PERSONNEL RULES

COUNTY OF SAN BERNARDINO

HUMAN RESOURCES DEPARTMENT

EMPLOYEE RELATIONS DIVISION

BOARD OF SUPERVISORS

Bill Postmus	First District
Paul Biane	Second District
Dennis Hansberger	Third District
Gary Ovitt	Fourth District
Josie Gonzales	Fifth District

Mark H. Uffer

County Administrative Officer

Revised August 22, 2006

TABLE OF CONTENTS

Rule #	Title	Page
I	CODE OF ETHICS AND COMMITMENT TO COUNTY PUBLIC SERVICE	
	Section 1 – Purpose	1
	Section 2 – Responsibilities of Public Office	1
	Section 3 – Dedicated Service	1
	Section 4 – Nondiscrimination	1
	Section 5 – Oath of Allegiance	1
	Section 6 – Confidential Information	1
	Section 7 – Use of Public Property	1
	Section 8 – Conflict of Interest	2
	Section 9 – Political Activity	2
	Section 10 – County/Employee Responsibility	2
	Section 11 – Delegation of Approval	2
II	ORGANIZATION AND ADMINISTRATION OF THE CIVIL SERVICE COMMISSION	
	Section 1 – Members and Officers	3
	Section 2 – Qualifications for Membership	3
	Section 3 – Appointments	3
	Section 4 – Term of Office	3
	Section 5 – Civil Service Commission/Support Staff	3
	Section 6 – Legal Counsel	3
	Section 7 – Reimbursement	3
	Section 8 – Regular Meetings	4
	Section 9 – Special Meetings	4
	Section 10 – Public Meetings	4
	Section 11 – Rules of Order and Procedures	4
	Section 12 – Quorum	4
	Section 13 – Communication	4
	Section 14 – Minutes	4
	Section 15 – Commission Responsibilities	5
	Section 16 – Jurisdiction	5
	Section 17 – Power of Subpoena	5
	Section 18 – Confidential Records	5
	Section 19 – Personnel Rules	5
	Section 20 – Adoption and Amendment of Personnel Rules	6
	Section 21 – Procedure	6
	Section 22 – Assignment of Responsibilities	6
	Section 23 – Time Limits	7
	Section 24 – Tie Vote	7
	Section 25 – Mandatory Prehearings	7
	Section 26 – Evidence	8
	Section 27 – Mailing Address	8
III	CLASSIFICATION OF POSITIONS	
	Section 1 – Classification Plan	9
	Section 2 – Classified and Unclassified Service	9
	Section 3 – Maintenance of the Classification Plan	10
	Section 4 – Classification Review Procedures	10
	Section 5 – Classification Appeal Procedures	11
	Section 6 – Results of Classification Studies	12
	Section 7 – Technical Title Change	12

IV EXAMINATIONS

Section 1 – Purpose 13
Section 2 – Need 13
Section 3 – Definition 13
Section 4 – Contents 13
Section 5 – Type 14
Section 6 – Notice of Examinations 15
Section 7 – Publicity and Recruitment 15
Section 8 – Requirements 15
Section 9 – Citizenship 15
Section 10 – Residence 15
Section 11 – Filing of Application 16
Section 12 – Application Review 16
Section 13 – Modification or Suspension of Examination 16
Section 14 – Admission 16
Section 15 – Examination Grades 17
Section 16 – Retesting 17
Section 17 – Correction of Examinations 17
Section 18 – Veterans' Preference 17
Section 19 – Completion 18
Section 20 – Appeals 18
Section 21 – Waiver of Examination 18

V ELIGIBLE LISTS

Section 1 – Definition 19
Section 2 – Subdivision of Lists 19
Section 3 – Placement of Names 20
Section 4 – Removal of Names 20
Section 5 – Restoration to Eligible Lists 21
Section 6 – Extension of Eligibility 21
Section 7 – Inactive Status 21

VI CERTIFICATION

Section 1 – Definition 22
Section 2 – Certification 22
Section 3 – Appropriate Eligible List 22
Section 4 – Order of Preference for a List Certification 22
Section 5 – Selective Certification 23
Section 6 – Insufficient Names on a Certification List 23
Section 7 – Acceptance of Certification in Lower Classification 23
Section 8 – Department Objection to a Name on List Certification 23
Section 9 – Selective Eligibility 23
Section 10 – Emergency Certification 23

VII APPOINTMENTS

Section 1 – Definition 24
Section 2 – Types of Appointments 24
Section 3 – Change of Appointment 25
Section 4 – Oath of Allegiance 25
Section 5 – Medical Standards 25
Section 6 – Medical Examination 25
Section 7 – Legal Requirements 25
Section 8 – Probationary Period 26
Section 9 – Waiver of Probationary Period 26
Section 10 – Requalification to Eligible List 27
Section 11 – Definition of Direct Hire 27

VIII WORK PERFORMANCE

Section 1 – Purpose 28
Section 2 – Standards 28
Section 3 – Duty of Departments 28
Section 4 – Employee's Responsibility 28
Section 5 – Evaluations 28
Section 6 – Employees on Extended Paid Leave 28
Section 7 – Use 29
Section 8 – Appeals 29
Section 9 – Records 30

IX ASSIGNMENTS AND SEPARATIONS

Section 1 – Policy 31
Section 2 – Definition of Voluntary Demotion 31
Section 3 – Definition of Transfer 31
Section 4 – Definition of a Reassignment 31
Section 5 – Transfer/Voluntary Demotion Procedure 31
Section 6 – Job Changes 32
Section 7 – Automatic Resignation 32
Section 8 – Resignation 32
Section 9 – Retirement 33

X DISCIPLINARY ACTIONS

Section 1 – Suspension, Demotion, Reduction in Salary Step and Dismissal 34
Section 2 – Cause for Suspension, Demotion, Reduction in Salary Step and Dismissal 34
Section 3 – Causes for Demotion or Dismissal Due to Physical or Mental Incapacity 35
Section 4 – General 35
Section 5 – Notice of Proposed Action 36
Section 6 – Limitations and Exceptions 36
Section 7 – Order of Disciplinary Action for Other Than Short-Term Suspensions Under Section 5(c) 37
Section 8 – Amendment or Withdrawal of Order 37
Section 9 – Appeal and Request for Hearing 37
Section 10 – Answer 37
Section 11 – Selection of Hearing Officer and Time for Hearing 38
Section 12 – Parties 38
Section 13 – Rights of Parties 38
Section 14 – Appellate Review 39
Section 15 – Purpose of Appellate Review 40
Section 16 – Modification 40
Section 17 – Notice 40
Section 18 – County Counsel 40
Section 19 – Adjournment 40
Section 20 – Order of Proceedings 40
Section 21 – Report of Hearings 40
Section 22 – Exhibits and Witnesses 41
Section 23 – Confidentiality 41
Section 24 – Inspection of Sites 41
Section 25 – Closing of Hearing 41
Section 26 – Decisions and Reopening of Hearing 41
Section 27 – Waiver of Rights 41
Section 28 – Waiver of Oral Testimony 41
Section 29 – Expenses 41

RULE I
CODE OF ETHICS AND COMMITMENT TO COUNTY PUBLIC SERVICE

Section 1 – Purpose

This code establishes the standards of conduct required of all public officials and employees for the proper operation of County government and has the force of law. These standards are intended to strengthen public service and to maintain and promote faith and confidence of the people in their government.

Section 2 – Responsibilities of Public Office

Public officials and employees are agents of the public purpose and serve for the benefit of the public. They shall uphold and adhere to the Constitution of the United States, the Constitution of the State of California, and the Charter of the County of San Bernardino, rules, regulations and policies of the County, and shall carry out impartially the laws of the Nation, State, and County. In their official acts, they shall discharge faithfully their duties, recognizing that the public interest is paramount. All public officials and employees must demonstrate the highest standards of morality and ethics consistent with the requirements of their position and consistent with the law.

Section 3 – Dedicated Service

In the performance of their duties, all officials and employees shall support governmental objectives expressed by the electorate and interpreted by the Board of Supervisors and the County programs developed to attain these objectives. Officials and employees shall adhere to work rules and performance standards established for their positions by the appointing authority. The County requires all officials and employees to use good manners, to be considerate, to be accurate and truthful in statement and to exercise sound judgment in the performance of their work. During the hours covered by active County employment, no official or employee shall work for any other employer or agency and neither conduct nor pursue any unauthorized activity for remuneration. Officials and employees shall neither exceed their authority nor breach the law nor ask others to do so. They shall work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of the work.

Section 4 – Nondiscrimination

No official or employee shall grant any special consideration, treatment, or advantage to any person beyond that which is available to every other person in similar circumstance. No person shall be favored or discriminated against with respect to any appointment in the County service because of family or social relationships, sex, race, religion, national origin, marital status, age, physical handicap, political opinion or political affiliation**.**

Section 5 – Oath of Allegiance

Pursuant to State law, all officials and employees must execute an Oath of Allegiance as follows:

> "I ....., do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and the Constitution of the State of California against all enemies, foreign and domestic; that I will bear true faith and allegiance to the Constitution of the United States and the Constitution of the State of California; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties upon which I am about to enter."

Section 6 – Confidential Information

As appropriate, every appointing authority shall make known to subordinates which information is regarded as confidential. No official or employee shall neither disclose such confidential information except as authorized or required by law or office nor otherwise use such information for personal gain or benefit. All personnel records shall be confidential except when disclosure is required by law.

Section 7 – Use of Public Property

Officials and employees are prohibited from using County-owned equipment, materials, or property for personal benefit or profit unless specifically authorized by the Board of Supervisors as an element of compensation.

Section 8 – Conflict of Interest

No official or employee shall engage in any business or transaction or shall have a financial or other personal interest or association which is in conflict with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties. Personal as distinguished from financial interest includes an interest arising from blood or marriage relationships or close business, personal, or political association. This section shall not serve to prohibit independent acts or other forms of enterprise during those hours not covered by active County employment providing such acts do not constitute a conflict of interest as defined herein. An employee is also subject to applicable provisions of the California Government Code, including but not limited to Sections 1090, 1126, 87100, and/or any other conflict of interest Code, policy or rule applicable to County employment.

Section 9 – Political Activity

It is the intent of the Board of Supervisors that every County employee participates in the political process to the extent that such participation does not interfere with the orderly performance of County employees' duties and functions. The provisions of California State Government Code 3201-3205 and 3302 and any future amendments thereto are hereby incorporated as part of this Rule. Employees engaged in political activity in violation of any personnel rule, County policy, labor contract, or regulation governing the conduct of County employees shall constitute cause for disciplinary action.

Section 10 – County/Employee Responsibility

The County shall provide all employees appointed to a regular classified or unclassified position with the County, with a copy of these Rules. It shall be the responsibility of employees to become aware and knowledgeable of these Rules.

Section 11 – Delegation of Approval

Any action which requires the approval of the Director of Human Resources may be taken by a Human Resources employee who has been delegated that responsibility in writing by the Director of Human Resources.

RULE II
ORGANIZATION AND ADMINISTRATION OF THE CIVIL SERVICE COMMISSION

Section 1 – Members and Officers

The Civil Service Commission shall consist of five (5) members. The officers shall be a Chairperson and Vice-Chairperson. The Chairperson and the Vice-Chairperson shall be elected by the members of the Commission in January of each year for a period of one (1) year.

Section 2 – Qualifications for Membership

Members of the Civil Service Commission shall be qualified electors of the County and shall be selected on the basis of interest in upholding high standards of public service employment, County productivity, and the fair treatment of County employees; as well as knowledge of merit system principles and personnel administration. A member of the Commission shall not hold any salaried County office or employment.

Section 3 – Appointments

All appointments shall be made by minute record of the Board of Supervisors and shall continue in effect until a successor is appointed in accordance with Section 1302 of the Government Code. Each Supervisor shall appoint one (1) member of the Civil Service Commission. Except as provided above, a vacancy occurring during a term of office shall be filled for the unexpired term through an appointment made pursuant to the same process as the original appointment.

Section 4 – Term of Office

Except as hereinafter provided, Civil Service Commissioners will serve a term of four (4) years with terms to be staggered to begin on February 1 of the appropriate year and to end on the last day of January. No Commissioner shall serve more than two (2) consecutive four-year terms unless specifically permitted by the Board of Supervisors. Commissioners shall serve at the pleasure of a majority of the Board of Supervisors.

Section 5 – Civil Service Commission/Support Staff

The Civil Service Commission support staff is an employee in the Classified Service, who will provide direct staff support with direction and control vested in the Civil Service Commission. Responsibilities include:

a. Act as secretary.
b. Prepare agendas.
c. Formulate procedures.
d. Conduct assessments and prepare reports.
e. Coordinate with the Board of Supervisors, Human Resources, County Counsel, agencies, departments, and exclusive recognized employee organizations in the development of projects and the conduct of activities.
f. Accomplish other duties as assigned by the Board of Supervisors, provided that such duties do not conflict with Civil Service Commission responsibilities.

Section 6 – Legal Counsel

Legal counsel to the Civil Service Commission is provided by a representative of the County Counsel's office, who is not the same individual who represents County management on personnel matters or matters before the Civil Service Commission. Duties are to provide legal interpretations and procedural advice to the Civil Service Commission and to clarify, when requested, other legal matters that may arise in the conduct of Commission business.

Section 7 – Reimbursement

Each member of the Commission shall receive a stipend for each meeting attended. Limitation on number of meeting days may be prescribed by the Board of Supervisors. The stipend and expenses for attendance at meetings are specified in the current Salary and Fee Ordinance of the County of San Bernardino.

Section 8 – Regular Meetings

Regular meetings of the Civil Service Commission shall be twice each month at the times and places set forth in a resolution of the Civil Service Commission. Resolutions setting forth meeting times and places shall be available to public inspection during normal working hours in the office of the Civil Service Commission. Meeting agendas shall be mailed not later than the third working day preceding a regular meeting to the County Human Resources office and to each exclusively recognized employee organization and any other moving party.

A regular meeting of the Commission may be canceled at a previous regular meeting or by specific request of a majority of the Commission members. The specific reason for canceling the regular meeting shall be entered into the Commission minutes. The Civil Service Commission Representative shall notify all interested parties concerning the cancellation of a regular meeting.

Section 9 – Special Meetings

Special meetings may be called by the Chairperson or, in the Chairperson's absence, the Vice-Chairperson, upon giving reasonable advance notice to each Commissioner, or upon the written request of a majority of the Commission. County Human Resources, each exclusively recognized employee organization and any other moving party shall be notified orally or in writing of a special meeting not later than twenty-four (24) hours prior to said meeting being convened.

Section 10 – Public Meetings

All meetings shall be public except that nothing contained in these Rules shall be construed to prevent the Civil Service Commission from holding executive sessions as allowed or required under law.

Section 11 – Rules of Order and Procedures

Roberts "Rules of Order," except where otherwise dictated, shall guide the Commission in its proceedings.

Section 12 – Quorum

Three (3) members of the Commission shall constitute a quorum. Commission action on a matter shall require a majority of those present with a quorum in attendance.

Section 13 – Communication

Communications and requests to the Commission shall be made in writing, and the substance of such requests together with the action taken will be recorded in the minutes.

Section 14 – Minutes

The Secretary shall cause to be recorded in the minutes:

a. The time and place of each meeting of the Civil Service Commission.
b. The names of the Commissioners present.
c. All official acts of the Commission.

A Commissioner's dissent shall be recorded in the minutes. The minutes shall be written expeditiously and shall be presented for approval or amendment at the next regular meeting. The minutes, or a true copy thereof, shall be open to public inspection.

Section 15 – Commission Responsibilities

The Civil Service Commission responsibilities encompass, within the authority of the County Charter, the following:

> Judicial – As an autonomous entity, vested with the authority within the County structure to hear, collect supporting data, evaluate, adjudicate, and prepare formal authoritative rulings in the area of appeals pursuant to these Rules.
>
> Investigative – The investigation of personnel activities may be conducted at the direction of the Board of Supervisors, upon a majority vote of the Civil Service Commission, or upon petition of an exclusively recognized employee organization or citizen group concerning the enforcement and effect of these Personnel Rules. The Commission shall report the findings, conclusions and recommendations of any investigation to the Board of Supervisors for appropriate action.

Section 16 – Jurisdiction

The Commission serves as a hearing body for adjudicating employee appeals on matters as set forth in these Rules. The Commission shall have jurisdiction only in regard to those matters that are specifically appealable to the Commission under those sections of the Personnel Rules where the right of appeal is expressly granted. The Personnel Rules shall not be grounds for a grievance, appeal or complaint except as provided for in these Rules. The Civil Service Commission shall not have authority to adjudicate grievances appropriate under an applicable Memorandum of Understanding grievance procedure or matters arising out of implementation of the Employee Relations provisions of the County Code. Affirmative Action complaints or disputes directly or indirectly alleging discrimination shall be adjudicated by appropriate procedure in the Memorandum of Understanding.

Section 17 – Power of Subpoena

The Civil Service Commission shall have the power to issue subpoenas requiring attendance or production of documents before and during a formal appeal hearing. Upon a written or oral motion of a party or any person that has been subpoenaed, the Commission or hearing officer, as applicable, may quash a subpoena on the same grounds that subpoenas may be quashed by a court of competent jurisdiction in California civil cases.

The Civil Service Commission shall have the power to issue subpoenas requiring attendance or production of documents as the Commission determines necessary for conducting investigations pursuant to Rule II, Section 15. Subpoenas to be used by the Commission in its investigations shall only be issued pursuant to a motion approved by the Civil Service Commission.

Any person duly subpoenaed to appear and testify or to produce documents before the hearing body and who willfully neglects or refuses to appear and testify or to produce documents, may be subject to the civil and criminal penalties of contempt, unless issuance of such subpoena does not allow sufficient time for the witness to respond.

Section 18 – Confidential Records

All Civil Service Commission records of investigations conducted pursuant to Rule II, Section 15 or Rule IV, Section 20 shall, consistent with the law, remain confidential until such time as a determination is made by the Commission that such are public records, provided that if there is a public hearing, all documents or recordings that are part of the record of that hearing are public records.

Section 19 – Personnel Rules

The Personnel Rules are promulgated by the Board of Supervisors. The Rules, when adopted, are published and become the responsibility of the Director of Human Resources or designee. The Director of Human Resources or designee is responsible for the implementation and the administrative interpretation of these Rules and the maintenance of records related thereto.

Section 20 – Adoption and Amendment of Personnel Rules

Personnel Rules are drafted by Human Resources; however, the Civil Service Commission may recommend additions or alterations to the Rules to the Director of Human Resources or designee. Exclusive recognized employee organizations, agencies or departments may submit suggested Rule changes in writing to the Director of Human Resources or designee or to the Civil Service Commission for consideration. If the Director of Human Resources or designee does not concur with recommendations of the Civil Service Commission or exclusive recognized employee organizations, separate recommendations may be made to the Board of Supervisors, which is the final authority.

All changes to the Personnel Rules, including any amendments to existing or proposed Rules, shall first be referred to and reviewed by the Civil Service Commission at a regular meeting, before being presented to the Board of Supervisors for adoption. The Civil Service Commission and the Director of Human Resources or designee will jointly coordinate any recommended changes to these Rules, advise exclusive recognized employee organizations of such recommendations at least ten (10) days prior to the aforementioned regular meeting of the Civil Service Commission, and provide to those organizations the opportunity to confer with County representatives prior to such meeting of the Civil Service Commission. Copies of the proposed Rule or amendment will be provided to the Civil Service Commission, Director of Human Resources or designee, appointing authorities and exclusive recognized employee organizations at least ten (10) days prior to a public hearing by the Board of Supervisors. A copy of any proposed rule or amendment shall also be placed on file with the Clerk of the Board of Supervisors. The rule or amendment in whole or part shall become effective immediately upon approval of the Board of Supervisors unless some other effective date is specified in the motion.

If any of the provisions of the Personnel Rules are in conflict with the provisions of a Memorandum of Understanding reached pursuant to Government Code Section 3500 et. seq. the Memorandum of Understanding shall be controlling without further Board of Supervisors' action.

Section 21 – Procedure

Matters of procedure adopted by the Civil Service Commission which may affect the administration of these Rules shall be furnished to the Director of Human Resources or designee and exclusive recognized employee organizations.

Section 22 – Assignment of Responsibilities

Administrative matters listed below have been assigned to the Director of Human Resources or designee for management action:

a. Position/Classification Allocations
b. Examination Eligible Lists
c. Placement and Restoration on Eligible List
d. Removal from Eligible List
e. Disqualification from Examinations
f. Request to Test Prior to Six (6) Month Wait
g. Admission to Promotional Exam
h. Extension of Eligible List
i. Change of Appointment
j. Reinstatement/Requalification
k. Selective Certification
l. Application of Medical Standards
m. Subdivision of Eligible List

Appeals concerning any of the above can be made to the Civil Service Commission. Except as may be otherwise specifically provided in these Rules, appeals shall first be submitted to Human Resources for administrative investigation within fifteen (15) working days after the person is aware of the conditions precipitating the appeal. If the appeal is not resolved within ten (10) working days after submission to Human Resources, an appeal to the Civil Service Commission may be filed. Such appeal must be filed within five (5) working days of the notice of results of the administrative investigation or within five (5) days of the expiration of the ten (10) day period for administrative investigation. Upon appeal, the Commission, after consideration, may uphold or reverse any decision made by the Director of Human Resources or designee regarding any of the above-listed items.

Section 23 – Time Limits

The Commission shall have the authority or jurisdiction under this Section to extend for good cause any time period contained in these Rules. Where a time period is set by a provision of these Personnel Rules for filing a particular document with the Commission or for taking a particular action, there shall be compliance with such a requirement unless the Commission extends the time period for filing a document or taking such action upon good cause shown by the party making the request for the time extension.

The time period for filing an appeal or requesting a hearing with the Commission may be extended for good cause, not to exceed an additional ten (10) calendar days beyond the original time period. The time period for taking any other action specified in these Rules may be extended by the Commission for good cause with the length of the extension to be determined by the Commission.

Section 24 – Tie Vote

In the event of a tie vote in any hearing held by the Commission, the party bearing the burden of proof shall not prevail.

Section 25 – Mandatory Prehearings

When a hearing is granted by the Civil Service Commission under these Rules, the parties shall attend a mandatory prehearing conference conducted by a representative of the Commission. Mandatory prehearing conferences shall be held at least fourteen (14) days prior to the hearing. No appeal shall proceed to a hearing unless a mandatory prehearing conference has first been conducted. The primary purpose of this mandatory prehearing conference is to declare stipulations, provide full disclosure of witnesses and documents to the extent known and expedite the hearing when it occurs.

The Commission shall schedule the date and time of the prehearing conference. The date and time may be changed upon stipulation by the parties and the Commission for a continuance or for good cause. Failure of the appellant or representative to appear at the mandatory prehearing conference, absent good cause that is substantiated and communicated to the Commission secretary in advance of the prehearing conference time, shall be deemed an automatic withdrawal of the appeal and the Civil Service Commission shall have no jurisdiction thereafter to proceed with the appeal.

The determination of whether or not there is good cause to continue a prehearing conference, as a result of a party's request or a failure to appear at a previously scheduled prehearing conference, shall be within the discretion of the Commission after consultation with the parties. The Commission hereby delegates the authority to make that determination to the Commission Chair (who shall be contacted by the Commission secretary when such a request is made), unless there is sufficient time to place the request for continuance on the agenda of the Commission in advance of the date scheduled for the mandatory prehearing conference. The Commission secretary shall notify the parties if a continuance is granted for good cause and shall consult with the parties regarding the scheduling of a continued mandatory prehearing conference date. If the continuance of the mandatory prehearing conference necessitates the rescheduling of the hearing such that hearing officer cancellation fees are incurred, the party requesting or responsible for the continuance shall pay those cancellation fees.

Section 26 – Evidence

When a hearing is granted by the Civil Service Commission under these Rules, all exhibits shall be marked and numbered, and when offered by either party, may be received in evidence. Oral evidence shall be taken only upon oath or affirmation. Each party shall have the following rights: to call and examine witnesses; to introduce exhibits; to cross examine opposing witnesses on any matter relevant to the issues, even though that matter was not covered on direct examination; to impeach any witness regardless of which party first called said witness to testify; and to rebut the evidence. The employee may be called and examined as a witness by the appointing authority or the appointing authority's representative. The Commission or hearing officer shall not be bound by the 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 which might make improper the admission of such evidence over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions, and irrelevant and unduly repetitious evidence shall be excluded.

If any witness cannot be present at the time of the hearing, a deposition may be taken in accordance with the rules applicable to depositions in civil cases. The cost of a deposition shall be borne by the party taking the deposition. Affidavits shall be used only when it is impossible to secure depositions.

Except for rebuttal documents or rebuttal witnesses, all written documents and the identity of all witnesses to be presented by either party at the hearing shall be exchanged at the prehearing conference. For good cause shown, written documents not exchanged or witnesses not identified at the prehearing conference may, at the discretion of the Commission or hearing officer, be admitted at the hearing. The Commission or hearing officer shall also have the discretion to continue the hearing to permit the opposing party an opportunity to fully prepare for the hearing. Any costs associated with the delay shall be paid by the party responsible for the delay.

Section 27 – Mailing Address

Every applicant for employment and every employee of the County of San Bernardino shall provide to the County his or her current mailing address and every change of mailing address. Every person who appeals any matter to the Civil Service Commission or who requests that the Commission initiate any proceedings shall provide to the Commission his or her current mailing address and every change of mailing address during the proceedings. It shall be sufficient service upon each person of any notice or document placed in the U.S. mail, first class postage prepaid, addressed to the person at the last mailing address provided to the Civil Service Commission, or if no address was provided to the Commission, then the last address provided to the County.

The representative of any person may also provide the representative's mailing address, and may direct that notices or documents, except those related to representation, be sent to the representative's address.

RULE III
CLASSIFICATION OF POSITIONS

Section 1 – Classification Plan

All positions shall be part of a classification plan established by Human Resources which provides for the grouping of positions into a system of classes, the description and definition of positions in class specifications, representation units, and rules and procedures which provide for maintenance of the plan.

Section 2 – Classified and Unclassified Service

a. Service – All positions are assigned to the Classified or Unclassified Service based on the general functional nature, character of duties, or term of employment of positions as defined below:

   1. Classified Service – Includes those authorized and classified positions to which appointments are made through a competitive process governed by merit system requirements and in which an employee can achieve regular status in the classification.

   2. Unclassified Service – The Unclassified Service includes those jobs and working conditions normally associated with fixed term temporary employment; recurrent employment; extra help employment; employment in services or positions demonstrably special; and the following officers, positions, or employees unless otherwise determined by the Board of Supervisors.

      (a) Any elective County officer; any public member of a Board or Commission; any person serving without compensation; any person employed to conduct a special inquiry or render professional, scientific, technical, or expert service of a temporary nature; any position placed in the Unclassified Service by the Board of Supervisors in accordance with the San Bernardino County Charter; any position which by law serves at the pleasure of the appointing authority.

      (b) Persons employed on contract or other limited tenure assignment unless specifically included in the Classified Service by the Board of Supervisors.

   3. Rights of Individuals in the Unclassified Service – Persons in the Unclassified Service do not have Civil Service Commission appeal rights as they serve at the pleasure of the appointing authority except as otherwise provided by law.

      Notwithstanding this provision, if the Civil Service Commission determines that an unclassified employee is required by law to have a hearing in regard to the discipline of the unclassified employee, then the Civil Service Commission shall have jurisdiction to conduct such a hearing pursuant to procedures established by the Commission. The Civil Service Commission shall not have jurisdiction over the unclassified employees that are designated by the County of San Bernardino Charter, Article II, Section 6.

   4. Conditions of and Placement in the Unclassified Service

      (a) Upon recommendation of Human Resources and approval of the Board of Supervisors, positions may be placed in the Unclassified Service subject to any applicable legal requirement.

      (b) Working conditions and benefits of Unclassified Service positions will be determined when the position is authorized by the Board of Supervisors.

      (c) The Director of Human Resources or designee shall make recommendations to the Board of Supervisors regarding regulations, compensation and working conditions governing employment for unclassified positions not assigned to an established representation unit.

      (d) Persons appointed to positions in the Unclassified Service are hired and terminated at the discretion of the appointing authority except as otherwise provided by law. Persons hired must meet the minimum qualifications of the classification.

      (e) An employee holding a regular position in the Classified Service shall retain classified status while holding the position even if such position is placed in the Unclassified Service by action of the Board of Supervisors.

b. Class – All positions are assigned to an appropriate classification (class) based upon but not limited to an analysis of the duties performed, responsibilities, supervision received or exercised, organizational considerations, and the qualifications necessary to perform those duties. A class may include one or more positions. New classes, their representation unit, and appropriate salaries are recommended by the Director of Human Resources or designee and approved by the Board of Supervisors.

c. Class Specification – Class specifications are the official description of the representative duties, responsibilities and supervisory relationships of a class.

1. Classification specifications shall be written and maintained by Human Resources for all positions in County service. The specifications shall include a class title, class definition, class or distinguishing characteristics, representation unit assignment, and description of typical duties and responsibilities of positions allocated to the class.

2. Until a specification is written, the examination announcement shall serve as the written classification specification.

d. Classification Series – A series consists of a grouping of two (2) or more classes performing similar work, but at different levels of responsibility, difficulty, and pay.

e. Position Authorization – Positions are authorized as regular, recurrent, or extra-help based on the following criteria:

1. Regular – Regular positions are authorized by the Board of Supervisors. Regular positions may be budgeted at either a full-time or part-time level, and incumbents may be in either the Classified or Unclassified Service. Employees in regular positions in the Classified Service can gain regular status pursuant to the provisions of these Rules upon completion of the required probationary period.

2. Recurrent – Recurrent positions are authorized by the Director of Human Resources or designee. Certifications are made for an indefinite period of time to meet seasonal or on-call staffing needs. All recurrent positions are in the Unclassified Service and employees do not gain regular status.

3. Extra Help – Extra help positions are authorized by appointing authorities. These positions are created for a limited period to cover unanticipated workloads, emergency, extra workloads of limited duration, necessary vacation relief, paid sick leave, and other situations involving a fluctuating staff. Extra help appointments shall not be used as a way of circumventing the purpose of regular service appointments and shall have a reasonable time limit. No extra help employment shall exceed twelve (12) months without the approval of the Director of Human Resources or designee. All extra help positions are in the Unclassified Service and employees do not gain regular status.

Section 3 – Maintenance of the Classification Plan

The Director of Human Resources or designee shall be responsible for the classification investigation of all positions in both the Classified and Unclassified Service. Classification review of positions may be conducted through various types of classification studies outlined in Section 4, Classification Review Procedures.

Section 4 – Classification Review Procedures

a. Representation Unit and Job Family Review Procedures – Representation units and job families may be reviewed on a systematic basis and shall be studied pursuant to any applicable provisions of appropriate Memoranda of Understanding in force and effect. Upon completion of a representation unit or job family study, the recommended classification concepts, allocations, representation unit assignments and any new salary recommendations shall be submitted to the Board of Supervisors for review, adoption and resolution of appeals, if any.

b. New Position Review Procedures – Before a new position is approved by the Board of Supervisors, an appointing authority shall submit a request for classification of the new position to the Director of Human Resources or designee. The request shall contain a description of the duties and responsibilities of the new position. Human Resources shall report its classification recommendations to the appointing authority who shall report the recommendations on classification, representation unit, and salary to the Board of Supervisors. When the need for a new position is urgent, it may be authorized by the Board of Supervisors subject to classification review. All new positions are subject to a verification review by Human Resources no less than six (6) months after the position has been filled. If any change is made to the classification allocation as a result of a verification review, the rules on upgrading or downgrading shall apply.

c Reorganization Study and Special Study Review Procedures

1. Reorganization Studies – Whenever a department or unit thereof is substantially reorganized, the classification allocation of positions within the department or unit may be reviewed with the appointing authority and a determination made as to the need for classification review and investigation. As a result of any reorganization study, employees with regular status shall be placed in equivalent classifications within the affected department if positions are available. If a change in classification allocation of a position results due to the reorganization, the rules on upgrades and downgrades shall apply. When a reorganization results in a surplus of employees or an employee fails to meet the required job standards and qualifications resulting from the reorganization, provisions governing layoff shall apply. Whenever positions are transferred from one appointing authority to another without significant change in duties, employees with regular status shall retain rights to such positions.

2. Special Studies – Special studies include exceptional situations such as the need for improved career patterns, unique recruitment needs, gradual departmental restructuring of duties, or legal or contractual mandates.

3. Requests for Approval of Reorganization or Special Studies – Requests for reorganization or special classification studies may be filed by regular employees or exclusively recognized employee organizations through the appointing authority, by appointing authorities, or by the County Administrative Office. All such requests shall be submitted to Human Resources for review. If a study is not warranted, Human Resources will provide a written response to the appointing authority with the general reasons why the study was not accepted.

4. Recommendation of Authorized Reorganization or Special Studies – After conducting a classification analysis of positions authorized for an approved study, the Director of Human Resources or designee will notify the appointing authority and the study initiator of the recommended classification allocation. Recommended allocations shall be submitted to the Board of Supervisors and will become effective upon Board of Supervisors approval.

d. Exclusively recognized employee organizations shall be notified of all recommendations made under this section.

Section 5 – Classification Appeal Procedures

All classification allocation appeals will be filed with the Civil Service Commission. Classification allocation appeals will be processed in accordance with appeal procedures contained in a current MOU or, in the absence of an appeal procedure in a MOU, in accordance with an appeal process mutually agreed to between the parties to the appeal and the Civil Service Commission. The decision of any delegated review body shall be in a form of a recommendation to the Board of Supervisors for final action. Hearing bodies will follow appeal procedures established, and will provide written justification to the Board of Supervisors on classification appeal recommendation.

Appeals of recommended allocations may be filed by incumbents in positions allocated or exclusively recognized employee organizations. The burden of proof on any classification appeal rests with the appellant to establish why the recommended allocation is not appropriate. The content of and decision on classification appeals shall be restricted to consideration of the recommended and the requested classification. All classification appeals shall be limited to a discussion of duties and responsibilities performed at the time the position was studied.
Exclusively recognized employee organizations shall be notified of all proceedings under this section.

Section 6 – Results of Classification Studies

a. Upgrading – A change in the title of the position accompanied by an assignment of the position to a classification at a higher salary range constitutes an upgrading. Incumbents are not automatically upgraded when their positions are upgraded, but must compete through an examination and appointment process, unless the process is waived by the Civil Service Commission. Exclusively recognized employee organizations shall be notified in writing of any request for waiver of examination under this section.

   The examination to qualify an incumbent for promotion to an upgraded position may be waived by the Civil Service Commission and the incumbent continued in current status at the request of the appointing authority, under the following conditions:

   1. The position upgrading has resulted from a classification study and retention of the incumbent in such position is approved by the appointing authority.

   2. The incumbent has been in the position and has performed the new grade-determining duties for the length of the probationary period of the new class.

   In all other cases, upgraded positions are to be filled by examination in accordance with the rules on examinations and appointments.
   Employees with regular status promoted to an upgraded position shall be required to serve a probationary period in the new classification consistent with rules governing probation unless a waiver is granted by the Civil Service Commission.

   Incumbents not appointed to the upgraded position retain status in their current classification and may request a transfer to a vacant position in their current or equivalent classification, be retained in the position as an underfill or trainee in accordance with these Rules, or be laid off according to the provisions of the appropriate Memoranda of Understanding.

   Where vacant positions are not available to accommodate a transfer request, employees may request a voluntary demotion and shall have rights governed by the provisions of these Rules.

b. Downgrading – A change in the title of the position accompanied by an assignment of the position to a classification with a lower salary range shall constitute downgrading. Upon request, an employee with regular status occupying a position, which has been downgraded, shall be placed on an eligible list for any classification equivalent to his/her former classification for a period of two (2) years. Equivalent classification is hereby defined as one requiring all of the following: (1) the same kind and amount of experience; (2) the same degree of skills, knowledge, and abilities; and (3) a salary level no higher than the employee's former classification. The process of list placement indicated in Rule VI, Section 4 shall apply.

   Employees underfilling positions that are downgraded may be eligible for a promotion to the newly allocated level. The criteria and process indicated under Section 6 (a), Upgrading shall apply.

   Employees appointed from the eligible list shall retain the same status they held in their classification at the time of the downgrading. Employees with probationary status when downgraded shall be credited for time completed in their probationary period. If no vacancy is immediately available, the employee shall remain on the eligible list in accordance with Personnel Rule V.

c. Other – Study recommendations may result in the reclassification of a position, though the salary range remains unchanged. Employees may be appointed to the newly allocated classification in accordance with the criteria and process indicated under Section 6 (a), Upgrading.

Section 7 – Technical Title Change

A change in the title of a classification without any change in salary range or substantial change in the relevant grade-determining duties or requirements shall constitute a technical title change. There is no impact to the incumbent.

RULE IV
EXAMINATIONS

Section 1 – Purpose

The fundamental consideration of the examination process is to serve the best interests of all segments of the public. The purpose of the examination process is:

a. To provide qualified persons for County employment and for promotions insuring equal employment opportunity as a necessary element of the basic merit system principle.

b. To insure that interested parties are informed of the examinations with special recruitment efforts tailored to reach and attract members of protected classes.

c. To insure that all examinations are valid, impartial, free from personal, political, and non-merit considerations, and consistent with law.

Section 2 – Need

All regular positions in the Classified Service, and recurrent and extra help positions shall be filled by persons who have qualified in examinations, except as otherwise provided by these Rules.

Departments have the responsibility to notify Human Resources as soon as a vacancy is anticipated and to provide Human Resources with a complete description of the duties of the position.

Recruitments may be conducted and examinations may be held and appropriate eligible lists established when deemed appropriate by the Director of Human Resources or designee. Any examination announcement need not reflect an immediately available position.

Section 3 – Definition

An examination is a reasonable and impartial method of systematically and fairly evaluating an applicant's fitness for performing position requirements. An examination may be assembled or unassembled and may consist of one (1) or any combination of performance tests; written tests; rated interests; audiovisual tests; rating of the application, supplemental application, or resume; or work performance of promotional potential evaluations. Examinations may include tests of ability, physical and psychological fitness, interests, knowledge, and skills.

Section 4 – Contents

The Human Resources Department has sole responsibility for examinations. Appointing authorities have the responsibility for selection interviews delegated to departments. Examinations and selection interviews shall consider the following:

a. Analysis of Job Duties

b. Availability of Applicants

c. Equal Employment Opportunity (EEO)

d. Occupational Standards

e. Professional Testing Principles

f. Supportable Past Experience

All examinations shall be analyzed for job relatedness. Examination material shall relate to the fitness of the applicant for the work, duties, and requirements of the classification to be filled and shall be confined to the measurement of knowledge, skills, and abilities necessary to perform specific tasks. Any pertinent factor or trait that affects job performance of public relations may be considered, including a documented presumption of public reaction.

Investigations and oral tests may include an inquiry into an applicant's work background and behavior for purposes of determining specific skills or abilities to perform specific tasks and to insure a commitment to the mission of the agency.

Background investigations shall be conducted consistent with rules and regulations adopted by State law or regulatory agencies. Failure to examine or consider all applicants shall not invalidate an examination.

The Director of Human Resources or designee shall appoint deputy examiners as needed who may be representatives of departments, the public, interested organizations, or other public jurisdictions. Deputy examiners will be subject to training in cross-cultural awareness and equal employment opportunity.

Section 5 – Type

The type of examination shall be determined by the Director of Human Resources or designee in accordance with the provisions of these Rules. The following are types of examinations, which may be established separately or in any combination:

a. Open – All interested who qualify are admitted.

b. Closed Promotional – Only County employees who hold a regular position in a classification of County employment are admitted. These examinations may be limited to a particular agency or department.

c. Standard – Routinely open once during a six (6) month or one (1) year period to establish or replenish an eligible list in situations with a large applicant pool.

d. Request – Initiated by special departmental request where an immediate need exists and the Director of Human Resources or designee has determined that there is no viable eligible list.

e. Periodic – Alternately open and close throughout the year to maintain a sufficient number of candidates to meet an ongoing need in situations with an adequate application pool.

f. Continuous – Open through the year in situations where a critical need exists in hard to recruit situations.

g. Qualifying – Any examination for an employee who is working in trainee, underfill, extra-help, manpower, recurrent, or provisional status used in qualifying employees for positions in the Classified Service.

h. Lateral Entry – Employees of other recognized public agencies with regular status or those who have completed twelve (12) months of continuous full-time, satisfactory service in a comparable classification who obtained their positions through a competitive process and have performed satisfactorily. "Recognized public agencies" shall mean those that employ a system that meets State Merit System Guidelines. A "comparable class" shall mean one that possesses the same or greater minimum requirements and qualifications and/or duties and responsibilities.

   Classifications for which lateral entry examinations are appropriate shall be limited to those approved by the Director of Human Resources or designee and have continuous recruitment needs and/or demonstrated recruitment difficulties. Applicants meeting the criteria described may be list placed on appropriate lists should a recruitment be deemed impractical by the Director of Human Resources or designee.

Section 6 – Notice of Examinations

The Human Resources Department shall post notice of examinations and distribute notices to all County departments and exclusive recognized employee organizations. The notice shall include:

a. The title of the position.

b. A brief statement of the duties.

c. The approximate rate of pay.

d. Any special requirement prior to appointment or prior to the acquisition of regular status and/or special conditions of employment.

e. Minimum requirements.

f. A statement of the topics included in the examination.

g. Proposed dates of written examination, if any.

Section 7 – Publicity and Recruitment

The Director of Human Resources or designee shall administer a program of recruitment that will attract qualified persons to County employment including members of protected classes.

The notification list to publicize recruitment and notice of examination:

a. Shall include County Board of Supervisors and all County departments;

b. Shall include all exclusive recognized employee organizations; and

c. May include community agencies that express interest in receiving notices of County job opportunities and who are willing to assist in special recruitment circulations.

Section 8 – Requirements

Minimum eligibility requirements for a vacant position shall be determined by the Director of Human Resources or designee and shall be job related in accordance with legal requirements, considering classification specifications, the duties of the position, the occupational standards, the labor market, and past experience. Such requirements shall be based upon an evaluation of the duties and skills required. Artificial barriers to employment will be eliminated; members of protected classes will be given every reasonable access and encouragement to employment and promotion within San Bernardino County government. Applicants may be required to submit additional information about their job related qualifications, or to submit evidence of their possession of licenses or certificates, or of the completion of courses of study or training.

Failure to supply such information or evidence may disqualify an applicant. Ethnic or personal information may be requested consistent with the law. Applicants shall be required to successfully complete a medical examination prior to beginning employment.

Section 9 – Citizenship

Citizenship may be required for specific positions or classifications consistent with applicable laws and regulations. Proof of legal authorization to work in the United States is required for County employment.

Section 10 – Residence

Unless otherwise required by law, there shall be no residence requirements for employees in regular positions except that, an appointing authority may determine that the conditions of the job require an employee to respond within a reasonable period of time to a place of employment or jobsite. Such determination may be appealed to the Civil Service Commission.

Section 11 – Filing of Application

Applications for examinations must be filed on forms authorized by County Human Resources. Unless otherwise specified on examination announcements, resumes may be accepted as applications providing there is sufficient information to make a determination of eligibility. No appointment shall be finalized until a completed official application form or resume is received by Human Resources.

Applications whether accepted or rejected, will not be returned. It is the responsibility of the applicants to show that they clearly meet the minimum requirements for the examination. The applicants shall certify to the correctness of all statements made on the application. After filing, information on the application may be amended only with the permission of the Director of Human Resources or designee.

Section 12 – Application Review

Applications shall be reviewed under the direction of the Director of Human Resources or designee for eligibility. Any application may be denied which is submitted by a person:

a. Who is not eligible for examination under the provisions of these Rules.

b. Whose application was received after the last day for accepting applications as specified in the notice or amendment thereto, unless waived by the Director of Human Resources or designee.

c. Does not meet the minimum qualifications as prescribed in the examination announcement.

d. Who does not meet the legal requirements as set forth in Federal, State, or County law.

e. Who has sought to overthrow the United States government or State by force or by violence, or has disturbed the mission of a public agency.

f. Who has intentionally made a false statement of any material fact or has practiced or attempted to practice any deception or fraud in the application, examination, or selection process.

Section 13 – Modification or Suspension of Examination

The Director of Human Resources or designee may modify the examination process as listed on the examination announcement, by notifying eligible applicants of the modification. If there are ten (10) or less competitors in any part of the examination process, subsequent parts of the current examination may be modified or may be suspended at any time and certification of the remaining competitors made, provided that the appointing authority interviews all those certified.

Section 14 – Admission

All applicants who have not been excluded for cause may be admitted to the examination. No applicant shall be given preferential treatment. Information available to one (1) candidate shall be available to all candidates in the same circumstance. The Director of Human Resources or designee may admit any persons to the examination for the purposes of evaluating their qualifications.

Section 15 – Examination Grades

Applicants shall be graded on a scale in which an adjusted score of 100 represents the highest degree of competency, which can reasonably be expected. Final passing grades shall place applicants in the following converted score ranges:

95 – 100
90 – 94
85 – 89
80 – 84
75 – 79
70 – 74

The examination may be composed of one (1) or several tests that are graded independently or jointly with weights assigned to each test representing relative value, importance, or other technical considerations. Weights shall be expressed in terms of their contribution to the total examination grade in percentages. Upon approval of the Director of Human Resources or designee, scores from appropriate comparable tests may be applied to similar tests using a conversion formula established by the Director of Human Resources or designee. When appropriate, the Director of Human Resources or designee may assign examination grades to applicants for placement on eligible lists for the same or lower grade classifications. The Director of Human Resources or designee may specify the maximum number of eligibles to be qualified and certified in the examination or any part thereof.

Section 16 – Retesting

An applicant may submit an application for the same test only once within a six (6) month period. Scores of identical parts of the testing process may be transferred from one examination to another within a one (1) year period upon approval of the Director of Human Resources or designee. The Director of Human Resources or designee may waive these restrictions when warranted.

Section 17 – Correction of Examinations

Prior to computing grades, test questions may be re-keyed or deleted on the basis of item analysis, administrative review or valid objections of applicants. Objections must be registered immediately upon completion of the examination on the feedback forms provided. Any such deletions or corrections shall be entered on the official keyed copy of the examination together with the reasons for such deletion/correction. After grades are assigned, only administrative errors may be corrected. The names and attained scores of applicants may be disclosed only with the approval of the Director of Human Resources or designee.

All examinations shall be standardized. A standardized test is one for which the conditions of development, administration, and scoring are the same. Each test (written, oral or performance) is developed using the same systematic procedure. Each test is administered using the same setting, directions to examinees, test materials and time factors. Each test is scored the same way. Standardized tests shall not be subject to applicant review. Reviewing tests compromises their confidentiality and tends to cause scores to increase due to applicants becoming test-wise rather than being more knowledgeable about the subject matter.

Section 18 – Veterans' Preference

In any open examination for which numerical scores are given, ten (10) grade points shall be added to the final examination grade for any successful (achieved a passing grade) applicant who is not currently a County employee and who has served in any branch of the United States armed forces in time of war, and who has a service connected disability rate at not less than ten percent (10%) by an authorized agency in the U.S. Government.

In any open examination for which numerical scores are given, five (5) grade points shall be added to the final examination grade for any successful applicant who is not currently a County employee and who is the spouse of any such United States veteran honorably separated from the service who, while in service in time of war, was disabled or crippled, thereby being permanently prevented from engaging in remunerative occupation, or is the widow(er) of any such veteran who died or was killed in such service and who has not remarried. Any applicant seeking the benefits of this section must submit proof of eligibility at the time of application.

Section 19 – Completion

An examination process is completed on the date the Director of Human Resources or designee signs the scoring documentation control form indicating that the eligible list is established. The eligibility of successful applicants shall commence as of this date. Applicants shall be notified of the results of the examination.

Section 20 – Appeals

Appeals may be made by applicants or their designated representatives on any part or process of an examination. Appeals must be filed within thirty (30) calendar days after the date of mailing of examination results. Human Resources shall investigate the circumstances surrounding the appeal and take appropriate administrative action within ten (10) working days to resolve any complaints. Written appeals from administrative actions may be made to the Civil Service Commission within five (5) working days from the date of legal notification of the results of an administrative investigation. The Civil Service Commission may establish procedural rules for conducting examination appeal hearings. The Civil Service Commission may order an investigation if complaints are filed within time limits. Such hearing or investigation shall be completed within sixty (60) days of such order. The Civil Service Commission may use its discretion as to whether the appellant shall appear in person. The decision of the Civil Service Commission on any appeal shall be final. Examination appeals shall not impede the normal appointment process. Appointments made will not be reversed in the absence of any wrongful conduct or action of the appointee.

Section 21 – Waiver of Examination

When a vacancy occurs or is anticipated in a position requiring exceptional qualifications, the appointing authority may submit a written request for suspension of competition and examination with the Director of Human Resources or designee. A waiver may be granted if the Director of Human Resources or designee finds that the position requires exceptional qualifications, competition is impractical, and the position can best be filled by the selection of some designated person of recognized attainments.

RULE V
ELIGIBLE LISTS

Section 1 – Definition

An eligible list is an arrangement of applicants for County employment or promotion who are qualified as a result of an examination process. Lists are maintained in accordance with the County's classification of jobs. The period of eligibility may not be less than six (6) months or more than one (1) year unless otherwise determined by the Director of Human Resources or designee. The types of eligible lists are:

a. Open – Persons who are qualified by competitive examination or service to fill regular, recurrent, or extra help positions.

b. Closed Promotional – Persons in a regular position in a classification of County employment and who have qualified in examinations for advancement.

c. Lateral Entry – Persons who are qualified by a lateral entry examination.

Closed promotional lists must contain a minimum of three (3) names of eligible candidates. Lacking three, an Open examination shall be undertaken and a list of additional candidates will be certified from the resulting Open list for the same class, or as otherwise approved by the Director of Human Resources.

Section 2 – Subdivision of Lists

The Director of Human Resources or designee may subdivide an eligible list according to any one or combination of factors:

a. Geographical area.

b. On-Call – Persons who will serve on an on-call basis.

c. Recurrent – Persons who qualify by examination. This list also includes terminating employees who, prior to separation, may request placement on the recurrent list. The names of such employees shall be placed on the recurrent list upon the approval of the Director of Human Resources or designee. A request for placement on the recurrent list requires that the department from which the employee is terminating be willing to rehire the employee.

d. Shift Assignment – Persons who will work a shift other than a Monday through Friday day shift.

e. Extra Help – Persons who will serve on a temporary basis.

f. Part-time – Persons who will serve in a position working less than eighty (80) hours per pay period.

g. Departmental – Employees who hold a regular position in the department where the promotional vacancy exists.

h. County only – Employees who hold a regular position in the County.

i. Any other special or objective factor.

Separate eligible lists may be established for various groups, departments, subdivisions of departments, or by tested skills. Any lists subdivided as defined in subsections g. and h., are intended for other than entry-level, such as supervisory, management, or higher-level professional positions. Such lists must contain a minimum of three (3) names of eligible candidates. Lacking three, a list of additional candidates will be certified from the Open list for the same class, or as otherwise approved by the Director of Human Resources.

Section 3 – Placement of Names

Except for the Unclassified Service or as otherwise provided by these Rules, the name of any person qualified for County employment or promotion must be placed on an appropriate eligible list. The Director of Human Resources or designee may specify conditions or restrictions on the certification of an applicant as a condition of candidacy. Eligibles may also be placed on lists for lower or parallel classifications according to a formula established by the Director of Human Resources or designee. In addition to names placed on lists through the examination process, the Director of Human Resources or designee may place names on lists according to:

a. Layoff – Persons who have been or will be involuntarily downgraded or separated without fault on their part.

b. Disability retirement returnees or "qualified injured worker."

c. Transfer – Persons who have attained regular status and wish to be considered for assignment to other groups or non-agency departments.

d. Leave of Absence – Persons who have been granted a leave of absence without right to return to their former position.

e. Waiver – Persons who have been qualified for appointment or promotion by waiver of examination. Eligibility for appointment shall expire ninety (90) calendar days after action by the Director of Human Resources or designee. Eligibility should be confined to the single position for which the waiver was granted.

f. Voluntary Demotion – Persons who have attained regular status and wish to be considered for a lower level class in which they have held status or meet the minimum requirements of the lower level class.

Section 4 – Removal of Names

Names shall be removed from any eligible list after appointment, or at the end of the eligibility period. The acceptance of extra-help or recurrent work by persons on permanent eligible lists shall not affect their certification for regular work positions. Names shall be removed from the promotional eligible lists upon granting a leave of absence without right to return to the job. The Director of Human Resources or designee may remove names of any person:

a. Who is not offered an appointment after three (3) selection interviews.

b. Who fails to appear for any job interview.

c. Who has failed to answer an availability inquiry or keep Human Resources informed of a current status.

d. Who waives three (3) interviews for the same class or whose reasons for waiving certification or appointment are not satisfactory.

e. Who has demonstrated unsatisfactory work performance in a similar position while on extra help, recurrent or other employment status with the County.

f. For whom valid departmental objection has been filed by the appointing authority, such objection must be in writing and specify the reason for the objection.

g. Who has demonstrated loss of skill or ability.

h. Who fails to meet minimum requirements, medical standards, or who has falsified the application or for any valid cause relating to an applicant's character and ability to perform satisfactorily on the job.

i. Who has failed to comply with conditions of employment as a County employee.

j. Who has violated the Code of Ethics, Rule I, or other provisions of these Rules.

Section 5 – Restoration to Eligible Lists

The Director of Human Resources or designee may restore the names of persons to the eligible list by renewing or reactivating their eligibility.

Section 6 – Extension of Eligibility

The Director of Human Resources or designee may extend the eligibility of persons qualified by examination for a period not to exceed one (1) year from the date of the commencement of the extension.

Section 7 – Inactive Status

Applicants whose names are on the eligible list may request inactive status and their names shall be removed from the active eligible list. Upon notification, such names may be restored to the eligible list for the remaining period of eligibility. Eligibility shall not be extended by reason of such inactivity.

RULE VI
CERTIFICATION

Section 1 – Definition

Certification is the process whereby available applicants are referred by Human Resources to the appointing authority for selection.

The Director of Human Resources or designee shall establish standard procedures for list certification.

Section 2 – Certification

The appointing authority shall request certification by submitting a Personnel Requisition which shall contain necessary information for the proper and prompt filling of positions. Upon receipt of the Personnel Requisition, the Director of Human Resources or designee shall order certification of persons on the appropriate eligible list in accordance with the provisions of these Rules. If eligibles fail to report for their department scheduled interview, they shall be presumed to have declined the position for which the vacancy exists. The Director of Human Resources or designee may require that any person certified be interviewed and considered. In no instance shall fewer than three (3) individuals be interviewed and considered except as provided for in Section 6 of this Rule. Failure to afford all candidates on the list an opportunity to be interviewed and considered may result in a request for recertification to be denied.

Section 3 – Appropriate Eligible List

The Director of Human Resources or designee shall determine the appropriate eligible list for each position, which shall be based on:

a. The classification of the position.
b. Special qualifications required to perform the duties of the position.
c. Subdivisions of the eligible list pursuant to Rule V, Section 2.

With the consent of the appointing authority and the Director of Human Resources or designee, eligible lists for a lower grade classification may be used to fill the position with a trainee or underfill if rationale is consistent with the County approved EEO Plan, rehabilitation program, layoff avoidance program, or other operational need.

Section 4 – Order of Preference for a List Certification

Certification first shall be made for those candidates on layoff and from candidates who have been separated from the service on disability retirement who have been granted requalification on the basis of determination that they are no longer incapacitated, provided that they meet the requirements of an approved certification request for that position. All such former employees shall be assured the right of an interview prior to the final selection and appointment to the position. Certification may then be made from other established lists. The Director of Human Resources or designee shall determine the appropriate certification list to be used.

Determination of those referred will be made from the appropriate eligible list on the basis of highest attained score but will be listed alphabetically. The Director of Human Resources or designee will certify in groups of ten (10) or more. If less than ten (10) names are on the eligible list, all names on the list will be certified.

Additionally, any regular employee who has submitted a written request for transfer or voluntary demotion will be referred for all regular openings, along with those applicants certified, provided that they meet the requirements of an approved certification request for that position. Appointing authorities, may, at their discretion, choose to interview any of the transfer/voluntary demotion candidates appearing on their certification list.

The appointing authority may request referral of an eligible former employee or of any person on the recurrent list. In an emergency requiring immediate employment in order to avoid work stoppage or to meet work deadlines, referral may be made of persons immediately available for appointment with the approval of the Director of Human Resources or designee. Written justification for an emergency referral must clearly state the nature of the emergency and the impact on the County department if such emergency referral is not approved.

Section 5 – Selective Certification

Whenever the possession of a skill, knowledge, or ability, including bilingual ability, will enhance efficiency or promote better public service, the Director of Human Resources or designee may restrict certification to those persons who possess such skill, knowledge, or ability. The Director of Human Resources or designee may also restrict certification to current County employees only.

The Director of Human Resources or designee shall be responsible for evaluating each request for selective certification. Upon request, the appointing authority will submit written justification for any request for selective certification. Every reasonable effort will be made to ensure that no circumvention of merit system principles of these rules will occur if the request is approved.

Section 6 – Insufficient Names on a List Certification

When an eligible list contains fewer than three (3) available names, the appointing authority may elect to:

a. Make an appointment from those certified;

b. Accept certification of additional names from the most nearly appropriate eligible list as determined by the Director of Human Resources or designee;

c. Temporarily assign an employee to the position in accordance with applicable Memorandum of Understanding provisions;

d. Make a provisional appointment, in accordance with Rule VII, Section 2(g), and request that additional eligibles be submitted; or

e. Call for a new examination.

In the absence of names on the eligible list, the Director of Human Resources or designee may refer any person for employment pending the establishment of an eligible list. Only those who meet the job requirements shall be referred.

Satisfactory work performance of such persons may be regarded at the discretion of the Director of Human Resources or designee as criteria for placement on an appropriate eligible list.

Section 7 – Acceptance of Certification in Lower Classification

The Director of Human Resources or designee may authorize certification from a related higher level or equivalent list to a position in a lower or equivalent classification with similar duties and responsibilities. Acceptance of appointment to the lower level classification shall not affect the candidate's status on a higher list.

Section 8 – Department Objection to a Name on a List Certification

The appointing authority may submit a written request to remove from the eligible list, the name of any person certified. Such objection shall contain the reasons for the department's rejection, and the objection shall be sustained only with the approval of the Director of Human Resources or designee. The Civil Service Commission may restore or remove names on department certification lists.

Section 9 – Selective Eligibility

Candidates may request certification of their name to certain positions, shift assignment, departments, or areas.

Section 10 – Emergency Certification

In an emergency requiring immediate employment in order to avoid work stoppage, or to meet work deadlines, referral may be made of persons immediately available for appointment with the approval of the Director of Human Resources or designee.

RULE VII
APPOINTMENTS

Section 1 – Definition

An appointment is the offer and acceptance of a job made in accordance with these Rules and the laws governing same. The offer must be made by the appointing authority or authorized representative of the appointing authority and only to a person eligible under these Rules for the type of appointment offered.

Section 2 – Types of Appointments

a. Regular – All regular positions in the Classified Service when vacant, shall be filled by appointment of an eligible candidate certified from an appropriate eligible list and the appointee shall be required to successfully complete the required probationary period, except as otherwise provided in these Rules. No regular appointment shall be completed until the applicant has successfully passed the probationary period.

b. Trainee – Underfill appointments to regular positions made from an appropriate eligible list of a lower classification for a prescribed period of time during which the employee must qualify for the higher classification or be terminated. The employee shall be required to qualify by one (1) or more of the following:

   1. Additional experience.
   2. Additional schooling.
   3. Possession of a State certificate or license.
   4. Probationary period Progress Report.
   5. Successful completion of an appropriate examination.

   The original trainee appointment must be made on a competitive basis. During the period of a trainee appointment, the trainee shall have probationary status. Appointments to the higher classification are subject to a probationary period.

c. Underfill – Appointments to regular positions made from an appropriate eligible list of a lower classification for either training or budgetary purposes. If such appointment is a trainee underfill, the procedural process shall be that described in paragraph (b) herein. If such appointment is a budgetary underfill, the incumbent shall remain at the lower level classification and shall not be assigned to higher level duties.

d. Recurrent – Appointments of persons certified from an appropriate eligible list to a position for an indefinite period on an on-call basis. Such an appointment may be for eighty (80) hours or less per pay period and does not require work in twenty-six (26) consecutive pay periods per year. Recurrent employees may be placed on recurrent employee rosters maintained by the department called to work at the discretion of the department. Recurrent employees serve at the pleasure of the appointing authorities.

e. Extra Help – Appointments of persons certified from an appropriate eligible list to cover needs including but not limited to: seasonal peak workloads; emergency workloads of limited duration; vacation and paid sick leave relief; and other situations involving a fluctuating staff. Extra help employees serve at the pleasure of the appointing authority. No extra help appointment shall exceed twelve (12) months without approval of the Director of Human Resources or designee.

f. Dual – Appointment to a filled regular position for a limited period of time shall be known as a dual appointment. Such employees enjoy all of the benefits of regular employees except regular status.

g. Provisional – Unless otherwise provided by these Rules, appointment of a person not on an eligible list is provisional and may be made under any one of the following conditions:

   1. There is no existing list for the classification.
   2. The eligible list contains less than three (3) names, and the appointing authority has filed written objection to the employment of each person on the list with the Director of Human Resources or designee.
   3. Persons on the list are not available for appointment under the terms and conditions of employment prescribed for the position.

   Such appointments shall be subject to review and approval by the Director of Human Resources or designee. All provisional employees must meet the minimum requirements for the class to which appointed or demonstrate reasonable attainment thereof. Provisional appointments shall terminate not later than two (2) pay periods after certification of qualified applicants from an appropriate eligible list or twelve (12) months from the date of the original appointment, whichever occurs first. The appointing authority may submit a written request and justification to the Director of Human Resources to extend the provisional appointment in six (6) month increments. No more than two (2) extensions may be granted for each provisional appointment.

h. Notification – Within ten (10) work days from the date of employment, the employee's appointing authority or designee shall advise the employee in writing of the type of appointment received and whether the position is in the Classified or Unclassified Service. A copy of the notification shall be sent to the Director of Human Resources or designee. When an employee receives a new appointment or when their employment status is changed, a new notification shall be provided to the employee.

Section 3 – Change of Appointment

At the written request of the appointing authority, the Director of Human Resources or designee may change a temporary non-regular appointment to regular providing the initial certification was from an eligible list used for regular appointments and the employee has completed six (6) months of satisfactory service. Such appointment is subject to a probationary period.

Section 4 – Oath of Allegiance

No appointment shall be completed until the applicant has subscribed to an oath of allegiance or affirmation as required by the Government Code and such oath or affirmation shall constitute written agreement to be bound to these Rules.

Section 5 – Medical Standards

Medical standards shall be established for each job or group of jobs in the County service under the direction of the Director of Human Resources or designee. Standards shall be reasonably related to job requirements. The Director of Human Resources or designee may waive the medical standards for an applicant and place restrictions and conditions on continued employment.

Section 6 – Medical Examination

Applicants who have been offered regular positions are required to take a medical examination. No applicant shall commence employment prior to completion of, or without a medical examination. Medical examinations shall be conducted by a physician employed by the County for this purpose unless the Director of Human Resources or designee authorizes an examination by another physician. The purpose of the medical examination is to determine the medical and physical fitness of the applicant to perform the duties of the position. Inquiry may be made into the medical history and present medical condition of the applicant. The County medical examiner shall submit a report to the Human Resources Department containing a recommendation and any essential information, such as work restrictions, requested by the Director of Human Resources or designee for proper placement, restriction, accommodation, or counseling of applicants. The information presented to the Director of Human Resources or designee will not include confidential medical information of the applicant without a release or authorization from the applicant/employee. If an applicant is notified that he/she has failed the preplacement medical examination, they will be provided an opportunity to provide at their own expense an independent medical opinion to the contrary. The County will have both opinions reviewed by a third doctor, chosen by the County, for a final determination as to whether the applicant meets the medical standards for the position.

Section 7 – Legal Requirements

No applicant shall be appointed to any position in the County service who does not meet the legal requirements for the position. If a name has been improperly placed on the eligible list, the name shall be removed.

Section 8 – Probationary Period

During the probationary period, the appointing authority shall review, examine and monitor the conduct, capacity, efficiency, skill, responsibility, integrity, and effectiveness of an employee to determine whether the employee is fully qualified for employment in the classification and position to which the employee has been appointed.

Except as otherwise provided in the appropriate Memorandum of Understanding or the County Code, the length of probationary period shall be twenty (20) pay periods (1,600 service hours). Probationary period progress reports shall be made by the appointing authority on forms approved by the Human Resources Department and may be made in increments of any sequence of thirty (30) days performance. Mandatory probationary period progress reports are required on the following schedule:

Probationary Period	Progress Reports Required
Thirteen (13) pay periods (1,040 service hours)	Within four (4) to six (6) pay periods and within two (2) pay periods prior to completion
Twenty (20) pay periods (1,600 service hours)	Within four (4) to six (6) pay periods, within eleven (11) to thirteen (13) pay periods, and within two (2) pay periods prior to completion
Twenty-six (26) pay periods (2,080 service hours)	Within four (4) to six (6) pay periods, within eleven (11) to thirteen (13) pay periods, and within two (2) pay periods prior to completion

The probationary period is completed at the end of the business day in which the probationer completes the required number of service hours.

Probationary periods shall be extended for the reasons provided for in the applicable Memorandum of Understanding. In addition, an appointing authority may extend the probationary period in multiples of three (3) pay periods with a maximum extension of fifteen (15) pay periods. The appointing authority shall inform the employee and the Department of Human Resources of the extension prior to the end of the probationary period.

A transfer of a probationary employee shall initiate a new probationary period, unless waived by the Director of Human Resources or designee. A reassignment of a probationary employee shall not initiate a new probationary period; however, at the discretion of the appointing authority, the probationary period may be extended in multiples of three (3) periods with a maximum extension of fifteen (15) pay periods, in accordance with these Rules.

If the work or conduct of a probationer, who has not attained regular status in another classification of County employment, is found to be below standards acceptable to the appointing authority, the appointing authority shall terminate the probationer. Probationary terminations may not be based on political affiliation, unlawful discrimination, or for any other reason proscribed by law. Probationary terminations are not subject to review or appeal unless it is alleged that the termination is based upon one of the proscribed reasons. A promoted employee who has attained regular status in another classification of County employment who does not successfully complete the probationary period in the promoted class shall be returned to the former department and classification or a comparable classification without right to review or appeal. An appointment to trainee status underfilling a classification that would be a promotion is considered an appointment to a promoted class. Any employee serving a probationary period due to a voluntary demotion has no return rights.

Section 9 – Waiver of Probationary Period

When an employee is certified for a probationary appointment to a regular position after thirty (30) days of continuous recurrent, extra help, manpower, or provisional service in the classification, such service may be credited toward completion of the probationary period, provided that the evaluation of work performance was on the same basis and met the same standards included in the evaluation of probationary work performance. An employee who is rehired into a class in which the employee previously held regular status may have the probationary period waived. Such waiver is subject to the approval of the Director of Human Resources or designee and the appointing authority.

Section 10 – Requalification to Eligible List

The eligibility of former or voluntarily demoted employees for appointment without examination shall be termed requalification. Requalification is a privilege and is based upon past successful work performance. Employees who resign, retire, or are voluntarily demoted after acquiring regular status may be requalified and placed on appropriate eligible lists. The eligible period for requalification begins immediately after the date of resignation or voluntary demotion and ends five (5) years after the date of resignation or voluntary demotion. The duration of list placement shall normally be one (1) year, but the time period may be lengthened or shortened by the Director of Human Resources or designee.

The Director of Human Resources or designee may determine whether or not to grant the former or voluntarily demoted employee's request for requalification based upon previous employment with the County. Former employees shall not be granted requalification eligibility unless their former appointing authority is willing to rehire and indicates that all aspects of their work performance, including attendance and work history were satisfactory. If the hiring department has no position vacancies in the appropriate classification, the employee's name may be placed on the appropriate eligible list based on the performance criteria stated above.

An employee under age 55 who is separated from the service because of a disability retirement, and who is subsequently determined pursuant to the medical examination ordered by the Board of Retirement to be physically and mentally capable of performing in a position previously held, and whose disability retirement allowance is subject to cancellation by the Board of Retirement pursuant to the provisions of the Government Code, shall be eligible for requalification for County employment. There shall be no time limitation for requalification eligibility of former employees on disability retirement who are found to be no longer incapacitated for service in the position held when retired for disability. The names of such employees who request requalification shall be placed on the appropriate eligible list in Group 1. The duration of eligibility shall not exceed one (1) year. Before the disability retirement allowance of an individual who is no longer regarded by the Retirement Board as being incapacitated from performing the duties attendant to the classification occupied at the time of retirement may be cancelled, that individual shall be offered an unconditional opportunity to be reinstated to the classification held at the time of retirement, as required by Section 31730 of the California Government Code.

Section 11 – Definition of Direct Hire

The rehire of an employee by their former employing department without examination, shall be termed a direct hire. Direct hire is a privilege based upon past satisfactory work performance and work history. Employees who resigned, retired, or accepted employment with another County department may be rehired in any classification in which they held regular status upon request of their former employing department. The eligible period for direct hire ends five (5) years after the date of separation. There shall be no time limitation for direct hire of a disability retired former employee who is regarded by the Retirement Board as no longer being incapacitated to perform the duties of the classification held at the time of retirement.

RULE VIII
WORK PERFORMANCE

Section 1 – Purpose

The purpose of a performance evaluation is to provide a systematic method of measuring, recording, and improving the work effectiveness and development of all County employees with regular status in their current classification. Work Performance Evaluations are intended to be supportive and corrective and may reveal work insufficiencies that require corrective or disciplinary action.

Section 2 – Standards

County employment requires establishment of standards for both conduct and production. Production standards refer to work achievement required from an individual job and are the responsibility of the employing department. Conduct standards refer to acceptable behavior, and enforcement is the responsibility of the employing department concurrent with these Rules and department standards. Conduct standards include the ethical standards of conduct in Rule I, Code of Ethics, and job-related behavior, and enforcement is the responsibility of the employing department. Conduct standards may be established by the State, County, or employing agency or department and may be expressed in law, rules, regulations, policies, or generally accepted practices. Employees will be informed of all conduct and production standards related to their employment.

Section 3 – Duty of Departments

It is the duty of the department to evaluate the work accomplishments and conduct of employees, to inform employees of their evaluations in writing, and to assist employees in improving work effectiveness.

Section 4 – Employee's Responsibility

It is the responsibility of the employee to meet and to strive to exceed the minimum standards established for work accomplishment and conduct, to strive to improve work effectiveness, and to perform at highest competency levels.

Section 5 – Evaluations

A systematic method of periodic evaluations of employee's performance shall be established. Such evaluations will be made at least annually and whenever needed to maintain a record of an employee's work performance. The evaluation shall include the following elements:

a. A written record to be reviewed and acknowledged in writing by the employee; no change shall be made after review and acknowledgement except for appeals which are upheld under Section 8 of this Rule, or by mutual consent of the parties.

b. A copy for the employee.

c. An evaluator and at least one (1) reviewing official, except for evaluations of department heads, agency administrators and assistant department heads. The evaluator shall be the employee's immediate supervisor.

d. A discussion between the evaluator and the employee being evaluated on the content of the performance evaluation.

e. A provision whereby an employee may submit a written answer or exception to any evaluation or statement made on the evaluation which must be filed with the evaluator and forwarded to the appointing authority. Such answer or exception must be acknowledged by the appointing authority and shall become an official part of the evaluation.

Section 6 – Employees on Extended Paid Leave

If an employee is on extended paid leave when his/her annual evaluation is due, the evaluation shall be held in abeyance until such time the employee returns from leave. Upon the employees return, the evaluation shall be completed and provided to the employee within two (2) pay periods from the date employee returns to duty.

Section 7 – Use

Evaluations of performance shall be considered for all relevant personnel actions and shall be reviewed for training or other personnel management needs. An overall evaluation of "Meets Job Standards" or higher will satisfy the requirement for certification and recertification of competency required by Rule IX, Section 9, Retirement.

Section 8 – Appeals

In addition to the right of an employee to file a written response to a Work Performance Evaluation as provided in Section 5 (e) above, and except as may be provided for in a current Memorandum of Understanding, an employee with regular status in the employee's current classification may appeal the content of a Work Performance Evaluation with an overall rating that is below standards in the following manner:

a. Within ten (10) working days from receiving an official copy of an appealable work performance evaluation as defined above, an employee may file a written appeal to the evaluator's supervisor. The appeal must state the specific point(s) and justification of disagreement with the evaluation. For purposes of this section "official copy" is a completed Work Performance Evaluation signed by the employee, or noted by the rater that the employee refused to sign, and signed by the rater, and reviewing official. Any time limit in this procedure may be extended by mutual written agreement of the parties.

b. Within ten (10) working days after receiving the appeal, the evaluator's supervisor will provide a written decision to the employee including the basis for the decision.

c. If the employee is not satisfied with the decision of the evaluator's supervisor, the employee may appeal to the appointing authority. Such appeal must be made in writing within ten (10) working days following the employee's receipt of the written decision of the evaluator's supervisor. The appeal must be accompanied with copies of the Work Performance Evaluation and any supporting documentation.

d. Within ten (10) working days of receipt of the appeal, the appointing authority shall schedule a meeting with the employee and the employee's representative, to thoroughly discuss the appeal. The appointing authority shall submit a written response to the employee and the employee's representative, within ten (10) working days after meeting with the employee.

e. If the employee is not satisfied with the appointing authority's response, the employee may submit a written appeal to the Employee Relations Division within ten (10) working days of the receipt of written response of the appointing authority.

   Within ten (10) working days of receipt of the appeal, the Director of Human Resources or designee shall review the appeal with the appointing authority, and shall, with full and final authority on behalf of the County, either resolve the appeal with the employee or their representative or refer the appeal to the next step. Notification of the outcome of this step shall be made in writing to the employee, the employee's representative and the appointing authority.

f. If the appeal has not been satisfactorily resolved by the County, the employee may file a written appeal to request a hearing. Such appeal must include copies of any pertinent documents, and must be filed with the Employee Relations Division within ten (10) working days of notification of the decision by the Director of Human Resources or designee.

g. Prior to arbitration, the parties may, by mutual agreement, utilize mediation to attempt to resolve the issues of dispute.

h. Within five (5) working days of the receipt of the appeal, the Employee Relations Division Chief or designee shall meet with the employee or representative and select a hearing officer from the list maintained by the Civil Service Commission. The parties shall contact the hearing officer to schedule a mutually acceptable hearing date.

i. Only those documents provided to and/or by the employee at the time the appealed evaluation was originally issued, or submitted with the appeal pursuant to all prior steps above, will be admitted into evidence at the hearing. Admissible testimony and documentation shall be limited to that which is related to the employee's performance during the rating period applicable to the evaluation under appeal and the rating period immediately prior. Parties to the appeal will be limited to not more than two (2) hours each for presentation of witness testimony and/or oral arguments. The hearing officer's findings and advisory recommendations shall be transmitted to the appointing authority, the employee, the employee's representative and Human Resources, in writing, within twenty (20) working days after the close of the hearing.

j. Within twenty (20) working days after receiving the hearing officer's report, the appointing authority shall review the matter and shall render a written decision to the employee with a copy to the employee's representative, and the Employee Relations Division. If the appointing authority fails to render a decision within the twenty (20) working days provided, the hearing officer's recommendations will become final and binding.

k. The cost of a hearing officer's services shall be split equally between the County department of the appellant, and the employee, or if represented, by the employee's representative, including any cancellation fee if both parties are mutually responsible, otherwise the party responsible shall pay the entire cancellation fee.

l. At any step in the process, if the employee's appeal is upheld, a new Work Performance Evaluation will be completed within five (5) working days, or, if appropriate, the employee's personnel records will show that "no Work Performance Evaluation prepared for the period (date) thru (date)." If a salary step increase has been withheld, and if the appeal results in the employee receiving an overall evaluation of at least "meets job standards," the step advance will be processed within three (3) pay periods from the date the appeal is upheld and will be retroactive to the date it was originally due.

m. If the decision of the appointing authority agrees with the Work Performance Evaluation as rendered, a copy of the appeal, hearing officer's report, and the decision will be placed in the employee's permanent personnel file and become a permanent attachment to the appealed Work Performance Evaluation.

n. If the employee voluntarily resigns from County employment prior to the opening of a hearing pursuant to step "i" of this process, such resignation shall constitute a withdrawal of any unresolved appeal(s) filed under this section.

o. The above appeal process is not within the jurisdiction of the Civil Service Commission appeal procedure. The decision of the appointing authority on any appeal under this section shall be final.

Section 9 – Records

Each department shall keep the Work Performance Evaluations in a confidential personnel file. All copies of performance evaluations, documents of commendation or penalty, or anything else that has a bearing on employment status shall be forwarded to Human Resources, which may only then be considered part of the employee's official record. Work Performance Evaluations, documents of reprimand or penalty, or any other record or document that has a bearing on employment status may be removed from an employee's personnel file only upon request by an employee and approval of the appointing authority and the Director of Human Resources or designee, except as may be otherwise provided for in a current Memorandum of Understanding.

RULE IX
ASSIGNMENTS AND SEPARATIONS

Section 1 – Policy

Transfers, voluntary demotions, and job changes are used to retain employees or to change assignments as needed in the best interests of County government. In addition, such actions are used for proper placement of personnel and for employee development.

Section 2 – Definition of Voluntary Demotion

A voluntary demotion is the appointment of an employee from an incumbent position to a position in a different classification for which the maximum rate of pay is lower and where the employee has voluntarily requested or agreed to such appointment in writing. A voluntary demotion to a trainee classification underfilling a classification that would be a promotion may only be made from a certification list. A demoted employee shall serve a probationary period unless the employee has previously held regular status in the classification demoted into, or unless the Director of Human Resources approves a waiver requested in writing by the appointing authority or employee.

Section 3 – Definition of Transfer

A transfer is the appointment of an employee from a position under one appointing authority to a position in the same class under another appointing authority. Placement on the transfer list requires that employees have regular status in their current classification. Direct transfer between two appointing authorities does not require that the employee have regular status.

If the employee being transferred has attained regular status in the class, a new probationary period shall not be required; however, a transferred employee shall serve a performance review of four (4) pay periods. If the employee being transferred has not yet attained regular status, a new probationary period will be initiated, unless waived by the appointing authority subject to the approval of the Director of Human Resources or designee. During the review period, employees who are found to be below standards acceptable to the appointing authority shall be returned to the former department and classification or a comparable class without right to review or appeal. Transferred employees may return to the former department within the review period upon their request. Employees who have returned to their former department and classification or comparable class by their own request shall not be placed on the transfer list for six (6) months following their return unless there is sufficient justification for the Director of Human Resources or designee to waive the six (6) month period.

Section 4 – Definition of a Reassignment

A reassignment is a relocation of an employee in the same classification, under the same appointing authority to a different work unit and work location.

Section 5 – Transfer/Voluntary Demotion Procedure

Employees may submit written requests for transfers or voluntary demotions to Human Resources. Names of employees on transfer lists will be referred to departments pursuant to Personnel Rule VI, Section 4. Employees will be placed on voluntary demotion lists and referred to employing departments if the Director of Human Resources or designee has determined the employee's employment history is appropriate to the job qualifications of the lower class, or if the employee has held regular status in the requested classification. An appointing authority and an employee may initiate a transfer or voluntary demotion without being referred from a list.

Section 6 – Job Changes

A job change is an appointment of an employee with regular status from a position in one classification to a position in another related classification with the same maximum rate of pay if there is evidence of the employee's ability to perform competently in the new position and/or their employment history is appropriate to the job qualifications of the new classification. Job changes are not initiated through the placement on an eligible list and must be arranged between an employee and a hiring department. Interdepartmental job changes may be arranged with the approval of both appointing authorities. All job changes require the approval of the Director of Human Resources or designee. Such employee retains regular status in the previous classification but may be required to serve a probationary period in the new classification. An employee who has retained regular status in another classification of County employment who does not successfully complete the probationary period in the classification he/she job changes into, shall be returned to the former department and classification or a comparable classification without right to review or appeal. An interdepartmental job change during a probationary period shall initiate a new probationary period, unless waived by the Director of Human Resources or designee.

Section 7 – Automatic Resignation

An employee absent without approved leave for three (3) consecutive working days who fails to notify the immediate supervisor and provide an acceptable reason for the absence to the appointing authority or who otherwise abandons employment with the County, shall be considered to have automatically resigned as of the last day on which the employee worked unless the appointing authority approves leave with or without pay to cover the absence.

Automatic resignation may apply in any circumstance where the employee:

a. Fails to obtain approved leave prior to any period of absence for three (3) consecutive working days;

b. Fails to return to work, for three (3) consecutive days, following an approved leave of absence or upon expiration of an off work order;

c. Refuses to accept or fails to respond to an offer of accommodation that would permit the employee to return to work;

d. Fails to provide appropriate documentation to substantiate any period of absence for three (3) consecutive working days; or

e. Fails to cooperate with the appointing authority's attempts to engage in the interactive process such that, based on the information available to the appointing authority in the absence of the employee's cooperation, the appointing authority is unable to determine if an accommodation would allow the employee to return to employment.

Before a separation from service takes effect as a result of an automatic resignation, the employee shall be given written notice of the facts supporting the proposed action and provided an opportunity to respond to the appointing authority. The employee shall have five (5) working days from the date of service of the written notice to respond to the appointing authority. If the employee provides an acceptable explanation for the absence to the appointing authority and is able to return to work, the employee shall resume employment.

Section 8 – Resignation

An employee wishing to leave in good standing shall file a written resignation with the appointing authority. The employee shall give at least two (2) weeks notice of intention to leave the service, unless the appointing authority consents to the employee leaving sooner. The written resignation shall be immediately forwarded to Human Resources. The filing of the written resignation with the appointing authority shall be deemed official notice to and acceptance by the appointing authority. Oral resignations shall be considered accepted at the time said resignation is made. Once an oral or written resignation is tendered, the resignation may not be withdrawn by the employee without the consent of the appointing authority. A written record of the resignation shall be provided to the appointing authority, with a copy to the employee. Failure to provide a written resignation and/or at least two (2) weeks notice may result in an employee being marked as ineligible for rehire.

Resignations are not subject to review or appeal except when obtained from an employee with regular status by fraud, duress, or coercion. An employee alleging that the employee's resignation was obtained by fraud, duress, or coercion may appeal the resignation to the Civil Service Commission within ten (10) working days of the employee's submission of the resignation to the appointing authority. Any such appeal must be in writing and include facts, specific incidents and/or courses of conduct which the appellant reasonably believes supports his or her appeal and which, if proven, could, in the opinion of the Civil Service Commission, support a finding that the resignation was obtained by fraud, duress or coercion. After such a showing has been made, the Civil Service Commission may grant a hearing. At any such hearing before the Civil Service Commission, the employee shall have the burden of proof to establish by a preponderance of the evidence that the resignation was obtained by fraud, duress or coercion. A resignation may only be set aside by the Civil Service Commission if the employee meets the above established burden of proof.

Section 9 – Retirement

Separation from the service solely because of retirement shall be considered resignation. Employees who are members of the County Retirement System and have reached the compulsory age of retirement shall be separated from the service in accordance with the 1937 County Retirement Act unless they have declared their intention to continue employment beyond the age of 70 and are certified as competent in their job by their appointing authority or other appointing authority. Certification of competence will be in accordance with Sections 5 and 7, Rule VIII – Work Performance. Employees who have reached the age of 70 who are not members of the County Retirement System shall be separated from the service unless they have declared their intention to continue employment beyond the age of 70 and are certified as competent in their job by their appointing authority or other appropriate authority. Certification of competence will be in accordance with Sections 5 and 7, Rule VIII – Work Performance.

a. Not later than one-hundred and twenty (120) days prior to a member of the San Bernardino County Retirement Association (other than a Safety member) reaching age 70, retirement administration will make the initial notification to the member which will include an explanation of the option to remain in County service after reaching age 70. Notification will include a prepared statement to be signed by the member indicating an intention to either retire as scheduled or to remain in County service after reaching 70 years of age. A copy of the notification will be forwarded to the appointing authority and to the Director of Human Resources or designee. Not later than seventy-five (75) days before scheduled retirement, the member will advise retirement administration of intention to retire or continue in employment. If the member states the intention to retire as scheduled, retirement proceeds routinely. If the member expresses an intention to continue in County employment beyond age 70, retirement administration will advise the Director of Human Resources or designee.

b. The Director of Human Resources or designee will complete necessary actions regarding determination of competence and advise retirement administration of approval or denial of certification of competence. Competence shall be measured by the same criteria as are applicable to other employees, i.e., Work Performance Evaluation procedures shall be used and an employee will be certified as competent when the overall evaluation on the most recent Work Performance Evaluation shows job standards are met or exceeded. The appointing authority may require an additional Work Performance Evaluation in accordance with Section 5 of Rule VIII when considered necessary for the certification process. An employee certified as competent may continue in County employment as long as the last overall evaluation of work performance shows job standards are met or exceeded. An employee may seek review of a Work Performance Evaluation showing an overall rating of improvement needed or unsatisfactory through established procedures for appeals of Work Performance Evaluations. Retirement will be delayed pending final decision on appeal. If certification of competence is denied, and the time to appeal expired or the appeal process has been exhausted without the employee being certified as competent, the employee will be retired as soon as possible but not before the scheduled mandatory retirement date.

c. The above rules regarding certification of competency will also apply to employees who are not members of the San Bernardino County Retirement Association; however, initial notification will be given to the employee by the Director of Human Resources or designee.

RULE X
DISCIPLINARY ACTIONS

Section 1 – Suspension, Demotion, Reduction in Salary Step and Dismissal

All suspensions, demotions, reductions in salary step for a specified time period, and dismissals of persons with regular status in the Classified Service shall be made in accordance with these Rules.

Section 2 – Cause for Suspension, Demotion, Reduction in Salary Step and Dismissal

An employee with regular status in the Classified Service may be demoted, suspended, reduced in salary step, or dismissed only for cause. The following are declared to be causes for such action although charges may be based upon causes other than those listed herein:

a. Failure to meet reasonable work performance standards and requirements.

b. Discourteous treatment of the public or other employees.

c. Willful or negligent disobedience of any law, ordinance, Memorandum of Understanding, County or Department rule, regulation, policy or procedure.

d. Careless, negligent, misappropriation, waste, theft, or improper use of County property, vehicles, equipment, or funds, including use for private purposes or involving damage or risk of damage to property.

e. Off-duty and/or on-duty conduct by a County officer or employee which is job-related or discredits the County, department, or agency or which is incompatible with the due and faithful discharge of his or her duties.

f. Tardiness, absenteeism, absence without approved leave, or any other misuse of County time or leaves.

g. Failing to cooperate in or misrepresentation during an administrative investigation.

h. Practicing deception or fraud in the securing of a job appointment, promotion, or benefit.

i. Failure to supply full information as to character, reputation, medical history, or acts which, if known at the time of appointment, might have resulted in a disqualification of the employee for the job to which appointment was made.

j. Dishonesty, including falsification of an official statement or document.

k. Conflict of interest or any violation of ethical standards established by state or federal law or County rule, policy, or ordinance.

l. Inefficiency, incompetence, or negligence in the performance of duties, including failure to perform assigned task or failure to discharge duties in a prompt, competent and responsible manner.

m. Harassment, discrimination, retaliation or failure to cooperate with the implementation and application of the EEO Plan.

n. Reporting to work under the influence of drugs or alcohol or possessing, transferring, selling or using drugs or alcohol in County offices, vehicles, work areas, or on County property during work hours, including paid or unpaid break periods, or any time while in County uniform.

o. Improper withdrawal or limitation of service or any action which interferes with or is disruptive of the County mission or the public services.

p. Insubordination.

q. Any act inconsistent with these Personnel Rules.

r. Failure to possess, keep in effect, or report loss of any license, certificate or other similar requirement specified in the employee's class specification or job announcement.

s. Abuse or mistreatment of patients, clients, or others that the County is responsible for care, safety, or custody of.

t. Violating the terms of a Last Chance Agreement.

u. Conducting personal business or work on County time.

v. Sleeping on job.

w. Concealing or failing to report or act upon, when reasonably expected to do so, accidents or incidents of misconduct.

x. Workplace violence, threats and intimidation.

Section 3 – Causes for Demotion or Dismissal Due to Physical or Mental Incapacity

For non-disciplinary reasons, an employee may be terminated or demoted due to physical or mental incapacity, excluding temporary conditions, which precludes the employee from performing the duties of his or her job. Any such action shall be subject to the same appeal provisions of these rules as are applicable to actions taken pursuant to Rule X, Section 2.

Section 4– General

a. Probationary employees may be dismissed, demoted, reduced in step, or suspended without right to review or appeal unless based on political affiliation, unlawful discrimination or any other reason proscribed by law.

b. Reassignments are not subject to review or appeal under the Personnel Rules except when used exclusively for disciplinary purposes. An employee alleging that a reassignment was exclusively for disciplinary purposes may appeal the reassignment action to the Civil Service Commission. The employee must file any such appeal request in writing with the Civil Service Commission within five (5) working days of notice of the reassignment. Any such appeal must be in writing and include facts, specific incidents and/or courses of conduct which the employee reasonably believes supports his or her appeal and which, if proven, could, in the opinion of the Civil Service Commission, support a finding that the reassignment was exclusively for disciplinary purposes. After such a showing has been made, the Civil Service Commission may grant a hearing. At any such hearing before the Civil Service Commission, the employee shall have the burden of proof to establish by a preponderance of the evidence that the reassignment was exclusively for disciplinary purposes and that the facts and reasons relied upon by the appointing authority are not supported by the evidence. If the employee meets the above established burden of proof, the Civil Service Commission shall order the reassignment withdrawn and that the employee be restored to the employee's former position.

c. Unless a single act or omission is of sufficient gravity to warrant the disciplinary action, the appointing authority must show that the employee has been warned and given an opportunity to correct faults warranting the disciplinary action.

d. A written copy of these Rules in a place available to the employee; as provided in Rule I, Section 10, constitutes presumptive proof of the employee's knowledge of said Rules.

Section 5 – Notice of Proposed Action

Prior to the issuance of a written order to either suspend for more than five (5) working days, demote, reduce in step, or dismiss an employee with regular status, written notice of at least five (5) working days of the proposed disciplinary action shall be given before such action is to be taken and must include:

a. Notice of proposed action;

b. Reasons for proposed action pursuant to Rule X, Section 2 of these Rules;

c. A copy of charges stating specific incidents or specific courses of conduct, and a copy of the written materials pertaining to those incidents or course of conduct; and

d. A notice to the employee of the right to respond in writing and/or orally to the proposed disciplinary action before said discipline is imposed. The notice to the employee of the right to respond must specify at least the five (5) working day period except as provided in Section 6 below. A longer notice might be warranted in specific cases because of the volume of material or complexity of the issues involved.

The notice of proposed disciplinary action must be in writing and be signed by the appointing authority or the acting appointing authority. Upon receipt of the employee's response, the appointing authority shall review the response and determine the appropriate course of action. This may include imposing the same level of disciplinary action, modifying with less severe disciplinary action, or rescinding the notice of proposed action.

Copies of the notice of proposed disciplinary action shall not be distributed to the Civil Service Commission and Human Resources unless disciplinary action is ultimately invoked.

Section 6 – Limitations and Exceptions

a. Oral notice is insufficient as full notice to an employee and may be given only as the initial notice in extraordinary circumstances which call for immediate action as provided in Section 6b.

b. For an action involving a suspension based upon extraordinary circumstances, an oral or written order of suspension is sufficient, without giving any type of prior notice of proposed action. If such an oral or written order of suspension is given, the cause or causes for the suspension must be given at the same time, orally or in writing.

   Employees may be suspended without prior written notice in extraordinary circumstances when it is essential to avert harm to the public, other employees, or to avert serious disruption of governmental business.

Extraordinary circumstances include, but are not limited to, situations involving: Misappropriation of public funds or property; working while under the influence of intoxicating liquor or drugs; open insubordination; commission of a crime involving moral turpitude punishable by imprisonment for six (6) months or more; and disruption of County business through willful misconduct (altercations, etc.). For actions involving an oral order of suspension in extraordinary circumstances, a written order of suspension shall be provided to the employee within five (5) working days after the oral notice is given, and said order shall contain the same information required for a written order under Section 7.

c. Short-Term Suspension – For actions involving a suspension of five (5) working days or less, an oral order of suspension is sufficient, without giving any notice of proposed action. If such oral notice of suspension is given, the cause or causes for the suspension must be given at the same time. A written order of disciplinary action shall be prepared and a copy of the order shall be personally served upon the employee within three (3) working days of the conclusion of the suspension. Said order shall contain the effective date of disciplinary action, the causes and reasons for the action pursuant to Rule X, Section 2 of these Rules, the charges stating specific incidents or specific courses of conduct, and a copy of the written materials upon which the action is based. The order shall include notice of the employee's right to respond either orally and/or in writing to the appointing authority imposing the action within five (5) working days of service of the order on the employee. Upon receipt of the employee's response, the appointing authority shall review the response and determine the appropriate course of action, and may rescind all or part of the disciplinary action or make no change. The order shall also include notice of the time allowed for appeal and answer. The original order shall be filed with Human Resources and shall be accompanied by information showing that the employee has been served.

Section 7 – Order of Disciplinary Action for Other Than Short-Term Suspensions Under Section 6(c)

After completing the requirement of Section 5 any employee response shall be considered and a determination made of appropriate action. The imposition of disciplinary action to suspend, demote, reduce in salary step, or dismiss is constituted by the written order. Said order is similar to the notice of proposed disciplinary action in that it contains the effective date of disciplinary action, the right of appeal, and specific charges upon which the disciplinary action is based. The effective date may be prior to the order, provided the circumstances warranted such immediate action. The order shall be signed by the appointing authority or by the acting appointing authority. Notice of the time allowed for appeal and answer shall be stated in the order. A copy of the order shall be personally served on the employee or sent by priority mail – delivery confirmation to the employee's last known address. The original order shall be filed with Human Resources and shall be accompanied by information showing that the employee has been served either personally or by priority mail – delivery confirmation. An additional copy shall be provided to a representative who has appeared on behalf of the employee.

Section 8 – Amendment or Withdrawal of Order

After filing with the Director of Human Resources or designee, the order of suspension, demotion, reduction in salary step, or dismissal may be withdrawn by the appointing authority at any time prior to a final decision of the Civil Service Commission. An order may be amended by the appointing authority or acting appointing authority at any time prior to the commencement of a hearing. If an amended order presents new causes for discipline, the employee shall be afforded all of the procedural safeguards enumerated in Section 5 prior to the discipline becoming effective. In addition, the employee shall be afforded a reasonable opportunity to prepare the defense thereto and must file an amended answer with ten (10) working days of receipt of the order and all provisions of Section 10 of this Rule relating to answers shall apply to the amended answer.

Section 9 – Appeal and Request for Hearing

A classified employee with regular status may appeal an order of suspension, demotion, reduction in salary step, or dismissal to the Civil Service Commission and request a hearing. The notice of appeal must be in writing and must be filed within five (5) working days of the receipt of the order. In the case of short-term suspension imposed in accordance with Rule 10, Section 6 (b), notice of appeal must be filed within ten (10) working days of the receipt of the order. The employee shall have the right to a closed hearing. An appeal shall be considered "filed" on the day it is actually received and time stamped by the Civil Service Commission. Any appeal received by the Civil Service Commission after 5:00 p.m. on a business day, or received at any time on a non-business day, shall be considered filed on the next business day. The order of suspension, demotion, reduction in salary step, or dismissal served upon the employee shall specify that any appeal must be actually received by the Commission within the established filing period.

Section 10 – Answer

If the employee appeals, a written answer to the charges must be filed with the Civil Service Commission within five (5) working days of the filing of the notice of appeal with the Civil Service Commission.

The answer must admit or deny each cause for discipline set forth in the order and may state specific facts or reasons as grounds for the appeal. The answer may be ruled insufficient if, in the opinion of the Commission, the facts and reasons stated, even if true, would not entitle the appellant to prevail. If an answer denying the causes for discipline set forth in an order is not filed, said causes for discipline will be deemed admitted.

Section 11 – Selection of Hearing Officer and Time for Hearing

The appeal and answer shall be placed on the agenda for the next regular meeting of the Civil Service Commission. The Commission shall fix the date and time of the hearing of the appeal.

The appellant and his/her representative and the County shall select a hearing officer by mutual agreement as soon as possible but in no event later than ten (10) working days after Commission approval of the appeal or receipt of a list from the American Arbitration Association (AAA) or the State or Federal Mediation and Conciliation Service (S/FMCS) as applicable. In instances where the appeal shall be heard by a hearing officer selected from a list provided by AAA or S/FMCS pursuant to the terms of a Memorandum of Understanding, such lists shall be requested by the appellant or his/her representative no later than five (5) working days of approval of the appeal by the Commission. Where mutual agreement cannot be made, the hearing officer in each case shall be determined following a striking process. The determination as to which party strikes first shall be based on a coin flip. If the last remaining person on the list is not available, the previously stricken person(s) shall be contacted in reverse order until one is available.

Not more than twenty (20) working days after approval of the appeal, the Commission shall fix the date and time of the hearing of the appeal, which date shall not exceed 180 days. The date and time so fixed may be changed by the Commission or hearing officer upon stipulation by the parties, or in the absence of stipulation by the parties, for good cause as shown by the party requesting the change.

The Civil Service Commission, or the parties by mutual agreement in writing, with the approval of the Commission, pursuant to Rule II, Section 23, may extend any of the time limits provided for in this Section.

Section 12 – Parties

The appellant employee or a representative of such employee and the appointing authority or a representative of the appointing authority shall attend the hearing. Failure of the employee or the employee's representative to appear in person at the time and place set for the hearing shall be deemed a withdrawal of the employee's appeal, unless otherwise excused by the Commission.

Section 13 – Rights of Parties

Each party shall have the right to:

a. Choose a representative.

b. Testify under oath.

c. Make a request to have a witness or documents subpoenaed.

d. Question all witnesses.

e. Present evidence.

Section 14 – Appellate Review

Except as may be otherwise provided for in a current Memorandum of Understanding, the Civil Service Commission shall determine whether the matter will be heard before the Commission or a hearing officer subject to the following conditions:

a. <u>For Employees in the Professional, Technical and Inspection, Clerical, Crafts Labor and Trades, Supervisory, Management, Administrative Services, Nurses and Attorney Representation Units</u>

   In cases of major discipline (i.e. dismissal, demotion, suspension of thirty (30) or more calendar days or reduction in step equivalent in lost pay to a suspension of thirty (30) or more calendar days) brought against an employee or employees, the disciplinary hearing shall be conducted by a hearing officer provided, however, excluding the Attorney Unit, a case involving major discipline may be heard by the Civil Service Commission upon mutual agreement of the appellant and the County. Costs for the hearing officer in appeals involving major discipline where the employee is represented in the hearing, shall be split between the County Department of the appellant(s) and the exclusive representative of the appellant.

   In cases of minor discipline (i.e. suspensions of less than thirty calendar days or reductions in step equivalent to a suspension of less than thirty calendar days), if only one party elects the use of a hearing officer the party requesting the hearing officer will pay all costs.

b. <u>For Employees in the Specialized Peace Officer, Specialized Peace officer Supervisory, Probation, Safety, Safety Management and Supervisory and Exempt Units</u>

   All disciplinary hearings filed by the exclusive representative on behalf of the employee shall be heard by a hearing officer provided, however, that upon mutual agreement, appeals may be heard by the Commission. The cost of such hearing officer shall be split between the County Department of the appellant(s) and the appellant(s) exclusive representative.

c. In instances where an employee is not represented, the County may elect to have the appeal heard by the Commission. If, instead, the employee elects to have the appeal heard by a hearing officer, the employee shall be responsible for one-half (1/2) the costs of the appeal process, including any hearing officer's costs. If the County does not elect to have the appeal heard by the Commission, the County shall pay the entire cost of the appeal process, including hearing officer costs, but not expenses incurred by the employee.

At its first meeting in March, and at other times as may be necessary, the Civil Service Commission, the County and each recognized employee organization shall meet and agree to a list of mutually acceptable hearing officers. If the matter is to be heard by a hearing officer, that individual must be appointed from the current list or may be mutually agreed to by the Commission and the affected parties. If mutual agreement is not reached by the parties in selecting a hearing officer, a striking process shall be used from the appropriate list. The hearing officer appointed need not be an attorney.

Findings and recommendations shall not become effective until approved by the Civil Service Commission, except as may be otherwise provided for in a current Memorandum of Understanding. The Civil Service Commission shall either accept or reject the hearing officer's findings and recommendations in its entirety within thirty (30) days of receipt by the Commission. The only basis the Civil Service Commission can use to reject the hearing officer's decision in its entirety is for one or more of the following reasons:

a. The recommendation was procured by corruption, fraud, or other undue means;

b. There was corruption in the hearing officer;

c. The rights of a party were substantially prejudiced by the misconduct of the neutral hearing officer;

d. The hearing officer exceeded his/her powers on the matter submitted; or

e. The rights of a party were substantially prejudiced by the refusal of the hearing officer to postpone the hearing upon sufficient cause being shown therefore, or by the refusal of the hearing officer to properly include or exclude evidence material to the controversy.

Should such be the case, the Commission must state in writing specific reason(s) for the decision (a, b, c, d, or e) and subsequently conduct and complete a full and fair evidentiary hearing on the disciplinary appeal within thirty (30) days of rejecting the hearing officer's findings and recommendations unless the hearing cannot, for good cause, be completed within thirty (30) days.

Section 15 – Purpose of Appellate Review

The purpose of appellate review is to determine the accuracy and the sufficiency of the facts attendant to the dismissal, demotion, reduction in salary step, or suspension. The appointing authority shall have the burden of proof. The inquiry of the Commission or hearing officer shall be confined to a consideration of the stipulations, evidence, and reasons upon which the appointing authority based the action and any pertinent information which established the truth or falsity of such evidence. The Commission or hearing officer shall have the right to order a closed hearing be conducted if it is in the best interests of all concerned except as otherwise provided or required by law. It is not the role of the Commission or hearing officer to substitute its judgment for that of the appointing authority or to evaluate the department and its operations, except as it relates to the matter under consideration.

Section 16 – Modification

The Commission or hearing officer may modify the degree and the type of disciplinary action to be imposed, but in no event shall it impose more severe disciplinary action than that imposed by the appointing authority.

Section 17 – Notice

At least ten (10) calendar days prior to the hearing the Civil Service Commission representative shall mail notice of the time and place of hearing to the parties by certified mail. Notice to counsel or the party's representative of record shall constitute notice to the party. Except as agreed to by the parties, the hearing shall be held during regular working hours on County property.

Section 18 – County Counsel

It shall be the duty of the County Counsel to assist and counsel with appointing authorities regarding disciplinary actions if requested.

Section 19 – Adjournment

The Commission or hearing officer may, for good cause, recess the hearing upon request of a party or upon its own initiative.

Section 20 – Order of Proceedings

The hearing shall be opened by the recording of the place, time, and date of hearing, the presence of the parties, counsel, and representatives, if any. The department shall first proceed with its evidence where disciplinary action has been invoked. A hearing guide may be used and will be made available to all parties.

Section 21 – Report of Hearings

At the time the Civil Service Commission representative communicates the notice of the time and place of the hearing to the parties, the Civil Service Commission representative shall inform them as to whether the Commission intends to cause a Certified Shorthand Reporter to be present at the hearing. If the representative notifies the parties that the Commission does not intend to supply a Certified Shorthand Reporter on its own initiative, either party may request that the Commission provide one, in which case the Civil Service Commission shall secure and compensate for the services of a Certified Shorthand Reporter. Costs for transcripts shall be borne by the party requesting the transcript. Nothing herein contained shall be deemed to deny the right of either party or the Commission or hearing officer to take and make a mechanical transcription of the proceedings so long as it is not disruptive of the proceedings.

Section 22 – Exhibits and Witnesses

The names and addresses of all witnesses and exhibits shall be made a part of the record. The Commission or hearing officer shall have the power to exclude witnesses not under examination and to admonish witnesses to refrain from discussing the subject of their testimony with other witnesses or potential witnesses. The parties and their representatives shall be permitted to remain in the hearing room at all times prior to submission of the matter for decision, even though they may be called upon to testify as witnesses. The Commission or hearing officer shall require all witnesses to testify under oath or affirmation. The oath shall read:

> "Do you solemnly swear (or affirm) that the testimony you are about to give in this matter shall be the truth, the whole truth, and nothing but the truth."

Section 23 – Confidentiality

Charges against an employee filed with the Commission shall not be public record or open to public inspection unless an open public hearing is ordered. Hearings and all related documents shall not be open to the public unless requested by the appellant and approved by the Commission or Hearing Officer.

Section 24 – Inspection of Sites

The Commission or hearing officer may inspect sites in connection with the hearing. Notice of such an inspection must be given to the parties and the parties or their representatives shall be permitted to accompany the Commission or hearing officer.

Section 25 – Closing of Hearing

The Commission or hearing officer shall inquire if either party has anything further to offer. Upon receiving negative replies, the hearing shall be closed. The Civil Service Commission or hearing officer will give each party a written decision of its findings within thirty (30) calendar days.

Section 26 – Decisions and Reopening of Hearing

Disciplinary hearing decisions are final upon Civil Service Commission adoption of findings of fact and conclusions of law. For good cause the Commission or hearing officer may reopen a hearing anytime after the close of a hearing except that a hearing may not be reopened after the Commission's final adoption of findings of fact and conclusions of law.

Section 27 – Waiver of Rights

Either party who proceeds with the hearing knowing that any provision or requirement of these Rules has not been complied with and who fails to object, in writing or on the record, shall be deemed to have waived the right to object.

Section 28 – Waiver of Oral Testimony

The parties may agree to waive oral testimony with permission of the Commission or hearing officer. Submission may be by affidavits, declarations, depositions, or other documents, mutually exchanged. The Commission or hearing officer will receive and take action on requests to waive oral testimony prior to or at the scheduled hearing date.

Section 29 – Expenses

The expenses of witnesses for either side shall be paid by the party producing such witnesses. County employees required to testify shall be on call and shall be relieved of regular duties to report when summoned by the Commission or hearing officer. County employees shall receive their regular compensation for time necessary to testify or such compensation as set forth in the applicable Memoranda of Understanding.