

# **PERSONNEL RULES**

**FOR**

**BOARD – GOVERNED**

**SPECIAL DISTRICTS**



**REVISED SEPTEMBER 1987**

## **SPECIAL DISTRICTS**

### **PERSONNEL RULES**

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## **PREFACE**

These Rules provide a means for uniform personnel administration for special district employees. The Rules apply to all employees of special districts, county service areas and zones governed by the San Bernardino County Board of Supervisors, unless contrary to a districts enabling legislation, those already established in the Rules and Regulations for Board-Governed Fire Protections Districts, 1976, or in those authorized in Memorandum of Understanding between district management and employee organizations. The Rules also apply to district exempt employees unless specifically excluded within rule provisions. The Personnel rules adopted by the County for County employees do not apply to special district or county service area employees nor do they supersede, override, or affect these Rules.

The Board of Supervisors, as the governing body of the special districts and county service areas, has the ultimate responsibility for these Rules and the Board of Supervisors must approve any change, amendment or addition to the Rules.

The Office of Special Districts functions as the staff agency to the Board of Supervisors for the operation of the special districts and county service areas and are responsible for administering these Rules. The Assistant Administrative Officer for Special Districts is assigned this responsibility and shall appoint a Special Districts' Personnel Director who will administer these Rules.

District Managers are responsible for implementing and insuring compliance with these Rules within their area of responsibility. District Managers are defined as Park Directors, Fire Chiefs, Superintendents of Operations, or other similar positions that are charged with the overall responsibility for management and operation of a special district or county service area.

Special district and county service area advisory commissions are encouraged to become familiar with the Rules and maintain an awareness of their application within their area of responsibility.

## **RULE I**

### **CODE OF ETHICS**

#### **SECTION 1 – PURPOSE**

This code establishes the ethical standards of conduct required of district employees for the proper operation of government in all special districts and county service areas having as their governing body the San Bernardino County Board of Supervisors. 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 EMPLOYMENT**

Public employees hold their position for the benefit of the public. They shall uphold the Constitution of the United States, the Constitution of the State of California, the Charter of the County of San Bernardino, and the rules, regulations, and policies of the special districts and county service areas and carry out impartially the laws of the nation, state, and county. In their official acts, they shall discharge faithfully the duties of their positions, recognizing that the public interest is paramount. Public employees must demonstrate the highest standards of morality and ethics consistent with the requirements of their position and with the law.

#### **SECTION 3 – DEDICATED SERVICE**

In the performance of their duties, all employees shall support governmental objectives expressed by the electorate and interpreted by the Board of Supervisors acting as the governing body of the district. Employees shall adhere to work rules and performance standards established for their positions. During the hours covered by active district employment, no employee shall work for any other employer or agency and shall neither conduct nor pursue any unauthorized activity for remuneration. The Board of Supervisors, as the governing body of the districts, requires special district employees to use good manners, to be considerate, to manifest dignity, to be accurate in their statements and to exercise sound judgment in the performance of their work. Employees shall not exceed their authority or breach the law or 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 district rules, which dictate confidentiality in their work.

#### **SECTION 4 – NONDISCRIMINATION**

All appointments shall be made in accordance with established standards, for employment. No person shall be favored or discriminated against with respect to any appointment or change in employment status because of family or social relationships, sex, race, religion, national origin, marital status, age, physical or mental handicap, political opinion or political affiliation. Except where specified in rules, procedures, or pursuant to actions taken by the Board of Supervisors and any other applicable provisions of the Government Code, no employee shall grant any special consideration, treatment, or advantage to any person beyond that which is available to every person in similar circumstances.

## SECTION 5 – CONFIDENTIAL INFORMATION

As appropriate, the Appointing Authority shall make known to subordinates which information is regarded as confidential. No employee shall either disclose such confidential information except as authorized or required by law or office, or otherwise use such information for personal gain or benefit. All personnel records shall be confidential except when law requires disclosure.

## SECTION 6 – USE OF PUBLIC PROPERTY

Employees are prohibited from using district-owned equipment, materials, or property for personal benefit or profit unless specifically authorized by the Board of Supervisors.

## SECTION 7 – CONFLICT OF INTEREST

No employee shall engage in any business or transaction or shall have a financial or other personal interest or association whether direct or indirect, 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 district employment providing such acts do not constitute a conflict of interest as defined herein. An employee is also subject to the current provision of California Government Code Sections 1090 and may be subject to other applicable provisions of the Government Code and the regulations promulgated pursuant to Sections 87100 et seq., as well as the Conflict of Interest Code adopted by the District.

## SECTION 8 – POLITICAL ACTIVITY

It is the intent of the Board of Supervisors that every district employee may participate in the political process to the extent that such participation does not interfere with the orderly performance of County and district functions. The provisions of California Government Code Sections 3201-5205, any future amendments thereto and any other applicable law or regulation are hereby incorporated as part of the Rule. Employees participating in political activity in violation of any personnel rule, district policy, labor contract, or regulation governing the conduct of district employees shall constitute cause for disciplinary action.

## SECTION 9 – USE OF DISTRICT VEHICLES

Employees are authorized to use district vehicles only for district purposes and must observe all applicable driving laws and safety precautions. Any employee operating a district vehicle must have a valid California driver's license. Employees operating district vehicles may carry, as passengers in these vehicles, only authorized employees whose duties require the use of the vehicle and such other persons whose business or activities are necessary to the interests of the district. No employee shall travel outside the County in district vehicles without the prior approval of the Assistant Administrative Officer for Special Districts. "Travel outside the County" does not include travel to Riverside, Orange or Los Angeles counties, or required travel through a portion of an adjacent



county to reach a destination within the County of San Bernardino. Persons other than district employees are not permitted to operate district vehicles.

#### SECTION 10 – EMPLOYEE RESPONSIBILITIES

It shall be the responsibility of all employees to become aware and be knowledgeable of the personnel rules applicable to and contiguous with their employment. A copy of these Rules shall be available and posted at the Office of Special Districts, in each district, and distributed to recognized employee organizations constituting the full district responsibility of making employees aware of and accountable for these Rules.

### **RULE II**

#### **AUTHORITY AND RESPONSIBILITY**

##### SECTION 1 – BOARD OF SUPERVISORS

The Board of Supervisors, as the governing body of the districts, is the final authority regarding the personnel rules for district employees. Accordingly, all personnel rules and amendments must be adopted by the Board of Supervisors and become effective immediately upon approval of the Board of Supervisors, unless some future effective date is specified in the Board action adopting the rule(s).

##### SECTION 2 – ASSISTANT ADMINISTRATIVE OFFICER FOR SPECIAL DISTRICTS

The Assistant Administrative Officer for Special Districts shall exercise general supervision over the application and administration of these Rules. In this regard, he may issue such orders as deemed appropriate to carry out or effect any of the provisions of the Rules. Additions and/or amendments to the Rules are subject to the review and approval of the Assistant Administrative Officer of Special Districts before being recommended to the Board of Supervisors for adoption.

##### SECTION 3 – OFFICE OF SPECIAL DISTRICTS

The Office of Special Districts prepares personnel rules for district employees; however, district managers may make suggestions for additions or alterations to the rules, or recognized employee organizations as may be appropriate.

The Assistant Administrative Officer for Special Districts shall designate a Special District's Personnel Director who will administer the personnel rules adopted by the Board of Supervisors. The term "Personnel Director" as used in these Rules shall refer to the Special Districts' Personnel Director only. The Special Districts' Personnel Director is responsible for the interpretation and administration of these Rules and the maintenance of related records.

#### SECTION 4 – INDIVIDUAL SPECIAL DISTRICTS

The term "district" as used in these rules shall mean those special districts governed by the Board of Supervisors, county service areas, and improvement zones thereof. Each district will implement appropriate procedures to comply with the personnel rules adopted by the Board of Supervisors.

#### SECTION 5 – APPOINTING AUTHORITY FOR SPECIAL DISTRICTS' EMPLOYEES

The Assistant Administrative Officer for Special Districts is the Appointing Authority for all special district employees, including district managers, regular district employees, extra-help employees, and special-funded employees. The Assistant Administrative Officer for Special Districts may delegate his appointing authority responsibilities to a designated representative, who may in turn delegate selected appointing authority responsibilities to other individuals. The County Administrative Officer must approve all delegations of appointing authority responsibilities.

### **RULE III**

#### **CLASSIFICATION OF EMPLOYEES**

##### SECTION 1 – CLASSIFICATION PLAN

There shall be a classification plan in each district for all positions based on analysis of the district's organization and the duties and responsibilities of each position. Positions within the same occupational family will be grouped together into a system of classes according to organizational structure and the responsibilities and difficulty of tasks required for the positions. Each such classification is given an appropriate title and may include one or more positions.

##### SECTION 2 – POSITION AUTHORIZATION

Positions are authorized as regular or extra help based upon the following criteria:

1. Regular. The Board of Supervisors authorizes regular positions. Regular positions may be budgeted at either a full-time or part-time level. Employees in regular positions may attain regular status pursuant to the provisions of these Rules upon completion of the appropriate probationary period.
2. Extra Help. Appointing authorities authorizes extra help positions. These positions are created to cover unanticipated workloads, which cannot otherwise be accommodated. Extra help employees do not attain regular status.

### SECTION 3 – CLASSIFICATION SPECIFICATIONS

Classification specifications shall be written and maintained for each district classification. Classification specifications may vary for similar classifications in different districts. Classification specifications are the official description of the representative duties, responsibilities and supervisory relationships of a class, the specification shall include an appropriate title and description of typical duties and responsibilities. Until a specification is written, the examination announcement shall serve as the written classification specification.

### SECTION 4 – CLASSIFICATION REVIEW PROCEDURES

A. New Position Review Procedures. When any new regular position is desired in a district, the district manager shall submit a written request to the Special Districts' Personnel Director, which shall include a description of the position, requested. The description shall include examples of the duties and responsibilities to be assigned to the position. The Personnel Director shall investigate the proposed duties and responsibilities. The Board of Supervisors must approve all new regular positions. After the Board of Supervisors authorizes a new regular position, the district manager prior to recruitment efforts shall notify the Personnel Director. A new position may be subject to a classification verification review by the Personnel Director within the first six (6) months after the position is filed. If any change is recommended, the rules on upgrading or downgrading shall apply.

B. Reorganization Study Review Procedures. Whenever a district or a unit thereof is reorganized, the classification of positions within the district shall be reviewed by the Personnel Director and a determination made as to the need for classification investigation. Any classification changes resulting from reorganization must be approved by the Board of Supervisors. In any reorganization, regular employees shall be placed in classifications with equivalent salary ranges, if such positions are available and the employee(s) meet the qualifications and requirements of available positions. If a change in the classification of a position results due to reorganization, the rules on upgrades and downgrades shall apply.

When reorganization results in a surplus of employees, rules of layoff and/or downgrading shall prevail.

C. Special Studies. Special studies include exceptional situations such as gradual district restructuring of duties, unique recruitment needs or legal mandates requiring change.

1. Requests for Special Studies. Requests for or special classification studies may be filed through the district manager. Requests shall be submitted to the Personnel Director for review and determination of whether a study is warranted or feasible.

2. Recommendations of Special Studies. After conducting a classification analysis of positions authorized for study, the Personnel Director will notify the district manager of the recommended classification changes, if any. The recommended classification changes will become effective only upon Board of Supervisor approval.

#### SECTION 5 – RESULTS OF CLASSIFICATION STUDIES

A. Upgrading. A change in the title of a position accompanied by an assignment of the position to a classification at a higher salary range constitutes an upgrading. All upgrading of regular positions must be authorized and approved by the Board of Supervisors. Incumbents are not automatically promoted to the upgraded classification, but must compete through an examination and appointment process, unless the process is waived by the Personnel Director. The examination to qualify an incumbent for promotion to an upgraded position may be waived by the Personnel Director and the incumbent continued in current status at the request of the district manager, under the following conditions:

1. The position upgrading has resulted from a district-wide classification study of numerous positions and retention of the incumbent in the upgraded position is approved by the Board of Supervisors.

- or -

2. The upgrading has resulted from an incremental change in duties and the incumbent has been in the position at least twelve (12) months and during that time has performed the new grade - determining duties for the length of the probationary period of the higher class;

-and-

3. The Personnel Director finds that such waiver will not result in circumvention of the principles of competitive promotion.

In all other cases, upgraded positions are to be filled by examination in accordance with the rules on examination 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 Personnel Director.

Incumbents not appointed to the upgraded position or those who are unsuccessful in performing the duties of the higher-level position may be demoted or terminated in accordance with these Rules.

B. Downgradings. 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 a downgrading. When an employee with regular status occupies a position, which has been downgraded, the employee shall be entitled to fill any vacant position in the district with an equivalent classification to the one in which the employee has regular status, subject to the rule on layoff. An equivalent classification is hereby defined as one having approximately the same salary range but no higher, and requiring the same type and amount of experience, knowledge, skill, and education if appropriate. Demonstration of the employee's skill and knowledge in an examination may be required by the Personnel Director.

Employees appointed to an equivalent classification shall retain the service status they held in their classification at the time of the downgrading. If no vacancy is immediately available, the employee shall be entitled to be considered for any vacancy that occurs within the district during the next twelve (12) months providing that they are qualified. Unless the employee's salary exceeds the "E" step of the classification to which the position downgraded, there shall be no salary reduction because of the downgrading of the position. Should the incumbent's salary exceed the "E" step of the lower classification, the Personnel Director may authorize continuation of the incumbent's present salary rate on an "X" step; the employee whose salary rate is "X" stepped shall receive no future salary increases until the salary range of the new classification exceeds the "X" step. Employees with probationary status when downgraded shall be credited for time completed in their probationary period.

#### SECTION 6 – TECHNICAL TITLE CHANGE

A change in the title of a position without any change in salary range or substantial change in the relevant grade-determining duties or requirements shall constitute a technical title change. Technical title changes require Board approval.

#### SECTION 7 – CLASSIFICATION APPEAL PROCEDURE

Appeals of recommended allocations may be filed by incumbents in positions or by exclusive recognized bargaining agents. Such appeals must be requested within ten (10) working days of notice of allocation in writing to the Appointing Authority. In the case of represented employees, the designated representative and the Personnel Director shall mutually agree on the selection of a third party neutral to conduct a hearing of the matter and share any resulting cost. In the case of un-represented employees, the Appointing Authority or designee shall hear the matter.

All appeals shall be limited to discussion of the duties and responsibilities performed at the time the position was studied. The burden of proof shall rest with the appellant. The decision of the neutral shall be in the form of a recommendation to the Appointing Authority.

## **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 purposes of the examination process are to:

- A. Provide qualified persons for district employment and promotions insuring equal employment opportunity as a necessary element by eliminating and preventing the occurrence of arbitrary discriminatory practices.
- B. Insure that interested persons are informed of the examinations with special recruitment efforts tailored to attract and reach members of protected classes.
- C. Insure that all examinations are valid, impartial, and free from personal, political and non-merit considerations, and consistent with law.

#### **SECTION 2 – 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 consist of one (1) or more tests, including performance tests; written tests; rated interviews; audiovisual tests; rating of applications; supplemental applications or resumes; or work performance or promotional potential evaluations. Examinations may include tests of ability, physical and mental fitness, interests, knowledge, and skills, as applicable to the position to be filled.

#### **SECTION 3 – NEED**

All regular and extra help position vacancies shall be filled by persons who have qualified by examination, except as otherwise provided by these Rules.

District managers have the responsibility to notify the Special Districts' Personnel Director as soon as a regular position vacancy is anticipated and to provide a complete description of the duties of the position.

Examinations may be held and appropriate eligibility lists established when deemed appropriate by the Personnel Director. An examination announcement need not reflect an immediately available position.

#### **SECTION 4 – CONTENTS**

The Personnel Director or his/her designee has sole responsibility for examinations. Examinations and selection interviews shall consider the following:

- A. Analysis of job duties
- B. Availability of applicants

- C. EEO/Affirmative Action, i.e. special problems of protected classes related to effective competition
- D. Occupational standards
- E. Professional testing principles
- F. Supportable past experience

Examinations shall generally be conducted by the district. The Personnel Director may appoint special examiners as needed to represent the Office of Special Districts. All examinations shall be subject to continuous analysis of job relatedness.

#### SECTION 5 – TYPE

The type of examination shall be determined by the Personnel Director 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 persons who qualify are admitted to the examination.
- B. Promotional: Only district employees who have completed their probationary period and attained regular status are admitted to the examination. (Extra-help, trainee, and provisional employees who have worked full-time for a district for at least twenty-six (26) pay periods may also compete in a promotional examination). All district promotional examinations must be approved by the Personnel Director.
- C. Consolidated: All interested applicants or eligible district employees applying for a position vacancy at the entry level, in a district, which has consolidated its examination process with one or more other districts or other public agencies, are admitted to the examination. Consolidated examinations must be approved by the Personnel Director and are encouraged whenever feasible.
- D. Qualifying: Any examination for an employee who is working in trainee, underfill, extra-help or provisional status used in qualifying employees for appointment to a regular position.
- E. Lateral entry: Employees of other recognized public agencies with regular status who have completed at least twelve (12) months of continuous, full-time, satisfactory service in a comparable classification.

#### SECTION 6 – NOTICE OF EXAMINATION

The Personnel Director shall post or authorize the district manager to post a job announcement, in the district office, the Office of Special Districts, and other public

locations, as well as placing such announcements in local publications as approximate. (If the examination is promotional, public postings are unnecessary). The announcement shall include:

1. The title of the position
2. A brief statement of the duties
3. The approximate rate and range of pay
4. Any special requirement prior to appointment or prior to the acquisition of regular status; special conditions of employment.
5. Minimum requirements
6. A statement of the types of examinations and subjects involved in each
7. An application closing date

Job announcements shall be posted for at least one (1) week preceding the closing date for receiving applications. The one (1) week notice may be waived for extra-help services when deemed necessary. Notices of several examinations may be grouped together in a single notice.

#### SECTION 7 – REQUIREMENTS

Minimum requirements for admission to an examination for employment and promotion shall be determined in accordance with legal requirements, classification specifications, duties of the position, occupational standards, labor market, and past experience. Such requirements shall be based upon an evaluation of the duties and skills required. Members of protected classes will be given every reasonable access and encouragement to employment and promotion. Applicants may be required to submit additional information about their job-related backgrounds, to submit evidence of their possession of licenses or certificates, or of the completion of courses of study or training. Successful applicants shall be required to pass a medical examination and take an oath of allegiance prior to appointment unless waived by the Personnel Director.

#### SECTION 8 – CITIZENSHIP AND RESIDENCE

Proof of citizenship or residency status is required of all applicants for positions prior to hire consistent with the Immigration Reform and Control Act of 1986, and any other applicable law or regulation. Unless otherwise required by law, there shall be no residency requirement for employees. The Personnel Director may determine that the requirements of a particular job require an employee to reside within a reasonable response time of his or her place of employment as a condition of that employment.



## SECTION 9 – FILING OF APPLICATIONS

All applications for examination must be filed on the standard form furnished by the Office of Special Districts. Resumes or statements of qualifications may be required in addition to applications. No appointment shall be finalized until receipt of a completed official application form by the District.

## SECTION 10 – APPLICATION REVIEW

All applications shall be screened for eligibility and admission to the examination. No person shall be accepted for examination who:

1. Is not eligible for examination under the provisions of these Rules;
2. Submits an application after the last day of accepting applications as specified in the notice or amendment thereto, unless waived by the Personnel Director;
3. Does not meet the minimum qualifications as prescribed in the examination announcement;
4. Does not meet the legal requirements as set forth in Federal or State law or regulations or ordinance.
5. Has made false statements of any material fact or has practiced deception or fraud in the application, examination or selection process.
6. Has sought to overthrow the United States government or State by force or by violence, or has disturbed the mission of a public agency.

## SECTION 11 – MODIFICATION OR SUSPENSION OF EXAMINATION

The Personnel Director may modify the examination process as listed on the examination announcement, by notifying eligible applicants in writing of any modification. If there are ten (10) or fewer competitors in any part of the examination process, subsequent parts of the current examination may be modified or suspended at any time provided that the district manager interviews all those eligible.

## SECTION 12 – WAIVER OF EXAMINATION

When a vacancy occurs or is anticipated in a position requiring exceptional qualifications, the district manager may file a written request for suspension of the examination process with the Personnel Director. Examinations may be suspended by the Personnel Director if immediate appointment in the interest of safety or operations is necessary, exceptional qualifications for the position are required, or the position can best be filled by the selection of some designated person of recognized attainments.

### SECTION 13 – ADMISSION

All applicants who have not been excluded under Section 10 may be admitted to the examination. No applicant shall be given preferential treatment and information available to one candidate shall be available to all candidates.

### SECTION 14 – EXAMINATION GRADES

The examination may be composed of one or several tests, which are graded independently or jointly with weights assigned to each test representing relative value, importance, or other technical considerations. Weights shall contribute to the total examination grade and be expressed in percentages. Applicants shall receive priority placement on eligibility lists based upon their total percentage score. The Personnel Director may specify the maximum number of eligibles to be qualified in the examination or any part thereof.

### SECTION 15 – CORRECTION AND REVIEW OF EXAMINATIONS

Prior to computing grades, examination items may be deleted by the district manager or Personnel Director on the basis of item analysis, administrative or clerical errors, incorrect keying, and valid objections of applicants if registered in writing within three (3) working days following the examination. The Personnel Director may remove questions or make alterations based on factual objections of applicants who question content. Any such deletions shall be entered on the official keyed copy of the examination.

### SECTION 16 – COMPLETION

An examination shall be completed on the date the district manager signs the Examination Summary. The Examination summary is a listing of all the candidates examined which includes relevant information pertaining to how they were evaluated, as well as their examination scores. The eligibility of successful applicants shall commence as of this date. Applicants shall be notified by mail of the results of the examination together with the reasons for such deletion. After grades are assigned, only clerical errors can be corrected.

## **RULE V**

### **ELIGIBILITY LISTS**

#### SECTION 1 – DEFINITION

An eligibility list is an arrangement of applicants qualified as a result of the examination process. Except as otherwise provided in these rules, all selection interviews shall be conducted and appointments made from applicants qualifying on an eligibility list. All eligibility lists shall terminate one hundred eighty (**180**) calendar days after established; however, upon the recommendation of the district manager, and with the approval of the Personnel Director, eligibility lists may be extended or reactivated for a period not to exceed one (1) year from the first date they were established.

The types of eligibility lists are:

- A. Open: A list of persons who have qualified by open competitive examination for a given position.
- B. Promotional: A list of persons having regular status who have qualified in a district promotional examination for a given position.
- C. Consolidated: A list of persons who have qualified for a given position in an examination conducted by two or more districts. The Personnel Director may subdivide consolidated eligibility lists according to geographical area or other objective factors consistent with the employment requirements of districts participating in the consolidated examination.
- D. Lateral Entry: A list of persons who are qualified through a lateral entry examination.

#### SECTION 2 – REMOVAL OF NAMES

An employee's name shall be removed from any eligibility list after his or her appointment, or at the end of the eligibility period. The acceptance of an extra-help position by persons on eligibility lists shall not affect their eligibility for regular positions. Names shall be removed from the promotional eligibility lists upon appointment, termination of the employee, or upon granting a leave of absence without right to return to the job. The Personnel Director may remove names of any person who:

- A. Refuses an appointment when offered.
- B. Fails to appear for a job interview.
- C. Has failed to answer an availability inquiry or keep the district informed of his address.
- D. Has demonstrated unsatisfactory work performance in an extra-help position
- E. Has requested that his or her name be removed.
- F. Fails to meet minimum requirements, medical standards, or has falsified the application.
- G. Has had a valid district filed by the district manager.
- H. Has demonstrated loss of skill or ability, as required after hire.
- I. Has failed to comply with conditions of employment as a district employee.

- J. Has violated the Code of Ethics, Rule I or other provisions of these Rules.
- K. Is not offered an appointment after three (3) selection interviews.

All persons whose names are removed from the eligible list for cause shall be so notified in writing and except for persons removed pursuant to paragraph A., B., or C. above, have the right to appeal to the Personnel Director.

### SECTION 3 – PLACEMENT OF NAMES

Except as otherwise provided by these Rules, the name of any person qualified for district employment or promotion must be placed on an appropriate eligible list. Eligibles may also be placed on lists for lower or parallel classifications according to a formula established by the Personnel Director. In addition to names placed on lists through the examination process, the Personnel Director may place names on lists that fall into the following categories:

- A. Persons who have been notified in writing that they will be involuntarily downgraded or separated without fault on their part.
- B. Disability retirement returnees.
- C. Persons who have been granted a leave of absence without right to return to their former position.

With the approval of the Personnel Director, any eligibility list developed in accordance with these Rules for a specific classification may be used for selection purposes by any district to fill similar parallel or lower classification positions.

### SECTION 4 – SELECTION INTERVIEW

The district manager shall conduct a selection interview with at least the three highest ranking eligibles and any protected class members who are among the top ten (10) candidates on the eligibility list.

### SECTION 5 – REJECTION OF APPLICANTS

In the event the individual having appointing authority responsibility as defined in Rule II, Section 6, finds candidates recommended for appointment unacceptable for a specific position, he or she may call for a new examination.

## **RULE VI**

### **APPOINTMENTS**

#### **SECTION 1 – DEFINITION**

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

#### **SECTION 2 – TYPES OF APPOINTMENTS**

- A. Regular: Appointments to vacant, regular positions shall be filled by appointment from an appropriate eligibility list, except as otherwise provided in these Rules. No regular appointment shall be completed until the applicant has successfully passed the probationary period.
- B. Trainee: Subject to the approval of the Personnel Director, appointments to regular positions in a trainee status may be made from an appropriate eligibility list for a limited period of time during which the employee must qualify for the classification or be terminated. The employee shall be required to qualify by one or more of the following:
1. Additional experience.
  2. Additional schooling.
  3. Possession of a State certificate or license.
  4. Work performance evaluation.
  5. Successful completion of an appropriate examination.

The original appointments to trainee positions must be made on a competitive basis. During the period of trainee appointment, the trainee shall have probationary status. Appointments to the higher classification are subject to a new 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) above, If such appointment is a budgetary underfill, the incumbent shall remain at the lower level classification and not be assigned the higher level duties.
- D. Extra-Help: Appointments of persons from an appropriate eligibility list to an unbudgeted position shall be known as extra-help appointments. Employees in extra-help positions do not have regular status. Subsequent appointment of an

extra-help employee to a regular position is subject to the completion of a probationary period before attaining regular status. Time spent in extra-help position does not count toward completion of probationary period unless a waiver is granted pursuant to Section 9 of this Rule.

- E. Provisional: Unless otherwise provided by these Rules, appointment of a person not on an eligibility list is provisional and may be made under any of the following conditions:
1. There is no existing eligibility list for the classification.
  2. The eligibility list contains three (3) or fewer names, and the district manager has filed written objection to the employment of each person on the list with the Personnel Director.
  3. Persons on the list are not available for the position under the terms and conditions prescribed by the Personnel Director.

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 establishment of an appropriate eligibility list or twelve (12) months from the date of the original appointment. Provisional appointments shall not be used to circumvent the principles of competitive examinations. At the end, of the initial twelve-month period, provisional appointments may be renewed by the Personnel Director.

#### SECTION 3 – CHANGE OF APPOINTMENT

At the written request of the district manager, the Personnel Director may change a full-time extra-help appointment to a regular appointment providing the employee has completed six (6) consecutive months of satisfactory service in a position having the same job responsibilities and assignments. The employee is subject to a probationary period. Time spent in the extra-help position does not count toward completion of the probationary period unless a waiver is granted pursuant to Section 9 of this Rule.

#### SECTION 4 – OATH OF ALLEGIANCE

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

#### SECTION 5 - MEDICAL STANDARDS

Job-related medical standards shall be established for each job or group of jobs performed within districts in accordance with district requirements. The Personnel Director may waive the medical standards for an applicant and place restrictions and conditions on continued employment.

**SECTION 6 – MEDICAL EXAMINATION**

Successful applicants are required to take a medical examination prior to the starting date of their employment. Any applicant who fails to successfully complete a medical examination shall be considered ineligible for appointment.

Medical examinations shall be conducted by a physician employed by the County for this purpose unless the Personnel Director authorizes an examination by another physician. The purpose of the medical examination is to determine the medical 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 Occupational Health Officer or examining physician shall submit a report to the Personnel Director containing his recommendation and any essential information requested by the Personnel Director for proper placement or restriction of applicants.

In-service physical and/or mental examinations may be directed if, in the opinion of the Personnel Director and appointing authority, an employee is incapable of performing job duties because of a mental or physical impairment.

**SECTION 7 – LEGAL REQUIREMENTS**

No applicant shall be appointed to any position in district service that does not meet the legal requirements for the position. If a name has been placed on the eligibility list in error, the name shall be removed from the eligibility list and the candidate notified.

**SECTION 8 – PROBATIONARY PERIOD**

During the probationary period, the district manager 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.

Probationary Period

Thirteen (13) pay periods

Progress Reports Required

After four (4) pay periods and two (2) pay periods prior to completion of probationary period

Twenty-six (26) pay periods

After four (4) pay periods, thirteen (13) pay periods, and two (2) pay periods prior to completion of probationary period

A district manager may request an extension of the probationary period in increments of three (3) pay periods with a maximum extension of eighteen (18) pay periods. Any requests for an extension of a probationary period must be filed before the end of the probationary period. All requests for extensions and modifications require approval of

the Personnel Director. The district manager shall inform the employee in writing of the reasons for the request for extension or modification in conjunction with the completion of a progress report.

If the work or conduct of a probationer who has not attained regular status in another classification of district employment is found to be below standards acceptable to the district manager, the district manager shall make a recommendation to terminate the probationer to the Assistant Administrative Officer for Special Districts who will decide appropriate action. Such terminations are not subject to review or appeal, unless otherwise required by law. A promoted employee who has attained regular status in another classification of District employment who does not successfully complete the probationary period in the promoted class shall be returned to the former classification or a comparable classification within the same district, without right to review or appeal.

Extra-help, trainee and provisional appointments shall be probationary throughout the term of employment.

#### SECTION 9 – WAIVER OF PROBATIONARY PERIOD

When an employee is appointed to a regular position requiring a probationary period, after thirty (30) days of continuous extra-help or provisional service in the same classification, such service may be credited toward completion of the probationary period provided that the employee was performing the same type of duties and was evaluated as meeting performance standards. Such waiver is subject to the approval of the Personnel Director and district manager.

#### SECTION 10 – DEFINITION OF REQUALIFICATION

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 or are voluntarily demoted after acquiring regular status may be requalified for placement on appropriate eligible lists. The eligible period for requalification begins immediately after the date of resignation or voluntary demotion and ends three (3) years thereafter. The period of eligibility on lists after placement shall not exceed one (1) year from the date of requalification.

The Personnel Director may approve the request of a former or voluntarily demoted employees to be requalified based on previous district employment and work experience. Former employees shall not be granted requalification eligibility unless their former district manager concurs with the requalification based on past performance. Employees whose prior record shows excessive absenteeism or use of sick leave may be considered for placement on the eligible list only if the district manager and Personnel Director determine circumstances warrant such action.

An employee under age 55 who is separated from district service because of a disability retirement shall be eligible for requalification. Such action shall be pursuant to a medical examination ordered by the Board of Retirement which shows the former employee 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. 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. Employees who request requalification under this condition shall be notified by mail whenever a vacancy for which they qualify occurs in the district from which they were retired. A former employee's qualifications for a vacancy will be determined by the Personnel Director. Notification of vacancies shall not exceed one (1) year.

## **RULE VII**

### **WORK PERFORMANCE**

#### **SECTION 1 – PURPOSE**

The purpose of the Performance Evaluation is to encourage a systematic method of measuring, recording, and improving the work effectiveness and development of special district employees. Work performance evaluations are intended to be supportive as well as corrective. They may reveal work insufficiencies that require corrective or disciplinary action or in some cases be used to list accomplishments or set goals for future performance.

#### **SECTION 2 – STANDARDS**

Special district 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 district. Conduct standards refer to acceptable behavior, and enforcement is the responsibility of the employing district concurrent with these Rules and district standards. Conduct standards may be established by the federal or state government, or employing agency, and may be expressed in law, rules, regulations, policies or generally accepted practices.

#### **SECTION 3 – DUTY OF DISTRICT**

It is the duty of the district to evaluate the accomplishments and conduct of employees, to inform employees of their performance levels in writing, and to assist employees in improving work effectiveness. Evaluations for district managers shall be the responsibility of the Assistant Administrative Officer for Special Districts.

#### **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 high 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 or more frequently as needed to maintain a record of an employee's work performance. The evaluation process 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 acknowledgment except for appeals which are upheld under Section 7 of these Rules.
- B. Signature of an evaluator and at least one (1) reviewing official. Except for evaluations of district managers, the evaluator should be the employee's immediate supervisor.
- C. A discussion between the evaluator and the employee being evaluated on the content of the performance evaluation.
- D. A copy for the employee.
- 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 – USE

Evaluations of work performance shall be considered for all pertinent personnel actions and shall be reviewed for training, goal setting, and other personnel management needs. Additionally, they may be used for requalification of former employees and recertification of competency as required under the County Retirement System.

## SECTION 7 – APPEALS

In addition to the right of an employee to file a written response to a Work Performance Evaluation, an employee who regular status in his or her current classification may appeal the content of a Work Performance Evaluation with an overall rating that is below standard, in accordance with the following procedure:

- A. Within five (5) working days from receiving a copy of the work performance evaluation, an employee may file a written appeal to the district manager. The appeal must state the specific point(s) and justification of the disagreement with the evaluation. If the district manager was the rater, then the appeal should be filed with the Personnel Director. If the district manager is the appellant, the appeal should be filed with the Appointing Authority.
- B. Within ten (10) working days after receiving the appeal, the district manager, other appointing authority or Personnel Director shall provide a written decision to the employee, including the basis for the decision.

- C. If not satisfied with the decision, the employee may further appeal to the Personnel Director, so long as the appeal is filed within five (5) working days of the employee's receipt of the district manager's decision.
- D. Within ten (10) working days after receiving the appeal, the Personnel Director shall provide a written decision to the employee including the basis for the decision. This decision shall be considered final and conclude the administrative appeal process.

If the employee's appeal is upheld, a new work performance evaluation, will be completed within five (5) working days. If the decision of the Personnel Director agrees with the work performance evaluation as rendered, a copy of the appeal and the decision will be placed in the employee's permanent personnel file.

## **RULE VIII**

### **LEAVE PROVISIONS**

The following sections apply to non-represented district employees, except exempt, who do not have a Memorandum of Understanding covering leave provisions.

#### **SECTION 1. – SICK LEAVE**

Sick leave with pay is an insurance or protection provided by the district to be granted in circumstances of adversity to promote the health of the individual employee. It is not an earned right to time off from work. Sick leave is defined to mean the authorized absence from duty of an employee because of physical or mental illness, injury, pregnancy, confirmed exposure to a serious contagious disease or for a medical, optical, appointment. In addition, a maximum of forty (40) hours earned sick leave may be used per occurrence for bereavement due to the death of persons in the immediate family, or any relative living with the employee. A maximum of twenty-four (24) hours earned sick leave per fiscal year may be used for attendance upon the members of the employee's immediate family residing in the employee's household who require the attention of the employee. Immediate family as defined a spouse, child, grandchild, mother, father, grandparents, brother, sister, mother-in-law, father-in-law, daughter-in-law, son-in-law, aunt, uncle, niece, nephew, foster child, ward of the court, or any step relations as defined herein.

- A. Accumulation: Employees in regular positions shall accrue sick leave for each payroll period completed, prorated on the basis of ninety-six (96) hours per year, or 3.69 hours per pay period. Earned sick leave shall be available for use the first day following the payroll period in which it is earned. Non-represented district employees hired after September 14, 1987, must have completed thirteen (13) pay

periods or its equivalent of continuous service before accumulated leave is available for use. Sick leave shall be accumulative to a maximum of one thousand (1,000) hours. Employees in regular positions budgeted less than eighty (80) hours per pay period or job-shared positions shall receive sick leave accumulation on a pro-rata basis; provided, however, that there shall be no prorating of the maximum accumulations.

- B. Compensation: The minimum charge against accumulated sick leave shall be fifteen (15) minutes or multiples thereof. Approved sick leave with pay shall be compensated at the employee's base rate of pay, except as otherwise provided in this Agreement.
- C. Administration
  - 1. Investigation – It shall be the responsibility and duty of the district manager to investigate each request for sick leave and to allow sick leave with pay where the application is determined to be proper and fitting.
  - 2. Notice of Sickness – The District Manager or designee must be notified within one-half (1/2) hour after the start of the employee's scheduled tour of duty of a sickness on the first day of absence. It is the responsibility of the employee to keep the District Manager or designee informed as to continued absence beyond the first day for reasons due to sickness or occupational injury. Failure to make such notification may result in denial of sick leave with pay.
  - 3. Review – The Personnel Director may review and determine the justification of any request for sick leave with pay and may, in the interest of the District, require a medical report by a doctor to support future claims for sick leave with pay.
  - 4. Proof – A doctor's certificate shall be provided by the employee in all cases of absence due to illness when requested by the district manager.
  - 5. Improper Use – Evidence substantiating the use of sick leave for willful injury, gross negligence, intemperance, misrepresentation, or violation of the rules defined herein shall be construed as grounds for disciplinary action up to and including termination.
- D. Workers' Compensation: Employees shall receive full salary in lieu of Workers' Compensation benefits and paid sick leave for the first forty (40) hours following an occupational injury or illness, if authorized off work by order of an accepted physician under the Workers' Compensation sections of the California Labor Code. Thereafter, accumulated paid leave may be prorated to supplement such temporary disability compensation payments, provided that the total amount shall not exceed the regular gross salary of the employee.

- E. Separation: Unused sick leave shall not be payable upon separation of the employee, except as provided in paragraph (g).
- F. Sick Leave Conversion: Employees who are employed in regular positions shall receive compensation in accordance with the following: After ten (10) years of continuous district service from date of hire in a regular position and upon retirement, death, or separation, an employee or the estate of a deceased employee will be paid for unused sick leave balances according to the following formula:

<u>Sick Leave Balance as of Date of Separation</u>	<u>Cash Payment % of Hours of Sick Leave Balance:</u>
480 Hours or less	30%
481 to 600 Hours	35%
601 to 720 Hours	40%
721 to 840 Hours	45%
841 to 960 Hours	50%

Employees who receive a disability retirement due to permanent incapacity to work shall be entitled to one hundred percent (**100%**) cash payment of any unused sick leave balances, computed at their then current base hourly rate, if they elect an early retirement in lieu of exhausting such accrued sick leave balances, in no event shall any employee, except those receiving a disability retirement, receive compensation under this section in excess of four hundred eighty (480) hours pay computed at the then current base hourly rate of said employee.

**SECTION 2 – VACATION LEAVE**

- A. Definition: Vacation is a right, earned as a condition of employment, to a leave of absence with pay for the recreation and well being of the employee. If an employee has exhausted sick leave, vacation leave may be used for sick leave purposes upon a special request of the employee and with the approval of the district manager.
- B. Accumulation: Employees in regular positions shall accrue, on a pro-rata basis, vacation leave for completed pay periods. Such vacation allowance shall be available for use on the first day following the pay period in which it is earned, provided an employee has completed thirteen (13) pay periods or its equivalent of continuous service from the employee's benefit date. Employees in regular positions budgeted less than eight (80) hours per pay period or job shared positions shall receive vacation leave accumulation on a pro-rata basis; provided, however, that there shall be no proration of the maximum accumulations.

<u>Length of Service from Benefit Date</u>	<u>Annual Vacation Allowance</u>	<u>Maximum Allowed Unused Balance</u>
After 13 and through 104 Pay Periods.	80 Hours	160 Hours
Over 104 and through 234 Pay Periods.	120 Hours	240 Hours
Over 234 Pay Periods.	160 Hours	320 Hours

C. Administration

1. Vacation periods shall be taken annually with the approval of the district manager at such time as will not impair the work schedule or efficiency of the district but with consideration given to the well-being of the employee. No employee shall lose earned vacation leave time because of work urgency. If an employee has reached the maximum allowed unused balance and is unable to take a vacation leave, the Personnel Director will approve a waiver of the maximum allowed unused balance for a period not to exceed thirteen (13) pay periods per fiscal year.
2. The minimum charge against accumulated vacation leave shall be fifteen (15) minutes or multiples thereof. Vacation leave shall be compensated at the employee's base rate of pay, except as otherwise provided.
3. When a fixed holiday falls within a vacation period, the holiday time shall not be charged against an employee's earned vacation benefits.
4. Employees not planning to return to district employment at the expiration of a vacation leave, except those retiring, shall be compensated in a lump sum payment for accrued vacation and shall not be carried on the payroll. Retiring employees may elect to use vacation leave to enhance retirement benefits or be compensated in a lump sum payment for accrued vacation leave. Terminating employees not covered by the above provisions shall be compensated at their base rate of pay for accrued vacation leave that they were entitled to use as of the date of termination.

**SECTION 3 – HOLIDAY LEAVE**

- A. All employees in regular positions shall be entitled to the following fixed holidays:

New Year's Day	Thanksgiving Day
Third Monday in February	Day after Thanksgiving
Memorial Day	Day before Christmas
Independence Day	Christmas
Labor Day	Day before New Year's
Second Monday in October	Veteran's Day
Martin Luther King, Jr. Day	

- B. Employees must actually work a full shift the last scheduled work day before and the first scheduled work day after a fixed holiday to receive holiday pay, unless the employee is on approved leave. Any request for sick leave in conjunction with a fixed holiday must be supported by a doctor's certificate, if requested by the district manager.
- C. The minimum charge against accumulated holiday leave shall be one-half (1/2) hour or multiples thereof. Holiday leave shall be compensated at the employee's base rate of pay, except as otherwise provided in this Agreement.
- D. When a fixed holiday falls within a vacation period, the holiday time shall not be charged against an employee's earned vacation benefits.
- E. Whenever a fixed holiday falls on an employee's regularly scheduled day off or the fixed holiday falls on a Saturday or Sunday whenever an employee is required to work on a fixed holiday, the employee shall accrue, on an hour for hour basis, up to a total of eight (8) hours floating holiday time. At the request of the employee, and with the approval of the Appointing Authority, straight time payment can be made in lieu of accrual provided such compensation is approved during the pay period in which it is worked.
- F. The maximum allowable holiday accrual shall be seventy-two (72) hours. Upon retirement or termination, employees shall be compensated for any unused accrued holiday time at the current base rate of pay.

#### **SECTION 4 – COMPULSORY LEAVE**

If in the opinion of the district manager, employees are unable to perform the duties of their position for physical or psychological reasons, an examination may be required by a physician or other competent authority designated by the Personnel Director. If the examination report shows the employee to be in an unfit condition to perform the duties required of the position, the Appointing Authority shall have the right to compel such employee to take sufficient leave of absence with or without pay or transfer to another position without reduction in compensation, and/or follow a prescribed treatment regimen until medically qualified to return to unrestricted duty.

#### **SECTION 5 – MILITARY LEAVE**

As provided in the California Military and Veterans Code, Section 395 et seq. and any amendment thereto, a district employee may be entitled to the following rights concerning military leave:

- A. **Temporary Duty:** Any employee who is a member of the reserve corps of the Armed Forces, National Guard, or Naval Militia shall be entitled to temporary military leave of absence for the purpose of active military training provided that the period of ordered duty does not exceed one hundred eighty (180) calendar days, including time involved in going to and returning from such duty. While on

paid status, an employee on temporary military leave shall receive the same vacation, holiday, and sick leave and step advances that would have been enjoyed had the employee not been absent, providing such employee has been employed by the District for at least (1) year immediately prior to the date such leave begins. In determining the one (1) year employment requirement, all time spent in recognized military service shall be counted. An exception to the above is that an uncompleted probationary period must be completed upon return to the job. Any employee meeting the above one (1) year employment requirement shall be entitled to receive their regular salary or compensation for the first thirty (30) calendar days of any such temporary leave. Pay for such purpose shall not exceed thirty (30) days in any one fiscal year and shall be paid only for the employee's regularly scheduled workdays.

The compensation provision does not include an employee's attendance at weekend reserve meetings or drills. Employees must use their own time to attend such meetings. Should the meetings unavoidably conflict an employee's regular working hours, the employee is required to use vacation or holiday leave, leave without pay, or make up the time. Employees who are called in for a medical examination to determine physical fitness for military duty must use vacation leave, leave without pay, or make up the time. The thirty (30) day compensation provision also applies to an employee on military leave other than temporary military leave who is ordered into active military duty or is inducted, enlist, enters, or is otherwise called into active military duty. Copy of military orders must accompany the request for leave form.

- B. Active Duty: Employees who resign from, their positions to serve in the Armed Forces of the United States or of this State shall have a right to return to their former classification subject to a physical/psychological examination and upon serving a written notice to their Appointing Authority within six (6) months of the termination of their active service with the Armed Forces; provided, that such right to return to former classification shall not be granted to such employees who fail to return to their position within Twelve (12) months after the first date upon which they could terminate their active service with the Armed Forces. Should such employee's former classification have been abolished then the employee shall be entitled to a position in a classification of comparable functions, duties, and compensation if such classification exists, or to a comparable vacant position for which the employee is qualified.

The right to return to former classification shall include the right to be restored to such civil service status as the employee would have if the employee had not so resigned; and no other person shall acquire civil service status in the same position so as to deprive such employee of this right to restoration.

However, such employee will not have accrued vacation, sick leave, or other benefit while absent from district employment, except as provided in the temporary duty provision.



## SECTION 6 – POLITICAL LEAVE

Any employee who is a declared candidate for public office shall have the right to a leave of absence without pay for a reasonable period to campaign for the election. Such leave is subject to the conditions governing special leaves of absence without pay contained herein.

## SECTION 7 – SPECIAL LEAVES OF ABSENCE WITHOUT PAY

A special leave of absence without pay for a period not exceeding one (1) year may be granted to an employee who is:

- A. Mentally or physically incapacitated to perform the duties of the position.
- B. Desires to engage in a relevant course of study, which will enhance the employee's value to the district.
- C. For any other reason considered appropriate by the district manager and the Personnel Director. Such request must be in writing and requires the approval of the district manager and the Personnel Director. Upon request, the district manager and the Personnel Director may grant successive leaves of absence. Leaves of absence without pay may be given to a regular employee with or without right to return to classification. At the expiration of leaves without right to return, the employees must contact the district to have their name referred for a ninety (90) calendar day period to all job openings in their classification for reemployment without examination, such time to run concurrently with the ninety (90) calendar day period provided in Reemployment, herein. The employee must be appointed to a position within this ninety (90) day period or be terminated. Leaves of absence with right to return may only be granted to employees who have obtained regular status.

## SECTION 8 – JURY DUTY LEAVE

Employees in regular positions who are ordered to serve jury duty shall be entitled to base pay for those hours of absence from work, provided the employee waives fees for service, other than mileage. Such employees will further be required to deliver a "Jury Duty Certification" form at the end of the required jury duty to verify such service. When practicable, the district manager will convert an employee's regular tour of duty to a day shift tour of duty during the period of jury duty. Employees called for Grand Jury duty shall be granted a leave of absence without pay to perform the duties of a member of the Grand Jury, in the same manner as provided in Section 7.

## SECTION 9 – EXAMINATION TIME

Employees in regular positions with regular status at the time of application shall be entitled to a reasonable amount of time off with pay for the purpose of taking district promotional examinations or for district selection interviews. Employees are responsible for notifying and obtaining approval from their immediate supervisor prior to taking such leave. Examination time shall not be charged against any accumulated leave balances and shall be compensated at the employee's base hourly rate.

#### SECTION 10 – WITNESS LEAVE

Employees in regular positions shall be entitled to a leave of absence from work when subpoenaed to testify as a witness, such subpoena being properly issued by a court, agency, or commission legally empowered to subpoena witnesses. This benefit shall not apply in any case in which the employee is not subpoenaed, the subpoenaed employee is a party to the action or the subpoena has arisen out of the employee's scope of employment. Witness leave shall not be charged against any accumulated leave balances and shall be compensated at the employee's base hourly rate. This benefit will be paid only if the employee has demanded witness fees at the time of service of the subpoena, and such fees are turned over to the District.

#### SECTION 11 - BLOOD DONATIONS

Employees in regular positions, who donate blood without receiving compensation for such donation, may have up to two (2) hours off with pay with prior approval of the immediate supervisor for each such donation. This benefit shall not be charged to any accumulated leave; provided, however, if the employee is unable to work, any time in excess two (2) hours may be charged to accumulated sick leave or be taken as leave without pay. Evidence of each donation must be presented to the district manager to receive this benefit.

#### SECTION 12 – BENEFIT DATE

For the purpose of step advancements, sick and vacation leave accrual; the benefit date is defined as follows for each employee:

- A. If the first working day of the pay period was worked, then the benefit date will be the first day of that pay period.
- B. If the employee started any time after the first working day of the pay period, then the benefit date will be the first day of the following pay period.
- C. The benefit date of an employee who is absent without pay may be adjusted accordingly.

### **RULE IX**

#### **WORK ASSIGNMENTS, PROMOTIONS AND DEMOTIONS**

##### SECTION 1 – ASSIGNMENTS

- A. Temporary Assignments: Employees may be temporarily assigned higher or lower duties without a change in pay and such action shall not be deemed as a transfer, demotion, promotion, or reclassification. In all cases where periodic or regular variations in assignments occur because of seasonal needs, the nature of the duties or the work schedule, such variations shall be considered as incidental to the position.

- B. Assignment to Vacant Higher Position: Employees directed to continuously perform duties in a vacant higher level regular position for which funds have been appropriated shall be entitled to a salary rate increase to the higher level for the time actually worked in excess of two hundred forty (240) hours or unless specifically waived by the employee; provided, however, that:
1. The district manager certifies in writing to the Personnel Director at the time of appointment that the employee meets minimum qualifications for the higher level position and is assigned and held responsible to fully perform all of the duties normally associated with the higher level position without limitation as to difficulty or complexity of assignments or consequences of action and that the employee shall be required to meet standards for satisfactory performance normally required at the higher level position; and,
  2. A written request for a salary rate increase to the higher level is directed to the Assistant Administrative Officer for Special Districts for approval: Such increase to the higher level shall be determined as if the assignment had been a promotion.

It shall be the responsibility of the district manager to initiate such requests and to provide a copy of such request to the employee. Written requests may also be made by the employee or his or her representative through the Appointing Authority in the same manner. Requests for a salary rate increase should be initiated during the first thirty (30) calendar days of such assignment. Requests for retroactive payment of a salary rate increase must be filed as soon as possible, but not later than one (1) calendar year after assignment of the higher level duties and must be approved by the Personnel Director. Failure to meet this time limitation shall waive any and all rights to retroactive pay.

The duration of such assignments to vacant higher positions shall not exceed one (1) calendar year. Addition of duties of a higher level classification to any employee's regular position shall be governed by the Personnel Rule on Classification or Temporary Assignment as appropriate. Appointments to regular positions of trainees or underfills are exempt from the provisions of this section. Further, this section does not apply to a situation in which there is no vacant higher level position for which funds have been appropriated.

For purposes of this section, a vacant position is defined as an authorized regular position for which funds have been appropriated and which may be:

1. An unoccupied position due to attrition and for which a recruitment process has been initiated;
2. A position from which the incumbent is on extended leave of absence; or

3. A new position authorized by the Board of Supervisors for which the recruitment process has been initiated.
- C. Dual Appointments: The appointments of two (2) full-time employees to the same budgeted regular position may be authorized by the Personnel Director to facilitate training, to make assignment to a position, which is vacant due to an extended leave of absence, or in an emergency. The most recently hired dual appointee shall enjoy all the benefits of regular employees except regular status. The most recently hired employee shall be notified in writing by the district manager and such notice shall clearly define the benefits and status of the employee.

#### SECTION 2 – PROMOTION

A promotion is the appointment of an employee from one classification to a classification having a higher base salary range. A promoted employee shall receive the entrance rate of the new range or approximately five percent (5%), whichever is greater, provided that no employee is thereby advanced in step nor advanced above the "E" or final step of the higher base salary range. At the discretion of the district manager and with the approval of the Personnel Director and Appointing Authority, an employee may be placed at any step within the higher base salary range. Promotions shall be effective only at the beginning of a pay period unless an exception is approved by the Personnel Director.

#### SECTION 3 – DEMOTION

A 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. An employee demoted for disciplinary reasons shall be placed on the step within the base salary range of the class to which demoted as provided in the Order of Demotion.

An employee demoted for non-disciplinary reasons shall be retrained at the same salary rate, provided that the salary rate does not exceed the "E" step of the demoted class, except that such an employee may be placed on an "X" step in accordance with the provisions of Rule III, Section 4 (b), Downgradings, with the approval of the Appointing Authority and the Personnel Director. A promoted employee who is returned to former classification during the probationary period shall be placed on the same step within the base salary range for the former classification that employee was on at time of promotion. No credit shall be granted for time spent at the promoted level for next step advance due date.

#### SECTION 4 - 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 voluntarily requested or agreed to such appointment. The Personnel Director may waive the probationary period for the demoted class if determination is made that an employee's service in the higher classification qualifies the employee for performance in the demoted class.

Employees may submit written requests for voluntary demotions to the district manager. The Personnel Director may approve the request if it is determined, and the district manager concurs, there is evidence of the employee's ability to perform competently in the lower class, or if the employee has held regular status in the requested classification.

#### SECTION 5 - JOB CHANGE

A Job Change is an appointment of an employee with regular status from a position in one classification to a position in another like classification if there is evidence of the employee's ability to perform competently in the new position. All Job Changes require the approval of the Personnel Director. Such employee retains regular status in the previous classification but may be required to serve a probationary period in the new classification.

### **RULE X**

#### **SEPARATIONS**

##### SECTION 1 – AUTOMATIC RESIGNATION

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

The separated employee may obtain administrative review of the action by filing a request with the Appointing Authority within five (5) working days of receipt of written Notice of Separation. Such request shall be in writing and contain reasons why review should be given.

##### SECTION 2 – RESIGNATION

A regular employee wishing to leave in good standing shall file a written resignation with the district manager. The employee shall give at least two (2) weeks notice of intention to leave the service unless the district manager consents to the employee leaving sooner.

The filing of the written resignation with the district manager shall be deemed official notice to and acceptance by the Appointing Authority, and may not be withdrawn by the employee without the consent of the district manager. 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 his or her resignation was obtained by fraud, duress, or coercion may appeal the resignation to the Appointing Authority. The employee shall have the burden of proof to establish by clear and convincing evidence that the resignation was obtained by fraud, duress or coercion. A resignation may be set aside by the Appointing Authority only if the employee meets the above established

burden of proof. Separation from service solely because of retirement shall be considered resignation.

### SECTION 3 – REEMPLOYMENT

A regular employee who has terminated district employment and who is subsequently rehired in the same classification in a regular position within a ninety (90) calendar day period, may receive restoration of salary step, annual leave accrual rate, sick leave balance (unless the employee has received payment for unused sick leave in accordance with Rule VIII Section 1 (G) Sick Leave Conversion) and the retirement plan contribution rate (provided the employee complies with any requirements established by the Retirement Board), subject to the approval and conditions established by the district manager and Personnel Director. The employee shall suffer loss of seniority and be required to serve a new probationary period, -unless such requirements are waived by the Personnel Director. A regular employee who has terminated district employment and who is subsequently rehired to a regular position in the same job family within a ninety (90) calendar day period, may receive restoration of vacation accrual rate, sick leave and retirement contribution rate in the same manner described above. Such employees shall also suffer loss of seniority and be required to serve a new probationary period, unless such requirements are waived by the Personnel Director.

### SECTION 4 – LAYOFF

- A. Definition of Layoff: Layoff is the involuntary separation or reduction of a regular employee to a position in a lower classification without fault of the employee. Layoff applies only to regular positions. Exempt district employees are excluded from the provisions of this rule.
  
- B. Cause for Layoff:
  - 1. A function is to be discontinued, curtailed, mechanized, or operated by a different method.
  - 2. Reorganization
  - 3. Budget reduction
  - 4. Termination or decrease in funds, and/or materials for projects or programs.
  - 5. The mandatory reinstatement, of an employee.
  - 6. Any other reason determined necessary by the Board of Supervisors.
  
- C. Layoff Policy: The provisions of this policy shall be applied on a district by district basis. For example, determination of seniority, order of layoff, bumping rights, reinstatement lists and all other procedures involved in this policy shall be determined and implemented solely and separately within each district involved in a layoff.

Wherever possible, loss of employment for regular district employees shall be avoided by demotion, temporary work assignments, or offer of employment in other districts. Laid-off employees shall be placed on a two-year reinstatement list by order of seniority and shall have first consideration for any vacancies in a classification for which their qualifications are deemed suitable by the Special Districts Personnel Director. The list may be extended upon approval of the Personnel Director.

Established eligibility lists for classification affected by the Layoff Procedure shall be extended by the length of time during which the reinstatement list is in effect.

- D. Notification: Whenever a surplus of employees in regular positions is anticipated, the district manager shall immediately notify the Personnel Director. The notification shall include the anticipated number of positions, names of affected employees, and classifications of positions to be laid off and a plan for conducting an orderly layoff. Employees to be laid off shall be entitled to fifteen (15) calendar day's notification prior to layoff.
- E. Order of Layoff: Layoffs among regular employees shall be made on the basis of seniority established by the layoff procedure. Seniority is determined by the employee's current beginning date of continuous service in a regular position with the district. The number of positions maintained in each classification is determined by the Board of Supervisors. Extra-help employees performing services similar to classifications affected by layoff shall be terminated before any reduction in the regular work force. Likewise, other grant-funded employees shall be terminated, in affected classifications in accordance with Federal or State rules or guidelines governing such funding programs.

Extra-help employees in volunteer or paid call firefighter positions, and lifeguards, umpires, and referees shall not be affected this section.

Employees holding "acting positions", (functioning by assignment in a higher level classification than that which they hold permanent regular status) shall revert to their regular classification in the district to determine layoff rights.

- F. Layoff Procedure: The procedure for layoff, once the number of positions to remain by classification has been determined, shall be as follows:
  - 1. Priority lists shall be established for retained positions in each classification. The lists shall include the names of those employees who, based on their seniority with the district, qualify to fill the retained positions.

2. Regular employees, who have had regular status in a lower classification in the district, shall be eligible to request a reduction in class in lieu of layoff (bumping). Regular employees bump to junior positions on the basis of seniority and must have greater seniority than employees in the junior positions identified. The junior employee being bumped will be separated or reduced in class according to the same criteria.
3. Bumping will begin with the highest classification in the district where employees are so entitled. Bumping will not be allowed to cross functional work categories. For example, clerical personnel can only bump in the clerical category; maintenance personnel can only bump in the maintenance category, etc.

If an employee is not authorized to bump down due to failure to meet the above criteria, he or she shall be laid off and placed on the reinstatement list.

G. Reinstatement Procedure: The policy and procedure for reinstatement of employees, once a layoff has occurred, shall be as follows:

1. Employees who are demoted or who are laid off as a result of the layoff procedure shall have their names placed on the district reinstatement list. The names shall be arranged in order of seniority held with the district. Ties in seniority shall be broken by a determination of which employee had higher placement on the eligibility list for the employee's original position with the district. If these records are unavailable or if comparisons are inappropriate, ties shall be broken based on review of work performance evaluation.

Subsequently, when a regular position in the district becomes permanently vacated or is added, all employees on the district reinstatement list who have held a position in that classification with the district shall be offered the position based on their placement on the reinstatement list.

2. Laid off or demoted employees who are reinstated to their same position in the district in accordance with this policy shall receive restoration of salary step and attendant benefits, vacation accrual rate, sick leave, unless the employee has received payment for unused sick leave in accordance with the district's sick leave policy and the retirement plan contribution rate, provided the employee complies with the County Retirement Board's procedure for redeposit of funds.
3. Laid off employees who are offered reinstatement with the district in a classification lower than which they previously held shall receive a salary step at least equivalent to the highest salary step held by a current employee in that classification, along with attendant benefits, except that



no employee shall thereby receive compensation higher than that which they held prior to layoff. Employees who decline assignment to a lower classification shall not forfeit their right to remain on the reinstatement list. Employees involuntarily demoted or bumped down as a result of the layoff procedure shall receive salary and attendant benefits in accordance with the provisions of this section. Such demoted employees may be placed on an "X" step in salary as approved by the Personnel Director to maintain salary equity within the system and/or to prevent undue hardship or unfairness due to the application of this policy. If an employee is placed on an "X" step, he shall receive no further salary increase until the salary range of the position held exceeds the "X" rate.

- H. Short-Term Layoffs: Layoffs for periods not to exceed fifteen (15) consecutive work days may be made in any order as determined by the Personnel Director. Short-term layoffs may be caused by emergencies or short-term interruptions within those areas listed in Subsection (B) 1, 4, 5, 6 of this policy, as they may affect the normal work routine. Reasonable notice shall be given to affected employees, when possible. Such short-term layoffs are exempt from the layoff rules covering seniority and bumping rights.
- I. Exception to Order of Layoff: Whenever the district manager believes that the best interests of the district requires the retention of employees with special qualifications, characteristics, and fitness for work, the district manager may request an exception to the order of layoff. The Personnel Director may authorize or deny such request.
- J. Established Qualifications Requirement: Employees who are demoted to a position not previously held with the district as a result of the layoff process shall be required to meet the established qualifications of that class. In the event that the employee does not meet these qualifications, he shall serve a probationary period of up to 90 calendar days, as determined by the Personnel Director, during which he must qualify. Employees failing to meet qualifications after such probationary period may be subject to termination.

## **RULE XI**

### **DISCIPLINARY ACTIONS**

#### **SECTION 1 – SUSPENSIONS, DEMOTIONS, REDUCTION IN SALARY STEP, DISMISSAL**

All suspensions, demotions, reductions in salary step for a specified time period, and dismissals of person with regular status shall be made in accordance with these Rules. Exempt district employees serve at the pleasure of their appointing authority and are not

covered by the provisions of this rule.

Probationary and extra-help employees may be dismissed, demoted, reduced in step, or suspended without right to review or appeal unless otherwise required by law. Written reprimands are not considered as disciplinary actions and may be issued by the district manager without right of appeal. The employee may write a letter of response and have it placed in their personnel file.

## SECTION 2 – CAUSE FOR SUSPENSION, DENOTION, REDUCTION IN SALARY STEP, DISMISSAL

An employee with regular status 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, district rule or regulation, or superior's lawful order.
- D. Misappropriation or damage of public property or waste of public funds or property through negligent or willful misconduct.
- E. Failure to exhibit good behavior either during or outside duty hours. Such behavior of a nature that causes discredit to the appointing authority or employing district.
- F. Absence without approved leave.
- G. Tardiness or absenteeism.
- H. Deception or fraud in the securing of a job appointment or promotion.
- 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. Falsification of a relevant official statement or document, including the employment application.
- K. Subject to the applicable law, failure to pay court-recognized debts or make reasonable provisions for their payment.
- L. Incapacity to perform job duties because of a mental or physical ailment or defect consistent with the retirement rights of the employee as set forth in the California

Government Code.

- M Neglect of duties
- N Possessing or using narcotics or alcohol in District or County offices or facilities, or being present at work under influence of same.
- O Improper withdrawal or limitation of service or any action, which interferes with or is disruptive of the County or District mission or the public service.
- P Insubordination.
- Q Any action inconsistent with these Rules or officially promulgated District rules and regulations.

### SECTION 3 – 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) administrative working days of the proposed disciplinary action shall be given to the employee before such action is to be taken and must include:

- A. Notice of proposed action;
- B. Reasons for proposed action pursuant to Section 2 of these Rules;
- C. A copy off the charges stating specific incidents or specific courses of conduct and a copy of any written materials pertaining to those incidents or course of conduct; and
- D. 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 a five (5) administrative working day period except as provided in Section 4 below.

The notice of proposed disciplinary action must be in writing and be signed by the Appointing Authority, or his/her designee. 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.

### SECTION 4 - 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. 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 fine or imprisonment or disruption of County or district business through willful misconduct.

- B. Short term suspension – For actions involving a suspension of five (5) working days or less, oral notice is sufficient as the initial notice prior to the imposition of the disciplinary action. A written order of disciplinary action shall be prepared and a copy of the order shall be personally served upon the employee within two (2) working days of termination of the suspension. Said order shall contain the effective date of disciplinary action, the causes and reasons for the action pursuant to Rule XI, 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 two (2) 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. This may include affirming the disciplinary action, modifying with less severe disciplinary action, or rescinding the disciplinary action. The order shall also include notice of the time allowed for appeal and answer.

#### SECTION 5 – ORDER OF DISCIPLINARY ACTION FOR OTHER THAN SHORT TERM SUSPENSIONS UNDER SECTION 4

The Appointing Authority shall consider any employee response under Section 4 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. The order 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 circumstances warranted such immediate action. The Appointing Authority, the Acting Appointing Authority or his or her designee shall sign the order. 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 certified mail to the employee's last known address.

#### SECTION 6 - APPEAL AND REQUEST FOR HEARING

An employee with regular status may appeal the Order of Disciplinary Action by requesting a formal hearing. The appeal must be in writing and received by the Appointing Authority within five (5) working days of the employee's receipt of the order. The employee shall have the right to a public hearing.

#### SECTION 7 – APPOINTMENT OF HEARING OFFICER

Within fifteen (15) calendar days of receiving the employee's written request for a formal hearing, the Personnel Dire or shall appoint a qualified Hearing Officer who shall hear

the appeal and formulate a written decision.

Notification of the Hearing Officer selection shall be given to affected parties. The Hearing Officer shall exercise all parties relating to the conduct of the hearing and may issue subpoenas and subpoenas duces tecum.

#### SECTION 8 – TIME FOR HEARING

The date set for a hearing under this Rule will not be more than thirty (30) calendar days after the appointment of the Hearing Officer unless agreed to in writing by both parties.

#### SECTION 9 – PARTIES

The parties to the action are hereby defined as the employee and the Appointing Authority. The employee, his representative, and the Appointing Authority or his designated representative shall attend the hearing. In addition, in case of fire safety employees, the Chief of the San Bernardino County Fire Agency or his designee shall attend the hearing. Failure of the employee 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.

#### SECTION 10 – RIGHTS OF PARTIES

Each party shall have the right to:

- A. Choose a representative to be present with the party at hearing.
- B. Have witnesses present and documents made available through a subpoena initiated by the Hearing Officer.
- C. Question all witnesses.
- D. Present pertinent evidence.
- E. Argue its case.
- F. Present written materials.

#### SECTION 11 – PURPOSE OF THE HEARING

The purpose of the hearing is to determine the accuracy and the sufficiency of the facts attendant to the employee's removal, demotion, reduction in salary step, or suspension in order for the Hearing Officer to formulate a decision either affirming, negating, or modifying disciplinary action. The Appointing Authority shall have the burden of proof. The inquiry of the Hearing Officer shall be confined to a consideration of the procedures and reasons upon which the disciplinary action was based and any pertinent information, which established the truth, or falsity of such evidence. It is not the role of the Hearing Officer to substitute his/her judgment for that of the Appointing Authority or to evaluate the Office of Special Districts and its operations except as it relates to the matter under consideration.

## SECTION 12 – DATE, TIME, AND PLACE OF HEARING

The parties may mutually agree upon the date, time, and place of the hearing. If the parties are unable to so agree, the Hearing Officer shall decide and such decision shall be binding. The hearing shall be held during regular working hours and may be continued by the Hearing Officer.

At least five (5) working days prior to the hearing, the Personnel Director shall mail notice of the time and place of the hearing to the parties by registered mail. Notice to the employee's designated representative shall constitute notice to the employee. Hearings shall be closed unless the employee requests an open hearing. The Hearing Officer may rule that a closed hearing will be conducted because it is in the best interest of all concerned.

Witnesses and parties to the hearing shall be enjoined from discussing the hearing and its proceedings with any persons not a party to the hearing.

## SECTION 13 – COUNTY COUNSEL

If requested, it shall be the duty of the County Counsel or his deputy to assist and counsel the Appointing Authority regarding disciplinary actions and to assist in preparing formal charges. At a hearing of disciplinary charges, County Counsel or his deputy may act as legal advisor to the individual having appointing authority responsibility.

## SECTION 14 – DISCIPLINARY AUTHORITY

The Hearing Officer may disqualify or otherwise discipline counsel, representatives, or any other party in attendance for disrupting the hearing or for being in contempt of the Hearing Officer.

## SECTION 15 – WITNESSES

The Hearing Officer shall have the power to excuse witnesses not under examination. The parties and their representatives shall be permitted, to remain in the hearing room at all times even though they may not be called upon to testify as witnesses.

## SECTION 16 – ADJOURNMENT AND RECESS

The Hearing Officer may, for good cause, adjourn or recess the hearing upon request of a party or on his or her own initiative.

## SECTION 17 – ORDER OF PROCEEDINGS

The recording of the place, time, and date of hearing; the presence of the parties, counsel, and representatives, if any, shall open the hearing. The Hearing Officer shall require all witnesses to testify under oath of 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, so help you God."

The Appointing Authority shall first proceed with evidence of the disciplinary action, which has been invoked.

#### SECTION 18 – RECORDING OF HEARING

Either party may request the use of a tape recorder at the hearing provided the hearing is open or the appellant has agreed to such recording. The parties may request the presence of a Certified Shorthand Reporter, the cost of transcripts being borne by the requesting party.

#### SECTION 19 – EXHIBITS AND WITNESSES

Exhibits shall be marked and numbered, and when offered by either party, may be received in evidence. The names and addresses of all witnesses and exhibits shall be made part of the records.

#### SECTION 20 – CHARGES CONFIDENTIAL

Charges against an employee filed with the Hearing Officer shall not be public record or open to public inspection unless an open public hearing is ordered.

#### SECTION 21 – PROCEDURE AND EVIDENCE

The hearing need not be conducted according to technical rules relating to evidence and witnesses. 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 the matter was not covered on direct examination; to impeach any witness regardless of which party first called him to testify; and, to rebut the evidence against him. The employee may be called and examined as a witness by the appointing authority. 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 commonly recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded.

#### SECTION 22 – INSPECTION OF SITES

The Hearing Officer may inspect sites in connection with the hearing. Notice of such an inspection must be given to the parties.

#### SECTION 23 – CLOSING OF HEARING

The Hearing Officer shall inquire if either party has anything further to offer. Upon receiving negative replies, the hearing shall be closed. The Hearing Officer shall forward to each party a Findings of Fact and written decision within thirty (30) calendar days of the hearing. This decision shall be considered final and binding on all parties and shall be submitted to the Personnel Director, the employee and the employee representative.

#### SECTION 24 – 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 25 – EXPENSES

Any expenses of witnesses for either side shall be paid by the party producing such witnesses. District employees shall receive their regular compensation for the time they are absent from their jobs for the purpose of testifying for either party.

## SECTION 26 – WRITTEN DEPOSITION/DECLARATIONS

If any witness cannot be present at the time of the hearing, a written statement under penalty of perjury signed by the witness may be produced as evidence for the Hearing Officer's consideration.

# **RULE XII**

## **GRIEVANCE PROCEDURE**

### SECTION 1 – PURPOSE

The Board of Supervisors recognizes the importance of a viable means of resolving disputes, which may arise between district employees, supervisors, and management. The procedure is intended to establish a systematic means for processing a grievance and for obtaining answers and decisions regarding employee complaints. The initiation of a grievance in good faith by an employee shall not cast any adverse reflection on the employee's standing with immediate supervisors or loyalty as a district employee. The provisions of this Rule do not apply to exempt employees of the districts.

### SECTION 2 – APPLICABILITY

This procedure shall apply to all special districts governed by the Board of Supervisors except those districts that are operating with a grievance procedure that has been otherwise established through the meet and confer process in a Memorandum of Understanding that has been adopted by the Board of Supervisors.

### SECTION 3 – DEFINITION

A grievance is a complaint by an employee or group of employees concerning working conditions or arising out of the application or interpretation of existing rules, regulations or policies which have been approved for a special district by the Board of Supervisors. An employee organization may not independently submit a formal grievance in the absence of an aggrieved employee.

### SECTION 4 – EXCLUSIONS

Use of the grievance is precluded where law or policy provide a more appropriate and/or speedy remedy, in addition to the following specific exclusions.

- A. The Grievance Procedure does not cover work assignments unless the complaint arises out of an allegation that the employee was required to work out of



classification for a period in excess of that provided in Rule IX 1(B) of the Personnel Rules, or is inequitable or retaliatory in nature.

- B. Matters concerning employee wage and benefit negotiations are resolved either through the meet and confer process or referred to the Personnel Director for resolution.
- C. Classification appeals resulting from completed district or multi-district classification studies are processed, in accordance with the appeals procedure established for those classification studies.
- D. Disagreements or exceptions with respect to work performance evaluations are excluded.
- E. Recommendations or considerations, which may effect the safety of employees or the public, shall be directed immediately to the Special Districts Safety Coordinator through the immediate supervisor.
- f. Appeals involving demotions, suspensions, dismissals, reduction in salary step, are processed as set forth in Rule XI of the Personnel Rules.
- G. Matters in which a court, state, or federal agency is most appropriately involved for grievance redress are excluded from grievance procedure.
- H. Policy and ordinance questions including subjects involving the amendment or change of resolutions, ordinances or minute orders.

#### SECTION 5 – CONSOLIDATION OF GRIEVANCES

In order to avoid the necessity of processing numerous similar grievances at one time for a group of employees with the same grievance, a single grievance shall be filed. When this occurs, other grievances, if any, on the same subject or event shall be held in abeyance and the grievance that has been filed first shall be processed and serve as precedent.

#### SECTION 6 – REPRESENTATION

The aggrieved employee shall have the right to be represented by anyone of his or her own choice. This representation may commence at any step in the grievance procedure. An employee may counsel with employee organizations or anyone of his choice to determine his rights; however, legal counsel and official representatives of only one employee organization can assist or represent the employee. No person hearing a grievance need exercise more than one representative for any employee at any one time, unless he so desires. Representatives from the Office of Special Districts, including legal counsel, shall also be present.

#### SECTION 7 - TIME LIMITATIONS

Time limitations are established to settle a grievance quickly. Time limits may be

modified only by written agreement of the parties. If at any step of this grievance procedure the grievant is dissatisfied with the decision rendered, it shall be the grievant's responsibility to initiate the action which submits the grievance to the next level of review within the time limits specified. Failure to submit the grievance within the time limits imposed shall terminate the grievance process and the matter shall be considered resolved. The grievant shall promptly proceed to the next step if a reviewing official does not respond within the time limits specified.

#### SECTION 8 – STEPS IN THE GRIEVANCE PROCEDURE

The procedures outlined herein constitute the informal and formal steps necessary to resolve an employee's grievance. The presentation of the informal grievance is an absolute prerequisite to the institution of a formal grievance. The grievance must be submitted within twenty-one (21) calendar days after the employee is aware of the conditions precipitating the grievance.

- A. **Informal Grievance Disposition:** Initially, the employee having a grievance shall personally discuss the complaint with the immediate supervisor. Within four (4) calendar days the supervisor shall give the decision to the employee orally. If the supervisor fails to reply within this period or issues a decision, which is unsatisfactory to the employee, the employee shall, within seven (7) calendar days, then discuss the grievance with the district manager. The district manager shall coordinate the grievance with the Personnel Director prior to issuing any response to the employee. Within four (4) calendar days, the district manager shall give the decision to the employee orally. If the district manager fails to reply within this period or issues a decision, which is unsatisfactory to the employee, the employee may proceed to the formal grievance procedure.
- B. **Formal Grievance Procedure:**
  - Step 1. Within fourteen (14) calendar days after the district manager's response, the employee or employee's representative shall present the grievance in writing to the employee's immediate supervisor. The grievance must be signed and stipulate names, times, places, the nature of the grievance, and the specific remedy sought. If the supervisor fails to respond in writing within four (4) calendar days, or if the supervisor issues a response that is unsatisfactory to the employee, the employee may proceed with the grievance to the next step.
  - Step 2. Within seven (7) calendar days after the supervisor's response, the employee may submit the grievance to the district manager. Within seven (7) calendar days after receipt of the grievance, the district manager will call for a conference to allow for full discussion of the grievance with the parties involved and their representatives. Within fourteen (14) calendar days of the meeting, the district manager must give a decision. If the employee is not satisfied with the decision of the district manager the employee may proceed to the next step.

- Step 3. Within seven (7) calendar days after the district manager's response, the employee shall submit the grievance to the Personnel Director. The grievance shall state that a resolution of the issue was unattainable through the informal and formal procedures through Step 2, and that a formal hearing is now requested. Within fourteen (14) calendar days of receiving the grievance, the Personnel Director shall appoint a Hearing Officer. The Hearing Officer shall conduct a formal hearing on the grievance within thirty (30) calendar days of appointment, in accordance with Section 9 of this procedure.

#### SECTION 9 – GRIEVANCE HEARING

The following guidelines shall be adhered to at all grievance hearings conducted by the Hearing Officer. Except as may otherwise be specifically provided in this Article, the Voluntary Labor Arbitration Rules of the American Arbitration Association shall be followed in the conduct of a grievance hearing.

- A. Prior to the hearing, the parties shall meet and attempt to prepare a joint statement of the issue(s) to be heard by the Hearing Officer. If the parties are unable to agree on a joint statement, each shall prepare a separate statement of the issue(s). The Hearing Officer shall not decide any issue not within a statement of issue(s) submitted by the parties, and which has not been raised and considered at an earlier step of the grievance procedure.
- B. A hearing date will be scheduled by the Personnel Director in consultation with the Hearing Officer, the grievant, and if appropriate, the employee representative. Written notice stipulating the time and place of the hearings will be provided to all parties.
- C. The 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, so help you God."
- D. Grievants will appear before the Hearing Officer to present their individual grievance. If the grievant does not appear, the Hearing Officer will make a decision on the information available at the time of the hearing.
- E. Each party to the grievance shall have these rights: to call and examine witnesses; to introduce exhibits; to cross examine opposing witnesses on any matter relevant to the issues, even though the matter was not covered on direct examination; to impeach any witness regardless which party first called the witness to testify; and to rebut the evidence. The employee may be called and examined as a witness by the appointing authority.

The hearing need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted, if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule, 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 commonly recognized in civil actions. Irrelevant and unduly repetitious evidence shall be excluded.

- F. Decisions of the Hearing Officer shall be binding on all parties unless there is a direct financial impact on the district, in which case the decisions shall be subject to approval of the Board of Supervisors. Written decisions of the Hearing Officer shall be submitted to the Personnel Director, the grievant, and the employee representative, within thirty (30) calendar days after the close of the hearing.
- G. The cost for and expenses of the Hearing Officer shall be borne equally by the parties.