COUNTY OF SAN LUIS OBISPO

Civil Service Commission

- **Rules**
- **Ordinances**
- **Procedural Guidelines**
- **Enabling Legislation**

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TABLE OF CONTENTS

RULE 1. AUTHORITY AND PURPOSE ..... - 1 -

1.01 AUTHORITY: ..... - 1 -
1.02 PURPOSE: ..... - 1 -
1.03 SEVERABILITY: ..... - 1 -

RULE 2. DEFINITIONS ..... - 2 -

2.01 ALLOCATION: ..... - 2 -
2.02 ANNIVERSARY DATE: ..... - 2 -
2.03 APPLICANT: ..... - 2 -
2.04 APPOINTING AUTHORITY: ..... - 2 -
2.05 APPOINTMENT: ..... - 2 -
2.06 BOARD OF SUPERVISORS: ..... - 2 -
2.07 BREAK IN SERVICE: ..... - 2 -
2.08 CANDIDATE: ..... - 2 -
2.09 CERTIFICATION: ..... - 2 -
2.10 CLASS OR CLASS OF POSITIONS: ..... - 3 -
2.11 CLASS SPECIFICATION: ..... - 3 -
2.12 CLASSIFICATION PLAN: ..... - 3 -
2.13 CLASSIFIED SERVICE: ..... - 3 -
2.14 COMMISSION: ..... - 3 -
2.15 CONTINUOUS SERVICE: ..... - 3 -
2.16 COUNTY: ..... - 3 -
2.17 COUNTY CODE OR CIVIL SERVICE ORDINANCE: ..... - 3 -
2.18 DAYS (BUSINESS): ..... - 3 -
2.19 DEMOTION: ..... - 3 -
2.20 DISMISSAL: ..... - 3 -
2.21 ELIGIBLE: ..... - 4 -
2.22 ELIGIBLE LIST: ..... - 4 -
2.23 EMPLOYEE: ..... - 4 -
2.24 EXAMINATION: ..... - 4 -
2.25 HEARING: ..... - 4 -
2.26 HIPAA CONFIDENTIALITY REGULATIONS: ..... - 4 -
2.27 INCUMBENT: ..... - 4 -
2.28 INEXCUSABLE ABSENCE: ..... - 4 -
2.29 LAYOFF: ..... - 4 -
2.30 OFFICIAL BULLETIN BOARD: ..... - 4 -
2.31 PERFORMANCE RATING: ..... - 5 -
2.32 PERMANENT STATUS: ..... - 5 -
2.33 POSITION: ..... - 5 -
2.34 PROBATIONARY STATUS: ..... - 5 -
2.35 PROBATIONER: ..... - 5 -
2.36 PROMOTION: ..... - 5 -
2.37 PROVISIONAL APPOINTMENT: ..... - 5 -
2.38 REASSIGNMENT: ..... - 5 -
2.39 REDUCTION IN COMPENSATION: ..... - 5 -
2.40 REEMPLOYMENT: ..... - 5 -
2.41 REINSTATEMENT ..... - 6 -
2.42 REJECTION: ..... - 6 -
2.43 RESTORATION: ..... - 6 -
2.44 RULES: ..... - 6 -

2.45 SALARY: - 6 -
2.46 SALARY RANGE: - 6 -
2.47 SENIORITY: - 6 -
2.48 SERVICE: - 6 -
2.49 STATUS: - 6 -
2.50 SUBSTITUTE APPOINTMENT: - 7 -
2.51 SUSPENSION: - 7 -
2.52 TEMPORARY APPOINTMENT: - 7 -
2.53 TIME-IN-SERVICE: - 7 -
2.54 TRANSFER: - 7 -
2.55 VOLUNTARY REDUCTION: - 7 -
2.56 WORKING DAYS: - 7 -

RULE 3. ORGANIZATION AND ADMINISTRATION - 8 -

3.01 RESPONSIBILITIES OF THE COMMISSION: - 8 -
3.02 OFFICERS OF THE COMMISSION: - 8 -
3.03 HUMAN RESOURCES DIRECTOR, DUTIES: - 9 -
3.04 REGULAR MEETINGS: - 9 -
3.05 SPECIAL MEETINGS: - 10 -
3.06 PUBLIC MEETINGS: - 10 -
3.07 CLOSED MEETINGS: - 10 -
3.08 RULES OF ORDER: - 10 -
3.09 QUORUM: - 10 -
3.10 COMMUNICATIONS: - 10 -
3.11 MINUTES: - 10 -
3.12 RULES: - 11 -
3.13 EFFECTIVE DATE: - 11 -

RULE 4. GRIEVANCE AND APPEALS PROCEDURES - 12 -

4.01 PURPOSE: - 12 -
4.02 GRIEVANCE & APPEAL GENERAL CONDITIONS: - 12 -
4.03 GRIEVANCES: - 13 -
4.04 APPEALS: - 16 -
4.05 HEARINGS OF THE COMMISSION: - 18 -

RULE 5. CLASSIFICATION - 22 -

5.01 ESTABLISH/REVISE/ABOLISH CLASSES: - 22 -
5.02 CLASS SPECIFICATIONS: - 22 -
5.03 POSITION STUDIES: - 22 -
5.04 ALLOCATION/REALLOCATION OF POSITIONS TO CLASSES: - 23 -
5.05 REALLOCATED POSITIONS: STATUS OF INCUMBENTS: - 23 -
5.06 REVIEWS AND APPEALS: - 23 -

RULE 6. APPLICANT AND APPLICATION PROCEDURE - 24 -

6.01 APPLICATION FILING: - 24 -
6.02 QUALIFICATIONS OF APPLICANTS: - 24 -
6.03 DISQUALIFICATION OF APPLICANTS: - 24 -
6.04 NOTIFICATION OF APPLICANTS: - 25 -
6.05 APPLICANT APPEAL: - 25 -

RULE 7. EXAMINATIONS - 26 -

7.01 NATURE OF EXAMINATIONS: - 26 -
7.02 CHARACTER OF EXAMINATIONS: - 26 -
7.03 SCHEDULING OF EXAMINATIONS: - 27 -

7.04 EXAMINATION ANNOUNCEMENTS: - 27 -
7.05 TYPES OF COMPETITIVE EXAMINATIONS: - 27 -
7.06 NON-COMPETITIVE EXAMINATIONS: - 28 -
7.07 VETERANS' PREFERENCE: - 28 -
7.08 TIME AND PLACE OF EXAMINATIONS: - 28 -
7.09 INABILITY TO APPEAR: - 28 -
7.10 TIME OFF TO TAKE EXAMINATIONS: - 29 -
7.11 NOTICE OF RESULT OF EXAMINATION: - 29 -
7.12 REVIEW OF EXAMINATION: - 29 -
7.13 EXAMINATION PROTESTS: - 29 -
7.14 APPEAL TO COMMISSION: - 29 -
7.15 REPORT OF EXAMINATION: - 30 -
7.16 PERMANENT EXAMINATION RECORDS: - 30 -
7.17 DISTRICTS, AGENCIES, DEPARTMENTS BROUGHT UNDER CIVIL SERVICE SYSTEM: STATUS OF EMPLOYEES: - 30 -

RULE 8. MEDICAL EXAMINATIONS - 31 -

8.01 NEW EMPLOYEES, QUALIFYING MEDICAL EXAMINATIONS: - 31 -
8.02 PRESENT EMPLOYEES, MEDICAL EXAMINATIONS: - 31 -
8.03 MEDICAL STANDARDS GROUPS: - 32 -
8.04 DISQUALIFICATION: - 32 -
8.05 REVIEWS AND APPEALS: - 32 -
8.06 EXCEPTIONS: - 33 -
8.07 CONFIDENTIAL NATURE OF REPORTS OF MEDICAL EXAMINATIONS: - 33 -

RULE 9. ELIGIBLE LISTS - 34 -

9.01 ESTABLISHMENT OF ELIGIBLE LISTS: - 34 -
9.02 DURATION OF ELIGIBLE LISTS: - 34 -
9.03 TERMINATION OF ELIGIBLE LISTS: - 35 -
9.04 EXTENSION OF ELIGIBLE LISTS: - 35 -
9.05 MERGING OF ELIGIBLE LISTS: - 35 -
9.06 AVAILABILITY OF ELIGIBLES: - 35 -
9.07 REMOVAL FROM ELIGIBLE LIST: - 36 -
9.08 RESTORATION TO ELIGIBLE LIST: - 36 -
9.09 LATERAL TRANSFER FROM OTHER MERIT SYSTEMS: - 37 -

RULE 10. CERTIFICATION AND APPOINTMENT - 38 -

10.01 REQUEST FOR CERTIFICATION: - 38 -
10.02 CERTIFICATION: - 38 -
10.03 ORDER OF PRECEDENCE IN CERTIFICATION: - 38 -
10.04 INCOMPLETE CERTIFICATION: - 39 -
10.05 FAILURE OF AN ELIGIBLE TO ACCEPT OR REPORT: - 39 -
10.06 EFFECT OF REMOVAL, WITHHOLDING, OR RESTORATION: - 39 -
10.07 TEMPORARY APPOINTMENTS: - 39 -
10.08 SUSPENSION OF COMPETITION: - 40 -
10.09 RIGHT TO RETURN FROM PROVISIONAL APPOINTMENT: - 40 -
10.10 APPOINTMENT OF RELATED EMPLOYEES: - 40 -
10.11 SUBSTITUTE APPOINTMENTS: - 40 -

RULE 11. PROBATION - 42 -

11.01 INITIAL APPOINTMENTS: - 42 -
11.02 PROMOTIONAL APPOINTMENTS: - 42 -
11.03 DURATION OF PROBATIONARY PERIODS: - 42 -
11.04 EXTENSION OF PROBATIONARY PERIODS: - 42 -

11.05 REJECTION OF PROBATIONARY EMPLOYEE: - 42 -
11.06 CHANGE IN POSITION OTHER THAN THROUGH APPOINTMENT: - 43 -
11.07 REJECTION NOT SUBJECT TO APPEAL: - 43 -
11.08 NOTICE OF REJECTION OF PROBATIONER: - 43 -

RULE 12. CHANGES IN ASSIGNMENT, SEPARATIONS AND LAYOFFS - 44 -

12.01 ASSIGNMENT AND REASSIGNMENT: - 44 -
12.02 TRANSFER: - 44 -
12.03 MEDICALLY INCAPACITATED: - 44 -
12.04 LAYOFFS, PROCEDURE FOR: - 44 -
12.05 ORDER OF LAYOFF: - 44 -
12.06 RIGHT TO REDUCE: - 45 -
12.07 TWO OR MORE EMPLOYEES WITH EQUAL TIME-IN-SERVICE HOURS: - 45 -
12.08 NOTICE OF LAYOFF: - 45 -
12.09 RESIGNATIONS: - 45 -
12.10 RESTORATION TO REEMPLOYMENT LIST: - 45 -
12.11 REINSTATEMENT AFTER SEPARATION: - 46 -
12.12 RIGHTS RESTORED: - 46 -
12.13 RESTORATION TO PREVIOUS LEVEL: - 46 -
12.14 VOLUNTARY REDUCTION: - 46 -
12.15 JOB ABANDONMENT: - 47 -
12.16 DISQUALIFICATION OF EMPLOYEE: - 47 -

RULE 13. PERFORMANCE EVALUATION - 48 -

13.01 PROVISION AND PURPOSE OF THE EVALUATION PLAN: - 48 -
13.02 EVALUATION PROCEDURE: - 48 -
13.03 PERFORMANCE EVALUATION RATING STANDARDS: - 49 -
13.04 OVERALL RATING OF LESS THAN SATISFACTORY: - 49 -
13.05 APPEAL: - 50 -
13.06 RETENTION OF PERFORMANCE EVALUATION REPORTS: - 50 -

RULE 14. DISCIPLINARY ACTIONS - 51 -

14.01 DEMOTIONS, SUSPENSIONS AND DISMISSALS: - 51 -
14.02 REASONS FOR DISCIPLINARY ACTIONS: - 51 -
14.03 NOTIFICATION OF DEMOTION, SUSPENSION, REDUCTION IN PAY OR DISMISSAL: - 52 -
14.04 LETTERS OF REPRIMAND: - 53 -

RULE 15. EMPLOYEE RECORDS AND PAYROLL CERTIFICATION - 54 -

15.01 CERTIFICATION OF SALARY ACCOUNTS: - 54 -
15.02 EMPLOYEE ROSTER: - 54 -
15.03 CONFIDENTIALITY OF PERSONNEL RECORDS: - 54 -

RULE 16. EQUAL EMPLOYMENT OPPORTUNITY - 55 -

16.01 PURPOSE: - 55 -
16.02 DISCRIMINATION PROHIBITED: - 55 -
16.03 EXCEPTIONS: - 55 -
16.04 REDRESS FOR DISCRIMINATORY ACTS: - 55 -
16.05 HEARINGS: - 55 -

RULE 1. AUTHORITY AND PURPOSE

1.01 AUTHORITY:

Under the authority of Chapter 2, Part 1 of the San Luis Obispo County Code, the San Luis Obispo County Civil Service Commission does prescribe and adopt these Rules, which shall have the force and effect of law. [Ord. 2.40.070(a)]

1.02 PURPOSE:

These Rules are prescribed for the purposes of implementing Chapter 2, Part 1 of the County Code, assuring the use of the merit principle in County employment, promoting efficiency in the conduct of County business, and assuring fair and impartial treatment to all employees and applicants for employment in the classified service. To these ends, the Rules shall be liberally construed. (03/17/05)

1.03 SEVERABILITY:

If any Rule, section, paragraph, sentence, clause, or phrase of these Rules is declared unconstitutional or void for any reason, such decision shall not affect the validity of the remaining portion of these Rules. The Commission hereby declares that it would have prescribed and adopted these Rules, and each Rule, section, paragraph, sentence, clause, and phrase hereof, irrespective of the fact that any one or more Rules, sections, paragraphs, sentences, clauses, or phrases be declared unconstitutional or void. [Ord. 2.40.070(a)]

RULE 2. DEFINITIONS

2.01 ALLOCATION:

The act of assigning a position based on the nature of its duties, functions, and minimum qualifications to a class of positions.

2.02 ANNIVERSARY DATE:

The date established for administering performance evaluations shall be consistent with County Code 2.48.030 and County Code 2.48.034; however such date shall be no longer than two thousand eighty hours of paid time after an employee's last performance evaluation or step increase. (09/28/11)

2.03 APPLICANT:

A person who has filed an application for a position in accordance with Commission rules. (09/28/11)

2.04 APPOINTING AUTHORITY:

The person, board, or commission having authority to make appointments to a position. (09/28/11)

2.05 APPOINTMENT:

The offer to and acceptance by a person of a position either on a permanent, temporary, or provisional basis, including reemployment, reinstatement or restoration, to be effective on the execution of a Personnel Action Form by all parties. (9/28/88) (09/28/11)

2.06 BOARD OF SUPERVISORS:

The Board of Supervisors of the County of San Luis Obispo. (09/28/11)

2.07 BREAK IN SERVICE:

Any interruption in continuous service, except for absences on approved leave or absences to serve in the Armed Forces of the United States as provided for in the County Code and the California Military and Veterans Code. (9/28/88)(8/26/98) (03/17/05) (09/28/11)

2.08 CANDIDATE:

A person whose application for employment has been accepted as meeting the established minimum qualifications for the class of position applied for. (03/17/05) (09/28/11)

2.09 CERTIFICATION:

The submission to an Appointing Authority in accordance with Rule 10 of the eligibles from which the Appointing Authority shall make a selection to fill a position. (03/17/05) (09/28/11)

2.10 CLASS OR CLASS OF POSITIONS:

A position or group of positions sufficiently similar with regard to duties and responsibilities that the same title may be used to designate each position allocated to the class. All positions allocated to a class shall have the same minimum qualifications for employment. (9/28/88)(03/17/05) (09/28/11)

2.11 CLASS SPECIFICATION:

A written description of a class which identifies the factors and conditions which are essential characteristics of the class, including the minimum qualifications, typical duties, responsibilities, and tasks. (03/17/05) (09/28/11)

2.12 CLASSIFICATION PLAN:

The orderly scheme or arrangement of all classes in the classified service. (03/17/05) (09/28/11)

2.13 CLASSIFIED SERVICE:

All positions in the Civil Service of the County of San Luis Obispo except those in the unclassified service as set forth in Section 2.40.060 of the County Code. (03/17/05) (09/28/11)

2.14 COMMISSION:

The San Luis Obispo County Civil Service Commission. (03/17/05) (09/28/11)

2.15 CONTINUOUS SERVICE:

Permanent employment without interruption, except for approved leaves or absence to serve in the Armed Forces of the United States. (9/28/88)(03/17/05) (09/28/11)

2.16 COUNTY:

San Luis Obispo County. (03/17/05)

2.17 COUNTY CODE OR CIVIL SERVICE ORDINANCE:

Chapter 2.40 of the San Luis Obispo County Code. (03/17/05) (09/28/11)

2.18 DAYS (BUSINESS):

Calendar days exclusive of Saturdays, Sundays, and legal holidays. (03/17/05) (09/28/11) (09/28/11)

2.19 DEMOTION:

Involuntary reduction, for disciplinary or medical reasons, of an employee who has permanent status in a position in the classified service to another position or class having a lower salary range. Demotion shall not include a reduction in rank or salary range resulting from layoff or downward reclassification. (9/28/88)(03/17/05) (09/28/11)

2.20 DISMISSAL:

Separation of an employee from the classified service for cause. (03/17/05) (09/28/11)

2.21 ELIGIBLE:

A person or the status of a person whose name appears on an eligible list for a class of positions within the classified service. (09/28/11)

2.22 ELIGIBLE LIST:

The list of ranked eligibles for a given classification whose names have been placed on an appropriate list pursuant to Rule 9. (09/28/11)

2.23 EMPLOYEE:

Any person holding a position in the classified service of the County of San Luis Obispo which has been duly established by ordinance or resolution of the Board of Supervisors. (09/28/11)

2.24 EXAMINATION:

Any objective, well-defined, selection instrument, process or procedure that is formal, scored or quantified and used as a basis for any selection decision. (09/28/11)

2.25 HEARING:

A procedure whereby the Commission elicits facts necessary for determination of an appeal. (03/17/05) (09/28/11)

2.26 HIPAA CONFIDENTIALITY REGULATIONS:

The Federal regulations promulgated under section 264(c) of the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191; 110 Stat. 2033) and county requirements, policies and regulations adopted to ensure confidentiality and security of health information. (09/28/11)

2.27 INCUMBENT:

Person who at any specific point in time is the permanently appointed occupant of a given position in the classified service. (09/28/11)

2.28 INEXCUSABLE ABSENCE:

Any absence during an employee's scheduled work time when the employee is not present to perform the assigned duties of his/her position, and for which he/she is neither eligible for compensation under the provisions of the County Code or these Rules, nor is away from the position on an authorized non-paid leave of absence from County employment. (8/26/98)(03/17/05) (09/28/11)

2.29 LAYOFF:

Termination of employment, without prejudice, because of lack of work, lack of funds, reorganization or other lawful reasons. (9/28/88) (09/28/11)

2.30 OFFICIAL BULLETIN BOARD:

The bulletin board or boards used for posting of public announcements of the Commission, which shall be that bulletin board or boards designated for this purpose by resolution of the Commission. (03/17/05) (09/28/11)

2.31 PERFORMANCE RATING:

The rating given an employee relative to work performance by an Appointing Authority pursuant to Rule 13 herein. (9/28/88)(03/17/05) (09/28/11)

2.32 PERMANENT STATUS:

Status of a classified employee who is legally retained in a position after completion of a probationary period. (03/17/05) (09/28/11)

2.33 POSITION:

Any office or employment in the classified service of the County of San Luis Obispo, which has been duly authorized by the Board of Supervisors and which requires the full- or part-time employment of one or more persons. (03/17/05) (09/28/11)

2.34 PROBATIONARY STATUS:

Status of an employee in the classified service who has been certified and appointed to a permanent position, but who has not completed a probationary period. (03/17/05) (09/28/11)

2.35 PROBATIONER:

An employee who has probationary status. (03/17/05) (09/28/11)

2.36 PROMOTION:

Advancement from a position in one class to a position in another class which has a higher salary range. (03/17/05) (09/28/11)

2.37 PROVISIONAL APPOINTMENT:

The temporary appointment without examination of a permanent County employee to another position in the classified service when there is no eligible list available for the class involved or when the list available for the class contains an insufficient number of eligibles to permit a complete certification. (03/17/05) (09/28/11)

2.38 REASSIGNMENT:

The assignment of an employee without examination from one position within a department to another position in the same department in the same class and salary range. (03/17/05) (09/28/11)

2.39 REDUCTION IN COMPENSATION:

A change in salary to a lower step in the salary range or other reduction in compensation for disciplinary reasons. (09/28/11) (09/28/11)

2.40 REEMPLOYMENT:

The reappointment without examination of persons laid off or reduced in lieu of layoff. (03/17/05) (09/28/11)

2.41 REINSTATEMENT

Reappointment without examination after a break in service pursuant to Section 2.40.080(n) of the County Code. (03/17/05) (09/28/11)

2.42 REJECTION:

Termination of a probationer from a probationary position for failure to satisfactorily complete the terms of probation. (03/17/05) (09/28/11)

2.43 RESTORATION:

Return of an employee to a position in a class in which status was formerly held. (03/17/05) (09/28/11)

2.44 RULES:

The rules of the San Luis Obispo Civil Service Commission. (09/28/11) (09/28/11)

2.45 SALARY:

Salary, wage, fee, or allowance paid an employee for performing the duties of a position. (03/17/05) (09/28/11)

2.46 SALARY RANGE:

The multi-step pay range for each classification as specified in the County salary schedule. (03/17/05) (09/28/11)

2.47 SENIORITY:

The total length of full-time paid employment in the classified service or proportional credit for part-time service as defined in rule 2.54. (9/28/88)(03/17/05) (09/28/11)

2.48 SERVICE:

Employment by the County. (8/26/98)(03/17/05) (09/28/11)
SPECIAL EVALUATION: Any evaluation, other than a regular or probationary evaluation, that may be issued at any time during the evaluation period. (09/28/11)

2.49 STATUS:

At a specific point in service, the type of employment, such as permanent, probationary, provisional, or temporary, which an employee holds pursuant to Chapter 2.40 of the County Code or these Rules. (9/28/88)(03/17/05) (09/28/11)

2.50 SUBSTITUTE APPOINTMENT:

Any permanent position, which will remain continuously unfilled for twenty or more business days, due to the incumbent's approved leave of absence, may be filled by a substitute employee pursuant to a request made by the Appointing Authority and with the prior approval of the Human Resources Director. (9/28/88)(8/26/98)(03/17/05) (09/28/11)

2.51 SUSPENSION:

An involuntary absence without salary for disciplinary purposes. (03/17/05) (09/28/11)

2.52 TEMPORARY APPOINTMENT:

An appointment, which is non-permanent or seasonal in character, is not an appointment to a permanently allocated position, and is not utilized to accomplish workload of a continuing nature. (9/28/88)(03/17/05) (09/28/11)

2.53 TIME-IN-SERVICE:

Total hours of recorded time with the exception of Leave Without Pay (LWOP), all forms of Standby Time, Comp Time in lieu of Overtime and Callback pay. Time-in-Service shall not accrue in excess of 80 hours in a two-week pay period. (09/28/11)

2.54 TRANSFER:

The change without examination of an employee from one position to a similar position in the same class and range in another department; or to a position in another class and the same range either within the same department or in another department as long as the transfer applicant meets the minimum qualifications. [2.40.080(m)] (03/17/05) (09/28/11)

2.55 VOLUNTARY REDUCTION:

Assignment of an employee, at his/her request or with his/her concurrence, to a position in a classification at a lower salary range and in accordance with the reasons outlined in Rule 12.14 herein. (9/28/88)(03/17/05) (09/28/11)

2.56 WORKING DAYS:

The day duly scheduled as a day of work for the particular position. It is not necessarily synonymous with “days” in that Saturdays, Sundays, or legal holidays may be working days for the particular position. Working day, for the purpose of County Code Section 2.44.040(a) (03/17/05) (09/28/11)

RULE 3. ORGANIZATION AND ADMINISTRATION

3.01 RESPONSIBILITIES OF THE COMMISSION:

(a) Prescribe, amend, repeal, and enforce these Rules, and make investigations concerning the enforcement and effect thereof; [Ord. 2.40.070] (03/17/05)

(b) Oversee the administration of the County Civil Service program in accordance with applicable provisions of the County Code and these Rules, and take actions as are prescribed by the specific provisions of these Rules; [Ord. 2.40.070]

(c) Consider the legitimacy of, and hear, as appropriate, appeals and grievances initiated by individuals regarding actions taken on matters governed by these Rules; and [Ord. 2.40.070] (03/17/05)

(d) Conduct disciplinary hearings as provided under these Rules. [Ords. 2.40.070; 2.40.120]

3.02 OFFICERS OF THE COMMISSION:

(a) **Election:** The Commission shall elect one of its members as President and another as Vice President at the first regular meeting in January of each year. The incumbent officers shall hold office until their respective successors are duly elected and qualified. [Ord. 2.40.020] (03/17/05)

(b) **President, Duties:** The President shall preside at all meetings of the Commission, sign official documents of the Commission, and speak on behalf of the Commission when so authorized.

(c) **Vice President, Duties:** In the event of the absence of the President, the Vice President shall have all the duties of the President. (03/17/05)

(d) **Secretary, Duties:** The secretary of the Commission shall:

(1) Keep minutes of Commission proceedings;

(2) Prepare agenda for Commission meetings and schedule such hearings as may be required by these Rules; and

(3) Carry on all correspondence on behalf of the Commission.

3.03 HUMAN RESOURCES DIRECTOR, DUTIES:

The Human Resources Director, or his/her designee, under general direction of the Commission, shall administer the Civil Service System pursuant to the rules adopted by the Commission. Such administration shall include: (12/22/82)

(a) Advising the Commission upon Civil Service matters;

(b) Furnishing a recording secretary to the Commission, who shall take the minutes; the appointment of said secretary to be approved by the Commission; (03/17/05)

(c) Preparing the budget for operation of the Commission; (03/17/05)

(d) Administering the expenditure of funds appropriated for the Commission;

(e) Administering the programs provided for by these Rules;

(f) Establishing such administrative controls and procedures as may be necessary for enforcement of these Rules;

(g) Making recommendations relative to matters of policy and for necessary amendments to these Rules;

(h) Certifying appointments on behalf of the Commission pursuant to Section 2.40.140 of the County Code; (03/17/05)

(i) Preparing the Annual Report for the Commission's approval prior to submission to the Board of Supervisors; and (03/17/05)

(j) Performing such other duties as may be assigned time to time by the Commission. [Ord. 2.40.070(b)]

3.04 REGULAR MEETINGS:

The Commission shall hold at least one regular meeting in January of each year and at such other times throughout the year as may be necessary for the conduct of Commission business. Regular meeting dates and places shall be designated by resolution. Notice of the time and place of meetings so designated shall when determined be posted on the Commission's official bulletin board and otherwise appropriately announced. (03/17/05)

3.05 SPECIAL MEETINGS:

A special meeting may be called at any time by the President of the Commission or by a majority of the Commission by delivering written notice to each member of the Commission and to each local newspaper of general circulation, radio or television station requesting notice in writing. The notice shall be delivered personally or by mail and shall be received at least 24 hours before the time of the meeting as specified in the notice. The notice shall specify the time and place of the special meeting and the business to be transacted. At such meeting no other business shall be considered by the Commission. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the Secretary of the Commission a written waiver of notice. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this Rule regardless of whether any action is taken at the special meeting. A copy of the notice shall be posted at least 24 hours prior to the special meeting on the Commission's official bulletin board. (9/28/88)(03/17/05)

3.06 PUBLIC MEETINGS:

All meetings of the Commission shall be open and public, and all persons shall be permitted to attend any meeting of the Commission, except as otherwise provided in Rule 3.07.

3.07 CLOSED MEETINGS:

The Commission may hold closed meetings as allowed by law including closed meetings to consider the employment or dismissal of a public officer or employee, or to hear complaints or charges brought against such officer or employee by another public officer, person, or employee unless the officer or employee against whom the complaints or charges are brought requests a public hearing. The Commission also may exclude witnesses and others as provided in Rule 4.05(e). (12/17/86)(8/26/98)(03/17/05)

3.08 RULES OF ORDER:

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

3.09 QUORUM:

Three members of the Commission shall constitute a quorum for the transaction of business. No formal action shall be taken by the Commission unless it is adopted by the concurring votes of at least three members of the Commission. (03/17/05)

3.10 COMMUNICATIONS:

Communications and requests to the Commission, insofar as practicable, shall be in writing. The substance of each request and the action of the Commission thereon shall be noted in the minutes.

3.11 MINUTES:

All official actions of the Commission shall be recorded in the minutes. An official copy of approved minutes shall be kept by the Secretary and shall be open to public inspection. [Ord. 2.40.070] (03/17/05)

3.12 RULES:

The adoption or amendment of rules will be conducted pursuant to the Procedural Guidelines established by the Commission, but final action thereon shall be taken only after public notice and hearing. Public notice of such intention shall be posted on the official bulletin board on the date proposed and continuously thereafter until the date of hearing. Such hearing shall be held no sooner than one week after such public notice is given. [Ords. 2.40.070; 2.40.080(r)] (03/17/05)

3.13 EFFECTIVE DATE:

All Rules and amendments shall become effective immediately upon adoption unless some later date is specified by the Commission.

RULE 4. GRIEVANCE AND APPEALS PROCEDURES

4.01 PURPOSE:

(a) The purpose of the procedures established herein is to provide a systematic means to:

(b) Keep channels of communication open between all persons employed by the County; (03/17/05)

(c) Resolve issues and differences between employees and management through discussions; and (09/28/11)

(d) Settle unresolved employee disputes and complaints in a reasonable manner at fair hearings.

4.02 GRIEVANCE & APPEAL GENERAL CONDITIONS:

(a) **Right of Participation:** Grievants and Appellants have the right to be present at all steps in the procedure and shall be permitted a reasonable amount of time to prepare for proceedings during working hours provided his/her supervisor determines that it will not unduly interfere with the workload of the employee's work unit. (09/28/11)

(b) **Representation:** Any employee or group of employees shall be entitled to representation at each step of these procedures established herein. The representative shall be of the employee's or group's own choosing and if the representative is an employee, he/she may be permitted to participate in the proceedings during working hours if his/her supervisor determines that his/her participation will not unduly interfere with the workload of the employee's work unit. (03/17/05)

(c) **Retaliation:** Retaliation against any employee or group of employees for presenting an appeal or grievance, or participating in any procedure permitted by these Rules is prohibited. (09/28/11)

(d) **Prehearing Procedures:** Parties are required to conduct appeals and grievances according to the process established by the Commission's Procedural Guidelines. (03/17/05)

(e) **Time Extensions:** Unless otherwise provided for in these Rules, a time limit established in these procedures can be extended by mutual written consent of the parties with a showing of good cause and approval of the Human Resources Director. (09/28/11)

(f) **Service:** Documents can be served via personal delivery, electronically, facsimile or first class mail. Service is deemed complete upon personal delivery, on the date sent, or in the case of first class mail, on the postmark date. (09/28/11)

(g) **Discrepancy:** All documents, including all subsections, corrections, addendums, submitted to Human Resources as called for in these Rules are the official, controlling documents in the case of discrepancy. (09/28/11)

(h) **Waiver:** Any provision of these procedures may be waived by mutual written consent of the parties with a showing of good cause and approval of the Human Resources Director. (09/28/11)

4.03 **GRIEVANCES:**

(a) **Definition:** A Grievance is a dispute between one or more classified employees and the County involving the interpretation, application or enforcement of a County ordinance, rule, policy, practice or agreement. (09/28/11)

(b) **Scope:** The procedure established herein is limited in application to complaints of unfair or improper treatment in County employment and to matters specifically involving the interpretation or application of ordinances, rules, policies, practices and agreements. Specifically excluded from this procedure are grievances related to: (03/17/05) (09/28/11)

(1) Matters which, in their solution, require the amendment or change of Board of Supervisors' policies as set forth in: (03/17/05)

(A) The County Code and Resolutions of the Board of Supervisors; (03/17/05)

(B) Rules formally adopted by the Commission; and (03/17/05)

(C) Matters within the Employee Relations Policy adopted by Resolution of the Board of Supervisors. (9/28/88)

(2) Any action for which there already exists an appeal procedure to the Commission. (03/17/05)

(3) Workers' compensation matters. (03/17/05)

(c) Grievance Procedures:

The following is a series of steps, each a succeeding higher level of review. Every effort is to be made by all who participate in the process to find acceptable solutions to the issues involved at the earliest possible step in the process. Employees are encouraged to attempt to resolve matters informally with their supervisor prior to proceeding to Step 1 of the grievance process. (9/29/88)(03/17/05) (09/28/11)

Step I:

i. Within twenty business days following the event which caused or led to the dispute, or within twenty business days after it is determined that the dispute cannot be resolved informally, the Grievant or representative must initiate Step 1 of the grievance procedure by serving a completed County Grievance Form to the Human Resources Director. (09/28/11)

ii. Upon service of the Grievance Form, the Human Resources Director will immediately forward the form to the appropriate Appointing Authority. (09/28/11)

iii. Within 15 business days from the date the grievance was served the Appointing Authority or designee shall (1) investigate the grievance; (2) confer with the Grievant in an attempt to resolve the issues(s); (3) prepare a written reply on the matter; and (4) serve the original on the Human Resources Director and a copy on the Grievant. (09/28/11)

iv. If the Appointing Authority is the subject of the grievance the County Administrator, or designee, shall undertake the Step 1 obligations of the Appointing Authority. A copy of all such grievances shall be sent to the County Administrator. (09/28/11)

v. If the grievance is not resolved at Step 1, the Grievant may proceed to Step 2. (09/28/11)

Step 2:

i. Within ten business days of service of the Step 1 response, the Grievant or representative must provide written notice to the Human Resources Director requesting commencement of Step 2. (09/28/11)

ii. Within fifteen business days of service of the Step 2 notification, the Human Resources Director shall: (1) convene a meeting of the Grievant, Appointing Authority (or designee) and/or any other persons deemed necessary to assist the parties in resolving the issue(s); (2) document the outcome of the meeting; and (3) provide a copy of the documentation to the Grievant and Appointing Authority. (09/28/11)

iii. If the grievance is not resolved at Step 2, the Grievant may proceed to Step 3. (09/28/11)

Step 3:

i. Within ten business days of service of the Step 2 response the Grievant or representative must provide written notice to the Human Resources Director requesting commencement of Step 3. (09/28/11)

ii. Within fifteen business days of service of the Step 3 notification, the Human Resources Director shall: (1) notify the Grievant and the Appointing Authority of his/her routing decision; and (2) notify the parties of a pre-hearing date and tentative hearing before either the Civil Service Commission or Board of Supervisors as applicable. (09/28/11)

iii. Those matters covered by the Civil Service Ordinance and Rules shall be routed to the Commission. All other matters shall be routed to the Board of Supervisors. (09/28/11)

iv. A Grievant may appeal the Human Resource Director's routing decision, for review by the Commission President. Said objection shall be filed within five business days of service of the decision. The President's decision on the objection shall be final. (09/28/11)

v. Those matters set for hearing before the Commission shall be conducted in accordance with Rule 4.05. (09/28/11)

vi. Those matters directed to the Board of Supervisors shall be routed to the County Administrative Office for submission to the Board of Supervisors. (09/28/11)

(d) **Submittal Requirements:** All grievances shall be submitted on the Human Resources Director approved Grievance Form and shall contain the following information: (09/28/11)

(1) The ordinance, rule, policy, or practice in dispute; (09/28/11)

(2) Specific facts describing the alleged dispute; (09/28/11)

(3) The relief requested; (09/28/11)

(4) The signature of the Grievant or his/her representative. If the grievance form is submitted via e-mail it will be considered the same as if the employee had signed the form. (09/28/11)

(e) **Rejections:** The Human Resources Director has discretion to reject a grievance for processing due to insufficiency of information required by Rule 4.03(d). Notice of insufficiency shall be served on the Grievant within five business days of the Human Resources Director's receipt of the grievance. The rejection of a grievance is subject to review by the Commission on appeal. The Grievant shall have five business days from the notice of insufficiency to correct any error or insufficiency. The time to grieve shall be tolled for the period of time that the Human Resources Director is considering whether the corrected information cures the insufficiency. (09/28/11)

(f) **Failure to respond:** Should a Grievant fail at any time to proceed to the next step of the grievance process, it shall be deemed that the Grievant has withdrawn the grievance. If either the Appointing Authority, or the Human Resources Director fail to meet any time limit for response called for in these Rules, the grievance will be deemed unresolved and the Grievant may proceed to the next step. (09/28/11)

4.04 **APPEALS:**

(a) **Definition:** An Appeal is a request for a review of an action taken by either the Human Resources Director or the Appointing Authority as identified in Rule 4.04(b). A Recognized Employee Organization may not use the appeal procedure in its own name. (09/28/11)

(b) **Scope:** The following matters may be appealed: (09/28/11)

(1) **Grievance Routing Decision:** A routing decision made by the Human Resources Director authorized by Rule 4.03(c) Step 3 (ii). Pursuant to Rule 4.05(g)(2) (Employee can appeal.) (03/17/05) (09/28/11)

(2) **Classification Action:** A classification decision made by the Human Resources Director as authorized in Rule 5.06. (Employee or Appointing Authority can appeal.) (03/17/05) (09/28/11)

(3) **Applicant Disqualification:** A decision made by the Human Resources Director disqualifying an applicant made as authorized in Rule 6.05. (Applicant can appeal.) (09/28/88) (09/28/11)

(4) **Exam Administration:** A decision made by the Human Resources Director, following investigation, of alleged exam administration errors, improprieties, or ambiguities authorized in Rule 7.14. (Candidate or Employee can appeal.) (03/17/05) (09/28/11)

(5) **Medical or Physical Standards Disqualification:** A decision made by the Human Resources Director, after review, regarding disqualification of a candidate or an employee for failure to meet medical or physical standards as authorized in Rule 8.05. (Candidate or Employee can appeal.) (03/17/05) (09/28/11)

(6) **Eligible List Rejection:** A decision made by the Human Resources Director to withhold, remove, or restore a person to or from an eligible list as authorized in Rules 9 and 10. (Candidate or Employee can appeal.) (09/28/11)

(7) **Below Satisfactory Evaluation:** Issuance of a performance evaluation with an overall rating of less than Satisfactory as authorized in Rule 13.05. (Employee can appeal.) (03/17/05) (09/28/11)

(8) **Disciplinary Action:** A Letter of Reprimand or final written order made by an Appointing Authority imposing discipline on an employee as authorized in Rule 14. (Employee can appeal.) (03/17/05) (09/28/11)

(9) **Grievance Rejection:** The Human Resources Director's rejection of a Grievance Form. (Rule 4.03(e)) (Employee can appeal.) (09/28/11)

(10) **Discriminatory Probationary Rejection:** A decision made by an Appointing Authority to reject an employee during his/her probationary period as authorized in Rule 11.07. (Employee can appeal.) (09/28/88) (09/28/11)

(11) **Discriminatory Treatment:** Allegation of illegal discriminatory treatment as defined in Rule 16.02 (Employee or applicant can appeal) (09/28/11)

(c) **Appeals Procedure:** Appeals to the Commission must be served on the Human Resources Department within ten business days of service of the notice of the challenged decision; or, in the case of Rule 14, of the final written order. Pursuant to 4.03(c) Step 3(iv) appeals of a routing decision must be submitted within five business days. Upon service of an appeal, the Human Resources Director will immediately forward a copy of the appeal to the appropriate Appointing Authority and concurrently serve the Appellant and Respondent notice of a pre-hearing date and tentative Commission hearing date for the appeal. (09/28/11)

(d) **Submittal Requirements:**

(1) Appeals shall be submitted on the Appeal Forms provided by the Human Resources Director, and shall contain the following information.

(A) The action for which review is requested, with reference to Rule 4.04 (09/28/11)

(B) Specific facts describing the basis for the appeal; (09/28/11)

(C) The relief requested; (09/28/11)

(D) The signature of the Appellant or his/her representative. If the Appeal Form is submitted via e-mail it will be considered the same as if the Appellant or representative had signed the form. (09/28/11)

4.05 HEARINGS OF THE COMMISSION:

(a) **Notice of Hearing:** Upon receipt of a notice of prehearing and tentative hearing date, the parties shall promptly confirm with the Human Resources Director their availability. As may be necessary, the parties and Human Resources Director will work cooperatively to select mutually agreeable alternative dates. If an agreement cannot be reached, the Commission shall set the matter for hearing. The date for hearing can be continued at the discretion of the Human Resources Director only with a showing of good cause. (09/28/11)

(b) **Rights of Parties Involved:** At the hearing, the Grievant/Appellant, the Appointing Authority, Human Resources Director, staff, and any other person(s) whom the Commission determines to have a legitimate interest in the matter shall be entitled to: (09/28/11)

(1) Be represented by legal counsel or otherwise represented at such hearings and;

(2) Testify under oath and;

(3) Question under oath any witnesses or other persons involved in or related to the matter being considered and;

(4) Impeach any witnesses before the Commission and;

(5) Present such affidavits, exhibits, and other evidence as the Commission deems relevant to the inquiry; and

(6) Argue his/her own case and

(7) Receive a copy of recordings or transcripts of statements made during investigations and which were relied upon in taking the action, pursuant to Skelly v. State Personnel Board. (09/28/11)

(c) **Failure of Grievant/Appellant to Appear:** In all hearings, the failure of the Grievant/Appellant to appear in person without good cause shown at the time and place set for hearing shall be deemed a withdrawal of his/her grievance/appeal and consent to the action, order, or ruling from which the grievance/appeal was taken. (03/17/05)

(d) **Evidence:**

(1) The hearing shall be informal and need not be conducted according to technical rules relating to evidence and witnesses. (03/17/05)

(2) Relevant evidence shall be admitted regardless of the existence of any common law or statutory rule that would render it inadmissible upon timely objection. Relevant evidence is that evidence upon which a reasonable person would rely in the conduct of serious affairs. (03/17/05)

(3) Hearsay evidence may be admitted for any purpose but upon timely objection shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. (03/17/05)

(4) The rules of evidence relating to privileged communications and to official or judicial notice shall be effective to the same extent as in a civil action. (03/17/05)

(5) The Commission may exclude evidence that is irrelevant or repetitious. (03/17/05)

(6) Oral evidence shall be taken only under oath or affirmation. (03/17/05)

(e) **Exclusion of Witnesses and Other Persons:** At its discretion, subject to the provision of existing law or any law which may hereafter be enacted, the Commission may exclude from hearings witnesses who are not under examination and any other persons not having a direct interest in the matter being considered. (03/17/05)

(f) **Testimony of Grievant/Appellant:** In dismissal, suspension, reduction in compensation, demotion or Letter of Reprimand hearings, the appealing employee shall not be required to testify on his/her own behalf. An Appellant who voluntarily testifies in these proceedings may be cross-examined relative to any matter relevant to the issues in dispute. In all other types of hearings, a Grievant/Appellant may be called to testify and questioned under oath even though he/she has not done so voluntarily. (03/17/05) (09/28/11)

(g) **Written Briefs:**

(1) Either party may submit a hearing brief discussing the law applicable to the facts raised by the grievance/appeal to the Commission. A copy of the brief must be served on all parties to the action at the time it is served on the Commission. (09/28/11)

(2) As an alternative to an evidentiary hearing, where the facts of a grievance/appeal are not in dispute, the parties may mutually agree to submit the matter to the Commission via written briefs which state: the nature of the dispute, a discussion of the applicable rules and law, and the remedy/finding sought of the Commission. The Commission retains discretion to set the matter for hearing. In all instances, an appeal of the routing decision [Rule 4.03(c) Step 3 (ii)] shall follow this alternative process in lieu of an evidentiary hearing. Pursuant to Rule 4.03(c) Step 3(iv) the appeal will be decided by the Commission President. (03/17/05) (09/28/11)

(h) **Burden of Proof:** In dismissal, suspension, reduction in compensation, demotion, or letter of reprimand hearings, the burden of proof shall be on the Appointing Authority. In all other types of hearings, the burden of proof shall be on the Grievant/Appellant. (9/28/88)(03/17/05) (09/28/11)

(i) **Findings and Decisions:**

(1) **Process:** After hearing the evidence, the Commission shall adjourn to closed session to deliberate and issue written evidentiary findings and a decision on the matter under consideration. In appeal hearings, the decision will affirm, revoke, or modify the order, action, or ruling. In grievance hearings the decision will issue a ruling on the dispute. In accordance with the decision, the Commission will direct that specific corrective action be taken as necessary. Unless the Commission or circumstances provide otherwise, the decision shall be final, conclusive, and immediately effective. The findings and decisions of the Commission shall be certified to the Appointing Authority or officer whose action was the subject of the hearing and forthwith enforced and followed by that official. (09/28/11)

(2) **Distribution:** The decision of the Commission shall be served promptly on the Grievant/Appellant, the Appointing Authority, and other persons deemed by the Commission to have an interest in the proceedings. (09/28/11)

(3) **Judicial Review:** In those cases where a party to the hearing is entitled to a judicial review of the Commission's findings and decisions, the petition to the reviewing court shall be in accordance with the then existing law governing the reviewing court. (09/28/11)

(j) **Report of Hearings:** Hearings shall be recorded via auditory recording and be made available to the parties involved. Hearings may be conducted with a stenographic reporter if a party to the hearing requests the hearing be reported and pays the cost or fee for such reporting. (03/17/05) (09/28/11)

(k) **Subpoena of Witnesses; Production of Records:**

(1) **Subpoena Expense:** Any expense incurred in the subpoena of witnesses shall be paid by the party requesting the presence of those witnesses. [Ord. 2.41.010(b)] (03/17/05)

(2) **Witness Thresholds:** Normally, each party may subpoena no more than ten witnesses. In requesting that more than ten witnesses be permitted, a party must demonstrate to the Commission good cause for all witnesses requested. [Ord. 2.41.010(c)] (03/17/05)

(3) **Subpoena Execution:** All written subpoenas for witnesses shall bear the signature of either the President or Secretary of the Commission. [Ord. 2.41.010(d)]

(4) **Subpoena Duces Tecum:** A subpoena duces tecum may require a person to produce at the hearing all books, papers and documents in his/her possession or under his/her control, relating to the hearing. All applications for a subpoena duces tecum shall include a statement showing good cause for production of the records requested, specifying the exact records to be produced, setting forth in full detail the materiality thereof to the issues involved in the hearing, and stating that the person has the desired records in his/her possession or under his/her

control. A subpoena duces tecum must be served on the responding party no later than 20 business days prior to the hearing date. The responding party may serve objections to the Commission regarding the validity or scope of the subpoena, no later than ten business days prior to the date set for the hearing. The desired records shall be served on the subpoenaing party no later than seven business days before the hearing. (05/23/79) (09/28/11)

(5) **Failure to Comply with Subpoena:** If a person does not comply with a subpoena or order regarding a subpoena, the Commission may take appropriate remedial action. (09/28/11)

RULE 5. CLASSIFICATION

5.01 ESTABLISH/REVISE/ABOLISH CLASSES:

In accordance with changing needs of the classified service, and upon recommendation from the Human Resources Director or its own determination, the Commission may establish new classes and revise or abolish existing classes of positions.

5.02 CLASS SPECIFICATIONS:

The Human Resources Director shall prepare or cause to be prepared written specifications for each new class established by the Commission, and shall be responsible for the revision of existing specifications when classes are redefined, consolidated, rendered out-of-date, or otherwise changed in concept. Each class specification shall include a representative class title; brief description of duties and responsibilities characteristic of positions in the class; and a statement of minimum qualifications deemed to be requisite to proficient performance. The class specifications are not to be considered restrictive nor construed as limiting the duties and responsibilities of any position. They neither limit nor modify the authority of any County official or the Board of Supervisors to assign duties, direct and control the work of employees in the classified service. However, no employee shall be required to perform duties of the position outside of the classification to which he/she has been appointed, except on a temporary basis. The class specifications are descriptive and explanatory of characteristic duties and responsibilities of positions in a class and, as such, they are to be interpreted in their entirety and in relation to others in the classification plan. Official copies of all class specifications indicating the dates of establishment and revision shall be on file in the office of the Human Resources Director and available for public reference. [Ord. 2.40.080(a)]

5.03 POSITION STUDIES:

The Human Resources Director shall be responsible for conducting classification studies of proposed new or presently authorized positions in the classified service when: directed by the Commission; notified by the County Administrative Officer that new positions are being created; notified by an Appointing Authority that the duties and responsibilities of a position or positions have undergone significant change; periodically, or as circumstances dictate, the Human Resources Director identifies a need to review a certain position or area in the classified service. Whenever a department head proposes or assigns on a permanent basis duties, which are significantly different from those described in the class specification for that position, a report will be made to the Human Resources Director, who will initiate a classification study. [Ord. 2.40.080(a)] (03/17/05)

5.04 ALLOCATION/REALLOCATION OF POSITIONS TO CLASSES:

When a new position is authorized, the Human Resources Director shall assign the position to a proper class in the classification plan or, if a proper class is not available, recommend to the Commission that a new class be created to accommodate the position. When, following a study of a position or group of positions, the position or positions is/are found to be incorrectly classified, the Human Resources Director shall initiate action to reallocate the position(s) to a more appropriate class(es) in the classification plan or, when necessary, recommend to the Commission that a new, more descriptive class or classes be established. [Ord. 2.40.080(a)]

5.05 REALLOCATED POSITIONS: STATUS OF INCUMBENTS:

(a) **Upward:** When a position is allocated to a class with higher level duties and responsibilities, the incumbent may receive a non-competitive appointment to the new class if the following criteria are met: the Appointing Authority requests such an appointment; the employee meets the minimum qualification for the new class; the employee has been satisfactorily performing the duties of the new class; and following a timely classification study, the Human Resources Department concludes that the incumbent is performing a majority of the duties at a higher level. Otherwise, the incumbent shall be required to qualify through qualifying competitive examination, be certifiable, and be appointed to the reallocated position. If not successful in the examination, the employee may request to be reassigned within his or her own department or transferred to a vacant position in the class in which he or she has permanent status; elect to displace another employee in his or her own department who has less time-in-service in the class in which he or she has permanent status; or be laid off in accordance with the provisions of Rule 12.04. In addition, those incumbents whose position has been reclassified upward shall not be required to serve a probationary period if they have been satisfactorily performing the duties for a period of six months. (12/22/82)(9/28/88)(5/24/00)

(b) **Lateral:** When a position is allocated to a class with the same or essentially equivalent duties and responsibilities, the incumbent shall be granted status in the reallocated position.

(c) **Downward:** When a position is allocated to a class with lower level duties and responsibilities, the incumbent may: request to be reassigned within his or her own department or transferred to a vacant position in the class in which he or she has permanent status; elect to retain the position at the lower level with status at that level; or be separated from County service and placed on a reemployment list for the class in which he or she has permanent status. (03/17/05)

5.06 REVIEWS AND APPEALS:

The employees or appointing authorities affected by any classification action may appeal as provided for in Rule 4.04. [Ord. 2.40.080(q)] (12/22/82)(03/17/05)

RULE 6. APPLICANT AND APPLICATION PROCEDURE

6.01 APPLICATION FILING:

All applications for employment must be made on the official forms or electronic form supplied and approved by the Human Resources Director for that purpose, and filed with the Human Resources Director on or before 5:00 p.m. on the specified final filing date. Applications submitted through use of the County's Internet application system must be submitted by midnight of the final filing date. Once filed, all applications become the property of the Commission and will not be returned. A separate and complete application is required for each examination unless otherwise specified in the examination announcement. (03/17/05)

6.02 QUALIFICATIONS OF APPLICANTS:

Except as otherwise provided by law, to qualify for admission to the examination process, applicants must: meet all the qualifications for the position as set forward in the applicable class specifications and published in the examination announcement; and, in filing for promotional examinations, have permanent status in the classified service or appear on a reemployment eligible list on or before the final filing date and whose most recent regular performance evaluation indicates an overall level of performance of at least Satisfactory. [Ord. 2.40.080(i)]

6.03 DISQUALIFICATION OF APPLICANTS:

The Human Resources Director may refuse to examine or, after examination, may refuse to certify as eligible, or may withhold or remove from an eligible list, any person who:

(a) Lacks any of the qualifications set forth in these Rules or published in the examination announcement;

(b) Has used or attempted to use any unfair method to obtain an advantage in an examination or an appointment in County employment;

(c) Has willfully omitted or misstated material facts in completing an application for County employment;

(d) Has left any position in County employment without good cause, or has been absent from duty without authorized leave;

(e) Has failed to make application correctly or within established time limits as provided in these Rules;

(f) Has been terminated from employment with the County for cause; (09/28/11)

(g) Would be disqualified for any of the reasons specified in Rule 9.07 (b) - (n). (9/28/88)

6.04 NOTIFICATION OF APPLICANTS:

Each applicant shall be notified of acceptance or rejection prior to the examination date. Notification shall be by mail to the address which appears on the application form or by electronic means. (03/17/05)

6.05 APPLICANT APPEAL:

Any person who is disqualified as an applicant may appeal the ruling to the Commission in accordance with the provisions of Rule 4.04. The Human Resources Director shall admit to the examination without prejudice any person whose application was rejected and who has appealed such rejection. (9/28/88)

RULE 7. EXAMINATIONS

7.01 NATURE OF EXAMINATIONS:

All examinations for employment in the classified service shall be fair, impartial, and except as otherwise provided in Rule 7.06, competitive. [Ord. 2.40.080(b)]

7.02 CHARACTER OF EXAMINATIONS:

All competitive examinations shall consist of one or more parts, each carrying a specific numerical weight as indicated on the examination announcement or reported to candidates at the time of examination. When there are two or more candidates competing, the examination shall be designed to both qualify and rank the candidates relative to their individual abilities to perform the duties of the position or positions to be filled through the examination process.

(a) **Methods of Testing:** The qualifications and/or relative ability of candidates shall be determined through an examination process consisting of one or more of the following methods of testing: written test; oral examinations by appraisal boards; personal interviews; tests of physical agility, strength, or stamina; practical performance tests; application rating; reference inquiry relative to past performance; any other valid and reliable method of examination.

(b) **Establishing Minimum Passing Scores/Weighting:** The Human Resources Director shall establish minimum passing scores for each examination consistent with the requirements of the position or positions to be filled, the complexity of the examination, and sound statistical analysis of the distribution of scores. The Human Resources Director shall weigh the sections of the examination according to the relative importance of each in the examination process and may require a passing score in each section in addition to an overall passing score. When written tests are used in the examination process, the examinations shall be so conducted that the identity of candidates will not be known to persons administering or scoring the tests until all tests have been scored and a minimum passing score established. (03/17/05)

(c) **Oral Examinations:** Oral examinations shall be included in all examinations for classes which involve important supervisory or administrative duties; or are professional or technical and require frequent contact with the public. This requirement may be waived by the Human Resources Director when it is anticipated that the entire eligible list will be certified or it is impractical to conduct such tests because of a statewide or national recruitment effort, or when other examination procedures are more appropriate for a particular recruitment. Oral boards for such examinations shall include at least one person who is well acquainted with the personal and professional requirements of the class for which the examination in conducted. Promotional oral boards shall include at least one person who is not employed by the department(s) in which the class is used. (12/22/82) (09/28/11)

7.03 SCHEDULING OF EXAMINATIONS:

The Human Resources Director shall schedule examinations as necessary to fill existing or anticipated vacancies in the classified service, and may conduct continuous testing for those classes where vacancies occur frequently.

7.04 EXAMINATION ANNOUNCEMENTS:

A written announcement of each examination shall be posted on the official bulletin board or boards for at least a one-week period prior to the final filing date of the examination. The need for further publicity and/or distribution of the announcements shall be determined by the Human Resources Director in accordance with the anticipated availability of candidates. The examination announcement shall specify:

(a) The title and a brief description of the specific position or class of positions for which the examination is announced;

(b) The salary for the position or class;

(c) The minimum qualifications required for admission to the examination;

(d) The final filing date and method of filing;

(e) A general statement of the methods of testing which may be used in the examination; and

(f) Such other information as the Human Resources Director deems useful in the recruitment of applicants. [Ord. 2.40.080(h)]

7.05 TYPES OF COMPETITIVE EXAMINATIONS:

Whenever practicable and in the best interest of the County, vacant positions in the classified service shall be filled through promotion of employees working at lower levels in the County organization. Examinations shall be of the following types:

(a) **Departmental Promotional:** An examination in which only employees with permanent status within the requesting department are eligible to compete, and in which the resulting eligible list may only be used to promote employees to positions within the requesting department. (5/23/79)

(b) **Promotional:** An examination in which only permanent employees are eligible to compete.

(c) **Open:** An examination in which employees and outside applicants compete on an equal basis and priority in certification is based solely on the relative score of successful candidates.

7.06 NON-COMPETITIVE EXAMINATIONS:

In situations wherein it is impractical to conduct a competitive examination to determine the relative qualifications of candidates due to a scarcity of qualified candidates, the number and frequency of vacancies to be filled, the fact that the candidates are established as qualified by public licensure or certification, or any other circumstances in the best interest of the County and Equal Employment Opportunity, the Human Resources Director shall recommend to the Commission that the positions involved be filled through qualifying examination only, such qualification examination to be rated on a pass/fail basis only. When approved by the Commission, such examinations need not comply with the provisions in these Rules, which pertain to competitive examinations. [Ord. 2.40.080(e)]

7.07 VETERANS' PREFERENCE:

A person who is seeking employment with the County, who competes in an Open Examination, and who has on file with the County Veterans' Services Office an acceptable Veterans' Preference certificate shall, upon achieving a passing score in the examination, have a preferential credit of five percent (5%) of the maximum possible score on the examination added to his/her score. Such score shall constitute his/her total rating. However, in the case of a disabled veteran, such person shall have a preferential credit of ten percent (10%) of the maximum possible score on the examination added to his/her score, which shall constitute his/her total rating. For purposes of this section, “disabled veteran” means: a veteran as described in County Code Section 2.40.150(a) who has on file with the County Veterans’ Service Office an acceptable Veterans’ Preference Certificate and who is currently declared by the United States Veterans Administration to be ten percent (10%) or more disabled as a result of his/her military service. Proof of disability shall be deemed conclusive if it is of record with the United States Veterans Administration. [Ord. 2.40.150] (03/17/05)

7.08 TIME AND PLACE OF EXAMINATIONS:

Whenever applicants are required to appear for an examination, the time and place shall be designated in the official bulletin or the applicants shall be notified in person, by mail, electronic means, or by telephone. At the discretion of the Human Resources Director and examination may be given in more than one session or at more than one place, either within or outside the County. The administration of an examination, or any part thereof, may be postponed, canceled, or changed at any time. Notice of such postponement, cancellation, or change shall be posted on the official bulletin board and mailed, telephoned, electronically transmitted, or directly presented to candidates. No candidates shall be admitted after the designated time except at the discretion of the Human Resources Director or the Human Resources Director's official designee. (03/17/05)

7.09 INABILITY TO APPEAR:

If a candidate is unable to appear at the time and place designated, and so notifies the Human Resources Director on or before the designated date, the Human Resources Director may specially arrange to give the candidate the examination at another time and place provided that: (03/17/05)

(a) There are sufficient and unavoidable legal, military, or religious reasons for the inability to appear;

(b) No fraud will be perpetrated as a result of the special arrangements; and

(c) No candidate involved in the examination will be materially prejudiced or assisted in taking that examination as a result of the special arrangements.

7.10 TIME OFF TO TAKE EXAMINATIONS:

When employees in the classified service are candidates for examinations, including hiring interviews administered by the County, and the examinations are scheduled during working hours, the employees shall be granted sufficient time off from their assigned duties to compete in such examinations. Time off granted for examination purposes shall be with salary and in addition to any vacation, sick leave, compensating time, or overtime accrued by the employee. (03/17/05)

7.11 NOTICE OF RESULT OF EXAMINATION:

When the scoring of an examination has been completed and the eligible list established, each candidate shall be notified by mail or electronic means of the result of his/her examination. If the examination is competitive, candidates who successfully passed the examination shall be additionally notified of their relative standing on the resultant eligible list. (03/17/05)

7.12 REVIEW OF EXAMINATION:

Within five business days of being mailed the results of a test, a candidate who participated in that examination may review his/her examination papers in the Human Resources Department office. Rating sheets utilized in the interviews conducted by an oral board shall not be available for review by candidates, nor shall any copyrighted examinations, standardized examinations, or essay type problem sections. Whenever the Human Resources Director deems that such review would violate test security, the Human Resources Director may modify or curtail this process accordingly. (12/22/82)(8/26/98)(03/17/05) (09/28/11)

7.13 EXAMINATION PROTESTS:

Any candidate who believes that any errors, improprieties, or ambiguities have occurred in the examination process may protest these concerns to the Human Resources Director during the review period. The Human Resources Director shall carefully investigate and review all such protests. Upon determining an alleged problem to be valid, the Human Resources Director shall make any necessary corrections or adjustments to the resultant eligible list(s), examination scores, and/or ratings as to nullify any effect that the error, impropriety, or ambiguity has had on the examination process. During the duration of any eligible list, the Human Resources Director may similarly correct any computational, typographic or related errors as may occur. (03/17/05)

7.14 APPEAL TO COMMISSION:

Any person aggrieved by a ruling of the Human Resources Director relative to the examination administration may appeal to the Commission pursuant to Rule 4.04 The Appellant shall be admitted to the next step in the examination process. However, no such appeal shall stay or prevent the promulgation of an eligible list or report of examination pursuant to Rule 9. (03/17/05)

7.15 REPORT OF EXAMINATION:

The Human Resources Director shall compile and submit to the Commission a complete report on each examination. The report shall include, along with other relevant information, a narrative properly describing the nature and disposition of any protests associated with the examination. (03/17/05)

7.16 PERMANENT EXAMINATION RECORDS:

The following examination records shall be deemed to be the property of the Commission and shall remain permanently in the custody of the Human Resources Director unless their destruction is authorized by the Commission and the Board of Supervisors: (03/17/05)

(a) The Report of Examination (as provided in Rule 7.15) containing the names, ranks and scores of all applicants on each part of the examination, and in the total examination; (03/17/05)

(b) A summary or narrative statement of the examination showing the method of testing used or the general nature of the examination, the weights of the various parts, the time and place each part was given, the minimum scores required, if any, and the names of the examiners;

(c) A record of oral examinations or interviews, when used, showing the basis of rating and the formula or schedule for translation into a numerical score;

(d) A keyed copy of the written examination, if any used; and

(e) A copy of the examination announcement.

All other examination records, including examination papers, may be destroyed after expiration of the eligible list or such other period of time as required by law. (5/23/79)

7.17 DISTRICTS, AGENCIES, DEPARTMENTS BROUGHT UNDER CIVIL SERVICE SYSTEM: STATUS OF EMPLOYEES:

Should any public district, agency, or department now under the purview of the Board of Supervisors but not covered by the provisions of these Rules be brought into the Civil Service System of the County, employees of the district, agency, or department shall be blanketed in with permanent status if continuously employed by the district, agency or department for a period of at least six months immediately prior to being brought under the Civil Service System. Other employees of such district, agency, or department which have been employed for less than the six months required for blanketing in with permanent status, shall be eligible for permanent status upon completion of six months total combined Civil Service and non-Civil Service employment with the district, agency, or department. (03/17/05)

RULE 8. MEDICAL EXAMINATIONS

8.01 NEW EMPLOYEES, QUALIFYING MEDICAL EXAMINATIONS:

All persons selected for appointment to permanent full-time positions in the classified service and, as deemed appropriate by the Human Resources Director, persons selected for appointment to part-time, provisional or temporary assignments, shall be required to take and pass a qualifying medical examination as a condition of employment. Psychological examination shall be required as a condition of employment for any classes for which California statutes have established such a requirement. Qualifying medical examinations shall be administered at County expense prior to appointment or as soon thereafter as practical by physicians who are designated or approved by the Human Resources Director. Employees who fail to meet the medical standards for the position for which they were hired shall be terminated. [Ord. 2.40.080(i)] (9/28/88)

8.02 PRESENT EMPLOYEES, MEDICAL EXAMINATIONS:

(a) If, in the opinion of the Appointing Authority, an employee is having difficulty performing the reasonable duties of his/her position due to suspected physical or mental health issues, the employee may be required to submit to and pass a medical examination designated or approved by the Human Resources Director to assure fitness for continued employment. If the examination finds the employee to be in an unfit condition to perform the position duties, the Appointing Authority, subject to the approval of the Human Resources Director, may require that the employee take a leave of absence to correct the condition as provided in Section 2.44.040(a) of the County Code. (03/17/05)

(b) Employees returning to duty from sick leave or leave of absence granted for medical reasons may be required by the Human Resources Director to take and pass a designated or approved medical examination to assure fitness to return to work. [Ord. 2.44.040(e)]

(c) The Human Resources Director may require that a present employee moving from a position in one medical standards group take and pass a designated or approved medical examination for the higher level to assure that the employee will be fit to meet the more demanding physical requirements of the new assignment.

(d) The Commission may authorize the Human Resources Director to require such other special or periodic medical examinations, as it deems necessary to assure the continuing health, safety, and competent performance of employees in the classified service.

(e) Any medical examination required or authorized by the Human Resources Director in accordance with this Rule shall be administered at County expense. [Ord. 2.40.080(i)] (03/17/05)

8.03 MEDICAL STANDARDS GROUPS:

The Human Resources Director shall assign all classes of positions to one of the medical standard groups set forth in the Medical Exam Program. The Human Resources Director, with appropriate medical consultation, shall maintain and update the specific medical standards established for each of the medical standards groups and shall change the assignment of positions to the groups as the needs of the classified service require. Such changes shall not affect persons who at the time the changes are implemented hold permanent appointments in classes impacted by the changes. [Ord. 2.40.080((i)(12/22/82)

8.04 DISQUALIFICATION:

An applicant, candidate, or employee who fails to meet the designated medical standards shall be disqualified and his/her name shall be removed from the eligible list for permanent appointment, and if appointed shall be dismissed from appointment. If, upon subsequent medical examination, such applicant, candidate, or employee shall meet the position's designated medical standards, that person shall be reinstated to employment or restored to the eligible list for the remaining duration of the list and recertified. Such reinstatement or restoration shall not affect any appointment or conditional job offer made to another certified applicant by the Appointing Authority and an acceptance of such offer made after the employee was dismissed from County employment nor shall it affect any appointment or conditional job offer and acceptance of such offer made while such applicant's name was not on the list. [Ord. 2.40.080(i)] (03/17/05)

8.05 REVIEWS AND APPEALS:

An applicant, candidate, or employee who is disqualified because of failure to meet the medical or physical standards, may appeal to the Human Resources Director in writing within ten business days after the mailing of notification of disqualification. In support of the appeal, the Appellant may file written medical or laboratory reports, X-rays, photographs, or other exhibits or written statements. The Human Resources Director shall then review the entire matter with appropriate medical consultation and may direct that the Appellant be reexamined or that additional medical data be obtained. Upon the completion of such review of the case as may be deemed necessary, the Human Resources Director shall make a determination as to the fitness of the Appellant for County employment and shall so notify him or her. If not satisfied by the decision of the Human Resources Director, the Appellant shall have the further right to appeal to the Commission pursuant to the provisions of Rule 4.04 (03/17/05) (09/28/11)

8.06 EXCEPTIONS:

Medical examinations may be omitted, or specific requirements waived, in the following cases as determined by the Human Resources Director.

(a) Employees who are appointed to promotional positions requiring the same or less arduous physical standards than those required in their previous positions;

(b) Applicants who within one year next preceding the date of appointment have passed a County medical examination for the same or more arduous standards;

(c) Applicants for permanent service of half-time or less; or

(d) Applicants for positions in which physically handicapped persons may be employed without danger to themselves or others.

8.07 CONFIDENTIAL NATURE OF REPORTS OF MEDICAL EXAMINATIONS:

The report of a medical examination shall be confidential and released only with the consent of the applicant concerned, except that such reports shall always be available to the Human Resources Director, the Human Resources Director's authorized representative, and an appropriately designated or approved physician(s). Any claim by the applicant against the County shall constitute a waiver of the confidential nature of such reports and consent to the use of such reports insofar as material to such claim. Nothing herein shall preclude the Human Resources Director from supplying such information, as he/she deems necessary to a department head or the Commission in order that an informed decision can be made, provided that the Director shall comply with HIPAA confidentiality regulations. (10/25/00)(03/17/05) (09/28/11)

RULE 9. ELIGIBLE LISTS

9.01 ESTABLISHMENT OF ELIGIBLE LISTS:

The Human Resources Director shall establish eligible lists as a result of:

(a) **Competitive Examinations:** When competitive examinations are administered on a promotional or departmental promotional basis, the resultant eligible list shall be a listing of all successful employee candidates in rank order of scores. When competitive open examinations are administered, the resultant eligible list shall be a listing of all successful candidates, employee and non-employee, in rank order of scores, intermingled in rank order with the scores of successful candidates who are not permanent County employees. All scores shall include any applicable veteran's preference points. If two or more candidates have identical total scores, they shall be given the same ranking and be certified together. [Ords. 2.40.080(c); 2.40.150] (03/17/05)

(b) **Non-Competitive Examinations:** An eligible list established as a result of a non-competitive examination shall be a random listing of all candidates who successfully qualify in the examination. [Ord. 2.40.080(f, g)]

(c) **Layoff or Reduction in Lieu of Layoff:** Employees laid off or who reduce to avoid layoff in accordance with these Rules shall be placed on a "Reemployment List" in reverse order of the succession of layoff prescribed in Rule 12.05. Certifications shall be made from the "Reemployment List" as provided in Rule 10.03. Such list shall be used by every appointing power when a vacancy arises in the same or a lower related class of position as determined by the Human Resources Director for which the person possesses the minimum qualifications. Whenever a vacancy is to be filled, the appointing power shall appoint the person highest on the "Reemployment List" who is available and who was laid off from a position in that particular department. If no one was laid off from the department in which the appointment is to be made, then the appointing power shall appoint any one of the first three persons named on such list. If only two names are on the list he shall appoint one of such persons. If only one name is on the list, he shall appoint that person. (1/24/79)(03/17/05)

9.02 DURATION OF ELIGIBLE LISTS:

An Eligible List which has resulted from an open examination shall be in effect for a period of not less than six months, a Promotional Eligible List and a Reemployment Eligible List shall be in effect for a period of one year following the date that the Human Resources Director notifies the candidates in writing that the list is in effect, or until such time as the list is terminated by action of the Commission or the Human Resources Director in accordance with these Rules. (10/25/00)

9.03 TERMINATION OF ELIGIBLE LISTS:

The Commission may terminate an eligible list upon notification of all eligibles affected by the action. The Human Resources Director may terminate an eligible list at any time when it is not possible, due to a lack of sufficient eligibles and/or insufficient availability of eligibles, to certify at least three persons to an Appointing Authority for consideration in the filling of a position. No list, however, may be terminated that has not been in existence at least three months and contains the name or names of one or more eligibles. (09/28/11) (09/28/11)

9.04 EXTENSION OF ELIGIBLE LISTS:

The Human Resources Director may extend the period of duration of an eligible list provided that no such extension shall cause the list to be in effect more than two years beyond its original effective date. [Ord. 2.40.080 (c, f)]

9.05 MERGING OF ELIGIBLE LISTS:

Provided that any written test used in the examinations involved was of the same content and format, two or more active eligible lists for the same class may be merged by the Human Resources Director. The names of eligibles affected shall be listed in rank order of final examination score, including applicable preference points. If an eligible appears on more than one of the lists involved, only that person's highest score shall be considered. If successive eligible lists for the same class are not merged, the oldest list shall precede the newer one(s). When any action is taken to merge active eligible lists, the Human Resources Director shall report such action to the Commission at its next regularly scheduled meeting. Available eligibles will be provided notification of an announcement for a new recruitment for an employment list, which will be merged, with the one for which they are currently an available eligible. (9/28/88)(03/17/05)

9.06 AVAILABILITY OF ELIGIBLES:

The Human Resources Director shall, prior to or at the time of examination and periodically as deemed necessary during the duration of an eligible list, request that candidates or eligibles specify their availability for employment in the classified service. Such specifications shall include length and nature of appointment, conditions of salary and/or working environment, shifts, locations, and other circumstances relevant to availability for certification. Failure of an eligible to respond to a written inquiry from the Human Resources Director regarding availability within five business days shall constitute good cause for removal from the eligible list. An eligible may request that his/her name be withheld from all certification for a specified period of time. (03/17/05) (09/28/11) (09/28/11)

9.07 REMOVAL FROM ELIGIBLE LIST:

The Human Resources Director may withhold any eligible from certification or remove the name of a person from an eligible list for any of the following reasons:

(a) Any of the reasons specified in Rule 6.03;

(b) On evidence that the eligible cannot be located by postal authorities;

(c) On receipt of a written request from the eligible that his/her name be removed;

(d) If the eligible declines three offers of permanent appointment to the class for which the list was established;

(e) If the eligible twice requests that his/her name be withheld from all certification;

(f) If an eligible, without suitable explanation, does not report to or communicate with an Appointing Authority or the Human Resources Director within five business days of being mailed a notice to do so; (09/28/11) (09/28/11)

(g) After a request by an Appointing Authority, if an eligible is certified three times and not selected; (03/17/05)

(h) If the eligible is so physically or mentally incapacitated as to be unable to perform the duties of the position; (03/17/05)

(i) If the eligible is addicted to the use of intoxicating substances, narcotics, or habit forming drugs; (03/17/05)

(j) If the eligible has been convicted of a felony or of a misdemeanor involving moral turpitude; (03/17/05)

(k) If the eligible fails to submit to, or pass the qualifying medical examination required by these Rules; (03/17/05)

(l) If the eligible has been dismissed from public or private employment for reasons which would be cause for dismissal from County employment; (03/17/05)

(m) If the eligible refuses to execute the oath as prescribed by law; (03/17/05)

(n) When the Commission finds, after public hearing, good and sufficient cause. (03/17/05)

The eligible that is being withheld from certification or removed from an eligible list shall be immediately notified of such action. Such notification shall include the reason(s) for action being taken. [Ord. 2.40.080(i)] (03/17/05)

9.08 RESTORATION TO ELIGIBLE LIST:

When the name of a person has been withheld from an eligible list, from certification, or has been removed from an eligible list, it may be restored to its proper position on the list by the Human Resources Director when the Human Resources Director deems that there is good cause

for such action, or by the Commission as corrective action taken as a result of an appeal. (03/17/05) (09/28/11)

9.09 LATERAL TRANSFER FROM OTHER MERIT SYSTEMS:

Upon approval of the Human Resources Director, the names of individuals having permanent status in the classified service of a public agency operating a civil service or merit system may be placed on an open employment list for a comparable class in the County service. (03/17/05)

(a) In each case, the following conditions must be met: (8/26/98)(03/17/05)

(1) The class in which employment is contemplated is closely related and comparable in duties and minimum qualifications to the class in which the individual holds permanent status. (03/17/05)

(2) The individual must have been employed by the other public agency within one year prior to the date of his or her application to the County. (03/17/05)

(3) The individual was appointed to the class in which he or she holds permanent status from an eligible list resulting from an open competitive or promotional examination which meets the standards of the County. (03/17/05)

(4) There must be written information submitted by the other public agency and on file with the Commission confirming the individual's permanent status and containing the following statements: (03/17/05)

(A) The employment record of the individual has been entirely satisfactory; (03/17/05)

(B) The individual has not been separated, nor is he/she being considered for separation, due to fault or delinquency on his/her part. (03/17/05)

(5) The individual may be required to take and pass an oral examination as administered by an oral board as provided in Rule 7.02 (03/17/05)

(6) The individual shall meet the medical requirements as provided in Rule 8. (03/17/05)

(7) The names of such individuals shall be placed on the open eligible list in the order of their approval and shall follow any names which may already appear on the eligible list. (8/23/78)(03/17/05)

RULE 10. CERTIFICATION AND APPOINTMENT

10.01 REQUEST FOR CERTIFICATION:

Whenever a vacancy is to be filled in the classified service, the Appointing Authority involved shall request, on a form provided by the Human Resources Director for that purpose, that a certification of eligibles be made. The request shall specify the nature and specific requirements of the position, the hours and location of the job, and any other information which might impact the availability of candidates.

10.02 CERTIFICATION:

Upon receipt of a certification request, the Human Resources Director shall certify to the Appointing Authority nine ranked eligibles (and their ties) and one additional ranked eligible for each vacancy to be filled in the class. Such eligibles shall have indicated their availability to accept appointments under those conditions specified by the Appointing Authority and deemed by the Human Resources Director to be justified. The Appointing Authority or designee may interview eligibles who are reasonably available from the certified eligible list who meet the specific requirements of the position. "Reasonably available" means the eligible contacts the Appointing Authority within five business days after notification of the request to schedule an interview. If fewer than the full number of ranked eligibles are available for certification from the list, additional ranked eligibles shall be certified from the various lists next lower, in order of precedence, until sufficient ranked eligibles are obtained. If fewer than the required number of ranked eligibles are available for certification from all lists as specified above, the Human Resources Director shall certify the ranked eligibles that are available even though fewer than the required number. As non-competitive examinations do not rank candidates in order of fitness, all names from such lists established as the result of non-competitive examinations shall be certified to the Appointing Authority. [Ord. 2.40.080(d,f,g)] (10/25/00)(03/17/05) (09/28/11)

10.03 ORDER OF PRECEDENCE IN CERTIFICATION:

The Human Resources Director shall observe the following order of precedence in certifying the ranked eligibles from eligibility lists:

(a) Eligibles on Reemployment List;

(b) Promotional eligibles from within the department having the vacancy;

(c) Promotional eligibles from outside the department which has the vacancy; (03/17/05)

(d) Eligibles on the Open competitive list; (03/17/05)

(e) Non-competitive list eligibles; and (03/17/05)

(f) Eligibles from other related lists which require equal or greater qualifications, and which the Human Resources Director deems to be appropriate for use, with the exception that eligibles on a Departmental Promotional list may only be certified to the department originally requesting the establishment of said list. (5/23/79)(03/17/05)

10.04 INCOMPLETE CERTIFICATION:

Whenever there are one or more ranked eligibles on a list, appointment to permanent, provisional, or temporary positions should be made from the list. If, however, a certification made pursuant to Rules 10.02 and 10.03 is incomplete, the Appointing Authority involved may refuse to appoint from the list and request that a new examination be called. (09/28/11)

10.05 FAILURE OF AN ELIGIBLE TO ACCEPT OR REPORT:

If upon certification an eligible declines in writing or neglects to report to or communicate with an Appointing Authority within five business days after transmission of a notice to do so, the name of the next available person on the eligible list shall be certified. [Ord. 2.40.080(i)] (09/28/11)

10.06 EFFECT OF REMOVAL, WITHHOLDING, OR RESTORATION:

The removal or withholding of an eligible shall automatically advance all of the eligibles below it on the eligible list. Restoration of an eligible to the list shall not affect an appointment from any certification made before such eligible was restored or added. The acceptance or refusal by an eligible of a provisional or temporary appointment shall not affect that eligible's certification from the eligible list for permanent appointment.

10.07 TEMPORARY APPOINTMENTS:

All temporary appointments shall be made in accordance with Section 2.40.080(l) of the County Code. (03/17/05)

(a) **Non-Permanent Positions:** Temporary appointments shall be made to non-permanent positions and shall not be utilized to accomplish workload of a continuing nature [Ord. 2.40.080(l)] (03/17/05)

(b) **Appointment from Eligible Lists:** Temporary appointments shall be made from appropriate eligible lists when such lists exist and the eligibles thereon are willing to accept such appointment. Subject to the consent of the Human Resources Director, temporary appointment of persons not on eligible lists may be made when there is no appropriate eligible list or when three eligibles cannot be certified to fill a vacancy. Such persons shall not continue under temporary appointment beyond the date of promulgation of an appropriate eligible list for the class of employment. [Ord. 2.40.080(d,l)]

(c) Duration of Temporary Appointment: Temporary appointments to non-permanent positions shall not continue for longer than 960 working hours in any fiscal year. Appointment to a temporary position for a successive fiscal year is subject to the consent of the Human Resources Director, regardless of the number of hours worked in the preceding fiscal year. Persons who are appointed to temporary positions, but who were not certified for employment consideration from an appropriate eligible list, shall not continue under such an appointment beyond the date that an appropriate eligible list for the class of the position is promulgated. (9/28/88)(03/17/05)

(d) Provisional Appointments: Pending creation of the new list of eligibles, the Appointing Authority may temporarily appoint a permanent County employee to the position as a provisional appointment in accordance with Section 2.40.080(k) of the County Code. All provisional appointments must bear the prior consent of the Human Resources Director, and involve the temporary reassignment of existing employees who have permanent status with the County, and the persons so appointed shall be required to fully meet the minimum requirements established for the class. When a provisional appointment is required, an examination to fill the position on a permanent or substitute basis shall be conducted within six months following the provisional appointment date, unless extended by the Human Resources Director for good cause. (03/17/05)

10.08 SUSPENSION OF COMPETITION:

In accordance with Section 2.40.090 of the County Code, the Human Resources Director may authorize the appointment of a person of recognized qualifications without examination when the particular scientific, professional, or specialized character of a position is such that competition is deemed by the Human Resources Director to be unnecessary. These provisions shall not be applicable in filling positions used in the health, mental health, civil defense, or welfare programs. [Ord. 2.40.090] (03/17/05)

10.09 RIGHT TO RETURN FROM PROVISIONAL APPOINTMENT:

An employee who held a position with permanent status immediately prior to the acceptance of a provisional appointment shall upon termination of such appointment be reinstated to the former position or to one which is equivalent. The Human Resources Director may restore, at his/her discretion, a rejected employee's name to the eligible list, but the employee shall not again be certified to the department in which he/she was rejected. [Ord. 2.40.080(n)] (03/17/05)

10.10 APPOINTMENT OF RELATED EMPLOYEES:

The fact that an applicant is related by blood or marriage to a current employee of the County shall neither aid nor hinder the person's opportunities for County employment. However, a person may not be appointed to a position wherein he or she would either directly or indirectly supervise or be directly or indirectly supervised by a close relative, to the extent consistent with applicable law.* (9/28/88)(03/17/05) *Spouse, parents, children, siblings.

10.11 SUBSTITUTE APPOINTMENTS:

Any permanent position, which is anticipated to remain continuously unfilled for 20 or more business days, due to the incumbent's approved leave of absence, may be filled by a substitute

employee pursuant to a request made by the Appointing Authority and with the prior approval of the Human Resources Director. Substitute employee appointments shall occur on, or at any time after, the effective date of the leave of absence. Provided that the incumbent employee is medically qualified to return to his/her former position, the appointment of the substitute employee shall be terminated prior to the return of the incumbent from the leave of absence. If the incumbent employee is not medically qualified to return to his/her former position, the substitute employee shall assume the position. Incumbent employees have an absolute right to return to a position in their original class of employment subject only to the requirement that the position or class has not been abolished, and subject further to the medical examination requirement of Rule 8.02(b). A new probationary employee, who is laid off due to the return of the incumbent, shall be rejected and terminated from employment in the classified service. A substitute employee who achieved permanent status in any lower level classification prior to the substitute appointment, and who is laid off due to the return of the incumbent shall be permitted to return without loss of status or time-in-service, to a permanent position in that job classification unless in the meantime such position has been abolished. A substitute employee who achieves permanent status in the substitute appointment position, and who is laid off due to the return of the incumbent, may also have bumping rights as to similar allocated positions. Any other employees displaced due to the exercise of layoff rights by a substitute employee shall have those layoff rights as provided for in these Rules. [Ord. 2.40.080(n)] (8/26/98)(03/17/05) (09/28/11)

A substitute employee must meet the minimum qualifications for the class to which he/she is appointed as a substitute employee. All substitute appointments will be from appropriate eligible lists and substitute employees shall serve a probationary period. (9/28/88)(03/17/05)

RULE 11. PROBATION

11.01 INITIAL APPOINTMENTS:

All persons appointed to permanent positions in the classified service shall be required to satisfactorily serve a period of probation prior to achieving permanent status in County employment. [Ord. 2.40.080(j)]

11.02 PROMOTIONAL APPOINTMENTS:

All employees who accept promotional appointments in the classified service shall be required to satisfactorily serve a period of probation in the promotional position prior to achieving permanent status at the level to which promoted. [Ord. 2.40.080(j)]

11.03 DURATION OF PROBATIONARY PERIODS:

Except as provided below, the probationary period for all classified positions shall be the equivalent of six months of full time paid service commencing with the date of appointment. Deputy Sheriff, Sheriff's Dispatcher, Sheriff's Correctional Deputy, Sheriff's Senior Correctional Deputy (lateral transfer) Juvenile Services Officer I, Juvenile Services Officer II (lateral transfer), Deputy Probation Officer I, Deputy Probation Officer II (lateral transfer), Employment Resource Specialist I, Social Worker I and Social Services Investigator shall serve a probationary period of the equivalent of one year of full time paid service. The probationary period shall not include any period of leave with pay exceeding 20 business days. A person having received a noncompetitive appointment to the higher classification after an upward reclassification of his/her currently held position shall be deemed to have satisfactorily served a probationary period in that position consistent with Rule 5.05(a). [Ord. 2.40.080(j)] (7/22/92) (8/26/98)(03/17/05) (09/28/11)

11.04 EXTENSION OF PROBATIONARY PERIODS:

The Appointing Authority may, with the approval of the Human Resources Director, extend an employee's probationary period up to a maximum of one-half of the initial probationary period (520 or 1040 hours). (09/28/11)

11.05 REJECTION OF PROBATIONARY EMPLOYEE:

(a) Following proper and timely notification, a new probationary employee who fails to satisfactorily meet the requirements of his/her position shall be rejected and terminated from employment in the classified service.

(b) Following proper and timely notification, an employee who is serving a probationary period in a promotional appointment and fails to satisfactorily meet the requirements of the promotional position, shall be rejected and reinstated to the lower level position in which the employee has achieved permanent status or to one which is equivalent. When a probationary employee accepts an appointment to a position in another class during the probationary period, such appointment interrupts the old probationary period. [Ord. 2.40.080(j)] (03/17/05)

11.06 CHANGE IN POSITION OTHER THAN THROUGH APPOINTMENT:

An employee who is reassigned, transferred, reinstated, restored, demoted, re-employed, or voluntarily reduces to a class in which they have previously obtained status shall not be required to serve a probationary period as a result of such action; all other employees are required to serve a probationary period. (10/15/00)(03/17/05)

11.07 REJECTION NOT SUBJECT TO APPEAL:

A probationary employee may be rejected by the Appointing Authority during probation without right to a hearing, except as to appeals regarding the issue of discrimination as provided for in Rule 16.02 of these Rules. [Ord. 2.40.080(j)] (9/28/88) (09/28/11)

11.08 NOTICE OF REJECTION OF PROBATIONER:

To be effective, the written notice of rejection of a probationary employee must be served before midnight of the last day of the probationary period. (5/23/79)(9/28/88)

RULE 12. CHANGES IN ASSIGNMENT, SEPARATIONS AND LAYOFFS

12.01 ASSIGNMENT AND REASSIGNMENT:

Once appointed to a position in a specific classification in a department, an employee may be reassigned within the department to another position within the class at the discretion of the Appointing Authority. [Ord. 2.40.080(m)]

12.02 TRANSFER:

On written request from the appointing authorities concerned, the Human Resources Director may authorize the transfer of an employee for a limited period of time. Any permanent transfer of this nature shall require the written consent of the employee prior to implementation. [Ord. 2.40.080(m)] (9/28/88)

12.03 MEDICALLY INCAPACITATED:

When, in the estimation of the Appointing Authority, an employee becomes physically or mentally unfit to perform the duties which have been assigned to him/her, pursuant to Rule 8.02(a) the authority may request that the employee be medically examined to determine the fitness of the employee in accordance with the medical standards as outlined in these Rules. Should the employee be determined to be physically unfit to perform the normal and reasonable duties of the class to which the employee has been appointed, the Appointing Authority may be authorized by the Human Resources Director to transfer or demote the employee to a more medically suitable position and/or for which the employee might be able to acquire the necessary skills following a reasonable period of training. Should the opportunity for transfer or demotion be unavailable, the Human Resources Director shall place the employee on Reemployment lists for positions that the employee is physically capable of accomplishing [Ords. 2.40.080(i); 2.40.120(a); 2.44.040(e)] (2/28/79)(9/28/88)(03/17/05)

12.04 LAYOFFS, PROCEDURE FOR:

When the number of employees in the classified service is reduced, such reduction shall be by department. The appointing authorities involved shall determine the positions to be affected and the layoff date, and shall notify the Human Resources Director accordingly. The Human Resources Director shall identify the employees who are subject to layoff and will direct the appointing authorities to serve a notice of layoff (9/28/88)(5/24/00) (09/28/11)

12.05 ORDER OF LAYOFF:

(a) Temporary employees performing work within the affected class(es) shall be laid off first.

(b) Provisional employees in affected class(es) shall be laid off next.

(c) Probationary employees working the affected class(es) shall be laid off next in reverse order of time-in-service.

(d) Permanent employees working in the affected class(es) who have one or more regular evaluations during the last two years with an overall rating of Unsatisfactory, shall be laid off next in reverse order of time-in-service hours. (09/28/11)

(e) Permanent employees working in the affected class(es) who have not received an Unsatisfactory regular performance evaluation in the last two years, shall be reduced or laid off last by reverse order of time-in-service hours.(09/28/11)

12.06 RIGHT TO REDUCE:

Permanent employees laid off shall be entitled to reduce to a position at the same or lower salary range in a class in which they previously established permanent Civil Service status starting with the highest class and proceeding to the lowest class in the order herein specified. This entitlement is limited to the employee's current department at the time of layoff. (03/17/05) (09/28/11)

12.07 TWO OR MORE EMPLOYEES WITH EQUAL TIME-IN-SERVICE HOURS:

Should it occur that after the computation of time-in-service hours, two or more persons have earned equal total of such hours, among those so equal in hours, that person shall be laid of first, who: (03/17/05) (09/28/11)

(a) Placed lowest on the eligible list if these persons were appointed from the same eligible list, or

(b) Was appointed from the most recent eligible list, if these persons were appointed from separate eligible lists.

12.08 NOTICE OF LAYOFF:

Notice of layoff shall be given to the affected employees in writing as soon as the layoff list has been established. (03/17/05) (09/28/11)

12.09 RESIGNATIONS:

Resignations shall be in writing, directed to the Appointing Authority. A resignation is effective on the date designated therein and if no date is designated, it shall be effective immediately. When submitted to an Appointing Authority, a resignation may not be withdrawn without the consent of the Appointing Authority. (03/17/05) (09/28/11)

12.10 RESTORATION TO REEMPLOYMENT LIST:

The name of any person who has been appointed to a permanent position from a reemployment list and who is subsequently separated without delinquency or fault shall be restored to the reemployment list. (9/28/88)(03/17/05) (09/28/11)

12.11 REINSTATEMENT AFTER SEPARATION:

Upon approval by the Human Resources Director, any permanent employee who has been separated from County service, without fault or delinquency, may be reinstated by the Appointing Authority within one year from the date of such separation to any position the employee has held on a permanent or probationary basis prior to such separation or to any other position to which the transfer, reassignment, or voluntary reduction from that position would be authorized by these Rules. Employees who are called into military duty will be afforded reinstatement rights consistent with applicable law. [Ord. 2.40.080(n)] (9/28/88)(03/17/05) (09/28/11)

12.12 RIGHTS RESTORED:

Upon reinstatement, all rights except vacation, sick leave, and those rights prohibited by express provisions of contractual agreements between the County and insurance carrier, acquired by an employee prior to separation from the service shall be restored; provided, however, that the rate of compensation shall be that authorized by the County Code. [Ord. 2.40.080(n)] (03/17/05) (09/28/11)

12.13 RESTORATION TO PREVIOUS LEVEL:

In cases of reduction in rank an Appointing Authority may restore an employee so reduced to the position from which he/she was reduced with the consent of the Human Resources Director, provided that the service has been continuous since holding such position or that any break in such service has been followed by reinstatement. (9/28/88)(03/17/05) (09/28/11)

12.14 VOLUNTARY REDUCTION:

With the approval of the Appointing Authority and the Human Resources Director, and for any of the following reasons, an employee who has achieved permanent status at a lower level in the classified service or who meets the required minimum qualifications and applicable medical, physical and psychological requirements for a classification with a lower salary range may voluntarily reduce to that level: (03/17/05) (09/28/11)

(a) To avoid being rejected during probation from a promotional appointment;

(b) To avoid being laid off when there is a reduction in force affecting the employee's current position;

(c) For personal reasons which cause the employee to seek a less responsible or complex assignment;

(d) To remain in a position which has been reallocated to a lower class as a result of a narrowing or lessening of the responsibilities and duties assigned to the position; or

(e) Any other reasons deemed by the Human Resources Director and the Appointing Authority involved to be in the best interest of the County.

Persons who voluntarily reduce to avoid layoff shall be placed on a reemployment list for the class from which reduced, pursuant to the provisions contained in Rule 12.05.

12.15 JOB ABANDONMENT:

An employee, who is voluntarily absent from duty for five consecutive days without obtaining approval from the Appointing Authority, with the concurrence of the Human Resources Director, shall be deemed to have resigned from employment. The employee or his/her representative may submit evidence to the Human Resources Director within ten business days from the first day of absence to verify that the absence was not voluntary. The decision of the Human Resources Director shall be final. (03/17/05) (09/28/11)

12.16 DISQUALIFICATION OF EMPLOYEE:

An employee who fails to maintain required local, state, or federal certification or license that is a requirement of the position may be terminated for becoming disqualified to continue such employment. (03/17/05) (09/28/11)

RULE 13. PERFORMANCE EVALUATION

13.01 PROVISION AND PURPOSE OF THE EVALUATION PLAN:

The Human Resources Director shall establish, implement, and maintain an effective system for periodic evaluation of the performance and conduct of employees in the classified service. The objective of this system is to record the performance of employees during the evaluation period, assist supervisors and their employees in measuring progress toward work goals; identify employee development needs; and establish a basis for personnel decisions. [Ord. 2.40.080(p)](09/28/11)

13.02 EVALUATION PROCEDURE:

In accordance with County procedures, and on forms approved by the Human Resources Director, supervisors shall evaluate, record and report the performance of their employees. Performance evaluations shall be one of the following: (09/28/11)

(a) **Probationary Evaluation:** Probationary employees who are recommended by the Appointing Authority for permanent status in their position shall receive a performance evaluation at the conclusion of their probationary period. (03/17/05) (09/28/11)

(b) **Regular Evaluation:** Employees who have achieved permanent status in their position shall receive a performance evaluation on or before the individual employee's anniversary date. (09/28/11) .

(c) **Special Evaluation:** The Appointing Authority may at their discretion issue a special performance evaluation. All special performance evaluations shall be created and administered in accordance with the provisions of this Rule. (09/28/11)

Each evaluation shall be discussed with the employee by their supervisor and the employee shall be given a copy of the performance evaluation report following the discussion. The employee shall be the last to sign the report but only as an indication that the report was discussed with him/her. The employee shall have the right to review the performance evaluation report with the Appointing Authority or designated representative. The evaluation report shall be filed with the Human Resources Department to record such evaluation. [Ord. 2.40.080(p] (9/22/76) (8/26/98)(03/17/05)(09/28/11)

13.03 PERFORMANCE EVALUATION RATING STANDARDS:

Performance evaluations shall be made in accordance with the following standards:

(a) Outstanding Work performance is consistently and distinctly well above the standard expected of a competent worker in that job; performance is definitely superior. Outstanding ratings must be substantiated in writing by the rater. (09/28/11)

(b) Above Satisfactory Work performance is generally above the standard expected of a competent worker in that job, a majority of the time. Above Satisfactory ratings must be substantiated in writing by the rater. (09/28/11)

(c) Satisfactory Work performance consistently meets the standard expected of a competent worker in that job. (09/28/11)

(d) Improvement Needed Work performance frequently less than the standard expected of a competent worker in that job, and improvable with additional training, experience, and/or effort. Improvement Needed ratings must be substantiated in writing by the rater (09/28/11)

(e) Unsatisfactory Work performance well below the standard expected of a competent worker in that job, a majority of the time. Unsatisfactory ratings must be substantiated in a written statement by the rater. (09/28/11)

13.04 OVERALL RATING OF LESS THAN SATISFACTORY:

A Supervisor shall be expected to take appropriate and immediate steps to assist an employee to improve or correct any performance or conduct which has been rated as Improvement Needed or Unsatisfactory: (09/28/11)

(a) If an employee receives an overall performance evaluation rating less than Satisfactory, the employee's supervisor shall create and communicate to the employee, a written performance improvement plan to improve or correct any performance factors rated less than Satisfactory. The employee's supervisor shall objectively document the steps taken to assist an employee to achieve a satisfactory rating and the results of those actions. (09/28/11)

(b) If the employee fails to demonstrate satisfactory improvement, the employee shall be rated Unsatisfactory which will be cause for discipline. (09/28/11)

(c) If an employee receives an overall rating of Unsatisfactory, the employee shall be subject to disciplinary action. (09/28/11)

13.05 APPEAL:

If, after discussing a performance evaluation with the evaluator and reviewing the report with the Appointing Authority, an employee disagrees with a less than Satisfactory overall rating received in a Regular or Special performance evaluation report, the employee may request review of the performance evaluation by the Human Resources Director. Such a request shall be in writing and filed within ten business days after the employee's receipt of the performance evaluation. Failing to achieve satisfaction through the Human Resources Director, the employee may then appeal the matter to the Commission in accordance with the provisions of Rule 4.04 [Ord. 2.40.080(q)] (03/17/05) (09/28/11)

13.06 RETENTION OF PERFORMANCE EVALUATION REPORTS:

The performance evaluation report and its attachments shall become a part of the official record of the employee and shall be placed in the employee's personnel file maintained by the County Human Resources Department. Performance ratings shall be considered confidential, only subject to review by persons appropriately authorized by the Human Resources Director and the Commission, or as requested by the employee. (9/28/88) (09/28/11)

RULE 14. DISCIPLINARY ACTIONS

14.01 DEMOTIONS, SUSPENSIONS AND DISMISSALS:

Demotions, suspensions, dismissals, or reductions in the compensation of officers and employees in the classified service who have attained permanent status through completion of the prescribed probationary period shall be made pursuant to the provisions of Section 2.40.120 of the County Code and Rule 4 hereof. All appointing authorities are required to consult with the Human Resources Department and County Counsel prior to imposing any final disciplinary action. (9/28/88)(03/17/05)(09/28/11)

14.02 REASONS FOR DISCIPLINARY ACTIONS:

An employee who has completed his/her probationary period and attained permanent status in the classified service may be reprimanded, suspended, demoted, or dismissed for any of the following reasons:

(a) Any of the reasons specified in Rule 6.03;

(b) Incompetence; (03/17/05)

(c) Inefficiency;

(d) Inexcusable neglect of duty;

(e) Insubordination;

(f) Dishonesty;

(g) Inexcusable absence without leave;

(h) Discourteous treatment of the public or other employees;

(i) Improper political activity;

(j) Willful disobedience;

(k) Misuse of County property;

(l) Violations of County or departmental rules or policies;

(m) Conduct unbecoming an employee in the public service;

(n) Negligence;(09/28/11)

(o) Unauthorized release of confidential information from official records; (09/28/11)

(p) Overall Unsatisfactory performance evaluation as defined in Rule 13.04; (09/28/11)

14.03 NOTIFICATION OF DEMOTION, SUSPENSION, REDUCTION IN PAY OR DISMISSAL:

(a) Any employee with permanent status in the classified service may be demoted, suspended, dismissed or reduced in compensation by the Appointing Authority by a written order. A written order of the intended action shall be served upon the employee either personally or by certified mail, return receipt required, within five business days prior to the effective date of the disciplinary action. Service of a written order shall be deemed complete upon personal service of the order on the employee or, in the case of certified mail, upon mailing. The written order of intent shall include: (03/17/05) (09/28/11)

(1) A statement of the intended action; (09/28/11)

(2) The effective date of the intended action; (09/28/11)

(3) A statement of the reasons for the intended action; (09/28/11)

(4) A statement in ordinary and concise language of the acts or omissions upon which the action is based;

(5) A copy of the charges and materials upon which the action is based; (5/23/79)

(6) A statement that the employee has a right to respond to the Appointing Authority prior to the effective date of the discipline; (5/23/79) (09/28/11) and

(7) A copy of Rules 4 and 14. (03/17/05)

(b) Prior to the effective date of the intended disciplinary action, the employee being disciplined shall have the opportunity to provide a response, verbally or in writing, to the Appointing Authority, relative to the validity of the basis of the action(s) to be taken, and the nature of the action(s). If the employee exercises his/her right to respond, the Appointing Authority will evaluate the response and shall serve on the employee a final written order, affirming, modifying or revoking the written order of intended discipline. Service shall be effective and deemed complete in accordance with Rule 14.03(a). If the employee does not exercise his/her right to respond, the initial order notifying the employee of the intended disciplinary action shall be deemed the final written order. (03/17/05) (09/28/11)

(c) The employee may, within ten business days, appeal the final written order in accordance with Rule 4.04. In addition to, or in the alternative to serving an Appeal, the employee may reply in writing to a final order within ten business days from the date of its service upon with the Human Resources Director [Ord. 2.40.120(c)] (06/03/09)(5/23/79)(03/17/05) (09/28/11)

14.04 LETTERS OF REPRIMAND:

When an Appointing Authority has determined informal corrective action to be ineffective in altering the unsatisfactory performance or conduct of an employee, the Appointing Authority may issue a formal letter of reprimand to the employee. Such reprimand letters should follow an official discussion of the problem between the Appointing Authority or his/her designee and the employee and should contain: (03/17/05) (09/28/11)

(a) A general statement of the problem, specifying with factual statements what the employee has done wrong; (03/17/05)

(b) The specific policies, rules, or legal provisions violated;

(c) Constructive assistance toward correction of conduct;

(d) An indication that more serious disciplinary action shall occur should unsatisfactory conduct continue or recur.

When issued, reprimand letters shall be copied and become a part of the employee's official personnel record and as with other forms of formal discipline the employee shall have the right to appeal the issuance action in accordance with the provisions of Rule 4.04. (5/23/79)(03/17/05)

RULE 15. EMPLOYEE RECORDS AND PAYROLL CERTIFICATION

15.01 CERTIFICATION OF SALARY ACCOUNTS:

Except as otherwise required by law, the County Auditor shall not approve any salary or compensation for services for any person holding or performing the duties of a position in the classified service or serving in a provisional or temporary appointment, unless the Human Resources Director, on behalf of the Commission, has certified that the name, title, and salary of the person to be paid are in accordance with the provisions of Section 2.40.140 of the County Code and these Rules. (9/28/88)(03/17/05)

15.02 EMPLOYEE ROSTER:

The Human Resources Director shall maintain the official roster of employees and supporting documents, which contain the names and employment record of all employees in the classified and unclassified service. The employment record files shall include such information as records of sick leave usage, leaves of absence, disciplinary actions, performance evaluations, and the transactions, which have taken place during the period of employment which have impacted the employee's salary and/or status. [Ord. 2.40.070(f)]

15.03 CONFIDENTIALITY OF PERSONNEL RECORDS:

Except as otherwise provided under law, the material contained in the employee's individual personnel files, the employment application files, the examination and certification files, and similar records are not public information. It shall be the responsibility of the Human Resources Director to preserve the confidentiality of all records placed under the custodianship of the Commission and the Human Resources Department and to limit exposure of such records to persons who have a legitimate need to review the information contained therein. [Ord. 2.40.070(b)]

RULE 16. EQUAL EMPLOYMENT OPPORTUNITY

16.01 PURPOSE:

The purpose of these rules is to assure equal employment opportunity in the County employment system and provide affirmative action in its administration in accordance with the objective of fair and impartial treatment of all employees and applicants for employment in the classified service as set forth in Rule 1.02. [Ord. 2.40.110] (9/28/88)(03/17/05)

16.02 DISCRIMINATION PROHIBITED:

Discrimination against any person in recruitment, examination, appointment, training, promotion, retention, discipline, or any other aspect of personnel administration because of political or religious opinions or affiliations or because of age, sex, race, color, national origin, marital status, disability, sexual orientation, union activity or association or other similar non-merit factors as identified in Federal or State law is prohibited. [Ord. 2.40.110] (03/17/05) (09/28/11)

16.03 EXCEPTIONS:

Discrimination on the basis of age, sex or physical disability is prohibited except where specific age, sex, or physical requirements constitute a bona fide occupational qualification necessary to proper and efficient administration of County business. Such exceptions may only be made with the approval of the Human Resources Director and are appealable to the Commission in accordance with the provisions of this Rule. (9/28/88)(03/17/05)

16.04 REDRESS FOR DISCRIMINATORY ACTS:

Any employee in the classified service or any applicant for employment therein who believes that he or she has been discriminated against because of any non-merit consideration or factor may appeal to the Commission in accordance with Rule 4, except claims of discrimination of union activity or association shall be filed as a Grievance. Otherwise, any person alleging discrimination must, on the Appeal Form, name the specific factor(s) on which the discrimination is based. (09/28/11)

16.05 HEARINGS:

Notwithstanding the provisions of Rule 11.07, the Commission shall hold a hearing in every case where discrimination as defined in Rule 16.02 is the basis alleged in the appeal to the Commission, unless the Appellant waives the hearing. (03/17/05)

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COUNTY OF SAN LUIS OBISPO

Civil Service Commission

- **Ordinances**

SAN LUIS OBISPO COUNTY ORDINANCE CODE *
Title 2 ADMINISTRATION AND PERSONNEL
Chapter 2.40 CIVIL SERVICE SYSTEM **

Sections:

2.40.010 Adoption.
2.40.020 Commission--Creation--Membership.
2.40.030 Compensation for commission members.
2.40.040 Operating funds.
2.40.050 Contracting for examinations.
2.40.060 Classified and unclassified service.
2.40.070 Duties of commission and personnel director.
2.40.080 Commission rules.
2.40.090 Vacancies in peculiar positions.
2.40.100 Examination requirements.
2.40.110 Discrimination prohibited.
2.40.120 Reductions, suspensions and dismissals.
2.40.130 Employee status.
2.40.140 Prerequisites to salary payment.
2.40.150 Veterans' preference.

Section 2.40.010 Adoption.
There is established in the county a civil service system to be governed by the provisions set forth in this chapter and in the county civil service enabling law.

Section 2.40.020 Commission--Creation--Membership.
There is created a civil service commission of five members which shall be appointed by the county board of supervisors. The members of this commission shall be selected from among the qualified electors of the county and each of them shall hold office for a term of four years and until his successor is appointed and qualified. Vacancies occurring in the commission shall be filled by appointment by the board of supervisors for the remainder of the unexpired term only. The terms of office of two members of the first civil service commission shall be one year. The terms of office of the other members of the commission shall be two, three and four years, respectively. The members thereof shall determine by lot the relative order of the expiration of their terms. No member of the commission shall hold any other salaried county office, nor shall he have been, within the year next preceding his appointment, an active executive officer in any political organization. Each member shall have been a resident of the county for one year next preceding his appointment. The board of supervisors, by a four-fifths vote of all the members, may remove a member of the commission during his term of office, but only upon stating in writing the reasons for such removal and allowing him an opportunity to be publicly heard in his own defense. The commission shall elect one of its members president.

Section 2.40.030 Compensation for commission members.
The members of the civil service commission shall each receive as compensation the sum of one hundred and fifty dollars for their attendance at each full-day meeting of the commission or seventy-five dollars for each half-day meeting of the commission. A half-day meeting of the commission is defined as a meeting which lasts less than four hours from call to order to adjournment. In addition, the members of the commission shall receive reimbursement for mileage traveled as provided elsewhere by the county code from their place of residence to the place of the meeting of the commission and return.

Section 2.40.040 Operating funds.
The board of supervisors of the county shall appropriate funds to defray the expenses necessary and incident to the operation of the civil service system as herein provided for.

Section 2.40.050 Contracting for examinations.
The board of supervisors of the county may contract with any other county or city, any state department, or any competent person or agency for the conducting of competitive examinations to ascertain the fitness of applicants for employment and for the performance of any other service in connection with personnel selection and administration.

Section 2.40.060 Classified and unclassified service.
(a) The civil service system of the county is divided into the unclassified and classified service. The unclassified service shall comprise:
(1) All officers elected by the people;
(2) The assistant district attorney;
(3) The county administrative officer;
(4) The undersheriff;
(5) Members of all boards and commissions;
(6) All persons serving the county without compensation;
(7) All persons serving the county pursuant to contracts entered into by the board of supervisors for a specified period of time or special projects;
(8) All officers who, by reasons of state law, serve at the will and pleasure of the board of supervisors;
(9) Legislative assistant;
(10) Director of planning and building;
(11) Assistant county administrative officer;
(12) Personnel director;
(13) Director of public works;
(14) Director of behavioral health services;
(15) Chief probation officer;
(16) Director of child support services;
(17) Chief information officer;
(18) Veteran's services officer;
(19) All persons serving as temporary help employees;
(20) Nacimiento project manager.
(b) The classified service shall include all other county jobs hereafter created regardless of the method or manner of payment of compensation whether monthly per diem, per folio or otherwise.

Section 2.40.070 Duties of commission and personnel director.
(a) The commission shall prescribe, amend, repeal and enforce rules for the classified service, which shall have the force and effect of law, shall keep minutes of its proceedings and records of its examinations and shall, as a board or through a single commissioner, make investigations concerning the enforcement and effect thereof and of the rules and efficiency of the service. It shall make an annual report to the board of supervisors.
(b) The personnel director, under general supervision of the commission, shall administer the civil service system pursuant to the rules adopted by the commission, advise the commission upon civil service matters, furnish a secretary to the commission, the appointment of the secretary to be approved by the commission, prepare the budget for the operation of the civil service commission, and maintain all records necessary to the foregoing.

Section 2.40.080 Commission rules.
The rules of the civil service commission shall provide:
(1) For the classification of all positions in the classified service;
(2) For open competitive examinations to test the relative fitness of applicants for such positions;

(3) For the creation of eligible lists resulting from competitive examinations upon which shall be entered the names of successful candidates in order of their standing and examinations. The lists shall remain in force not longer than two years;
(4) For the appointment of one of the ten persons standing highest on the appropriate competitive eligible list; provided that an appointing authority may elect to request certification and make an appointment where there are less than ten persons on an appropriate existing eligible list;
(5) For noncompetitive examinations for minor positions in the county institutions when competition is found by the civil service commission to be impractical;
(6) For the creation of eligible lists resulting from noncompetitive examinations upon which shall be entered the names of all successful candidates. The lists shall remain in force not longer than two years;
(7) For the appointment of any eligible from a non-competitive eligible list;
(8) For public advertisement of all examinations;
(9) For the rejection of candidates or eligibles who fail to comply with the reasonable requirements of the commission or of the law with regard to job requirements, age, residence, sex and physical condition, or who have been guilty of crime or infamous or disgraceful conduct, or who have attempted any deception or fraud in connection with an examination, or who have refused to take the oath prescribed by law;
(10) For a period of probation not to exceed the equivalent of six months of full time service before appointment or promotion is complete, except in the case of Deputy Sheriff, and Sheriff's Dispatcher, Juvenile Services Officer I, Juvenile Services Officer II (lateral transfer), Deputy Probation Officer I, and Deputy Probation Officer II (lateral transfer) whose probation shall be the equivalent of one year of full time service, during which period a probationer may be discharged or reduced without a hearing. Service shall mean all paid hours in a permanent position, provided however that the probationary period shall not include any period of leave with pay exceeding 20 days;
(11) For the provisional appointment of persons to permanent positions without examination when no eligible list exists for the class or when the eligible list contains insufficient names to permit complete certification. The provisional appointments shall only be made with the prior consent of the personnel director. No provisional appointment shall continue beyond the date of promulgation of an appropriate eligible list for the class of employment, and in no event shall continue longer than six months. Successive provisional appointments are prohibited. Acceptance or refusal to accept a provisional appointment on the part of a person on the eligible list shall not be a bar to a permanent appointment from the eligible list;
(12) For the temporary appointment of persons to nonpermanent positions from the appropriate eligible list where such exists and the eligible thereon are willing to accept the appointment. Where no appropriate eligible list exists or where it contains insufficient names to permit complete certification, the temporary appointments may be made without examinations with the consent of the personnel director. In case of emergency where no eligible list exists, consent may be granted retroactively, provided the fact is reported to the personnel director no later than the end of the pay period within which the temporary appointment occurred. Temporary appointments to nonpermanent positions shall not continue for longer than nine hundred sixty hours within any fiscal year. Acceptance or refusal to accept a temporary appointment on the part of a person on an eligible list shall not be a bar to a permanent or provisional appointment from the eligible list;

(13) For transfer from one position to a similar position in the same class and salary range or to a position in another class with the same salary range, either within the same department or in another department, provided that the employee meets the minimum qualifications for the classification. The transfers shall be with the consent of the personnel director. In case of denial, the employee may appeal to the civil service commission.
(14) For reinstatement of permanent employees within one year, provided such persons have been separated from or reduced within the county civil service without fault or delinquency on their part; provided, however, that persons employed by the county, holding positions subject to the provisions hereof, who have entered the armed forces of the United States during a national emergency proclaimed by the President or the Congress of the United States, or an Act of Congress providing for peacetime induction or conscription, and who have been honorably discharged or on the inactive or reserved list, or relieved from such military service with a certificate of satisfactory service, shall be reinstated without loss of status, seniority or efficiency ratings to the position held by them prior to entry into such federal service, or to positions of like seniority and status, unless in the meantime such positions have been abolished, on condition that application for reinstatement is made within ninety days after release from the armed forces, and on the further condition that such persons are still qualified to perform the duties of the positions previously held by them or of such like positions. All persons appointed or transferred to fill the positions and all other persons appointed or transferred to other positions by reason thereof shall be termed to be substitute employees, and the substitute employee may be separated from such positions at any time, unless they held positions subject to the provisions of the ordinance immediately prior to the appointment or transfer as substitute employees. In any event, and notwithstanding any other provisions hereof, they shall be reinstated without loss of status or seniority to the permanent positions which they held immediately prior to their first appointment or transfer as such substitute employees to positions of like seniority and status unless, in the meantime, such positions have been abolished.
Any permanent position which remains continuously unfilled for twenty or more calendar days, due to the incumbent's approved leave of absence, may be filled by a substitute employee pursuant to a request made by the appointing authority and with the prior approval of the personnel director. Substitute employee appointments shall occur on, or at any time after, the effective date of the leave of absence; provided, that the incumbent employee is medically qualified to return to his/her former position, the appointment of the substitute employee shall be terminated prior to the return of the incumbent from the leave of absence. If the incumbent employee is not medically qualified to return to his/her former position, the substitute employee shall assume the position.
Incumbent employees have an absolute right to return to a position in their original class of employment subject only to the requirement that the position or class has not been abolished, and subject further to the medical examination requirement of civil service rule 8.02(b). A new probationary employee, who is laid off due to the return of the incumbent, shall be rejected and terminated from employment in the classified service. A substitute employee who achieved permanent status in any lower level position prior to the substitute appointment, and who is laid off due to the return of the incumbent, shall be permitted to return, without loss of status or seniority, to that permanent position, unless in the meantime such position has been abolished. A substitute employee who achieves permanent status in the substitute appointment position, and who is laid off due to the return of the incumbent, may also have bumping rights as to similar

allocated positions. Any other employee displaced due to the exercise of layoff rights by a substitute employee shall have those layoff rights as provided for in the civil service rules.
A substitute employee must meet the minimum qualifications for the class to which he/she is appointed as a substitute employee. All substitute appointments will be from appropriate eligible lists. Substitute employees shall serve a probationary period, shall receive time in service for purposes of layoff while serving as a substitute employee, and shall be subject to all provisions of the civil service rules, including especially those dealing with probation and disciplinary action;
(15) For promotions based on competitive examinations and records of efficiency, character, conduct and seniority. The provisions of subsection (4) of this section shall apply with respect to promotions. An advancement in rank or an increase in salary beyond the range fixed for class shall constitute promotion;
(16) For a systematic manner of reporting upon the performance of employees in the classified service;
(17) For the establishment of a plan for resolving employee grievances and complaints;
(18) For the adoption and amendment of rules only after public notice and hearing.
The commission shall adopt such other rules not inconsistent with the foregoing provisions hereof as the commission may consider necessary and proper.

Section 2.40.090 Vacancies in peculiar positions.
In case of a vacancy in a position requiring peculiar and exceptional qualifications of a scientific, professional or expert character, upon satisfactory evidence that competition is impracticable and that the position can best be filled by the selection of some designated person of recognized attainments, the personnel director, if designated by the rules of the commission, or the commission by affirmative vote of three members of the commission, may suspend competition. No such suspension shall be general in its application to such positions, and all such cases of suspension shall be reported, together with the reasons therefore, in the annual reports of the commission.

Section 2.40.100 Examination requirements.
All examinations shall be impartial and shall deal with the duties and requirements of the class for which they are given. Records of all examinations showing the basis of rating shall be maintained. The examinations shall be administered by the personnel director. The commission may call on other persons to draw up, conduct or grade examinations, and when such persons are county employees, it shall be deemed a part of their official duties to perform such services without extra compensation.

Section 2.40.110 Discrimination prohibited.
No person employed under the system hereby created or seeking admission thereto shall be appointed, reduced, removed or in any way favored or discriminated against because of political or religious opinions or affiliations, or because of age, sex, race, color, national origin, marital status, disability, sexual orientation, or other non-merit factors.

Section 2.40.120 Reductions, suspensions and dismissals.
Reductions, suspensions and dismissals shall be made pursuant to the following provisions:
(1) Any officer or employee in the classified service may be dismissed, suspended or reduced in rank or compensation by the appointing authority after appointment or promotion is completed through the prescribed probationary period by a written order, stating specifically the reasons for the action. The order shall be filed with the county personnel director and a copy thereof shall be furnished to the person

to be dismissed, suspended or reduced.
(2) Employees designated by the board of supervisors as salary basis employees within the meaning of the Fair Labor Standards Act shall not be subject to any disciplinary actions in the form of reduction in pay for a workweek or less except where the penalty is imposed for infractions in safety rules of major significance.
(3) The officer or employee may reply in writing to the order within ten days from its filing with the county personnel director. The officer or employee may, within ten days after presentation to him of the order, appeal through the county personnel director to the civil service commission from the order. Upon the filing of the appeal, the county personnel director shall forthwith transmit the order and appeal to the civil service commission for hearing.
(4) Whenever possible, within twenty days from the filing of the appeal the commission shall commence the hearing, and either affirm, modify or revoke the order. The appellant may appear personally, produce evidence and have counsel and a public hearing as prescribed by law.
(5) The findings and decision of the commission shall be certified to the appointing authority whose action was the subject of the hearing and forthwith be enforced and followed by him.

Section 2.40.130 Employee status.
All persons in the county service holding positions in the classified service as established by the ordinance codified herein or any earlier ordinance and who have been in such service for the six months next preceding June 22, 1964, shall hold their positions until discharged, reduced, promoted, resigned, suspended, transferred or terminated in accordance with the provisions hereof.

Section 2.40.140 Prerequisites to salary payment.
The auditor shall not approve any salary or compensation for services to any person holding or performing the duties of a position in the classified service or serving under a provisional or temporary appointment unless the payroll or account for such salary or compensation shall bear the certificate of the personnel director on behalf of the civil service commission that the person or persons named therein have been appointed or employed and are performing service in accordance with the provisions and the rules established in this chapter.

Section 2.40.150 Veterans' preference.
Persons found eligible pursuant to the provisions below as to service and type of discharge or separation from the armed forces of the United States, who enter any competitive civil service examination for original appointment in the classified service, and who attain at least the minimum rating established for the examination, shall be given a preferential credit in the amounts set forth below, which when added to his or her actual rating on the examination shall constitute his or her total rating.
(a) A preferential credit of five percent of the maximum rating shall be added to the examination score of an individual who meets any of the following criteria:
(1) Any honorably discharged or separated veteran of the armed forces of the United States who has served in such forces during a period of war or armed insurrection as defined by the regulations of the United States Veterans' Administration;
(2) The spouse of any veteran who is found eligible by reason of services indicated above and who because of total disability is prevented from following any remunerative occupation;
(3) The unremarried widow of any veteran whose service and discharge or separation is of a character to establish preference as indicated above.
(b) A preferential credit of ten percent of the maximum rating shall be added to the

examination score of an individual who meets all of the following criteria:
(1) Is a veteran as described in subsection (a)(1), above;
(2) Has on file with the County Veterans' Service Office an acceptable Veterans' Preference Certificate; and
(3) Is currently declared by the United States Veterans' Administration to be ten percent or more disabled as a result of his or her military service. Proof of disability shall be deemed conclusive if it is of record with the United States Veterans' Administration.
Note:

***** County Code (http://www.sloclerkrecorder.org) as of 03/03/05

****** Chapter 2.40 Civil Service Ordinance changes effective 03/17/05

COUNTY OF SAN LUIS OBISPO

Civil Service Commission

- **Procedural Guidelines**

TABLE OF CONTENTS
Civil Service Commission Procedural Guidelines

I. COMMITTEES 1

II. TIME OF MEETINGS 1

III. COMMISSION STAFF 1

IV. AGENDA 1

V. RULES OF ORDER 2

VI. HEARING OF GRIEVANCES, APPEALS, PETITIONS 3

A. HEARING PROCEDURES 3

1. Stipulations 3
2. Documentary Evidence 3
3. Witnesses 4
   a. Requesting Assistance of Commissioner Secretary 4
   b. Subpoena of Witnesses and Production of Records 4
      (1) Authority 4
      (2) Procedure 5
      (3) Maintenance of Subpoena Records 6
4. Pre-hearing Meeting of the Parties 6

B. COMMISSION HEARINGS 7

VII. SELECTION OF OFFICERS OF THE COMMISSION 7

VIII. MEET AND CONFER PROCESS 8

A. SECTION I DEFINITIONS 8

B. SECTION II PROCEDURAL GUIDELINES 9

1. Routine Rule Changes 9
2. Priority Rule Changes 9
3. Emergency Rule Changes 10
4. Meet and Confer Procedure 10
5. Impasse Resolution 10

I. COMMITTEES

A. The President, with majority consent of the San Luis Obispo County Civil Service Commission, shall appoint committees at such times as he/she deems necessary for the proper conduct of the business of the Commission, provided that no committees shall include in their membership more than two Commissioners.

B. All orders of the Commission relative to committees shall specify the purpose of the committee, the length of time the committee shall serve and the times and methods by which the committee shall report to the Commission.

II. TIME OF MEETINGS

A. The Commission shall meet in regular session on the fourth Wednesday of each month. Due to holidays, alternative dates may be selected.

B. Business shall be conducted between 9:00 a.m. and 5:00 p.m. only, unless extended by unanimous consent of the Commissioners present. Otherwise, business shall be adjourned to the following day or on a day designated by the Commission.

III. COMMISSION STAFF

A. The County Counsel or his/her Deputy shall be present at all meetings of the Commission.

B. The Human Resources Director or his/her representative and staff shall be present at all meetings of the Commission.

C. The Secretary of the Commission or Secretary pro tem, shall be present at all meetings of the Commission.

D. A Department Head or his/her representative shall be present to represent his/her department on matters before the Commission. The Commission may defer action if no representative is present.

IV. AGENDA

A. Agendas for the Commission will be prepared by the Secretary of the Commission, who has discretion as to when and what items will be included, except matters set at a specific time by the Commission; matters submitted by the President of the Commission; matters submitted by a majority of the members of the Commission; or matters submitted by less than a majority of the Commission upon approval of the President of the Commission.

B. Items to be included on the agenda of a regular meeting shall be submitted to the Human Resources Director by 5:00 p.m., no later than eight (8) business days prior to the regular meeting, except, matters submitted by the President of the Commission or by a majority of the members of the Commission shall be submitted no later than 1:00 p.m., four(4) business days prior to the regular meeting. (4/25/12)

C. As a guide for the Human Resources Director, the following general order of business may be as follows:

1. a. Call to Order
   b. Flag Salute
   c. Roll Call
2. Public Comment Period
3. Approval of Minutes
4. Monthly Reports
5. Presentation of New, Revised and Deleted Job Specifications
6. Continued Business
7. Future Agendas
8. Time Reserved for Commission President
9. Time Reserved for Commission Counsel
10. Time Reserved for Commission Secretary
11. Findings and Decision
12. Hearing (Closed or Open Session)
13. Adjournment

V. RULES OF ORDER

A. All persons appearing at meetings of the Commission who desire to speak or make a presentation shall first be recognized by the President and identify themselves.

B. When motions are made by Commissioners, the motion shall be stated to the President of the Commission by the moving Commissioner.

C. No question on a motion shall be debated or put unless the same be seconded. When a motion is seconded, it shall be stated by the President before debate.

D. A motion having been stated by the President shall be deemed to be in possession by the Commission, but may be withdrawn at any time before decision or amendment with the assent of the second.

E. When a question is under debate, no motion shall be received unless:

1. To Table
2. To Adjourn
3. To Recess
4. To Postpone to a Certain Date
5. To Commit to a Committee
6. To Amend
7. To Postpone Indefinitely

These motions shall have preference in the above order.

F. A motion to adjourn or to fix time of adjournment or to recess shall be decided without debate.

G. Upon demand of any Commissioner, or at the discretion of the President, the vote shall be by roll call, except that the vote on all matters involving discharge, suspension or reduction shall be by roll call.

VI. HEARINGS OF GRIEVANCES, APPEALS, PETITIONS

A. HEARING PROCEDURES:

Civil Service Commission Rule 4.05 provides for the production of evidence at the hearing of a grievance or appeal for the taking of testimony from witnesses. Evidence may be in the form of affidavits, or exhibits, or other writings. Documentary evidence is sometimes extensive, and the Commission has in the past experienced significant delays in the conduct of the hearings because sufficient quantities of the documents submitted by a party were not available or were not marked for identification in order that they could be efficiently and accurately accounted for and referred to. In addition, Commission hearings have been delayed by the failure or inability of the parties to have witnesses available at the hearing in a timely fashion. Therefore, the following procedures shall be followed to facilitate an efficient process for the submission and production of documentary evidence and witness testimony. (09/28/11)

1. Stipulations: The appellant and the respondent may meet with the Commission Secretary prior to the commencement of the hearing of a grievance or appeal (referred to as a pre-hearing meeting) in order to explore the issues, possible settlement of the matter(s), or entering into stipulations. When utilized by the parties, stipulations shall be in writing and should include the following:

    a. Issues of law that the parties deem to be not in dispute.

    b. Issues of law that the parties deem to be in dispute and which the parties desire the Commission to resolve.

    c. Issues of fact that the parties deem to be not in dispute.

    d. Issues of fact that the parties deem to be in dispute and which the parties desire the Commission to resolve.

    Before the taking of evidence in a grievance or appeal, the parties shall deliver to the Commission Secretary one copy of the stipulations.

2. Documentary Evidence: If either party desires to produce documentary evidence for the hearing of a grievance or appeal, each party shall make every effort to provide the Commission Secretary with the documents intended to be introduced no later than 9:00 a.m. seven (7) business days prior to the hearing.

    a. All documentary evidence shall be submitted in accordance with the following requirements:

(1) The documents shall be in true and legible form for the purpose of reproduction (e.g. "Camera-ready documents") and shall be submitted in the preferred reference order.

(2) There shall be one (1) set of originals, printed on one side of paper.

(3) Any party desiring to introduce documentary evidence in colored text shall provide eight (8) copies of such evidence.

(4) Where required by law, all documents which identify an individual by name shall be submitted with the names in redacted form (e.g., an individual with the name "Margaret Smith" shall appear as "Margaret S."); similarly documents which contain other information of a confidential nature (such as, social security numbers or medical information) that is, in itself, not relevant to a matter at issue, shall be submitted with the confidential information redacted.

b. The Commission Secretary will number evidence exhibits, duplicate copies (except as provided in 2.a.(3), above), and shall distribute hearing packets no later than five (5) business days prior to the actual hearing. The Secretary shall mark each document in numerical order for identification in the record. The documents shall be marked as follows:

(1) Appellant's exhibits with the initial "A";

(2) Respondent's exhibits with the initial "R"; (09/28/11)

(3) Commission exhibits (if any) with the initial "C".

(4) Joint exhibits (if any) with the initial "J"; (09/28/11)

3. Witnesses:

a. Requesting Assistance of Commission Secretary: If a party anticipates difficulty in obtaining the presence of a witness at the hearing of a grievance or appeal and the witness is an officer or employee of the County, the party may request assistance from the Commission Secretary. The Secretary shall contact the officer and employee and apprise the officer and employee in lieu of issuing a subpoena, the Secretary is requesting the officer or employee's attendance at the hearing for the purpose of providing testimony to the Commission. In the event that the Secretary is unable to secure the attendance of a witness informally, if the party does not desire to utilize the services of the Secretary, or if the proposed witness is not a County officer or employee, the party may have the witness subpoenaed in accordance with Rule 4.07(l).

b. Subpoena of Witnesses and Production of Records:

(1) Authority: The Commission's subpoena powers derive from the following enactments:

(a) California Government Code Section 31110.2.

(b) San Luis Obispo County Code Section 2.41.010, which provides:

"2.41.010 Subpoenas. (a) The Civil Service Commission shall have the power to issue subpoenas and subpoenas duces tecum. This power shall be exercised and enforced in the same manner as a similar power granted the Board of Supervisors in Article IX (commencing with Section 25170) of Chapter 1 of Part 2 of Division 2 of Title 3 of the Government Code of the State is exercised and enforced; except that such power shall extend only to matters within the Commission's lawful jurisdiction, and that committees of the Commission shall not have this power.

(b) Any and all fees and/or expenses connected with the subpoena of any witnesses shall be paid by the person or entity requesting the subpoena. The Civil Service Commission shall have the power to issue subpoenas and subpoenas duces tecum on its own behalf and to compensate those persons subpoenaed on the behalf of the Commission.

(c) Not more than ten subpoenas shall be issued to each person or entity requesting that subpoenas be issued, unless said person or entity shall have first a showing to the Civil Service Commission that each witness, for which a subpoena is requested, is reasonably necessary for presentation of the case of the person or entity and that the testimony of each such witness will not be merely cumulative in nature.

(d) Subpoenas shall be signed by the President or Secretary of the Commission. Any member of the Commission, or any other person so empowered may administer oaths to, or take affirmations from, witnesses before the Commission. (Ord. 1214, Section 1, 1762)."

(c) Civil Service Commission Rule 4.05(k).(09/28/11)

(2) Procedure: The procedure for issuing and serving Commission subpoenas and/or subpoenas duces tecum shall be as follows:

(a) For each witness desired to be subpoenaed by a party to a proceeding before the Commission, the party shall:

(1) Obtain from the Human Resources Director the Commission's subpoena form, fill out the form and deliver the completed form to the Human Resources Director,

(2) Obtain from the Human Resources Director a San Luis Obispo County Sheriff's form of "Instructions for Service", fill out the form and deliver the completed form to the Human Resources Director; and

(3) Pay to the Human Resources Director the fees required by the Sheriff of the County of San Luis Obispo for service of the subpoena.

(b) Upon receipt of the above forms and fees, the Human Resources Director shall review the forms for completeness and shall review the record of the proceedings to ascertain the number of subpoenas that have been issued for the requesting party.

(c) If the party requesting the issuance of subpoenas has issued, or is requesting to be issued, a total of more than ten subpoenas, then the Human Resources Director shall:

(1) Issue the subpoenas requested, but only so many of them as will result in a total of ten subpoenas being issued for any one party, and

(2) As to the rest of the subpoenas requested in excess of ten, inform the Commission at the Commission's next meeting of the request. The Commission shall issue for the requesting party any subpoenas in excess of ten provided that the requesting party can show:

(i) The subpoena is for a witness whose testimony is reasonably necessary for the presentation of the party's case, and,

(ii) The testimony of each such witness will not be merely cumulative in nature.

(d) After a subpoena has been issued, it, together with its "Instructions for Service" and its fees for service, shall remain in the custody of the Human Resources Director who shall deliver them to the Sheriff of the County of San Luis Obispo for service in accordance with California Government Code Section 25173.

(3) Maintenance of Subpoena Records: The Human Resources Director shall keep a record of each subpoena requested of, and each subpoena

issued by, the Commission. These records shall be available to the public unless otherwise ordered by the Commission.

4. Pre-hearing Meeting of the Parties: When an appeal or grievance is set for hearing the Human Resources Director shall schedule a pre-hearing meeting, at a time mutually acceptable to the parties and the Human Resources Director. The purpose of the pre-hearing meeting is to inform the parties of their pre-hearing obligations and to assist the parties in carrying out their responsibilities as set forth in these Procedural Guidelines. If either party refuses or is unable to meet with the Human Resources Director, the Human Resources Director shall inform the Commission.

B. COMMISSION HEARINGS:

1. With the understanding that the President of the Commission shall have final authority on the order and length of time of presentations, the following order of hearing presentation shall be followed where applicable:

a. President:

(1) States name of appellant, classification and appointing authority.
(2) Reads nature of grievance and appeal, rule(s) alleged not followed, and relief requested.
(3) Orders swearing of all witnesses present.
(4) States the issues.
(5) Appellant and respondent affirm/amend/add to statement of issues.

b. The Commission receives stipulations theretofore agreed to.

c. President begins hearing:

(1) States issues agreed upon.
(2) States stipulations agreed upon.

d. Presentation of case by party with initial burden of proof under Civil Service Commission Rule 4.05(h). (09/28/11)

(1) Cross-Examination
(2) Questions from Commissioners.
(3) Follow-up questions by both parties (4/25/12)

e. Presentation of case by party not having the initial burden of proof.

(1) Cross-Examination.
(2) Questions from Commissioners.
(3) Follow-up questions by both parties (4/25/12)

f. Rebuttal witnesses if good cause shown.

g. Summation by party with initial burden of proof.

h. Summation by party not having initial burden of proof.

i. Commission adjourns to closed session to determine Findings & Decision.

j. Open session to announce Findings & Decision.

VII. SELECTION OF OFFICERS OF THE COMMISSION

The Commission shall select and appoint a President and Vice President at the first regular meeting in January of each year, and may do so according to rotation of those positions in the order of the Supervisorial District number which the members represent. The President and Vice President of the Commission shall each hold office for a one-year term. No member shall be eligible to serve as President or Vice President until he or she has served at least eleven months on the Commission. The President and Vice President positions rotate annually among the members of the Commission with the President appointed from Supervisorial District 5 and the Vice President appointed from Supervisorial District 1 beginning in 2013.

In the event a member of the Commission opts not to serve as the President or Vice President during his or her rotation, the Commission may select the member who is next in order to be President and/or Vice President; OR the Commission may exercise its discretion to select and appoint another member as President and/or Vice President. (2/22/12)

VIII. MEET AND CONFER PROCESS

This policy establishes procedures for meeting and conferring in good faith with recognized employee organizations regarding matters within the scope of representation that directly affect and primarily involve administration of the County's Civil Service Ordinances. It is the established policy of the Commission to conduct joint meet and confer sessions with all employee organizations which have been accorded "exclusive representative" status by San Luis Obispo County Board of Supervisors and County Management.

A. SECTION I DEFINITIONS:

In addition to the definitions contained in Rule 2 of the San Luis Obispo County Civil Service Commission Rules, the following definitions shall apply:

1. EXCLUSIVE REPRESENTATIVE: The employee organization formally recognized by San Luis Obispo County Board of Supervisors by resolution as the sole bargaining representative of an appropriate unit of County employees for the purpose of meeting and conferring with the County.

2. IMPASSE: Point at which the representatives of the Commission and the recognized employee organization(s) have reached in their meet and confer process where the differences on matters to be included in a Memorandum of Understanding remain so substantial or prolonged that further meeting and conferring would be futile.

3. COMMISSION REPRESENTATIVE: Person(s), corporation, firm or partnership designated by the Commission which represents the Commission in negotiation during the meet and confer process regarding proposed Civil Service rule changes.

4. MEDIATION: Efforts by an impartial third party mutually requested to assist in reconciling an impasse between the representative of the Commission and the exclusively recognized employee organization(s) regarding proposed Civil Service Commission rule changes, through interpretation, suggestion and advice.

5. MEET AND CONFER OR MEET AND CONFER IN GOOD FAITH: The Commission and/or its designated representative and the representatives of employee organization(s) which have been accorded "exclusive representative" status by San Luis Obispo County Board of Supervisors' resolution shall have the mutual obligation to meet and confer promptly and in person upon request by either party and to continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach an agreement on matters within the scope of representation.

6. RULE CHANGE: The process of changing present rules or making new rules consistent with the County's Civil Service Ordinances.

B. SECTION II PROCEDURAL GUIDELINES

1. ROUTINE RULE CHANGES: The following procedure shall be followed with respect to any proposed rule change of a routine non-emergency, non-priority nature.

    a. Requests for civil service rule changes, together with rationale for such changes, shall be submitted in writing to the Commission prior to September 30 of each year.

    b. If a proposed rule change is appropriate for the meet and confer process the Commission's representative shall notify all recognized employee organization(s) and the County Administrative Officer within seven (7) days to indicate in writing whether that organization or management desires to meet

and confer with the Commission's Representative regarding the proposed change.

(1) If no employee organization or management indicates its desire to negotiate on the proposed rule change within the allotted time period, the Commission shall proceed to consider the change without regard to the meet and confer process.

(2) If any employee organization or management indicates a desire to meet and confer on the proposed rule change, such proposed rule change shall be scheduled for an annual meet and confer process with all organizations.

2. PRIORITY RULE CHANGES: When it is determined that there is an immediate need for a rule change, and upon four- fifths vote of the Commission, a priority rule change procedure may be ordered by the Commission. The priority rule change procedure shall be subject to all provisions of Section II of the Commission's Meet and Confer Process Policy, excepting only Part 1.a. and 1.b.

3. EMERGENCY RULE CHANGES: The Commission may make emergency rule changes consistent with County Ordinances and in harmony with the procedures set forth in the Government Code, Section 3504.5, paragraph 2:

"In cases of emergency when the governing body or such boards and commissions determine that an ordinance, rule, resolution or regulation must be adopted immediately without prior notice or meeting with a recognized employee organization, the governing body or such boards and commissions shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such ordinance, rule, resolution, or regulation."

4. MEET AND CONFER PROCEDURE: Since it is the policy of the Commission to have only joint bargaining, the Commission's representative will attempt to reach a single Memorandum of Understanding (MOU). Such Memorandum of Understanding shall not be binding unless approved by the Commission.

a. If agreement is reached, the negotiated MOU shall be submitted to the Commission for scheduling of a noticed public hearing. Based on testimony submitted during the noticed public hearing, the Commission can either:

(1) Ratify the MOU and adopt the negotiated rule change;

(2) Defer action on the proposed rule change;

(3) Or, refer the proposed rule change back to the Commission representative and other original negotiating parties for further meet and confer sessions.

b. If the meet and confer process has reached impasse, any party may initiate the impasse procedures, by filing with the other parties 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 by the Commission's representative. The purpose of such impasse meeting shall be:

(1) To identify and specify in writing the issue or issues that remain in dispute;

(2) To review the position of the parties in a final effort to resolve all such disputed issue or issues; and

(3) If the dispute is not resolved, to discuss arrangements for the utilization of an impasse procedure.

5. IMPASSE RESOLUTION: The parties may decide either that the disputed issues be submitted directly to and resolved by the Commission after a noticed public hearing, or that the dispute be submitted to mediation by mutual agreement.

a. If submitted to mediation the following procedure shall be followed:

(1) The mediator shall be provided by the State Conciliation Service or shall be some other mediator mutually agreed to by the parties. The mediator shall render services at no cost to the County;

(2) The role of the mediator shall be to assist the parties in reaching a voluntary resolution on those matters submitted to the impasse procedure;

(3) All mediation proceedings shall be private. The mediator shall neither make public recommendation nor make any public statement of position at any time concerning the issue;

(4) Mediation efforts shall continue until agreement is reached or the mediator notifies the Commission that further mediation would be futile;

(5) If the parties reach an agreement on all issues in mediation, said agreement shall be placed in an MOU and submitted to the Commission for its determination according to paragraph 4.a. of this section;

(6) If the parties fail to resolve the dispute through mediation, the dispute shall be submitted to the Commission for further action;

(7) In submitting the dispute to the Commission, the Commission's representative shall present:

(a) Those rules and positions on which agreement has been reached with all of the employee representatives;

(b) Those rules and positions on which agreement has been reached with any of the employee representatives;

(c) Those rules and positions on which the parties are unable to agree and a summary of the positions held by each party at impasse.

(8) The employee organization(s) and any other interested parties shall have an opportunity to further amplify or restate their position(s) on the items at impasse at the impasse hearing held before the Commission.

b. When disputed issues are submitted to the Commission, the Commission shall consider one of four alternatives after a noticed public hearing:

(1) Send the proposals back for further meet and confer sessions;

(2) Adopt a rule(s) acceptable to the Commission;

(3) Defer action on the rule change;

(4) Reject adoption of rule(s) unacceptable to Commission.

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Procedural Guidelines

(Adopted 11-21-73)
(Revised 10-25-78)
(Revised 12-20-78)
(Revised 3-29-79)
(Revised 4-23-80)
(Revised 5-28-80)
(Revised 6-26-85)
(Revised 11-19-86)
(Revised 3-28-90)
(Revised 2-23-05)
(Revised 6-27-07)
(Revised 3-25-09)
(Revised 9-28-11)
(Revised 2-22-12)
(Revised 4-25-12)

COUNTY OF SAN LUIS OBISPO

Civil Service Commission

- **Enabling Legislation**

CALIFORNIA GOVERNMENT CODE
SECTIONS 31100-31117

31100. This part may be cited as the County Civil Service Enabling Law.

31101. This part does not limit any powers conferred on any county by charter or any powers conferred on boards of supervisors of counties by subdivision (b) of Section 1 or Section 4 of Article XI of the California Constitution.

31102. It is the intent of this part to enable any county to adopt such a limited civil service system as is adaptable to its size and type.

31103. The board of supervisors of any county may contract with any other county or city, any state department, or any competent person or agency for the conducting of competitive examinations to ascertain the fitness of applicants for employment and for the performance of any other service in connection with personnel selection and administration.

31104. Any county may by ordinance adopt a limited civil service system for any or all county officers and employees, except elective officers.

31105. The ordinance adopting a civil service system shall not go into effect until the proposition of its approval has been submitted to a vote of the qualified electors of the county at a general or special election and has received the affirmative vote of a majority of the electors voting on the proposition. The proposition of approval shall call for a "yes" or "no" vote and shall read in substance as follows:

"Shall the resolution of the board of supervisors adopting a limited civil service system under the county civil service enabling law be approved?"

31105.1. Any ordinance adopting a civil service system which was, prior to the effective date of this section, submitted to a vote of the qualified electors of the county at a general or special election and received the affirmative vote of a majority of the electors voting on the proposition

for the approval of the ordinance, and all ordinances amending such ordinance, are hereby validated and confirmed and shall have the full legal effect of ordinances adopted by the board of supervisors and approved by the electors in the manner required by law and complying in every respect with laws relating to the adoption and approval of such ordinances, notwithstanding any defect, irregularity, omission or ministerial error in the adoption or approval thereof.

31105.2. (a) Any ordinance adopting a civil service system that was, prior to the effective date of this section, submitted to a vote of the qualified electors of the county at a general or special election and received the affirmative vote of a majority of the electors voting on the proposition for the approval of the ordinance, and all ordinances amending the ordinance, are hereby validated and confirmed and shall have the full legal effect of ordinances adopted by the board of supervisors and approved by the electors in the manner required by law and complying in every respect with laws relating to the adoption and approval of those ordinances, notwithstanding any defect, irregularity, omission or ministerial error in the adoption or approval thereof.

(b) Any ordinance or ordinances repealing and adopting a civil service system that was, prior to the effective date of this subdivision, submitted to a vote of the qualified electors of the county at a general or special election and received the affirmative vote of a majority of the electors voting on the proposition for the approval of the ordinance or ordinances, and all ordinances amending that ordinance, are hereby validated and confirmed and shall have the full legal effect of ordinances adopted by the board of supervisors and approved by the electors in the manner required by law and complying in every respect with laws relating to the adoption, and approval of those ordinances, notwithstanding any defect, irregularity, omission or ministerial error in the adoption or approval thereof, including, but not limited to, the failure of the county elections official to mail to the voters official matter prescribed in Chapter 2 (commencing with Section 9100) of Division 9 of the Elections Code.

31106. The ordinance creating the civil service system shall designate the appointive officers and employees to be placed in the system.

31107. The minimum qualifications or standards prescribed for any class or grade of employment shall not be less than those prescribed for the class or grade of county officers and employees by the Legislature.

31108. (a) Any ordinance adopted pursuant to this part shall include substantially the following provisions:

(1) Any officer or employee in the classified civil service may be dismissed, suspended, or reduced in rank or compensation by the appointing authority after appointment or promotion is complete by a written order, stating specifically the reasons for the action. The order shall be filed with the clerk of the board of supervisors or, if there is a county personnel officer, the order shall be filed with the county personnel officer and a copy thereof shall be furnished to the person to be dismissed, suspended, or reduced.

(2) The officer or employee may reply in writing to the order within 10 days from the date of its filing with the clerk of the board of supervisors or county personnel officer. The officer or employee may within seven days after presentation to him or her of the order appeal through the clerk of the board of supervisors or county personnel officer to the civil service commission from the order. Upon the filing of the appeal, the clerk of the board of supervisors or county personnel officer shall forthwith transmit the order and appeal to the civil service commission for hearing.

(3) Within 20 days from the filing of the appeal the commission shall commence a hearing, and either affirm, modify, or revoke the order. The appellant may appear personally, produce evidence, and have counsel and a public hearing.

(4) The findings and decision of the commission shall be certified to the department head or officer whose action was the subject of the hearing and forthwith enforced and followed by him or her.

(b) Alternatively, the board of supervisors may provide by ordinance or resolution by simple majority vote that an officer or employee who is dismissed, suspended, or reduced in rank or compensation may elect in writing to appeal under the terms of any grievance procedure established pursuant to a legally binding memorandum of understanding between the local agency governing board and an employee organization recognized pursuant to applicable law, which may include final binding arbitration.

31110. Upon the adoption of the civil service system, the board of supervisors shall appoint a civil service commission to assist in administering the system.

31110.1. A county by ordinance may provide that the members of the civil service commission may be paid compensation for their attendance at each meeting of the commission in an amount to be fixed by the ordinance. In addition, the ordinance may provide that the members of the commission may also receive reasonable traveling expenses from their place of

residence to the place of meeting of the commission and return. No payment of traveling expenses shall be made pursuant to this section for meetings of the commission held outside of the county.

31110.2. A county may by ordinance provide that its civil service commission or equivalent body shall have the power to issue subpoenas and subpoenas duces tecum, and compensate persons subpoenaed. This power shall be exercised and enforced in the same manner as a similar power granted the board of supervisors in Article 9 (commencing with Section 25170) of Chapter 1 of Part 2 of Division 2 of this title is exercised and enforced; except that such power shall extend only to matters within the commission's lawful jurisdiction, and that committees of the commission shall not have this power, and that reasonable fees or expenses or both may be provided for by commission regulation for any or all such witnesses regardless of which party subpoenaed them. Subpoenas shall be signed by the chairman or secretary of the commission. Any member of the commission, or any person otherwise so empowered, may administer oaths to, or take affirmations from, witnesses before the commission.

31111. The civil service commission shall consist of five members or, if so resolved by the board of supervisors, seven members, each of whom shall hold office for a term of four years and until his successor is appointed and qualified. The members shall be selected from among the qualified electors of the county. Vacancies occurring in the commission shall be filled by appointment by the board of supervisors for the remainder of the unexpired term only. The civil service commission may be designated as a merit board.

31112. The terms of office of two members of the first civil service commission shall be one year. The terms of office of the other members of the first commission shall be two, three, and four years, respectively. If the commission is composed of seven members, the terms of office of all members of the first seven-member commission shall be fixed by lot at one year for two members, two years for two members, three years for two members, and four years for one member. The members shall determine by lot the relative order of the expiration of their terms.

31113. The commission shall perform the duties and exercise the powers provided for in this part, and such additional powers and duties in relation thereto as the board of supervisors delegates to it.

31114. Any person who:

1. Willfully by himself or in cooperation with another person defeats, deceives, or obstructs any person with respect to his right of examination, application, or certification for employment under any county civil service system; or

2. Willfully and falsely marks, grades, estimates, or reports upon the examination or proper standing of any person examined or certified under any county civil service system, or who aids in so doing, or makes any false representation concerning the same or the person examined; or

3. Willfully furnishes to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person examined, certified or to be examined or certified under any county civil service system, is guilty of a misdemeanor.

31115. Any person who:

1. Impersonates another person or permits or aids in any manner any other person to impersonate him in connection with any examination, application, or request to be examined under any county civil service system; or

2. Furnishes or obtains examination questions or other examination material prepared and intended for use in any examination under any county civil service system before such examination; or

3. Uses any unfair means to cause or attempt to cause any eligible to waive any rights obtained under the civil service system of any county, is guilty of a misdemeanor.

31115.5. Any county employee, or person whose name appears on any county employment list, who uses during duty hours, for training or target practice, any material which is not authorized therefore by the appointing power, shall be disciplined pursuant to the county civil service system.

31116. For the purpose of facilitating the recruitment of professional and technically trained persons to fill positions for which there is a shortage of qualified applicants, a county may expend county funds to pay reasonable travel expenses of applicants for county or judicial district employment in traveling, from any point within the continental United States, to and from the place or places at which the applicants are to be examined or interviewed. Such payments shall be authorized only upon a determination by the board of supervisors that the expenditure is necessary to recruit qualified persons needed by the county or judicial district.

31117. Any person who previously had permanent status in a civil service system of any county and who vacated his position to accept appointment to an elective position shall be reinstated to his former position in the same county if he so desires at the termination of such appointment, or term of office if his acceptance of such appointment was without a break in continuity of service and if such person does not run for election to succeed himself following his period of appointment.

Enabling Legislation
California Government Code Sections 31100-31117