



Civil Service Commission ~ Rules ~

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*The amended Civil Service Commission Rules
contained herein were adopted on June 4, 2009.
They are published for the information and guidance of
all concerned.*

Bob Stine
Chairperson,
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Rule I

PROVISIONS FOR THE RULES AND ADMINISTRATIVE REGULATIONS

SECTION 1. AUTHORITY TO ADOPT RULES: Under the authority of Section 505, Article 5, Charter of the County of San Mateo, the Civil Service Commission of San Mateo County hereby prescribes and adopts these rules.

SECTION 2. APPLICABILITY: These rules apply to all positions in the classified service, which includes all positions and employments in service of the County except those specifically exempted in Section 502, Article 5 of the County Charter. These rules shall be binding upon the Board of Supervisors, elective officials, boards and commissions, and all employees in the service of the County.

SECTION 3. PURPOSE: These rules are prescribed to carry out the provisions of Article 5 of the County Charter, which established the County civil service, and to provide for a system of effective personnel administration within the scope of those provisions.

SECTION 4. SEPARABILITY: If any provision of these rules or the application of such provision to any person or circumstance, shall be held invalid, the remainder of these rules or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 5. RESCISSION OF PRIOR RULES: Civil Service Commission Rules adopted January 7, 1994, are hereby rescinded.

Rule II

AUTHORITY AND FUNCTION OF THE CIVIL SERVICE COMMISSION

SECTION 1. ORGANIZATION: In accordance with the provisions of the County Charter, the Commission shall consist of five members. Members shall be appointed by the Board of Supervisors to four-year terms.

SECTION 2. ELECTION OF OFFICERS: At its first meeting of each year the Commission shall elect one of its members as chairperson and another as vice-chairperson.

SECTION 3. MEETINGS: The Commission shall hold regular public meetings each month at a date, time and location determined by the Commission. In addition, the Commission may hold special meetings upon the call of the chairperson or any two members of the Commission at such time and place as the business of the Commission may require. A majority of the Commission shall constitute a quorum for the transaction of business. Meetings shall be open to the public unless ordered closed by the Commission.

SECTION 4. AGENDA OF THE COMMISSION: Items to be considered by the Commission must be submitted in writing to the Director at least seven days prior to the scheduled meeting. Agendas shall be distributed to all interested parties in advance of the scheduled meeting. Items may be considered without such notice so long as the conditions of Government Code Section 54954.2 are met.

SECTION 5. MINUTES OF COMMISSION MEETINGS: The Director shall record in the minutes the time and place of each meeting, the names of the Commissioners present and all official acts of the Commission. The minutes need not be a verbatim record, but shall summarize the actions taken and discussion held. Minutes of the Commission meetings shall be a public record. Other records of the Commission shall be confidential, except as otherwise provided by the Commission. All records of the Commission shall be in the custody of the Director, who shall determine disclosure to the public.

Rule III

DUTIES OF THE DIRECTOR

The Director of Human Resources (hereinafter referred to as Director) or the Director's designee shall be responsible for the administration of the classified personnel system in conformity with the provisions of the County Charter and the Rules of the Commission. The duties of the Director shall include the following:

- A. act as the executive officer for the Commission and be responsible for carrying out the decisions, instructions, and rules of the Commission.
- B. issue administrative regulations or procedures for the administration of these rules.
- C. prepare the Commission's agenda and keep an official record of all actions taken by the Commission.
- D. make recommendations for needed changes in Commission rules, personnel procedures, or administrative procedures.
- E. provide research, information, and recommendations needed by the Commission to make required decisions.
- F. perform any additional duties that may be assigned by the Commission, or that may be required to properly administer the civil service provisions of the Charter, these rules, or related laws, or administrative regulations.

Rule IV

CLASSIFICATION OF POSITIONS

SECTION 1. GENERAL: All positions shall be classified according to the duties and responsibilities assigned. All classification actions shall be based on the principle that positions with similar duties and responsibilities and requiring similar qualifications shall be grouped together in common classifications. Positions in the same classification shall be designated by the same title, filled by using the same qualification standards and selection criteria, and compensated according to the pay scales of the classification. The Director shall periodically review the duties of positions in the classified service and revise classification specifications and reallocate positions as needed. The Director shall provide assistance to department heads in classifying positions in the unclassified service.

SECTION 2. CONTENT: All classification specifications shall contain a title, the distinguishing characteristics of the work, illustrative examples of duties and the minimum qualifications required to perform the work. Classification specifications shall include only those educational, training, physical and experience requirements that are essential to adequate job performance. The content is illustrative and shall not be construed to be comprehensive or to limit the authority of department heads to direct and control the work of employees. Classification specifications will be prepared so as to promote the goals of equal employment opportunity, to encourage upward and lateral mobility of employees, and to avoid the creation of “dead end” jobs. The classification specifications shall constitute a guide for establishing minimum employment standards, for examinations, and for evaluating the qualifications of applicants. The title of the classification shall be the title of all positions in the classification and shall be used on all official records.

SECTION 3. CHANGE OF ASSIGNED DUTIES: No employee shall be required to regularly perform duties of a position outside of the classification to which appointed. However, employees may be temporarily assigned duties outside their classifications. In addition, under the conditions described in Section 9 (Emergency Appointment) of Rule XI, a department head may temporarily assign to employees whatever duties are necessary to meet the requirements of the emergency situation. Whenever a department head proposes, or assigns on a permanent basis, duties that are significantly different from those described in the classification specification for that position, a report will be made to the Director, who will initiate a job study.

SECTION 4. CHANGES IN CLASSIFICATION STATUS OF INCUMBENT: Upon reclassification of filled positions, the Director shall determine whether the action constitutes an upward, lateral or downward movement of the level of the position.

- A. Downward. An employee in a position reclassified to a lower classification shall have the right of either: (1) transferring to a vacant position in his/her present classification in the same or another department, provided the head of the department into which the transfer is

proposed agrees, or (2) continuing in the same position in the lower classification at a "Y" rate of pay when the incumbent's pay is higher than the maximum step of the salary range for the lower classification.

- B. Lateral. The employment status of the incumbent will remain unchanged in the classification to which the position is reallocated.
- C. Upward. The Director will grant status to the incumbent when either; 1) there has been no essential change in the duties and responsibilities of the position during the individual's incumbency; or 2) there has been a gradual change in the duties and the incumbent has satisfactorily performed the higher level tasks for at least 13 biweekly pay periods. If neither of the conditions listed above exist, the incumbent may be transferred, demoted, laid off or compete for the reallocated position as specified elsewhere in these rules.

SECTION 5. PROMOTIONAL REQUIREMENTS WHERE EMPLOYMENT STANDARDS HAVE BEEN RAISED: If, in a given classification series, the educational requirements have been raised due to a classification action, incumbents in a lower classification at the time the standards are increased shall only be required to meet the former educational requirements for the next higher classification when competing for promotion to the next higher classification in that series.

Note: The Commission revised Rule IV, Sections 2 and 4A, on February 4, 2000.

Rule V

RECRUITMENT

SECTION 1. METHODS: Department heads shall advise the Director in a timely manner of current and anticipated vacancies. The Director shall determine the methods to be used in recruitment. The Director may postpone, cancel, extend or otherwise modify the recruitment efforts as circumstances indicate.

SECTION 2. EQUAL EMPLOYMENT OPPORTUNITY: In planning and conducting recruitments the Director and all other persons involved will give due consideration to the goals of the Equal Employment Opportunity Program.

SECTION 3. ANNOUNCEMENTS:

- A. Announcements for examinations shall be posted on line on the County's official designated website or in the principal Human Resources Office of the County for the duration of the filing period. Announcements shall be given such other publicity as the Director deems warranted to attract a sufficient number of qualified candidates to compete. Recruitments shall be of one of the following types:
1. Regular Recruitment: A regular recruitment shall be used in most cases. Regular examination announcements shall specify a filing period of at least 14 days and shall clearly state a final filing date.
 2. Continuous Recruitment: In instances where the need for employees is frequent or continuing, or there is a labor market scarcity, the Director may announce examinations with no final filing date and conduct recruitments of sufficient duration to assure the County's needs are met. Any time a continuous recruitment is to be closed, at least 5 days' notice to that effect shall be given prior to the final filing date.
 3. Limited Recruitment: When it is anticipated that the applicant group will be large in relation to the anticipated vacancies, the Director may restrict the recruitment to limit the size of the applicant group by: a) establishing a shorter filing period than that required for regular recruitments; b) specify a maximum number of applications which will be accepted, and that the recruitment shall close immediately when that number is reached; or c) other means which are appropriate to the circumstances.
- B. Recruitment or examination announcements will describe the duties of the position, minimum qualifications, salary, closing date for accepting applications (where applicable), testing or other selection procedures, and such other information as the Director considers appropriate.

Note: The Commission revised Rule V, Section 2, on February 4, 2000.

Rule VI

APPLICATIONS

SECTION 1. FILING OF APPLICATIONS:

- A. Official application forms shall be provided by the Human Resources Department. Application forms must be filled out completely and must be signed by the applicant or certified through electronic submission. Applications that are filed become the property of the County and will not be returned. A separate and complete application is required for each examination, unless otherwise specified in the examination announcement.

- B. For regular recruitments and for continuous recruitments that are being closed, applications must be received by the Human Resources Department not later than the office closing time on the published last day to file or must be postmarked by the United States Postal Service or filed electronically before midnight of that date. The terms and conditions under which applications will be accepted for limited recruitment shall be specified on the announcement of examination. Where circumstances warrant, the Director may authorize the acceptance of late applications.

SECTION 2. QUALIFICATIONS OF APPLICANTS: Applicants must meet the minimum requirements stated in the classification specification and the examination announcement. Applicants may be required to submit evidence of service in the armed forces, education, training, licensure and/or required special qualifications.

SECTION 3. DISQUALIFICATION OF APPLICANTS: The Director may, in his/her discretion, refuse to examine an applicant, or after examination refuse to certify an eligible, or may remove an eligible from the eligible list:

- A. Who is found to lack any of the announced requirements established for the examination.

- B. Who is physically or mentally unable to perform the duties of the classification.

- C. Who refuses, fails to appear for, or fails to pass, the required medical examination.

- D. Who has engaged in conduct not compatible with County employment.

- E. Who has made false or misleading statements of material fact on the application.

- F. Who has used, or attempted to use, any unfair method to obtain an advantage in an examination or appointment.

- G. Who has directly or indirectly obtained confidential information pertaining to the content of the examination, or who has taken part in compiling, administering, or scoring the examination.
- H. Who has failed to submit an application correctly and fully or within the prescribed time limits.
- I. Who has been dismissed for cause from a position in public or private employment substantially similar to the position applied for in the County.
- J. Who has been convicted of a crime that is substantially related to the qualifications, functions or duties of the position for which application is made.

SECTION 4. FINGERPRINTING: Applicants before appointment, and employees after appointment, may be required to be fingerprinted.

SECTION 5. NOTICE OF ACTION ON APPLICATION: A person whose application is rejected shall be notified as to the reason for the rejection.

SECTION 6. APPEAL RIGHTS: The procedures for appeals and hearings are provided in Rule XIV, however, the grounds for appeal by disqualified job applicants shall be limited solely to alleged discrimination on the basis of one or more of the characteristics identified in Section II of the San Mateo County Equal Employment Opportunity Policy., and the grounds for appeal found in Rule XIV do not apply to applicants..

Rule VII

EXAMINATIONS

SECTION 1. USE AND NATURE OF EXAMINATIONS: Examinations will be used to determine the eligibility of applicants for employment and their relative positions on eligible lists. Examinations used will be prepared in compliance with Federal and State laws or guidelines and will be based on job requirements.

SECTION 2. SCHEDULING OF EXAMINATIONS:

- A. The Director will schedule all examinations and will distribute notices and determine where they will be posted. Notices will be posted in the Human Resources Office or on line on the County's official designated website in advance of the final date for filing applications in accordance with the provisions of these rules. The Director may schedule examinations in anticipation of future vacancies.
- B. For examinations opened on a continuous recruitment, the names of all candidates who took the same or comparable examinations for the same classification on different dates shall be ranked by score or band of scores on one eligible list for the purpose of certification.
- C. When a specific position within a classification requires a unique or specialized background the Director may restrict recruitments to those individuals possessing the unique or specialized background.

SECTION 3. CONTENT OF EXAMINATIONS: The content and combinations of tests to be used, the weights assigned to each test, the number of bands assigned to a range of scores and the passing points or minimum qualifying score for examinations shall be determined by the Director. Examinations may consist of one or a combination of any of the following: a screening committee, written tests, performance tests, oral examinations, appraisals of education and experience, physical agility tests, assessment center evaluation, or other job related selection criteria.

SECTION 4. TYPES OF EXAMINATIONS: The Director shall determine the types of examinations to be given. The types may be:

- A. Open Examinations: Any person who meets the minimum qualifications for the classification may compete.
- B. General Promotional Examinations: Permanent and probationary employees who have served at least six months of continuous service in such status prior to the final date to file an application are eligible to compete. Persons who have been laid off and whose names are on a reemployment list are also eligible provided they had served at least six months of

continuous service prior to lay off. Persons in unclassified positions, who previously held positions in the classified service and who did not have a break in County service between the classified and unclassified appointments are eligible to compete provided that they have at least six months of total continuous service prior to the final date to file an application.

- C. Departmental Promotional Examinations: Permanent and probationary employees of the specific department in which a promotional opportunity exists who have served at least six months of continuous service in such status prior to the final date to file an application are eligible to compete. Persons who have been laid off and whose names appear on the appropriate departmental reemployment eligible list are also eligible provided they had served at least six months of continuous service prior to lay off. Persons in unclassified positions in the specific department, who did not have a break in County service between the classified and unclassified appointments are eligible to compete provided that they have at least six months of total continuous service prior to the final date to file an application.
- D. Open and Promotional Examinations: Any person who meets the minimum qualifications for the classification may compete. In addition, any person competing in this type of an examination, and who meets the criteria described in Section 4, paragraph B, above, shall have 5 points added to the final passing score.
- E. San Mateo County Court Employees and Eligibility for Promotional Examinations. Employees of the Court who were appointed to their positions in the Court as a result of a competitive examination process shall be eligible to apply for promotional examinations as follows: 1) employees who have served at least six months in a probationary or permanent status prior to the final date to file an application may apply for General Promotional Examinations; 2) employees who have served at least six months in a probationary or permanent status prior to the final date to file an application may apply for Open and Promotional Examinations and have 5 points added to the final passing score. Note: Eligibility under this section was reinstated with the adoption of CSC rule revisions in 2009.

SECTION 5. CONDUCT OF EXAMINATION:

- A. The Director will issue administrative regulations governing the conduct of examinations.
- B. The Director will notify all applicants in advance of the time, date, and place of examinations. Written examinations will be administered so that no examination paper will disclose the applicant's identity until after the examination has been scored and the passing point determined.
- C. Any candidate who receives or gives unauthorized assistance designed to aid the candidate in the examination process will be disqualified from the examination and may be barred from future examinations.

SECTION 6. NOTICE OF RESULTS OF EXAMINATIONS: As soon as examinations are scored and eligible lists established applicants will be notified of the results and, if there are more than seven successful applicants, their scores and relative positions on the eligible list.

SECTION 7. REVIEW OF WRITTEN EXAMINATION MATERIALS: The opportunity to inspect test materials shall be granted at the discretion of the Director. Written Examinations that are standardized or used on an ongoing basis shall not be available for review by candidates. Written examination materials (score sheets and a keyed copy of the test materials) which are not standardized or used on a continuing basis may be reviewed for a period of three working days immediately following the test by any person having taken that test. During this period, a candidate may file in writing an appeal against any portion of the written examination, specifying the reason for protest. Scoring of the examination will be withheld pending a resolution of any appeals by the Director.

SECTION 8. APPEALS:

- A. The Commission will review appeals from ratings of oral examining boards or appraisal of qualifications boards which are below passing solely for reasons of discrimination, or fraud in the conduct of such board. The purpose of this provision is not to substitute the judgment of the Commission for that of the Qualifications Appraisal Board or the Oral Examining Board, but to provide relief to an appellant who presents evidence that there is reasonable cause to believe that the appellant's interests were prejudiced by discrimination, or fraud in the conduct of the examination.

- B. Such appeals must be submitted in writing by the appellant and must be received by mail, fax or hand delivery by the Director within 14 calendar days after notice of test results have been mailed to candidates, and must contain a statement of the facts upon which the appeal is based.

- C. If, after reviewing such an appeal, the Commission finds that the applicant's score was affected by any condition listed in Subsection 8A, the Commission shall direct that either:
 - 1. The appellant shall be reconsidered by an impartial board and the results integrated into the examination process, or;
 - 2. The entire appraisal and oral examination be invalidated and re-administered and applicants shall be so notified.

SECTION 9. SPECIAL CONSIDERATION FOR DISABLED INDIVIDUALS:

- A. Individuals with disabilities which, in the judgment of the Director, would prevent their handling the mechanical aspects of any part of the selection process on a relatively equal basis with non-disabled individuals may compete, at the discretion of the Director, in a modified selection process so as to allow the disabled person to compete on as equal a basis as possible.

- B. The Director may administer examination processes restricted to severely disabled individuals for entry-level classifications provided that such persons either meet the minimum qualifications for the position or after completing a prescribed training program will meet the minimum qualifications.

SECTION 10. VETERANS' PREFERENCE:

- A. Veterans' preference shall be five points. Disabled veterans shall be eligible for an additional five points. Preference shall be added to passing scores only. The rule for ranking eligibles in order of percent standing shall not be otherwise changed by application of veterans' preference.
- B. For the purpose of this rule "veteran" means any person who has served at least 90 consecutive days of active duty in the armed forces of the United States, for which period of service a campaign medal has been authorized by the government of the United States, and to which the applicant is entitled. To be eligible for veterans' preference, an applicant must have received an honorable discharge or a discharge under honorable conditions, proof of which service and discharge must be submitted to the Director before the time of the examination. Active duty as used herein means full time service in any of said armed forces, and does not include part time service in any reserve status or in the National Guard. Persons who elected a career in the Armed Forces and retired after twenty or more years of active military service shall be eligible for veterans' preference.
- C. Disabled veteran means any person who has been disabled as a result of any service given the status of a veteran under this rule and who has at least 30% disability as measured by the United States Veterans Administration, or equivalent authority for other branches of the service. Claim for disability preference must be accompanied by certified copy of record of the United States Veterans Administration, or other acceptable documentary evidence dated within the past six months.
- D. Veterans and disabled veterans must have all qualifications set for entrance to any examination and must pass all parts of an examination including written, oral, physical, medical, or performance examination, as may be required, before veterans' preference shall apply.
- E. Preference shall not apply to promotional examinations, qualifying examination, or to any personnel transactions such as dismissal, transfer, or lay off.
- F. Claim for veterans' preference shall be investigated and the Director may require suitable documentary proof of the status of anyone claiming veterans' preference under this rule. Applicants claiming veterans' preference in any examination must so state when the application is filed.

Special Note:

It has been the practice of the County to allow veterans preference only upon initial entry into the classified system. This practice is in accordance with the Commission's intent.

Rule VIII

ELIGIBLE LISTS

SECTION 1. ORDER OF ELIGIBLES: Applicants for employment who qualify in an examination shall have their names placed on the appropriate eligible lists in the order of their final scores and/or band of scores.

SECTION 2. EFFECTIVE DATE OF ELIGIBLE LISTS: Eligible lists shall be in effect from the date on which approved by the Director. Changes in rank, or addition or subtraction of names because of errors or re-ratings, shall not change the effective date of an eligible list.

SECTION 3. DURATION OF ELIGIBLE LISTS:

- A. The duration of eligible lists shall be as follows:
 - 1. Departmental promotional eligible lists are established for a period of one year.
 - 2. General promotional eligible lists are established for a period of nine months.
 - 3. Open eligible lists are established for a period of six months.
 - 4. Reemployment eligible lists are established for a period of one year.
 - 5. Reinstatement eligible lists are established for a period of one year.
- B. When, in the opinion of the Director, an eligible list does not meet the needs of the County, the Director may order new examinations to provide candidates. All successful applicants shall have their names placed on eligible lists in the order of their final scores.
- C. Eligible lists may be extended by the Civil Service Commission provided that the total duration of the list does not exceed two years. The Director may, if conditions require, extend an eligible list one time for a period of up to three months. (amended 01/08/04)

SECTION 4. REMOVAL OF NAMES FROM ELIGIBLE LISTS:

- A. The Director shall remove from eligible lists the names of all applicants that have remained thereon for the duration of the list.

- B. If, at the time of an employee's termination, that employee's name appears on a promotional eligible list, his/her name shall be removed from the promotional list and placed on the open competitive eligible list for that classification, if any, in accordance with the final score.
- C. The Director may remove the names of applicants from an eligible list when, in his/her opinion, the applicant no longer possesses the minimum qualifications of the classification.
- D. The Director may remove from eligible lists the names of applicants who:
 - 1. Decline three offers of appointment.
 - 2. Request to have their names removed from an eligible list or state that they are not interested in employment in that classification.
 - 3. Fail to respond to an invitation for pre-employment interview following certification from an eligible list.
 - 4. Cannot be located by the U.S. Postal Service.
 - 5. Are appointed to permanent positions in the classification for which their names were on eligible lists. This does not apply to eligibles who are appointed to temporary positions.
- E. Where an applicant has been passed over three times for employment by the same appointing authority, the Director may remove the name of that applicant from that specific eligible list.

SECTION 5. ELIGIBLE LISTS/PERMANENT POSITIONS: Eligible lists for permanent positions shall consist of the following types:

- A. Departmental Reemployment Eligible List: The departmental reemployment eligible list for each classification shall consist of the names of employees and former employees having probationary or permanent status, and who were laid off or whose positions were reallocated downward as a result of reclassification. The rank order on such lists shall be determined by relative seniority as specified in Rule XVI. Such lists shall take precedence over all other eligible lists in making certifications to the department in which the employee worked.
- B. General Reemployment Eligible List: The general reemployment eligible list for each classification shall consist of the names of employees and former employees having probationary or permanent status and who were laid off or whose positions were reallocated downward as a result of reclassification. The rank order on such lists shall be determined by relative seniority. Such lists shall take precedence over all other eligible lists, except departmental reemployment eligible lists, in making certification on a County-wide basis.

C. Promotional Eligible Lists:

1. General Promotional Eligible Lists: The names of applicants successful in general promotional examinations shall be placed on general promotional eligible lists for the classifications examined.
2. Departmental Promotional Eligible Lists: The names of applicants successful in departmental promotional examinations shall be placed on departmental promotional eligible lists for the classifications examined.
3. These lists shall take precedence over General Eligible Lists.

D. General Eligible Lists: The names of applicants successful in open examinations, open and promotional examinations, as well as persons complying with the provisions of Section 8 of this rule, shall be placed on general eligible lists for the classification examined, and such lists shall be used after those lists described in paragraphs A, B, and C above, have been exhausted in making certifications on a County-wide basis.

E. Reinstatement Eligible Lists: A probationary or permanent employee who has resigned in good standing or accepted a voluntary demotion, may within two years following the effective date of resignation or voluntary demotion, request that the Director place his/her name on the reinstatement eligible list for any classification for which he/she is qualified. Additionally, employees who occupy positions that the department head has determined are at risk of being eliminated, may be placed on appropriate reinstatement lists prior to the anticipated date of layoff. This list may be considered by department heads in addition to either the promotional eligible or general eligible lists but cannot take precedence over the department reemployment or general reemployment eligible lists.

F. Court employees who were appointed to their positions in the Court as a result of a competitive examination process shall be eligible to be placed on reinstatement lists consistent with paragraph E above. Eligibility under this section shall expire on November 9, 2002.

G. Transfer of Eligibility: Upon approval of the 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 a reinstatement eligible list for the comparable entry or journey level class in the San Mateo County service. In each case, the following conditions must be met:

1. The classification in which employment is contemplated must possess the same or lesser minimum qualifications as the class in which the individual holds permanent status.
2. The individual must have been employed by the other public agency within one year prior to the date of his/her application to San Mateo County.
3. The individual must submit written information from the other public agency

confirming the individual's permanent status and containing the following statements:

- a. The employment record of the individual has been entirely satisfactory.
- b. The individual has not been separated for cause.
- c. The individual was appointed to the class in which he/she holds permanent status from an eligible list resulting from a qualifying or competitive examination.
- d. If not currently employed by the other agency, the individual is eligible for reinstatement in the class in which he/she holds permanent status.

The names of such individuals shall be placed on the reinstatement eligible list.

- 4. The Director may make a determination that a specific classification is "Hard to Fill". If a classification other than an entry or journey level classification is so designated, then the above process may be used for that classification.

SECTION 6. ALTERNATE ELIGIBLE LISTS: Whenever there is no eligible list for a classification, or whenever it is in the best interest of the County, the Director may certify names to vacancies from the eligible lists for related classifications provided that the required qualifications of the related classifications are at least equivalent to those of the classification in which the vacancy exists. The names of the persons thus certified shall remain on the eligible lists on which their names were originally placed.

SECTION 7. CAREER OPPORTUNITIES PROGRAM: The Director shall establish procedures for a Career Opportunities Program that will encourage filling of positions with current County employees. This eligible list will be used as determined by that program.

SECTION 8. INACTIVE ELIGIBLE LIST AND REPLACEMENT OF NAMES ON ELIGIBLE LISTS:

- A. A person whose name is on an eligible list may request in writing that his/her name be placed on the inactive eligible list, after which time the Director will not certify that name to vacancies. Such person may have his/her name replaced on the active eligible list by making request at any time before the list expires. The total period of time that such person's name is on both the active and inactive eligible lists may not exceed the duration of that list.
- B. In addition to placing the name of an employee laid off on the reemployment eligible list for the classification in which laid off, the Director may place such employee's name on the promotional eligible list of any classification for which, in the Director's opinion, the

employee is qualified. Such person's name shall be placed on the promotional eligible list above the names of persons who have not been laid off. If the names of two or more persons laid off are placed on the same promotional eligible list the names shall be ranked in order of a relative seniority according to Rule XVI.

SECTION 9. RESTORATION OF NAME OF REJECTED PROBATIONER TO ELIGIBLE LIST: The Director may, upon request by an employee rejected during the probationary period, restore that employee's name to an existing eligible list if such list exists for that classification. However, the employee's name shall not be certified to the department from which rejected without approval of the department head. This request must be made, in writing, within 30 days from the date of rejection.

SECTION 10. RETURN TO ELIGIBLE LIST OF FORMER COUNTY EMPLOYEES SEPARATED BY DISABILITY RETIREMENTS: The Director may place the names of any County employees who have been disabled and are retired and are unable to perform their previous assignments on the reinstatement list of any classification for which those employees are qualified.

Note: The Commission revised Rule VIII, Section 7, on February 4, 2000.
The Commission added Rule VIII, Section 5, Part G, on July 23, 2001.

Rule IX

REQUISITION AND CERTIFICATION

SECTION 1. REQUISITION OR REQUEST FOR PERSONNEL: Whenever a vacancy in the classified service is to be filled, other than by transfer or demotion, the appointing authority will notify the Director as far in advance as possible and request certification on a form prescribed by the Director. In cases where selective certification based on bona fide occupational qualifications or on special skill requirements is desired the personnel requisition will include complete justification. Following receipt of a request for personnel the Director will determine which eligible list is to be used.

SECTION 2. PRIORITY OF ELIGIBLE LISTS: Eligible lists shall be certified to fill permanent vacancies in the following order:

- A. Departmental Reemployment Eligible List
- B. General Reemployment Eligible List
- C. Promotional Eligible List (General and Departmental)
- D. General Eligible List
- E. Reinstatement Eligible List shall be certified in addition to C and D above and shall be considered for appointment at the discretion of the appointing authority.

SECTION 3. CERTIFICATION FROM REEMPLOYMENT ELIGIBLE LISTS: If a reemployment eligible list is used the Director will certify the name of the person who is the highest on the list and available for employment. This person shall be appointed if the position is to be filled. The Director may remove from a reemployment eligible list the name of any person who waives employment after certification.

SECTION 4. CERTIFICATION FROM OTHER ELIGIBLE LISTS:

- A. If a list other than a reemployment eligible list is to be used the Director shall certify the top seven available candidates or top seven bands to the vacancy. If any other candidates have the same score as the number seven candidate then they shall also be certified to the vacancy.
- B. If more than one vacancy occurs then the base number of candidates or base number of bands to be certified shall be increased by one for each additional vacancy in each case.

- C. All names on the reinstatement eligible list may be certified in addition to the promotional or general eligible list.
- D. A department may request that certifications to that department be restricted to candidates currently employed by that department.

SECTION 5. PROCEDURE WHEN ELIGIBLE LIST CONTAINS SIX OR LESS NAMES: When an eligible list, other than a reemployment eligible list, contains six or less names the Director shall certify the remaining name(s) to the appointing authority. If the latter does not wish to appoint the person(s) certified the Director may either schedule another examination or use an alternate eligible list. A person(s) whose name(s) appeared on the eligible list for the classification in which the vacancy exists shall be included in the certification, even though additional name(s) are certified from an alternate eligible list. In the case of a new examination, the current eligible list will be expired and the person(s) on that list will be notified of the new examination process.

SECTION 6. NOTIFICATION TO ELIGIBLES: The Director will notify applicants whose names have been certified regarding the person(s) in the departments to contact regarding pre-employment interviews.

SECTION 7. PROCEDURE WHEN NO ELIGIBLE LIST EXISTS: When no eligible list exists, a provisional appointment may be made in accordance with Rule XI Section 7.

SECTION 8. CERTIFICATION TO TEMPORARY AND EXTRA HELP POSITIONS:

- A. The Director may refer qualified persons from whatever sources are deemed appropriate.
- B. If the persons are referred and appointed from existing eligible lists to extra help entry or journey level positions, such extra help employees may be given a probationary appointment without further examination provided:
 - 1. The person is appointed to the same classification as originally certified for the extra help appointment,
 - 2. There has been no break in service of more than 30 days during the period of the extra help appointment, and
 - 3. The eligible list that the extra help employee was appointed from has since expired.

SECTION 9. CERTIFICATION OF EMPLOYEES HIRED UNDER FEDERAL OR OTHER SPECIAL PROGRAMS DESIGNED TO REDUCE UNEMPLOYMENT: Persons hired into Federal or special programs designed to reduce unemployment may be certified in addition to candidates on General Eligible lists for entry or journey level positions provided that the employee of the Federal or other program is on the eligible list for the classification.

Rule X

MEDICAL STANDARDS FOR EMPLOYMENT AND PHYSICAL EXAMINATIONS

SECTION 1. AUTHORITY: The Director shall prescribe medical standards for employment based on job requirements, and establish administrative procedures for conducting examinations, as are required to meet the provisions of this rule.

SECTION 2. SCHEDULING: Persons selected for County employment must successfully complete the prescribed medical examination prior to beginning work. Under special circumstances the Director may authorize that the examination be completed immediately upon reporting for work.

SECTION 3. SPECIAL EXAMINATIONS: If there are facts causing the appointing authority to believe that an employee over whom s/he has authority is physically or mentally incapable of properly performing his/her duties, s/he may, with the approval of the Director, order the employee to undergo an examination by a licensed California physician. The cost of such examination shall be borne by the County. The employee shall select the examining physicians from a list of three designated by the County. Where readily available, the County will furnish to the employee the education, certification, and specialty(s) of the designated physicians. The employee shall receive a copy of all documents provided to the physician as background. The appointing authority shall arrange for the time and place of examination. The employee shall sign all necessary authorizations and waivers permitting the physician to inform the appointing authority whether or not the employee is capable of properly performing the duties of the position. The employee shall receive a copy of the physician's report and findings.

SECTION 4. CORRECTION OF MEDICAL PROBLEMS: Medical problems which affect the ability to do the job and which can be corrected must be remedied within a reasonable period of time. Employees who fail to do so shall be dismissed or transferred in accordance with the provisions in Rules XI and XIII.

SECTION 5. NO DISCRIMINATION: The standards established pursuant to this rule shall not discriminate in any way against any disabled person solely because of such disability unless that disability prevents the person from adequately performing the essential duties of the position, with or without reasonable accommodation(s). A person shall be deemed disabled if they request reasonable accommodation and are determined by the County to qualify as disabled pursuant to the Americans with Disabilities Act and/or the California Employment and Housing Act.

Rule XI

APPOINTMENT, PROBATION, PROMOTION, DEMOTION AND TRANSFER

SECTION 1. GENERAL: Vacancies may be filled by permanent, probationary, provisional, or temporary appointments, as well as by transfer, promotion, or demotion.

SECTION 2. APPOINTMENT AND NOTIFICATION OF APPLICANTS: The appointing authority will interview all candidates certified to the requesting department before making an appointment. All candidates on an eligible list in the top seven (7) ranks or established bands are eligible for selection. After making the selection the appointing authority will notify all candidates interviewed of the results.

SECTION 3. PERMANENT APPOINTMENT: Employees who have successfully completed the probationary periods designated for their classifications shall be given permanent status. Former permanent employees appointed from a reemployment eligible list shall be given permanent appointment when reemployed.

SECTION 4. PROBATIONARY APPOINTMENT: All appointments to fill permanent vacancies shall be probationary appointments, except for demotions or transfers of permanent employees, or appointments from reemployment eligible lists unless otherwise provided in this rule.

Former probationary employees serving probation periods consisting of 2080 hours or less and whose names were placed on a reemployment eligible list before they achieved permanent status shall start a new probationary period when appointed from a reemployment eligible list.

Former probationary employees serving probation periods of more than 2080 hours and whose names were placed on a reemployment eligible list before they achieved permanent status shall resume their probationary period when appointed from a reemployment eligible list.

SECTION 5. PROBATIONARY PERIODS:

- A. The probationary period is the final phase of the examination process. It shall be used by the appointing authority for the effective adjustment of new employees through supervision, counseling, and evaluation, as well as for the elimination of any probationary employees who do not meet the required standards of work. The appointing authority may terminate a probationary employee at any time during the probationary period without the right of hearing by or appeal to the Commission except when an employee alleges, and substantiates in writing, discrimination based on one or more of the characteristics identified in Section II

of the San Mateo County Equal Employment Opportunity Policy as the reason for rejection. In case of rejection during probationary periods, employees shall be given written notice, with reasons therefore, at once. A copy of such notice will be sent to the Director at the same time. An appeal to the Commission based on the above-described allegation and written substantiation of discrimination must be received by mail, fax, email or hand delivery by the Director within 14 calendar days of the date on which the notice of rejection is mailed or hand delivered to the employee.

- B. Probationary full time employees shall undergo a probationary period of 1040 hours, unless a longer period, generally not to exceed 2080 hours, is prescribed by the Commission for their classifications. Probationary part time employees shall undergo a probationary period of 1040 hours, unless a longer period is prescribed by the Commission for their classifications. Management employees shall undergo a probationary period of 2080 hours. Notwithstanding the foregoing limitations, law enforcement and other classifications as deemed by the Commission may be required to undergo a probationary period of 3120 hours. Probationary periods of individuals may be extended with good cause upon request of the department head and concurrence of the Director. Probationary employees who transfer to another department in a position in the same classification may be required to start a new probationary period, as determined by the Director. Probation periods shall be automatically extended by any leave of absence by the length of such leave provided such leave exceeds 10 working days and provided such extension is in full pay period increments.
- C. Time worked by an employee in a temporary, extra help, or provisional status shall not count towards completion of the probationary period. The probationary period shall start from the date of probationary appointment. Probationary employees in permanent part time positions shall be credited with that proportion of full time employment that they work in a probationary status.
- D. An employee who is not rejected prior to the completion of the prescribed probationary period shall acquire permanent status automatically.
- E. An employee who is laid off and subsequently appointed as a result of certification from a general employment eligible list to a position in a different classification than that from which laid off shall undergo the probationary period prescribed for the classification to which appointed.

SECTION 6. TEMPORARY APPOINTMENT: With approval of the Director, a person may be appointed temporarily to fill a regularly established, permanent position during the temporary absence of the incumbent. If a person appointed is a permanent County employee he/she shall retain the right to return to his/her permanent position when the employee who has been temporarily absent returns. Probationary employees may not receive temporary appointments. Permanent County employees who accept a temporary appointment shall not suffer any loss of employee benefits. No person shall achieve permanent status as a result of certification or appointment to a temporary position.

SECTION 7. PROVISIONAL APPOINTMENTS: When no eligible list exists for a classification the Director may either certify from an alternate eligible list or authorize a department head to make a provisional appointment to fill a vacant permanent position. The person appointed must meet the minimum qualifications for the classification and be otherwise eligible. After an eligible list is established for that classification the Director will certify names to fill the position with a probationary employee. If the provisional employee does not receive a probationary appointment he/she must vacate the position within thirty days following certification. In no case may a provisional employee occupy a permanent position for more than six months.

SECTION 8. EXTRA HELP APPOINTMENT:

- A. Positions needed because of temporary requirements or other unusual work conditions may be filled by extra help appointments.
- B. Extra help employees have no tenure and may be terminated at any time without right of appeal or review by the Commission.
- C. Extra help employees are not entitled to employee benefits other than pay for time worked.
- D. No person shall achieve permanent status as a result of certification or appointment to an extra help position.

SECTION 9. EMERGENCY APPOINTMENT: In the event that a certification procedure prescribed in the Civil Service Commission Rules would, in an emergency situation, delay or impair efficiency of County government operations, or might cause stoppage of public business, or in order to meet any emergency, the appointing authority may make emergency appointments for the duration of the emergency and for a time thereafter sufficient to permit an orderly return to the normal conduct of public business. When such emergency appointments are made the appointing authority shall immediately notify the Director, naming the appointees, dates of appointment, classifications in which hired, duties of the positions to which appointed, and the nature of the emergency.

SECTION 10. PROMOTIONS:

- A. Except as provided in paragraph B of this section, permanent employees who are promoted to a higher classification shall undergo the probationary period prescribed for the higher classification, but if rejected during the probation period shall have the right to demote to their former classification in their former department if a vacancy in their former classification exists. If no vacancy exists, such employee shall be placed in the longest standing vacancy in their former classification, as determined by the requisition form date, County-wide, for which he or she meets the minimum qualifications. If no vacancy exists, such employee shall displace the least senior employee as determined by the seniority provisions of Rule XVI, Section 4.B. If no less senior position exists, then the employee

shall be removed from County service.

- B. Where flexible staffing exists in a general series of classifications, employees in lower level classifications may be promoted to the higher level classifications without examination or certification from an eligible list, provided that the department head furnishes detailed evidence of work performance to the Director, that the Director approves such action, and that the employee satisfies all other requirements of the position. Where flexible staffing exists between trainee and journey level classifications the employees shall not have the right to revert to their former trainee classifications if rejected during the probationary period.

Note: Employees represented by AFSCME and SEIU in flexibly staffed classifications shall not serve a second probationary period when promoted from the trainee to the journey level if they have completed the probationary period at the trainee level. If such employees promote from the trainee level to the journey level without having completed the probationary period for the trainee level, they shall serve the remainder of the probationary period after promotion to the journey level and shall not have the right to revert to their former trainee classification if rejected during the probationary period.

- C. This section does not apply in cases where there is limited flexible staffing as delineated in the County Salary Ordinance.

SECTION 11. DEMOTIONS:

- A. Demotions may be ordered as part of a reorganization or reduction in force, at the request of the employee, or for cause. Demotions other than for cause may be made only upon the recommendation of the department head and approval by the Director. The procedures for appeals and hearings are provided in Rule XIV.
- B. An employee may, with the approval of the Director and the department head, demote to a vacant position in another classification for which he/she possesses the skills and fitness. Employees who demote to a classification in another series may be required by the department head to start a new probationary period. If unsuccessful in the new probationary period the employee will be terminated from County service. If a new probationary period is a condition for demotion, the employee must sign a statement indicating an understanding of this fact prior to the effective date of the demotion. At the approval of the Director, a demoted employee may have his/her name placed on the reinstatement eligible list for the classification from which demoted.
- C. A permanent employee who is involuntarily demoted shall be given a permanent appointment in the lower classification.
- D. Employees in unclassified positions, who previously held positions in the classified service and who did not have a break in County service between the classified and unclassified appointments are also eligible for demotions.

- E. Court employees who were appointed to their positions in the Court as a result of a competitive examination process shall be eligible to demote consistent with paragraph B above. Eligibility under this section shall expire on November 9, 2002.

SECTION 12. TRANSFERS:

- A. An employee may, with the approval of the Director and the gaining department head, transfer to a vacant position: 1) in the same classification in the same department, or 2) in the same classification in a different department. Probationary and permanent employees who transfer to a classification in another series or in another department may be required by the department head to start a new probationary period. If unsuccessful in the new probationary period, the employee will revert to the prior classification as determined in Section 10. A., above. If a new probationary period is a condition for transfer, the employee must sign a statement indicating an understanding of this fact prior to the effective date of the transfer.
- B. The Director may approve without examination or certification involuntary interdepartmental or intra-departmental transfer of employees in the same classifications because of reorganizations or changes in workload. Employees affected shall be given reasonable written advance notice.
- C. Court employees who were appointed to their positions in the Court as a result of a competitive examination process shall be eligible to transfer consistent with paragraph A, above. Note: Eligibility under this section expired on November 9, 2002.

SECTION 13. APPOINTMENT TO POSITIONS IN AGENCIES TAKEN OVER BY THE COUNTY: The County may appoint, without examination, employees of an agency whose functions have been assumed by the County to classified positions in the County service under the following conditions:

- A. The Director has determined the proper classifications for the positions.
- B. Employees of the agency with more than six months service shall receive permanent appointments unless the Commission prescribes a longer probationary period for the classification.
- C. Employees of the agency for less than six months shall be given probationary appointments.
- D. No time served in the agency shall apply toward the computation of seniority for the purposes of layoff from the County service.

SECTION 14. APPOINTMENT TO THE CLASSIFIED SERVICE OF UNCLASSIFIED EMPLOYEES: The County may appoint, without examination, unclassified employees to classified positions in County service under the following conditions:

- A.
 - 1. The unclassified position had been grant funded and the County has elected to continue the program, and the employee has held the position for at least one year in a satisfactory capacity or
 - 2. The unclassified position had been established for a short-time project, the County has elected to continue the activity, and the employee has held the position for at least one year in a satisfactory capacity and was hired from an eligible list.
- B. The Director has determined the proper classifications for the positions.
- C. Time worked in the unclassified service under Charter Section 502.b.5 shall apply toward the computation of seniority for the purposes of layoff from the County service provided that:
 - 1. the maximum time that can be applied cannot exceed three years; and
 - 2. the employee was hired into the position from an eligible list for the position.

Employees hired into classified positions from the unclassified service prior to January 1, 1988, shall have all such service apply for seniority purposes without restriction.
- D. Employees in unclassified positions for less than one year must take competitive examinations to transition to the classified service and all appointments to the classified service shall be permanent.

Note: The Commission revised Rule XI, Section 5B, on April 3, 2003.

Rule XII

EMPLOYEE PERFORMANCE EVALUATION

SECTION 1. PROVISION OF JOB PERFORMANCE EVALUATION SYSTEM: The Director shall establish a system for measuring, reporting, and recording the job performance of County employees. The objectives of this system will include, but not be limited to, assisting supervisors and their employees in measuring progress towards goals, employee development, and recording for possible future use information needed for personnel decisions affecting employees who are evaluated. This system shall apply to all probationary and permanent employees, as well as other employees designated by the Director.

SECTION 2. UTILIZATION OF JOB PERFORMANCE EVALUATION: The Director shall determine the use and significance, if any, of job performance evaluations in determinations regarding examinations, salary increases or decreases, promotions, demotions, transfers, dismissals, suspensions, and order of layoffs.

SECTION 3. REVIEW OF EVALUATIONS WITH EMPLOYEES: Supervisors preparing job performance evaluations shall discuss with employees their evaluations. Employees shall have access to their evaluations on file in their departments and in the office of the Human Resources Department.

SECTION 4. APPEAL OF EVALUATION BY EMPLOYEE: Permanent employees may appeal to the Commission for a review of performance evaluations that are below a standard score or rating set by the Director.

Upon receipt of the request for review, the Commission shall review the facts and order to be taken such action as it deems appropriate.

The review may be accomplished by a fact-finding committee of two or three commissioners appointed by the Chairperson of the Commission, or by the Commission as a whole. If the Commission elects to review the evaluation by use of a fact-finding committee, said committee shall report its findings in writing to the Commission for adoption by the Commission as a whole.

Review, as used in this section, is defined as a fact-finding examination for the purpose of detecting and correcting any abuse of discretion.

Any appeal for review under this section must be received by mail, fax, email or hand delivery by the Director within 14 calendar days of receipt of the below standard evaluation.

Nothing in this section shall be construed as entitling the employee requesting a review of an evaluation to a hearing as provided in Rule XIV.

Rule XIII

DISCIPLINARY ACTION

SECTION 1. AUTHORITY TO DISMISS, SUSPEND, REDUCE IN STEP OR DEMOTE: The appointing authority may dismiss, suspend, reduce in step or demote any employee in the classified service provided the rules and regulations of the Commission are followed, and provided further that any permanent classified employee shall have the right to appeal such an action to the Commission in accordance with the provisions of Rule XIV.

All employees, except those represented by the California Nurses Association, are covered by the Non-Punitive Discipline Program. For covered employees, a disciplinary letter, which equates to a suspension of a specified length (e.g.; one day, three days, etc), may be issued in lieu of a suspension. For the purpose of establishing progressive discipline, the disciplinary letter carries the same weight as a suspension. The disciplinary letter is subject to the same appeal rights under Rule XIV as other disciplinary actions.

SECTION 2. NOTICE: The appointing authority or designee shall give not less than five working days notice of intent to take any action as described in Section 1 against a permanent employee. The notice of intent shall be in writing and shall set forth the grounds for the disciplinary action in sufficient detail to permit the employee to understand them and to respond to them. If, after providing the opportunity to respond, the appointing authority or designee determines that action is warranted, he/she will provide a written notice of the decision to take the specified action. The notice will be delivered to the employee either by personal delivery or by certified return receipt mail to the mailing address of the employee last known to the appointing authority. Notice by mail shall be deemed given as of the time it is deposited with the United States postal service.

SECTION 3. COMMISSION/EMPLOYEE NOTIFICATION: Immediately after giving notice of decision to take disciplinary action on a permanent classified employee the appointing authority shall send a copy of the notice of decision of the action to the Director. The Director shall thereupon inform the employee, either in person or by mail, that the disciplinary action has been taken and shall give or send to the employee a copy of the Commission Rule concerning hearings. The Director shall record the action on the agenda for the next regular meeting of the Commission.

SECTION 4. CAUSES FOR DISMISSAL, SUSPENSION, REDUCTION IN STEP OR DEMOTION: A permanent classified employee may be dismissed, suspended, reduced in step or demoted for cause only. The following, among others, are causes which, if shown to the satisfaction of the Commission to be related to work performance, are sufficient for such action:

- A. Absence Without Leave. Absence without leave shall mean any time an employee is absent from the workplace without authorization or without an explanation satisfactory to the

- appointing authority. This includes an employee's failure to report to work after a leave of absence has expired or after such leave of absence has been disapproved or revoked.
- B. Conviction of a criminal offense that is substantially related to the qualifications, functions or duties of the employee's position. Conviction shall mean a termination of criminal proceedings adverse to the employee upon a verdict, by plea of guilty, upon a judgment against the employee, or upon a plea of *nolo contendere*, without regard to subsequent disposition of the case by suspension of sentence, probation, or otherwise.
 - C. Dishonesty or any act contrary to commonly accepted standards of justice.
 - D. Permanent or chronic physical or mental disability that incapacitates the employee from properly performing assigned duties. Determination of what constitutes permanent or chronic disability for purposes of this subsection shall be made by the Director in his/her sole discretion in accordance to applicable laws.
 - E. Abuse of sick leave.
 - F. Unacceptable Performance. Unacceptable performance shall mean want of ability suitable to the work, either as regards natural qualities or experience or deficiency of disposition to use one's ability and experience properly, or failure to continue to perform at an acceptable level.
 - G. Through willful misconduct, causing damage to public property or waste of public supplies, or waste of public time.
 - H. Being, or having been at the time of employment, unqualified as an applicant for employment and having willfully concealed or misrepresented facts relating to qualifications in an application for employment.
 - I. Insubordination. Insubordination shall mean that the employee, having then the ability to do a reasonable act that he/she is directed to do by an officer or employee of the County with authority to direct his/her activities on the job, willfully fails or neglects to perform the directed act.
 - J. Disrespectful or discourteous conduct toward a County officer or official, another employee, or a member of the public.
 - K. Willful violation of any of the provisions of the County Charter, the County Ordinance Code, or of the Civil Service Commission Rules, relating to the conduct of County officers and employees.
 - L. Failure to submit to a special examination in accordance with Rule X of the Civil Service Commission or failure to appear at the designated time and place for such examination, or failure to sign authorizations and/or waivers as required by Rule X of the Civil Service Commission.

- M. Excessive absenteeism and/or tardiness.
- N. Impairment of an employee's ability to perform his/her duties at a satisfactory level due to being under the influence of alcohol or drugs while at work or the use of alcohol or drugs during working hours, except where such drugs have been prescribed and are being used in accordance with specific instructions from a licensed physician. For employees covered by the Department of Transportation Alcohol and Drug Testing Program, refusal to submit to an alcohol or drug test which is ordered in accordance with the County's Policy and Procedures or a positive alcohol or drug test shall also constitute cause for disciplinary action.
- O. Sexual Harassment and/or discrimination toward a County officer or official, another employee, or a member of the public.
- P. Misuse of Position. Misuse of position shall mean knowingly using one's position or one's status as a County employee for personal gain or for the gain of another; or knowingly using one's position or one's status as a County employee to obtain or provide information or services in a manner other than that available to the general public. Acceptance of discounts normally available to all County employees shall not be considered misuse.
- Q. Failure to follow policy(ies), procedure(s) or work rule(s), or negligence in the performance of one's duties.

Rule XIV

APPEALS

SECTION 1. WHO MAY PETITION FOR AN APPEAL: Unless otherwise proscribed, a person may petition requesting an appeal before the Commission if:

- A. He/she is entitled to an appeal under the provisions of the Charter or these rules; and
- B. He/she is adversely affected by any action or decision of the Director taken under authority of these rules.

SECTION 2. THE PETITION FOR AN APPEAL:

A. Content

- 1. A petition for appeal shall be in writing, signed by the petitioner, and shall state the petitioner's mailing address, the ruling or action being appealed from, and the facts or reasons in detail upon which the petitioner is basing the appeal. A petition for appeal may be rejected if the petition fails to state specific facts or reasons in detail upon which the petitioner is basing the case. If rejected, the Commission may, in its sole discretion, grant an appellant leave to, within a time period prescribed by the Commission, submit an amended appeal. A hearing on the merits of an appeal may be denied if the petition fails to state specific facts or reasons which, if true, would entitle the petitioner to any relief.
- 2. In cases of dismissal, demotion, reduction in step or suspension, a general denial of the allegations made by the appointing authority in the notice of such dismissal, demotion, suspension shall constitute an adequate statement by the petitioner of the required facts and reasons.

B. Time Within Which Petition for Appeal Must Be Filed

- 1. Unless otherwise provided in these rules, a petition must be received by mail, fax or hand delivery to the director within the following time limits:
 - a. Appeals of a dismissal, demotion, reduction in step, non-punitive disciplinary letter or unpaid disciplinary suspension must be received by the Director within 14 calendar days after notice of such action or ruling is mailed or hand delivered to the employee.

Appeals of any other ruling must be received by the Director within 14 calendar days after notice of such action is mailed or hand delivered to the employee.

Appeals of rejection during probationary period may only be filed under the conditions described in Section 5.A of Civil Service Rule XI.

Appeals by disqualified job applicants may only be filed under the conditions described in Section 6 of Civil Service Rule VI

Appeals of Examinations may only be filed under the conditions described in Section 8 of Civil Service Rule VII.

- b. If no such notice was given to the employee, within thirty (30) days after the date the employee learns of the ruling or should have learned of the ruling upon the exercise of due diligence.

SECTION 3. JURISDICTION, METHOD OF HEARING AND STANDARD OF PROOF: At its first regular meeting after receiving a petition which complies with the foregoing requirements, and provided that at least three (3) working days shall have elapsed, the Commission shall determine whether the Commission has jurisdiction over the appeal, the method of appeal and may determine the merits of the appeal.

- A. If the petition for an appeal meets the applicable requirements of Sections 1 and 2 above, the Commission has jurisdiction over the appeal.
- B. If the Commission determines that the petition for an appeal is within its jurisdiction, the Commission shall determine the method by which merits of the appeal will be determined.
 - 1. In cases involving dismissal, demotion, reduction in step or suspension, an appeal hearing by the Commission is mandatory, if requested. The Commission shall determine whether the matter will be heard at a meeting of the Commission called for that purpose, or whether it will be heard by a hearing board composed of one or more members of the Commission, or by a hearing officer appointed for that purpose, and shall set the matter for hearing. In the event a hearing officer is designated for the purpose of the appeal, the Commission may order the costs of such officer be borne equally by the County and appellant.
 - 2. In cases other than dismissal, demotion, reduction in step, or suspension, a hearing is discretionary with the Commission. When discretionary, the merits of the appeal may be granted or denied after a review of written materials submitted to the Commission by all of the parties concerned or, in the alternative, after a brief oral summary of the merits of an appeal by the petitioner made at the time when the petition requesting a hearing comes before the Commission.
- C. The standard of proof by the Commission shall be “preponderance of the evidence.”

SECTION 4. CONTINUANCE PENDING TERMINATION OF CRIMINAL PROCEEDINGS: Where the employee is appealing from a ruling or order which resulted from alleged criminal activities of the employee, and criminal charges are pending against the employee in a court of competent jurisdiction because of such activities, the Commission may suspend all proceedings on the appeal until the termination of such criminal proceedings in the trial court. In the event of such suspension of proceedings, the Commission, at its first regular meeting after the termination of such criminal proceedings in the trial court, shall determine whether the matter will be heard at a meeting of the Commission called for that purpose, or whether it will be heard by a hearing board composed of one or more members of the Commission, and shall set the matter for hearing.

SECTION 5. NOTICE OF HEARING: The petitioner shall be given not less than five days notice in writing of the date and place of such hearing. In hearings in which an action of a department head is at issue, the department head shall be given not less than five days notice in writing of the date and place of such hearing.

SECTION 6. PARTIES TO BE READY: On the date set for the hearing, the parties involved will be expected to be ready to proceed at the hour set, and any failure to be prepared to proceed at that time may be deemed by the Commission to be an admission by the unprepared party that the party's case is not meritorious, and that a decision should be rendered against that party. If the party against whom the decision was rendered, offers, within 30 days of the decision, an explanation satisfactory to the Commission, the Commission may set aside its decision and reschedule the hearing.

SECTION 7. RIGHTS OF PETITIONER: When a hearing is granted, the petitioner shall be entitled to:

- A. Be represented by counsel or by a representative of his/her choice.
- B. Testify under oath or affirmation.
- C. Subpoena witnesses in his/her behalf.
- D. Cross examine all witnesses appearing against him/her.
- E. Cross examine any County employee whose actions are in question or who has investigated any of the matters involved in the case and whose reports are offered in evidence before the Commission, hearing board, or hearing officer.
- F. Impeach any witness before the Commission, hearing board or hearing officer.
- G. Present such affidavits, exhibits, and other evidence as the Commission, hearing board, or hearing officer deems pertinent to the matter then before it, subject to the authority of the Commission, hearing board, or hearing officer to exclude irrelevant or repetitious evidence.

SECTION 8. RIGHTS OF THE APPOINTING POWER AND OTHERS: The appointing authority, the Director or other members of his/her staff, and any other person whom the Commission, hearing board, or hearing officer finds to be interested in the matter shall be entitled to the same rights, and be subject to the same limitations, applicable to the petitioner.

SECTION 9. APPEARANCE OF PETITIONER: The appearance of the petitioner shall be required at all hearings except as provided herein.

- A. The appearance of the petitioner shall not be required where the Commission has determined, pursuant to Section 1, that a decision on the matter raised by the petitioner shall be made after a review of written materials submitted by all parties concerned, or where these rules provide that the Commission shall make a decision in such a manner.
- B. The Commission, hearing board, or hearing officer shall have discretion to consent to the absence of the petitioner upon a showing of good cause.

SECTION 10. UNEXCUSED ABSENCE OF PETITIONER: Unexcused absence of the petitioner whose presence is required at a hearing may be deemed by the Commission, the hearing board, or hearing officer to be a withdrawal of the petition and consent to the action or ruling from which the appeal was taken.

SECTION 11. ASSISTANCE OF COUNSEL: The Commission, hearing board, or hearing officer, may have the legal advice and assistance of County Counsel or his/her representative, or, with the consent of County Counsel, the Commission or the hearing board may retain other counsel to advise and assist during the hearing. Any attorney advising and assisting the Commission, hearing board, or hearing officer, as provided herein shall, if requested to do so by the Commission, hearing board, or hearing officer, be present during the deliberations of the Commission, hearing board, or hearing officer following the presentation of all evidence.

SECTION 12. EVIDENCE: Hearings shall be informal, and need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that might make improper the admission of such evidence over objection in civil actions. Hearsay evidence may be admitted for any purpose, but shall not be sufficient, in itself, to support a finding unless it would be admissible over objection in civil actions. The rules of privilege and of official or judicial notice shall be effective to the same extent as in civil actions. Irrelevant or repetitious evidence shall be excluded. Oral evidence shall be taken only under oath or affirmation.

SECTION 13. SUBPOENAS: The Director or the Chairperson of the Commission shall sign subpoenas and subpoenas duces tecum for the appointing authority upon request of that authority.

The Director or the Chairperson of the Commission shall also sign such subpoenas for the petitioner, upon request of the petitioner or his/her attorney.

SECTION 14. EXCLUSION OF WITNESSES: The Commission, the hearing board, or the hearing officer may exclude witnesses not under examinations, except the Director, the legal adviser to the Commission, hearing board or hearing officer, the petitioner, the petitioner's attorney, the appointing authority, and counsel for the appointing authority.

SECTION 15. TESTIMONY OF PETITIONER: At hearings on dismissal, demotion, or suspension in excess of five days, the petitioner shall not be required to testify, but may be cross examined as to any matter relevant to the hearing if he/she takes the stand voluntarily. In any other type of hearing the petitioner, if he/she does not testify in his/her own behalf, may be called by the appointing authority, Commission or hearing board and examined as if under cross examination.

SECTION 16. BURDEN OF PROOF: In any hearing on an appeal from a dismissal, demotion, or suspension the burden of proof shall be on the appointing authority. In all other types of hearings, the burden of proof shall be on the petitioner.

SECTION 17. FINDINGS AND DECISION:

- A. In a hearing before a hearing board or hearing officer, the hearing board or hearing officer shall submit a written report to the Commission which shall include findings of fact and a proposed decision. The Commission may adopt the hearing board's or hearing officer's finding, or it may make findings of its own. After reviewing the report of the hearing board or hearing officer and making a determination of findings, the Commission shall render a decision.
- B. In a hearing before the Commission, the parties are encouraged to submit a proposed "Findings of Fact and Decision" prior to the hearing.¹ In a hearing before the Commission, after all evidence has been presented and arguments concluded the Commission will adjourn its meeting to a stated time for the purpose of considering the matter and will, when its deliberations are concluded, make written findings of fact and render a decision. This decision shall uphold, modify, or set aside the action taken and appealed from. If the action taken is upheld, it shall be final as of the date it was taken. If the action is set aside the employee will be entitled to have restored any rights or benefits or salary, in whole or in part, which have been denied as a result of the action appealed from. If the action taken is modified the Commission shall issue such orders as are necessary to carry out the decision of the Commission.
- C. Within five days after the Commission has rendered its decision, the Director shall mail a copy of the findings and decision to the petitioner and the appointing authority. If either the

¹ Civil Service Commission updated Civil Service Rule XIV, Section 17 B – February 4, 2010

petitioner or the appointing authority was represented by counsel, mailing a copy of the findings and decision to that counsel will constitute compliance with this provision.

D. The Commission's decision shall be final when rendered and shall be binding upon the Board of Supervisors, elective officials, boards and commissions, and all employees in the service of the County.

E. Except upon petitioner's request to the Commission, hearing board or hearing officer for an open hearing, appeal hearings shall be conducted in closed session, and not open to the public. For any hearings conducted in closed session, the action taken or adopted by the Commission shall be reported out in open session, but the written decision and findings of fact shall not be made public by the Commission. (

SECTION 18. REPORT OF HEARINGS: Hearings on dismissals, demotions, or suspensions in excess of five days, shall be conducted with a stenographic reporter. The Commission, hearing board, or hearing officer may order that other hearings be reported by a stenographic reporter, or recorded by electronic means, if it deems such reporting or recording advisable or necessary.

SECTION 19. TRANSCRIPTS OF HEARINGS: Any legally interested person may obtain a transcript or recording of any hearing that has been reported or recorded by making independent arrangements with the reporter or recorder for the preparation thereof and assuming the cost of such preparation.

SECTION 20. CONTINUANCES: The Commission, hearing board, or hearing officer may grant a continuance of any hearing upon such terms and conditions as it deems proper. Any request for a continuance made less than forty-eight hours prior to the time set for the hearing shall be denied unless good cause is shown for the continuance.

SECTION 21. AMENDMENT OF CHARGES: At any time, but not less than ten days before the hearing, the appointing authority may serve on the employee and file with the Commission an amended or supplemental statement of charges. If the amended or supplemental charges present new causes for disciplinary action the employee shall be afforded a reasonable time in which to prepare a defense and to submit a further response to address the new causes.

Rule XV

RESIGNATION

SECTION 1. RESIGNATION IN GOOD STANDING:

- A. In order to resign in good standing a permanent or probationary employee shall submit a written notice to the appointing authority at least fourteen days in advance, unless the latter agrees to shorter notice. The appointing authority shall forward this notice to the Director for inclusion in the employee's personnel file. Failure by the employee to give this notice may result in forfeiture of future employment rights, as well as the right to have his/her name replaced on the reinstatement eligible list.

- B. Resignation severs all seniority and employment rights, except that of requesting replacement of the former employee's name on an appropriate eligible list, as provided in Rule VIII.

SECTION 2. RESIGNATION NOT IN GOOD STANDING: The Director may refuse to place the name of a former permanent or probationary employee upon an eligible list or may exclude him/her from examinations if such employee has resigned while charges are pending against him/her, or while under suspension, or has, without the department head's approval, given less than fourteen days notice in advance of resignation.

Rule XVI

REDUCTION IN FORCE, LAY OFF, AND REEMPLOYMENT

The following rule is in effect for all classified positions in the County unless there are terms otherwise agreed to in specific Memoranda of Understanding or Resolutions:

SECTION 1. WHEN LAY OFFS MAY BE MADE: Any department head may, with the Board of Supervisors approval, lay off employees because of lack of work, lack of funds, reorganization, or otherwise when in the best interests of the County. The procedures and order of lay offs shall be in accordance with rules of the Commission.

SECTION 2. REPORTS AND NOTICES OF LAY OFF:

- A. After the above described decision is made to order a lay off the department head will report promptly to the Director the number of employees in each classification to be laid off, and the effective dates.
- B. The department head will give at least fourteen days advance written notice to employees to be laid off, unless a shorter period of time is authorized by the Director.

SECTION 3. PRECEDENCE BY EMPLOYMENT STATUS: No permanent employee shall be laid off while employees working in an extra help, temporary, provisional, or probationary status are retained in the same classification unless that employee has been offered the extra help, temporary or provisional appointment. The order of lay off among employees not having permanent status shall be according to the following categories:

- A. Extra Help
- B. Temporary
- C. Provisional
- D. Probationary

SECTION 4. COMPUTATION OF SENIORITY/PREPARATION OF LAY OFF LIST:

- A. Upon receipt of a notice of intended lay off from a department head the Director will prepare a lay off list, which shall govern the order of lay offs.
- B. Lay offs shall be by job classification according to reverse order of seniority as determined by total continuous County Civil Service, except as specified in Section 3. In event that two or more employees have the same seniority, the examination score for their present classifications shall determine seniority. The following provisions shall apply in computing total continual service:

1. Time spent on military leave, leave to accept temporary employment outside the County government, and leave to accept a position in the unclassified service shall count as County service.
2. Time worked in an extra help status shall not count as County service.
3. Time worked in a permanent, probationary, provisional, or temporary status shall count as County service. Part time status shall count at the rate of one (1) year of continuous employment for each 2080 straight time hours worked.

SECTION 5. EMPLOYEE OPTIONS:

- A. Employees who are laid off shall have the choice to:
 1. Take a voluntary demotion within the same department to a classification in which the employee had prior probationary or permanent status provided such a position is held by an employee with less seniority.
 2. On a departmental basis, displace the employee in the same classification having the least seniority in County service.
- B. Part time employees shall not displace full time employees, unless the part time employee has held full time status in the classification.

SECTION 6. NAMES OF EMPLOYEES LAID OFF TO BE PLACED ON REEMPLOYMENT ELIGIBLE LISTS: The names of employees laid off shall be placed on reemployment eligible lists as specified in Rule VIII, Section 5. Former employees appointed from a reemployment eligible list shall be restored all rights accrued prior to being laid off, such as sick leave, vacation credits, and credit for years of service. However, such reemployed employees shall not be eligible for benefits for which they received compensation at the time of or subsequent to the date they were laid off. The provisions of this section shall not apply to employees who have accepted severance pay upon termination of employment.

Note: The Commission amended Rule XVI on December 4, 2014.

Rule XVII

STATUS OF EMPLOYEES OF THE SUPERIOR COURT

Section 1. The employees of the Superior Court shall be covered by the provisions of these Rules of the Civil Service Commission of San Mateo County as if they were employees of the classified County service unless otherwise specified below, and the Civil Service Commission agrees to act for the employees of the Superior Court.

A. Rule XI - Appointment, Probation, Promotion, Demotion and Transfer. Employees of the Court are covered by this rule except for establishing and extending probation periods and appeals both of which are covered by the Rules of the Court.

B. Rule XII - Employee Performance Evaluation. Employees of the Court are covered by this rule except for Section 4 - Appeals of Evaluation by Employee, which is covered by the Rules of the Court.

C. Rule XIII - Disciplinary Action. Employees of the Court are covered by this rule except for additional causes of disciplinary action and appeals both of which are covered by the Rules of the Court.

D. Rule XIV - Appeals. Employees of the Court are covered by this rule except for appeal processes identified in the three sections above. These appeals processes are covered by the Rules of the Court.

E. Rule XVI - Reduction in Force, Lay Off and Reemployment. Employees of the Court are covered by this rule except for Section 4B - Computation of Seniority which is covered by the Rules of the Court.

Section 2. The above referenced sections of the Court Rules were adopted by the Court on February 10, 2003. In the event that the Court modifies, changes, amends, eliminates or otherwise changes these specific rule sections, the Commission reserves the right to review the changes and reserves the right to accept, accept in part or reject any such changes. If the Commission determines that the changes are inconsistent with these Rules of the Commission, this Rule XVII shall be modified or eliminated as deemed appropriate by the Commission.

Note: The Commission adopted Rule XVII on April 3, 2003.

DEFINITIONS

These definitions apply throughout these rules unless otherwise specified.

1. **APPOINTING AUTHORITY OR POWER:** A person having the lawful power to make appointments or to remove persons from positions in the County service.
2. **APPOINTMENT:** The designation of a person by an appointing authority to fill a vacant position, and the acceptance by such person of the position.
3. **BAND:** A scoring method used to group test scores into a specific range. Candidates whose scores fall within the same range are then grouped together and are considered to have the same score.
4. **CONTINUOUS SERVICE:** Uninterrupted employment in the County service, except by authorized absence.
5. **DAY, WEEK, MONTH, YEAR:** Calendar day, week, month, or year.
6. **DEMOTION:** A change in classification of an employee from a position in one classification to a position in another classification which has a lower salary or salary range, either on a voluntary or involuntary basis.
7. **DIRECTOR:** The Director of Human Resources or his/her designee.
8. **ELIGIBLE LIST:** An official list of names of candidates who have successfully passed an examination for a classification, or who have been laid off, and whose names are arranged in order of rank for certification to positions in a specific classification.
9. **FLEXIBLE STAFFING:** A series of two or more related classifications created in the salary ordinance as a single classification, with the appointing authority allowed a choice from any of the listed alternatives in filling a vacancy. In those flexible staffing series where the entry level is a training level, employees hired at that entry level are not expected to remain trainees on a permanent basis.
10. **LIMITED FLEXIBLE STAFFING:** A series of two or more related classifications treated as a single classification in the salary ordinance, but with a limit to the number of positions at any one level. Where this exists the classification that is limited can only be filled through competitive examination.
11. **PROMOTION:** Changing an employee from one classification to another classification having a higher range of compensation.
12. **REDUCTION IN STEP:** A reduction in step is movement to the next lower salary step in the range for a classification for a period not to exceed six months.
13. **SUSPENSION:** An involuntary absence of an employee from his position for a specified

period of time without pay imposed by an appointing authority for disciplinary reasons or pending the investigation of charges made against an employee.

14. **TRAINEE CLASSIFICATION:** A classification in which positions are filled as a result of examination, but for which the minimum qualifications require no specific prior experience and in which an employee is being trained or gaining experience to perform at the experienced level in that series of classifications. Employees shall not have the right to revert to their former trainee classifications if they exhibit unsatisfactory performance at the journey level.

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