

# Master Table Union Counter Proposal –5/9/23

## ARTICLE 6 – PERSONNEL ACTION

### Section 6.1 – Initial and Subsequent Probationary Periods

- a) Each new worker shall serve a probationary period of nineteen (19) complete pay periods unless otherwise indicated in the appendices when it shall be twenty-five (25) complete pay periods or 12 months as denoted. Workers who have attained permanent status in a classification and have been appointed to a new classification by appointment from an eligible list or by means of transfer shall serve a subsequent probationary period of 6 months, as outlined in County ordinance, Section A25-191, which shall be counted as thirteen (13) complete pay periods, unless otherwise noted in the appendices. An incomplete pay period served on initial or subsequent probationary appointment shall not be counted as complete pay periods. Upon successful completion of the probationary period, the worker shall be deemed a permanent worker in the classification for which they served the probationary period. A leave of absence without pay shall not be credited toward completion of the worker's probationary period. The parties agree that probationary workers in a classification covered by this Agreement shall have all rights in this Agreement, unless otherwise specified, including full and complete access to the grievance procedure set forth in this Agreement. Consistent with County Charter Section 704(e), probationary workers serving an initial probationary period may not appeal to the Personnel Board, suspensions, demotions, or dismissals. Consistent with 19.1 (b) (2) of this Agreement, probationary workers may not grieve probationary release.
- b) Classified probationary workers and unclassified workers who have not completed a period equal to the probationary period for a comparable classified ~~position shall have the right to request and receive Department/Agency~~ **administrative review of disciplinary action taken during the applicable probationary period. Such review must be requested in writing within ten (10) working days of the disciplinary action or it is waived. The department/agency head, or his/her designated representative, shall hear and make a decision in writing which he/she shall issue within sixty (60) business days. The sixty (60) business day period shall not commence until all investigations, administrative proceedings, and litigation related to the worker's employment, as well as discussions between the County and Union about potential resolutions, have concluded. Failure by the County to comply with the sixty (60) business day period shall not result in or serve as a basis for the County being required to reinstate the worker.**

Notice of disciplinary action must be served on the worker in person or by certified mail prior to the disciplinary action becoming effective. Notice shall be

included in worker's personnel file and a copy sent to the Union and designated Chief Steward, and shall include:

1. Statement of the nature of the disciplinary action.
2. Effective date of the action.
3. Statement of the cause thereof.
4. Statement in ordinary and concise language of the act or omissions upon which the causes are based.
5. Statement advising the worker of the right to an administrative review of such action and the right to Union representation.

Such worker shall be given five (5) days' notice of discharge, or demotion, or five (5) days pay, except where circumstances require immediate action.

- c) A worker serving a new probation in the classified service, who transferred from the same classification in the unclassified service and had grievance rights pursuant to Section 6.7, shall retain those rights while serving in the new probation period in the classified service.
- d) A worker with underlying permanent status, who is serving a subsequent probationary period, and who is released during the probationary period, shall retain the right to appeal such release to the Personnel Board and the right to return to his/her former class in accordance with Section 6.10. Such worker shall receive a ten (10) working day notice of release except where circumstances require immediate action.

## Section 6.2 – Administrative Investigation

### a) Employee's Rights During Administrative Investigation:

Upon request, an employee has a right to have a representative present at an investigatory meeting with the employer where it is reasonably likely that disciplinary action against that worker may result.

**A worker has the right to know the purpose of a meeting with a supervisor, manager and/or investigator.** If asked, the supervisor, manager and/or investigator must reveal any intent to conduct an investigatory meeting that might lead to discipline of the worker asking, and give that worker sufficient time to secure representation for such meeting. The worker may not unreasonably postpone the meeting to schedule a particular representative but may have to accept the presence of the steward, or union worksite organizer or other representative who can be available within a reasonable period of time.

Regarding any investigatory meeting with a worker that may lead to discipline of that worker, the County shall permit a steward, worksite organizer, or

representative to be present to assist during such meeting. The representative and worker may confer during breaks, which the investigator shall not unreasonably deny.

Requesting and securing representation is the responsibility of the worker. Supervisors, Managers / or Investigators shall not be involved in the selection of a steward, union worksite organizer or other representative.

The County shall complete all investigations within fifteen (15) working days of County knowledge of the occurrence or the incident. Proposed Discipline, if any shall be noticed to the worker no later than thirty (30) working days of completion of the investigation.

b) **Employee Rights During Internal Affairs Investigations:**

1. Internal Affairs (IA) will include in its administrative admonishment to a non- peace officer employee who is the subject of the investigation the following, if applicable:

- The interview will be recorded and the employee will have the right to bring his/her own recording device.
- The employee will have access to the audio recording of his/her interview if any disciplinary action is contemplated or prior to any further questioning at a subsequent time.

2. When IA is directing the witness not to discuss the investigation directly or indirectly with any other person, the administrative admonishment will include the following:

- After the witness has been interviewed and IA has concluded its interview of the witness, the witness may speak to the representative of the employee who is the subject of the investigation.

3. The County shall complete all investigations within thirty (30) calendar days of County knowledge of the occurrence or the incident. Recommended Discipline, if any shall be noticed to the worker no later than fifteen (15) working days from completion of the investigation.

**Section 6.3 – Philosophy on Discipline [Holding to UP 4/14/23]**

The intent of progressive discipline is to be corrective in nature and allows for a worker to correct behavior. Ordinarily, the County will use progressive discipline in correcting the behavior of a worker. However, the circumstances of each case dictate the appropriate progressive disciplinary response and the County reserves the right to skip one or all levels of progressive discipline in appropriate circumstances. The County and the Union agree that the level of discipline recommended for any instance of discipline should take into account the nature and seriousness of the offense as well as the employee's record in accordance with Merit System Rule A25.301 and A25.302.

Coaching, mentoring, verbal counseling or written counseling will identify the expectations of worker, or identify the issue to be corrected, and give guidance on how to correct the issue and provide for a reasonable period for the worker to make the correction. Coaching and mentoring through the progressive discipline philosophy are not considered discipline nor are they grievable.

Job expectations and/or objectives will be provided to probationary workers. Work performance and behaviors will be evaluated during a worker's probationary period.

Education-Based Discipline (EBD) is offered when an employee must serve a suspension from duty as a result of some type of policy violations, but rather than serving the suspension days at home with a loss of pay, some or all of those days can be substituted for a relevant training class or classes. Participation in the program is voluntary for the employee.

~~Philosophy on discipline shall be excluded from consideration under the grievance procedure outlined Section 19.4.~~

### **Section 6.11 – Performance Appraisal Program [Agree with 4/14/23 County Proposal - TA]**

### **Section 6.12 – Personnel Files [Holding to CCL Pending clarification]**

The County shall maintain a personnel file for each worker. The department may also maintain a personnel file for each worker. Workers shall have the right to review both of their personnel files or authorize review by their representative. No material will be inserted into the worker's personnel files without prior notice to the worker. Workers may cause to be placed in their personnel files responses to adverse material inserted therein and a reasonable amount of correspondence originating from other sources directly related to their job performance.

~~Notices of Recommended Disciplinary Actions including any attachments or disciplinary actions overturned on appeal shall not be retained in a worker's personnel file.~~

~~An unfavorable report shall be removed from the worker's personnel file at the end of two (2) years except unfavorable reports involving charges as listed in A25-301(a)(4) Brutality in the performance of duties and (b)(2) Guilty of immoral conduct or a criminal act and provided no additional discipline has been issued during the intervening period.~~

Materials relating to suspensions which become final will be removed after three (3) years if no other suspensions have occurred during the three (3) year period except those involving charges as listed in A25-301(a)(4) Brutality in the performance of duties and (b)(2) Guilty of immoral conduct or a criminal act.

Unfavorable reports or materials relating to suspensions may be removed from the worker's personnel file earlier than the regular removal schedule through a mutually

agreed settlement.

### **Section 6.13 – Lateral Transfers**

When making a lateral transfer or demotion to another class, an application review by the Personnel Director shall be deemed an appropriate qualifying examination for workers in instances where a qualifying examination is required. If otherwise qualified under this provision and the only prohibition to lateral transfer is the salary of the new class, it shall be deemed to be a lateral transfer if the move from one classification to another does not exceed ~~fifteen~~ twenty percent (~~15~~ 20%) upward range movement.

If a worker was moved to a lower classification due to his/her prior class being eliminated, abolished or a worker is laid off from his/her position and was placed on a re-employment list, the transfer band shall be calculated step to step, e.g., step one of the prior classification to step one of the new classification or step five of the prior classification to step five of the new classification. When determining the difference between classifications by using equivalent step to step, the actual step used to calculate the transfer band shall be the step that provides the worker the most benefit. Transfers under this provision may be made for a period of eight years from date of movement to the lower classification.

### **Section 6.14 – Administrative Re-assignments/Transfers [Holding to UP 4/14/23]**

Temporary Are-assignments/administrative transfers are based on the needs identified by the Department/Agency. Absent a departmental agreement, seniority (based on days of accrued service) shall be used when it is necessary to re-assign/transfer a worker within the Department/Agency and between two geographical locations. For the purpose of this section, geographical locations is defined as two different street addresses. The re-assignment/transfer will be conducted as follows:

1. Volunteers who hold a position in the same classification. If there is more than one volunteer, they shall be selected in the order of most seniority ~~(based on days of accrued service absent a departmental agreement)~~.
2. If there are no volunteers, the least senior worker will be assigned. ~~(Based on days of accrued service absent a departmental agreement)~~.

Note: The County will notify the Union in a timely fashion ~~thirty (30)~~ business days prior to ~~of~~ any planned ~~Administrative~~ Re-assignment/Transfers. Upon Union request, the County will meet to determine the group of workers to be designated for the seniority purposes of this section.

3. Re-assignment/Transfers necessary to comply with provisions of the Americans with Disabilities Act shall not be governed by this section.
4. Re-Assignment/Transfers necessary to comply with any other

requirements of law as in transfers necessitated by civil rights complaints shall not be governed by this section. However should an investigation of a complaint to EOD or complaints of other civil rights violations not be sustained, a transferred worker will have the right to return to his/her former position and location.

- 4.5. Temporary administrative Re-assignment/Transfers are limited to thirty (30) business days and thereafter workers shall be returned to their regular work location prior to any temporary assignment.

#### **Section 6.15 – Minimum Qualification Application – NO CHANGE CCL**

(New) 6.16- Promotional Transfers [Holding to UP 4/14/23] May be addressed with the Transfer side table continuing discussion]

Should the employer seek to fill a vacancy that is the entry level of a classification series, or not part of a classification series, the vacancy shall be posted on the County intranet (internal) website at connect.sccgov.org and County internet (external) website at www.sccjobs.org as promotional opportunity. The vacancy shall be posted at the beginning of a pay period, and will remain open for a minimum of one (1) pay period.