

# **County of Santa Clara Ordinance Code**



**Selected Chapters, including:**

**Personnel Board**

**Merit System**

**Employee-Management Relations**

**Employee Grievance Procedures**

**And**

**Personnel Practices**

**Current as of September 25, 2015**

Division A25  
Personnel Department

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## DIVISION A25 PERSONNEL DEPARTMENT\*

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Editor's note--Ord. No. NS-300.269, § 8, adopted Dec. 18, 1978, specifically amended the Code by amending the title of Div. A25 to read as herein set out. Formerly, said title had been, "Personnel."

Cross reference(s)--Administration generally, Div. A2; safety program for employees, § A2-8 et seq.; departmental attendance records and reports, § A2-18; claims by County employees, Div. A9; travel by County officers and employers, Div. A31.

### CHAPTER I. IN GENERAL

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Editor's note— Sections 10, 11 of Ord. No. NS-300.306, adopted Oct. 23, 1979, effected a complete revision of Ch. I. Section 10 specifically repealed § A25-5, establishing the procedure for enacting the annual salary ordinance, derived from Code 1954, § 3.1.5-1, and Ord. No. NS-300.116, § 1, enacted Jan. 8, 1968. Section 11 amended the entire chapter to read as set out in §§ A25-1—A25-6. Former Ch. I, §§ A25-1—A25-7, dealt with the Personnel and Administration Agency and its Administrator and, in addition to the aforementioned derivation of § A25-5, was derived from Ord. No. NS-300.269, §§ 9—14, adopted Dec. 19, 1978.  
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#### **Sec. A25-1. Department [Agency] recognized.**

There is in the County the Employee Services Agency, hereinafter in this division referred to as "Agency" or "Department."

(Ord. No. NS-300.306, § 11, 10-23-79; Ord. No. NS-300.541, § 1, 10-19-93)

#### **Sec. A25-2. General responsibilities.**

The Agency shall:

- (a) Administer the personnel and learning and employee development system of the County.
- (b) Manage the labor relations system of the County.
- (c) Administer the risk management system of the County.
- (d) Provide such other services as are directed by the Board of Supervisors or the County Executive.

(Ord. No. NS-300.306, § 11, 10-23-79; Ord. No. NS-300.541, § 2, 10-19-93; Ord. No. NS-304.134, § 1, 09-25-15)

#### **Sec. A25-3. Director recognized**

There is in the Agency the position of Director. The Director shall be appointed by the County Executive in accordance with the provisions of the Charter. The Director is the executive officer of the Agency and is under the supervision of the County Executive. The Director represents and acts for the County Executive in directing and coordinating the functions assigned to the Agency.

(Ord. No. NS-300.306, § 11, 10-23-79; Ord. No. NS-300.541, § 3, 10-19-93)

#### **Sec. A25-4. Appointment of Director.**

The Director of the Agency or his or her designee shall have responsibility over the personnel and organizational development department of the Agency.

(Ord. No. NS-300.306, § 11, 10-23-79; Ord. No. NS-300.541, § 4, 10-19-93)

**Sec. A25-5. Director's personnel authority.**

Subject to the provisions of the Charter and this Code, the Director shall have power to appoint, supervise, suspend or remove all assistants, deputies, clerks and other employees in the Department.

(Ord. No. NS-300.306, § 11, 10-23-79)

**Sec. A25-6. Administrative powers.**

The Director shall have administrative control over the Department and shall be responsible for the preparation of the budget thereof. The Director shall have budgetary control over all matters pertaining to the Department.

(Ord. No. NS-300.306, § 11, 10-23-79)

**Secs. A25-7—A25-15. Reserved.**

## **CHAPTER II. PERSONNEL BOARD**

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Charter reference— Personnel Board, § 702.

Cross reference—Boards and commissions generally, Div. A6  
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### **Sec. A25-16. Membership and term.**

The membership of the Personnel Board established pursuant to Section 702 of the Charter shall be chosen as follows: Two members shall be appointed by the Board of Supervisors directly; two members shall be appointed by the Board of Supervisors from lists of persons nominated by the employees in the classified service of the county, such lists to contain three nominations for each position to be filled; and the fifth member shall be appointed by the Board of Supervisors from a list of three persons nominated by the four thus appointed. The successor of any member of the board shall be nominated and appointed in the same manner as such member was nominated and appointed.

Each Board member shall have a term of four years and until his or her respective successor is appointed and qualified. No member shall be eligible to serve on such Board for more than three (3) consecutive terms in addition to any portion of any unexpired term which may have been served.

(Code 1954, § 3.2.17-1; Ord. No. NS-300.44, § 4, 5-9-60; Ord. No. NS-300.767, § 1, 12-12-06)

### **Sec. A25-17. Organization; secretary.**

The Personnel Board shall organize itself in accordance with Section 506 of the Charter; and the Clerk of the Board of Supervisors shall be ex officio secretary of the Personnel Board and shall be responsible for providing secretarial assistance to the Personnel Board.

(Code 1954, § 3.2.17-2; Ord. No. NS-300.44, § 4, 5-9-60; Ord. No. NS-300.767, § 2, 12-12-06)

### **Sec. A25-18. Members to be nominated by employees.**

Two members of the Personnel Board are appointed by the Board of Supervisors from lists of persons nominated by the classified employees of the County pursuant to Section 702 of the Charter. This chapter sets forth the procedure to be followed by employees in making such nominations.

(Code 1954, § 3.2.17-3; Ord. No. NS-300.131, § 1, 1-13-69; Ord. No. NS-300.767, § 3, 12-12-06)

### **Sec. A25-19. Notice to employees of vacancy.**

- (a) The Clerk of the Board of Supervisors shall give notice that a vacancy will exist on the Personnel Board to be appointed from a list of persons nominated by employees in the classified service.
- (b) The notice shall be given at least 60 days prior to the expiration of the term of the incumbent Board member or as soon as possible upon the occurrence of a vacancy during a term.
- (c) The notice shall be given in writing to each recognized employee organization as defined in Chapter IV of this division, and shall also be posted on each departmental bulletin board.

- (d) The notice shall fix a time within which nominations of persons may be filed with the Clerk. The filing deadline shall be at least 30 days after the notice of vacancy shall have been mailed and posted.

(Code 1954, § 3.2.17-3.1; Ord. No. NS-300.131, § 2, 1-13-69)

**Sec. A25-19.1. Who makes employee nominations.**

Persons may be nominated by:

- (a) A recognized employee organization, or
- (b) By a petition signed by at least 100 employees in the classified service, provided such employees are not members of a recognized employee organization or are not designated management or confidential employees as provided in Chapter IV of this division.

(Code 1954, § 3.2.17-3.1; Ord. No. NS-300.131, § 2, 1-13-69)

**Sec. A25-20. Qualifications of nominees.**

Persons nominated shall meet the qualifications of the County Charter. The nomination shall be accompanied by a written statement by the person nominated that the person is willing to accept the appointment. Nominations may also be accompanied by a written statement of qualifications not to exceed 300 words.

(Code 1954, § 3.2.17-3.1; Ord. No. NS-300.131, § 3, 1-13-69; Ord. No. NS-304.113, § 1, 8-30-88)

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**Charter reference**— Qualifications of members, § 702.

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**Sec. A25-21. Insufficient number of nominations.**

Upon the close of the nomination period, if three qualified names have not been submitted, the Clerk shall again give notice of a vacancy as provided in Section A25-19.

(Code 1954, § 3.2.17-3.1; Ord. No. NS-300.131, § 3, 1-13-69)



**Sec. A25-22. Election of employee members.**

If more than three qualified names have been submitted, an election of the employees in the classified service shall be held in accordance with the following procedures:

- (a) The Clerk shall certify to the Registrar of Voters the names of persons who have been nominated and the written statements of qualifications which have been filed.
- (b) The Registrar of Voters shall prepare a ballot to be mailed to the home address of each employee in the classified service, together with a return-stamped envelope. The statements of qualification shall be mailed with the ballot together with instructions to return the ballot to the Registrar of Voters by a fixed date, which shall not be less than ten days from the date the ballots were mailed.
- (c) The ballot shall list the names of persons nominated in alphabetical order and under each name shall be stated the following:

"Nominated by (name of recognized employee organization)"

OR

"Nominated by independent petition."

- (d) On the ballot shall be an instruction to "Vote for three."
- (e) Upon the close of the election period, the Registrar of Voters shall tally the ballots and certify the results of the election to the Board of Supervisors.

(Code 1954, § 3.2.17-3.3; Ord. No. NS-300.131, § 4, 1-13-69; Ord. No. NS-300.273, § 1, 1-16-79)

**Sec. A25-23. Certification of nominees without election.**

If only three qualified names have been submitted to the Clerk upon the close of the nomination period, or upon the close of a subsequent nomination period as provided in Section A25-21, the Clerk shall certify to the Board of Supervisors the names of the persons who have been nominated and the written statements of qualifications which have been filed.

(Ord. No. NS-300.273, § 2, 1-16-79)

**Sec. A25-24. Subpoena authority.**

The Chairperson of the Personnel Board may issue subpoenas requiring the attendance of witnesses and subpoena duces tecum for the production of records, documents and other evidence at a Personnel Board proceeding. No more than six subpoenas per side requiring the attendance of witnesses at any one hearing may be issued by the Chairperson.

(Ord. No. NS-300.767, § 4, 12-12-06)

**Secs. A25-25—A25-33. Reserved.**

## CHAPTER III. MERIT SYSTEM

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Charter reference— Personnel system, Art. VII; political activities, § 707.  
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### ARTICLE 1. GENERALLY

#### **Sec. A25-34. Rules established; applicability.**

There are hereby established merit system rules for the administrative service of the County. These rules shall apply in their entirety to all employees in the classified service, and Articles 1, 2, 6, 7, and 8 as set forth in this chapter shall apply to all employees in the unclassified service.

(Code 1954, Tit.1, Ch. 3, Art.1.5)

Charter reference— **Unclassified and classified service**, § 701.

#### **Sec. A25-35. "Allocation" defined.**

As used in this chapter, "allocation" means the official determination of the class to which a position belongs; and the assignment of a position to its class.

(Code 1954, § 3.3.1-1)

#### **Sec. A25-36. "Alternate classifications" defined.**

As used in this chapter, "alternate classifications" means a series of two or more related classifications treated as a single classification in the salary ordinance, with the appointing authority allowed a choice from any of the listed alternatives in filling a vacancy in a coded position; and in which continuing incumbents may qualify for status in the next higher alternative classification through such qualifying examinations as may be required by the Director.

(Code 1954, § 3.3.1-54; Ord. No. NS-304.46, § 1, 8-7-67)

#### **Sec. A25-37. "Anniversary date" defined.**

As used in this chapter, "anniversary date" means the anniversary of the date an employee was appointed to the employee's current position unless otherwise notified by the merit system rules.

(Code 1954, § 3.3.1-2; Ord. No. NS-300.14, § 1, 10-13-59; Ord. No. NS-304.113, § 2, 8-30-88)

#### **Sec. A25-38. "Applicant" defined.**

As used in this chapter, "applicant" means a person, who, under the rules, has made formal application for employment.

(Code 1954, § 3.3.1-3)

**Sec. A25-39. "Appointing authority" defined.**

As used in this chapter, "appointing authority" means the group or person having the lawful power to make appointments or to remove persons from positions in the County service.

(Code 1954, § 3.3.1-5)

**Sec. A25-40. "Appointment" defined.**

As used in this chapter, "appointment" means the offer to a person and the person's acceptance of a position in accordance with these rules.

(Code 1954, § 3.3.1-4; Ord. No. NS-304.113, § 3, 8-30-88)

**Sec. A25-41. "Assembled examination" defined.**

As used in this chapter, "assembled examination" means an examination conducted at a specified time and place, under the supervision of an examiner.

(Code 1954, § 3.3.1-20.1; Ord. No. NS-304.21, § 1, 11-5-62)

**Sec. A25-42. "Board" defined.**

As used in this chapter, "Board," when used alone, means the Personnel Board of this County.

(Code 1954, § 3.3.1-6)

**Sec. A25-43. "Certification" defined.**

As used in this chapter, "certification" means the submission of names of eligibles from an appropriate list to an appointing authority by the Director of Employee Services Agency.

(Code 1954, § 3.3.1-7; Ord. No. NS-304.134, § 2, 09-25-15)

**Sec. A25-44. "Class or classes of positions" defined.**

As used in this chapter, "class or classes of positions" means a group of positions having duties and responsibilities sufficiently similar that the same title, examples of duties and requirements may be applied.

(Code 1954, § 3.3.1-8)

**Sec. A25-45. "Classification plan" defined.**

As used in this chapter, "classification plan" means the arrangement and grouping of positions in classes according to duties, authority and responsibilities.

(Code 1954, § 3.3.1-9; Ord. No. NS-304.12, § 1, 12-8-58)

**Sec. A25-46. "Classified service" defined.**

As used in this chapter, "classified service" is defined as in Section 701 of the Charter.

(Code 1954, § 3.3.1-10; Ord. No. NS-304.124, § 1, 9-17-02)

**Sec. A25-47. "Continuous employment" defined.**

As used in this chapter, "continuous employment" means employment uninterrupted from the date of appointment, except by authorized absence.

(Code 1954, § 3.3.1-11)

**Sec. A25-48. "Demotion" defined.**

As used in this chapter, "demotion" means the reduction of an employee from a position in one class to a position in a lower class either on a voluntary basis or as the result of a disciplinary action.

(Code 1954, § 3.3.1-13; Ord. No. NS-304.6, § 1, 6-18-56; Ord. No. NS-304.21, § 1, 11-5-62)

**Sec. A25-49. "Department" defined.**

As used in this chapter, "department" means an administrative unit of the County government.

(Code 1954, § 3.3.1-14)

**Sec. A25-50. "Director" defined.**

As used in this chapter, "Director" means the Director of the Employee Services Agency or his or her designee.

(Code 1954, § 3.3.1-15; Ord. No. NS-300.541, § 5, 10-19-93)

**Sec. A25-51. "Dismissal" defined.**

As used in this chapter, "dismissal" means removal from the employee's position of any permanent officer or employee.

(Code 1954, § 3.3.1-16; Ord. No. NS-304.113, § 4, 8-30-88)

**Sec. A25-52. "Eligible" defined.**

As used in this chapter, "eligible" means any person on employment or reemployment list for a given class.

(Code 1954, § 3.3.1-17)

**Sec. A25-53. "Employee" defined.**

As used in this chapter, "employee" means a person holding a position in the County service.

(Code 1954, § 3.3.1-18)

**Sec. A25-54. "Employment list" defined.**

As used in this chapter, "employment list" means the list of those qualified for employment or reemployment in a class.

(Code 1954, § 3.3.1-19)

**Sec. A25-55. "Extra help" defined.**

As used in this chapter, "extra help" means a person employed for periods when the work load within a department is of too great a volume to be expeditiously handled by the regular employees.

(Code 1954, § 3.3.1-47)

**Sec. A25-56. "Layoff" defined.**

As used in this chapter, "layoff" means termination of service without fault on the part of the employee, because of lack of work, lack of funds, or in the interests of economy.

(Code 1954, § 3.3.1-21)

**Sec. A25-57. "Leave of absence" defined.**

As used in this chapter, "leave of absence" means permission to be absent from duty for a specified period and for a specified purpose, with the right to return at the expiration of the period.

(Code 1954, § 3.3.1-22; Ord. No. NS-304.35, § 1, 5-23-66)

**Sec. A25-58. "Limited term appointment" defined.**

As used in this chapter, "limited term appointment" means an appointment to be filled by a regular employee and limited in duration to a particular period.

(Code 1954, § 3.3.1-49; Ord. No. NS-304.6, § 1, 6-18-56)

**Sec. A25-59. "Limited term position" defined.**

As used in this chapter, "limited term position" means a regular position limited in duration to a particular period.

(Code 1954, § 3.3.1-48; Ord. No. NS-304.6, § 1, 6-18-56)

**Sec. A25-60. "Original appointment" defined.**

As used in this chapter, "original appointment" means the first appointment of an employee to a classified position.

(Code 1954, § 3.3.1-23)

**Sec. A25-61. "Permanent employee" defined.**

As used in this chapter, "permanent employee" means an employee who has satisfactorily completed the probationary period of the employee's present class.

(Code 1954, § 3.3.1-24; Ord. No. NS-304.6, § 1, 6-18-56; Ord. No. NS-304.113, § 5, 8-30-88)

**Sec. A25-62. "Permanent position" defined.**

As used in this chapter, "permanent position" means any position in the classified service that will require the services of a regular employee for more than six months or until abolished by an official act.

(Code 1954, § 3.3.1-25)

**Sec. A25-63. "Permanent-probationary" defined.**

As used in this chapter, "permanent probationary" means an employee who has permanent status in the classified service through successful completion of a probationary period and who is serving a new probationary period in a different class.

(Code 1954, § 3.3.1-50; Ord. No. NS-304.21, § 2, 11-5-62)

**Sec. A25-64. "Position" defined.**

As used in this chapter, "position" means a combination of duties regularly assigned to be performed by one person.

(Code 1954, § 3.3.1-26)

**Sec. A25-65. "Probationary period" defined.**

As used in this chapter, "probationary period" means the first six months or any period not to exceed 18 months of continuous service following appointment from an eligible list to a position in the classified service.

(Code 1954, § 3.1.1-27; Ord. No. NS-304.14, § 2, 10-13-59; Ord. No. NS-304.134, § 3, 09-25-15)

**Sec. A25-66. "Promotion" defined.**

As used in this chapter, "promotion" means advancement from a position in one class to a position in a class with a higher salary range.

(Code 1954, § 3.3.1-28; Ord. No. NS-304.21, § 1, 11-5-62)

**Sec. A25-67. "Provisional appointment" defined.**

As used in this chapter, "provisional appointment" means the appointment of a qualified person to fill a position for which no appropriate employment list exists, pending an examination.

(Code 1954, § 3.3.1-29)

**Sec. A25-68. "Public notice" defined.**

As used in this chapter, "public notice" means announcements of examinations, meetings, hearings, and other actions of the Personnel Board or Human Resources Department on bulletin boards in the office of the Human Resources Department.

(Code 1954, § 3.3.1-30; Ord. No. NS-304.35, § 2, 5-23-66; Ord. No. NS-304.134, § 4, 09-25-15)

**Sec. A25-69. "Qualified" defined.**

As used in this chapter, "qualified" means an applicant or appointee who meets the employment standards for a class.

(Code 1954, § 3.3.1-31)

**Sec. A25-70. "Reappointment" defined.**

As used in this chapter, "reappointment" means the return of an employee to a former class through reinstatement or other methods provided by these rules.

(Code 1954, § 3.3.1-52; Ord. No. NS-304.21, § 2, 11-5-62)

**Sec. A25-71. "Reemployment" defined.**

As used in this chapter, "reemployment" means appointment from a reemployment list after layoff.

(Code 1954, § 3.3.1-52; Ord. No. NS-304.21, § 2, 11-5-62)

**Sec. A25-72. "Reemployment list" defined.**

As used in this chapter, "reemployment list" means a list of persons with permanent status in a class, who have been laid off and who are entitled to preference in appointment to vacancies in that class.

(Code 1954, § 3.3.1-32)

**Sec. A25-73. "Regular employee" defined.**

As used in this chapter, "regular employee" means a person appointed through certification to a vacancy in a regular position.

(Code 1954, § 3.3.1-46)

**Sec. A25-74. "Regular position" defined.**

As used in this chapter, "regular position" means any permanent position in the classified service that requires filling through certification or by a provisional appointment.

(Code 1954, § 3.3.1-45)

**Sec. A25-75. "Reinstatement" defined.**

As used in this chapter, "reinstatement" means the reappointment of an employee who has resigned.

(Code 1954, § 3.3.1-33)

**Sec. A25-76. "Resignation" defined.**

As used in this chapter, "resignation" means the voluntary action of an employee which separates an employee from the position held.

(Code 1954, § 3.3.1-34; Ord. No. NS-304.113, § 6, 8-30-88)

**Sec. A25-77. "Separation" defined.**

As used in this chapter, "separation" means any termination of employment.

(Code 1954, § 3.3.1-35)

**Sec. A25-78. "Specification" defined.**

As used in this chapter, "specification" means the official description of a class, including:

- (a) The title,
- (b) A statement of the duties and responsibilities, and
- (c) The employment standards, such as education, experience, knowledge, skills and abilities which may be required of applicants.

(Code 1954, § 3.3.1-36)

**Sec. A25-79. "Status" defined.**

As used in this chapter, "status" means the condition of an employee's present appointment, such as extra help, provisional, probationary or permanent.

(Code 1954, § 3.3.1-38)

**Sec. A25-80. "Suspension" defined.**

As used in this chapter, "suspension" means an involuntary absence without pay imposed by the appointing authority for disciplinary purposes or pending investigation of charges.

(Code 1954, § 3.3.1-39)

**Sec. A25-81. "Transfer" defined.**

As used in this chapter, "transfer" means movement of an employee to a new position in the same class or a different class where the salary range of the new class does not exceed the salary range of the original class by more than ten percent or the percentage specified in a memorandum of understanding which applies to the employee prior to the transfer.

(Code 1954, § 3.3.1-40; Ord. No. NS-304.21, § 1, 11-5-62; Ord. No. NS-304.124, § 2, 9-17-02)

**Sec. A25-82. "Unassembled examination" defined.**

As used in this chapter, "unassembled examination" means an examination consisting of an appraisal of training, experience, work history, or other means for evaluating the relative qualifications of applicants without requiring them to appear in person.

(Code 1954, § 3.3.1-20.2; Ord. No. NS-304.21, § 1, 11-5-62)

**Sec. A25-83. "Vacancy" or "vacant position" defined.**

As used in this chapter, "vacancy" or "vacant position" means any unfilled position in the classified service.

(Code 1954, § 3.3.1-41)

**Sec. A25-84. "Waiver" defined.**

As used in this chapter, "waiver" means the voluntary relinquishment by an eligible of any right to consideration for appointment to a specific position.

(Code 1954, § 3.3.1-42)



**Sec. A25-85. "Writing" defined.**

As used in this chapter, "writing" includes printing and typewriting.

(Code 1954, § 3.3.1-44)

**Sec. A25-86. "Year" defined.**

As used in this chapter, "year" means the calendar year, unless designated otherwise.

(Code 1954, § 3.3.1-43)

**Sec. A25-87. Work periods; time intervals.**

Unless otherwise indicated, periods of time mentioned in these rules are computed on an hourly basis, with an 80-hour, bi-weekly work period used as the standard unit of measure. Six months therefore equal 13 periods of 80 hours each, or 1,040 hours. One year equals 2,080 hours or 26 bi-weekly periods.

An 80-hour bi-weekly period represents ten working days for an employee on an eight-hour, five-day work week schedule, and eight working days for an employee on a ten-hour, four-day work week schedule.

(Code 1954, § 3.3.1-53; Ord. No. NS-304.35, § 14, 5-23-66; Ord. No. NS-304.70, § 1, 9-14-71)

Amendment note—Ord. No. NS-304.70, § 1, changed the computation from a daily basis to an hourly basis.

**Sec. A25-88. Assumption by County of municipal function.**

- (a) This section shall prevail over conflicting provisions of this chapter upon the assumption by the County of a municipal function of a city.
- (b) A city employee performing a function which is assumed by the County and who has previously qualified for the city position through a merit or civil service system shall be eligible for transfer, without examination, to County employment provided there is no break in service.
- (c) Those former city employees continuing with the County shall be given credit for accrued, uncompensated vacation and sick leave with the city. Upon transfer to a classification comparable to that formerly held with the city, such employees shall be employed without any decrease in salary. Salary increases may thereafter be granted in accordance with the County salary ordinance.
- (d) The Director of Employee Services Agency shall be responsible for the interpretation and application of this section in accordance with the merit system provisions of this Code.
- (e) The Director shall also prepare all interpretation and application of this section providing seniority rules within the group of city employees continuing with the County, recognizing prior length of service within said group as a factor protecting a senior employee in said group from layoff as compared to an employee with less seniority within said group.

(Code 1954, Tit. 3, Ch. 3, Art. 1.6; Ord. No. NS-304.56, § 1, 4-8-68; Ord. No. NS-304.113, § 7, 8-30-88; Ord. No. NS-304.134, § 5, 09-25-15)

**Sec. A25-89. Reserved.**

**Editor's note**— Ord. No. NS-304.124, § 3, adopted Sept. 17, 2002, repealed § A25-89, which pertained to assumption of federal program known as the Comprehensive Employment and Training Act, and transfer of employees without examination. See the Code Comparative Table.

**Sec. A25-90. Reserved.**

**Editor's note**—Ord. No. NS-304.124, § 4, adopted Sept. 17, 2002, repealed § A25-90, which pertained to assumption of state program known as the Office of Mental Health Social Services, and transfer of employees without examination. See the Code Comparative Table.

**Secs. A25-91—A25-95. Reserved.**

## **ARTICLE 2. CLASSIFICATION**

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**Charter reference**— Classification of positions in classified and unclassified service, § 701.  
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### **Sec. A25-96. Formulation of plan.**

The Director shall analyze the duties and responsibilities of all positions in the classified service, shall group them into classes, and shall recommend rules for administration of the classification plan, and for the allocation of positions to classes.

(Code 1954, § 3.3.2-1)

### **Sec. A25-97. Basis of classification.**

Classification shall be based on the principle that positions shall be in the same class when their duties and responsibilities are enough alike to justify the same descriptive title, definition of duties and responsibilities and employment standards.

(Code 1954, § 3.3.2-2)

### **Sec. A25-98. Allocation of positions.**

Every position in the classified service shall be allocated by the Director to a class.

(Code 1954, § 3.3.2-3)

### **Sec. A25-99. Adoption, revision of plan.**

The classification plan shall be adopted and may be revised as conditions require, upon recommendation of the Director and approval of the Board of Supervisors.

(Code 1954, § 3.3.2-4; Ord. No. NS-304.124, § 5, 9-17-02)

**Sec. A25-100. Class specifications.**

- (a) Specifications for each class shall be developed and maintained by the Director. New and revised specifications upon recommendation of the Director shall be submitted to the County Executive and the Board of Supervisors for approval with the following exception. A class specification may be revised administratively without Board of Supervisors approval upon the recommendation of the Director and with the approval of the County Executive and concurrence from the appropriate bargaining unit when there is no salary change.
- (b) Specifications will include the class title for use on all official records; a brief definition of the nature, responsibility and scope of the class; a description of duties or tasks, typical but not necessarily restrictive, ordinarily performed by positions allocated to this class; a statement of qualifications including knowledge, skills and abilities required or deemed necessary. The statement of qualifications will be established and/or revised upon recommendation of the Director to reflect such job-relevant standards and qualifications as identified for successful job performance. Such standards and qualifications may not be less than those prescribed by externally mandated legislation or other such regulations.
- (c) Specifications are not restrictive and shall not be construed as declaring that duties or responsibilities shall not be changed or that an appointing authority may not temporarily assign other duties and responsibilities to or otherwise direct and control the work of employees under the appointing authority's supervision.

(Code 1954, § 3.3.2-5; Ord. No. NS-304.12, § 2, 12-8-58; Ord. No. NS-304-98, § 1, 5-24-77; Ord. No. NS-304.113, § 8, 8-30-88; Ord. No. NS-304.131, 11-13-07)

**Sec. A25-101. Applicants to meet employment standards.**

Applicants for employment shall be required to meet all standards prescribed in the class specification.

(Code 1954, § 3.3.2-6)

**Sec. A25-102. New or unclassified positions.**

With the exception of the procedure set forth in the master salary ordinance for adding and deleting positions with the approval of the County Executive, whenever an appointing authority wishes to create a new position or reclassify an existing position, the appointing authority shall make a recommendation to the County Executive, on forms provided, furnishing a comprehensive statement of the duties of the proposed position. The County Executive shall refer all relevant information to the Director for investigation and recommendation. Upon approval of the County Executive and the Board of Supervisors of the creation of the class of position, the Director shall allocate the position accordingly.

(Code 1954, § 3.3.2-7; Ord. No. NS-304.6, § 2, 6-18-56; Ord. No. NS-304.113, § 9, 8-30-88; Ord. No. NS-304.121, § 1, 2-27-01)

**Sec. A25-103. Effect on incumbents of reclassification.**

- (a) If an occupied position is reclassified, the incumbent shall be promoted, demoted or transferred to the new class in accordance with regular examination and certification procedures, except as indicated below.
- (b) The Director may grant status without examination, directly upon reclassification.

- (c) The Director may require a qualifying test prior to granting status under any of the above conditions.
- (d) When a position is reallocated upward, a permanent incumbent may be appointed to the new class with the Director's approval by being eligible for and passing the appropriate examination without regard to the employee's place on the eligible list. This qualifying examination procedure may be used only when there is a clear showing that the duties of the position have gradually evolved without any purpose on the part of anyone to evade the merit principle provided that the incumbent has completed a period of service in the position and performed the higher level duties for a period of time equivalent to the probationary period of the classification. When a position is reclassified to a supervisory unit, the incumbent will be required to complete a period of service in the position and have performed the higher level duties for a period of time equivalent to one year. An incumbent in a reclassified alternately staffed position who is in a probationary status and has permanent status at the lower level shall be treated as a permanent incumbent for purposes of this section. This qualifying examination shall consist of an application appraisal and a promotional rating form or an oral examination except as determined otherwise by the Director of Employee Services Agency. Upon request, the Director of Employee Services Agency shall provide in writing the reasons for such determination.
- (e) When a position is reallocated upward, an incumbent who has not served the requisite period of time according to (d) shall be laid off unless the appointing authority elects to appoint the incumbent according to Section A25-189.
- (f) Should a permanent incumbent of a position that has been reallocated upward not qualify for that new class, the employee shall be laid off.
- (g) When a position is reallocated downward, upon a continuing approval of the appointing authority, a permanent incumbent may remain in the position in the incumbent's former class by overfilling for a period not to exceed two years from the effective date of the reallocation. An official leave of absence shall not be counted toward the two-year limit. During the two years the employee's name shall be placed on the appropriate reemployment list for certification to other positions in accordance with the appropriate layoff provisions. If, at the expiration of the two-year period the incumbent still remains in the position, the employee shall either:
  - (1) Take a voluntary demotion to the new class, without loss of current salary; or
  - (2) Be laid off in accordance with the appropriate layoff provisions.
- (h) Candidates for appointment to a position approved for reclassification study by the Director of Employee Services Agency shall be informed in writing of the current status of the study and the possible effect on the incumbent if offered the position.

(Code 1954, § 3.3.2-8, Ord. No. NS-304.6, § 2, 6-18-56; Ord. No. NS-304.24, § 1, 10-14-63; Ord. No. NS-304.35, § 3, 5-23-66; Ord. No. NS-304.43, § 1, 3-13-67; Ord. No. NS-304.60, § 2, 5-13-69; Ord. No. NS-304.107, § 1, 2-17-81; Ord. No. NS-304.110, § 1, 9-11-84; Ord. No. NS-304.113, § 10, 8-30-88; Ord. No. NS-304.134, § 6, 09-25-15)

**Editor's note**— Section 2 of Ord. No. NS-304.107, adopted February 17, 1981, declared the provisions of the ordinance effective Jan. 19, 1981.

**Sec. A25-104. Assigning responsibilities outside class.**

No employee shall be assigned responsibilities outside the employee's class.

(Code 1954, § 3.3.2-9; Ord. No. NS-304.113, § 11, 8-30-88; Ord. No. NS-304.124, § 6, 9-17-02)

**Secs. A25-105—A25-110. Reserved.**

## **ARTICLE 3. EXAMINATION ANNOUNCEMENTS, APPLICANTS AND APPLICATIONS**

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Charter reference— Rules to provide for examinations, § 704.  
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### **Sec. A25-111. Announcement of examinations.**

Announcements of all competitive examinations shall be publicly posted for at least ten working days prior to the last date for filing applications. The posting timeline of ten working days may be reduced to five working days when it is determined by the Director that the shorter posting period will yield one hundred or more applicants for the available and anticipated vacancies to be filled. Announcements may be publicly posted as necessary to attract qualified applicants. Announcements shall include at least:

- (a) The class title;
- (b) The compensation;
- (c) A statement of duties and responsibilities;
- (d) The place and last date to file applications; and
- (e) Such other information as will help applicants understand the nature of the employment and the procedure for participating in the examination.

(Code 1954, 3.3.3-1; Ord. No. NS-304.15, § 1, 1-16-61; Ord. No. NS-304.35, § 4, 5-23-66; Ord. No. NS-304.124, § 7, 9-17-02; Ord. No. NS-304.134, § 7, 09-25-15)

### **Sec. A25-112. Applications required; form.**

Official application forms shall be provided by the Director and shall be filled out by each applicant.

(Code 1954, § 3.3.3-2)

### **Sec. A25-113. Filing time.**

Applications must be filed as indicated in the examination announcement no later than 11:59 p.m. on the last day for filing.

(Code 1954, § 3.3.3-3; Ord. No. NS-304.72, § 2, 7-25-72; Ord. No. NS-304.124, § 8, 9-17-02; Ord. No. NS-304.134, § 8, 09-25-15)

**Amendment note**—Ord. No. NS-304.72, § 2, changed the filing time from “on or before the closing date” to “no later than 5:00 p.m. on the last day for filing.”

### **Sec. A25-114. Notice of approval for examination.**

Each applicant approved for examination shall be so notified in writing prior to the examination date.

(Code 1954, § 3.3.3-4; Ord. No. NS-304.134, § 9, 09-25-15)

**Sec. A25-115. General minimum qualifications.**

In addition to those otherwise stated, all applicants must possess good moral character, temperate habits and mental and physical ability to perform the duties of the position.

(Code 1954, § 3.3.3-5; Ord. No. NS-304.6, § 3, 6-18-56; Ord. No. NS-304.15, § 1, 1-16-61; Ord. No. NS-304.124, § 9, 9-17-02)

**Sec. A25-116. Applications not to be returned.**

Applications will not be returned to the applicant.

(Code 1954, § 3.3.3-6)

**Sec. A25-117. Disqualification of applicant.**

The Director may refuse to examine an applicant or after examination may disqualify an applicant, or remove the applicant's name from the employment list, or refuse to certify any eligible on an employment list for any of the following reasons:

- (a) If the applicant is found to lack any of the requirements or qualifications established for the examination.
- (b) If the applicant is determined to be physically or mentally unfit to perform the duties of the class.
- (c) If the applicant is currently using illegal drugs.
- (d) If the applicant has been convicted of a felony or a misdemeanor that demonstrates unfitness for the position.
- (e) If there is evidence of immoral, infamous or disgraceful conduct.
- (f) If the applicant has made a false statement of material fact or has practiced or attempted any deception, fraud or misconduct in connection with the applicant's application or examination.
- (g) If the applicant has been dismissed for any cause mentioned herein from public or private employment or has resigned to avoid such dismissal.
- (h) If the applicant has a history of unsatisfactory employment in previous jobs verified by record.

(Code 1954, § 3.3.3-7; Ord. No. NS-304.18, § 1, 3-19-62; Ord. No. NS-304.113, § 12, 8-30-88; Ord. No. NS-304.124, § 10, 9-17-02)

**Sec. A25-118. Notice of disqualification or rejection; correcting deficient application.**

Whenever an application is rejected or disqualified, written notice thereof shall be given the applicant. Applications found incomplete or deficient may be corrected before the date of the examination.

(Code 1954, § 3.3.3-8)



**Sec. A25-119. Information confidential.**

Neither the names of applicants for an examination nor the names of those who failed in an examination shall be made public.

(Code 1954, § 3.3.3-9)

**Sec. A25-120. Special qualifications.**

Applicants for positions which are scientific, professional or technical, or the duties of which require specialized education, training, and/or experience, may be required to provide documentary evidence of a satisfactory degree of education, training or experience.

(Code 1954, § 3.3.3-10; Ord. No. NS-304.124, § 11, 9-17-02)

**Sec. A25-121. Fingerprinting and background investigations.**

- (a) Applicants before appointment and employees after appointment may be required to be fingerprinted.
- (b) Prior to appointment to County employment, applicants may be required to undergo a background investigation to evaluate their suitability for employment consistent with the requirements and duties of the classification or work assignment. The background investigation will include a review of criminal conviction records and verification of social security number. In addition, where there is a legitimate business necessity, the County may include but not be limited to review of motor vehicle records and/or credit history. The County may also verify information found on employment applications including but not limited to education, certification, licensure, and prior employment.
- (c) The name of an applicant shall be removed from the appropriate eligible list of applicants if any such applicant does not agree to undergo or fails to pass the required background investigation.
- (d) The Director may allow appointment to County employment prior to such a background investigation in the event it is impractical for the County to provide an investigation prior to appointment, provided the eligible candidate cooperates with the investigative process. The County shall endeavor to complete the background process within 30 calendar days following appointment. Employees so hired may be removed from the position if any such employee either does not agree to undergo or fails to pass the required background investigation.

(Code 1954, § 3.3.3-11; Ord. No. NS-304.132, § 1, 9-14-10)

**Sec. A25-122. Fitness to perform.**

Each applicant, or eligible, must be in good general physical and mental condition and able to satisfactorily perform the duties of the position with or without reasonable accommodation. An applicant who has been made a conditional offer of employment may be required to submit to and pass a job-related medical examination that is consistent with business necessity. The name of an applicant or eligible shall be removed from any list of applicants or eligibles if any such applicant or eligible fails to pass the required medical examinations.

The Director may allow appointment of an eligible prior to such medical examination in the event it is impractical for the County to provide such examination prior to appointment, provided the eligible satisfactorily completes a medical examination before the end of the 30 calendar day period next following the probationary appointment.

(Code 1954, § 3.3.3-12; Ord. No. NS-304.6, § 3, 6-18-56; Ord. No. NS-304.113, § 13, 8-30-88; Ord. No. NS-304.124, § 12, 9-17-02; Ord. No. NS-304.134, § 10, 09-25-15)

**Sec. A25-123. Reserved.**

**Editor's note**— Ord. No. NS-304.124, § 13, adopted Sept. 17, 2002, repealed § A25-123, which pertained to age limits. See the Code Comparative Table.

**Sec. A25-124. Discrimination prohibited.**

No person in the classified service or seeking admission thereto shall in any way be unlawfully discriminated against because of sex, race, color, national origin, ethnicity, creed, religion, union activity, organizational affiliations, political opinions, age, disabled status, sexual orientation or any other status protected by state or federal law.

(Code 1954, § 3.3.3-14; Ord. No. NS-304.113, § 14, 8-30-88; Ord. No. NS-304.124, § 14, 9-17-02)

Charter reference— Discrimination prohibited, §700

**Sec. A25-125. Oath required.**

Each applicant for employment in the County service shall take an oath that the applicant will uphold the constitution of the United States, the State of California and the ordinances of the County, and will be designated as a Disaster Service Worker as required.

(Code 1954, § 3.3.3-15; Ord. No. NS-304.113, § 15, 8-30-88; Ord. No. NS-304.134, § 11, 09-25-15)

**Sec. A25-126. Qualifications for veterans' preference.**

To be entitled to veterans' preference, an applicant must:

- (1) Claim such preference upon the application form, and
- (2) Present to the Human Resources Department, prior to the date of examination, a copy of a discharge or other release, other than dishonorable, from the armed forces showing service in any branch of the United States military.

(Code 1954, § 3.3.3-16; Ord. No. NS-304.40, § 1, 12-5-66; Ord. No. NS-304.113, § 16, 8-30-88; Ord. No. NS-304.124, § 15, 9-17-02; Ord. No. NS-304.134, § 12, 09-25-15)

**Secs. A25-127—A25-138. Reserved.**

## **ARTICLE 4. EXAMINATIONS; OPEN, ORIGINAL, PROMOTIONAL AND QUALIFYING**

### **Sec. A25-139. Scheduling.**

The Director shall schedule examinations as the current and anticipated needs of the service require. Scheduled examinations may be postponed or cancelled or the closing date extended by the Director by notifying all persons affected and posting public notice.

(Code 1954, § 3.3.4-1)

### **Sec. A25-140. Types of examinations.**

Examinations may consist of written, oral, performance or physical tests or any combination thereof, or any other form which will test fairly the qualifications of applicants.

(Code 1954 § 3.3.4-2)

### **Sec. A25-141. Nature of examinations.**

Examinations shall be impartial and practical in nature and so constructed that they reveal the knowledge, skills, and abilities of the applicant for the class for which the applicant is competing as well as the applicant's general background and related knowledge.

(Code 1954, § 3.3.4-3; Ord. No. NS-304.113, § 17, 8-30-88)

**Sec. A25-142. Oral interview, retest and appeal procedure.**

- (a) An examination may include an interview for the purpose of appraising the personal fitness of candidates. Only those candidates qualifying in the subject matter portion of the examination shall be called for the interview. Failure to report for the interview shall eliminate a candidate from the examination.
- (b) Interview boards shall be appointed by the Director, who shall act or appoint another to act as chair.
- (c) Interviewer shall mark on forms provided the degree to which, in their judgment, each candidate possesses the desired qualifications.
- (d) Candidates who fail to attain a passing score on the oral portion of an examination may not retake an examination for the same classification until at least 45 calendar days have passed from the date of the first examination. Such candidates must follow the same examination procedures as all other candidates filing for the same examination except that if the written portion of the examination is given on a qualifying basis, the candidate may not be required to retake the written portion of the examination within six months of the original examination. If the candidate fails again, the candidate must wait 90 calendar days before retaking the examination.
- (e) In cases of major reclassification changes, the Director may authorize the retesting more frequently than every six months of such County employees who have failed a test three times.
- (f) Appeals from oral board ratings may be made on the basis of irregularity, bias, fraud or discrimination. Such appeals may be submitted to Human Resources at any time following the oral examination but not later than the eighth working day following notification of the scores. Upon receipt of the appeal, the Director shall make a decision on the appeal within five working days. During these five working days the appellant shall have the right to meet with the Director, or the Director's representative, concerning the appeal. The time limits contained herein may be extended by mutual consent of the parties. If the appeal is upheld, the Director shall convene a new oral board for the purpose of rerating the candidate. The new score resulting from the rerating shall be used. No appointment shall be made from an eligible list resulting from an examination, which is under appeal. In the event of fraud or other irregularity affecting all candidates, if the Director finds that the allegation is substantiated, all examination results shall be voided and a new oral examination conducted.
- (g) Notice of the appeal procedure shall be sent to all applicants with the form admitting such applicants to the oral board interview.

(Code 1954, § 3.3.4-4; Ord. No. NS-304.21, § 4, 11-5-62; Ord. No. NS-304.61, § 1, 12-9-69; Ord. No. NS-304.71, § 1, 2-8-72; Ord. No. NS-304.86, § 1, 11-20-73; Ord. No. NS-304.90, § 1, 5-6-75; Ord. No. NS-304.113, § 18, 8-30-88; Ord. No. NS-304.124, § 16, 9-17-02; Ord. No. NS-304.134, § 13, 09-25-15)

**Sec. A25-143. Officials and employees to assist in examinations.**

County officers and employees may be called upon to assist in examination procedure, and it shall be deemed a part of the official duties of such persons to act in such capacity.

(Code 1954, § 3.3.4-5; Ord. No. NS-304.15, § 1, 1-16-61)

**Sec. A25-144. Preparation of examinations.**

The Director shall prepare, or have prepared under the Director's direction, all examinations which are to be given. The County may contract for such service with competent public or private agencies regularly rendering such service.

(Code 1954, § 3.3.4-6; Ord. No. NS-304.113, § 19, 8-30-88)

**Sec. A25-145. Continuous examinations.**

Continuous open examinations for a given class may be announced by a single notice. Such examinations may be administered from time to time as applicants are available or as appointments are necessary. The names of all applicants who qualify in such examinations shall be placed on one eligible list in the order of final grades.

(Code 1954, § 3.3.47)

**Sec. A25-146. Unassembled examinations.**

Whenever the announcement of an examination shall so state, and applicants are given opportunity to file statements of their qualifications, a preliminary competitive rating may be given on the basis of the duties, requirements and conditions of work in the position to be filled. Applicants appraised highest, to a number commensurate with the number of vacancies anticipated, may be required to compete in further tests.

(Code 1954, § 3.3.4-8)

**Sec. A25-147. Identification of papers.**

Written examinations shall be so conducted that no examination paper will disclose the name or identity of the candidate until the examination papers of all the candidates have been scored.

(Code 1954, § 3.3.4-9)

**Sec. A25-148. Qualifying examinations.**

Qualifying examinations may be held to test fitness for reinstatement, re-employment, for certain position reclassifications as described in Section A25-103, for certain transfers and demotions as described in Section A25-175(b), for alternate classifications as defined in Section A25-36, or for transfer of employees from unclassified positions funded by public sources other than the County to classified positions in the same classification or for establishing eligibility to participate in promotional examinations as described in Section A25-156. Employees in the unclassified service in coded positions shall be eligible to take such qualifying examination after receiving a positive recommendation on a promotional rating form.

(Code 1954, § 3.3.3-10; Ord. No. NS-304.35, § 5, 5-23-66; Ord. No. NS-304.49, § 2, 9-18-67; Ord. No. NS-304.75, § 1, 1-23-73; Ord. No. NS-304.97, § 1, 6-15-76; Ord. No. NS-304.124, § 17, 9-17-02)

**Sec. A25-149. Veterans' preferential credits.**

In an open-competitive examination, any veteran qualifying under Section A25-126 shall, upon attaining the passing mark established for a numerically scored examination, be given a preferential credit of five percent. In an open-competitive examination, any veteran qualifying under Section A25-126 who is disabled shall, upon attaining the passing mark established for a numerically scored examination, be given an additional preferential credit of five percent. For the purposes of this section, the term "disabled" shall mean the holding of an approved disability rating of ten percent or more from the Veteran's Administration for a disability which is service connected.

(Code 1954, § 3.3.4-11; Ord. No. NS-304.80, § 1, 5-8-73; Ord. No. NS-304.124, § 18, 9-17-02; Ord. No. NS-304.134, § 14-15, 09-25-15)

**Sec. A25-149.1. Extra help preferential credits.**

In an open-competitive examination, any person who has worked in an extra-help capacity for at least 2,080 hours within the last five years shall, upon attaining the passing mark established for a numerically scored examination, be given a preferential credit of five percent. Extra-help credit shall only be granted for classifications in the same or lower related classification.

(Ord. No. NS-304.134, § 16, 09-25-15)

**Sec. A25-150. Examination scores.**

- (a) Unless otherwise provided in the examination announcement, competitors shall be required to attain a score of not less than 70 percent in each part of the examination.
- (b) In written tests, the 70 percent used to represent the minimum passing score need not be the arithmetic 70 percent of the total possible score, but may be an adjusted score based on a consideration of the difficulty of the test, the quality of the competition and the needs of the service.
- (c) Applicants in promotional examinations shall be notified of their individual adjusted percentage scores for the written and oral portions of the examination, whether passing or failing, and of their position on the eligibility list.
- (d) When the examination type is an application appraisal, all applicants who meet the minimum qualifications for the position, including those who qualify for veterans' preference, will normally be given the grade of pass rather than a numerical score, and listed alphabetically on the eligible list.

(Code 1954, § 3.3.4-12; Ord. No. NS-304.35, §§ 10, 11, 5-23-66; Ord. No. NS-304.68, § 1, 4-6-71; Ord. No. NS-304.124, § 19, 9-17-02)

**Sec. A25-151. Grading examinations composed of several tests.**

In examinations composed of several tests which are graded independently, weights shall be assigned to each test representing its relative value in ascertaining the fitness of the applicant. This weight shall be multiplied by the applicant's grade in that test; the sum of the resulting products shall be divided by the total of the weights; and the resulting quotient, rounded off to the nearest whole number, shall be the final examination grade of the candidate, except where additional credit is allowed, such as veterans' preference.

(Code 1954, § 3.3.4-13; Ord. No. NS-304.43, § 2, 3-13-67)

**Sec. A25-152. Resolving of ties.**

- (a) Whenever in certifying the top ten eligibles, a tie rank is encountered, all eligibles with the same rank shall be certified even though more than ten names are certified to the appointing authority.
- (b) The Director may treat test scores in a specified range, called a band, as being the same score in order to provide the appointing authority with a sufficient number of qualified candidates. Banding may be used in order to provide a larger pool of candidates when there are a large number of current or anticipated vacancies within the department, pursuant to existing policy. Banding may only be used in open/competitive recruitments where there are five or more vacancies. A decision to use banding is to be made prior to the certification of names to the hiring authority. Once banding is used, it will continue to be used to certify additional names when needed, subject to Section A25-185.

(Code 1954, § 3.3.4-14; Ord. No. NS-304.43, § 3, 3-13-67; Ord. No. NS-304.95, § 1, 8-17-76; Ord. No. NS-304.134, § 17, 09-25-15)

**Sec. A25-153. Notice of results of examination.**

As soon as the rating of an examination has been completed and the eligible list established, each competitor shall be notified in writing of the result of the competitor's examination, and if successful, of the competitor's general average percentage and the competitor's relative position upon eligible list.

(Code 1954, § 3.3.4-15; Ord. No. NS-304.113, § 20, 8-30-88; Ord. No. NS-304.134, § 18, 09-25-15)

**Sec. A25-154. Examination review and retesting.**

- (a) Any competitor or the competitor's designated representative may, within five working days from the date of the written examination, review a keyed copy of the examination for possible errors in designations of correct answers, ambiguities in questions or choices of answers, or for any other defect in construction or content which would tend to make a part or all of the examination substantially invalid for its purpose. Where written examinations are provided by an outside contracting agency, such review may be made only upon consent of the said contracting agency. All examination papers are confidential records which shall not be removed from the Human Resources Department. Rating sheets and examinations other than written examinations are not reviewable.
- (b) If the competitor protests any item or portion of the examination, the competitor will be given five working days following the expiration of the five-day review period to document the competitor's protest with acceptable written authority or source references. After investigation of the protest and the submitted substantiation, the Director shall decide whether the protest is justified. If an error is found, the rating of the competitor shall be changed accordingly. If the error affects other competitors, scores shall be adjusted accordingly; but no resulting change shall invalidate certifications or appointments already made.
- (c) A competitor who does not review a written examination for which only one form is available may not reapply until at least 45 calendar days have passed from the date of the original examination. A competitor reviewing a written examination for which only one form is available may not reapply until at least 90 calendar days have passed from the date of the original examination. Following a second failure, the competitor must wait 90 calendar days before retaking the test. Candidates who fail three consecutive written examinations within a six-month period for which only one form is available may not reapply until at least six months have passed from the date of the most recent examination.
- (d) A competitor who does not review a written examination for which more than one form is available may take an alternate form as soon as administratively convenient. A competitor reviewing a written examination for which more than one form is available may not take an alternate form until 90 calendar days have passed from the date the first form was administered. A competitor who fails two successive alternate forms may not take the first form sooner than 90 calendar days from the last test. When more than one form of a written examination is available and a candidate fails three consecutive written examinations within a six-month period, the competitor may not take any alternate form within six months of the date of the competitor's last failure.
- (e) In cases of major reclassification changes, the Director may authorize the retesting more frequently than every six months of such County employees who have failed a test three times.
- (f) The unauthorized copying of questions or answers from any paper made available for inspection is forbidden and may result in cancellation of eligibility and disbarment from future examinations.
- (g) Any competitor or his designated representative may appeal results of an examination designed to assess writing skills, review the corrected examination and appeal with written authority or source references. Such appeal must be received in the central Human Resources Department by not later than the eighth working day following the mailing of results. After the investigation of the appeal and submitted substantiation, the Director shall decide whether



the protest is justified. If error is found, the rating of the competitor shall be changed accordingly. Certifications or appointments may not be made from the results of an examination which is under protest pursuant to this subsection.

(Code 1954, § 3.3.4-16; Ord. No. NS-304.14, § 4, 10-13-59; Ord. No. NS-304.29, § 2, 4-5-65; Ord. No. NS-304.62, § 1, 12-9-69; Ord. No. NS-304.113, § 21, 8-30-88; Ord. No. NS-304.116, § 1, 9-26-89; Ord. No. NS-304.134, § 19, 09-25-15)

### **Sec. A25-155. Retention of applications and other records.**

Applications and related examination records will be retained for a minimum of three years or as may otherwise be required by state and federal law. Examination records of appointees may be retained for a longer period, to be determined by the Director.

(Code 1954, § 3.3.4-17; Ord. No. NS-304.6, § 4, 6-18-56; Ord. No. NS-304.35, § 6, 5-23-66; Ord. No. NS-304.113, § 22, 8-30-88; Ord. No. NS-304.124, § 20, 9-17-02)

### **Sec. A25-156. Promotional examinations.**

When an examination is designated as a promotional examination, only current County employees are eligible to take it. The Director, in consultation with the appointing authority, shall determine when a promotional examination is appropriate. All promotional examinations shall be held on a service-wide basis, except as provided in Section A25-148. Employees in unclassified status in coded positions who have taken and passed the qualifying examination for the class in which they are working shall be permitted to take any promotional examination for a class for which they are qualified.

(Code 1954, § 3.3.4-19; Ord. No. NS-304.6, § 4, 6-18-56; Ord. No. NS-304.14, § 5, 10-13-59; Ord. No. NS-304.21, § 4, 11-5-62; Ord. No. NS-304.27, § 1, 8-3-64; Ord. No. NS-304.38, § 2, 9-6-66; Ord. No. NS-304.97, § 2, 6-15-76; Ord. No. NS-304.124, § 21, 9-17-02)

### **Sec. A25-157. Eligibility for promotion.**

- (a) A candidate for promotion must meet all prescribed standards for the class to which the employee seeks promotion and is an employee in one of the following categories:
- (1) A permanent employee,
  - (2) A probationary employee,
  - (3) An unclassified employee in a coded position who has qualified under Section A25-156,  
or
  - (4) A current employee in any status in a coded position who previously held probationary or permanent status.

(Code 1954, § 3.3.4-19; Ord. No. NS-304.6, § 4, 6-18-56; Ord. No. NS-304.14, § 5, 10-13-59; Ord. No. NS-304.21, § 4, 11-5-62; Ord. No. NS-304.27, § 1, 8-3-64; Ord. No. NS-304.38, § 2, 9-6-66; Ord. No. NS-304.97, § 3, 6-15-76; Ord. No. NS-304.113, § 23, 8-30-88; Ord. No. NS-304.124, § 22, 9-17-02)

**Sec. A25-158. Promotional procedures for certain job classifications.**

Notwithstanding any other provisions of these merit system rules, the following procedures shall be utilized as a method for promoting and appointing persons in certain specified job classifications.

- (a) Classes covered: The following classes are covered by this section. They are listed singularly or in series. All other classes are promotional.
- (1) Gardener;
  - (2) Offset press operator II, III;
  - (3) Laundry worker II;
  - (4) Cook II;
  - (5) Park maintenance worker II, park maintenance worker lead worker;
  - (6) Road maintenance worker II, III, IV;
  - (7) Traffic painter II, III;
  - (8) Heavy equipment maintenance helper, heavy equipment mechanic;
  - (9) Electrical/electronic technician, senior electrical technician non-supervisory only;
  - (10) Food service worker II;
  - (11) Bindery worker II;
  - (12) Automotive mechanic helper, automotive mechanic.

Provided: That series (9) is designated a "technical series" and the promotional class shall have certified to vacancies the most senior qualified worker among the top ten (10) scores, first by department/agency and then county-wide, and then by regular certification.

- (b) Definitions:
- (1) Promotional class is defined to mean those classes agreed to herein as constituting promotional classes.
  - (2) Qualified is defined to mean those workers who regularly score 80 or above in the appropriate merit system selection procedure for the position to which a worker is to be certified for hiring.
  - (3) Seniority shall be determined by a worker as days of accrued service as reflected on the worker's payroll record as of the date of the eligible list.
- (c) Vacancies within promotional classes:
- (1) The most senior qualified worker within a department/agency within the next lower class
  - (2) If there are no such qualified workers within the department/agency, then the most senior qualified workers within the county within the next lowest class within a series shall be appointed to the vacancy.

- (3) If there are no such qualified workers within the county the next lowest class within a series, the remaining persons upon the list, if any, shall be certified in rank order based upon their position upon the list as determined in accordance with regular examination and certification procedure.

(Ord. No. NS-304.101, § 1, 11-15-77; Ord. No. NS-304.103, § 1, 10-9-79; Ord. No. NS-304.115, § A, 12-13-88; Ord. No. NS-304.124, § 23, 9-17-02; Ord. No. NS-304.129, 9-14-04; Ord. No. NS-304.134, § 20, 09-25-15)

**Secs. A25-159—A25-169. Reserved.**

## **ARTICLE 5. ELIGIBLE LISTS, APPOINTMENTS, PROBATION, TRANSFERS, RESIGNATIONS AND REINSTATEMENTS**

### **Sec. A25-170. Order of eligibles.**

Candidates who qualify in an examination for a class shall have their names placed upon the eligible list in the order of their relative final grades.

(Code 1954 § 3.3.4-19)

### **Sec. A25-171. When eligible list effective.**

An eligible list shall be in effect from the date on which it is approved by the Director.

(Code 1954, § 3.3.5-2)

### **Sec. A25-172. Duration of eligible lists.**

- (a) Eligible lists except as provided in Subsection (b) below, shall remain in force for no longer than two years but may be abolished by the Director upon completion of an examination for the same class, or upon the abolition of the class. In lieu of abolishing a list, the Director may authorize supplementing the list with names mingled in order of final grades resulting from additional examinations.
- (b) Departmental or service-wide promotional eligible lists may remain in force for one additional year beyond the normal two-year maximum, upon the request of an appropriate appointing authority and the approval of the Director.

(Code 1954, § 3.3.5-3; Ord. No. NS-304.14, § 6, 10-13-59; Ord. No. NS-304.17, § 1, 10-2-61; Ord. No. NS-304.32, § 1, 2-21-66; Ord. No. NS-304.95 § 2, 8-17-76; Ord. No. NS-304.124, § 24, 9-17-02)

### **Sec. A25-173. Eligible lists confidential.**

Eligible lists are confidential, and the relative position of an eligible on a list or the eligible's score shall not be made available except to the eligible, the eligible's designated representative or a department wherein the eligible may be considered for appointment.

(Code 1954, § 3.3.5-4; Ord. No. NS-304.32, § 2, 2-21-66; Ord. No. NS-304.113, § 24, 8-30-88)

**Sec. A25-174. Order of employment from lists.**

(a) Re-employment lists:

- (1) Where a vacancy exists in a department in a classification where a re-employment list exists of permanent employees laid off, the person standing highest on such re-employment list shall be offered the appointment. Refusal on the part of the former employee to accept the appointment shall remove the employee's name from the re-employment list.
- (2) Where a vacancy exists in a classification and in a department other than that department where the layoff occurred, the names of three persons on re-employment lists for other departments shall be certified in inverse order of the date of placement on the re-employment lists. If no such re-employment lists exist, or there are fewer than three names, additional names not to exceed a total of three shall be certified from eligible list in the priority order as shown below.

(b) Eligible lists:

- (1) Promotional lists resulting from service-wide promotional examinations including the names of unclassified employees resulting from examinations given under the provisions of Section A25-156.
- (2) Eligible lists resulting from open competitive examinations.

(Ord. No. NS-304.97, § 4, 6-15-76; Ord. No. NS-304.113, § 25, 8-30-88; Ord. No. NS-304.124, § 25, 9-17-02)

**Sec. A25-175. Transfers and demotions as alternatives to new appointments.**

(a) As an alternative to appointment from any employment list, a position may be filled by transfer within the same class, provided:

- (1) A permanent employee so transferred to any department shall retain permanent status in the same class.
- (2) A probationary employee who transfers voluntarily within a department may be required, at the discretion of the appointing authority, to serve the full probationary period in the new position.
- (3) A probationary employee who transfers to a new department must serve the full probationary period in the new department.

(b) As an alternative to appointment from any employment list, a position may be filled by a transfer or voluntary demotion to a different class, provided:

- (1) The employee must serve the full probationary period in the new position if not already holding permanent status in the new class.
- (2) The employee meets all the requirements of the position to which transfer or demotion is requested, as determined by the Director.
- (3) The salary for such an employee shall be adjusted as provided for in Section A25-661.

(c) As an alternative to appointment from any employment list, a position may be filled by a transfer provided that the transfer opportunity is posted for a minimum of seven calendar days (by email where available; if not, posted on the bulletin board) within the work unit or

the department and qualified applicants be given the opportunity to be interviewed. Posting on the Countywide transfer line will satisfy this posting requirement when done concurrently or when the above method has been completed.

(Code 1954, § 3.3.5-6; Ord. No. NS-304.14, § 7, 10-13-59; Ord. No. NS-304.49, § 5, 9-18-67; Ord. No. NS-304.50, § 1, 11-13-67; Ord. No. NS-304.124, § 26, 9-17-02; Ord. No. NS-304.134, § 21, 09-25-15)

### **Sec. A25-176. Resignations.**

- (a) An employee wishing to leave the classified service in good standing shall file with the appointing authority a written resignation on the form provided, giving at least two weeks' notice of the employee's intention to leave the service unless the said appointing authority consents in writing to the employee leaving sooner. An employee who leaves the classified service without so filing a written resignation and giving two weeks' notice, or obtaining such consent in writing, shall have the fact entered on the employee's service record and may be denied entrance to tests for which the employee may apply in the future.
- (b) If a resigning employee's name appears upon a promotional eligible list, it shall be removed, but at the employee's request may be placed upon the open competitive list for that class if one is in effect.

(Code 1954, § 3.3.5-7; Ord. No. NS-304.6, § 5, 6-18-56; Ord. No. NS-304.14, § 8, 10-13-59; Ord. No. NS-304.15, § 1, 1-16-61; Ord. No. NS-304.27, § 2, 8-3-64; Ord. No. NS-304.49, § 6, 9-18-67; Ord. No. NS-304.57, § 1, 7-1-68; Ord. No. NS-304.113, § 26, 8-30-88)

### **Sec. A25-177. Reinstatement after resignation.**

- (a) As an alternative to appointment from any employment list, a former permanent employee who resigned in good standing may be reinstated to a vacant position in the same or lower classification within two years after the date of the employee's resignation, on recommendation of the appointing authority and approval of the Director and provided the former permanent employee meets the employment standards for the same or lower classification.
- (b) Upon reinstatement, all rights acquired by an employee prior to the employee's resignation from the County service shall be restored, except that at the option of the appointing authority, the employee may be employed on an original probationary status, or, as a permanent employee, at any salary step not to exceed the employee's former salary step.

(Code 1954, § 3.3.5-7.1; Ord. No. NS-304.49, § 7, 9-18-67; Ord. No. NS-304.97, § 5, 6-15-76; Ord. No. NS-304.113, § 27, 8-30-88; Ord. No. NS-304.134, § 22, 09-25-15)

**Sec. A25-178. Removal from eligible lists.**

- (a) The Director may remove the name of an eligible for the following reasons: At the eligible's request; on evidence the eligible cannot be located by mail at the eligible's last given address; for failure to respond within stipulated time after notice of certification; or for other justifiable reasons provided in these rules. An appointment from an eligible list shall be the basis for removal of the eligible's name from all other related lists at the same or lower salary level.
- (b) The eligible shall be notified by mail at the eligible's last known address of this action and the reasons thereof.
- (c) An eligible may be restored to the list if the eligible presents satisfactory reasons for failure to respond.

(Code 1954, § 3.3.5-8; Ord. No. NS-304.14, § 9, 10-13-59; Ord. No. NS-304.18, § 2, 3-19-62; Ord. No. NS-304. 113, § 28, 8-30-88)

**Sec. A25-179. Alternate list.**

If a vacancy exists for a class of position for which there is no appropriate eligible list, the Director may certify names from the eligible list for a related class for which minimum qualifications and examinations are similar to or higher than those required for the class in which the vacancy exists.

(Code 1954, § 3.3.5-9)

**Sec. A25-180. Abolishing eligible lists.**

Notice of intention to abolish an eligible list before the expiration date shall be sent to all eligibles whose names appear upon the list, prior to the holding of an examination to establish a new list.

(Code 1954, § 3.3.5-10; Ord. No. NS-304.134, § 23, 09-25-15)

**Sec. A25-181. Inactive list.**

The name of an eligible who is not available for immediate certification may, at the eligible's request, be placed on an inactive list and may be restored to the active list from which it was removed upon the eligible's written request, provided the list is still in existence.

(Code 1954, § 3.3.5-11; Ord. No. NS-304.113, § 29, 8-30-88)

**Sec. A25-182. Waiver of appointment.**

An eligible may for any reason waive appointment after the eligible's name has been certified. After three such waivers of appointment to permanent positions, the eligible will be placed upon the inactive list, and the eligible shall be so notified. The eligible may be restored to the list at the eligible's request at any time during the life of the list.

(Code 1954, § 3.3.5-12; Ord. No. NS-304.113, § 30, 8-30-88)

**Sec. A25-183. Requisition.**

- (a) Each appointing authority shall notify the Department, as far in advance as possible, of personnel requirements in order that sufficient time is available to establish eligible lists.
- (b) Whenever a vacancy in the classified service occurs, the appointing authority shall notify the Human Resources Department upon prescribed form. Upon request of an appointing authority and upon a finding, by the Director, that the nature of the work so warrants, the Director may approve the submission of names to fill a vacancy.
- (c) The Director shall investigate the work of the position when necessary, in order to determine that it is properly allocated.
- (d) The appointing authority may inspect the application and related examination records of an eligible whose name has been submitted for approval.

(Code 1954, § 3.3.5-13; Ord. No. NS-304.6, § 5, 6-18-56; Ord. No. NS-304.113, § 1, 8-30-88; Ord. No. NS-304.124, § 27, 9-17-02; Ord. No. NS-304.134, § 24, 09-25-15)

**Sec. A25-184. Certification of eligibles.**

- (a) Upon approval of a requisition from the appointing authority, the Director shall certify the ten names highest on the appropriate eligible list except as specified in Section A25-174(a), "Reemployment lists," and in Section A25-152, "Resolving of ties."
- (b) When certifying from an open/competitive eligible list if there is more than one vacancy in one class in the same department, four additional names beyond ten shall be certified for each additional vacancy. When certifying from a promotional list if there is more than one vacancy in one class in the same department, one additional name beyond ten shall be certified for each additional vacancy.
- (c) An appointing authority may specify particular abilities, knowledge or traits when requesting personnel stating in writing the reason for the special qualifications request. Certification of the highest ranking eligible possessing such qualifications may be made after investigation and finding of clear evidence that efficient performance can best be performed by those with the specialized requirement.
- (d) The appointing authority or designated interviewers shall interview all eligibles who have responded to notice of certification prior to appointment, and shall send to the Personnel Director a written record of each interview.
- (e) No eligible shall be certified from the same eligible list to the same department more than three times, in any six-month period unless requested by the appointing authority.
- (f) Any eligible whose name has been certified to three departments from an eligible list and who is designated in writing as permanently unacceptable by the appointing authorities for appointments in those departments, may have the eligible's name removed from the eligible list by the Director.

(Code 1954, § 3.3.5-14; Ord. No. NS-304.6, § 5, 6-18-56; Ord. No. NS-304.14, § 10, 10-13-59; Ord. No. NS-304.18, § 3, 3-19-62; Ord. No. NS-304.37, § 2, 7-18-66; Ord. No. NS-304.43, § 4, 3-13-67; Ord. No. NS-304.95, § 4, 8-17-76; Ord. No. NS-304.113, § 32, 8-30-88; Ord. No. NS-304.134, § 25-26, 09-25-15)

**Sec. A25-185. Additional names.**

If one or more of the ten persons certified waives or fails to respond to a notice of certification within the time specified and such a waiver or failure to respond results in less than ten names available to the appointing authority, additional names may be certified to replace the number of persons who have waived or failed to respond to the original notice of certification, subject to Section A25-152. If the supplemental certification results in additional waiver or failure to respond, subsequent supplemental certification if requested by the appointing authority will be made when justified in writing.

(Code 1954, § 3.3.5-15; Ord. No. NS-304.93, § 5, 3-13-67; Ord. No. NS-304.95, § 5, 8-17-76; Ord. No. NS-304.98, § 2, 5-24-77; Ord. No. NS-304.118, § 1, 4-30-91; Ord. No. NS-304.124, § 28, 9-17-02; Ord. No. NS-304.134, § 27, 09-25-15)

**Sec. A25-186. Notification to eligibles.**

A notice of certification shall be sent to the most recent address appearing on the Human Resources Department records of persons certified for appointment. The notice of certification shall instruct eligibles to communicate with the appointing authority or the appointing authority's designee within three working days following the date notice was mailed.

(Code 1954, § 3.3.5-16; Ord. No. NS-304.21, § 4, 11-5-62; Ord. No. NS-304.113, § 33, 8-30-88; Ord. No. NS-304.134, § 28, 09-25-15)

**Sec. A25-187. Report of appointment.**

The appointing authority shall report to the Human Resources Department the name or names of persons appointed and the date service is to begin.

(Code 1954, § 3.3.5-17; Ord. No. NS-304.14, § 11, 10-13-59; Ord. No. NS-304.134, § 29, 09-25-15)

**Sec. A25-188. Substitute and extra-help appointments.**

- (a) A substitute appointment is an appointment for a minimum period of 14 calendar days and a maximum period of one year which is limited to the period of a vacancy created by an authorized leave of absence without pay granted a classified employee. Substitute appointments for longer than one year shall be made in accordance with regular certification procedures. A permanent employee who receives a substitute appointment in a higher class in the same department shall be considered as on leave from the permanent employee's regular position. Upon return of the regular incumbent, the substitute employee shall have the right to return to the substitute employee's former position or to a similar position in the same class in the department. Employees receiving substitute appointments in a different department may, at the discretion of the former department head, either be put on leave or may retain only reinstatement privileges. Substitute appointments for less than one year may be made on a temporary provisional basis or through regular certification procedures at the option of the appointing authority. No position may be filled by such an appointment nor any person serve as a temporary provisional appointee for more than twelve months in any consecutive 24 month period.
- (b) Substitute employees, when appointed through regular certification procedure from the top ten on the eligible list, shall carry full rights and privileges as regular employees.
- (c) An extra-help appointment is one made to a nonpermanent position established to meet a peak-load or other unusual work situation.



- (d) Extra-help appointments are not regular appointments, need not be made from eligible lists and carry none of the rights or benefits of regular appointments. However, in the event that an extra-help position is subsequently converted to a regular position, any continuing incumbent whose original appointment was made from one of the top ten on the appropriate eligible list, may be granted probationary status effective on the date of the establishment of the regular position without further examination regardless of the condition of the current eligible list.
- (e) No person may receive pay in an extra help capacity in the same classification in the same department for more than 1,040 hours in any fiscal year, unless otherwise approved by the Board of Supervisors. The Board of Supervisors shall grant approval only for positions which have direct health and safety responsibilities in those departments providing 24-hour services.
- (f) Extra help appointees in classes established for permanent positions are expected to meet all minimum requirements, including any special requirements established for the class by state law, or any specialized educational or training requirements for professional or technical classes, as established in the official specifications for such classes.
- (g) Employees who are absent from duty with pay for a period of one month or longer may, at the request of the appointing authority and the approval of the Director, be transferred to special leave code positions and have their former positions filled on a temporary provisional basis or by regular substitute certification procedure. Except for the difference in the minimum period of appointment, such appointments shall be subject to the provisions for substitute appointments set forth in Subsection (a) of this section. It shall be the responsibility of the appointing authority to request from the Board of Supervisors sufficient appropriation for the special code positions.

(Code 1954, § 3.3.5-18; Ord. No. NS-304.6, § 5, 6-18-56; Ord. No. NS-304.16, § 1, 6-19-61; Ord. No. NS-304.53, § 1, 3-4-68; Ord. No. NS-304.67, § 1, 10-13-70; Ord. No. NS-304.79, § 1, 6-19-73; Ord. No. NS-304.113, § 34, 8-30-88; Ord. No. NS-304.124, § 29, 9-17-02; Ord. No. NS-304.134, § 30-31, 09-25-15)

**Sec. A25-189. Provisional appointments.**

- (a) If there are urgent reasons for filling a position, and there are insufficient eligibles upon an appropriate employment list, the Director may authorize a provisional appointment to fill the position pending the establishment of an employment list.
- (b) The Director shall approve any provisional appointee proposed by appointing authority, provided the appointee meets the established employment standards for the class.
- (c) No provisional appointment shall continue for more than 90 calendar days after an appropriate employment list has been established for the class; nor may any position be filled by provisional appointment or any person serve as a provisional appointee for more than one year in any 24 consecutive months.

(Code 1954, § 3.3.5-19; Ord. No. NS-304.102, § 1, 1-2-79; Ord. No. NS-304.113, § 35, 8-30-88; Ord. No. NS-304.124, § 30, 9-17-02; Ord. No. NS-304.134, § 32, 09-25-15)

### **Sec. A25-190. Emergency appointments.**

Should an emergency require the filling of a vacancy and there are no eligibles immediately available, the appointing authority may make an emergency appointment of any person; but such emergency appointment may not continue for more than ten working days. Such emergency appointment shall be reported to the Director not later than the next regular workday.

(Code 1954, § 3.3.5-20; Ord. No. NS-304.14, § 12, 10-13-59)

### **Sec. A25-191. Probationary period.**

Appointments from open or promotional eligible lists shall be for a probationary period of six months, during which the appointing authority shall investigate the conduct, performance, moral responsibility and integrity of each employee and determine whether the employee is fully qualified for permanent status. Whenever employment conditions are such that employee qualifications for a class may not be adequately determined during a six-month probationary period, the Director, upon recommendation of the appointing authority, and approval of all appointing authorities concerned, may set the probationary period for the class not to exceed 18 months. An employee who has attained permanent status in a classification in an alternate series after serving a one year probationary period shall, upon promotion to a higher classification in a series, serve a probationary period of six months.

(Code 1954, § 3.3.5-21; Ord. No. NS-304.6, § 5, 6-18-56; Ord. No. NS-304.14, § 13, 10-13-59; Ord. No. NS-304.15, § 1, 1-16-61; Ord. No. NS-304.68, § 2, 4-6-71; Ord. No. NS-304.99, § 1, 9-27-77)

### **Sec. A25-192. Release during probation.**

- (a) During the probationary period, the appointee may be rejected at any time without the right of a hearing before the Personnel Board as to original appointments and with the right of such hearing as to probationary appointments following promotion, demotion or transfer of employees with permanent status. If requested by the appointee, the appointing authority shall provide the appointee with a written statement of the reasons for the appointee's release; such request must be made within five working days of the appointee's release. Such statement is for informational purposes only, and not for purposes of appeal. The Director may restore a released probationer to the eligible list for certification to other departments if the reasons for the appointee's release appear limited to a single department.
- (b) Probationary employees appointed to a higher class prior to attainment of permanent status in the lower class shall have the right to a hearing before the Personnel Board, provided the time served in both classes was sufficient to have attained permanent status in the lower class.

(Code 1954, § 3.3.5-22; Ord. No. NS-304.6, § 5, 6-18-56; Ord. No. NS-304.21, § 4, 11-5-62; Ord. No. NS-304.49, § 8, 9-18-67; Ord. No. NS-304.85, § 1, 11-4-73; Ord. No. NS-304.113, § 36, 8-30-88; Ord. No. NS-304.134, § 33, 09-25-15)

### **Sec. A25-193. Permanent appointment.**

If, after thorough investigation during the probationary period, the appointing authority finds the probationer fully qualified for permanent status, the appointing authority shall so certify to the department not later than the last day of the probationary period. Failure of the appointing authority to so certify shall grant the probationer permanent status.

(Code 1954, § 3.3.5-23; Ord. No. NS-304.113, § 37, 8-30-88; Ord. No. NS-304.134, § 34, 09-25-15)

**Secs. A25-194—A25-200. Reserved.**

**Sec. A25-201. Return to former class.**

As an alternative to appointment from any employment list, any employee, who has ever held permanent status in any classification, upon recommendation of the appointing authority and approval of the Director, may be appointed without further examination to a position in any class in which regular status had formerly been acquired, or to any related class on a comparable level with the former class, except when separation from the previous class was based on a disciplinary demotion, dismissal, or release.

(Code 1954, §§ 3.3.5-24.9, 3.3.4-25; Ord. No. NS-304.6, § 5, 6-18-56; Ord. No. NS-304.14, § 15, 10-13-59; Ord. No. NS-304.21, § 5, 11-5-62; Ord. No. NS-304.23, § 1, 6-24-63; Ord. No. NS-304.49, § 9, 9-18-67; Ord. No. NS-304.81, § 1, 7-3-73; Ord. No. NS-304.134, § 35, 09-25-15)

**Secs. A25-202—A25-216. Reserved.**

## ARTICLE 6. RESERVED

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Editor's note—Ord. No. NS-304.78, § 7, adopted July 17, 1973 repealed the title of Ch. III, Art 6, entitled "Compensation." The Article has been reserved to preserve code style and format at the discretion of the editor.

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**Secs. A25-217—A25-238. Reserved.**

## ARTICLE 7. RESERVED

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**Editor's note**— Ord. No. NS-304.100, § 1, adopted Oct. 4, 1977, specifically amended the Code by repealing Art. 7, §§ A25-239—A25-241, which had pertained to vacation and sick leave. Said sections had been derived from Code 1954, §§ 3.3.7-2, 3.3.7-3; Ord. No. NS-304.1, § 2, 11-22-54; Ord. No. NS-304.5, § 2, 11-22-54; Ord. No. NS-304.6, § 7, 6-18-56; Ord. No. NS-304.10, § 2, 10-14-58; Ord. No. NS-304.13, § 1, 12.8-59; Ord. No. NS-304.14, § 17, 10-13-59; Ord. No. NS-304.15, § 1, 1-16-61; Ord. No. NS-304.30, §§ 1, 2, 11-29-65; Ord. No. NS-304.36, § 1, 5-31-66; Ord. No. NS-304.40, § 2, 12-5-66; Ord. No. NS-304.44, § 1, 5-22-67; Ord. No. NS-304.45, § 1, 6-12-67; Ord. No. NS-304.54, §§ 1, 2, 3-18-68; Ord. No. NS-304.55, §§ 1, 2, 3-25-68; Ord. No. NS-304.57, § 2, 7-1-68; Ord. No. NS-304.63, §§ 1, 2, 7-28-70; Ord. No. NS-304.64, § 1, 9-1-70; Ord. No. NS-304.70, §§ 3, 4, 9-14-71; Ord. No. NS-304.76, § 1, 2-20-73; Ord. No. NS-304.78, § 9, 7-17-73; Ord. No. NS-304.82, § 1, 7-31-73; Ord. No. NS-304.87, § 1, 6-26-74; and, Ord. No. NS-304.88, § 1, 8-27-74.

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**Secs. A25-239—A25-259. Reserved.**

## ARTICLE 8. REPORTS AND RECORDS

### **Sec. A25-260. Reports of personnel transactions.**

To enable the department to perform its duties accurately and expeditiously, each appointing authority shall report promptly, on forms provided or by letter where no form is prescribed, on the following transactions:

- (a) Requisitions for certifications.
- (b) All appointments.
- (c) Separation from the service.
- (d) Transfers and demotions.
- (e) Changes in organization resulting in the creation or abolishment of a position, promotion or demotion, changes in duties or classification.
- (f) Leaves of absence.
- (g) Disciplinary actions.

(Code 1954, § 3.3.8-1)

**Sec. A25-261. Responsibility for reporting transactions, distributing personnel information.**

Each department head shall appoint an assistant, or so act in that capacity, to cooperate with the Department and be responsible for properly reporting personnel transactions, for properly distributing within the department personnel material and information, including the posting of notices upon the department bulletin board.

(Code 1954, § 3.3.8-2; Ord. No. NS-304.113, § 38, 8-30-88)

**Sec. A25-262. Department records.**

- (a) The Department shall keep such records as necessary and required by state and federal law for transactions and reference and for making reports showing administrative actions, including: Records of all examinations, eligible lists, records and files of employment history of each employee, history of each position, classification plan, book and correspondence.
- (b) The Department shall maintain an official roster containing the names, addresses, classifications and department of all employees holding positions in the classified service of the County.

(Code 1954, § 3.3.8-3; Ord. No. NS-304.124, § 31, 9-17-02)

**Sec. A25-263. Reserved.**

**Editor's note**—Former § A25-263 was repealed by § 2 of Ord. No. NS-304.114, adopted Sept. 13, 1988. The repealed provisions pertained to payroll certification and derived from Code 1954, § 3.3.8-4.

**Sec. A25-264. Annual report required.**

The Director shall report in writing at least annually to the Personnel Board and the Board of Supervisors regarding the operation of the personnel program.

(Code 1954, § 3.3.8-5)

**Secs. A25-265—A25-271. Reserved.**

**ARTICLE 9. RESERVED**

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**Editor's note**— Ord. No. NS-304.124, § 32, adopted Sept. 17, 2002, renumbered Ch. III, Art. 9, §§ A25-272—A25-276, as Ch. VI, Art. 8, §§ A25-696—A25-700. Former Art. 9 pertained to evaluations. See the Code Comparative Table.

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**Secs. A25-272—A25-281. Reserved.**

## ARTICLE 10. RESERVED

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**Editor's note**— Ord. No. NS-304.124, § 33, adopted Sept. 17, 2002, renumbered Ch. III, Art. 10, §§ A25-282, A25-282, as Ch. VI, Art. 9, §§ A25-710, A25-711. Former Art. 10 pertained to training. See the Code Comparative Table.  
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**Secs. A25-282—A25-299. Reserved**

## ARTICLE 11. DISCIPLINARY ACTIONS

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**Charter reference**— Suspensions, demotions, removals, § 708.  
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### **Sec. A25-300. Authorized.**

An appointing authority may suspend, demote or dismiss any employee subject to Section 708 of the Charter covering appeal rights of employees with permanent status or employees serving on a promotional probationary capacity. Probationary employees on original appointments shall not have appeal rights.

(Code 1954, § 3.3.12-1; Ord. No. NS-304.20, § 1, 7-23-62; Ord. No. NS-304.124, § 34, 9-17-02)

### **Sec. A25-301. Causes of suspension, demotion or dismissal.**

The following list of causes is provided as a guide to both supervisors and employees as to what may constitute a proper basis for disciplinary action. It is not an all-inclusive list in that an appointing authority may institute disciplinary action for any other activity which the appointing authority deems just cause for such action.

(a) Causes relating to performance of duties:

- (1) Violation of the County Charter, merit system rules and regulations, and written and published departmental rules and policies which do not conflict with this article.
- (2) Inefficiency, incompetence, or negligence in the performance of duties, including failure to perform assigned task or failure to discharge duties in a prompt, competent and responsible manner.
- (3) Physical or mental incapability for performing duties.
- (4) Brutality in the performance of duties.
- (5) Refusal to accept a reasonable and proper assignment from an authorized supervisor; insubordination.
- (6) Intoxication on duty.
- (7) Careless, negligent or improper use of County property, equipment or funds, including use for private purposes or involving damage or risk of damage to property.

- (8) Acceptance of gifts in exchange for "favours" or "influence" or under circumstances which would tend to compromise the effective discharge of duties.
  - (9) Failure to maintain satisfactory and harmonious working relationships with the public and other employees.
  - (10) Absence without leave.
  - (11) Habitual pattern of failure to report for duty at the assigned time and place.
  - (12) Habitual improper use of sick leave privileges.
  - (13) Unauthorized release of confidential information.
- (b) Causes relating to personal conduct detrimental or prejudicial to public service:
- (1) Guilty of gross misconduct, or conduct unbecoming a County officer or employee which tends to discredit the County or County service.
  - (2) Guilty of immoral conduct or criminal act.
  - (3) Failure to make reasonable provisions for payment of just debts.
  - (4) Falsified job information to secure position.
  - (5) Addiction to use of narcotics or habit-forming drugs.
- (c) Engaging in incompatible employment. Any employee in the classified service who directly or indirectly engages in incompatible employment or serves a conflicting interest shall be subject to suspension, demotion or dismissal. It shall be the responsibility of the employee who engages in employment in addition to classified service with the County to notify the appropriate County authorities of such employment. It is the responsibility of the County to provide appropriate forms for notification and to evaluate such forms to ensure that any non-county employment is not incompatible.

(Code 1954, § 3.3.12-2; Ord. No. NS-304.20, § 1, 7-23-62; Ord. No. NS-304.113, § 41, 8-30-88; Ord. No. NS-304.124, § 35, 9-17-02)

**Sec. A25-302. Determining degree of seriousness of offense.**

- (a) In determining the degree of seriousness of an offense which is a cause of suspension, demotion or dismissal, the appointing authority shall consider:
- (1) The nature and extent of the specific act in terms of its effect upon the functions of the department.
  - (2) Damage to public interest or welfare.
  - (3) Whether a reasonable period has elapsed since a prior offense.
- (b) The decision to suspend, demote or dismiss depends on the seriousness of the offense. A suspension of not more than 30 days may be set by the appointing authority.

(Code 1954, § 3.3.12-3; Ord. No. NS-304.20, § 1, 7-23-62)

**Sec. A25-303. Reserved.**

**Editor's note**— Ord. No. NS-304.124, § 36, adopted Sept. 17, 2002, repealed § A25-303, which pertained to procedure for dismissal, demotion or suspension for cause. See the Code Comparative Table.

**Secs. A25-304—A25-309. Reserved.**

**ARTICLE 12. RESERVED**

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**Editor's note**— Ord. No. NS-304.74, § 1, adopted Sept. 5, 1972, amended this Code by repealing former Art. 12, §§ A25-310—A25-326, pertaining to employees' grievance procedures. Said former Art. 12 was derived from Code 1954, §§ 3.3.13-1—3.3.13-6, and Ord. No. NS-304.31, § 1, adopted Feb. 7, 1966. For new provisions relative to employee grievance procedures, see § A25-500 et seq.

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**Secs. A25-310—A25-338. Reserved.**



## CHAPTER IV. EMPLOYEE-MANAGEMENT RELATIONS

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**State Law reference**— Public employee organization, Government Code § 3500 et seq.  
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### ARTICLE 1. GENERALLY

#### **Sec. A25-339. Statement of policy.**

It is the policy of the County to promote full communication between the County and its employees to protect the exercise by its employees of their full freedom of association, self-organization and designation of representatives of their own choosing, by providing a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between the management of the County and employee organizations. It is also the purpose of this article to promote the improvement of personnel management and employer-employee relations by providing a uniform basis for recognizing the right of County employees to join organizations of their own choice and be represented by such organizations in their employment relationships with the County. Nothing contained herein shall be deemed to supersede the provisions of existing state law or the provisions of the County Charter or this Code which establish and regulate a merit system or which provide for other methods of administering employer-employee relations. This chapter is intended instead, to strengthen the merit system and other methods of administering employer-employee relations through the establishment of uniform and orderly methods of communications between County employees and the management of the County. In order to fully and effectively implement the provisions of this chapter, management employees shall not be included in any representation unit.

(Code 1954, § 3.9.1-1; Ord. No. NS-300.90, § 1, 2-7-66; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-300.193, § 1, 9-3-74)

#### **Sec. A25-340. "Confidential employee" defined.**

As used in this chapter, "confidential employee" means an employee who is privy to decisions of County management affecting employee relations, the total number of which shall not exceed three percent of the total number of budgeted County positions.

(Code 1954, § 3.9.2-5; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

#### **Sec. A25-341. "Days" defined.**

As used in this chapter, "days" means calendar days.

(Code 1954, § 3.9.2-7; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-342. "Employee" defined.**

As used in this chapter, "employee" means an employee whose salary is fixed by the Board of Supervisors in the salary ordinance of the County, other than a management employee.

(Code 1954, § 3.9.2-1; Ord. No. NS-300.90, § 1, 2-7-66; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-300.193, § 2, 9-3-74)

**Sec. A25-343. "Employee organization" defined.**

As used in this chapter, "employee organization" means any organization which includes employees and which has as one of its primary purposes representing such employees in their relations with the County and which has registered with the Director of Employee Services Agency as provided for in Article 2 of this chapter.

(Code 1954, § 3.9.2-2; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 36, 09-25-15)

**Sec. A25-344. "Management" defined.**

As used in this chapter, "management" or "management employee" means the County Executive and other representatives of management having the authority to act for the County on any matters relating to the implementation of the County's labor-management relations program and who are so designated by the Personnel Director with the approval of the County Executive in accordance with the procedures set forth in Section A25-369. The Personnel Director may not designate a position as management which is included in any recognized representation unit other than a supervisory administrative unit.

(Code 1954, § 3.9.2-4; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-300.193, § 3, 9-3-74)

**Sec. A25-345. "Mediation" defined.**

As used in this chapter, "mediation" means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of management and the recognized employee organizations through interpretation, suggestion and advice.

(Code 1954, § 3.9.2-8; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-346. "Recognized employee organization" defined.**

As used in this chapter, "recognized employee organization" means an employee organization that has been certified pursuant to Article 4.

(Code 1954, § 3.9.2-3; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-347. "Supervisory employee" defined.**

"Supervisory employee," as used in this chapter, means any individual having authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees, or responsibility to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

(Ord. No. NS-300.375, § 2, 2-21-84)

Note—See the editor's note following § A25-348.

**Sec. A25-348. Manner of proof of employee approval.**

- (a) Proof of employee approval to a petition is demonstrated under this chapter, by any of the following:
  - (1) Signed and dated signatures on the petition.
  - (2) Signed and dated employee organization authorization cards.
  - (3) Documented evidence of current dues paying employee organization membership or payroll dues deductions using the payroll immediately prior to the date the petition is filed.
- (b) For purposes of Paragraphs (a)(1) and (a)(2) above, only signatures of employees currently employed, which signatures have been executed within six months prior to the date the petition is filed, shall be accepted as proof of employee approval.
- (c) The total number of employees in a proposed representation unit shall be determined by using the County salary ordinance, adjusted to reflect the positions occupied as of the date of the petition.

(Code 1954, § 3.9.2-6; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-300.375, § 3, 2-21-84)

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**Editor's note**—Section 1 of Ord. No. NS-300.375, adopted Feb. 21, 1984, repealed former § A25-347; § 2 added a new § A25-347; and § 3 added a new § A25-348. However, the text of the new § A25-348 is the same as that of the repealed A25-347; therefore the history note to that section has been retained.

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**Secs. A25-349—A25-352. Reserved.**

## **ARTICLE 2. REGISTRATION OF ORGANIZATIONS**

### **Sec. A25-353. Application required; contents.**

An organization that desires to be registered as an employee organization shall file with the Director of Employee Services Agency a statement, signed by its presiding officer, showing:

- (a) Name and mailing address of the organization.
- (b) Names and titles of officers.
- (c) A copy of its constitution and/or bylaws which shall contain a statement that the organization has as one of its primary purposes representing employees in their employment relations.
- (d) Verification of employee membership in the organization which may be shown by employee organization payroll dues deduction or by an official membership statement or authorization cards.
- (e) An acknowledgment in writing, signed by a duly authorized officer of the organization, that the organization agrees to all of the provisions of this chapter.
- (f) A statement that the organization has no restriction on membership based on race, color, creed, national origin or sex.
- (g) A designation of those persons, not exceeding three in number, and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on the organization for any purpose

(Code 1954, § 3.9.3-1; Ord. No. NS-300.90, § 1, 2-7-66; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 37, 09-25-15)

### **Sec. A25-354. Notice of registration.**

Upon receipt of all the information required by Section A25-353, the Director of Employee Services Agency shall, in writing, notify the organization that it has been registered as an employee organization. A copy of this notice shall be filed with the Board of Supervisors.

(Code 1954, § 3.9.3-2; Ord. No. NS-300.90, § 1, 2-7-66; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 38, 09-25-15)

**Sec. A25-355. Annual reregistration.**

A registered employee organization shall thereafter annually, between December 1 and December 31, file with the Director of Employee Services Agency a statement required by Section A25-353 and the Director of Employee Services Agency shall annually issue the notice of registration required by Section A25-354.

(Code 1954, § 3.9.3-3; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 39, 09-25-15)

**Secs. A25-356—A25-362. Reserved.**

**ARTICLE 3. REPRESENTATION UNITS**

**Sec. A25-363. Petition for establishment.**

A representation unit is established by petition of employees within the proposed unit. The petition must be accompanied by proof of employee approval equal to at least 30 percent of the employees within the proposed unit. The petition shall be filed with the Director of Employee Services Agency. The Director shall give notice of the filing to the Board of Supervisors together with his recommendation as to the appropriateness of the representation unit. He shall also give notice of the filing to the employees in the proposed unit and to any person or employee organization that has filed a written request for such notice. A petition for the establishment of a representation unit may be combined with a petition that seeks to certify an employee organization as a recognized employee organization.

(Code 1954, § 3.9.4-1; Ord. No. NS-300.90, § 1, 2-7-66; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 40, 09-25-15)

**Sec. A25-364. Challenge by employee organization.**

If an employee organization desires to challenge the appropriateness of the proposed representation unit and seeks to establish a different unit, it shall file a petition with the Director of Employee Services Agency within 30 days of filing the original petition requesting a unit determination by the County Personnel Board. The petition must be accompanied by proof of employee approval equal to at least 30 percent of the employees in the unit requested by the challenging organization.

(Code 1954, § 3.9.4-2; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 41, 09-25-15)

**Sec. A25-365. Challenge by Board of Supervisors.**

If the Board of Supervisors decides to challenge the appropriateness of the proposed representation unit, it shall within 30 days of filing the original petition direct the Director of Employee Services Agency to file a petition with the County Personnel Board requesting a determination.

(Code 1954, § 3.9.4-3; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 42, 09-25-15)

**Sec. A25-366. Certification of unit.**

If there has been no petition filed challenging a petition to establish a representation unit within 30 days, the Director of Employee Services Agency shall certify to the Board of Supervisors and petitioner that the representation unit has been established.

(Code 1954, § 3.9.4-4; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 43, 09-25-15)

**Sec. A25-367. Amendment of petitions.**

If a challenge is lodged, the Director of Employee Services Agency shall notify the original petitioner in writing. If an amended petition is not filed within seven days of such notice, the petition and challenge shall be transmitted to the County Personnel Board as provided below. Upon the filing of an amended petition, the original petition shall be deemed revoked and the amended petition shall be considered on its own merits as if originally filed.

(Code 1954, § 3.9.4-5; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 44, 09-25-15)

**Sec. A25-368. Determination of dispute.**

- (a) If a challenging petition has been duly filed, and the challenge has not been resolved by amendment or withdrawal, the dispute shall be resolved through arbitration by an arbitrator selected by the parties to the dispute. Within ten days of the filing of the challenge the parties will select an arbitrator to hear the dispute and schedule a date for the dispute to be heard. The dispute need not be heard within this ten-day period.
- (b) In resolving representation unit disputes, the arbitrator shall in each case determine the broadest feasible unit based upon such factors as internal and occupational community of interest and history of representation. No County classification shall be included in more than one representation unit, except that management and confidential employees shall not be included in any unit which includes nonmanagement or nonconfidential employees.
- (c) Professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization consisting of such professional employees. "Professional employees," for the purposes of this section, means employees engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers and various types of physical, chemical and biological scientists.
- (d) The decision of the arbitrator shall be final and binding. The cost of the arbitrator and court reporter shall be paid by the County. Costs of representation shall be paid by the respective parties.

(Code 1954, § 3.9.4-6; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-300.494, § 1, 1-14-92)

**Sec. A25-369. Maintenance of representation units.**

It shall be the duty of the Director of Employee Services Agency to maintain a record of the composition of each representation unit. The Director shall allocate each new County classification to an appropriate existing representation unit and shall allocate individual positions into or out of management or confidential status.

The Director shall notify all recognized employee organizations in writing of the intended allocation no later than 30 days after approval of the new classification by the Board of Supervisors. A recognized employee organization may challenge the appropriateness of the intended allocation by filing a petition with the Director within 30 days of notice of the intended allocation requesting a determination of the allocation. The challenging organization shall also by certified mail notify and provide a copy of the challenge to the representative of the representation unit to which the class was allocated in the Director's allocation notice. The challenge must be filed within 30 days of the date of the notice of the Director. If no challenge is filed the allocation shall be final. Challenges shall be resolved pursuant to Section A25-368.

The allocation of new classifications created through the reclassification of positions where there is no change in the representation of the incumbents may not be challenged nor is the Director required to provide any notices pursuant to this provision.

(Code 1954, § 3.9.4-7; Ord. No. NS-300.145, 12-22-70; Ord. No. NS-300.163, § 1, 4-11-72; Ord. No. NS-300.193, § 4, 9-3-74; Ord. No. NS-300.494, § 1, 1-14-92; Ord. No. NS-304.134, § 45, 09-25-15)

**Sec. A25-370. Modification of units.**

A petition may be filed pursuant to this chapter to modify an existing representation unit to include a County classification or classifications which are included in other existing representation unit or units. A modification petition may also include the establishment of a new representation unit.

All petitions pursuant to this section must be filed with the Director of Employee Services Agency between 150 and 120 days prior to the termination of an existing memorandum of agreement or understanding between the Board of Supervisors and the recognized employee organization which represents the unit containing the classes in the petition. Where the classes in the petition are included in more than one unit, the unit with the memorandum of agreement or understanding with the latest termination date will determine the submission period for the petition.

Challenges to the appropriateness of proposed unit modifications may be filed in accordance with the provisions of Article 3 of this chapter.

A petition which seeks to create a new unit may be combined with a petition which seeks to be certified as the recognized employee organization in accordance with Article 4 of this chapter. Petitions challenging petitions seeking certification as the recognized employee organization for such new unit may also be filed in accordance with Article 4.

All unit modification petitions filed pursuant to this section must be accompanied by proof of employee approval equal to greater than 50 percent of the employees covered by the petition. Where positions are proposed to be included in an existing representation unit, proof of employee approval of greater than 50 percent of that representation unit is also required.

The proof of employee approval of the existing representation unit may be submitted by letter to the Director from the recognized employee organization for existing representation unit.

Notwithstanding the provisions of Sections A25-368 and A25-384, if the Director of Employee Services Agency or a recognized employee organization currently representing the positions in the petition so requests, the proposed unit modification(s) are subject to approval by the petitioning employees via a secret ballot election conducted by the California State Mediation and Conciliation Service. The ballot shall be restricted to a choice between the petitioning and the challenging organizations and neither the County, the employee organization representing the positions in the petition nor the petitioners may object to the election.

(Code 1954, § 3.9.4-8; Ord. No. NS-300.149, § 1, 3-9-71; Ord. No. NS-300.494, § 1, 1-14-92; Ord. No. NS-304.134, § 46, 09-25-15)

**Sec. A25-371. Modification by agreement.**

The County and recognized employee organization(s) may, upon mutual agreement, modify existing representation units represented by such recognized employee organization(s) through merging of unit(s), creation of new unit(s), moving of classification(s) from one unit to another, etc. Certification of recognition may be part of such agreement(s). The Personnel Board and all recognized employee organizations shall be notified by the Director of any such agreement, and such agreement(s) shall thereupon be binding and effective according to the terms of such agreement(s)

(Ord. No. NS-300.304, § 1, 9-11-79)

**Secs. A25-372—A25-377. Reserved.**

**ARTICLE 4. RECOGNIZED EMPLOYEE ORGANIZATIONS**

**Sec. A25-378. Petition for recognition.**

An employee organization that seeks certification as a recognized employee organization shall file a petition with the Director of Employee Services Agency. The petition shall identify the representation unit requested or established pursuant to Article 3 of this chapter for which petitioner seeks recognition. The petition shall be accompanied by proof of employee approval of employees within the representation unit.

(Code 1954, § 3.9.5-2; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 47, 09-25-15)

**Sec. A25-379. Majority and minority petitions.**

The Director of Employee Services Agency shall determine the percent of proof of employee approval. A petition accompanied by proof of employee approval greater than 50 percent of the employees within the representation unit shall be certified as a majority petition. A petition accompanied by proof of employee approval of between 30 percent and 50 percent of the employees within the representation unit shall be certified as a minority petition.

(Code 1954, 3.9.5-2; Ord. No. 300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 48, 09-25-15)



**Sec. A25-380. Notice, challenge of petition.**

The Director of Employee Services Agency shall give written notice of his certification of a majority or minority petition to the petitioner, to the employees involved, and to any employee organization that has filed a written request for the receipt of such a notice with him. Within 30 days of the date of such notice, another employee organization may file a challenging petition seeking to become the recognized employee organization within the representation unit.

(Code 1954, § 3.9.5-3; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 49, 09-25-15)

**Sec. A25-381. Certification without election.**

- (a) If no challenging petition is filed against a majority petition which demonstrates proof of employee approval by means of Paragraph (a)(3) of Section A25-347, the Director of Employee Services Agency shall certify the petitioner as the recognized employee organization of the representation unit.
- (b) If no challenging petition is filed against a majority petition which demonstrates proof of employee approval by means other than Paragraph (a)(3) of Section A25-347, the Director of Employee Services Agency may certify the petitioner or request the State Conciliation Service to call and conduct a secret ballot election in accordance with its own procedures and regulations and pursuant to Section A25-384.

(Code 1954, § 3.9.5-5; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 50, 09-25-15)

**Sec. A25-382. Election on challenged majority petition.**

If a challenging petition is filed against a majority petition and is accompanied by proof of employee approval equal to at least 30 percent of the employees within the representation unit, the Director of Employee Services Agency shall request the State Conciliation Service to call and conduct a secret ballot election in accordance with its own procedures and regulations and pursuant to Section A25-384.

(Code 1954, § 3.9.5-5; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 51, 09-25-15)

**Sec. A25-383. Election on minority petition.**

If a minority petition is filed, the Personnel Director shall, whether or not a challenging petition is filed, request the State Conciliation Service to call and conduct a secret ballot election in accordance with its own procedures and regulations and pursuant to Section A25-384. If a challenging petition is filed against a minority petition and is accompanied by proof of employee approval equal to at least ten percent of the employees within the representation unit, the State Conciliation Service shall include the challenging employee organization on the ballot.

(Code 1954, § 3.9.5-6; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-384. Election procedure.**

Whenever the State Conciliation Service calls an election pursuant to this article, it shall include the choice of no organization on the ballot. Employees entitled to vote in a representation election shall be those employees within the representation unit whose names appeared on the payroll immediately prior to the date of election. An employee organization shall be certified by the Director of Employee Services Agency as the recognized employee organization within the representation unit if the majority of those casting valid ballots at the election choose said organization. In an election where none of the choices receives a majority of the valid ballots cast, a run-off election shall be conducted between the two choices receiving the largest number of ballots cast. There shall be no more than one representation election in a 12-month period within the same representation unit.

(Code 1954, § 3.9.5-7; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.134, § 52, 09-25-15)

**Sec. A25-385. Decertification procedure.**

- (a) A decertification petition may be filed with the Director of Employee Services Agency by employees of a registered employee organization to determine whether or not a recognized employee organization continues to represent a majority of the employees in the representation unit. The petition must be accompanied by proof of employee approval equal to at least 30 percent of the employees within the representation unit. All petitions pursuant to this section must be filed with the Director of Employee Services Agency between 150 and 120 days prior to the termination of an existing memorandum of agreement or understanding between the recognized employee organization for the unit and the Board of Supervisors. In the event no memorandum or agreement exists between the recognized employee organization and the Board of Supervisors, petitions shall be filed between 150 and 120 days prior to the end of the fiscal year of the County. During the term of the memorandum of understanding or agreement between a recognized employee organization and the Board of Supervisors covering a representation unit, no decertification petition for such unit shall be accepted by the Director of Employee Services Agency unless it is timely filed during the last annual term thereof, or the third annual term thereof, whichever first occurs. Notwithstanding the foregoing provisions, no decertification petition for the same unit shall be accepted by the Director of Employee Services Agency more frequently than every two years.
- (b) When a valid petition has been filed by employees, the State Conciliation Service shall be requested to conduct an election within 30 days to determine whether or not the incumbent recognized employee organization shall be decertified. The incumbent recognized organization shall be decertified if a majority of those casting valid ballots vote for decertification. When a valid petition has been filed by a registered employee organization the State Conciliation Service shall be requested to conduct an election within 30 days to determine whether such organization shall be recognized. The incumbent recognized

employee organization shall be decertified if a majority of those casting valid ballots vote for the petitioning organization.

If the State Conciliation Service refuses to conduct the election, the election shall be conducted by the Registrar of Voters.

(Code 1954, § 3.9.5-8; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-300.149, § 2, 3-9-71; Ord. No. NS-300.178, § 1, 7-31-73; Ord. No. NS-300.180, § 1, 10-30-73; Ord. No. NS-304.134, § 53, 09-25-15)

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**Editor's note**—Sec. A25-385, as amended by Ord. No. NS-300.180, § 1, shall become effective on July 1, 1974.  
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**Secs. A25-386—A25-392. Reserved.**

## **ARTICLE 5. RIGHTS AND OBLIGATIONS**

**Sec. A25-393. Duty to meet and confer in good faith.**

- (a) Upon request, a recognized employee organization shall have the right to meet and confer in good faith to negotiate wages, hours and other terms and conditions of employment with the appropriate level of management. Representatives of recognized employee organizations may participate in such meetings without loss of compensation or other benefits.
- (b) "Meet and confer in good faith" means the mutual obligation personally to meet and confer in order to exchange freely information, opinions and proposals and to endeavor to reach agreement on matters within the scope of representation. If agreement is reached by management and a recognized employee organization, or recognized employee organizations, on matters subject to approval by the Board of Supervisors, they shall jointly prepare a written memorandum of such understanding, and present it to the Board of Supervisors for determination. If agreement is reached on matters not subject to approval by the Board of Supervisors, the appropriate level of management and recognized employee organizations shall jointly prepare a written memorandum of such agreement.

(Code 1954, § 3.9.6-1; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**State law reference**— Similar provisions, Government Code § 3505.

**Sec. A25-394. Dues deductions.**

Only a recognized employee organization may have the regular dues of its members within a representation unit deducted from employees' paychecks under procedures prescribed normally by the Director of Finance for such deductions. Dues deductions shall be upon the written authorization of the member. An authorization for dues deduction shall be subject to revocation pursuant to the provisions of a memorandum of agreement between the County and a recognized employee organization and the terms and conditions of such memorandum shall prevail over procedures prescribed by the Director of Finance. Other payroll deductions or dues deductions for employees not within recognized representation units may be allowed in accordance with such procedures as may be established.

(Code 1954, § 3.9.6-3; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-300.190, § 1, 5-31-74)

**Sec. A25-395. Communication with employees.**

A recognized employee organization which represents employees of a County department shall be allowed by that department use of space on available bulletin boards for communications, provided that it does not interfere with the needs of the department. A recognized employee organization may distribute material to employees in the representation unit through normal channels. A recognized employee organization may distribute material to all employees through normal department channels when approved by the appointing authority. A recognized employee organization may distribute material to all employees through County-wide facilities of communication when approved by the County Executive. Any representative of an employee organization shall give notice to the department head or his designated representatives when contacting departmental employees on County facilities during the duty period of the employees, provided that solicitation for membership or other internal employee organization business shall be conducted during the nonduty hours of all employees concerned. Prearrangement for routine contact may be made on an annual basis.

(Code 1954, § 3.9.6-4; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-396. Use of County buildings.**

County buildings and other facilities may be made available for use by County employees or an employee organization or their representatives in accordance with administrative procedures governing such use.

(Code 1954, § 3.9.6-4; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-397. Organizations to be given advance notice of proposals, actions.**

- (a) Each recognized employee organization affected shall be given reasonable advance written notice of any ordinance, rule or regulation, or proposal directly relating to matters within the scope of representation proposed to be adopted by the County and shall be given the opportunity to meet with the appropriate level of management prior to adoption.
- (b) Whenever management communicates in writing to employees a management decision or proposal which might affect the working conditions, personnel, management practices or other employee-management relationship, it shall concurrently send such notice to the appropriate recognized employee organizations.

(Code 1954, § 3.9.6-5; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-398. Grievances.**

Grievances involving wages, hours and other conditions of employment which affect members of the representation unit may be processed by the recognized employee organization on its own behalf directly with the appropriate level of management. Individual and group grievances shall be processed in accordance with the provisions of the grievance procedure as provided in Chapter V of Division A25. Grievances with respect to any agreement negotiated in accordance with this chapter shall be processed in accordance with procedures set out in such agreement or directly with the County Executive if no agreement on a grievance procedure is reached. Grievances involving the interpretation and application of this chapter may be appealed to the County Executive. This section shall not apply to a representation unit when the recognized employee organization of that unit has signed a written memorandum of understanding with County management which provides for a grievance procedure and such memorandum has been approved by the Board of Supervisors and is in effect.

(Code 1954, § 3.9.6-6; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-304.74, § 3, 9-5-72)

**Sec. A25-399. Attendance at meetings.**

- (a) In accordance with general policy guidelines negotiated with the County Executive, a reasonable number of employees may be designated from time to time as official representatives by recognized employee organizations. Upon reasonable advance notice, such representatives may attend meetings and otherwise represent employees on matters within the scope of representation on County line [time] within the County.
- (b) Upon prior agreement with the appropriate level of management, a reasonable number of employees may be designated as unit representatives. Such unit representatives may attend meetings, conduct investigations and otherwise represent employees on County time within their units.
- (c) Attendance at meetings by employee representatives outside the County may be authorized but at no expense to the County.

(Code 1954, § 3.9.6-7; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-400. Representing individual employees.**

Employee organizations may represent their individual employee members in individual employment relations, including grievances, to the extent required by the Government Code.

(Code 1954, § 3.9.6-8; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-401. Individuals representing themselves.**

Nothing in this chapter shall be construed to restrict or in any way modify the right of an individual employee to present matters involving his employment relationship to the appropriate level of management, provided that any action taken is not inconsistent with the terms of an agreement then in effect, and that before any action is taken which could affect the terms and conditions of employment of other employees in the representation unit, such proposed action is communicated to the recognized employee organization for its opinion on the merits and the effect of the proposed action.

(Code 1954, § 3.9.6-9; Ord. No. NS-300.130, § 1, 2, 1-13-69)

**Sec. A25-402. Discrimination, coercion by management.**

No appointing authority or his representative shall discriminate for or against any employee organization or in any way coerce or influence any employee in his free choice to join or refrain from joining any employee organization.

(Code 1954, § 3.9.6-10; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-403. Prompt attention by management to requests.**

Representatives of the appropriate level of management shall acknowledge in writing, within five working days, any written request for consideration of a matter by a recognized employee organization, and shall attempt a resolution of any problem within the scope of representation within a reasonable period of time.

(Code 1954, § 3.9.6-11; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-404. Restrictions on confidential employees.**

Confidential employees who are members of an employee organization that includes as members employees who are not confidential employees shall not:

- (a) Serve as officers of such employee organization, or
- (b) Serve on committees which deal with areas within the scope of representation, or
- (c) Serve as a representative of such employee organization before County management.

(Code 1954, § 3.9.6-12; Ord. No. NS-300.130, §§ 1, 2, 1-13-69; Ord. No. NS-300.193, § 5, 9-3-74)

**Sec. A25-405. Labor Code § 923 not applicable.**

The enactment of this chapter shall not be construed as making the provisions of Labor Code § 923 applicable to employees.

(Code 1954, § 3.9.6-13; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Secs. A25-406—A25-413. Reserved.**

**ARTICLE 6. IMPASSE PROCEDURES**

**Sec. A25-414. Impasse on matters subject to approval by Board of Supervisors.**

- (a) If the appropriate level of management and the recognized employee organization fail to reach agreement prior to June 1 of a fiscal year on a matter within the scope of representation affecting the budget and subject to approval by the Board of Supervisors and the parties together are unable to agree on a method of resolving the dispute, the dispute shall be submitted to mediation.
- (b) If the parties are unable to agree on the mediator, either party may request the service of the State Conciliation Service to provide a mediator. Costs of mediation shall be divided one-half to the County and one-half to the recognized employee organization or recognized employee organizations.

(Code 1954, § 3.9.7-1; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Sec. A25-415. Impasse on matters not subject to approval by Board of Supervisors.**

- (a) If after a reasonable period of time, the appropriate level of management and recognized employee organization fail to reach agreement on a matter not subject to approval by the Board of Supervisors and within the scope of representation, the parties together may mutually agree upon a method of resolving the dispute including, but not limited to, mediation. If mutual agreement on a method for resolving the dispute is not achieved within a reasonable period of time, the dispute shall be submitted to mediation.
- (b) If the parties are unable to agree on the mediator, either party may request the services of the State Conciliation Service to provide a mediator. Costs of mediation shall be divided one-half to the County and one-half to the recognized employee organization or recognized employee organizations.

(Code 1954, § 3.9.7-2; Ord. No. NS-300.130, §§ 1, 2, 1-13-69)

**Secs. A25-416—A25-499. Reserved.**

## CHAPTER V. EMPLOYEE GRIEVANCE PROCEDURE

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**Editor's note**— Ord. No. NS-304.74, § 2, adopted Sept. 5, 1972, amended this Code by adding Div. A25, Ch. V, §§ A25-500—A25-516, as herein set out.  
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### **Sec. A25-500. "Appointing authority" is defined.**

As used in this chapter, "appointing authority" means the person having the lawful power to make appointments or to remove persons from positions in the County service, or his authorized representative.

(Ord. No. NS-304.74, § 2, 9-5-72)

### **Sec. A25-501. "Director" is defined.**

As used in this chapter, "Director" means the Director of Employee Services Agency or his authorized representative.

(Ord. No. NS-304.74, § 2, 9-5-72; Ord. No. NS-304.134, § 54, 09-25-15)

### **Sec. A25-502. "Employee" defined.**

As used in this chapter, "employee" means any County employee in the classified service regardless of status except an employee included in a representation unit and the recognized employee organization of that unit has signed a written memorandum of understanding with County management which provides for a grievance procedure and such memorandum has been approved by the Board of Supervisors and is in effect.

(Ord. No. NS-304.74, § 2, 9-5-72)

### **Sec. A25-503. "Grievance" defined.**

As used in this chapter, "grievance" means a complaint of an employee relating to any phase of his employment or working conditions including, but not limited to, a disagreement involving the work situation in which an individual employee believes that an injustice has been done because of:

- (a) The lack of departmental policy, or
- (b) Policy that is unfair, or
- (c) A deviation from a policy, or the misinterpretation of a policy.

(Ord. No. NS-304.74, § 2, 9-5-72)

### **Sec. A25-504. "Immediate supervisor" defined.**

As used in this chapter, "immediate supervisor" means the individual who assigns, reviews or directs the work of an employee.

(Ord. No. NS-304.74, § 2, 9-5-72)



**Sec. A25-505. "Representative" defined.**

As used in this chapter, "representative" means an individual who appears on behalf of the employee.

(Ord. No. NS-304.74, § 2, 9-5-72)

**Sec. A25-506. "Superior" defined.**

As used in this chapter, "superior" means the individual to whom an immediate supervisor reports.

(Ord. No. NS-304.74, § 2, 9-5-72)

**Sec. A25-507. Generally.**

Employees of the County are entitled to have their grievances recognized and reviewed. Appointing authorities, likewise, have the responsibility to review employee grievances. The provisions of this chapter will apply in all cases of employee grievances.

(Ord. No. NS-304.74, § 2, 9-5-72)

**Sec. A25-508. Objectives.**

The objectives of this chapter are:

- (a) To settle the disagreement at the employee-supervisor level informally, if possible;
- (b) To provide an orderly procedure to handle the grievance, through each level of supervision if necessary, with final decision vested in the appointing authority, subject to the County Executive;
- (c) To resolve the grievances as quickly as possible;
- (d) To correct, if possible, the cause of the grievance to prevent future similar complaints;
- (e) To provide for the development of a two-way system of communication by making it possible for all levels of supervision to hear such problems, complaints and questions raised by employees;
- (f) To reduce the number of grievances by allowing them to be expressed, and thereby adjusted and eliminated;
- (g) To promote harmonious relations generally among employees, supervisors and the administrative staff;
- (h) To assure fair and equitable treatment of all employees.

(Ord. No. NS-304.74, § 2, 9.5.72)

**Sec. A25-509. Areas of disagreement.**

- (a) Where the grievance involves an alleged violation of rights and privileges specified in the merit system rules, the employee or his representative should attempt to resolve the grievance within the department but may present the complaint directly to the Personnel Director.
- (b) Grievances arising out of disciplinary actions are covered through regular appeal procedures to the Personnel Board.
- (c) Where the grievance involves discretionary action of the department in the application of merit system rules, the complaint should be processed through the grievance procedure first. If the employee is not satisfied with the decision of the department's appointing authority, he may require that the grievance be reviewed by the Director of Personnel for investigation and recommendation. These recommendations shall be given to the appointing authority and the employee for consideration before the final decision is made.

(Ord. No. 304.74, § 2, 9-5-72)

**Sec. A25-510. Procedure.**

- (a) The employee shall discuss his grievance with his immediate supervisor informally. Within two working days, the supervisor shall give his decision to the employee.
- (b) If the employee and supervisor cannot reach an agreement as to the solution of the grievance, or if the employee has not received a decision within the two-working-day limit, he may present his grievance in writing to the superior or his supervisor, with a copy to his immediate supervisor.
- (c) The superior will hear the grievance and give his decision to the employee within five working days of receiving the written grievance, if the employee is not satisfied with the decision of the superior, or has not received a decision within the five-working-day time limit; he may present his written grievance to the next level supervisor. He shall send a copy to the appointing authority.
- (d) The appointing authority, within five working days of receiving the written grievance from the employee, shall confer with the employee, the supervisor and the superior in an attempt to bring about a harmonious solution. If the grievance cannot be resolved in this conference, the appointing authority shall, within five working days, either:
  - (1) Make a decision and discuss his decision with the employee, giving him a written statement of his decision with supporting reasons; send copies to the immediate supervisor, and the superior; or
  - (2) Refer the grievance to the Director who shall serve as a fact-finder.
    - a. The Director shall report his findings and recommendations to the appointing authority and the employee within five working days after receiving the request for review.
    - b. The appointing authority shall, within five working days after receiving the report from the Director, communicate his decision in writing to the employee with a copy to the Director.

(Ord. No. NS-304.74, § 2, 9-5-72)

**Sec. A25-511. Appeal from appointing authority.**

The decision of the appointing authority shall be subject to appeal to the County Executive.

(Ord. No. NS-304.74, § 2, 9-5-72)

**Sec. A25-512. Extension of time limits.**

The time limits stated in the procedure may be extended by the written consent of the employee where the grievance is complex.

(Ord. No. NS-304.74, § 2, 9-5-72)

**Sec. A25-513. Handling during working hours.**

Grievances shall be handled during working hours, if possible.

(Ord. No. NS-304.74, § 2, 9-5-72)

**Sec. A25-514. Consultation with Personnel Director authorized.**

At any step in the grievance procedure, the employee, supervisor, superior or appointing authority may consult with the Director in an effort to clarify the issue, to interpret personnel policy or rules and regulations, especially where the area of disagreement involves both merit system and departmental jurisdictions.

(Ord. No. NS-304.74, § 2, 9-5-72)

**Sec. A25-515. Following chain of command.**

The employee shall follow the established chain of command in presenting his grievance to upper levels of administration, using the procedure outlined in this chapter, except that at the option of the appointing authority, grievances may be presented directly to the appointing authority following inability to resolve the grievance at the first supervisory level.

(Ord. No. NS-304.74, § 2, 9-5-72)

**Sec. A25-516. Report of unresolved grievances.**

In accordance with the Charter, the Director shall advise the County Executive of all grievances referred to him which remain unresolved by this procedure.

(Ord. No. NS-304.74, § 2, 9-5-72)

**Secs. A25-517—A25-599. Reserved.**

## **CHAPTER VI. PERSONNEL PRACTICES**

### **ARTICLE 1. GENERALLY**

#### **Sec. A25-600. Application of Chapter VI to a memorandum of agreement.**

This chapter, or a portion of it, shall not apply to employees covered by a memorandum of agreement between the County and a recognized employee organization when such agreement contains a provision relating to the same subject matter.

(Ord. No. NS-304.78, § 1, 7-17-73)

#### **Sec. A25-601. Prohibition on supervision.**

No County employee may negotiate or supervise a contract between the County and the employee's former private sector employer, or supervise work to be performed by the former private sector employer, within one year of leaving that employer. These restrictions do not prevent the County employee from providing information to the County unless otherwise prohibited.

(Ord. No. NS-304.127, § 1, 5-4-04)

#### **Secs. A25-602—A25-619. Reserved.**

## ARTICLE 2. LAYOFF PROCEDURES

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**Editor's note**— Ord. No. NS-304.100, § 2, adopted Oct. 4, 1977, changed the title of Art. 2 from "Layoff Practices" to "Layoff Procedures," as hereinabove set out. Secs.1—4 of Ord. No. NS-304.100 revised Art. 2 to read as herein set out. Former Art 2, §§ A25-62—A25-627, had pertained to the same subject matter and had been derived from Code 1954, §§ 3.3.5-24.1—3.5-24.8; Ord. No. NS-304.6, § 5, 6-18-56; Ord. No. NS-304.14, § 14, 10-13-59; Ord. No. NS-304.21, § 4, 11-5-62; Ord. No. NS-304.23, § 1, 6-24-63; Ord. No. NS-304.35, § 7, 5-28-66; Ord. No. NS-304.37, §§ 3, 4, 7-18-66; Ord. No. NS-304.51, § 1, 2-5-68; Ord. No. NS-304.68, § 3, 4-6-71; Ord. No. NS-304.78, § 2, 7-17-78; Ord. No. NS-304.82, § 2, 7-81-73.  
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### **Sec. A25-620 "Seniority" defined.**

Except as otherwise provided in Section A25-621, "seniority" is defined as days of accrued service as computed and reported on the employee's pay check within a coded classification with the County. Original coded unclassified service shall not be counted except that time served pursuant to Santa Clara County Charter Section 704(h).

(Ord. No. NS-304.100, § 3, 10-4-77; Ord. No. NS-304.109, § 1, 7-1-81)

### **Sec. A25-621. Transfer of prior agency service.**

If a function of another agency is transferred to the County, the seniority of employees who transfer with the function shall be computed, based upon application of the definition of Section A25-620, to each employee's prior service with the other agency.

(Ord. No. NS-304.100, § 4, 10-4-77; Ord. No. NS-304.109, § 2, 7-1-81)

### **Sec. A25-622. Changes to classes.**

To the extent possible, employees should not lose their rights under this article because classes have been revised, established, abolished or retitled.

(Ord. No. NS-300.100, § 5, 10-4-77; Ord. No. NS-304.109, § 3, 7-1-81)

### **Sec. A25-623. Order of layoff.**

The Department shall at least annually determine the number of positions in each classification that require a specific skill paid for through a differential. The plan must be approved by the Director of Employee Services Agency. In all cases the employees in the department certified in that skill shall be retained in order of seniority until the requisite number of positions are filled.

When one or more employees performing in the same class in a County department/agency are to be laid off, the order of layoff in the affected department/agency shall be as follows:

- (a) Provisional employees in inverse order of seniority;
- (b) Probationary employees in inverse order of seniority;
- (c) Permanent employees in inverse order of seniority.

(Ord. No. NS-304.100, § 6, 10-4-77; Ord. No. NS-304.109, § 4, 7-1-81; Ord. No. NS-304.134, § 55, 09-25-15)

**Sec. A25-624. Notice of layoff.**

Employees subject to the provisions of this article shall be given at least 20 working days' written notice prior to the effective date of layoff. The procedures of Section A25-625 shall be applied prior to the effective date of the layoff.

(Ord. No. NS-304.100, § 7, 10-4-77; Ord. No. NS-304.109, § 4, 7-1-81)

**Sec. A25-625. Reassignment in lieu of layoff.**

- (a) Vacant code in County. In the event of notice of layoff, any employee so affected will be allowed to transfer to a vacant position in the same classification in any County department/agency, provided the employee meets the specialized qualifications which may be established through testing and examination or by selective certification.
- (b) Former classification. In the event there are no vacant codes in the same classification in any department/agency, an employee will be offered a vacant position in any classification at the same or lower level in which permanent status had formerly been held, first in the affected department/agency and then County-wide. The employee will not be allowed to transfer to a vacancy that requires skills, as defined in Section A25-623, not possessed by that employee.
- (c) Displacement. In the event there are no vacancies as listed in (a) or (b), the employee shall have the right, upon request, to be returned to any classification in the department/agency at the same or lower level in which permanent status had formerly been held and the regular layoff procedure in that same or lower level shall apply.

(Ord. No. NS-304.100, § 8, 10-4-77; Ord. No. NS-304.109, § 6, 7-1-81)

**Sec. A25-626. Layoff.**

In the event that an employee is not reassigned in lieu of layoff, as in Section A25-625, the employee shall be laid off. If an employee elects not to exercise the rights in Section A25-625(c), he/she may be deemed to have been offered and to have declined such work.

(Ord. No. NS-304.100, § 9, 10-4-77; Ord. No. NS-304.109, § 7, 7-1-81)

**Sec. A25-627. Reemployment list.**

- (a) The names of such probationary and permanent employees reassigned or laid off in accordance with Section A25-625(b), A25-625(c) or A25-626 of this article shall be entered upon a reemployment list in inverse order, as specified under Section A25-623. The person standing highest on a reemployment list for a particular classification when a vacancy exists in that classification in any department/agency shall be offered the appointment. Employees on reemployment lists shall retain the right to take promotional exams and/or receive promotional preference on exams.
- (b) When required by the needs of the department and approved by the Director of Employee Services Agency, selective certification may be utilized to reemploy employees with particular skills.

(Ord. No. NS-304.100, § 10, 10-4-77; Ord. No. NS-304.109, § 8, 7-1-81; Ord. No. NS-304.134, § 56, 09-25-15)

**Sec. A25-628. Temporary work for laid-off workers.**

Interested employees who are placed upon the reemployment list due to layoff and who elect to be available for temporary work shall be given preference for such work in their former department/agency in the classification from which they were laid off. The election to be available for temporary work must be made at the time of the layoff. Employees may decline to be available for temporary work, or may decline such work itself without affecting any rights under this article.

(Ord. No. NS-304.100, § 11, 10-4-77; Ord. No. NS-304.109, § 9, 7-1-81)

**Sec. A25-629. Names dropped from reemployment list.**

No name shall be carried on a reemployment list for a period longer than two years, and the names of persons reemployed in a permanent position within the same classification shall, upon reemployment, be dropped from the list. Refusal to accept one of two offers of reemployment within the same classification shall cause the name of the person to be dropped from the reemployment list.

(Ord. No. NS-304.100, § 12, 10-4-77; Ord. No. NS-304.109, § 10, 7-1-81)

**Sec. A25-630. Rights restored.**

Upon reemployment of an employee from a reemployment list, all rights acquired by employee prior to his/her placement on such list shall be restored.

(Ord. No. NS-304.100, § 13, 10-4-77; Ord. No. NS-304.109, § 10, 7-1-81)

**Sec. A25-631. Unemployment compensation.**

- (a) Layoff. In the event of layoff, unemployment compensation will be provided in the amount as set forth in the dollar benefit schedule of the state unemployment insurance program. The benefits shall be reduced by any amount which an employee is eligible to receive or does receive through state/federal unemployment.
- (b) Eligibility. It is agreed:
  - (1) The claimant shall be a permanent employee of the County. For those employees having one-year probationary period, completion of six months full-time service with the County shall be considered as the qualifying period for unemployment compensation.
  - (2) The benefit will be accorded an employee only upon layoff. The claimant will not receive benefit if he/she:
    - a. Voluntarily quits the job;
    - b. Was discharged from the job;
    - c. Left the job to be married or because of other family or domestic reasons;
    - d. Left the job because of a trade dispute, walkout or strike;
    - e. Refuses to accept suitable work, including any offer of suitable employment with the County.
  - (3) Upon leaving County employment, a claim will be filed. The claimant will be provided with a claim form stating he/she had not secured other employment. No benefits will be paid the first week. Upon receipt of the claim form, a benefit shall be paid the second week and each succeeding week to a maximum of 26 weeks.
  - (4) A statement will be entered on the claim form declaring it to be a misdemeanor to misrepresent the condition of employment.
  - (5) Unemployment benefits will not be paid if disability insurance benefits are being paid.

If state unemployment insurance is implemented for employees covered by this article, this section will become inoperative for all employees covered by this article during the term of such coverage by the state program.

(Ord. No. NS-304.100, § 14, 10-4-77)

**Secs. A25-632—A25-639. Reserved.**



## **ARTICLE 3. UNCLASSIFIED SERVICE**

### **Sec. A25-640. Unclassified appointment to classified position.**

No officer or employee, while holding a position in the unclassified service, shall be assigned to or occupy any classified position except as provided herein.

- (1) Employees in a classified or unclassified position may simultaneously occupy an extra help assignment where the following conditions are met:
  - a. The extra help assignment is to a different classification or different position in a different work unit than the one currently occupied by the employee;
  - b. The extra help assignment is not within the employee's scope of authority or control;
  - c. The extra help assignment is reviewed for implications under existing contracts, the Fair Labor Standards Act (FLSA), and other applicable state and federal law;
  - d. The extra help assignment is in a department which provides 24-hour services with direct health and safety responsibilities and is approved by the appropriate appointing authority.
- (2) Classified and unclassified employees may be allowed to work as poll attendants for the Registrar of Voters during elections.
- (3) Any officer or employee, while holding a position in the classified service, may be appointed to a board or commission the duties and responsibilities of which would not cause a violation of any conflict of interest rules or regulations on behalf of such officer or employee. Time spent in attending any meetings or workshops or doing any work required by such appointment shall not be considered or paid as work time for such officer or employee in his or her classified position.

(Code 1954, § 3.3.5-26; Ord. No. NS-304.21, § 5, 11-5-62; Ord. No. NS-304.23, § 1, 6-24-63; Ord. No. NS-304.78, § 3, 7-17-73; Ord. No. NS-304.104, § 1, 4-15-80; Ord. No. NS-304.126, § 1, 10-7-03)

### **Sec. A25-641. Rights upon promotion or transfer to unclassified service.**

Any permanent employee who receives a provisional or probationary promotion, or who is transferred or promoted to a position in the unclassified service shall retain all rights and benefits as a permanent employee of his former class while in such provisional, probationary or unclassified status. These include the right to participate in promotional examinations, and the right to return to his former class if released while in such status. All such service shall count toward seniority credits in the employee's former class in the event the layoff procedure is involved.

Any permanent employee who receives a provisional promotion, or who is transferred or promoted to a position and the unclassified service the duration of which is known to be for less than six months, shall be considered to be on leave from his permanent position, and departments are authorized to make substitute appointments to such vacated positions.

(Code 1954, § 3.3.5-28; Ord. No. NS-304.38, § 1, 2-21-66; Ord. No. NS-304.78, § 3, 7-17-73; Ord. No. NS-304.81, § 2, 7-17-73)

**Secs. A25-642—A25-649. Reserved.**

## **ARTICLE 4. RESIDENCE**

### **Sec. A25-650. Residence.**

No officer, deputy or employee holding a position in the County service shall be required to maintain residence within the County, except where specifically required by state law.

(Code 1954, § 3.3.5-27; Ord. No. NS-304.23, § 2, 6-24-63; Ord. No. NS-304.34, §§ 1, 2, 2-21-66; Ord. No. NS-304.788 § 4, 7-17-73)

**Secs. A25-651—A25-659. Reserved.**

## **ARTICLE 5. COMPENSATION**

### **Sec. A25-660. Basic pay plan.**

The basic pay plan consists of the salary ranges and the assignment of classes to such ranges as provided in the salary ordinance. Each employee shall be paid within the range for his/her class according to the following provisions, unless otherwise provided in the salary ordinance:

- (a) Step one: The first step in each range is the minimum rate and shall normally be the hiring rate for the class. In cases where it is difficult to secure qualified personnel or a person of unusual qualifications is engaged, the Director, with the approval of the County Executive, may approve appointment at the second or third step, and with the approval of the Board of Supervisors at the fourth or fifth step.
- (b) Step two: The second step shall be paid after the accumulation of six months of competent service at the first step.
- (c) Step three: The third step shall be paid after the accumulation of 12 months of competent service at the second step.
- (d) Step four: The fourth step shall be paid after the accumulation of 12 months of competent service at the third step.
- (e) Step five: The fifth step shall be paid after the accumulation of 12 months of competent service at the fourth step.
- (f) Time for salary adjustments: Salary adjustments shall be made on the first day of the pay period in which the required accumulation of months of competent service occurs.
- (g) Delegation to County Executive: The Board of Supervisors may, by resolution, delegate to the County Executive authority to approve fourth and fifth step appointments as described in Subsection (a) of this section.

(Code 1954, § 3.3.6-1; Ord. No. NS-304.6, § 6, 6-18-56; Ord. No. NS-304.9, § 1, 10-14-58; Ord. No. NS-304.35, § 8, 5-23-66; Ord. No. NS-304.78, § 5, 7-17-73; Ord. No. NS-304.92, § 1, 5-21-75; Ord. No. NS-304.100, § 15, 10-4-77; Ord. No. NS-304.120, § 1, 6-6-00)

**Sec. A25-661. Effect of promotion, demotion or transfer on salaries.**

- (a) Promotion. Upon promotion, an employee's salary shall be adjusted as follows:
  - (1) For a promotion of less than ten percent, the salary shall be adjusted to the step in the new range which provides for a corresponding percentage increase salary.
  - (2) For a promotion of ten percent or more, the salary shall be adjusted to the step in the new range which provides for ten percent increase in salary, or to the first step in the new range, whichever is greater.
- (b) Demotion. Notwithstanding the provisions of Section A25-660, upon demotion of an employee with permanent status in his/her current class, his/her salary shall be adjusted to the highest step in the new class not exceeding the salary received in the former class.
- (c) Transfer. Upon transfer, the salary shall remain unchanged, or be adjusted in accordance with the rules for promotion if the salary level of the new class is higher.
- (d) No loss of time-in-step. Notwithstanding the provisions of Section A25-660, no salary adjustment upon promotion, demotion, or transfer shall affect a loss of time acquired in the former salary step, and such time as was acquired in the former salary step shall be included in computing the accumulation of the required months of service for eligibility of the employee for further salary increases.
- (e) Voluntary demotion. In the event of a voluntary demotion required by a work-connected illness or injury and resulting in a disability, the salary of the employee shall be placed at the step in the salary range which corresponds most closely to the salary received by the employee as of the time of injury. In the event that such voluntary demotion would result in a salary loss of more than ten percent, the employee's new salary shall be set at the rate closest to, but not less than ten percent below, his/her salary as of the time of injury.

(Code 1954, § 3.3.6-2; Ord. No. NS-304.14, § 16, 10-13-59; Ord. No. NS-304.21, § 6, 11-5-62; Ord. No. NS-304.29, § 1, 4-5-65; Ord. No. NS-304.49, § 10, 9-18-67; Ord. No. NS-304.58, § 1, 8-26-68; Ord. No. NS-304.60, § 1, 5-13-69; Ord. No. NS-304.66, § 1, 10-13-70; Ord. No. NS-304.78, § 5, 7-17-73; Ord. No. NS-304.100, § 16, 10-4-77; Ord. No. NS-304.124, § 37, 9-17-02)

**Sec. A25-662. Part-time salaries.**

- (a) The salary ranges provided in the salary ordinance are for full-time service in full-time positions, and are expressed in dollars per the number of working days in a bi-weekly pay period. If any position is established on any other time basis, the compensation for such position shall be adjusted proportionately.
- (b) A position created for full-time employment shall not be filled by a part-time employee except upon recommendation of the appointing authority and approval of the Director.

(Code 1954, § 3.3.6-3; Ord. No. NS-304.6, § 6, 6-18-56; Ord. No. NS-304.35, §§ 12, 13, 5-23-66; Ord. No. NS-304.78, § 5, 7-17-73)

**Sec. A25-663. Overtime work.**

- (a) "Overtime" defined. For hospital employees, "overtime" is defined as time worked beyond 80 hours on a bi-weekly pay period, or beyond eight hours in any work day. For all other employees, overtime is defined as time worked beyond 40 hours in any work week or beyond eight or ten hours in any work day (depending on the number of hours in the duty shift to which the employee is assigned). All time for which pay is received but not worked such as vacation, sick leave, and authorized compensatory time off, will be counted towards the base period.
- (b) Eligible classes. The County Executive shall determine by the administrative order those classes and positions which shall be eligible for overtime work and for cash payment.
- (c) Rate of pay. When overtime work is assigned and is authorized by an appointing authority to be worked, compensation for such time worked shall be time off with pay computed at the rate of 1½ hours off for every hour of overtime worked, except that such overtime work shall be paid in cash at the rate of 1½ times the regular hourly rate of pay, for employees where required by state or federal law, or when specifically authorized by administrative order of the County Executive. All compensatory time off must be taken within 12 months of the date the overtime was worked, and failure to take the compensatory time off shall be deemed a waiver of the compensatory time by the employee. In the event the appointing authority does not provide compensatory time off during the mandatory time period, the employee may take compensatory time off as a matter or right immediately before the end of the pay period in which the compensatory time would be lost. Compensatory time balances shall be paid in cash on separation. An employee may elect in advance to receive compensatory time off credit in lieu of cash compensation for overtime where compensatory time off is allowed, if the appointing authority agrees.

(Code 1954, § 3.3.6-4; Ord. No. NS-304.10, § 1, 10-14-58; Ord. No. NS-304.48, § 1, 9-5-67; Ord. No. NS-304.70, § 2, 9-14-71; Ord. No. NS-304.78, § 5, 7-17-73; Ord. No. NS-304.89, § 1, 10-29-74; Ord. No. NS-304.100, § 17, 10-4-77)

**Sec. A25-663.1. Meal periods.**

- (a) Length. Employees shall be granted a meal period not less than 30 minutes nor more than one hour, scheduled at approximately the mid-point of the work day. Employees required to be at work stations for eight or more consecutive work hours shall have their meal during work hours.
- (b) Overtime meals. If an employee is assigned two or more hours of overtime work contiguous to his/her regular work shift, or is called in within three hours of his/her scheduled quitting time, the County will provide a meal and time to eat same or reimburse the cost of the meal actually purchased and consumed by the employee on his/her own time, to a maximum amount of \$9.00. Employees shall be provided additional meals as above for every four-hour period of overtime completed thereafter.
- (c) Meal rates. In each County dining facility where meals are served to employees at the employee's expense, the department head in charge of the operation of that facility shall prescribe the rates to be charged. The rates so prescribed shall, as a minimum, be sufficient to defray the costs of the food served.

(Ord. No. NS-304.83, § 1, 7-31-73; Ord. No. NS-304.91, § 1, 5-13-75; Ord. No. NS-304.100, § 18, 10-4-77; Ord. No. NS-304.119, § 2, 9-10-91; Ord. No. NS-304.133, § 1, 12-17-13)

**Sec. A25-664. Legal holidays and holiday pay.**

(a) The following shall be observed as legal holidays:

January 1;

Third Monday in January (Martin Luther King, Jr. Birthday);

Third Monday in February;

March 31 (Cesar E. Chavez Birthday);

Last Monday in May;

July 4;

First Monday in September;

Second Monday in October;

Veteran's Day, to be observed on the date State of California employees observe the holiday;

Fourth Thursday in November (Thanksgiving Day);

The Friday following Thanksgiving Day (day after Thanksgiving);

December 25;

Other such holidays as may be designated by the Board of Supervisors; all previous informal time off practices are eliminated and unauthorized.

(b) Observance. Employees shall enjoy the same number of holidays, regardless of variations in work weeks. Holidays which fall on Sunday are observed on the following Monday. Holidays which fall on Saturdays shall be observed on the preceding Friday. Holidays which fall during a vacation period or when an employee is absent because of illness shall not be charged against the employee's vacation or sick leave balance. When the County holidays fall on an employee's scheduled day off, the day shall be added to the employee's vacation balance.

(c) Holiday work. If holiday work is assigned and authorized by the County Executive, such time worked by regular employees shall be paid in cash at a rate of 1½ times the regular hourly rate, plus any holiday pay to which the employees may be entitled. An employee may elect in advance to receive compensatory time off credit in lieu of cash compensation.

(Code 1954, § 3.3.6-5; Ord. No. NS-304.35, § 9, 5-23-66; Ord. No. NS-304.41, § 2, 1-3-67; Ord. No. NS-304.48, § 2, 9-5-67; Ord. No. NS-304.59, § 1, 9-30-68; Ord. No. NS-304.65, § 1, 10-13-70; Ord. No. NS-304.78, § 5, 7-17-73; Ord. No. NS-304.93, § 1, 9-30-75; Ord. No. NS-304.96, § 1, 12-21-76; Ord. No. NS-304.100, § 19, 10-4-77; Ord. No. NS-304.111, § 1, 8-27-85; Ord. No. NS-304.125, § 1, 2-11-03)

**Sec. A25-665. Attendance reports.**

- (a) Each head of a department shall cause to be prepared and be responsible for an attendance record which reflects the attendance for the pay period of persons serving in the department pursuant to the salary ordinance and this division. Attendance data shall be provided to the Department of Finance in the manner and at the times specified by the Director of Finance.
- (b) The Director of Employee Services Agency shall certify that each person to be paid has been employed in accordance with the provisions of the Charter and this division.
- (c) The Director of Finance shall not approve salary or compensation for any person unless required attendance data has been received and the employment has been certified by the Director of Employee Services Agency.

(Code 1954, § 3.3.6-6; Ord. No. NS-304.8, § 1, 12-17-56; Ord. No. NS-304.78, § 5, 7-17-73; Ord. No. NS-304.114, § 1, 9-13-88; Ord. No. NS-304.134, § 57, 09-25-15)

**Sec. A25-666. Salary advancements for supervisorial appointments.**

Salary advancements for employees appointed by the Board of Supervisors shall, notwithstanding the provisions of Section A25-217, be approved by the Board of Supervisors.

(Code 1954, § 3.3.6-8; Ord. No. NS-304.78, § 5, 7-17-73)

**Sec. A25-667. Effect of leave without pay and suspension on salary increases.**

Leave granted pursuant to Section A25-243 and time during suspension shall be deducted from time spent in a salary step in computing eligibility of the employee for further salary increases.

(Code 1954, § 3.3.6-9; Ord. No. NS-304.78, § 5, 7-17-73)

**Sec. A25-668. Compensation of Municipal Court employees.**

Notwithstanding the provisions of Section A25-217, the salaries of Municipal Court attaches and employees may be increased or decreased within the limits and at the increments set by state law, to provide wages that are comparable to County employees of similar qualifications and experience holding equal or comparable positions in the County service.

(Code 1954, § 3.3.6-10; Ord. No. NS-304.7, § 1, 7-30-56; Ord. No. NS-304.78, § 5, 7-17-73)

**Sec. A25-669. Acting executive management; additional compensation.**

For a vacancy in an executive management position caused by separation from the service or in an approved leave of absence with or without pay, the County Executive may designate a County officer or employee as acting manager for a period not to exceed six months in the case of a vacancy, or one year in the case of a leave of absence. Such person shall retain his/her position but shall be paid the first step of the higher salary range or two steps above his/her current salary, whichever is higher, during such service. The acting manager shall have, in all respects, the authority and responsibility of the acting position during the period so designated by the County Executive.

(Code 1954, § 3.3.6-11; Ord. No. NS-304.10, § 3, 10-14-58; Ord. No. NS-304.16, § 2, 6-19-61; Ord. No. NS-304.26, § 2, 6-1-64; Ord. No. NS-304.78, § 5, 7-17-73; Ord. No. NS-304.108, § 1, 6-21-83)

Secs. A25-670—A25-679. Reserved.

## ARTICLE 6. LEAVES OF ABSENCE

### Sec. A25-680. Military leave.

- (a) The provisions of the Military and Veterans Code of the State of California shall govern the military leave of employees of the County of Santa Clara.
- (b) Any regular or provisional employee shall be allowed time off with no loss in pay for the time required to receive a physical examination or re-examination as ordered by provisions of a national conscription act or by any branch of the national or state military services.
- (c) Every coded County officer and employee who has been called to active military duty in direct connection with an armed conflict, after exhausting salary or compensation to which he or she is entitled to under the California Military and Veterans Code, shall be entitled to salary augmentation of up to 100 percent of his or her regular County base salary in combination with military pay for that period of time the employee is engaged in the performance of ordered active military duty. County officers and employees with single coverage shall not be entitled to medical, dental, vision, life insurance or other benefits. County officers and employees who have family coverage shall be entitled to medical, dental and vision care coverage, with such premiums as customarily paid for by the County, concurrent with the period that officer or employee is on the partial salary continuation plan.

As used in this section the terms "officer" and "employee" mean an officer or employee who:

- (1) Is ordered into active military duty as a member of a reserve component of the armed services of the United States;
- (2) Is ordered into active federal duty as a member of the National Guard or Naval Militia;
- (3) Enlists, enters, or is otherwise called into active duty as a member of the Armed Forces of the United States.

(Code 1954, § 3.3.7-1; Ord. No. NS-304.78, § 6, 7-17-73; Ord. No. NS-304.84, § 5, 7-31-73; Ord. No. NS-304.122, § 1, 5-15-01; Ord. No. NS-304.123, § 1, 3-19-02; Ord. No. NS-304.128, § 1, 4-20-04; Ord. No. NS-304.130, § 1, 12-14-04)

**State law reference**— Military leave, Military and Veterans Code § 395.

**Sec. A25-681. Compulsory leave.**

- (a) Physical examination. The appointing authority may require an employee whom he deems incapacitated for work, due to illness or injury, to submit himself to a designated physician for examination, and may require the employee to take such leave of absence as will be necessary to perform his duties.
- (b) Court related. The appointing authority may require an employee who has been formally charged in a court of competent jurisdiction with the commission of any felony or of a misdemeanor involving moral turpitude, provided said crime is related to the employee's employment status, to take a compulsory leave of absence without pay pending determination by way of a plea, finding or verdict at the trial court level as to the guilt or innocence of such employee.
- (c) Determination of innocence. If there is a determination of innocence or the charges are dropped, the employee shall be reinstated to his/her position with return of all benefits, including salary, that were due for the period of compulsory leave; subject, however, to appropriate disciplinary action if warranted under the circumstances. Any such disciplinary action may be imposed effective as of the commencement date of the compulsory leave imposed under this section.
- (d) Determination of guilt. If there is a determination of guilt, the appointing authority may take appropriate disciplinary action. If the action is a suspension and the suspension is for a shorter duration than the compulsory leave and the suspension in salary and all benefits.

(Code 1954, § 3.3.7-4; Ord. No. NS-304.37, § 5, 7-18-66; Ord. No. NS-304.42, § 1, 2-14-67; Ord. No. NS-304.77, § 1, 2-20-73; Ord. No. NS-304.78, § 6, 7-17-73; Ord. No. NS-304.100, § 20, 10-4-77)

**Sec. A25-682. Leave without pay.**

- (a) Reasons granted. Leaves of absence without pay may be granted to employees for up to one year. Extensions to leaves approved for less than one year shall not unreasonably be denied, provided adequate advance notice is given. If an employee wishes to return to work early from a leave of absence, he/she shall provide reasonable advance notice to the appointing authority. Leaves beyond one year may be granted due to unusual or special circumstances. The following are approved reasons for such leave:
  - (1) Illness beyond that covered by sick leave;
  - (2) Education or training which will benefit the County;
  - (3) Other personal reasons which do not cause inconvenience on the department;
  - (4) To accept other government agency employment or to accept employment with an employee organization;
  - (5) Paternity leave, not to exceed six months.
- (b) Revocation. A leave may be revoked by the Director of Employee Services Agency upon evidence that the cause for granting it was misrepresented, or has ceased to exist.
- (c) Vacation leave without pay option. An employee may elect to take vacation or leave without pay for an authorized absence. The employee must notify the department of his/her option prior to payroll action, otherwise vacation time will be used. The department may assign leave without pay for an unauthorized absence.



- (d) Failure to report. Failure to an employee to report for three or more consecutive working days for assigned duties without notification to the department and without legitimate reason for absence shall be presumed to be a resignation.
- (e) Service credit. Maternity leaves of more than 13 pay periods, leaves of absence without pay of more than two pay periods, and suspensions, shall not be counted as time spent in a salary step in computing eligibility of the employee for further salary increases. All time spent on industrial injury leave shall be counted.

(Code 1954, § 3.3.7-5; Ord. No. NS-304.15, § 1, 1-16-61; Ord. No. NS-304.30, § 3, 11-29-69; Ord. No. NS-304.73, § 1, 8-29-72; Ord. No. NS-304.78, § 6, 7-17-73; Ord. No. NS-304.84, § 1, 7-31-73; Ord. No. NS-304.100, § 21, 10-4-77; Ord. No. NS-304.134, § 58, 09-25-15)

**Sec. A25-683. Leaves to perform jury duty or to respond to a subpoena.**

- (a) Response to summons. An employee shall be allowed to take leave from his/her County duties without loss of wages, vacation time, sick leave or benefits for the purpose of responding to summons to jury selection or serving on a jury for which he/she has been selected, subject to the limitation that an employee shall receive paid leave to serve on a jury for which he/she has been selected not more than once during a calendar year, and provided that he/she executes a written waiver of all compensation other than the mileage allowance, for which he/she would otherwise receive compensation by virtue of his/her performance of such jury duty. No employee shall be paid more than his/her regular shift pay or regular work week pay as a result of jury duty service. The employee is required to notify his/her appointing authority when he/she has received a jury summons and when his/her jury service is completed.
- (b) Jury duty. Nothing in this section shall prevent any employee from serving on a jury more than once per calendar year; provided, however, that such additional periods of absence from regular County duties as a result thereof shall be charged, at the option of such employee, to either accrued vacation time or leave without pay.
- (c) Response to a subpoena. No employee shall suffer loss of wages or benefits in responding to a subpoena to testify in court if that employee is not a party to the litigation.
- (d) Authorized leave. In the event a night shift employee is called to court under the above provision, the following shall apply:
  - (1) Swing or p.m. shift shall have authorized leave the day of court attendance; time spent in court shall be deducted from the regular shift on that day with no loss of wages or benefits.
  - (2) Night or graveyard shall have authorized leave on the shift prior to court attendance; and that employee shall suffer no loss of wages or benefits.
- (e) Return to work. For the purpose of this section, an employee who responds to a summons to jury duty and who is not selected as a juror shall not be deemed to have performed jury duty and shall return to work as soon as possible.

(Code 1954, § 3.3.7-6; Ord. No. NS-304.10, § 4, 10-14-58; Ord. No. NS-304.25, § 1, 10-21-63; Ord. No. NS-304.78, § 6, 7-17-73; Ord. No. NS-304.84, § 2, 7-31-73; Ord. No. NS-304.100, § 22, 10-4-77)

**Sec. A25-684. Industrial injury leave.**

- (a) Eligibility. Every employee shall be entitled to industrial injury leave when he/she is unable to perform services because of any injury as defined in the Worker's Compensation Act.
- (b) Compensation. An employee who is disabled as a result of an industrial injury shall be placed on leave, using as much of his/her accumulated compensable overtime, his/her accrued sick leave and vacation time as when added to any disability indemnity payable under the Worker's Compensation Act shall result in a payment to him/her of not more than his/her full salary. The first three days shall be charged to the employee's accrued but unused sick leave. If the temporary disability period exceeds 14 calendar days, temporary disability will be paid for the first three days and its value will be credited towards the employee's sick leave, compensable overtime or vacation time balance.
- (c) Public safety members. Those employees governed by the public safety member's provision of the public employees' retirement system, when entitled to benefits under Section 4850 of the Worker's Compensation Act, shall be entitled to disability leaves of absence for a period not to exceed one year as provided in the Act, without loss of salary or related benefits. When an injured employee covered by these provisions has received the maximum benefits allowed by Section 4850, he/she shall be entitled to use sick leave and vacation accruals as provided for under Subsection (b) of this section. Retirement ends the benefits listed in this section, except for the rights to receive vacation and sick leave payoffs under this article.
- (d) Clothing claims. Loss of, or damage to, an employee's clothing resulting from an industrial injury which requires medical treatment will be replaced by the County through the following procedures: The accident review board will review and make recommendations on all such incidents as submitted in writing by the employee. Reimbursement will be limited to the lesser of:
  - (1) Seventy-five percent of proven replacement cost; or
  - (2) The repair cost.

However, both of the above are limited by a \$50.00 maximum.

(Code 1954, § 3.3.7-7; Ord. No. NS-304.11, § 1, 11-3-58; Ord. No. NS-304.30, § 4, 11-29-65; Ord. No. NS-304.39, § 1, 10-3-66; Ord. No. NS-304.78, § 6, 7-17-73; Ord. No. NS-304.100, § 23, 10-4-77)

**Sec. A25-685. Training for disabled workers.**

- (a) Vocational rehabilitation. When an employee is determined by the County unable to return to the classification in which he/she held permanent status because of a work-connected illness or injury, and does not elect a disability retirement, that employee will be offered vocational rehabilitation.
- (b) Lateral transfer/demotion openings. If the employee meets all the qualifications for a particular [position] (this would take into account his/her medical limitations, prior work experience and skills) and an opening exists that involves a lateral transfer or demotion, the position shall be offered to the employee.
- (c) Salary level. In the event of a demotion, the salary of the employee shall be established based on Section A25-661(e).

- (d) Training program. In those cases where the employee may have the necessary prior experience or all the required skills, but there is reasonable assurance that the employee shall be capable of obtaining them through a designated formal on-the-job training program, the County will make reasonable efforts to place the employee in a training program.
- (e) Placement review. If, after a period on the job, it is demonstrated that the employee is unable to develop the required skills, knowledge and abilities and/or cannot meet the physical requirements to handle the new position, he/she will be placed on a leave of absence and the placement process begins again.
- (f) Promotions. Any position which involves a promotion will call for the normal qualifying procedures, written and/or oral examination. However, if it is found that any employee meets all the qualifications for a higher paying position and an eligibility list is already in existence, the employee shall be allowed to take a written and/or oral examination, and, if the employee qualifies, the employee's name will be placed on the eligibility list commensurate with his/her score.
- (g) Referral to accredited rehabilitation agency. In those cases where the County is unable, for one reason or another, to place an employee in any occupation, that employee's case will be referred to an accredited rehabilitation agency as approved by the Division of Industrial Accidents for testing, counseling and retraining at either the County's or State's expense.
- (h) State legislation. The provisions of this section shall not apply if state legislation removes from the County the control of training for disabled employees.

(Ord. No. NS-304.100, § 24, 10-4-77)

**Sec. A25-686. Maternity leave.**

- (a) Length. Upon request, maternity leave without pay shall be granted to natural or adoptive parents by the appointing authority for a period of up to six months. With notice no less than one month prior to the conclusion of the leave, such leave may be extended up to one year upon approval of the appointing authority. A request for extension can only be denied for good cause. An employee who is pregnant may continue to work as long as her physician approves. Adoptive parents shall not be covered by County medical benefits while on maternity leave.
- (b) Sick leave use. If, during the pregnancy leave or following the birth of a child, the employee's physician certifies that she is unable to perform the duties of her job, she may use her accumulated sick leave during the period certified by the physician.

(Ord. No. NS-304.77, § 3, 2-20-73; Ord. No. NS-304.78, § 6, 7-17-73; Ord. No. NS-304.100, § 25, 10-4-77)

**Sec. A25-687. Rights and responsibilities under leaves of absence.**

- (a) An employee shall not be entitled to a leave of absence as a matter of right, but only upon the recommendation of the appointing authority and with the approval of the Director. Leave for a period not exceeding 30 workdays may be granted by the appointing authority at his discretion. Such leave shall be reported to the Director.
- (b) When a leave of absence is granted a probationary employee, the period of such leave shall not be credited toward the completion of the employee's probationary period.

(Code 1954, § 3.3.7-8; Ord. No. NS-304.15, § 2, 1-16-61; Ord. No. NS-304.30, § 5, 11-29-65; Ord. No. NS-304.78, § 6, 7-17-73; Ord. No. NS-304.84, § 4, 7-31-73)

**Sec. A25-688. Bereavement leave.**

Leaves of absence with pay shall be granted employees in order that they may discharge the customary obligations arising from the death of a member of their immediate family. "Immediate family" shall mean the mother, father, grandmother, grandfather of the employee or of the spouse of the employee and the spouse, son, son-in-law, daughter, daughter-in-law, brother, sister, grandchild, brother-in-law, or sister-in-law of the employee or any person living in the immediate household of the employee. Up to five days with pay shall be granted, with four days chargeable to sick leave as the second through the fifth day, if necessary.

(Ord. No. NS-304.100, § 26, 10-4-77)

**Secs. A25-689—A25-692. Reserved.**

**ARTICLE 7. VACATION AND SICK LEAVE RULES**

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**Editor's note**— Ord. No. 304.100, § 27, specifically amended the Code by adding Art. 7, §§ A25-693, A25-694 as herein set out.  
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**Sec. A25-693. Vacations.**

Each employee shall be entitled to an annual paid vacation. Vacation is earned on an hourly basis. For purposes of this article, a day is defined as eight work hours. During the first year 261 days, vacation shall be computed at the rate of ten working days per year. Beginning with the second year (262nd day) of continuous service, vacation shall be computed at the rate of 12 working days per year. Beginning with the fifth year (1,145th day) of continuous service, vacations shall be computed at the rate of 16 working days per year. Beginning with the tenth year (2,350th day) of continuous services, vacations shall be computed at the rate of 18 working days per, year. Beginning with the 15th year (3,655th day) of continuous service, vacations shall be computed at the rate of 20 working days per year. Beginning with the 20th year (4,960th day) of continuous service, vacations shall be computed at the rate of 22 working days per year.

- (a) Time for vacations. In the absence of a departmental seniority agreement, the time for vacation shall be determined by the appointing authority after due consideration of employee convenience and administrative requirements.

- (b) Vacation accrual. Any vacation accrued during a one-year period (26 pay periods) should be taken by the employee during the following one-year period.
- (c) Vacation carry-over. In the event the employee does not take all the vacation to which he/she is entitled in the succeeding 26 pay periods, he/she shall be allowed to carry over the unused portion, provided that he/she shall not accumulate more than three years' vacation earnings; except:
  - (1) When absent on full salary due to work-related compensation injury which prevents his/her reducing his/her credits to the maximum allowable amount; or
  - (2) In the case of inability to take vacation because of extreme emergency such as fire, flood or other similar disaster, an additional accumulation may be approved by the County Executive and the Director of Employee Services Agency.
- (d) Vacation balance. In the event the appointing authority does not provide vacation for an employee sufficient to reduce his/her accumulated vacation balance to the amount permitted (three years' earnings), the employee may take vacation as a matter of right immediately before the end of the pay period in which vacation could be lost, not to exceed one year's earnings. The balance of the employee's accumulated vacation shall remain to his/her credit.
- (e) Vacation pay-off. A person who terminates employment shall be paid the monetary value of the earned vacation as of the actual date of termination of employment.
- (f) Birthday holiday. There shall be an additional annual day of vacation which will normally be taken on the employee's birthday. The parties agree that an alternate day may be determined by the appointing authority after due consideration of employee convenience and administrative requirements.

(Ord. No. NS-304.100, § 27, 10-4-77; Ord. No. NS-304.134, § 59, 09-25-15)

**Sec. A25-694. Sick leave.**

- (a) Rate of accrual. Each employee shall be entitled to sick leave. Such leave shall be earned on an hourly basis and computed at the rate of 96 hours per year. Such sick leave must be approved by the appointing authority.
- (b) Doctors' notes. Request for sick leave with pay in excess of three working days must be supported by a statement from an accredited physician. The appointing authority may require such a supporting statement for absences less than three days.
- (c) Sick leave accrual. Unused sick leave time may be accrued without limitation.
- (d) Sick leave used for care of immediate family. An employee who has acquired a sufficient right to sick leave with pay may be granted permission to use same not to exceed three working days of such leave in order that he/she may care for a sick or injured member of his/her immediate family requiring his/her care, or in order that he/she may obtain medical consultation to preserve his/her health. "Immediate family" shall mean the father, mother, grandmother or grandfather of the employee or of the spouse of the employee and the spouse, son, son-in-law, daughter, daughter-in-law, brother or sister of the employee or any person living in the immediate household of the employee.
- (e) Day defined/sick leave pay-off. For purposes of this paragraph, a day is defined as eight work hours. Upon death or retirement, up to 60 days of accrued sick leave shall be paid off at a rate of 50 percent of the equivalent cash value. All accrued balances beyond 60 days shall be paid off at the rate of 12½ percent of the accrued cash value (one hour's pay for one day of accrual). Upon resignation in good standing, employees with ten or more years' service shall be paid up to 60 days of accrued sick leave at the rate of 25 percent of the equivalent cash value. All accrued balances beyond 60 days will be paid off at the rate of 12½ percent of the accrued cash value. All other rights to sick leave with pay of an employee shall be cancelled upon his/her separation from the County; provided, however, if an employee resigns or is separated on a layoff and is reinstated or re-employed within one year from the date of resignation or layoff, such employee's right, if any, to sick leave with pay shall be restored to him/her. At the employee's option, he/she may convert accrued but unused sick leave at retirement to credit one month of employee's medical premium for each day of sick leave accrued.
- (f) Reinstatement pay-back. Employees receiving a sick leave pay-off in accordance with Section A25-694(e) may, if reinstated within six months, repay the full amount of sick leave pay-off received and have her/his former sick leave balances restored. Repayment in full must be made prior to reinstatement.
- (g) Vacation illness conversion. If an employee on vacation becomes ill, he/she may convert vacation time to sick leave with pay. If the conversion is for three or more days, it must be supported by a statement from an accredited physician.
- (h) Exhaustion of sick leave. When an employee has exhausted all accumulated sick leave, he/she shall have the option of using vacation time or leave without pay for absences due to illness. The employee must notify the Department of employee's option prior to payroll action; otherwise vacation time will be used. When requested by the employee, management will restore vacation by making the appropriate payroll adjustment in the next payroll period.

(Ord. No. NS-304.100, § 27, 10-4-77)

**Sec. A25-695. Transferring sick leave and vacation credits.**

- (a) With the approval of the Director of Employee Services Agency, and on initial appointment only, individuals who, immediately prior to appointment to a coded position in the County, were employed by the Santa Clara County Transit District or the Santa Clara County Superior Court may transfer to the County their unused sick leave and vacation accruals earned at the Transit District or Superior Court in the amount not to exceed the appropriate accrual rate within the County.
- (b) Appointees meeting the conditions in (a) above, with the approval of the Director of Employee Services Agency, may have their days of accrued service in the County adjusted to an amount not to exceed their days of service with the Transit District or Superior Court. Such adjustment is solely for the purpose of computing sick leave and vacation accruals with the County and may not be used for any other purpose.
- (c) The Director of Employee Services Agency shall be responsible for the application and interpretation of this section.

(Ord. No. NS-304.112, 8-2-88; Ord. No. NS-304.117, 4-3-90; Ord. No. NS-304.134, § 60, 09-25-15)

**ARTICLE 8-EVAULATION**

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Note— Formerly Ch. III, Art. 9.  
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**Sec. A25-696. Plan required.**

The Director shall establish and maintain a plan for evaluating the performance of employees in the classified service.

(Ord. No. NS-304.124, § 32, 9-17-02)

**Sec. A25-697. Uses.**

Evaluations shall be considered in approving transfers, promotions, salary increases, demotions, discharges, reinstatements, re-employment and other personnel actions.

(Ord. No. NS-304.124, § 32, 9-17-02)

**Sec. A25-698. Procedure.**

Evaluations shall be made periodically by the employee's immediate supervisor on approval forms and be approved by the employee's appointing authority. One copy of each report shall be maintained by the Department for its permanent records.

(Ord. No. NS-304.124, § 32, 9-17-02)

**Sec. A25-699. Unsatisfactory performance.**

If evaluation shows an employee's work to be below a satisfactory standard, the supervisor shall take appropriate steps to assist the employee in improving. Failure by the employee to show satisfactory improvement may be deemed just cause for discharge.

(Ord. No. NS-304.124, § 32, 9-17-02)

**Sec. A25-700. Evaluation appeals.**

Evaluation may be appealed in accordance with the following procedures:

- (a) If an employee is not satisfied with any aspect of an evaluation, the employee shall have the right to a hearing before the employee's appointing authority in accordance with the procedures set forth in the evaluation form.
- (b) In the event the employee remains unsatisfied after a hearing before the appointing authority, the employee may, within ten days after the decision of the appointing authority, request in writing to the Director of Employee Services Agency that the evaluation appeal be heard by a review board provided that the appeal is based on an aspect(s) of the evaluation which the review board is empowered to change.
- (c) The review board shall be convened by the Director of Employee Services Agency and shall consist of the Director of Employee Services Agency or the Director's designee in the Human Resources Department, the appointing authority or the appointing authority's designee, who shall not be the rater, and a third member appointed by the employee.
- (d) The review board shall conduct an informal hearing and shall decide all questions by a majority vote. The review board shall have the power to raise rating factors and/or overall evaluation ratings from "unsatisfactory" to "improvement needed," "improvement needed" to "competent," or "unsatisfactory" to "competent," and to strike narrative portions of the evaluation. The review board shall not have the power to otherwise alter the evaluation.
- (e) In hearings before the appointing authority or the review board, the employee shall have the right to attend on release time, call witnesses on release time, and have the rater present.

(Ord. No. NS-304.124, § 32, 9-17-02; Ord. No. NS-304.134, § 61, 09-25-15)

**Secs. A25-701—A25-709. Reserved.**

**ARTICLE 9. TRAINING**

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Note— Formerly Ch. III, Art. 10.

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**Sec. A25-710. Authorized.**

The Director may determine training programs and classes necessary or desirable to increase the efficiency of the County service and its employees. Such training programs and classes may be established on a County-wide basis or on an organizational basis, by departments, institutions or groups. Such training, when closely related to employees' official duties, may, with the consent of employees' appointing authority and the County Executive, be taken entirely or partly during hours of work.

(Ord. No. NS-304.124, § 33, 9-17-02)



**Sec. A25-711. Benefits for trainees.**

Employees who satisfactorily complete in-service training which directly relates to their current duties and improves their work performance may receive credit for such training in consideration for salary increases and promotions. Employees who satisfactorily participate in training classes not directly related to their current duties but which fit them for positions of greater skill or responsibility shall receive credit for such training in promotional examinations and in consideration for transfers to more responsible positions.

(Ord. No. NS-304.124, § 33, 9-17-02)

**Secs. A25-712—A25-749. Reserved.**

## **CHAPTER VII. REPORTING OF IMPROPER GOVERNMENTAL ACTIVITY**

### **Sec. A25-750. Purpose.**

The County of Santa Clara has a paramount interest in protecting the integrity of its governmental institutions. To further this interest, individuals should be encouraged to report to the Board of Supervisors and the County Counsel possible violations of laws, regulations and rules governing the conduct of County officers and employees.

This ordinance also protects all County officers and employees from retaliation for filing a complaint with, or providing information about improper government activity by County officers and employees.

(Ord. No. NS-300.809, § 1, 3-23-10)

### **Sec. A25-751. Complaints of improper governmental activity.**

Any person who believes that a County employee or officer has engaged in improper governmental activity, as set forth below, should report such activity to the Office of the County Counsel. The Office of the County Counsel will provide the necessary complaint forms and, upon the filing of a complaint, will determine an appropriate course of action. If the allegations in the complaint concern activities within the Office of the County Counsel, the complainant should file the complaint with the Office of the County Executive.

The complaint shall provide information that a County officer or employee has engaged in improper governmental activity in violation of state or federal law, County ordinance or administrative memoranda. Examples of such improper conduct include but are not limited to: violating local campaign finance laws, conflict of interest laws, or governmental ethics; misusing County resources; or using a County position to advance a private interest.

(Ord. No. NS-300.809, § 1, 3-23-10; Ord. No. NS-300.819, § 1, 5-11-10)

### **Sec. A25-752. Investigation.**

Upon receipt of a complaint, each named office shall promptly plan and conduct an appropriate investigation and notify the other offices and the Board of Supervisors as appropriate. Depending on the nature of the alleged violation, the investigation may involve departmental management, Labor Relations and/or appropriate law enforcement agencies.

- (a) Throughout the investigative process, all involved parties will treat the complaint and related information, including but not limited to information gathered and prepared in the course of the investigation of the complaint, as confidential unless otherwise necessary to conduct the investigation or if disclosure is required by state law.
- (b) In situations potentially warranting involvement from law enforcement and/or licensing agencies, the County Counsel shall determine what action or referral should be made.
- (c) At the conclusion of the investigation, the Board of Supervisors, County Counsel and/or the Department will take the necessary steps to address the improper governmental

activity, including any necessary systemic changes to minimize or prevent reoccurrence of any improper activity.

(Ord. No. NS-300.809, § 1, 3-23-10)

**Sec. A25-753. No retaliation.**

Any retaliation or reprisal by any County officer or employee against any complainant or informant is strictly prohibited; provided, however, if it is determined that a complaint was filed by a County employee in bad faith, said employee may be subject to appropriate disciplinary action. This prohibition against retaliation is in addition to the protections contained in Labor Code section 1102.5, and any amendment thereto.

(Ord. No. NS-300.809, § 1, 3-23-10)

**Secs. A25-754—A25-759. Reserved.**

**CHAPTER VIII. RESERVED**

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**Editor's note**— Sections A25-760—A25-764, the substantive provisions of this chapter, were renumbered as §§ A24-60—A24-64 by § 8 of Ord. No. NS-300.306, adopted Oct. 23, 1979.

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**Secs. A25-760—A25-774. Reserved.**

**CHAPTER IX. RESERVED**

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**Editor's note**— Section 2 of Ord. No. NS-300.877, adopted Aug 26, 2014, repealed Ch. IX, which pertained to the council on equal employment opportunities, consisted of §§ A25-77—A25-781. See Code Comparative Table for Legislative history.

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**Secs. A25-775—A25-799 Reserved.**

## CHAPTER X. FORMER COUNTY EMPLOYEES

### Sec. A25-800. Definitions.

The definitions set forth herein shall govern the interpretation of this chapter, unless the context requires otherwise:

- (a) County administrative agency means every County office, department, division, bureau, board and commission, but does not include the Board of Supervisors, the courts or any agency in the judicial branch of government.
- (b) County administrative officer means every member, officer, employee or consultant of a County administrative agency who, as part of his or her official responsibilities, engages in any administrative action in other than a purely clerical, secretarial or ministerial capacity.
- (c) Judicial, quasi-judicial *or other proceeding* means any proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest or other particular matter involving a specific party or parties in any court or state or County administrative agency.
- (d) Participated means to have taken part personally and substantially through decision, approval, disapproval, formal written recommendation, rendering advice on a substantial basis, investigation or use of confidential information as an employee, but excluding rendering of legal advisory opinions to departmental or agency staff which do not involve a specific party or parties.

(Ord. No. NS-300.309, § 1, 4-22-80)

### Sec. A25-801. Prohibitions upon former County employees.

- (a) No former County employee, after the termination of his or her employment, shall act as agent or attorney for, or otherwise represent for compensation, any person or entity other than the County of Santa Clara or another government entity before any court or County administrative agency or any officer or employee thereof by making any formal or informal appearance, or making any oral or written communication with the intent to influence, in connection with any judicial, quasi-judicial or other proceeding, if:
  - (1) The County of Santa Clara is a party or has a direct and substantial interest; and
  - (2) The subject of the proceeding is one in which the former County employee participated.
- (b) No former County employee, after the termination of his or her employment, shall act as agent or attorney for, or otherwise represent for compensation, any person or entity other than the County of Santa Clara or another government entity before any court or County administrative agency or any officer or employee thereof by making any formal or informal appearance, or making any oral or written communication with the intent to influence in connection with any judicial, quasi-judicial or other proceeding if:
  - (1) The County of Santa Clara is a party or has a direct and substantial interest; and

- (2) If the subject of the proceeding is one which was actually pending under his or her official responsibility as an employee within a period of one year prior to the termination of his or her employment with the County of Santa Clara, but this provision shall not apply to those matters which are performed in a purely routine capacity; and
  - (3) Less than one year has elapsed since the termination of the former County employee's employment.
- (c) No former County employee, after the termination of his or her employment shall, for compensation, aid, advice, counsel, consult or assist in representing any person or entity other than the County of Santa Clara or another government entity in any proceeding in which the employee would be prohibited from appearing under Subsection (a) or Subsection (b).

(Ord. No. NS-300.309, § 1, 4-22-80; Ord. No. NS-300.469, 12-11-90)

### **Sec. A25-802. Exemptions.**

The prohibitions contained in Section A25-801 shall not apply to prevent a former County employee from making or providing a statement, which is based on the former County employee's own special knowledge in the particular area that is the subject of the statement, provided that no compensation is thereby received other than that regularly provided for by law or regulation for witnesses.

(Ord. No. NS-300.309, § 1, 4-22-80)

### **Sec. A25-803. Sanctions for violation.**

Upon the petition of any interested person or party, the court or the presiding or other officer, including but not limited to a hearing officer serving pursuant to Government Code § 11512 in any judicial or quasi-judicial proceeding, may, after notice and an opportunity for a hearing, exclude any person found to be in violation of this chapter from further participation, or from assisting or counseling any other participant, in the proceeding then pending before such court or presiding or other officer.

(Ord. No. NS-300.309, § 1, 4-22-80)

### **Sec. A25-804. Application of chapter to previous County employees.**

The requirements imposed by this chapter shall not apply to any person who left County employment prior to the effective date of this chapter, except that any such person who returns to County employment on or after the effective date of this chapter shall thereafter be covered thereby.

(Ord. No. NS-300.309, § 1, 4-22-80)