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- G. Compensatory time earned under the provisions of this Section may be granted as compensatory time off or paid for at the discretion of the County, as provided in Article I, Section 3.C.2. of this Agreement.

## ARTICLE VIII REIMBURSEMENT PROGRAMS

### Section 1. Mileage Reimbursement

- A. Subject to the current Vehicle Rules and Regulations established by the Board, an employee who is authorized to use a private automobile in the performance of duties shall be paid for each mile driven in the performance of his or her duties during each monthly period, as provided below:
1. Effective June 29, 2001, the reimbursement rate shall be the Internal Revenue Service Standard Mileage Rate for the Business Use of a Car.
- B. An employee who is required by the County to furnish a privately owned vehicle for the performance of his or her duties shall receive a minimum of ten (10) dollars in any month in which the actual mileage reimbursement would otherwise be fewer than ten (10) dollars. The minimum shall not apply in any month:
1. in which the employee has not actually worked eighty (80) hours;
  2. unless the employee claims the ten (10) dollar minimum and the agency certifies that the employee was required to furnish a privately owned vehicle for County business.

### Section 2. Personal Property Reimbursement

Employees shall, in proper cases, be reimbursed for the repair or replacement of personal property damaged in the line of duty without fault of the employee. The amount of reimbursement for articles of clothing shall be the depreciated value based on the age and condition of the article. Reimbursement for a watch shall be limited to the functional value of the watch.

## ARTICLE IX DISCIPLINARY ACTION

### Section 1. Reprimand and Substandard Performance Evaluation

- A. No regular, limited-term or probationary employee shall receive a written reprimand or a substandard performance evaluation except for reasonable cause.
- B. A written reprimand or substandard performance evaluation given to a regular, limited-term or probationary employee may be appealed through the grievance/appeal procedure. Such appeal shall be initiated at Step 1 of the grievance/appeal procedure.

### Section 2. Disciplinary Hearing for Suspension, Reduction or Discharge

- A. In suspending a regular, limited-term regular or promotional probationary employee for more than five (5) days, or in reducing a regular or limited-term regular employee for reasons of unsatisfactory performance or in discharging a regular or limited-term regular employee, a written notice of such proposed disciplinary action shall be served on the employee personally, or by certified mail, at least (10) calendar days prior to the effective date of the proposed action. Such written notice shall contain:
  - 1. a description of the proposed action and its effective date(s);
  - 2. a statement of the reasons for such proposed action, including the acts or omissions on which the proposed action is based;
  - 3. copies of material on which the proposed action is based;
  - 4. a statement of the employee's right to respond, either orally or in writing, prior to the effective date of such proposed action;
  - 5. a statement of the employee's right to representation;
  - 6. a statement of the employee's right to appeal should such proposed action become final.
- B. In suspending a regular, limited-term regular or promotional probationary employee for five (5) days or fewer, the above notice requirements shall be complied with not more than ten (10) days after the effective date of the suspension. However, if an employee is notified of a suspension which will be effective before the above notice is given, the employee shall:
  - 1. whenever practicable, be given an opportunity to respond to the proposed suspension to a designated agency representative with the

- authority to make an effective recommendation on the proposed suspension prior to the suspension becoming effective;
2. be informed of the employee's right to representation in the response;
  3. be informed of the employee's right to appeal should the proposed suspension become final.
- C. Prior to the effective date of such suspension of more than five (5) days, or reduction or discharge, an employee will be given an opportunity to respond either orally or in writing, at the employee's option, to a designated agency representative with the authority to make an effective recommendation on the proposed disciplinary action.
- D. An employee shall be given reasonable time off without loss of pay to attend a disciplinary hearing.
- E. An employee may represent himself or herself or may be represented in the disciplinary hearing by AFSCME.
- F. An employee shall receive written notice either sustaining, modifying or cancelling the proposed disciplinary action prior to the effective date of such action except that such written notice may be given after the response period in C., above, for suspension of five (5) days or fewer.
- G. Should a proposed reduction or suspension become final, an employee shall have the right to appeal such action pursuant to Sections 3. and 4. of this Article.
- H. Should a proposed discharge become final, an employee shall have the right to appeal such action pursuant to Section 5. of this Article.

### Section 3. Suspension

- A. No regular, limited-term regular or promotional probationary employee shall be suspended except for reasonable cause. A suspension shall not exceed a period of two hundred forty (240) working hours.
- B. A written notice of such suspension stating specifically the cause of the suspension shall be given to the employee.
- C. In accordance with the provisions of Article X, an appeal of suspension shall be initiated at Step 3 of the grievance/appeal procedure, except for suspensions imposed by the County Executive Officer, which may be referred directly to arbitration.

#### Section 4. Reduction

- A. No regular employee or limited-term regular employee shall be reduced to a position in a lower class for reasons of unsatisfactory performance except for reasonable cause.
- B. A written notice of such reduction stating specifically the cause of the reduction shall be given to the employee.
- C. In accordance with the provisions of Article X, an appeal of reduction for reasons of unsatisfactory performance shall be initiated at Step 3 of the grievance/appeal procedure; except for reductions imposed by the County Executive Officer which may be referred directly to arbitration.

#### Section 5. Discharge and Right of Appeal

- A. No regular or limited-term regular employee shall be discharged except for reasonable cause. No proposed discharge shall be effected unless approved by the Chief Human Resources Officer except for discharges imposed by the County Executive Officer.
- B. A written notice of such discharge stating specifically the cause of the discharge shall be given to the employee.
- C. In accordance with the provisions of Article X, a discharge may be appealed directly to arbitration.

#### Section 6. Polygraph Examination

No employee shall be compelled to submit to a polygraph examination. No disciplinary action shall be taken against an employee refusing to submit to a polygraph examination; nor shall any comment be recorded indicating that an employee offered to take, took or refused to take a polygraph examination unless otherwise agreed to in writing by the parties; nor shall any testimony or evidence of any kind regarding an employee's offer to take, refusal to take, or the results of a polygraph examination be admissible in any proceeding pursuant to this Agreement, unless otherwise agreed to in writing by the parties.

#### Section 7. Investigatory Meetings

- A. When the County requires an employee to attend an investigatory meeting which could lead to discipline for him or her, prior to the investigatory meeting the employee shall be advised of:
  1. the date, time and place of the meeting,
  2. the reason for the meeting and,



3. the fact that the meeting could lead to discipline for the employee.
- B. An employee required to attend an investigatory meeting pursuant to A., above, has the right to be represented by a Union Steward or an AFSCME staff representative at the investigatory meeting.
  - C. The County shall notify the employee within four (4) weeks from the date of the investigatory meeting, the results or the status of the investigation.

## ARTICLE X GRIEVANCE PROCEDURE AND DISCIPLINARY APPEALS

### Section 1. Scope of Grievances

- A. A grievance may be filed if a management interpretation or application of the provisions of this Memorandum of Understanding adversely affects an employee's wages, hours or conditions of employment.
- B. Specifically excluded from the scope of grievances are:
  - 1. subjects involving the amendment or change of Board of Supervisors resolutions, ordinances or minute orders, which do not incorporate the provisions of this Memorandum of Understanding;
  - 2. matters which have other means of appeal including, but not limited to matters which may be appealed through the Orange County Merit System Recruitment Rules and Appeals Procedure or the Worker's Compensation Appeals Board;
  - 3. position classification;
  - 4. standard or better performance evaluations.

### Section 2. Basic Rules

- A. If an employee does not present a grievance/appeal or does not appeal the decision rendered regarding his or her grievance/appeal within the time limits, the grievance/appeal shall be considered resolved.
- B. If a County representative does not render a decision to the employee within the time limits, the employee may within seven (7) calendar days thereafter appeal to the next step in the procedure.
- C. If it is the judgment of any management representative that he or she does not have the authority to resolve the grievance/appeal, the employee shall be informed in writing and the employee may file the grievance at the next step in the procedure. By mutual agreement of the County and AFSCME, Steps 1 and 2 of the grievance procedure may be waived.
- D. The Chief Human Resources Officer may temporarily suspend grievance/appeal processing on a section-wide, unit-wide, division-wide, agency-wide or County-wide basis in an emergency situation. AFSCME may appeal this decision to the Board of Supervisors.
- E. Upon written consent of the parties, (i.e., the representatives of the County and the employee or his or her representative) the time limits at any step in the procedure may be extended.

- F. Every reasonable effort shall be made by the employee and the County to resolve a grievance/appeal at the lowest possible step in the grievance/appeal procedure.
- G. No claim shall be granted for retroactive adjustment of any grievance prior to sixty (60) calendar days from the date of filing the written grievance at Step 1.
- H. The County and AFSCME agree that their respective grievance files shall be confidential.
- I. A grievance alleging discrimination shall first be referred to the County Equal Employment Opportunity (EEO) Office for intake, review, and if applicable, investigation. The grievant/appellant and, if applicable, the AFSCME representative shall be notified in writing of the grievance being referred to the EEO Office. The timelines for a grievance alleging discrimination shall automatically be held in abeyance until the EEO Office has completed its intake, review, and if applicable, investigation. Once the EEO Office has completed the intake, review, and if applicable, investigation, the grievant/appellant and, if applicable, the AFSCME representative shall be notified in writing the time limits for processing the grievance shall resume.

### Section 3. Submission of Grievances

- A. Any employee, group of employees, or the Union shall have the right to present a grievance. No employee or group of employees shall be hindered from or disciplined for exercising this right. Grievances shall identify any employee(s) impacted by the alleged violation of this MOU. However, in situations in which the grievance involves common issues and there are so many affected employees that naming them all would be impractical, the grievance need only identify one employee as the representative of the group of employees affected by the alleged violation of the MOU.
- B. If any two (2) or more employees have essentially the same grievance, they may, and if requested by the County must, collectively present and pursue their grievance if they report to the same immediate supervisor. If the employees report to different supervisors, such grievances may be initiated at Step 2.
- C. If the grievant is a group of more than three (3) employees, the group shall, at the request of the County, appoint one (1) or two (2) employees to speak for the collective group. To be considered a grievant in a group grievance, employees must affirmatively identify themselves as grievants when the grievance is initially filed.

### Section 4. Employee Representation

- A. An employee may represent himself or herself or may be represented by AFSCME in the formal grievance/appeal procedure, or alternatively, by an attorney in appealing a discharge.
- B. Authorized grievance/appeal representatives shall be regular employees in the same agency or Representation Unit as the grievant/appellant who are members of and are designated by AFSCME to represent employees for purposes of the grievance/appeal procedure. AFSCME shall notify Agency Heads of the names and titles of such representatives and send a copy of such notice to the Personnel Department quarterly.
- C. Representation at Step one (1) of the grievance procedure shall be limited to authorized employee grievance representatives employed in the agency in which the grievance is filed. AFSCME staff representatives may represent the employee at Steps two (2) and three (3) of the internal grievance/appeal procedure and in arbitration. The Union may request that AFSCME staff be present at step one (1) under mutually agreed conditions.
- D. If an employee chooses not to be represented by the Union, the Union may have a Union staff representative present at the applicable final step of the grievance procedure and, if necessary, shall have the right to present the Union's interpretation of provisions of this Agreement at issue. Such presentation shall not include comments regarding the merits of the grievance.

#### Section 5. Time Off for Processing Grievances/Appeals

- A. Reasonable time off without loss of pay shall be given to:
  - 1. an employee who has a grievance/appeal in order to attend a meeting with his or her supervisor or other person with authority to resolve the matter, as prescribed herein, or to meet with his or her grievance/appeal representative;
  - 2. an authorized grievance/appeal representative, in order to attend a meeting with the represented grievant's/appellant's supervisor or other person with authority to resolve the grievance/appeal, as prescribed herein, or to investigate the action grieved/appealed through discussion with the grievant/appellant or other employees, or through review of appropriate County records relating to the grievance/appeal.
- B. The following restrictions shall apply in all cases to activity authorized in Section 5.A., above:
  - 1. Before performing grievance/appeal work, the grievant/appellant or grievance/appeal representative shall obtain permission of his or her supervisor and shall report back to the supervisor when the

grievance/appeal work is completed.

2. Neither the grievant/appellant nor the grievance/ appeal representative shall interrupt or leave his or her job to perform grievance/appeal work unless his or her supervisor determines that such interruption or absence will not unduly interfere with the work of the unit in which the grievant/appellant or representative is employed. However, an effort will be made to grant such time off as soon as it is feasible to do so.
3. When an authorized grievance/appeal representative must go into another section or unit to investigate a grievance/appeal, the representative shall be permitted to do so provided that:
  - a. the representative checks in and checks out with the supervisor of the unit; and
  - b. such investigation does not unduly interfere with the work of the unit.

#### Section 6. Informal Discussion

If an employee has a problem relating to a work situation, the employee is encouraged to request a meeting with his or her immediate supervisor to discuss the problem in an effort to clarify the issue and to work cooperatively towards settlement.

#### Section 7. Internal Grievance/Appeal Steps

The grievance/appeal procedure shall consist of the following steps, each of which must be completed prior to any request for further consideration of the matter unless waived by mutual consent or as otherwise provided herein.

For grievances alleging discrimination, the timelines set forth below shall be tolled as provided in Section 2.1.

#### Step 1: Immediate Supervisor

If an employee has a problem relating to an interpretation or application of this Memorandum of Understanding, the employee may formally submit a grievance to the immediate supervisor within fourteen (14) calendar days from the occurrence which gives rise to the problem. Such submission shall be in writing and shall state the nature of the grievance and the suggested solution. Within fourteen (14) calendar days after receipt of the written grievance, the immediate supervisor shall meet with the grievant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant.

## Step 2: Agency Head

If the grievance is not settled under Step 1, it may be presented to the Agency Head. The grievance shall be submitted within fourteen (14) calendar days after the receipt of the written decision from Step 1. Within fourteen (14) calendar days after the receipt of the written grievance, the Agency Head or his or her representative shall meet with the grievant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant.

## Step 3: Chief Human Resources Officer

If the grievance/appeal is not settled under Step 2 and it concerns:

- A. an interpretation or an application of this Memorandum of Understanding;
- B. a substandard performance evaluation;
- C. a deferment or denial of a merit increase, or a disputed merit increase;
- D. a written reprimand; or
- E. a probationary release alleging discrimination, it may be appealed in writing to the Chief Human Resources Officer within fourteen (14) calendar days after receipt of the written decision from Step 2. Within fourteen (14) calendar days after receipt of the written grievance/appeal, the Chief Human Resources Officer or his or her representative shall meet with the grievant/appellant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant/appellant. The decision of the Chief Human Resources Officer in B., C. and D. above, shall be final and binding and shall not be referable to arbitration.

Appeal of a suspension and/or a reduction ordered by an Agency Head or his or her designated representative may be submitted in writing at Step 3 within fourteen (14) calendar/days after receipt of the notice of suspension and/or reduction. Within fourteen (14) calendar days after receipt of the written grievance/appeal, the Chief Human Resources Officer or his or her representative shall meet with the grievant/appellant. Within fourteen (14) calendar days thereafter, a written decision shall be given to the grievant/appellant.

## Section 8. Referrals to Arbitration

### A. Grievances

1. If a grievance is not resolved under Step 3, an arbitration appeal may be presented in writing to the Chief Human Resources Officer within twenty-one (21) calendar days from the date a decision was rendered at Step 3. As soon as practicable thereafter, or as otherwise agreed to by the parties, an arbitrator shall hear the grievance.
2. The parties shall either sign a joint issue submission statement or else execute and sign separate alternative issue statements after discussing the issue(s). In either case, the parties shall send copies of their joint or separate submission statement(s) to the agreed upon arbitrator and to each other within fourteen (14) calendar days before the first scheduled date of the arbitration hearing.

## B. Disciplinary Appeals

### 1. Submission Procedure

- a. If an appeal from suspension or reduction is not settled at Step 3, it may be presented to the Chief Human Resources Officer within seven (7) calendar days from the date the decision was rendered.
- b. An appeal from any discharge or from a suspension or reduction imposed by the County Executive Officer may be presented to the Chief Human Resources Officer within ten (10) calendar days from the date the action becomes final.
- c. All disciplinary appeals shall be signed by the employee and by a representative of the Union if represented by the Union and shall be submitted in writing as follows:

Was (employee's name) suspended/reduced/discharged for reasonable cause? If not, to what remedy is the appellant entitled under the provisions of Article X, Section 8. of this Memorandum.

- d. As soon as practicable after a suspension, reduction or discharge appeal is presented to the Chief Human Resources Officer, an arbitrator shall hear the appeal.

### 2. Findings of Facts and Remedies

An arbitrator may sustain, modify or rescind an appealed disciplinary action as follows and subject to the following restrictions:

#### a. Discharges/Suspensions/Reductions

If the arbitrator finds that the action was taken for reasonable cause, he or she shall sustain the action.

b. Suspensions/Reductions

If the action is modified or rescinded, the appellant shall be entitled restoration of pay and/or fringe benefits in a manner consistent with the arbitrator's decision.

c. Discharges

1. If the arbitrator finds that the order of discharge should be modified, the appellant shall be restored to a position in his or her former class subject to forfeiture of pay and fringe benefits for all or a portion of the period of time the appellant was removed from duty as determined by the arbitrator.
2. If the arbitrator finds that the order of discharge should be rescinded, the appellant shall be reinstated in a position in his or her former class and shall receive pay and fringe benefits for all of the period of time he or she was removed from duty.

d. Restriction on Remedies

1. The County shall not be liable for restoring pay and fringe benefits for any period(s) of time the appellant was reduced or removed from duty, which results from the appealing party's request for written briefs and/or a transcript of the arbitration proceedings.
2. Restoration of pay and benefits shall be subject to deduction of all unemployment insurance (if not deducted by Employment Development Department) and outside earnings which the appellant received after the date of discharge.

C. Probationary Releases Alleging Discrimination

1. The issues to be submitted to the arbitrator in grievances filed pursuant to Article IV, Section 1.C.3. shall be as follows and shall be submitted consistent with Section 8.A., above.
  - a. Was the probationary release of (employee's name) in whole or in part the result of discrimination in violation of Article XV, NONDISCRIMINATION, of the Memorandum of Understanding between the County and AFSCME?
  - b. If so, what shall the remedy be under the provisions of Article X, Section 8.C.2., Findings of Facts and Remedies, of the Memorandum of Understanding between the County and AFSCME?



## 2. Findings of Facts and Remedies

- a. In the event the arbitrator finds no violation of Article XV, NONDISCRIMINATION, the grievance shall be denied and the issue of remedy becomes moot.
- b. In the event the arbitrator finds a violation of Article XV, NONDISCRIMINATION, but also finds such violation was not a substantial cause of the employee's probationary release, the grievance shall be denied and the issue of remedy becomes moot.
- c. In the event the arbitrator finds a violation of Article XV, NONDISCRIMINATION, and also finds that the violation was a substantial cause of the probationary release of the employee, the arbitrator's award shall depend upon the significance of the violation and shall be in keeping with the following alternatives:
  1. The probationary release may be sustained.
  2. The employee may be reinstated in a position in his or her former class subject to forfeiture of pay and fringe benefits for all or a portion of the period of time the employee was removed from duty. The employee may be required to serve the remainder of any outstanding probation period.
  3. The employee may be reinstated in a position in his or her former class with full back pay and benefits for all of the period of time the employee was removed from duty. The employee may be required to serve the remainder of any outstanding probation period.

## D. General Provisions

1. If the grievance/appeal is decided by an arbitrator, the grievant/appellant and AFSCME relinquish any current or future claim to seek or obtain remedy through any other County appeal procedure.
2. The cost of an arbitrator shall be shared equally in all cases by the County and the appealing party except when the appealing party solely alleges discrimination under Article XV, in which case the County shall bear the full cost. When the grievance involves both discrimination and other arbitrable issues, the proper division of costs shall be determined by the arbitrator.
3. Grievance/Appeal hearings by an arbitrator shall be private.

4. Arbitration appeal hearings of suspensions of fewer than forty (40) hours shall be limited to two (2) days unless both parties agree that a longer hearing is necessary. Both parties shall be allotted equal time during arbitration hearings involving such suspensions. The arbitrator shall be advised of the two (2) day limitation at the beginning of the hearing. The two (2) day limitation for arbitration appeal hearings shall not apply to suspensions imposed by the County Executive Officer.
5. The arbitrator shall be selected by the mutual agreement of the parties. If the parties cannot agree upon an arbitrator, a list of seven (7) arbitrators shall be obtained from the California State Conciliation Service, the American Arbitration Association or some other agreed upon source and each party shall alternately strike one (1) name from the list until only one (1) name remains.
6. Upon written request by the opposing party in a pending hearing given at least twenty (20) calendar days prior to the scheduled hearing date, the party requested shall supply to the party submitting the request copies of all documentary evidence to be used by that party at the hearing. Such evidence shall be provided no later than ten (10) calendar days prior to the scheduled hearing date. Any evidence not so provided may not be admitted or offered as evidence at the subsequent hearing except that any such documentary evidence discovered by a party after such a request for copies but not soon enough to comply with the above time limits may be admitted providing it could not have been discovered sooner by reasonable means and provided further that a copy or copies of such evidence be afforded the requesting party as soon as practicable after such discovery. Nothing contained herein shall operate to prevent either party from presenting additional documents by way of rebuttal.
7. An employee shall not suffer loss of pay for time spent as a witness at an arbitration hearing held pursuant to this procedure. The number of witnesses requested to attend and their scheduling shall be reasonable.
8. At the hearing, both the appealing employee and the County shall have the right to be heard and to present evidence. The following rules shall apply:
  - a. Oral evidence shall be taken only on oath or affirmation.
  - b. Each party 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 that matter was not covered in the direct examination; to impeach any witness regardless of which party first called the witness to testify

and to rebut the evidence against the witness. If the employee does not testify in his or her own behalf, the employee may be called and examined as if under cross-examination.

9. 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 have made improper the admission of such evidence over objection in civil actions. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence but shall not be sufficient in itself to support a finding unless it would be admissible over objection in civil actions. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions and irrelevant and unduly repetitious evidence shall be excluded.
10. The County and the Union shall be allowed to have one (1) employee, who may be called upon to testify as a witness, present at the arbitration hearing at all times. By the mutual agreement of the parties, the County and the Union shall be allowed to have more than one (1) employee, who may be called upon to testify as a witness, present at the arbitration hearing at all times.
11. The parties agree to forego the use of briefs whenever practicable.
12. If a court reporter is requested, the requesting party shall pay the cost of the reporter and the cost of any transcripts provided for itself and the arbitrator. If the other party wishes to purchase a copy of the transcript and is unable to reach agreement with the requesting party for such a purchase, purchase arrangements may be made directly with the court reporter.
13. The decision of the arbitrator shall be final and binding on all parties.

## ARTICLE XI LAYOFF PROCEDURE

### Section 1. General Provisions

- A. This procedure shall not apply to a temporary layoff of fewer than four (4) consecutive weeks.
- B. This procedure shall not apply to employees who have special or unique knowledge or skills which are of special value in the operation of the County business.
- C. When two (2) or more agencies are consolidated or when one (1) or more functions of one agency are transferred to another agency, employees in all involved agencies shall be subject to layoff if one is necessary.
- D. Section 7., Reemployment Lists, and Section 8., Status on Reemployment, of this Article, shall not apply if the County has a written agreement with an employer, public or private, which guarantees the County employee an offer of reasonably comparable employment with the new employer who is taking over a function formerly performed by County employees and the new employer does make such an offer in writing to the employee.

### Section 2. Order of Layoff

- A. When a reduction in the work force is implemented, employees in regular positions and those occupying limited-term positions at the direction of their Agency Head shall be laid off in an order based on consideration of:
  - 1. employment status;
  - 2. past performance;
  - 3. length of continuous employment with the County.
- B. Layoffs shall be made by class within an agency except that:
  - 1. Where a class has a dual or multiple concept, the Chief Human Resources Officer may authorize a layoff by specialty within the class.
  - 2. Where appropriate, the Chief Human Resources Officer may authorize a layoff by division or smaller unit of an agency.

C. Within a class, employees shall be subject to layoff in the following order:

<u>Employment Status</u>	<u>Layoff Order</u>
First - Temporary Promotion	Determined by Agency
Second - New Probationary	Determined by Agency
Third - Regular/Promotional	Layoff Points Probationary

After all new probationary employees and employees on temporary promotion have been removed from a class within a layoff unit, the employee with the lowest number of layoff points shall be subject to layoff first. When two (2) or more employees have the same number of layoff points, the agency shall determine the order of layoff for these employees.

D. If a layoff is going to be made in a class from which an employee has left through a temporary promotion, the employee on temporary promotion shall be returned to his or her former class and shall be subject to layoff in accordance with this procedure.

### Section 3. Computation of Layoff Points

#### Seniority Points:

The equivalent of each year of full-time continuous service with the County shall earn two hundred sixty (260) seniority points.

The equivalent of each regularly scheduled full day of continuous service of a partial year shall earn one (1) seniority point.

#### Demerit Points:

For a rating of "does not meet performance objectives" on the last "Performance Evaluation Report", for the class currently held by the employee, the employee shall earn one-hundred thirty (130) demerit points. Demerit points shall only be used in the currently held class of an employee. Demerit points shall not be applied to an employee seeking to enter a lower class through voluntary reduction in lieu of layoff.

The County will provide to AFSCME:

- verification of proper application of demerit points provided the employee authorizes the release of their most current performance evaluation to AFSCME
- one copy of the layoff list and
- one copy of the seniority list

## Layoff Points:

Layoff points shall be computed by subtracting demerit points, if any, from seniority points.

### Section 4. Notification of Employees

- A. Written notice of layoff shall be given to an employee or sent by mail to the last known mailing address at least fourteen (14) calendar days prior to the effective date of the layoff. Notices of layoff shall be served on employees personally at work whenever practicable.
- B. It is the intent of the parties that the number of layoff notices initially issued shall be limited to the number of positions by which the work force is intended to be reduced. Additional notices shall be issued as other employees become subject to layoff as a result of employees exercising reduction rights under Section 5.
- C. The notice of layoff shall include the reason for the layoff, the proposed effective date of the layoff, the employee's hire date, the employee's layoff points, a list of classes in the employee's occupational series within the layoff unit, the employee's rights under Sections 5. and 6. and the right of the employee to advise the County of any objection to the content of the layoff notice prior to the proposed effective date of the layoff.

### Section 5. Voluntary Reduction in Lieu of Layoff

- A. A promotional probationary or regular employee who is subject to layoff may request a reduction to a lower class within the same occupational series in the layoff unit provided the employee possesses the minimum qualifications for the class and passes any required performance tests. The reduction shall be made if there is a vacant position in the layoff unit or an incumbent in the lower class in the layoff unit has fewer layoff points than the employee requesting the reduction. In the latter case, the incumbent in the lower class with the fewest number of layoff points shall be subject to layoff.
- B. 1. Employees who receive notice of layoff by personal service at work shall have until the end of their third regularly scheduled day of work following actual receipt of the notice to notify their agency in writing of their intent to exercise rights under this Section. Employees whose third regularly scheduled day of work is more than three (3) calendar days after receipt of the notice shall have three (3) calendar days, excluding weekends and holidays, to notify their agency of their intent to exercise rights under this Section; and where such notification is not in writing, the employee shall confirm the notification in writing as soon as practicable.











effort to lessen the impact of layoffs by permitting employees to take part-time work in accordance with these provisions. Employees occupying part-time positions prior to the effective date of a layoff shall be excluded from the provisions of this section.

ARTICLE XII ON-THE-JOB INJURY, WORKERS' COMPENSATION  
SUPPLEMENT PAY

Section 1. On-the-Job Injury

A. Treatment of Industrial Injuries

Whenever an employee sustains an injury or disability arising out of and in the course of County employment and requires medical care, the employee shall obtain treatment according to the provisions of the California Labor Code Section 4600 *et seq.*

B. Workers' Compensation Supplement Pay

1. Whenever an employee is compelled to be absent from duty by reason of injury or disease arising out of and in the course of County employment, the employee shall receive workers' compensation supplement pay which, when added to the workers' compensation temporary disability benefit, shall equal eighty (80) percent of the employee's base salary for a period not to exceed one (1) year including holidays.
2. Workers' compensation supplement pay shall begin the same day as the workers' compensation temporary disability benefits. Prior to qualifying for workers' compensation temporary disability benefits, an injured employee may, at his or her option, use any accrued sick leave, compensatory time and/or vacation, in that order.
3. While an employee receives workers' compensation supplement pay, no deductions nor payments shall be made from any sick leave, compensatory time or vacation time previously accumulated by the employee. The employee shall not accrue sick leave or vacation credit during the period in which the employee receives workers' compensation temporary disability benefits.
4. When an injury is determined to be job-related by the County or by the Workers' Compensation Appeals Board, eighty (80) percent of all sick leave, compensatory time and/or vacation expended since the fourth day of disability shall be restored to the employee's account(s), except that if the injury required the employee's hospitalization or caused disability of more than fourteen (14) days, eighty (80) percent of all sick leave, compensatory time and/or vacation expended since the first day of disability shall be restored to the employee's account(s).
5. The merit increase eligibility date and probation period of any employee who receives workers' compensation benefits shall be extended by the length of time the employee receives such benefits,

except that the first fifteen (15) consecutive calendar days from the date of the injury shall be considered County service for merit increase eligibility and completion of the probation period.

6. When an employee is no longer entitled to receive workers' compensation supplement pay, the employee may, at his or her option, use sick leave, compensatory time, and vacation, in that order, if the employee is compelled to be absent from duty as set forth in Paragraph B.1., above.
7. Time during which an employee receives workers' compensation temporary disability benefits shall be counted toward the computation of County seniority and determination of sick leave and vacation earning rates.

C. Exposure to Contagious Diseases

Whenever an employee is compelled by direction of a County-designated physician to be absent from duty due to an on-the-job exposure to a contagious disease, the employee shall receive full compensation for a period not to exceed eighty (80) working hours for a full-time employee or fourteen (14) calendar days for a part-time employee. If the absence extends beyond the applicable period, sick leave, compensatory time and vacation may be used, at the employee's option, in that order.

## ARTICLE XIII SAFETY

### Section 1. General Provisions

Recognizing that a safe work environment is of substantial benefit to both the County and employees, the County and the Union mutually agree to the following safety program:

- A. No employee shall be required to work under conditions dangerous to the employee's health or safety.
- B. The County shall make reasonable efforts to provide and maintain a safe place of employment. AFSCME shall urge all employees to perform their work in a safe manner. Employees shall be alert to unsafe practices, equipment or conditions and report any such unsafe practices, equipment or conditions to their immediate supervisors. Employees shall follow safe practices.
- C. Any employee who either does not receive an answer to a safety-related question from his or her supervisor within three (3) days or receives an answer which the employee deems unsatisfactory may directly contact the County Safety Officer.
- D. Any employee who is directed to perform a task which the employee feels is unsafe may request an immediate investigation from the Safety Officer. During the period that the Safety Officer is conducting an investigation, the employee will be assigned to other work at no loss of earnings. If the Safety Officer concludes the task complained of is safe, the employee shall perform the work as instructed.
- E. The County shall furnish all equipment which is necessary for employees to perform their job in a safe manner.
- F. The County shall provide the necessary first aid kits at all work locations. First aid kits shall be checked periodically and replenished when needed. Emergency telephone numbers shall be posted near telephones in reception areas. Names and telephone numbers of employees qualified to give first aid cardio-pulmonary resuscitation (CPR) also shall be posted.
- G. Wherever practicable, the County shall provide first aid training and CPR training to at least two (2) employees at each work location.
- H. Emergency evacuation drills shall be held at each work location at least once every six (6) months.
- I. The County shall maintain at each work site a "Log and Summary of Occupational Injuries and Illnesses". The log shall be made available to the Health and Safety Steward.

## Section 2. Safety Inspection

During inspection of County facilities conducted by the State Division of Industrial Safety for the purpose of determining compliance with the California OSHA requirements, a Union designated employee shall be allowed to accompany the inspector while the inspector is in the employee's agency. The employee so designated shall suffer no loss of pay when this function is performed during the employee's regularly scheduled work hours.

## Section 3. Safety Meetings

One Union steward from each district office may be assigned by the Union to meet once per month with the District Manager or his or her designee, at the request of either party, to discuss matters affecting employee health and safety. The District Manager shall respond within ten (10) working days unless the time limit is extended by mutual agreement. Either party may request additional meetings in response to emergency situations.

If the matter is not satisfactorily resolved, the Union steward may, at his or her request, meet with the Department Safety Officer. The Department Safety Officer shall respond within ten (10) working days.

If the matter is not satisfactorily resolved, the Union steward may, at his or her request, meet with the Director of Social Services.

## ARTICLE XIV UNION AND EMPLOYEE RIGHTS

### Section 1. Employee Rights

The County shall not hinder or discipline an employee for exercising any rights or benefits provided in this Memorandum of Understanding.

### Section 2. Payroll Deduction

- A. Membership dues of AFSCME members in this Representation Unit and insurance premiums for such AFSCME sponsored insurance programs as may be approved by the Board of Supervisors shall be deducted by the County from the pay warrants of such members. The County shall promptly transmit the dues and insurance premiums so deducted to AFSCME.
- B. AFSCME shall notify the County, in writing, as to the amount of dues uniformly required of all members of AFSCME and also the amount of insurance premiums required of employees who choose to participate in such programs.

### Section 3. Employee Information Listing

Upon request, to a maximum of four (4) times per fiscal year during the term of this Agreement, the County shall provide AFSCME with a complete and current listing of all employees in this Unit. Such listings shall include employee name, job classification, agency, timekeeping location, salary range and step. AFSCME agrees to pay one dollar and fifty cents (\$1.50) per page to offset the cost of providing such listings.

### Section 4. Use of Bulletin Boards

Space shall be made available to the Union on agency bulletin boards within the Representation Unit provided such use does not interfere with the needs of the agency and material posted is not so opprobrious, flagrant, insulting, defamatory, insubordinate or fraught with malice as to cause disruption of, or material interference with, the operations of the County, County employees or other employee organizations as PERB and the Courts interpret this standard and the rights of union speech. Notice shall be dated and signed by the authorized representative of the Union responsible for its issuance.

### Section 5. Use of County Facilities

The Union may, with the approval of the Chief Human Resources Officer, hold meetings of their members on County property during nonworking hours provided request is made to the Chief Human Resources Officer as to the specific location and dates of the meeting prior to such meeting.



## Section 6. Notification of New Employees

The County agrees to inform new employees in writing of the Union's status as the exclusive representative of employees in the Bargaining Unit.

## Section 7. Release Time for Union Officers

The following designated Union officers will be given the following amount of release time per week in order to perform lawful Union business:

- 1) The Chief Shop Steward of AFSCME will be 16 hours per week of release time;
- 2) President – 16 hours per week of release time;
- 3) Vice-President – 8 hours per week of release time;
- 4) Secretary – 4 hours per week of release time;
- 5) Treasurer – 4 hours per week of release time.

Workloads will be reduced in a corresponding manner.

The County and AFSCME will meet each June to determine an appropriate work schedule that will allow these designated Union officers to engage in their Union activities. Work schedules will take effect the first full pay period of August, provided however, that for the time period between the adoption of this MOU and August 2017, the parties will meet within 30 days of the adoption of the MOU to determine an appropriate work schedule for each of these Union officers. If no agreement can be reached between the parties, the Divisional Deputy Director or designee will make the final determination.

## Section 8. Steward Training

A maximum of fourteen (14) AFSCME stewards will be allowed to attend two (2) eight-hour training classes conducted by Council 36 during each year of this contract without loss of pay. AFSCME representatives will provide the County with a ten (10) working day advanced notice of the date of the training and a list of those who will be attending the classes, as well as a sign-in sheet of those who did attend.

ARTICLE XV NONDISCRIMINATION

Section 1. County and AFSCME Responsibilities

The County and AFSCME agree that the provisions of this Memorandum of Understanding shall be applied to employees without discrimination as required by state and federal law.

Section 2. AFSCME Responsibilities

The Union shall not discriminate in membership or representation on any basis cited in Section 1. of this Article.

## ARTICLE XVI INSURANCE

### Section 1. Health Plans and Premium Contributions

#### A. Full Time Employees

1. Except as modified in Section 1.B.,C., D., E., and F., below, the County will offer health plans to all full-time regular, limited term and probationary employees and their eligible dependents.
2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – eighty-five (85) percent of the employee’s premium or ninety (90) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage - seventy (70) percent of the total health plan premium for each employee and such employee’s eligible dependents or seventy-five (75) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program.
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
3. Employees who elect the Sharewell Choice PPO plan will not only have their insurance premium fully paid by the County but will also receive a payroll credit per plan guidelines. In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.
4. The health plans and their premiums are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.

#### B. Part-time Employees

1. Except as modified in Section 1.C., D., E., and F., below, the County will offer health plans to all part-time regular, limited term, and probationary employees. Enrollment of part-time employees shall be restricted to employees whose normal workweek consists of at least twenty (20) hours.

2. The County will pay the following percentage of the premium for employees electing any health insurance plan other than the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – forty-five (45) percent of the employee’s premium or fifty (50) percent of the employee’s premium if the employee completes the Healthy Steps (wellness incentive) program;
  - b. Employee and Dependent Coverage – thirty two and one-half (32.5) percent of the total health plan premium for each employee and such employee’s eligible dependents or thirty-seven and one-half (37.5) percent of the total health plan premium for each employee and such employee’s eligible dependents if the employee completes the Healthy Steps (wellness incentive program).
  - c. Employees will pay the remaining portion of the total plan premium and consent to have their portion deducted from their County regular or supplemental payroll checks.
  
3. The County will pay the following percentage of the premium for employees electing the Sharewell Choice PPO plan:
  - a. Employee Only Coverage – one hundred (100) percent of the premium;
  - b. Employee and Dependent Coverage – per subsection B.2.b above

In addition, those employees who elect the Sharewell Choice PPO plan are not required to participate in the Healthy Steps program.

4. Coverage shall be terminated for any employee whose normal assigned hours are reduced to less than twenty (20) hours in a full workweek.
  5. The health plans and their premium are adopted by, and may be modified by, the Board of Supervisors. Plan descriptions are contained in the plan documents available through HRS/Employee Benefits.
- C. Two married full-time employees who are enrolled in the same health plan must be enrolled as Employee Married to Employee (EME). While enrolled as EME, the County will pay the full cost of employee and dependent coverage for each EME. Employees must report any subsequent changes in marital status such as legal separation or divorce, within 30 days of the event. Failure to report legal separation or divorce

from a covered spouse shall require repayment of all premiums paid by the County under this program during the period in which the employees were ineligible due to legal separation or divorce.

- D. Dual Coverage: If two married employees are enrolled in separate health plans neither employee may be covered as a dependent on their employee spouse's health plan. Eligible employees may choose to enroll in different health plans and choose to cover eligible dependent children on one or both health plans, subject to employee contributions for coverage.
- E. For employees who are on approved Family Leave pursuant to Article V, Section 14. and applicable law, the County shall continue to pay health insurance premiums as provided in A., B. and C., above, to the extent required by applicable law.
- F. For employees who are on approved leave which meets the requirements of Pregnancy Disability Leave pursuant to Government Code section 12945, the County shall continue to pay health insurance premiums as provided in A. and B., above, to the extent required by applicable law.
- G. Effective January 1, 2007, active employees are pooled separately from retirees for purposes of setting premiums for participation in County offered health plans.

## Section 2. Health Plan Enrollment

- A. New eligible employees will be enrolled in the health plans of their selection effective the first day of the month following the first thirty (30) days of employment. Eligible full-time employees failing to elect a plan will be enrolled in the Wellwise Choice PPO Health Plan, employee only. Eligible part-time employees failing to elect a plan will be enrolled in the Sharewell Choice PPO Health Plan, employee only. Employees who go out on leave of absence prior to satisfying the waiting period for coverage shall not be eligible for coverage until returning to work unless required by state /federal law. Upon return to work, coverage will become effective the first day of the month following thirty (30) days from the date of return unless otherwise required by state/federal law.
- B. Terminated employees will be continued with coverage in all health plans until the last day of the calendar month in which they terminate employment. Terminated employees may be eligible for continuation of health insurance as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) and/or by other state/federal law.
- C. Employees who are enrolled in a County health plan at the time of retirement will be given the opportunity to elect and enroll in a Retiree health plan.

- D. The County shall provide for an open enrollment period once each calendar year for employees, employees' eligible dependents, and retirees to change their enrollment in a County health plan.

### Section 3. Premium Only Plan

The County shall administer a Premium Only Plan that will allow an employee to pay for health insurance premiums as permitted by state and federal law, regulations and guidelines. Under the plan, an employee's gross taxable salary will be reduced by an amount of his or her share of the premium costs of County-provided health plan coverage as permitted by state and federal law, regulations and guidelines.

### Section 4. Other Insurance Coverage

- A. AFSCME shall maintain a trust fund, approved by the State of California, for the sole purpose of providing group insurance benefits such as, but not limited to, disability, vision, dental, and life insurance for employees in the Eligibility Worker Unit.
- B. The County shall, on a biweekly basis, forward \$23.70 per pay period for all regular hours paid for all regular, limited-term and probationary employees in the Eligibility Worker Unit for all employees who have any paid hours in the pay period for deposit in said State approved trust fund.
- C. Insurance coverages provided through the trust fund with monies contributed by the County shall be made available to all employees in the Eligibility Worker Unit on an equal basis regardless of membership status.
- D. AFSCME shall indemnify and hold the County harmless from any claims or legal actions brought under this Section.
- E. AFSCME shall provide the County with a copy of the annual report to the Insurance Commission and shall provide a full accounting of the status of the fund upon request of the County.

### Section 5. Employee Contribution Subsidy Program

- A. Effective with the pay period beginning September 30, 2005, the one percent (1%) employee subsidy contribution for current health insurance for all regular, limited-term and probationary employees was terminated.
- B. Current employees who separate from County service effective on or after the pay period beginning September 30, 2005 are not eligible to receive a lump sum payment. Such employees are not members of an Eligible Classification under the Plan.

- C. Current employees who retire or take deferred retirement on or after September 30, 2005 are not eligible for the retiree medical grant, including survivor benefits. Such employees are not members of an Eligible Classification under the Plan.
- D. Current employees who are granted a disability retirement by Orange County Employees Retirement System based on an application submitted to OCERS before September 30, 2005 will be eligible to receive a grant under the terms and conditions of the Plan.

#### Section 6. Retiree Medical Participation

- A. Current employees who retire from County Service effective on or after the pay period beginning September 30, 2005 are eligible to participate in County sponsored health plans at their own cost if enrolled at the time of their retirement.

#### Section 7. Working Group and Reopener

##### A. Working Group

The parties agree to establish a Working Group to review insurance issues. The Union may have up to five (5) members as representatives on the working group. Other bargaining groups and stakeholders (eg., OCEA, Teamsters, IUOE, OCMA, unrepresented employees) will be invited to participate in the working group. Among the issues to be examined by the working group are the following:

- Plan design (eg., benefits, wellness and other incentive programs);
- Cost containment ideas;
- Impact of the ACA on County insurance plans/programs;
- Establishment of wellness and/or fitness centers;
- Gym memberships;
- Continued use of Healthy Steps as a component of the County's wellness program;
- and
- Other issues the parties agree to discuss.

The Working Group will strive to complete its work, including making recommendations to the parties, no later than December 31, 2017. The Working Group may continue to work on insurance issues after December 31, 2017 upon agreement of the parties.

##### B. Reopener as a Result of ACA

The County may reopen negotiations on this Article and other provisions of the MOU (eg., Flexible Spending Accounts), for purposes of addressing issues resulting from the implementation of the Patient Protection and Affordable Care Act (ACA), including but not limited to, the potential impact of the Excise Tax (commonly known as the "Cadillac Tax") on

high cost employer-sponsored health coverage. Federal administrative agencies have not yet issued definitive guidance regarding the Excise Tax which is expected to begin in 2022. The parties acknowledge that some of the benefits provided in the MOU may be included in the coverage to which the Excise Tax liability may apply. As a result, the issues that likely need to be addressed are: which health group plan coverages must be taken into consideration for the purposes of this tax, how to calculate this tax, and what steps, if any, can be taken to avoid payment of the Excise Tax (eg., modification of benefits).

The County will not be responsible for the payment of any Excise Tax on health coverage from unit members' enrollment in County-sponsored health plans.



## ARTICLE XVII POSITION CLASSIFICATION

### Section 1. New Job Classes

If the County creates a new job class within the Bargaining Unit, the County shall notify the Union prior to adoption. If the Union wishes to negotiate with the County regarding the impact of the new classification on employees' wages, hours and other terms and conditions of employment, the Union shall notify the County within ten (10) working days from receipt of such notice.

### Section 2. Procedure for Requesting Reclassification of a Position

- Step 1: An employee may submit a written request to his or her supervisor that a classification study be conducted. Requests shall state the reasons the employee believes the present class is not appropriate and which class the employee believes is appropriate based on the employee's present duties. The Agency will promptly provide the Union with a copy of the employee's request.
- Step 2: Appropriate Agency response to an employee's request for reclassification shall include, but not be limited to, (a) denial of the request, or (b) forwarding of the request to the Human Resource Services Department with a recommendation that a classification study be conducted. If the request is denied, the employee shall be given a written statement of the reasons for the denial. If management denies the request or fails to respond within thirty (30) calendar days, the employee may submit the request to the Union for consideration.
- Step 3: Within thirty (30) calendar days thereafter, the Union may request in writing that the Human Resource Services Department conduct a classification study of the position.
- Step 4: Within fifteen (15) calendar days of the receipt of a written request from the Union to study the classification of a position, the Human Resource Services Department will provide the employee with a Position Description Form. The employee shall complete the form and submit a copy to the employee's supervisor and a copy to the Human Resource Services Department.
- Step 5: Within one hundred twenty (120) calendar days after the Human Resource Services Department receives the completed Position Description Form, the Human Resource Services Department shall notify the Union of the appropriate classification of the position.

Section 3. Limitations on Concurrent Studies

The County shall not be required to respond within one hundred twenty (120) calendar days if the total number of pending requests by the Union for reclassification studies (at Step 4 of this procedure) exceeds ten (10) positions.

Section 4. Maintenance Classification Reviews

Maintenance Classification Reviews of occupational series shall not be covered by this procedure.

Section 5. Review of Disputed Position Classification Decisions

- A. If the Union does not agree with a position classification decision of the County, after the steps in Section 2. have been followed, the issue may be presented to a classification consultant for advisory review.
- B. The consultant's review shall be documented on forms supplied by the County and used by the County for documenting its classification decisions.
- C. The consultant shall have access to the organizational and classification files of the Human Resource Services Department and shall have the right to conduct the classification study in the manner the consultant deems most appropriate.
- D. Any salary change for any employee resulting from a consultant's advisory recommendation shall be effective no sooner than the beginning of the pay period following the decision of the County at Step 5 of the procedure described in Section 2., above.
- E. A consultant shall be chosen who has experience in conducting position classification analyses for local governmental agencies. The consultant will be chosen by a committee with an equal number of County and Union members. The cost of the consultant shall be shared equally by the County and the Union.

## ARTICLE XVIII DEFINED CONTRIBUTION

An employee in a regular position may, at his or her request, participate in the County's 457(b) Defined Contribution Plan.

## ARTICLE XIX WORKLOAD

### Section 1. General Provisions

- A. The right to determine workload levels and the method of organizing and assigning work shall be retained by the County.
- B. Whenever practicable prior to implementation, the County shall notify and discuss with the Union the establishment of a workload level for a particular type of assignment or significant decreases or increases in the existing workload levels of employees. If it is not practicable to notify the Union before such workload decisions are implemented, the County shall notify and discuss such workload levels with the Union as soon as practicable thereafter.
- C. When practicable, the County shall consider projected turnover and anticipated workload levels when staffing for each program and function, but shall not be required to fill positions in excess of any of the fiscal constraints as described in Section 2., below.
- D. Workload statistics shall be furnished to the Union on a monthly basis.

### Section 2. Fiscal Constraints

The County shall not be required by the provisions of this Article to take any action which may reasonably be expected to result in incurring costs in excess of any of the fiscal constraints set forth below:

- A. Incurring salary and/or benefit costs which could exceed the applicable State or Federal reimbursement level for any aid category, as set forth in State Cost Control Plans.
- B. Requiring positions to be filled in excess of those authorized to be filled by the Board of Supervisors.
- C. Requiring overtime expenditures in excess of overtime funding budgeted and authorized for expenditure by the County Executive Office and the Board of Supervisors and approved by the Agency for employees in this Unit.

### Section 3. Workload Distribution

- A. To the extent practicable, the County will make reasonable efforts to equitably distribute workload among employees with the same assignment. However, nothing in this Article shall limit the County's ability to establish specialized assignments when the County determines it is appropriate to do so.

#### Section 4. Performance Ratings

- A. Each case-carrying employee's caseload size and error rate shall be considered when the employee's Performance Review is prepared. An employee's overall performance rating shall be based on ratings received in all performance factors in the Performance Review.
- B. When an employee carries a caseload five (5) percent above the County assigned workload level for that assignment, it shall be considered and noted in the employee's Performance Review.
- C. When an employee maintains an error rate which is below the error rate for that program, it shall be considered and noted in the employee's Performance Review.
- D. In any month(s), when an employee's caseload/applications exceed the County assigned workload level for that assignment by five (5) percent or more to a maximum of ten (10) cases, errors which are a direct result of the higher caseload/application levels shall not be a basis for a negative reference in the Performance Review.
- E. When it is the judgment of the supervisor that an error is a direct result of an employee's inability to communicate with a client in a common language, that error shall not be a basis for a negative reference in the Performance Review.

#### Section 5. Uncovered Caseload Assignments

- A. Except as provided below, any caseload assignment that is uncovered for two (2) weeks or more shall be distributed among existing workers within the function, within the District in a manner consistent with the provisions of this Article.
- B. If a caseload assignment is uncovered for two (2) weeks and it reasonably appears that a worker will be available to cover the caseload within the third week, the supervisor may continue to keep the caseload temporarily distributed among the workers of that function within the District.
- C. If a caseload assignment is to be uncovered for two (2) weeks or more due to sick leave or vacation, the employees in the unit/section may request through the Union steward that the caseload be distributed on a temporary basis within the unit or function within the District.
- D. When a worker whose caseload has been distributed among remaining workers returns from Sick Leave or vacation, upon the request of the employee, the County shall return that worker to his/her prior assignment (unit/caseload) whenever practicable.

## ARTICLE XX WORKLOAD MANAGEMENT FORUMS

### Section 1. Intent

The County and AFSCME encourage responsible workload levels for employees, effective flow of information within the Agency and efficient use of available staff. An intended objective of the management forum shall be that, when possible, cases be equitably distributed within the various programs.

### Section 2. Workload Management Forums

A. SSA shall implement a Workload Management Forum as follows:

1. A forum shall be implemented in the Social Services Agency consisting of up to seven (7) employee representatives and up to an equal number of management representatives.
2. Based on the item for discussion at any particular Workload Management Forum, additional employee or management staff may attend at the mutual agreement of the Agency and AFSCME.
3. A forum shall be implemented in the Health Care Agency and shall consist of up to two (2) employee representatives and an equal number of management representatives.

B. Employee representatives shall be selected by AFSCME. Management representatives shall be selected by the Agency Head or designee.

### Section 3. Objectives

A. Each Workload Management Forum shall meet once each month for the purpose of reviewing current workload management practices, identifying problem areas and exploring potential improvements.

B. Pursuant to this Article, each Workload Management Forum will develop specific recommendations including, but not limited to, the following:

1. improved management information systems;
2. relationships between workload and performance expectations;
3. manageable workload levels within budgetary limitations;
4. methods for achieving equitable distribution of work when possible.

C. Agency management shall review the recommendations of each Workload Management Forum and where practicable, adopt procedures addressing the area(s) of concern.

Section 4. Operating Procedures

A. Each Workload Management Forum shall establish its own operating procedures.

B. Employee representatives shall be allowed reasonable time off without loss of pay to attend meetings.

## ARTICLE XXI TRANSFER OF FUNCTIONS

In the event the County plans to enter into any agreement with another public employer or private entity which involves the transfer of functions now being performed by employees in this Representation Unit, or the law or governmental regulations provides for the transfer or substantial modification of functions now being performed by employees in this Unit to another public or private agency, the County will advise such public or private entity of the existence and terms of this Memorandum of Understanding and will immediately advise the Union of such plans or law or regulation.

The County will consult with the Union in a timely manner to review possibilities for the absorption of affected employees in the Representation Unit into other jobs in the County service or the new agency.

In the event of any such transfer of functions, it is the intention of the County to make every reasonable effort to absorb affected County employees in the Representation Unit who desire to remain employed by the County into comparable employment in the County service. In addition, the County intends to consult with any agency which is absorbing a County function in order to provide for suitable placements within that agency for County employees whose function is being transferred.



ARTICLE XXII SEPARABILITY

In the event that any provision of this Memorandum of Understanding is declared invalid by any court of competent jurisdiction, such decision shall not invalidate the entire Memorandum, it being the express understanding of the parties hereto that all other provisions not declared invalid shall remain in full force and effect.

ARTICLE XXIII MANAGEMENT RIGHTS

Any of the rights, powers or authority the County had prior to the adoption of this Memorandum of Understanding are retained by the County, except those specifically abridged, delegated or modified by this Memorandum of Understanding provided that such management rights do not restrict employees from filing grievances.

ARTICLE XXIV MODIFICATION AND WAIVER

This Memorandum sets forth the full and entire understanding of the County and Union regarding the matters set forth herein. Except as specifically provided herein, it is agreed and understood that the parties hereto reserve the right, only upon mutual agreement, to meet and confer in good faith with respect to any subject or matters covered herein or with respect to any other matter within the scope of representation during the term of this Memorandum of Understanding.

## ARTICLE XXV UNION - MANAGEMENT COUNCIL

### Section 1. Participants

The Union - Management Council shall be composed of eight (8) employee representatives chosen by the Union, an AFSCME staff representative, the Director of Financial Assistance and seven (7) additional management representatives.

### Section 2. Purpose

The purpose of the Council shall be to discuss issues as identified by the Union or management. The Council shall share information regarding issues of concern that may impact SSA and the bargaining unit and shall seek means of resolving problems.

Current problems can include, but not be limited to, working conditions, discussions and suggestions on work simplification, elimination of non-mandated tasks or discussion of impending changes.

### Section 3. General Provisions

- A. The Council shall meet once each quarter, unless additional meetings are scheduled by mutual agreement.
- B. The Council shall establish such operating procedures as it deems necessary.
- C. Council members will be given time off without loss of pay or benefits to attend Council meetings.
- D. Impacted site stewards will be given time off without loss of pay or benefits to attend Council meetings; they will return to their work sites when work on their agenda item is completed.
- E. Prior to submitting any issue/concern for discussion at a Union-Management Council Meeting, AFSCME representatives will discuss the matter with district level management in an effort to resolve the issue/concern at the lowest possible level.
- F. Nothing shall be agreed upon in these meetings which would have the effect of altering or amending this Memorandum of Understanding.

## ARTICLE XXVI RETIREMENT CONTRIBUTION RATES AND BENEFIT LEVELS

### Section 1. Retirement Benefit Levels

- A. For employees hired on or before September 20, 1979:
1. Such employees are provided a one-fiftieth (1/50) retirement benefit formula per Section 31676.12 of the Government Code for general members. (This retirement formula is commonly known as the “2% at 57” benefit formula.)
  2. The retirement allowance will be computed on the highest one (1) year of final compensation per Government Code Section 31462.1.
- B. For Employees Hired on or after September 21, 1979 and Before January 1, 2013, or If Hired on or After January 1, 2013, are Not Considered “New Members” within the Meaning of the Public Employees Pension Reform Act of 2013 (PEPRA).
1. Employees will be provided a one-sixtieth (1/60) retirement benefit allowance as provided in Section 31676.1 of the Government Code. (This retirement formula is commonly known as the “1.67 at 57.5” formula.<sup>1</sup>)
  2. The retirement allowance of employees will be computed upon the employee's highest three (3) years of compensation per Government Code Section 31462.
- C. For Employees Hired on or After January 1, 2013 who are Considered “New Members” within the Meaning of PEPRA.
1. Employees will be provided with the retirement benefit allowance set forth in Section 7522.20 of the Government Code. (This retirement formula is commonly known as the “2% at 62” formula.)
  2. The retirement allowance of employees will be computed upon the employee's highest three (3) years of compensation per Government Code Section 7522.32.

<sup>1</sup>The [1.67@57.5](#) benefit formula provides the following percentages at these ages: 1.92% at age 60; 2.09% at age 62, and 2.43% at age 65.

### Section 2 Retirement Contributions

- A. Members' normal contribution rates shall be as provide by Government Code sections 31621.5, 31621 or 7522.30, as applicable, for general members.
- B. The County will adopt employee contribution rates equal to County contributions for full reserve funding of cost-of-living increases to retirees for all active members of the retirement system as recommended by the OCERS actuary. Effective September 19, 2014, employees will pay the full member contribution for each of the benefit plans provided by the County.

Section 3.      Adjustment of Rates

- A. Members' normal and cost-of-living contribution rates shall be adjusted subsequent to and in conformance with actuarial recommendations adopted by the Retirement Board and the Board of Supervisors.

ARTICLE XXVII JOB ACTIONS

During the life of this Agreement, no job actions shall be caused or sanctioned by AFSCME.

## ARTICLE XXVIII FLEXIBLE SPENDING ACCOUNTS

### Section 1. Dependent Care Reimbursement Account (DCRA)

The County will administer a Dependent Care Reimbursement Account (DCRA) that will allow eligible employees the opportunity to allocate a specified amount of biweekly pre-tax salary into the employee's dependent care reimbursement account to pay for dependent care expenses as permitted by state and federal law, regulations and guidelines and as permitted by the County's Section 125 Plan document.

### Section 2. Health Care Reimbursement Account (HCRA)

The County will administer a Health Care Reimbursement Account that will allow employees the opportunity to allocate a specified amount of bi-weekly pre-tax salary into the employee's health care reimbursement account to pay for health care expenses as permitted by state and federal law, regulations, and guidelines and as permitted by the County's Section 125 document.



## ARTICLE XXIX COMPENSATION

### Section 1.

Effective October 1, 2005, the PIP program/award ceased. The annual evaluation-only component of the program remains. All evaluations that were completed through December 31, 2005 received the time off award. PIP time that was on the books at that time must have been used by June 26, 2008.

### Section 2.

Effective the first day of the payroll period after adoption of this MOU by the Board of Supervisors, the salary schedule will be increased by 3.5% across-the-board.

### Section 3.

Effective July 3, 2020, the salary schedule will be increased by 3.4% across-the-board.

### Section 4.

Effective July 2, 2021, the salary schedule will be increased by 3.4% across-the-board.

### Section 5.

Effective July 1, 2022 the salary schedule will be increased by 3.4% across-the-board.

Article XXX      PERFORMANCE EVALUATION WORKGROUP

SECTION 1. Intent

The County and AFSCME agree that employees are to be evaluated through a fair evaluation system. The County and AFSCME agree to work collaboratively to review the current evaluation process to determine areas of recommended improvement in the documents, forms and implementation of the evaluation system.

Section 2. Establishment of the Performance Evaluation Workgroup

- A. Within ninety (90) days of the adoption of this Memorandum, the County shall establish a Performance Evaluation Workgroup as follows:
1. A Working Group will be established consisting of up to five (5) AFSCME representatives and up to an equal number of County representatives.
  2. Based on the topic of discussion at any particular Working Group, additional AFSCME or County representatives may attend at the mutual agreement of AFSCME and the County.
  3. The length of each meeting will be mutually agreed upon by the County and AFSCME.
  4. The group will conclude within six (6) months of its first meeting. By mutual agreement, the workgroup may be extended up to an additional six (6) months if reasonable progress has been made regarding the objectives of the Working Group.

Section 3.      Objectives

The Working Group shall meet once a month, or more than once a month by mutual agreement, for the purpose of reviewing the forms and documents of the current evaluation process, as well as the methods in which the evaluation process is implemented. The Working Group will develop specific recommendations including, but not limited to:

1. Evaluation processes for new hire probationary employees
2. Evaluating performance standards
3. Methods to assist an employee if performance standards are not being met

4. The implementation of the performance evaluation process
  - A. The County may provide information regarding new evaluation systems and/or processes that may be considered to replace the current evaluation process.
  - B. County management shall review the recommendations of the Working Group and where practicable, adopt documents, forms, and/or procedures proposed by the Working Group.

Section 4.           Operating Procedures

- A. The Working Group shall establish its own operating procedures.
- B. The Working Group will endeavor to meet on dates in which AFSCME Union Officers are provided release time in accordance with Article XIV, Section 7., Release Time for Union Officers. For other County employees who serve as AFSCME representatives in the Working Group during paid work time, AFSCME will reimburse the County for all compensation costs in accordance with Senate Bill 1085.

APPENDIX A

Classes included in the Eligibility Worker Unit as of June 24, 2016.

7005	Eligibility Technician
7009	Employment and Eligibility Specialist