendar year. Upon approval of his/her agency/department head, such employee may receive pay in lieu of an additional eighty (80) hours of Annual Leave during the same calendar year provided, however, that no employee shall receive pay in lieu of more than 160 hours of Annual Leave in any calendar year.
- C. Employees who are filing an application for service or disability retirement may request a one-time pay-in-lieu of up to the full 160 hour limit of annual leave, without regard to the limitations provided in Section 704 (A) above. The election must be made no later than six (6) months prior to retirement.

Sec. 705 Annual Leave Usage:

- A. Annual Leave is to be scheduled at the discretion of the agency/department head, or designee. Each agency/department head shall be responsible for scheduling the Annual Leave periods of his/her employees in such a manner as to achieve the most efficient functioning of the agency/department and of the County service. The agency/department head shall determine when Annual Leave will be taken.
- B. While generally Annual Leave usage is required to be scheduled in advance, the County recognizes that from time to time employees may desire to use Annual Leave for an unforeseen absence due to illness/injury or other personal reason. Annual Leave may be used to restore pay otherwise lost due to such unscheduled absence from work provided that:
 - i. The employee notifies his/her agency/department head, or designee, on the first (1st) day of such absence and as often thereafter as directed by his/her agency/department head, or designee;
 - ii. If requested by the agency/department head or designee, the employee produces a certificate of a physician, dentist, or other legally authorized person to provide health care services on the same level as a physician, or such other proof satisfactory to the agency/department head; and
 - iii. Any medical certificate provided by the employee be personally signed by the medical provider described at (ii) above and include a written statement indicating the day(s) of the illness/injury and that the illness/injury prevented the employee from being able to work.
- C. Any employee absent for a period of five (5) consecutive workdays due to illness or accident may, at the discretion of his/her agency/department head or the Human Resources Director, be required to have a physical examination by a County approved physician before returning to active duty. Such physical examination shall be performed by a physician designated by the Human Resources Director and shall be at County expense.
- D. Sections 705(B) and 705(C) shall also apply to the use of existing sick leave accruals.

- E. Annual Leave may be used for absence reasonably required by complications of pregnancy, continuing through delivery and reasonable period of recovery therefrom, to be determined in accordance with a written report or reports of the employee's personal physician, specifying the expected date of delivery and the date that the employee should cease work. In the event the agency/department head believes there are unusual circumstances, or that the full performance of the employee's work without undue hazard is such as to require a longer period of absence, and on the agency/department head's written request to the Human Resources Director, the determination of the period shall be subject to review and change by a physician employed or provided by the County, including a medical examination of the employee if required by such physician. The cost of this examination shall be paid by the County. In no event shall an employee return to work after pregnancy prior to a date to be fixed by her physician in a signed statement that she is physically able to perform the duties of her position.

F. Proof of Illness:

An employee off work or contemplating to be off work due to illness or injury for an extended period of two (2) weeks or more shall provide a comprehensive health statement as to length of absence from the employee's health care provider stating any duties an employee cannot perform and any restrictions or light duty requirements.

Sec. 706 Payoff Upon Retirement or Termination: Any regular employee who terminates or is terminated shall be credited with all accrued Annual Leave at the same rate as that received on the last day worked or last day of approved leave with pay. Terminal Annual Leave pay shall be paid into a Post-Employment Plan account designated by the employee. Qualifying leave balances of a separating employee who does not make an election will default to a Special Pay Account.

Sec. 707 Prior Sick Leave Accruals:

- A. Effective July 2, 1998, current sick leave balances were frozen provided, however, that up to 50% (½) of the sick leave balance for employees covered under the terms and conditions of this Resolution was converted to Annual Leave. The remaining sick leave hours may be used until the sick leave is exhausted or, upon retirement, disability retirement, or death of the employee, it may be

credited to the employee as provided under the provisions of Section 708 below.

- B. Any regular employee who transfers or promotes into a classification covered under the provisions of this Resolution shall, at the time of such transfer/promotion, have his/her sick leave balance converted and/or frozen in the manner described in 707(A) above.

Sec. 708 Payout for Unused Sick Leave: Upon service retirement, disability retirement, or death of an employee or officer, and subject to the provisions of any applicable agreement between the employing agency and the Public Employee's Retirement system, unused accumulated sick leave for employees with at least five (5) but less than fifteen (15) years of service shall be credited at the rate of fifty percent (50%) of the current salary value thereof provided, however, that the total payment shall not exceed a sum equal to 960 hours of full pay. Unused accumulated sick leave for employees with more than fifteen (15) or more years of service shall be credited at the rate of the current salary value provided, however, that the total payment shall not exceed a sum equal to 960 hours of full pay. Terminal sick leave pay shall be paid into a Post-Employment Plan account designated by the employee. Qualifying leave balances of a separating employee who does not make an election will default to a Special Pay Account.

Sick leave compensation resulting from death shall be made to the persons entitled to it otherwise, in accordance with the Probate Code. Eligibility for a payout under this section is made at the time of separation from County employment and not at a later date.

Sec. 709 Prohibition Against Employment While on Annual Leave: No employee shall be permitted to work for compensation for the County while on Annual Leave without prior approval of the County Executive Officer and his/her agency/department head.

Sec. 710 Annual Leave Accrual Rate - Elected to Appointed Status: Whenever an elective officer, who has more than three (3) years (780 days) of continuous service, succeeds or is appointed to an appointive position without interruption of service, the Human Resources Director shall ascertain the minimum amount of continuous service rendered by such person and shall report the same to the Board of Supervisors, who shall thereupon determine the number of days of such continuous service, and the Annual Leave accrual rate shall be fixed accordingly.

Sec. 711 Exception to Continuous Service: A previous period or periods of County employment which are interrupted in such a manner as to disqualify such period or periods from being considered in computing continuous service under the provision of this Article may be included in such computation, in full or in part, upon the request of the agency/department head employing the person involved, and approval by the County Executive Officer.

Sec. 712 Elected Officials Exceptions: Elective County officers are not subject to the provisions of this Resolution relating to Annual Leave.

Sec. 713 Retention of Excess Accruals:

A. Employees covered under the provisions of this Resolution who, as the result of administrative error, have incorrect Annual Leave accrual rates which are subsequently adjusted and whose maximum accrued hours are then in excess of those provided under this Resolution, shall be entitled to maintain such maximum accruals for a period of five (5) years during which time they must reduce their maximum balance to that provided under Section 703, or forfeit the excess accrued hours.

B. Employees covered under the provisions of this Resolution who, as the result of a change in classification, are assigned to a bargaining unit represented by a recognized employee organization pursuant to the Employee Relations Resolution, and who have accrued Annual Leave hours, shall be permitted to maintain those accrued hours as Annual Leave. Such hours may continue to be used for vacation, sick leave or other approved leave.

An employee who is no longer eligible to accrue Annual Leave, as the result of a change in classification to a classification represented by a recognized employee organization, may continue to redeem any Annual Leave balance pursuant to Sec. 704 of this Resolution. If the employee's new classification is entitled to accrue vacation, he/she shall accrue hours at the rate specified under the applicable Memorandum of Understanding. The employee shall be permitted to retain any previously accrued and unused sick leave in his/her sick leave bank. The accrual and use of any sick leave accrued subsequent to the change in the employee's classification shall be subject to the provisions of the Memorandum of Understanding applicable to the employee's new classification.

ARTICLE 8

VACATION

(Applicable to Group 4 employees only)

Sec. 801 Accrual Rates:

A. Subject to the limitations and exemptions of this section, every regular employee in a classification assigned to Group 4 shall be entitled annually to the following number of working hours of vacation with pay in accordance with the record of completion of continuous years of service:

1. Zero through 3 years (0 to < 36 months) in a payroll status, 80 hours (10 days);
2. years 4 through 9 (36 to < 108 months) in a payroll status, 120 hours (15 days);
3. years 10 or more (108 or more months) 160 hours (20 days).

Vacation shall accrue daily at the rate appropriate to the years of service. Accrued vacation may be taken only at a time or times agreeable to the agency/department head. Except as hereinafter provided, no earned vacation shall accrue in excess of the maximum accumulation. No vacation shall ever be taken for a period exceeding the maximum accumulated.

All employees covered under the terms of this Resolution may accumulate accrued vacation for not more than a maximum of 480 hours. Upon the written request of an agency/department head showing reasonable necessity and good cause, submitted prior to the accumulation of the maximum vacation entitlement, the County Executive Officer may by order temporarily enlarge for a specific employee the maximum accumulation by extending the period of additional vacation accrual for not more than three (3) months, unless a different period shall be specified in the order.

B. Any person whose employment is terminated shall be entitled to pay for all earned vacation as determined under the provisions of this Resolution. For the purpose of this paragraph, vacation shall be deemed earned to the date of termination. While such terminal vacation pay shall be chargeable to the salary appropriation of the agency/department, the position shall be deemed vacant and may be filled provided funds are available therefore. Terminal vacation pay shall be paid into a Post-Employment Plan account designated by the employee. Qualifying leave balances of a separating

employee who does not make an election will default to a Special Pay Account.

- C. No employee shall be permitted to work for compensation for the County during vacation, except with prior approval of the County Executive Officer and the agency/department head.
- D. A regular part-time employee shall accrue vacation in the same proportion that working hours bear to the normal working hours of a full-time position. The same proportion shall apply in determining payment of earned vacation on termination.
- E. A previous period or periods of County employment which are interrupted in such a manner as to disqualify such period or periods from being considered in computing continuous service under the provision of this Resolution, may be included in such computation, in full or in part, upon the request of the agency/department head of the agency/department employing the person involved, and approval by the County Executive Officer.

ARTICLE 9 PAID LEAVE

Sec. 901 Jury Duty: Any employee summoned for attendance to any court for jury duty during the employee's normal working hours shall be deemed to be on duty and there shall be no loss of base salary, but any jury fees received shall be paid into the County treasury.

Witness Absence(s): Any employee who shall be called as a witness arising out of and in the course of County employment, shall be deemed to be on duty and there shall be no loss of base salary, but any witness fees received shall be paid into the County treasury, together with any mileage allowed if County transportation is used. Any employee absent as a witness in a non-County matter shall not be entitled to be paid during such absence.

Sec. 902 Bereavement Leave: The County agrees to allow up to five (5) days of bereavement leave, three (3) of which will be paid, and the additional two (2) days to be deducted from the employee's sick leave or Annual Leave. Eligible employees must be in an active payroll status and be compelled to be absent from duty by reason of the death, or critical illness where death appears imminent, of the employee's father, father-in-law, mother, mother-in-law, brother, sister, spouse, child, grandparent, grandchild, and the equivalent step-relationships or relationships through a domestic partnership.

The County has the right to require proper documentation in support of the requested leave.

Sec. 903 Fitness for Duty: With prior approval by the Human Resources Director, an agency/department head, or a designee, when in his/her judgment reasonable cause exists, order an employee off work until such time as the County's Employee Health Medical Director or designee determines that the employee is able to return to work without impairing the health of the public, the employee's health, or the health of the other employees in the agency/department.

When the agency/department head, or a designee, orders an employee off work, the agency/department head shall, as soon as possible, schedule an appointment for the employee with the County's Employee Health Medical Director or designee who shall examine the employee for the sole purpose of determining whether or not the employee is able to return to work.

The cost of the above mentioned medical services shall be paid by the County and the employee shall be placed on paid Administrative Leave for that period of time between his/her placement on leave and the County's receipt of the Employee Health Medical Director's determination.

Sec. 904 Sick Leave (Applicable to Employees in Group 4 Only):

- A. Accrual: Every regular full-time or part-time employee who is assigned to a classification in Group 4 shall accrue sick leave pay on a daily basis and computed at the rate of four (4) hours per pay period.
1. A regular part-time employee shall accrue sick leave in the same manner as a full-time employee, except the accrual shall be pro-rated for hours actually worked.
 2. Sick leave shall accrue at all times when the employee is in a paid status.
 3. Accrued sick leave of any person whose employment is permanently terminated shall automatically be canceled. However, any employee whose employment is terminated while they are on sick leave shall continue to be compensated for the duration of their illness to the extent of their accrued sick leave, but after such termination shall derive no other benefits under this Resolution which result

from being in a paid status. Unless the employee shall have retired, payment for sick leave continuing after termination shall be conditioned upon prior receipt of a physician's certificate or other adequate written proof of illness and in the event of any doubt as to future duration of the illness may be paid on biweekly increments as used. If an employee receives a layoff notice, payment for sick leave shall continue conditioned upon receipt of a physician's certificate or other adequate written proof of illness given to the County prior to payment, and payment shall not continue beyond the exhaustion of accrued sick leave.

4. Sick leave may be used for absence reasonably required by complications of pregnancy, continuing through delivery and reasonable period of recovery therefrom, to be determined in accordance with a written report or reports of the employee's personal physician, specifying the expected date of delivery and the date that the employee should cease work. In the event the agency/department head believes there are unusual circumstances, or that the full performance of the employee's work without undue hazard is such as to require a longer period of absence, and on the agency/department head's written request to the Human Resources Director, the determination of the period shall be subject to review and change by a physician employed or provided by the County, including a medical examination of the employee if required by such physician. The cost of this examination shall be paid by the County. In no event shall an employee return to work after pregnancy prior to a date to be fixed by her physician in a signed statement that she is physically able to perform the duties of her position.

B. Medical Certification Program:

1. When in the judgment of the agency/department head good reason exists for believing an employee may be abusing sick leave the employee shall be placed on notice in writing. The employee shall also be placed on a medical certification program and be allowed paid sick leave by producing a signed original certificate of a physician, dentist, or other legally authorized person to provide health care services on the same level as a physician or proof satisfactory to the agency/department head. Such certificate shall include a written statement signed by a physician, dentist, or other legally authorized person to provide health care services on the same level as a physician, stating the day(s) of the

illness/injury and that the illness/injury prevents the employee from being able to work.

Employees on a medical certification program shall have their sick leave usage reviewed at least annually. If the review shows substantial improvement, they shall be removed from the category of having to provide the certificate for each absence.

Every regular employee shall use accrued vacation, then holiday time, and then may use compensatory time, when sick leave has been exhausted due to extended illness or injury unless he/she is on a medical certification program in accordance with B.1 of this section.

Proof of Illness:

2. An employee off work or contemplating to be off work due to illness or injury for an extended period of two (2) weeks or more shall provide a comprehensive health statement as to length of absence from the employee's health care provider stating any duties an employee cannot perform and any restrictions or light duty requirements.

- C. Reporting Requirements: In the absence of a more stringent agency/department policy, an employee reporting off work for sick leave usage shall call the employee's supervisor or designee within one (1) hour before or after the employee's scheduled starting time.
- D. Reason for Usage: Use of accrued sick leave shall be allowed for the purpose of preventative medical, dental care, and care of the family. Family is defined to mean a spouse, parent (including biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor), child, foster child, registered domestic partner, child of registered domestic partner, parent, brother, or sister of the employee, grandparent, grandchild and the equivalent relationships through lawfully registered domestic partnership.
- E. Payout for Sick Leave: Upon service retirement, disability retirement or death of an employee or officer, and subject to the provisions of any applicable agreement between the employing agency and the Public Employee's Retirement System, unused accumulated sick leave shall be credited at the rate of fifty (50) percent of the current salary value thereof for each such person

who has had five (5) full years of service in a payroll status provided, however, that the total payment shall not exceed a sum equal to 960 hours of full pay. Terminal sick leave pay shall be paid into a Post-Employment Plan account designated by the employee. Qualifying leave balances of a separating employee who does not make an election will default to a Special Pay Account.

A sick leave payout resulting from death of an employee shall be made to the persons entitled to it otherwise, in accordance with the Probate Code.

Eligibility for a payout under this section is determined at the time of separation from County employment and not at a later date.

ARTICLE 10 ON THE JOB INJURY

Sec. 1001 Workers' Compensation Benefits: An employee or officer who suffers an injury or illness which entitles him/her to benefits under the Workers' Compensation Law, and for which he/she actually receives or obtains medical treatment, shall be entitled to full compensation for the first ten (10) calendar days during which he/she is necessarily absent from duty as the result of such injury or illness, without deduction on account of accrued sick leave or other accrued salary credits. If such absence continues thereafter, he/she shall be paid as salary the difference between the temporary disability payments due him/her under the Workers' Compensation Law and his/her regular compensation, to the extent of the value of his/her accrued sick leave or Annual Leave, including, for this purpose, the values, successively, of his/her accrued compensatory time off for overtime and accrued vacation credit. During a period of temporary disability and in the proportion that the employee is paid for the difference between his/her temporary disability payments and his/her regular compensation, he/she shall continue to accrue Annual Leave benefits at the regular rate.

The right is reserved to make later adjustments between salary and disability benefits to conform to the Workers' Compensation Law, or to conform to later development of facts, including the right to recover any overpayments directly or from future earnings.

In the event of substantial doubt whether temporary disability payments are payable under the Workers' Compensation Law for the disability, or doubt as to the extent thereof, payment on account of sick leave or annual leave shall be withheld, except to the extent

authorized by this section, until the issue is determined either by assumption of liability by the compensation insurance carrier or by adjudication of liability.

- Sec. 1002 4850 Exclusion: The provisions of this Article shall not apply to any peace officer, firefighter, or similar employee as to whom the benefits of section 4850 of the *Labor Code* are applicable. Sick leave, Annual Leave, vacation, or compensatory time off shall not be applied to absence on account of disability under that statute. Annual Leave benefits shall continue to accrue during such disability, in accordance with the law.

In the event of substantial doubt whether the disability is compensable pursuant to Section 4850 of the *Labor Code*, payment of salary shall be withheld, except as to so much thereof as shall be equal to the value of accrued sick leave, Annual Leave, vacation and compensatory time off for overtime, until the issue shall be adjudicated.

ARTICLE 11
LEAVES OF ABSENCE
WITHOUT PAY

- Sec. 1101 Air Pollution Emergency: An employee unable to work on a regularly scheduled work day due to an air pollution emergency shall be granted a leave of absence without pay for the period.

- Sec. 1102 Leaves of Absence - In General: An agency/department leave of absence or an official leave of absence without pay may be granted for the following reasons:

- A. Illness or disability when sick leave has been exhausted.
- B. Maternity.
- C. To take a course of study which will increase the employee's usefulness on return to the County.
- D. Personal reasons acceptable to the authority whose approval is required.

- Sec. 1103 Agency/Department Leave of Absence: Agency/department leave of absence up to 480 hours in any one (1) calendar year period may be granted to any employee by the agency/department head. Such leave of absence for an agency/department head shall be

granted only by the Board of Supervisors, for such period as the Board may determine. Such leave shall be reported as leave of absence via the agency/department's payroll. The agency/department head, or Board of Supervisors, may require the leave of absence to be for a specified period of time and appropriate conditions may be imposed, such as providing sufficient medical documentation or other evidence substantiating the leave as required by the agency/department head or Board of Supervisors.

An employee on leave of absence for illness or disability reasons will be required to present a return to work statement from the attending physician releasing the employee to full duty, prior to being allowed to return to work. Any release to less than full duty will be allowed only as accommodation as required under the *Americans with Disabilities Act*, the *California Fair Employment and Housing Act*, a County designed temporary modified duty assignment, and/or the County return to work program.

Sec. 1104 Official Leave of Absence: A regular employee may request an official leave of absence exceeding 480 hours, but not exceeding one (1) year (2,080 hours). Official leave of absence may be granted upon written request by or on behalf of the employee, specifying the period and the reason, upon the written recommendation of the agency/department head and with the written approval of the Human Resources Director. Application must be made on a form supplied by the Human Resources Department in advance of the effective date of the leave, unless circumstances make such advance request impossible. If the Human Resources Director does not approve the request, it shall be so endorsed and returned to the agency/department head, who may present it to the Board of Supervisors. The Board of Supervisor's action shall be final. Any official leave of absence granted shall be for a specified period and appropriate conditions may be imposed such as the employee providing sufficient medical documentation or other evidence documenting the leave as required by the Human Resources Director or a designee.

An employee on leave of absence for illness or disability reasons will be required to present a return to work statement from the attending physician releasing the employee to full duty, prior to being allowed to return to work. Any release to less than full duty will be allowed only as an accommodation as required under the *Americans with Disabilities Act*, the *California Fair Employment and Housing Act*, a County designed temporary modified duty assignment, and/or the County return to work program.

Such leave may be extended upon further written request containing justification therefore, such request for extension is to be processed in the same manner as the original request. In the case of a request for an extension due to illness or disability, updated information of the same kind submitted for the original request will be required.

Nothing herein shall prevent the earlier return to duty by the employee, except the agency/department head may require two (2) weeks advance notice of the employee's intention to return.

The Human Resources Director shall be promptly notified of the return of any employee from an official leave of absence. The Board of Supervisors shall have the right to cancel or revoke a leave of absence previously granted.

Sec. 1105 Military Leave: Absences on account of military duty are governed by provisions of United States Code Title 38, Chapter 43 and the California *Military and Veterans Code*.

Sec. 1106 Abandonment/Automatic Resignation:

- A. Absence without leave of any employee, whether voluntary or involuntary, for five consecutive working days is an automatic resignation from County service, providing the employee upon written agency/department notification does not respond to the agency/department and/or does not provide a satisfactory explanation for the absence and his/her failure to obtain an approved leave. The notification to the employee must be in writing prior to the agency/department finalizing the resignation and must contain an opportunity within three (3) working days of service for the employee to respond. A second notice, after the time to respond has passed or after the employee has given an unsatisfactory explanation, must be sent to the employee stating the effective date of the abandonment/automatic resignation. Notices may be personally served or served by first class mail (return receipt requested) to the last known address of record of the employee and are complete upon mailing or hand delivery.
- B. An employee may, within ten (10) calendar days of service of the second letter from the agency/department, request in writing reinstatement from the Human Resources Director. If denied by the Human Resources Director, the employee may file a further appeal with the Human Resources Director, or designee, within ten (10) working days from service of the denial of reinstatement.

Reinstatement may be granted only if the employee makes a satisfactory explanation for the absence and/or the failure to obtain an approved leave of absence, and the neutral finds the employee is ready, able, and willing to resume the discharge of the duties of the position.

1. Appeals shall be heard by a mutually agreed upon third party neutral (herein referred to as a "neutral") from a list of five (5) neutrals approved by the Human Resources Director. The neutral's decision may be verbal or in writing. The decision of the neutral shall be binding on both parties, neither of which shall have the right of further appeal.
2. Only the employee and one (1) non-attorney representative, the agency/department head or a designee, and the Human Resources Director or a non-attorney designee shall take part in the presentation of any appeal, unless the employee is an attorney who is self-represented. Nothing herein shall prevent an attorney testifying to facts of which the attorney has personal knowledge and that which the attorney may be competent to testify.
3. The appeal hearing and disposition of the appeal shall be informal, the object being to settle the appeal promptly by the parties. The parties shall have the right to offer evidence by witnesses at the hearing subject to the discretion of the neutral. The neutral may consult with witnesses informally and otherwise investigate the controversy.
4. The judgment of the neutral shall be rendered within five (5) working days of submission of the controversy to him/her. Provided, however, the parties may mutually agree to extend the time in which the judgment may be rendered.
5. The neutral's authority shall be limited to deciding the issues submitted by the parties. The neutral shall have no jurisdiction or authority to add to, delete from, or modify any written provisions of this Resolution.
6. The cost for the service of the neutral and the hearing room, if any, shall be borne by the County. The cost of transcripts, if any, will be borne by the ordering party.
7. The neutral is authorized to dismiss the appeal if the employee fails to appear at the hearing after being notified in writing of the date and time.

ARTICLE 12
DISCIPLINARY PROCEDURE

Sec. 1201 Applicability:

- A. The provisions of this Article do not apply to:
1. At-will employees covered under the provisions of this Resolution.
 2. Employees who have not completed an initial probationary period with the County of Riverside, including any extensions thereto.
 3. Permanent employees serving a promotional probationary period when such disciplinary action does not affect any vested rights.

As used in this procedure, "disciplinary action" means termination, demotion, reduction in compensation, suspension, or written reprimand in lieu of suspension (which shall for all purposes have the effect of the equivalent suspension) of an employee.

Sec. 1202 Cause for Action: Any employee may be disciplined for just cause, which includes, but is not limited to the following acts/omissions:

- a. Dishonesty;
- b. Unsatisfactory performance;
- c. Inefficiency or negligence in performance of duties;
- d. Neglect of duty;
- e. Insubordination;
- f. Violation of an employee regulation prescribed by the Board of Supervisors or the head of the agency/department in which the employee is employed;
- g. Absence without approved leave;
- h. Conviction of a felony, any crime involving moral turpitude, or any offense in connection with or affecting the employee's duties other than minor traffic violations. Conviction means a plea of guilty or *nolo contendere* or a determination of guilt in a court of competent jurisdiction;
- i. Discourteous treatment of the public or other employees;
- j. Political activity in violation of federal or state law;
- k. Physical or mental unfitness to perform assigned duties;
- l. Making a material misrepresentation in connection with obtaining or maintaining employment or position, or to obtain a benefit;

- m. Conduct either during or outside of duty hours which adversely affects the employee's job performance or operation of the agency/department in which he/she is employed.
- n. Failure to maintain the license, registration, certificate, professional qualifications, education, or eligibility required for the employee's classification when the failure of the employee to maintain such requirements adversely affects the employee's ability to perform his or her job or the performance of the agency/department. The agency/department shall prescribe procedures to insure that employees affected by the requirements are informed of them.
- o. Substance abuse in violation of the County of Riverside Alcohol and Drug Abuse Policy (Board Policy C-10).
- p. Violation of the County's Workplace Violence, Threats and Securities Policy (Board Policy C-27).
- q. Violation of the County's Non-Discrimination and Anti-Harassment Policy and Complaint Procedure (Board Policy C-25).

Sec. 1203 Investigatory Leave of Absence: Pending investigations by the agency/department head, or designee, of accusations of misconduct against an employee, the agency/department head, with the approval of the Human Resources Director or designee, may place the employee on a leave of absence for a period of time not to exceed fifteen (15) working days with pay.

If the investigation is not completed within the fifteen (15) days referenced above, the leave of absence may be extended to a combined maximum of ninety (90) calendar days with approval by the Human Resources Director. In such cases, and except for good cause as determined by the Human Resources Director, the agency/department head will notify the employee in writing as to what specific allegations are being investigated. Additional leave may be granted subject to the approval of the Human Resources Director. In the event the Human Resources Director does not approve the request for additional leave, the employee shall be returned to duty pending the completion of the investigation and the imposition of any disciplinary action provided, however, the agency/department head may alter the employee's duties or assignment until the investigation is completed when he/she determines it is in the County's best interest.

Sec. 1204 Written Order for Demotion, Suspension, Reduction in Pay, Termination: The continuing employment of every permanent

employee shall be contingent upon good behavior. Any such employee may be terminated, demoted, suspended, reduced in pay, demoted and suspended, or reprimanded in lieu of suspension (accrued leave(s) cannot be used to satisfy disciplinary action) for cause by the appointing authority in the following manner:

- A. The appointing authority shall serve upon the employee a Notice of Proposed Disciplinary Action stating the nature of the proposed action and its effective date. Such Notice shall also set forth in writing the reasons for the proposed disciplinary action, a statement of the charges upon which the action is to be based, a notice to the employee that he/she has the right to review the materials being used against him/her, and a statement advising the employee that he/she has the right to respond to the charges.
- B. Within seven (7) working days from receipt of the Notice of Proposed Disciplinary Action, unless additional time is otherwise specified by the appointing authority, the employee may respond to the County's proposed action. Such response may be presented orally or in writing.
- C. Notwithstanding the above, in cases where the disciplinary action involves a suspension of forty (40) hours or less the agency/department head, with approval of the Human Resources Director or designee, may suspend the employee immediately; in which case the Notice of Proposed Disciplinary Action, and the opportunity to respond thereto, shall be provided to the employee within the period of suspension or a reasonable time thereafter.
- D. At the completion of the period described in (B) above, the appointing authority shall review the employee's response, if any, and make a determination whether to sustain, or amend the proposed disciplinary action. If the appointing authority decides to amend or sustain the proposed action, the employee will be served with a Notice of Disciplinary Action setting forth in writing the reasons for disciplinary action and offering a statement of the charges upon which the action is based. The Notice of Disciplinary Action shall also advise the employee that the action being taken is final, and advise him/her of the right to appeal that action to the Human Resources Director, or designee within ten (10) working days of the date the letter is served on the employee.

Sec. 1205 Amended Notice of Disciplinary Action:

- A. At any time before an employee's appeal is submitted to the neutral for decision, the appointing authority may, with the consent of the

Human Resources Director, or designee, serve on the employee and file with the Human Resources Director or designee an amended or supplemental notice of disciplinary action.

- B. If the amended or supplemental notice presents new causes or allegations, the employee shall be afforded a reasonable opportunity to prepare a defense thereto. Any objections to the amended or supplemental causes or allegations may be made orally or in writing prior to the appeal hearing. The employee shall not be required to file a further appeal in the event that an appeal was filed on the original disciplinary action.

Sec. 1206 Limitations:

- A. Suspension of an employee shall not be for more than forty (40) working days. Suspension of an employee who is exempt from the *Fair Labor Standards Act* shall be imposed in accordance with the provisions of the Act.
- B. Reduction in compensation under this section shall consist only of a change within the salary grade from the existing step to a lower step for a specified duration of one (1) or more full pay periods, but not to exceed thirteen (13) pay periods. Reduction in compensation used as a disciplinary measure for employees who are exempt from the *Fair Labor Standards Act* will be imposed in accordance with the provisions of the Act.

Sec. 1207 Appeals: An employee may appeal any disciplinary action taken against the employee. The appeal shall be in writing and filed with the Human Resources Director or designee within ten (10) working days after the date of service of the Notice of Disciplinary Action against which the appeal is made. An appeal shall:

- a. Be accompanied by a copy of intent and final notice of disciplinary action served on the employee;
- b. A brief statement of the facts and reasons for the appeal; and,
- c. A brief statement of the relief requested.

Sec. 1208 Waiver: If an employee fails to appeal the disciplinary action within the time specified, or after appealing, withdraws the appeal, the right to review is waived. Further, after an appeal is filed if the employee, or his/her representative, fails to take the next step to advance the appeal at any point in the process for thirty (30) days the appeal is deemed to be withdrawn and the right to review is waived.

Sec. 1209 Hearing Procedure - Minor Discipline:

- A. When disciplinary action results in a suspension of eighty (80) working hours or less, a pay reduction equal to eighty (80) hours or less of gross salary, or a written reprimand in lieu of suspension of eighty (80) hours or less, the appeal shall be determined under the following provisions:
- B. Appeals shall be heard by a third party neutral (hereinafter referred to as a "neutral") agreed to by the parties from a list of five neutrals approved by the Human Resources Director. The neutral's decision may be verbal or in writing. The neutral's decision shall be binding on both parties.
- C. Only the employee and one (1) non-attorney representative and the agency/department head or a designee and the Human Resources Director or a non-attorney designee shall take part in the presentation of any appeal, unless the employee is an attorney who is self-represented. Nothing herein shall prevent an attorney testifying to facts of which the attorney has personal knowledge and that which the attorney may be competent to testify.
- D. The appeal hearing and disposition of the appeal shall be informal, the object being to settle the appeal promptly by the parties. The parties shall have the right to offer evidence by witnesses at the hearing subject to the discretion of the neutral. The neutral may consult with witnesses informally and otherwise investigate the controversy.
- E. The judgment of the neutral shall be binding on both parties neither of which shall have the right of further appeal.
- F. The neutral will not substitute his/her discretion and judgment for that of management for sustained charges unless the neutral finds that discrimination, capriciousness, or arbitrary action by the County is proven.
- G. The neutral may modify the disciplinary action, but in no event shall have the authority to increase the disciplinary action imposed to be greater than in Section 1209(A) herein.
- H. The judgment of the neutral shall be rendered within five (5) working days of submission of the controversy to him/her. Provided, however, the parties may mutually agree to extend the time in which the judgment may be rendered.

- I. The neutral's authority shall be limited to deciding the issues submitted by the parties. The neutral shall have no jurisdiction or authority to add to, delete from, or modify any written provisions of this Resolution.
- J. All costs for the service of the neutral and the hearing room, if any, shall be borne by the County. The cost of the transcripts, if any, shall be borne by the ordering party.
- K. Any hearing expense incurred as the result of a postponement or cancellation of a hearing shall be borne by the postponing or canceling party.
- L. The neutral is authorized to dismiss the appeal if the employee fails to appear at the hearing after being notified in writing of the date and time.

Sec. 1210 Hearing Procedure - Major Discipline:

- A. Appeals filed in cases of termination, demotion, suspension exceeding eighty (80) working hours, pay reduction exceeding eighty (80) hours of gross salary, or written reprimand in lieu of suspension exceeding eighty (80) hours, shall be heard by a third party neutral.
- B. The parties shall select a neutral from a list of five (5) neutrals approved by the Human Resources Director. The neutral shall be selected by the striking method. The only remaining name after the striking process shall serve as the neutral. If unable to agree on who should strike first, the first name shall be struck by the party winning the toss of a coin. If the neutral chosen is unable to serve within a time frame acceptable to both parties, the last name struck will serve as the neutral.
- C. The date, time, and venue for the hearing shall be set by the Human Resources Director, or designee, within a reasonable period based on the neutral's availability and other scheduling factors.
- D. The employee and the agency/department head may be represented by counsel or other representative.
- E. It shall be the duty of any County officer or employee to attend a hearing and testify upon the written request of the employee, the

agency/department head, or the neutral, provided reasonable notice is given the agency/department employing the officer or employee. The Human Resources Director, or designee, shall arrange for the production of any relevant County record. The neutral is authorized to issue subpoenas.

- F. All appeal hearings involving the termination of an employee shall be reported by a stenographic reporter. All other appeals need not be reported but either the employee or the agency/department head may, at its own expense, provide a reporter for the hearing.
- G. The expenses of the neutral shall be paid by the County. The cost of transcripts, if required, shall be paid by the ordering party. Each party shall make arrangements for and pay expenses of witnesses who are called by such party, except that any County employee called as a witness shall be released from work without loss of compensation or other benefits to attend the disciplinary hearing.
- H. Any hearing expense incurred as the result of a postponement or cancellation of a hearing shall be borne by the postponing or canceling party.
- I. The neutral is authorized to dismiss the appeal if the employee fails to appear at the hearing after being notified in writing of the date and time.
- J. Within 21 days following the submission of the appeal, the neutral shall submit written findings of fact, conclusions of law, and the decision to the parties together with a copy of the appeal and a summary of the evidence taken at the hearing. The decision of the neutral shall be final, subject to the right of either party to seek judicial review under Section 1280 et. seq. of the *California Code of Civil Procedure*.
- K. General Rules
 - 1. The neutral shall confine the decision to issues raised by the statement of charges, including all the supporting documentation, and responses. The neutral shall act in judicial, not legislative manners. The neutral shall not amend, modify, nullify, ignore, add to or subtract from the provisions of this Resolution but, rather, shall interpret and apply its terms.
 - 2. The neutral will not substitute his/her discretion and judgment for that of management for sustained charges

unless the neutral finds that discrimination, capriciousness, or arbitrary action by the County is proven.

3. In the case of suspension/reduction in compensation or demotion, if the action is modified or rescinded, the appellant shall be entitled to restoration of pay and/or fringe benefits in a manner consistent with the neutral's decision.
4. In the case of termination, if the neutral finds the order of termination should be modified, the appellant shall be either demoted to an appropriate classification or reinstated to a position in the classification held immediately prior to termination subject to forfeiture of pay and fringe benefits for any period of suspension imposed by the neutral.
5. If the neutral finds the order of termination should be rescinded, the appellant shall be reinstated to a position in the classification held immediately prior to termination and shall receive pay and fringe benefits for all of the period of time between the termination and reinstatement.
6. The County shall not be liable for restoring pay and fringe benefits for any period(s) of time the appellant was reduced or removed from duty which results solely from the appellant's request for written briefs in the appeal proceedings.
7. Restoration of pay and/or benefits shall be subject to the employee's obligation to take reasonable steps to mitigate his/her loss. This will include but not be limited to deduction of all unemployment insurance and outside earnings which the appellant received since the date of termination which would not have been earned had the appellant not been disciplined. The appellant shall supply such outside employment earning records during the period of time in question when requested.
8. The neutral shall render findings sufficient both to enable the parties to determine whether and on what basis they should seek review and, in the event of review, to advise a reviewing court of the basis for the neutral's decision. If the neutral fails to do so either party may request in writing within thirty (30) days of the issuance of the decision that the neutral render such findings.

Sec. 1211 Evidence and Procedures Applicable to Major Disciplinary Hearings:

- A. Hearings need not be conducted according to the technical rules of evidence. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs.
- B. Hearsay evidence shall be admitted and may be used for the purposes of supplementing or explaining any direct evidence, but shall not be sufficient in itself to support disciplinary action as defined in Section 1201.a. herein, unless it is the type of hearsay admissible over objection in a civil action.
- C. Irrelevant and unduly repetitious evidence shall be excluded.
- D. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions. In addition, communications between Human Resources Department employees, non-attorney advocates, management or employees of County agency/departments involved in an appeal hearing, and communications between the representative and the employee who is the subject of a personnel action shall be confidential and not subject to disclosure in the appeal hearing.
- E. Oral evidence shall be taken only on oath or affirmation. Any written statements, declarations, or affidavits admitted as evidence shall be made or sworn under penalty of perjury.
- F. Employees not testifying in their own behalf may be called and cross-examined.
- G. The employee and the agency/department head shall have these rights:
 - 1. To call and examine witnesses;
 - 2. To introduce exhibits;
 - 3. To cross-examine opposing witnesses on any matter relevant to the issue, even though the matter was not covered in the direct examination;
 - 4. To impeach any witness regardless of which party first called the witness to testify; and
 - 5. To rebut any derogatory evidence.
- H. The hearing shall be a private proceeding among the County and the employee.

- i. The intention of the parties is that appeals be adjudicated as efficiently and economically as possible. The use of legal counsel in the appeal process can result in excessive delays, longer hearings, and increased costs. The parties to a disciplinary appeal hearing hereby commit to instructing their legal counsel to conform to the intention of this Resolution and to take all necessary steps to expedite the appeal hearing and minimize the cost of the hearing.

In cases involving hearings in excess of three (3) days the parties must engage in a case management process with the neutral. The case management meeting must be held no later than thirty (30) days prior to the first scheduled date for the hearing and may be held telephonically. The neutral shall consider:

- a. the simplification of the issues,
- b. the possibility of obtaining admissions or stipulations which might facilitate the hearing,
- c. the quantum of damages, in the appropriate case,
- d. any preliminary application by either party,
- e. any other matters that may aid in the disposition of the action or the attainment of justice.

At the case management conference the neutral may, whether or not on the application of a party, order that:

- a. a party file and deliver, within a fixed time, to each other party as specified by the neutral, any relevant documents,
- b. any preliminary applications be brought within a fixed time or by a specified date,
- c. a statement of agreed facts be filed within a fixed time or by a specified date,
- d. a party deliver a written summary of the proposed evidence of a witness within a fixed time or by a specified date,
- e. experts who have been retained by the parties confer, on a without prejudice basis, to determine those matters on which they agree and to identify those matters on which they do not agree,
- f. the hearing be rescheduled,

and, on making an order the neutral may give other directions that he/she thinks just or necessary.

If the neutral, upon application by either party to the appeal hearing, determines that legal counsel for the other party has unnecessarily prolonged the hearing and/or increased the cost of the hearing

beyond the reasonable expectations of the parties at the commencement of the hearing then the neutral is authorized to impose sanctions on the offending party including, but not limited to, ordering such offending party to pay all or part of the non-offending party's increased costs of the hearing, to pay all or part of the non-offending party's attorney fees, to pay all or part of the non-offending party's cost of the neutral, to pay all or part of the non-offending party's costs of the transcripts, or such other relief that the neutral deems appropriate in the circumstances.

Sec. 1212 Non-Discrimination: Disciplinary actions shall be taken without regard to any protected class under federal or state law.

ARTICLE 13 HOLIDAYS

Sec. 1301 Paid Holidays:

A. County Holidays:

- January 1, New Year's Day
- Third Monday in January, Martin Luther King, Jr.
- February 12, Lincoln's Birthday
- Third Monday in February, Washington's Birthday
- Last Monday in May, Memorial Day
- July 4, Independence Day
- First Monday in September, Labor Day
- Second Monday in October, Columbus Day
- November 11, Veterans' Day
- Fourth Thursday in November, Thanksgiving Day (unless otherwise appointed)
- Friday following Thanksgiving
- December 24 and 31 when they fall on Monday
- December 25, Christmas Day
- December 26 and January 2, when they fall on a Friday
- Friday preceeding January 1, February 12, July 4, November 11 or December 25, in lieu of such date when such date falls on Saturday; the Monday following in lieu of such date when it falls on a Sunday.

B. Qualifying Factors

1. Only regular and probationary employees in a current paid status shall be eligible for paid holidays. "Current paid status" does not

include payments received from outside sources (e.g. disability benefits, worker's compensation benefits).

2. A new employee whose first working day is the day after a paid holiday shall not be paid for the holiday.
3. An employee who is terminating employment for reasons other than paid County retirement, and whose last day as a paid employee is the day before a holiday, shall not be paid for that holiday.
4. An employee who is on a leave of absence without pay for either the regularly scheduled working day before the holiday, or the regularly scheduled working day after the holiday shall not be paid for the holiday.

C. Payment for the Holiday:

1. Working the Holiday Qualifying, FLSA nonexempt employees covered under the provisions of this Resolution who work on a paid holiday shall be paid at their regular rate for the time actually worked.

In addition, such employee shall have a choice of:

- a. Receiving compensatory holiday time off not to exceed eight (8) hours for such holiday or;
 - b. Being paid for the holiday at the regular rate of pay not to exceed eight (8) hours.
2. Not Working the Holiday A full-time employee whose regularly scheduled day off falls on a paid holiday shall be entitled to equal compensatory holiday time off for such a holiday.

When a holiday falls on a normal workday and the employee does not work, the employee shall be paid for not more than eight (8) hours of holiday pay. An FLSA non-exempt employee on an alternative work schedule of more than eight (8) hours a day shall use accrued vacation, holiday time or compensatory time off to make-up the required hours in excess of eight (8).

3. Part-Time Employees A regular part-time employee shall only receive compensatory holiday pay for the holiday or portion thereof that coincides with his/her regularly scheduled working hours.
4. Scheduling Holiday Compensatory Time Off Holiday Compensatory Time Off shall be scheduled by the agency/

department head following a request by the employee and shall be granted within a reasonable time following the request.

ARTICLE 14
LAYOFF AND REINSTATEMENT

Sec. 1401 Seniority:

- A. Definition of Seniority: Seniority shall be defined as the length of an employee's continuous service with the County, in a regular position, and is based on most recent date of hire.
- B. Definition of Department: Department, for the purposes of this procedure, shall be defined as an agency, department, or district of the County.
- C. Whenever more than one (1) employee in a Department has the same most recent date of hire, seniority shall be determined in the following order: hours of County service from the most recent date of hire, seniority in classification, and seniority in the Department or agency.
- D. Except as otherwise provided in this procedure, an employee shall lose seniority upon resignation, retirement, termination, or removal from all Departmental Reinstatement Lists.

Sec. 1402 Reduction in Force:

- A. When it becomes necessary to reduce the work force in a Department, the agency/department head shall designate the job classification(s) to be affected, and the number of employees to be eliminated within the Department. No regular employee shall be laid off in any job classification if there are temporary employees or seasonal employees in an active status in the same job classification within the Department. It is not the intention of the County to use per diem employees for a replacement of regular laid off employees.
- B. Any reduction in the number of regular employees holding a job classification designated by an agency/department head for layoff shall be made in the following order of employment status:
 - 1. Temporary promotion employees (return to former classification);
 - 2. Probationary new employees;

3. Probationary transfer employees, probationary promotional employees, and all other regular employees.
- C. Layoffs of employees within each classification shall be based primarily on merit and ability, as determined by the Department Head or designee, and reflected in the employee's most recent performance evaluation, with a rating of at least "meets standard" (or equivalent). In the event that two or more employees have at least a "meets standard" rating then the layoff shall be based on seniority, with the least senior employees being laid off first. Whenever an agency/department head believes the best interest of the County requires the retention of an employee with special qualifications, skills, abilities or fitness for his/her position, the agency/department head may prepare a written request to the Human Resources Director to grant an exception to the order of layoff. Subsequent to conducting a review of the request, the Human Resources Director shall forward the request, together with his/her recommendation, to the County Executive Officer for final action. An employee who is laid off out of seniority shall be given written notice of this action.
- D. After consultation with the Human Resources Director or a designee, the agency/department head shall give notice to each regular employee affected by a reduction in force at least fourteen (14) days prior to the effective date of the action. A list containing the names of the employee(s) to be laid off shall be given to the Human Resources Director. The notice shall include:
1. The reason for layoff;
 2. The effective date of the action;
 3. If laid off out of seniority.
- E. If an employee who has received official notice of layoff has previously held regular status in another job classification in the County, was not removed therefrom for disciplinary reasons, and the Department Head, or designee, is satisfied that the employee has the merit and ability to perform such job, such employee shall, upon his/her request, be given a transfer or demotion within the Department to such other classification in lieu of layoff unless such action cannot be accomplished without authorization of another position or displacement of an employee with greater seniority, and only if it can be accommodated with the positions funded under the layoff plan. The affected employee must request such transfer or demotion within seven (7) days of written notification of layoff by personal delivery or mailing of a certified letter to the agency/department head.