



STATE OF CALIFORNIA
PUBLIC EMPLOYMENT RELATIONS BOARD
UNFAIR PRACTICE CHARGE

DO NOT WRITE IN THIS SPACE: Case No: _____ Date Filed: _____

INSTRUCTIONS: File this charge form via the e-PERB Portal, with proof of service. Parties exempt from using the e-PERB Portal may file the original charge in the appropriate PERB regional office (see PERB Regulation 32075), with proof of service attached. Proper filing includes concurrent service and proof of service of the charge as required by PERB Regulation 32615(c). All forms are available from the regional offices or PERB's website at www.perb.ca.gov. If more space is needed for any item on this form, attach additional sheets and number items.

IS THIS AN AMENDED CHARGE? YES If so, Case No. LA-CE-1509-M NO

1. CHARGING PARTY: EMPLOYEE EMPLOYEE ORGANIZATION EMPLOYER PUBLIC¹

a. Full name: Ventura County Deputy Sheriffs' Association
b. Mailing address: Mastagni Holstedt, A.P.C., 1912 "I" Street, Sacramento, CA 95811
c. Telephone number: (916) 446-4692
d. Name and title of person filing charge: Taylor Davies-Mahaffey, Attorney for Charge E-mail Address: tdavies-mahaffey@mastagni.com
Telephone number: (916) 491-4248 Fax No.: (916) 447-4614
e. Bargaining unit(s) involved: Deputy Sheriffs, Senior Deputy Sheriffs, Sergeants, and District Attorney Investigators

2. CHARGE FILED AGAINST: (mark one only) EMPLOYEE ORGANIZATION EMPLOYER

a. Full name: County of Ventura; Ventura County Sheriff's Office
b. Mailing address: 800 S. Victoria Ave, Ventura, CA 93009
c. Telephone number: (805) 654-5129
d. Name and title of agent to contact: Matthew A. Smith, Assistant County Counsel E-mail Address: Matthew.Smith@ventura.org
Telephone number: (805) 654-5129 Fax No.:

3. NAME OF EMPLOYER (Complete this section only if the charge is filed against an employee organization.)

a. Full name:
b. Mailing address:

4. APPOINTING POWER: (Complete this section only if the employer is the State of California. See Gov. Code, § 18524.)

a. Full name:
b. Mailing address:
c. Agent:

5. GRIEVANCE PROCEDURE

Are the parties covered by an agreement containing a grievance procedure which ends in binding arbitration?

Yes No

6. STATEMENT OF CHARGE

a. The charging party hereby alleges that the above-named respondent is under the jurisdiction of: (check one)

- Educational Employment Relations Act (EERA) (Gov. Code, § 3540 et seq.)
- Ralph C. Dills Act (Gov. Code, § 3512 et seq.)
- Higher Education Employer-Employee Relations Act (HEERA) (Gov. Code, § 3560 et seq.)
- Meyers-Milias-Brown Act (MMBA) (Gov. Code, § 3500 et seq.)
- A Covered Public Utilities Code Transit Employer (BART (Pub. Util. Code, § 28848 et seq.), Orange County Transportation Authority (Pub. Util. Code, § 40000 et seq.), and supervisory employees of the Los Angeles County Metropolitan Transportation Authority (Pub. Util. Code, § 99560 et seq.))
- Trial Court Employment Protection and Governance Act (Trial Court Act) (Article 3; Gov. Code, § 71630 – 71639.5)
- Trial Court Interpreter Employment and Labor Relations Act (Court Interpreter Act) (Gov. Code, § 71800 et seq.)

b. The specific Government or Public Utilities Code section(s), or PERB regulation section(s) alleged to have been violated is/are:

Gov. Code §§ 3502, 3503, 3504, 3504.5(a), 3505, and PERB regulation § 32603(b) and (c)

c. For MMBA, Trial Court Act and Court Interpreter Act cases, if applicable, the specific local rule(s) alleged to have been violated is/are (**a copy of the applicable local rule(s) MUST be attached to the charge**):

d. Provide a clear and concise statement of the conduct alleged to constitute an unfair practice including, where known, the time and place of each instance of respondent's conduct, and the name and capacity of each person involved. This must be a statement of the facts that support your claim and *not conclusions of law*. A statement of the remedy sought must also be provided. (*Use and attach additional sheets of paper if necessary.*)

See attached.

DECLARATION

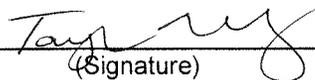
I declare under penalty of perjury that I have read the above charge and that the statements herein are true and complete to the best of my knowledge and belief and that this declaration was executed on 05/12/2021

(Date)

at Sacramento, CA
(City and State)

Taylor Davies-Mahaffey

(Type or Print Name)


(Signature)

Title, if any: Attorney for Charging Party

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8 BEFORE THE PUBLIC EMPLOYEE RELATIONS BOARD
9 OF THE STATE OF CALIFORNIA

10

11 VENTURA COUNTY DEPUTY SHERIFFS' } PERB Case No.: LA-CE-1509-M
12 ASSOCIATION, }

13 Charging Party, } **FIRST AMENDED UNFAIR LABOR**
PRACTICE CHARGE

14 v. }

15 COUNTY OF VENTURA; and VENTURA }
16 COUNTY SHERIFF'S OFFICE, }

17 Respondent. }

18 **I.**

19 **INTRODUCTION**

20 This amended unfair labor practice claim by the Ventura County Deputy Sheriffs'
21 Association ("VCDSA") arises out of the County of Ventura's ("County") and the Ventura County
22 Sheriff's Office's ("Department") (hereinafter collectively referred to as "Respondents") unilateral
23 change to the promotional process. Without properly notifying VCDSA or giving them the
24 opportunity to meet and confer over the decision or the impacts and effects, Respondents made a
25 number of changes to the promotional process for the Sheriff's Captain position. Respondents
26 significantly deviated from past practice by eliminating the written exam and making changes to
27 the format and scoring of the oral exam. Despite the fact that promotional opportunities impact
28 members' wages, hours, and working conditions, Respondents did not provide VCDSA notice of

1 these proposed changes or the opportunity to meet and confer. Thus, Respondents unilaterally
2 implemented a change that affected VCDSA members' terms and conditions of employment in
3 violation of the Meyers-Miliias-Brown Act ("MMBA") and committed an unfair labor practice.

4 **II.**
5 **PARTIES**

6 VCDSA is a recognized employee organization within the meaning of Government Code
7 section 3501(b) and is the certified collective bargaining representative, as defined under PERB
8 Regulation 32016(b). VCDSA represents the following bargaining units and classifications:
9 Deputy Sheriffs, Senior Deputy Sheriffs, Sergeants, and District Attorney Investigators. VCDSA
10 members work in the Sheriff's Office and the District Attorney's Office. (Declaration of Nicholas
11 Odenath ("Odenath Decl." ¶¶ 4, 5.))

12 Respondents are public agencies within the meaning of Government Code section 3501(c)
13 and PERB Regulation 32016(a). Respondents are subject to PERB's authority under Government
14 Code section 3509(b).

15 **III.**
16 **STATEMENT OF FACTS**

17 On November 9, 2020, Sheriff William Ayub called VCDSA's Executive Director Kasey
18 Sirody to discuss the promotional process for the Sheriff's Captain Position. (Declaration of Kasey
19 Sirody ("Sirody Decl.") ¶ 7.) Ms. Sirody was in a meeting with the Ventura County Retirement
20 Board, but she stepped out to briefly take Sheriff Ayub's call. (*Id.*) During their short phone
21 conversation, Sheriff Ayub advised Ms. Sirody that the Department would be making a minor
22 change to the captains' promotional process to encourage more people to apply because only a few
23 people had put in for the promotion last year.¹ (*Id.* at ¶ 8.) Sheriff Ayub did not provide Ms. Sirody
24 with any other details about these changes. (*Id.* at ¶ 10.)

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26 ///

27
28 ¹ In reality, approximately the same number of individuals applied last process as did this process. However, in the last process, more than half the individuals did not pass the written exam and were eliminated from consideration. (Sirody Decl. ¶ 9.)

1 Approximately 50 minutes after this phone call, the Department emailed a memorandum
2 to its employees stating that they would be accepting applications for the Sheriff's Captain position
3 from November 16th to November 30th. (Internal Memorandum, attached hereto as Exhibit 1;
4 Sirody Decl. ¶ 11; Odenath Decl. ¶ 9.) The memo also stated that all "non-probationary Sheriff's
5 Sergeants" were eligible to apply and that the "examination would consist of a pass/fail oral
6 examination with all applicants being placed on the eligibility list." (Exh. 1.) The memo did not
7 contain any information on the content or format of the oral exam or the scoring panel. (Exh. 1;
8 Odenath Decl. ¶ 9.) It did not indicate if there would be a written portion of the exam in addition
9 to the oral portion. (Odenath Decl. ¶ 9.) As is the usual practice for internal Department memos,
10 this memo was not sent to Ms. Sirody or the VCDSA Board in their official capacity. (Sirody Decl.
11 ¶ 12; Odenath Decl. ¶ 10.)

12 The promotional opportunity was also posted on the Ventura County website. (Job Posting,
13 attached hereto as Exhibit 2; Odenath Decl. ¶ 11.) This job posting stated that there would be a
14 pass/fail oral examination evaluating "applicants' knowledge, skills and abilities in relation to
15 factors that job analysis has determined to be essential for successful performance as a Sheriff's
16 Captain." (Exh. 2, at p. 3.) The job posting did not contain detailed information about the oral
17 examination or state if a written examination would be given. (Exh. 2; Odenath Decl. ¶ 11.)

18 26 individuals applied for the position. (Odenath Decl. ¶ 12.) In January of 2021,
19 candidates who met the minimum qualifications went through an oral exam in front of a panel
20 composed of interviewers employed by the Department as well as interviewers employed by
21 outside law enforcement agencies. (*Id.*) 24 individuals received a passing score and were notified
22 via email that they had passed and would be placed on the eligibility list. (*Id.* at ¶ 13.) However,
23 candidates were not told their score nor their ranking on the list. (*Id.*) These individuals then
24 completed a second oral examination with the Undersheriff and two Assistant Sheriffs. (*Id.*)

25 This process deviated significantly from the Department's past practice regarding
26 promotions. Since 1997, the Sheriff's Captain promotional process consisted of a promotional file
27 review, a written exam, and an oral exam conducted by outside evaluators employed by other law
28 enforcement agencies. (Sirody Decl. ¶ 13.) In 2007, minor changes were made to the process to

1 provide for an additional internal oral exam. (See Memo Regarding 2007 Changes, attached hereto
2 as Exhibit 3; Sirody Decl. ¶ 14.) Prior to making this change in 2007, the Department met and
3 conferred with VCDSA. (Exh. 3; Sirody Decl. ¶ 14.) Since 2007, the process has remained the
4 same: a promotional file review, a written exam, an outside oral exam, and an internal oral exam.
5 (Sirody Decl. ¶ 15.)

6 Additionally, past written exams were scored and candidates were told their numerical
7 score and their ranking on the eligibility list. (Sirody Decl. ¶ 16.) Individuals were then sorted into
8 standings based on their scores in accordance with the County's Personnel Rules and Regulations;
9 those with a score of 95% to 100% were given standing one, 90% to 94% standing two, etc.
10 (Personnel Rules and Regulations, attached hereto as Exhibit 4, Section 5; Sirody Decl. ¶ 16.) The
11 Director of Human Resources then certified the highest standing, and the new captains were
12 selected from that certified standing. (Exh. 4 at Section 8; Sirody Decl. ¶ 16.)

13 This year, the Department eliminated the written exam and combined the two oral exams
14 into one mixed exam with both internal and external evaluators. (Odenath Decl. ¶ 14.) Further, the
15 oral exam was only scored pass/fail and candidates were merely told if they passed. (*Id.* at ¶ 15.)
16 Candidates were not placed into standings or selected based upon their score. Rather, the
17 Department had complete discretion to select anyone from the 24 individuals who passed. In
18 addition, based on conversations VCDSA had with a number of the candidates, it appears that not
19 all candidates were asked the same questions in the oral exam. (*Id.* at ¶ 16.) Additionally, VCDSA
20 has reason to believe that not all members of the panel were present for the entirety of every
21 interview. The lack of continuity in both the panel members and the questions asked also differed
22 from the Department's past practice. (*Id.* at ¶ 16.)

23 On February 3, 2021, the Department emailed out the names of the individuals selected for
24 the positions. (Sirody Decl. ¶ 18; Odenath Decl. ¶ 17.) It was only at this point that VCDSA became
25 aware of the full extent of the changes the Department made to the process. (Sirody Decl. ¶ 19;
26 Odenath Decl. ¶ 18.) On February 10th, VCDSA sent a letter to the Department demanding that
27 the Department rescind the promotions and give VCDSA advance written notice and the
28 opportunity to meet and confer. (VCDSA Letter to Department, attached hereto as Exhibit 5;

1 Odenath Decl. ¶ 19.) The letter reiterated that VCDSA had a right under the MMBA to notice and
2 the opportunity to meet and confer in advance of the changes, and explained that neither the vague
3 memo sent to its members nor a brief phone call after the decision had been made satisfied the
4 strict notice requirement. (Exh. 5.) On February 22, 2021, the promotions took effect. (Odenath
5 Decl. ¶ 20.) On March 5, 2021, Respondents replied to VCDSA's letter. Respondents admitted to
6 making a number of changes to the promotional process but claimed that they were not required
7 to meet and confer with VCDSA because the Sheriff's Captain classification is not in the
8 bargaining unit represented by VCDSA. (Respondents' Letter to VCDSA, attached hereto as
9 Exhibit 6.)

10 **IV.**
11 **ARGUMENT**

12 First, Respondents did not provide VCDSA with advanced written notice of the changes to
13 the promotional process as required by the MMBA. Second, Respondents violated the MMBA by
14 unilaterally changing the promotional process without providing VCDSA, the opportunity to meet
15 and confer. Third, Respondents violated local rules regarding impasse and bargaining procedures.
16 Finally, Respondents interfered with VCDSA's and its members' representational rights under the
17 MMBA.

18 **A. Respondents Failed to Give VCDSA Reasonable Written Notice of the Proposed**
19 **Changes.**

20 Respondents violated their duty to provide VCDSA reasonable written notice of their intent
21 to change the promotional process. (Gov. Code § 3504.5.) Government Code section 3504.5
22 requires Respondents to provide advance written notice to each recognized employee organization
23 of any proposed changes that affect matters within the scope or representation. (*Building Material*
24 *& Construction Teamsters' Union v. Farrell, supra*, 41 Cal.3d at 657.) The duty to provide
25 reasonable written notice and an opportunity to bargain is the same regardless of whether the
26 parties are bargaining over a decision or the impacts and effects of a managerial action. (*Santa*
27 *Clara County Correctional Peace Officers' Association* (2013) PERB Decision No. 2321-M,
28 pp.21- 23.)

1 This duty arises *before* the employer makes a firm decision to make a change to a
2 mandatory subject of bargaining. (*Victor Valley Union High School District* (1986) PERB
3 Decision No. 565.) To be reasonable, the notice must be sufficiently in advance to allow the
4 employee organization to consider the proposal and how to respond. (*Compton Community*
5 *College District* (1989) PERB Decision No. 720, pp. 14-15.) The notice must also be given to a
6 union official with the authority to act on behalf of the union. (*Fresno County Office of Education*
7 (2004) PERB Decision No. 1674.) This requirement is not taken lightly; neither general
8 publication nor notice to the membership constitute effective notice. (*Santee Elementary School*
9 *District* (2006) PERB Decision No. 1822, pp. 26-27; *State of California (Department of Veterans*
10 *Affairs)* (2010) PERB Decision No. 2110.)

11 Here, VCDSA did not receive advance written notice that Respondents intended to change
12 the promotional process. Respondents did not fulfill the notice requirement of Section 3504.5 by
13 merely posting the job announcement on their website and circulating it through an internal memo.
14 First, both the job posting and the memo were vague and did not articulate the changes the
15 Department intended to make. (See Exhs. 1 & 2.) The announcements merely stated that an oral,
16 pass/fail exam would be offered. (*Id.*) There was no information regarding the elimination of
17 written exam or further information on the scoring or selection process. These broad
18 announcements did not provide VCDSA notice of the details or extent of the changes the
19 Department intended to make. Moreover, a posting on a public website does not constitute
20 effective notice to a union representative. (*Mutual Organization of Supervisors v. Fairfield-Suisun*
21 *Unified School District* (2012) PERB Decision No. 2262; *Santee Elementary School District*
22 (2006) PERB Decision No. 1822, pp. 26-27.) Similarly, notifying VCDSA's members directly
23 through the memo was also insufficient. (*State of California (Department of Veterans Affairs)*
24 (2010) PERB Decision No. 2110 [holding that layoff notices sent to bargaining unit members did
25 not constitute sufficient notice].)

26 Additionally, Sheriff's Ayub's brief phone call to Ms. Sirody was not sufficient notice.
27 First, by its very definition, a verbal conversation cannot constitute "written notice." Second,
28 Sheriff Ayub spoke with Ms. Sirody approximately 50 minutes before the memo was sent to the

1 membership. (Sirody Decl. ¶¶ 7-11.) At this point, the Department had already decided on the
2 changes. Finally, the phone call between Sheriff Ayub and Ms. Sirody was brief; Sheriff Ayub did
3 not explain the extent of the changes that the Department had made. (*Id.* at ¶ 10.) He did not
4 indicate that there would be no ranked list or that there would be one mixed panel rather than
5 separate internal and external panels. This short, verbal conversation after the decision had already
6 been made did not satisfy Respondents' obligation under Section 3504.5, irrespective of whether
7 VCDSA was entitled to bargain over the decision itself or the impacts and effects.

8 **B. Respondents Committed an Unfair Labor Practice by Unilaterally Changing the**
9 **Promotional Process.**

10 The MMBA requires Respondents to meet and confer in good faith with VCDSA before
11 implementing any new policy altering working conditions. Respondents' duty to meet and confer
12 extends to all "matters within the scope of representation." (Gov. Code § 3505; *Building Material*
13 *& Construction Teamster's Union v. Farrell* (1986) 41 Cal.3d 651, 658.) The "scope of
14 representation" includes "all matters relating to employment conditions and employer-employee
15 relations, including, but not limited to, wages, hours, and other terms and conditions of
16 employment." (*Id.*) In determining whether a party has violated section 3505 and PERB Regulation
17 32603(c), PERB utilizes either the "per se" or "totality of the conduct" test, depending on the
18 specific conduct involved and the effect of such conduct on the negotiating process. (*Stockton*
19 *Unified School District* (1980) PERB Decision No. 143.)

20 Unilateral changes are considered "per se" violations. "A unilateral change in a matter
21 within petitioner's scope of representation is a per se violation of the duty to meet and confer in
22 good faith. A rule passed in violation of the procedural requirements of the MMBA is void, and
23 therefore subject neither to interpretation nor application." (*Independent Union of Public Service*
24 *Employees v. County of Sacramento* (1983) 147 Cal.App.3d 482, 490; see also *Vernon Fire*
25 *Fighters v. City of Vernon* (1980) 107 Cal. App. 3d. 802; *Walnut Valley Unified School District*
26 (1981) PERB Decision No. 160; *San Joaquin County Employees Association v. City of Stockton*
27 (1984) 161 Cal. App. 3d. 813; *Grant Joint Union High School District* (1982) PERB Decision No.
28 196.)

1 1. *Respondents Deviated from the Past Practice Regarding Promotions.*

2 To prevail in a unilateral change case, the charging party must first establish the employer
3 breached or altered the parties' written agreement or established past practice. (*County of Ventura*
4 (2007) PERB Decision No. 1910-M, citing *Grant Joint Union High School District* (1982) PERB
5 Decision No. 196.) A binding past practice is one which is "unequivocal, clearly enunciated and
6 acted upon, and readily ascertainable over a reasonable period of time as a fixed and established
7 practice accepted by both parties," or which is "regular and consistent" or "historic and accepted."
8 (*County of Orange* (2018) PERB Decision No. 2611-M, pp. 10-11, fn. 7, citing *County of Riverside*
9 (2013) PERB Decision No. 2307-M, p. 20.)

10 As detailed above, Respondents made multiple changes to their past practices regarding
11 promotions. First, Respondents eliminated the numerically scored written exam, and instead only
12 offered a pass/fail oral exam. (Sirody Decl. ¶ 17; Odenath Decl. ¶ 15.) Second, candidates were
13 not told their scores or ranking on the eligibility list. (Odenath Decl. ¶ 13.) Third, the Department
14 did not follow the process laid out in the Personnel Rules, which requires that they sort candidates
15 into standings based on their numerical score, certify the highest standing, and select the new
16 captains from the certified group. (Exh. 4; Sirody Decl. ¶ 16.) Instead, they merely sorted the
17 candidates into pass/fail, and selected the captains from the "pass" group. Fourth, the Department
18 changed their past practice by combining the usual two oral exams into one oral exam with both
19 internal and external evaluators. (Sirody Decl. ¶ 17; Odenath Decl. ¶ 15.) Finally, the Department
20 deviated from past practice by not asking all candidates the same questions and by not requiring
21 every member of the interview panel be present for every interview. (Odenath Decl. ¶ 16.)

22 All of these changes differed from the Department's past practice regarding promotions.
23 Since 1997, the captains' examination has included a written portion. (Sirody Decl. ¶ 13.) Further,
24 since 2007, the format of the exam included a scored written exam and two oral exams. (*Id.* at ¶
25 15.) Respondents do not deny that they made significant changes to this past practice. (See Exh.
26 6.) Instead they claim that they were not required to meet and confer with VCDSA and that the
27 Personnel Rules permit such changes. (*Id.*)

28 ///

1 However, Respondents may not apply the Personnel Rules in a manner that “frustrates the
2 declared policies and purposes of the MMBA, which favors bilateral negotiation of subjects within
3 the scope of representation.” (*City of Santa Maria* (2020) PERB Decision No. 2736, p. 19.) *In*
4 *City of Santa Maria*, the city argued that they were entitled to make unilateral changes to the past
5 practice regarding promotions because the municipal code gave them discretion in how to handle
6 promotional opportunities. The Board rejected this argument, holding that the city was not entitled
7 to apply its municipal code in a manner that contradicted established past practice. The Board
8 made clear that the association had not “waived its right to bargain over changes to future
9 recruitment practices merely because it was aware of the provisions of the municipal code, yet
10 nevertheless elected not to act on that knowledge.” (*Id.* at p. 20.) The Board also stated that low
11 participation or lack of qualified applicants was not a justification for the city to ignore the MMBA.
12 (*Id.* at p. 19-20, fn. 13.) Similarly, here, Respondents cannot unilaterally make changes to the
13 promotional process merely because the Personnel Rules grant them some discretion in choosing
14 the format and scoring of examinations. Further, Respondents cannot justify their unlawful
15 conduct by pointing to the fact that a low percentage of people passed the written exam in past
16 years. Respondents are still required to adhere to the MMBA’s requirement to bargain with
17 VCDSA before changing established past practices.

18 2. *The Change to the Promotional Process was Within the Scope of Bargaining.*

19 The decision to change the promotional process is within the scope because it directly
20 relates to the promotional opportunities for bargaining unit members. Assuming, arguendo, the
21 decision is non-negotiable, the impacts and effects are within the scope of bargaining.

22 i. The Decision to Alter the Captains’ Promotional Process Constitutes a Mandatory
23 Subject of Bargaining.

24 Promotional opportunities within the bargaining unit are mandatory subjects of bargaining.
25 (*County of Orange* (2019) PERB Decision No. 2663; *City of Santa Maria* (2020) PERB Decision
26 No. 2736.) Change to the promotional procedures and criteria directly define the employment
27 relationship. (*County of Orange, supra*, PERB Decision No. 2663, p. 7.) The California Supreme
28 Court has held that a union’s proposals about vacancies and promotions were mandatory subjects

1 of bargaining because they concerned job security and opportunities for advancement and
2 therefore related directly to the terms and conditions of the represented employees' employment.
3 (*Fire Fighters Union v. City of Vallejo (Vallejo)* (1974) 12 Cal.3d 608, 618.) Following *Vallejo*,
4 the Court of Appeal stressed the importance of promotional opportunities to current employees in
5 finding that promotional procedures are an important "condition of employment." (*International*
6 *Association of Fire Fighters Union v. City of Pleasanton (Pleasanton)* (1976) 56 Cal.App.3d 959,
7 971.) The Board has subsequently cited to *Vallejo* and *Pleasanton* in reaffirming that promotional
8 procedures are within the scope of representation. (*County of Orange, supra*, PERB Decision No.
9 2663, p. 8; *City of Santa Maria, supra*, PERB Decision No. 2736, p. 23-24.)

10 In *Pleasanton*, the city made a number of changes to their personnel rules, including
11 eliminating the requirements for posting examinations for promotional opportunities. (*Pleasanton*,
12 *supra*, 56 Cal.App.3d at 968-971.) The trial court found that the city was not obligated to meet and
13 confer over the changes because they only affected first-time applicants and not current bargaining
14 unit members. (*Id.* at p. 970.) The Court of Appeals rejected this argument, and held that these
15 changes were of "vital interest to *present* city employees" and that the affected employees "are
16 included among those represented by the union." (*Id.* at p. 971.) The court reasoned that this was a
17 "substantial change in the procedure to be followed" and thus was an "equally important 'condition
18 of employment' according to the broad meaning of the term as used in the MMBA and the liberal
19 judicial construction of it." (*Ibid.*)

20 Importantly, the Court's reasoning in *Pleasanton* focused on the fact that union members
21 were the ones affected by the changes. (*Ibid.*) The Court did not discuss or distinguish between the
22 posting of promotional opportunities within the bargaining unit and those that would promote
23 bargaining unit members to positions outside the unit. Here, as in *Pleasanton*, the changes to the
24 captains' promotional process significantly affected VCDSA members. In fact, VCDSA members
25 were the only individuals directly affected by the change, as Sergeants were the only classification
26 eligible to apply. (Exh. 1; Odenath Decl. ¶ 9.) Thus, these changes to the promotional process were
27 within the scope of bargaining.

28 ///

1 ii. The Changes to the Captains' Promotional Process are Mandatory Subjects under
2 the Claremont Test.

3 If it is not clear changes to the captains' promotional process are mandatory subjects of
4 bargaining under the MMBA, it is so under the three-part test established in *Claremont*. When it
5 is not already settled that a particular matter is a mandatory subject of bargaining, courts apply a
6 three-part test when determining whether a matter falls within the scope of representation, and,
7 thus, must comply with the MMBA's meet and confer requirements. The inquiry focuses on:

8 1) Whether the management action has a significant and adverse
9 effect on the wages, hours, or working conditions of the bargaining-
10 unit employees. If not, there is no duty to meet and confer.

11 2) Whether the significant and adverse effect arises from the
12 implementation of a fundamental managerial or policy decision. If
not, then the meet-and-confer requirement applies.

13 3) If both factors are present—if an action taken to implement a
14 fundamental managerial or policy decision has a significant and
15 adverse effect on the wages, hours, or working conditions of the
16 employees—a balancing test is applied. The action is within the
17 scope of representation only if the employer's need for
unencumbered decision-making in managing its operations is
18 outweighed by the benefit to employer-employee relations of
bargaining about the action in question. In balancing the interests to
19 determine whether parties must meet and confer over a certain
matter, a court may also consider whether the transactional cost of
20 the bargaining process outweighs its value. (*Claremont Police
Officers Ass'n v. City of Claremont* (2006) 39 Cal.4th 623, 631.)

21 Here, the changes to the promotional process have a significant and adverse effect on wages
22 and working conditions. Even if only a small number of employees are affected by the employer's
23 changes, those changes are still considered material and significant. (See *Solano County
24 Employees' Assn. v. County of Solano* (1982) 136 Cal.App.3d 256, 261 [rejecting employer's
25 argument that implementing a policy effecting the mode of transportation employees could use for
26 business was not material or significant because it only affected a small number of employees].)
27 As discussed above, Respondents' changes to the past practice for captains' promotions
28 significantly alters the promotional opportunities for VCDSA members.

1 conditions and, therefore, Respondents were obligated to meet and confer over the decision to
2 implement changes to the captains' promotional process.

3 iii. Respondents were Obligated to Meet and Confer Regarding the Impacts and
4 Effects of the Changes.

5 Even if the decision to change the promotional process was non-negotiable, Respondents
6 were still obligated to provide VCDSA with notice and the opportunity to meet and confer over
7 the impacts and effects of the decision.

8 To make a prima facie case of violation of the duty to bargain in good faith over the effects of
9 a non-negotiable decision, the employee organization must show it requested to bargain over impacts
10 and effects and that the changes have an actual effect or impact on negotiable matters. (*State of*
11 *California (Department of Corrections and Rehabilitation)* PERB Decision No. 2196-S, pp. 8-9.)
12 However, where the union alleges that the employer did not provide reasonable notice and an
13 opportunity to bargain *prior to the employer's implementation* of a change having a reasonably
14 foreseeable impact on a negotiable matter, a prima face case of failure to bargain in good faith is
15 established and the union need not allege as well that it made a demand to bargain such effects.
16 (*County of Santa Clara (Santa Clara)* (2013) PERB Decision No. 2321-M, p. 30.)

17 (a) The Change to the Promotional Process Has Real, Foreseeable Effects on
18 VCDSA's Members.

19 The decision to alter the promotional process and qualifications for captains affects
20 classifications within VCDSA's bargaining unit. PERB and the Courts have long recognized that
21 procedures for promotional opportunities affect employees' security and opportunities for
22 advancement and therefore are directly related to the terms and conditions of the represented
23 employees' employment. (*County of Orange, supra*, PERB Decision No. 2663, p. 8; *City of Santa*
24 *Maria, supra*, PERB Decision No. 2736, pp. 23-24.) Sergeants—who are represented by
25 VCDSA—are the only classification eligible to apply for the captain position. (Exh. 1; Odenath
26 Decl. ¶ 9.) These members are directly affected by changes to the promotional process.

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1 By changing the format and scoring of the captains' exam, Respondents have altered the
2 types of experience and skills that are valued for the promotion of VCDSA members. Further,
3 Respondent's changes grant significant discretion to the Department by eliminating the scored
4 written exam and ranking system. This grant of discretion undoubtedly affected which VCDSA
5 members were selected for these three positions. Moreover, the changes will continue to impact
6 which VCDSA members are likely to be selected for promotional opportunities in the future.
7 Respondents presumably understood that changes to the captains' promotional process
8 significantly affected VCDSA members in 2007 because they met and conferred with VCDSA
9 prior to making the 2007 changes. (Exh. 3; Sirody Decl. ¶ 14.) Nothing has changed in this
10 analysis. Further, Sheriff Ayub's brief phone call to Ms. Sirody can be viewed as a tacit
11 acknowledgement of the Department's duty to provide VCDSA notice and the opportunity to meet
12 and confer. Because Respondents' unilateral change to the promotional process affects VCDSA
13 members' opportunities for advancement, VCDSA should have been given notice and the
14 opportunity to meet and confer over these effects.

15 (b) Because Respondents Failed to Provide Notice, VCDSA was Not Obligated to
16 Demand Effects Bargaining.

17 "The employer has a duty to provide reasonable notice and an opportunity to bargain before
18 it implements a decision within its managerial prerogative that has foreseeable effects on
19 negotiable terms and conditions of employment." (*Santa Clara, supra*, PERB Decision No. 2321-
20 M, p. 30.) "A 'reasonable' notice is one which is 'clear and unequivocal' and which 'clearly
21 inform[s] the employee organization of the nature and scope of the proposed change.'" (*Ibid.*
22 [citing *Lost Hills Union Elementary School District* (2004) PERB Decision No. 1652, Proposed
23 Decision at p. 6, citing with approval *Bottom Line Enterprises* (1991) 302 NLRB 373, 374; *Victor*
24 *Valley Union High School District* (1986) PERB Decision No. 565; *Santee Elementary School*
25 *District* (2006) PERB Decision No. 1822].)

26 An employer's failure to provide reasonable notice and an opportunity to bargain prior to
27 the implementation of a change in a non-negotiable policy having a reasonably foreseeable impact
28 on a matter within the scope of representation constitutes a failure to bargain in good faith. (*Id.* at

1 pp. 30-31.) “The union need not allege as well that it made a demand to bargain such effects as a
2 condition to seeking PERB enforcement of its right to be free of an employer's failure to provide
3 notice and an opportunity to bargain effects.” (*Id.* at p. 30.)

4 As discussed in Section A, *supra*, Respondents failed to provide VCDSA notice of the
5 proposed changes prior to changing the promotional process. Respondents did not provide VCDSA
6 adequate notice by merely posting the job announcement on their website and circulating it through
7 an internal memo. First, both the job posting and the memo were vague and did not articulate the
8 changes the Department intended to make. (See Exhs. 1 & 2.) The announcements merely stated
9 that an oral, pass/fail exam would be offered. (*Id.*) There was no information regarding the
10 elimination of written exam or further information on the scoring or selection process. These broad
11 announcements did not “clearly inform” VCDSA “of the nature and scope of the proposed
12 change.” (*Santa Clara, supra* PERB Decision No. 2321-M, p. 30.) Moreover, a posting on a public
13 website does not constitute effective notice to a union representative. (*Mutual Organization of*
14 *Supervisors v. Fairfield-Suisun Unified School District* (2012) PERB Decision No. 2262; *Santee*
15 *Elementary School District* (2006) PERB Decision No. 1822, pp. 26-27.) Similarly, notifying
16 VCDSA’s members directly through the memo was also insufficient. (*State of California*
17 *(Department of Veterans Affairs)* (2010) PERB Decision No. 2110.)

18 Additionally, Sheriff’s Ayub’s quick phone call to Ms. Sirody was not sufficient notice.
19 By its very definition, a verbal conversation cannot constitute “written notice” under Section
20 3504.5. Moreover, during this phone call, Sheriff Ayub did not explain the extent of the changes
21 that the Department had made. (Sirody Decl. ¶ 10.) He did not indicate that there would be no
22 ranked list or that there would be one mixed panel rather than separate internal and external panels.
23 This brief, verbal conversation after the decision had already been made did not satisfy
24 Respondents’ obligation to provide VCDSA with reasonable notice prior to implementing a
25 change that affected members’ wage, hours or working conditions.

26 VCDSA only learned about the full extent of the changes on or around February 3, 2021,
27 when the Department emailed out the names of the individuals selected for the positions. (Sirody
28 Decl. ¶¶ 18-19; Odenath Decl. ¶¶ 17-18.) At this point, the changes had already been implemented

1 and the promotional process completed. (*Id.*) Thus, Respondents' unilateral actions amounted to a
2 *fait accompli* and any request to negotiate at the at point "would have been a futile act." (*Barstow*
3 *School District* (1982) PERB Decision No. 219, p. 4.) Respondents' failure to provide reasonable
4 notice to VCDSA prior to implementing a change that would have a reasonably foreseeable impact
5 on a matter within the scope of representation constitutes a violation of Respondents' duty to
6 bargain in good faith.

7 3. *Respondents Did Not Provide VCDSA the Opportunity to Meet and Confer.*

8 As discussed above, the MMBA requires Respondents meet and confer in good faith with
9 VCDSA before implementing changes affecting members' wages, hours, or working conditions.
10 (Gov. Code § 3505.) However, Respondents did not provide VCDSA notice of its intention or the
11 opportunity to meet and confer prior to making substantial changes to the promotional process.

12 Thus, Respondents violated their obligations under the MMBA by failing to meet and
13 confer with VCDSA prior to changing the promotional process. This unilateral change to the
14 promotional process constitutes a blatant unfair labor practice. (See *County of Orange, supra*,
15 PERB Decision No. 2663; *Santa Clara, supra*, PERB Decision No. 2321-M, p. 32.)

16 **C. Respondents Violated Local Rules Regarding Bargaining and Impasse Procedures.**

17 The County adopted within its Personnel Rules and Regulations, rules on
18 Employer/Employee Relations. (Exh. 4, Section 20.) Section 2006 requires Respondents to meet
19 and confer over matters within the scope of representation and to permit time to utilize the impasse
20 procedures set forth in Section 2016. Section 2016's impasse procedures provide for the parties to
21 submit an impasse to mediation or factfinding.

22 An employer commits an unfair labor practice when it unilaterally implements changes
23 prior to completing impasse procedures. (*Laguna Salada Union School District* (1995) PERB
24 Decision No. 1103, p. 7.) As detailed above, VCDSA was denied the opportunity to meet and
25 confer and to engage in impasse resolution procedures pursuant to the Personnel Rules. Thus,
26 Respondents violated local rules governing meet and confer and impasse procedures in violation
27 of Government Code section 3505.

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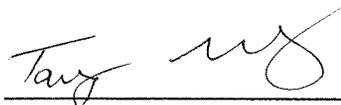
VI.
REMEDY REQUESTED

For the foregoing reasons, VCDSA respectfully requests PERB:

- 1) Issue a Complaint against Respondents for failing to provide VCDSA advance written notice as required by Government Code section 3504.5(a);
- 2) Issue a Complaint against Respondents for refusing to bargain with VCDSA in violation of Government Code section 3505 and PERB Regulation 32603(c);
- 3) Issue a Complaint against Respondents for denying VCDSA the opportunity to represent its members as required under Government Code sections 3502, 3503, 3504, and PERB Regulation 32603(b);
- 4) Order Respondents to rescind the promotions to the captain position;
- 5) Order Respondents to rescind any changes made to the promotional process;
- 6) Order Respondents to meet and confer in good faith with VCDSA over wages, hours and terms and conditions of employment for its members;
- 7) Order Respondents to cease and desist from engaging in said unlawful conduct in violation of the MMBA;
- 8) Order Respondents to issue a Notice Posting in the manner of the National Labor Relations Act reflecting Respondents' unlawful conduct and communicate that notice by posting it in all facilities and sending it by electronic means to all VCDSA members consistent with *City of Sacramento* (2013) PERB Dec. No. 2351;
- 9) Grant attorney fees at the appropriate lodestar rate;
- 10) Issue any other remedies that would effectuate the purposes of the MMBA.

DATED: May 12, 2021

MASTAGNI HOLSTEDT, A.P.C.



TAYLOR DAVIES-MAHAFFEY, ESQ.
Attorney for Claimants

Exhibit 1

VENTURA COUNTY SHERIFF'S OFFICE

SUPPORT SERVICES DIVISION

M E M O R A N D U M



DATE: November 9, 2020

TO: All Sheriff's Users

FROM: Rebecca Willhite, Human Resources Manager

SUBJECT: SHERIFF'S CAPTAIN PROMOTIONAL PROCESS

This memo is to inform you that the Sheriff's Captain promotional process has been scheduled. The filing period to apply is **0800 hours on Monday, November 16, 2020**, and ends at **1700 hours on Monday, November 30, 2020**. **Non-probationary Sheriff's Sergeants as of January 18, 2021 are encouraged to apply.** Those interested in applying for Sheriff's Captain must submit a County application and six (6) copies of their current resume by no later than 5:00 p.m. on Monday, November 30, 2020. A copy of the proposed job announcement is attached.

It is the intent of the Sheriff, with approval of the CEO's office, to appoint all newly promoted Sheriff's Captains to the top of the salary range.

Resumes should contain job-related information only. Any references to personal information (specifically race, national origin, physical or mental disability/medical condition, gender, religious creed/affiliation, marital status, age, height, weight, number of children, hobbies, etc.) should be omitted. Resumes will not be accepted with special bindings (other than staples), individual folders or protective coverings.

The promotional process will consist of a pass/fail oral examination with all applicants passing being placed on the eligibility list. The oral examination is tentatively scheduled to be held the week of January 18, 2021, at a time and location to be determined. Each applicant will appear for the oral examination in a Class "A" uniform including the gun belt as specified in the Lexipol policy manual.

As the appointing authority, the Sheriff will make the promotions resulting from this process in accordance with the provisions of Article 8 of the County Personnel Rules and Regulations.

In accordance with Article 7 of the County Personnel Rules and Regulations, applicants successfully completing the examination process may be placed on an eligible list for a period of one year. In no instance shall this eligible list be maintained for longer than two years.

If you have any questions regarding the Captain's promotional examination process, please contact Donna Smith, Sheriff's Personnel Analyst III, at 654-2848.

Exhibit 2

VENTURA COUNTY, SHERIFF INVITES APPLICATIONS FOR:



**Sheriff's Captain - Department Promotion
1698SHF-21AA (DAS)**

An Equal Opportunity Employer

SALARY RANGE (approximate)

\$60.12 - \$84.18 Hour \$10,421.62 - \$14,591.70 Monthly \$125,059.49 - \$175,100.45 Annually

This posting is for the Ventura County Sheriff; vacancy location is throughout Ventura County.

POSITION INFORMATION

Under direction, oversees an organizational work unit, program or assigned shift in the Sheriff's Office and performs related duties as assigned.

DISTINGUISHING CHARACTERISTICS: This classification differs from that of Sheriff's Sergeant in that incumbents are responsible for managing an organizational work unit, program, or assigned shift. It differs from that of Commander in that the latter is responsible for managing the activities of a division of the Sheriff's Office.

Some positions may be eligible for educational incentive. This incentive may be 2.5%, 5% or 7.5% for incumbents in eligible positions based on completion of POST Management Certificate/Associate's, Bachelor's, or Master's degree that is not required by the classification.

BILINGUAL INCENTIVE: Incumbents may also be eligible for bilingual incentive depending upon operational need and certification of skill.

Sheriff's Captain is a Management classification and is not eligible for overtime compensation. Incumbents in this classification are eligible for benefits at the MS3 level.

The eligible list established from this recruitment may be used to fill current and future Regular (including Temporary and Fixed-term), Intermittent, and Extra-Help vacancies within the Ventura County Sheriff's Office. This recruitment will establish an eligible list.

THE ORAL EXAMINATION IS TENTATIVELY SCHEDULED FOR THE WEEK OF JANUARY 18, 2021.

EXAMPLES OF DUTIES

Duties may include but are not limited to the following:

- Functions as Chief of Police for a contract city;
- Directs one of the major work units within the department by planning, assigning, directing and supervising the work of all subordinate assigned sworn and professional personnel performing patrol, investigative, custodial, support or other law enforcement functions;
- Functions as watch commander who manages, deploys, and directs all Ventura County Patrol units throughout the County during his/her shift including contract cities and unincorporated portions of the County;
- Functions as the facility manager of a jail ensuring the security and administration of a County jail facility;

- Prepares and manages the unit's budget and directs fiscal resources for the unit, program or bureau of responsibility;
- Functions as the manager of a work unit or multiple units such as court services bureau, major crimes bureau, narcotics unit, or internal affairs bureau;
- Serves as liaison to the public, other County departments and other agencies in the law enforcement/criminal justice system;
- Is responsible for ensuring the training, evaluating performance and mentoring of subordinate staff;
- Performs difficult/complex law enforcement duties and prepares comprehensive reports; and
- Performs other related duties as assigned.

TYPICAL QUALIFICATIONS

These are entrance requirements to the examination process and assure neither continuance in the process nor placement on an eligible list.

COUNTY/AGENCY/DEPARTMENT SERVICE: Currently working as a Regular employee in the County of Ventura Sheriff's Office. NOTE: A Regular employee is an employee who holds an allocated full-time or part-time position in the County budget excluding (but not limited to) extra help, intermittent employees, provisional appointees, enrollees in training programs and/or independent contractors.

EDUCATION, TRAINING AND EXPERIENCE: All applicants must possess progressively responsible experience in law enforcement and staff management which has led to the acquisition of the required knowledge, skills and abilities. The required knowledge, skills and abilities also can be obtained by currently working as a regular employee with non-probationary status as a Sheriff's Sergeant with the Ventura County Sheriff's Office as of January 18, 2021.

NECESSARY SPECIAL REQUIREMENT: Must possess and maintain a valid California driver license.

DESIRED: Experience in a variety of assignments within the department and continuing education/completion of related professional certifications and/or degrees.

Supplemental Information: Incumbents may be required to work under adverse conditions and must be prepared to successfully respond to unexpected and occasionally life-threatening events.

KNOWLEDGE, SKILLS AND ABILITIES: Comprehensive knowledge of: criminal law, investigation, and crime prevention methods; the rules of evidence and laws governing the custody of persons; accepted practices and procedures of good police administration; County ordinances, policies, rules, and regulations; and community and social problems.

Thorough knowledge of: principles and practices of effective supervision; budget preparation and analysis; fiscal management; contract administration; and public relations.

Ability to: analyze law enforcement problems and adopt an effective course of action; prepare accurate and comprehensive reports, records, and budgets; plan, coordinate, and supervise the activities of an organizational unit, section, program, or bureau; follow departmental policy, regulations, instructions, and established law enforcement procedures; establish and maintain effective relations with members of the department, other agencies, the law enforcement community, and the public; and communicate effectively orally and in writing.

RECRUITMENT PROCESS

FINAL FILING DATE: Applications and six (6) copies of applicant's current resume must be received by Sheriff's Human Resources Bureau in Ventura, California no later than 5:00 p.m. on

Monday, November 30, 2020.

Applicants must complete the County application on-line at www.ventura.org/jobs. In addition, applicants are required to submit six (6) copies of their resumes by 5:00 p.m. on the final filing date. Resumes may be sent to, or dropped off at, Sheriff's Human Resources.

Resumes should contain job-related information only. Any references to personal information (specifically race, national origin, physical or mental disability/medical condition, gender, religious creed/affiliation, marital status, age, height, weight, number of children, hobbies, etc.) should be omitted. Resumes will not be accepted with special bindings (other than staples), individual folders, or protective coverings.

Note to Applicants: It is essential that you complete all sections of your application thoroughly and accurately to demonstrate your qualifications. A resume and/or other related documents may be attached to supplement the information in your application; however, it/they may not be submitted in lieu of the application.

APPLICATION EVALUATION - qualifying: All applications will be reviewed to determine whether or not the stated requirements are met. Those individuals meeting the stated requirements will be invited to continue to the next step in the screening and selection process.

ORAL EXAMINATION – Pass/Fail: A job-related oral examination will be conducted to evaluate and compare participating applicants' knowledge, skills and abilities in relation to factors that job analysis has determined to be essential for successful performance as a Sheriff's Captain. These factors may include but are not limited to the following areas: overall law enforcement knowledge and experience including knowledge of Sheriff's Office policies and procedures; management and leadership skills; working relationships; communication skills; and uniform appearance. **The oral examination is tentatively scheduled for the week of January 18, 2021.**

As the appointing authority, the Sheriff will make the promotions resulting from this process in accordance with the provisions of Article 8 of the County Personnel Rules and Regulations.

In accordance with Article 7 of the County Personnel Rules and Regulations, applicants successfully completing the examination process may be placed on an eligible list for a period of one (1) year. In no instance shall this eligible list be maintained for longer than two (2) years.

For further information regarding this recruitment, please contact Donna Smith by email at donna.smith@ventura.org or phone (805) 654-2848.

Exhibit 3

August 15, 2007

Dear Candidate,

As you are aware, this year's Captain Promotional Exam process was changed slightly from previous years to include an opportunity for department board members to ask questions to candidates about their work experience. Additionally, there was some concern by VCDSA about requiring candidates to complete the entire process only to find out that they were disqualified at the end during the departmental review. As a result, the original departmental-portion of the exam was placed at the beginning of the process and an inside oral interview was included at the end to address both concerns.

Following the first stage of the exam, a great deal of discussion took place about the disqualification of 4 candidates so early in the process. Although the Sheriff fully understands the concerns of VCDSA about the futility of participating in an exam only to be disqualified in the last stage of the process, he is deeply concerned that to do so on the front end may send the wrong message to employees who, by most accounts, are successful in their current assignments and at their current rank. The Sheriff believes there is a benefit to fully participating in the examination process whether or not one is ultimately successful.

To that end, and with VCDSA support, I have directed my staff to eliminate the first stage of the process and continue the exam with the participation of all 26 candidates. Since the first stage was a pass/fail without a numerical rating, there was no loss to the 22 candidates who originally advanced to the writing exam. Additionally, for those of you concerned about the question used in the writing-portion of the exam, and the likelihood that the question has been revealed to the 4 remaining candidates, a separate question will be used for the 4 remaining candidates.

It was understood in the beginning that this new process would be heavily scrutinized to ensure a fair and equitable assessment of the candidates. It was also understood that some changes might be necessary to accomplish those goals. I want to thank you for your patience and understanding as we look to improve the process. Good luck.

Sincerely,

Christopher Godfrey
Chief Deputy

VENTURA COUNTY SHERIFF'S DEPARTMENT
Support Services

M E M O R A N D U M



DATE: May 8, 2007
TO: Chief Godfrey
FROM: Mark Ball, Commander
RE: **Proposed changes to Captain promotional process**

Cmdrs. Rouse and Parks, Kelly Shirk and I met with Rick Shimmel and Matt Findlay from VCDSA to put together a proposal to modify the promotional process for the Captain rank. The intent is to allow some inquiry by the raters into the qualifications of each candidate. Currently, the process does not allow any questioning or discourse between the raters on the Promotional File Review board and the candidates. Below is the proposed new format.

Current Exam Process

30% Written
30% Law enforcement orals
40% Promotional file review

New Exam Process

Pass/Fail	Promotional file review
30%	Written
30%	Law enforcement orals
40%	Inside Oral

Reasoning:

The intent of this change is to allow discourse and interaction between candidates for the first level of sworn management and the raters. In order to do so without creating a process that could result in formal appeals to the Civil Service Commission, the overall percentages of the exam steps were not changed. Both the written and outside oral board each account for 30% of the score. The 40% that was reserved for the department's input through the Promotional File Review will be allocated to the Inside Oral and the Promotional File Review will become a pass/fail exam.

Inside Oral:

The purpose of the Inside Oral Board is to allow the raters (Commanders) to ask questions of each candidate regarding resume, career experience and education. There will be four raters (one from each division) on this board with a Human Resources analyst as proctor. A list of basic questions will be provided to the board. Follow-up questions will be allowed in order for the board to delve further into the rating areas (resume, education and experience) as presented by the candidates on their resume or as they respond to the prepared questions. The proctor will monitor the appropriateness of the follow-up questions. Discipline will

not be part of this discussion, since formal discipline (for past 5 years) is discoverable during and may be considered by the Promotional File Review board.

The job announcement will include information for the candidate to utilize in preparing for this oral exam. The candidate will be advised to prepare to discuss the following:

- Resume
- Experience
- Leadership skills
- Education
- Holding staff accountable
- Completed staff work examples
- A specific discussion of work assignments
- Technical skills and/or expertise in a specialty area
- Collateral assignments
- Teaching experience
- Ability to train others

The intent of this board is to gain a better understanding of what each candidate has presented in their resume. At the end of the interview, each candidate will be allowed to present a closing statement if they choose to do so.

Promotional File Review:

This examination will be changed to a pass/fail score. There will be four commanders on this board (one from each division) instead of the traditional five or six raters. This board will evaluate each candidate's oral presentation, personnel and training files (last 5 years), resume, and education. No questions will be asked of the candidate at this stage. A Chief Deputy will still proctor this process and will be responsible for presenting the appropriate information from the candidate's personnel files to the board.

It has been recommended that the Promotional File Review be conducted first in the examination process prior to any other exam. The results of the review will determine which candidates proceed through the remaining exams.

This board is allowed by County Personnel Rules to fail any candidate and no appeal can be made to Civil Service. This panel will not be able to ask questions of the candidate.

- WRITTEN FIRST 75% NOT TOP 40
- OPPOSED TO TOP 40
- FILE REVIEW, INCL. ORAL PRESENTATION

DISQUALIFIERS
~~DISQUALIFIERS~~ SUCH AS

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Exhibit 4

**A RESOLUTION OF THE BOARD OF SUPERVISORS
WHICH DESCRIBES THE PERSONNEL RULES AND REGULATIONS
FOR EMPLOYEES OF THE COUNTY OF VENTURA**

The Board of Supervisors of the County of Ventura resolves as follows:

**ARTICLE 1
TITLE AND PURPOSE**

- Sec. 101** This Resolution describes the definitive guidelines which are adopted to provide a consistent, equitable, effective and efficient program of personnel administration for management, employees and the citizens of the County of Ventura. This Resolution, along with Memoranda of Understanding and Memoranda of Agreement and separate document for unrepresented employees, describes the employment plan for employees of the County of Ventura and shall be known as the Personnel Rules and Regulations.
- Sec. 102** All sections of these Rules and Regulations shall be applicable to employees exempted from the classified service except those sections of articles whose subject matter is described by Section 1345, et. seq., of the Ventura County Ordinance Code, including but not limited to examinations, grievance procedure, disciplinary appeals, classification, probationary periods, etc. Articles 19 and 25 of these Rules and Regulations shall be applicable to all employees of the County.
- Sec. 103** The County of Ventura may enter into Memoranda of Understanding or Agreement with recognized employee organizations which regulate the wages, hours and working conditions of employees exclusively represented by such employee organizations. In the event such Memoranda of Understanding or Agreement are ratified by the Board of Supervisors, the terms of such Memoranda of Understanding or Agreement shall prevail over inconsistent terms contained in these Personnel Rules and Regulations. Such Memoranda of Understanding or Agreement shall be reviewed by the Civil Service Commission prior to ratification by the Board of Supervisors to advise the Board if such Memoranda has an impact on these Personnel Rules and Regulations. Such advice shall be filed with the Board within seven calendar days after receipt by the Civil Service Commission.
- Sec. 104** Rules and Regulations which regulate the wages, hours, and working conditions of unrepresented employees may be established from time to time by resolution of the Board of Supervisors.
- Sec. 105** **Gender** - Words used in the masculine gender include all employees.

ARTICLE 2 DEFINITIONS

- Sec. 201** *Purpose:* Unless the context otherwise requires, the definitions contained in this Article govern the construction of these Rules and Regulations. The definition of a word applies to any of its variants.
- Sec. 202** *Allocation:* The assignment of a position to a department or agency.
- Sec. 203** *Anniversary Date:* The date upon which an employee is eligible to receive a merit increase.
- Sec. 204** *Appointment:* The offer to a person and his acceptance of a position authorized by the Board of Supervisors.
- Sec. 205** *Appointing Authority:* The group or person having the power and authority to make appointments or to remove persons from positions in the County Service. This term is generally used to designate, but is not limited to, the elective or appointive heads of County Departments or Agencies or their authorized representatives.
- Sec. 207** *Board:* When used alone means the Board of Supervisors of the County of Ventura.
- Sec. 208** *Bona Fide Occupational Qualification:* Any qualification reasonably necessary for the normal operation of a particular job, position or classification.
- Sec. 209** *Certification:* The submission of names of eligibles for appointment to an appointing authority by the Director-Human Resources.
- Sec. 210** *Classification:* A group of positions having duties and responsibilities sufficiently similar that the same salary, title, example of duties and employment standards may be applied.
- Sec. 211** *Classification Plan:* The grouping together of positions into classes, and classes into series.
- Sec. 212** *Classification Series:* A group of classifications of the same general character of work but differing as to level of difficulty and responsibility.
- Sec. 213** *Classified Employees:* All employees of the County not specifically exempted from the County of Ventura Civil Service System.
- Sec. 214** *Commission:* Unless otherwise specified, the Ventura County Civil Service Commission.

- Sec. 215** **County:** Means the County of Ventura.
- Sec. 216** **County Service:** the performance of official duties for the County of Ventura while on provisional, probationary or permanent status, or any combination thereof.
- Sec. 217** **Days:** Means calendar days unless otherwise specified.
- Sec. 218** **Demotion:** A change of status of an employee from one classification to another classification that has a lower salary range.
- Sec. 219** **Department/Agency:** A unit of County government headed by a person responsible to the County Executive Officer, Board of Supervisors or the electorate.
- Sec. 220** **Department/Agency Head:** An employee who is elected, appointed or employed as the person responsible for a County Department or Agency.
- Sec. 221** **Discrimination:** Any act, practice, or course of conduct which is not job related and which constitutes or results in inequality of treatment of any person or group of persons because of race, color, religion, national origin, sex, age, of functional limitation as defined in applicable State and Federal law.
- Sec. 222** **Dismissal:** Removal for cause from office or employment, unless otherwise specified.
- Sec. 223** **Division:** A major unit within a department or agency.
- Sec. 224** **Eligible:** Any person placed on an eligible list with a passing score.
- Sec. 225** **Eligible List:** A list of persons by classification who have qualified through examination for appointment.
- A. Classification Reinstatement List - A list of employees demoted due to a reduction in workforce. To remain on a classification reinstatement list, a person must maintain status as a regular County employee.
 - B. Agency/Department List - A list of employees in an agency/department qualified by examination for promotional appointment to a position in the department/agency. To remain on an agency/departmental list, a person must hold status within the County service. For persons on an agency/departmental eligible list who do not currently hold status in the agency/department, such

persons shall have their names certified for selection only if the regular position to be filled is vacant.

- C. Countywide List - A list of County employees qualified by examination for promotional appointment to a position in a department/agency. To remain on the Countywide list, a person must hold status within the County service.
- D. Re-employment List - A list for each classification of persons eligible for re-employment.
- E. Reinstatement List - A list for each classification of persons eligible for reinstatement.
- F. Open List - A list of persons qualified for employment in a classification as a result of an open examination.

Sec. 226 **Employee:** Except for elected officials, a person employed by the County of Ventura.

Sec. 227 **Employment Standards (Minimum Qualifications):** The minimum experience, educational, physical, medical, licensure, certification, training standards and/or requirements, and required skills, knowledge and abilities for a classification as established by the Director-Human Resources.

Sec. 228 **Examination:** The process used to qualify a person for employment or to make any differentiation between applicants.

Sec. 229 **Extra Help Employee:** A person employed for temporary work on a day-to-day basis.

Sec. 230 **Extra Help Position:** A position intended to be occupied on less than a year-round basis to cover seasonal peak workloads, emergency extra workloads of a limited duration, necessary vacation relief, and other situations involving a fluctuating staff.

Sec. 231 **Fixed Term Employee:** All employees who hold an appointment in a fixed term position. Such appointments are made from appropriate eligible lists and subject to conditions set forth for regular classified employees. (Adopted 7/31/84)

Sec. 232 **Fixed Term Position:** A position designated by the Director-Human Resources or Board of Supervisors to which persons may be appointed for fixed terms not to exceed three (3) years. (Adopted 7/31/84)

- Sec. 233** *Immediate Family:* The husband, wife, parent, brother, sister, child, grandchild, grandparent, mother-in-law, father-in-law, brother-in-law, or sister-in-law of an employee.
- Sec. 234** *Intermittent Employee:* A person employed for intermittent/temporary work on a day-to-day basis.
- Sec. 235** *Layoff:* Termination of services, without fault on the part of the employee, because of lack of work, lack of funds, or in the interest of economy.
- Sec. 236** *Leave of Absence:* An authorized absence from duties with or without pay.
- Sec. 237** *Memorandum of Understanding or Agreement:* Means an agreement between the parties reduced to writing subject to approval of the Board of Supervisors.
- Sec. 238** *Officer:* An elected or appointed department/agency head enumerated in Section 24000 of the California Government Code and such other officers as are provided by law.
- Sec. 239** *Performance Report:* A periodic evaluation of an employee's work reflected on forms approved by the Director-Human Resources.
- Sec. 240** *Permanent Employee:* An employee who has completed an initial probationary period.
- Sec. 241** *Human Resources Department:* The County department responsible for the recruitment, examining, classification, recordkeeping, and other personnel functions.
- Sec. 242** *Director-Human Resources:* The title of Director-Human Resources refers to the person occupying that classification or his designee.
- Sec. 243** *Position:* An aggregation of tasks and responsibilities requiring the services of one individual.
- Sec. 244** *Probationary Employee:* A person appointed through a certification to a classified position who has not held permanent status in the classified service immediately prior to such appointment.
- Sec. 245** *Probationary Employee - Promotional:* A person appointed through a certification to a classified position who has held permanent status in the classified service immediately prior to such appointment.

- Sec. 246** **Probationary Period:** Unless otherwise specified, the trial period during the first six months (or 1,040 hours exclusive of overtime) of employment following appointment from an eligible list to a classification in the County service.
- Sec. 247** **Promotion:** Appointment from a position in one class to a position in a class which has a higher salary range.
- Sec. 248** **Provisional Appointments:** The conditional appointment, pending an examination, of a qualified person to fill a position for which no appropriate eligible list exists
- Sec. 249** **Recruitment:** The process used to attract qualified persons to apply for employment or promotion.
- A. Agency/Department Recruitment - A recruitment open only to those persons who hold status in the County service and who also hold status in the agency/department for which the examination is being conducted.
 - B. Countywide Recruitment - A recruitment which is open only to persons who hold status in the County service.
 - C. Open Recruitment - A recruitment open to any applicant.
- Sec. 250** **Re-employment:** The reappointment, within two years, of a former permanent employee who has been laid off.
- Sec. 251** **Regular Employee:** All employees who hold an allocated full time or part time position in the County budget excluding but not limited to extra help, fixed term, or intermittent employees, or enrollees in training programs, and independent contractors. (Amended 7/31/94)
- Sec. 252** **Reinstatement:** The reappointment of a person who held permanent status in a position prior to termination.
- Sec. 253** **Salary Advancement:** A salary increase based upon satisfactory performance, recommended by the appointing authority.
- Sec. 254** **Selective Certification:** The certification of an eligible by specific agency/department and/or geographic location; or certification based on bona fide occupational qualifications.
- Sec. 255** **Separation:** Any termination of employment.
- Sec. 256** **Specification:** The official description of a job classification.

- Sec. 257** **Standing:** The position of each person on an eligible list fixed in accordance with his final examination score, reinstatement date or re-employment status.
- Sec. 258** **Status:** The condition of an employee's present employment, such as provisional, probationary, or permanent.
- Sec. 259** **Suspension:** An involuntary, disciplinary absence without pay imposed on an employee by an appointing authority.
- Sec. 260** **Test Validation:** The process by which any test is shown to predict job performance or measure actual skills, knowledge, and/or abilities which are necessary to perform a particular job. The typical methods utilized in validating examinations are construct, content, and criterion related validity.
- Sec. 261** **Uninterrupted Employment:** Continuous County service from the date of employment, except by authorized absence.
- Sec. 262** **Unrepresented Employee:** An employee in a classification not represented by a recognized employee organization.
- Sec. 263** **Vacancy or Vacant Position:** Any unfilled position which has been allocated by the Board in the classified service.
- Sec. 264** **Voluntary Demotion:** The assignment of an employee to a lower classification in the County service at the employee's request.
- Sec. 265** **Y-Rate:** A policy concerning a salary placement as a result of reclassification to a lower position.

ARTICLE 3 RECRUITMENT

- Sec. 301** **Purpose:** To attract and induce qualified persons to apply for employment or promotion.
- Sec. 302** **Content of Announcements:** The Director-Human Resources shall prepare announcements of examinations.
- A. For open recruitments, the announcements shall contain at least the job title, classification, rate of pay, the minimum employment standards, and the final filing date.

- B. For county-wide promotional and agency/departmental promotional recruitments, the announcement shall contain at least the following:
1. The title, class, minimum rate of pay, and minimum employment standards for the job to be filled;
 2. The date, hour and place where such examination will be held or instructions concerning the announcement of such information;
 3. The period during which applications for examinations will be received and where and how they shall be filed;
 4. The scope of the examination, weights of the various parts of the test, and a statement of typical duties of the job;
 5. Any special physical, medical or examination requirements, where such requirements are to be included in the examination, and such special employment standards as to education, training or experience;
 6. Any additional restrictions as to who may apply for the position.

Sec. 303 *Modification of Employment Standards:* The Director-Human Resources may modify the minimum experience and education requirements for a class if the resulting requirements for the class are substantially equivalent to the approved classification specification and are printed on the examination announcement.

Sec. 304 *Posting and Distribution of Announcements:* Determination of the final filing date and the distribution of announcements shall be made by the Director-Human Resources. Recruitments shall be conducted in such a manner as to insure that a sufficient number of qualified persons apply to meet the employment needs of the County. The length of agency/departmental promotional and countywide promotional recruitments shall be a minimum of ten (10) working days. Each County agency/department and each major division thereof, as well as each recognized employee organization, shall receive a minimum of one (1) copy of each announcement for distribution and posting. The length of an open recruitment shall be a minimum of five (5) working days.

Sec. 305 ***Paid Advertisements:*** The Director-Human Resources may, at his discretion, authorize advertising in appropriate media and avail himself of other means of informing the public of job opportunities.

Sec. 306 ***Types of Recruitments:*** Recruitments may be conducted in any of the following manners:

- A. Open Recruitment - A recruitment open to any applicant.
- B. Countywide Promotional Recruitment - A recruitment which is open only to persons who hold status in the County service. Provisional and extra help employees and enrollees in training and work programs shall not be eligible to compete in the County promotional examinations.
- C. Agency/Departmental Promotional Recruitments - A recruitment open to only those persons who hold eligible status with the County service and who also hold eligible status in the agency/department for which the examination is being conducted. Provisional and extra help employees and enrollees in training and work programs shall not be eligible to compete in agency/departmental examinations.

Sec. 307 ***Determination of Type of Recruitment:*** Upon recommendation of the appointing authority, the Director-Human Resources shall determine whether an agency/departmental promotional, countywide promotional or open recruitment shall be conducted. Such determination shall be in accord with the best interests of the County. Where a sufficient number of employees holding status in lower positions have the requisite skills, knowledge and abilities for the vacancies, a strong consideration shall be given to conducting a countywide promotional or agency/departmental promotional recruitment. However, vacancies in appointed Department or Agency Head positions or interim appointive elective Department Head positions, may be filled through open recruitment.

Sec. 308 ***Non-Discrimination in Recruitment:*** Recruitment activities of the County shall be conducted in such a manner as to attract qualified applicants without regard to race, color, national origin, religion, sex, age or functional limitation unless such functional limitation would prevent the applicant from performing the required functions of the position. To enhance non-discrimination in the recruitment efforts of the County, the Director-Human Resources may request the assignment of persons currently employed by the County to the County's recruitment activities. Such activities shall be conducted on County time and shall be reasonably controlled.

Sec. 309 *Recruiting Salary:* In all instances, the recruiting salary shall be at the minimum rate of the salary range for the position unless a hiring rate at some other point within the salary range has been authorized by the Director-Human Resources or the Board of Supervisors. The Director-Human Resources may approve appointments up to the midpoint of the range. Appointments beyond the midpoint of the range require the approval of the Board of Supervisors.

ARTICLE 4 APPLICATIONS

Sec. 401 *Application Forms:* An application form, as approved by the Director-Human Resources, shall be submitted by each applicant for each examination.

Sec. 402 *Filing Date:* Unless otherwise indicated on the announcement, applications must be filed and received on or before the final filing date and the location or locations designated. A filing date may be extended by the Director-Human Resources.

Sec. 403 *Verification of Information:* Information given in an application may be verified by the Director-Human Resources, and the applicants for the positions requiring special qualifications may be required by the Director-Human Resources to provide documentary evidence or a satisfactory degree of education, training, experience or licensing.

Sec. 404 *Application Confidential:* The name or identity of an applicant for an examination or of a person who has failed the examinations shall not be made public without his written consent and the written consent of the Director-Human Resources.

Sec. 405 *Non-discrimination:* No person applying for a position shall in any way be discriminated against because of race, color, national origin, religion, sex, age or functional limitation, as defined in applicable State and Federal law.

Sec. 406 *Amended Applications:* Minor defects or omissions in an application on file may be corrected or supplied only after special permission from the Director-Human Resources has been granted. Such amendments may be made after the final filing date of the recruitment. The date of the change of the original application shall be written on the original application form and endorsed thereon.

Sec. 407 **Residence:** An appointing authority shall not require an employee to be a resident of Ventura County. An appointing authority, with the approval of the Director-Human Resources, may require an employee to reside within a reasonable distance of his duty station.

Sec. 408 **Disqualification:** The Director-Human Resources may refuse to examine or continue to examine an applicant or to certify an eligible who:

- A. Fails to meet any of the minimum employment standards or qualifications for the position for which he applies.
- B. Is physically or mentally unfit to perform the duties of the position for which he seeks appointment.
- C. Is addicted to the use of intoxicating beverages, narcotics or habit forming drugs.
- D. Has been convicted of a criminal offense involving moral turpitude.
- E. Has been dismissed for good cause from the County service or has resigned from County service in order to avoid dismissal.
- F. Has made a false statement as to any material matter, or has failed to disclose a matter under circumstances which warrant disclosure.
- G. Has practiced or attempted to practice any deception or fraud in his application, examination, or any other matter related to securing eligibility or appointment.
- H. Has failed to complete his application as required within the prescribed time limit.
- I. Fails to take and pass any examination or portion of the total examination for the position.

Sec. 409 **Applications of Disqualified Applicants:** Applications of persons who have been disqualified shall not be used for any other examination, but shall be cancelled. Similarly, applications of persons who have failed to appear for examinations shall not be used for any other examinations, but shall be cancelled.

Sec. 410 **Notification of Disqualified Applicant:** Notice of disqualification of an applicant shall be mailed to each disqualified applicant within twenty-one (21) days of the date of disqualification or concurrently with notification of eligibles.

Sec. 411 **Applications Not To Be Returned:** Applications, whether accepted or rejected, shall not be returned.

Sec. 412 **Grandfather Clause:** An employee who desires to compete in a promotional examination under educational requirements higher than those existing at the time he entered the lower related class may be permitted to compete, provided that, in the opinion of the Director-Human Resources, he has sufficient applicable experience in the employment of the County to substitute for the education lacked. Experience may be substituted only on the basis of a minimum of one year thereof for each year of education lacked.

ARTICLE 5 EXAMINATIONS

Sec. 501 **Purpose:** To test the knowledge, skills, abilities and fitness of persons seeking employment or promotions to ascertain the best qualified applicants.

Sec. 502 **Nature of Examinations:** All examinations shall be devised to ascertain as far as practical the capacity of the applicant to perform the work of the classification or position and shall be conducted in a fair and reasonable manner.

Sec. 503 **Non-Discrimination:** No examination or test shall be designed, used, or result in discrimination against any person because of their race, color, religion, national origin, sex, age, or functional limitation. No examination shall be administered for any County position until a thorough job analysis has been completed, job-related performance elements have been determined and reasonable content or construct validity is evident.

Sec. 504 **Preparation of Examination:** The Director-Human Resources shall prepare or acquire all examinations given.

Sec. 505 **Participation in Examination Procedures:** County employees may be called upon by the Director-Human Resources to assist in examination procedures with the approval of their Department or Agency Head; however, such County employees shall not both devise a specific examination as defined in Section 508 of these Rules and Regulations and score or rate said examination.

If the Director-Human Resources determines that the participation of a current employee of the Agency/Department for which the recruitment is

being conducted is necessary to enhance the quality and validity of an Agency/Departmental promotional examination, then no more than one (1) such employee may participate as a rater in an oral examination. The Agency/Departmental employee who is to serve as a rater in the oral examination shall be selected by the Director-Human Resources and shall not be the employee responsible for final selection, nor shall such rater be the examinee's immediate supervisor.

Sec. 506 **Examination Schedules:** The Director-Human Resources shall schedule examinations in accordance with current and anticipated needs of the service. Scheduled examinations may be postponed or cancelled by the Director-Human Resources by notifying in advance all persons affected and posting public notice of the cancellation.

Sec. 507 **Continuous Testing:** Examinations may be administered on a continuing basis.

Sec. 508 **Types of Examinations:** Any device which is used to select a person for employment or used to make any differentiation between applicants is an examination. The results of examinations may be either scored ratings or pass/fail decisions concerning inclusion or exclusion for the remainder of the examination process. The Director-Human Resources may administer any appropriate device including but not limited to the following:

- A. Application Screening - The process by which candidates' applications, resumes or other required documentation are evaluated on a comparative basis against pre-established criterion.
- B. Oral Examinations - A test where questions, situations or role plays are submitted to an applicant or a group of applicants by a person or group of persons and the candidate's responses and observable behaviors to these situations and questions form the basis upon which the candidate is rated.
- C. Physical Performance Examination - A test composed of one or more events which require candidates to display their physical skills, strength, stamina or endurance, agility and/or speed.
- D. Practical Examination - A job task sampling where essential job duties and the job environment are simulated and the candidates are required to perform these job tasks while being observed by raters. The method of completing the tasks, the time required, and the final product are scored and evaluated. Practical examinations may also encompass actual job performance in the position and/or successful completion of any required job training.

- E. Promotability Review - A scored rating of candidates for promotional examinations where each candidate's previous on-the-job performance, educational and experienced background, and other job-related life experiences, which have been documented or observed, are rated by employee's supervisors, outside experts, or managers of the Department/Agency for which the promotional recruitment is being conducted. A Promotability Review Examination shall not be the sole testing device used in any examination to develop an eligible list.
- F. Questionnaire Examination - A form of written examination where applicants are required to submit additional information at the time of application which is elicited by means of written questions or statements.
- G. Total Assessment Examination - An examination process which evaluates candidates by using a combination of testing instruments which may include, but is not limited to, practical, written, oral, reference, and promotability review examinations.
- H. Written Examinations - A paper and pencil test which may include any portion or combination of the following types of items.
 - 1. True/False
 - 2. Multiple Choice
 - 3. Matching
 - 4. Completion
 - 5. Essay

Sec. 509 **Retest Policy - Written Examinations:** Unless an exception is approved by the Director-Human Resources, no applicant may take the same written examination more than four (4) times within a calendar year except on open examinations where there will be no limit on the number of times an examination can be taken.

Sec. 510 **Promotion in an Underfill Situation:** Whenever an employee is filling a position in a classification lower than that of the authorized allocation, an underfill situation exists. To be eligible for promotion to a higher allocation level, the employee must have either originally competed for appointment to the underfill position or must successfully compete with other candidates for the promotion to the higher allocated classification. In no case shall an employee in an underfill situation be promoted without a competition as described above. If a position which is being under filled is allocated at a higher level and if the employee in the underfill situation is satisfactorily and substantially performing the duties of the higher classification, and if the employee in the underfill situation meets the

established minimum employment standards for the higher classification, then such employee shall be promoted, provided that the other provisions of this section are met.

Sec. 511 **Promotion by Nomination:** Whenever there are three or fewer qualified applicants or whenever there are three or fewer qualified employees in an agency/department who file application for examination, the appointing authority may, upon written justification and approval of the Director-Human Resources conduct a selection interview. If the decision of the appointing authority is unsatisfactory to a competing employee, he may petition within seven calendar days to the Civil Service Commission.

Sec. 512 **Suspension of Examination:** In the event of the creation of a new classified position or of a vacancy in any classified position requiring peculiar and exceptional qualifications of a scientific, professional, or expert nature, upon satisfactory evidence that a competitive examination is impractical, and that the position can be filled by a person of recognized attainment, the competitive examination may be suspended by the Director-Human Resources. No such suspension of examination shall be general in its application to such position. The Director-Human Resources shall report to the Board of Supervisors the reasons for suspension of any examination. The foregoing provisions are not applicable to newly created positions or vacancies in appointive or appointive interim elective department head vacancies.

Sec. 513 **Examination Scores:** Unless otherwise provided on the examination announcement, applicants shall be required to attain a passing score of not less than seventy percent (70%) on each part of an examination in order to be placed on the eligible list. However, the Director-Human Resources may increase or decrease the minimum score required for an examination by no more than ten percent (10%). An explanation of such action shall be placed on file by the Director-Human Resources. The determination to increase or decrease the required minimum score shall be made in accordance with the following factors:

- A. Difficulty of examination.
- B. Quality of competition.
- C. Current needs of the County service.

Sec. 514 **Examination Weights:** The Director-Human Resources shall determine the weight of each part of an examination.

Sec. 515 **County Service Points:** In open examinations, additional credit in the amount of five percent (5%) of the maximum score attainable shall be

given to all eligible County employees who have attained permanent status. Provisional, extra help employees and enrollees in training and work programs are not eligible to receive this additional credit. Such credit shall only be allowed if the employee attains a passing score on each phase of the examination. No credit shall be given in a Countywide or agency/department promotional examination. Credit available pursuant to this section is an alternative to Veteran's preference credit provided in Section 517 and both cannot be given simultaneously to an employee or applicant.

Sec. 516 ***Veteran's Points:*** Any person who has been discharged or released under condition other than dishonorable within fifteen (15) years of the final filing date for the position being examined, and who enters a competitive Civil Service Examination for entry level and trainee classifications as designated by the Director-Human Resources, shall receive a preferential credit of five percent (5%) of the maximum score attainable in the examination. Persons retired with pension from the various military services shall not receive this preferential credit. Notwithstanding their date of discharge, veterans who have a service-connected disability rating of twenty percent (20%) or more shall be eligible to receive this preferential credit. Such credit shall be allowed only if the veteran attains a passing score in each phase of the examination. No veteran's credit shall be given in a Countywide or agency/departmental promotional examination. Presentation of discharge papers or a certified copy thereof for inspection by the Director-Human Resources prior to the final filing date of the announcement shall be required of all applicants seeking Veteran's preference credit.

Sec. 517 ***Final Examination Scores:*** In order to be placed on the eligible list for the classification, each applicant must attain a final examination score of seventy percent (70%) or more. For the purpose of determining the standing in which an eligible is placed, only the final examination score shall be rounded off to the nearest whole number.

Sec. 518 ***Standings:*** Final examination scores inclusively of 95% to 100% shall fall in Standing No 1; scores from 90% to 94% shall fall in Standing No. 2; scores from 85% to 89% shall fall in Standing No. 3; scores from 80% to 84% shall fall in Standing No. 4; scores from 75% to 79% shall fall in Standing No. 5; scores from 70% to 74% shall fall in Standing No. 6.

Sec. 519 ***Notice of Results:*** As soon as the eligible list is established, each applicant who took the examination shall be notified by mail whether he passed or failed, and, if he passed, his final examination score and his relative position on the eligible list.

- Sec. 520** **Written Examination Review:** Except when the County is subject to contractual limitations with test publishers, any person who took a written examination may inspect the records of his rating and review his answer sheet and a keyed correction overlay within a period twelve (12) calendar days from the date of written notification of the results. The Director-Human Resources shall, upon written request by an applicant, authorize another person to review the applicant's rating records and examinations. An applicant shall not have the right to re-examine the test questions.
- Sec. 521** **Oral Examination Review:** Access to individual oral examination rating forms and tape recordings of oral examinations shall not be granted to persons other than the Director-Human Resources, his designated representative, or the Civil Service Commission, unless subpoenaed by a court of competent jurisdiction. The Director-Human Resources, or his representative, shall summarize oral ratings and comments for applicants, or his designated representative, upon request. Such request for review and summation must be made by an applicant within a period of seven (7) calendar days from the date that the written notification of the results of the examination was mailed to the applicant.
- Sec. 522** **Promotability Examination Review:** Any candidate who participated in a promotability review examination may inspect the records of his ratings. Access to individual promotability review rating forms will not be granted to persons other than the Director-Human Resources, his designated representative, or the Civil Service Commission, unless subpoenaed by a court of competent jurisdiction. The Director-Human Resources, or his representative, shall summarize promotability ratings and comments for applicants, upon request. The inspection of the rating records as well as the request for summation must be made within a period of twelve (12) calendar days from the date that the written notification of the results of the examination was mailed to the candidate.
- Sec. 523** **Examination Appeal Procedure:** Within twelve (12) calendar days after notice of results has been mailed in accordance with Section 520, an applicant may appeal the examination ratings to the Director-Human Resources. The appeal shall be in writing and shall provide the facts, information or circumstances upon which the appeal is made. At his discretion, the Director-Human Resources may, with proper cause and reasonable notice, suspend, cancel, discontinue and/or invalidate any examination process, part thereof, to avoid, correct, or redress any fraud, favoritism, failure to follow proper exam procedure, or discrimination in such process.
- Sec. 524** **Basis for Appeal:** Basis for appeal is appropriateness or correctness of item or items in written examinations; fraud, favoritism or other non-merit factors involved in the oral examination interview.

- Sec. 525** *Review by the Director-Human Resources:* Within seven (7) calendar days after receiving the appeal, the Director-Human Resources or his designated representative will meet with the appellant and discuss the appeal. The Director-Human Resources shall give his written decision within ten (10) calendar days after the discussion. If the decision rendered by the Director-Human Resources is unsatisfactory to the appellant, he may petition in writing for a hearing within seven calendar days to the Civil Service Commission.
- Sec. 526** *Examination Records:* Examination rating records may not be destroyed earlier than three (3) years after the eligible list has been established.
- Sec. 527** *Time Off for Examinations:* Any regular employee shall be entitled to necessary time off with pay for the purpose of taking qualifying or promotional examinations administered by the County Human Resources Division for County positions, in the same or similar series within which he is classified. The appointing authority may authorize an employee time off with pay to take County examinations for positions in a classification series different from the one in which he is classified.

ARTICLE 6 MEDICAL EXAMINATIONS

- Sec. 601** *Purpose:* The County shall conduct medical examinations to determine the physical and mental fitness of employees and candidates in regards to prescribed minimum medical standards and to place such people in positions most advantageous to the County and the employee. Moreover, the examinations will assist in the economical administration of the County's group insurance, worker's compensation, retirement and sick leave benefits.

To accomplish these purposes and to meet the intent of law governing the employment of qualified handicapped or disabled persons, minimum medical standards shall be job-related for each position in the County service.

- Sec. 602** *Medical Examinations:* All candidates, except as noted in Sections 604, 605, and 606, shall successfully complete a medical examination by a County-appointed physician or designated examiner prior to appointment. It is the responsibility of the appointing authority to insure that the candidate completes the medical examination process. If Federal or State law specifies other medical examination requirements, such law shall prevail.

Sec. 603 **Medical Standards:** Successful completion of the examination will depend on the determination that the person meets the minimum medical standards. The Director-Human Resources, upon the recommendation of the Director of Employee Health Services, shall establish the minimum medical standards.

Sec. 604 **Emergency Appointments:** In emergency or unusual situations, where an immediate appointment must be made for the convenience of the County and a medical examination cannot be completed prior to such appointment, the Director-Human Resources may approve a provisional appointment subject to the candidate successfully completing the medical examination.

Sec. 605 **Elected Officials:** Elected officers designated under Section 1347-1, Classified Service of the Civil Service Ordinance, who are members of the County retirement system, are not required to pass the medical examination but shall be required to complete an examination for the purpose of obtaining a medical history.

Sec. 606 **Other Appointments:** The medical examination for reinstated, temporary, part time (less than 20 hours per week), and extra help appointments may be waived by the Director-Human Resources if, at his discretion, it would be in the best interest of the County to do so.

The Director-Human Resources may waive the medical examination for elected officials or appointed individuals designated in Section 1347-1, Classified Service, of the Civil Service Ordinance who are not members of the County retirement system,

Sec. 607 **County Employees:** Employees who are promoted, demoted, transferred or reassigned to another position may be required to successfully complete a new medical examination if the new position has more stringent medical requirements than the former.

Sec. 608 **Director of Employee Health Services:** The Director of Employee Health Services shall determine if the applicant or employee meets the prescribed medical standards for the position.

Sec. 609 **Disqualified Candidates:** If the applicant or eligible fails to meet the standards, his name shall be:

- A. Removed from the eligible list by the Director-Human Resources;
or,

- B. Withheld from certification by the Director-Human Resources until the eligible (candidate) does meet the required standards.
- C. An applicant or eligible removed from the list may appeal his removal to the Civil Service Commission within ten (10) days of receipt of the notice of removal. Costs incurred shall be at the expense of the appellant.

Sec. 610 *Special Medical Examinations:* An employee may, at the discretion of the appointing authority or Director-Human Resources, be required to successfully complete a medical examination when the employee's medical condition is believed to hamper his ability to perform his normal duties or where impairment may be hazardous to him or his fellow employees.

Sec. 611 *Dismissal:* If the Director of Employee Health Services determines that an employee does not meet the medical standards for his position, he shall notify the Director-Human Resources and the appointing authority who may, at their discretion, dismiss, demote, transfer or place said employee on leave of absence. The employee shall be given every consideration to transfer to another position for which he is qualified. The employee shall also be subject to the provisions of the Ventura County Retirement Act and the Workers' Compensation Insurance Act, when applicable.

ARTICLE 7 ELIGIBLE LISTS

Sec. 701 *Purpose:* To establish a record of the best qualified applicants and to specify the types and priority of lists.

Sec. 702 *Order of Eligibles:* Eligibles on open, Countywide promotional, and agency/departmental promotional lists shall be ranked in order of their final examination scores.

Sec. 703 *Effective Date of Eligible Lists:* Upon completion of the examination, the Director-Human Resources shall establish an eligible list composed of the applicants passing the examination. The date that the eligible list is established is the date that it becomes effective. Certification to a department or agency shall be made immediately upon request for such certification.

Sec. 704 *Abolishing of Lists:* Any eligible list may be abolished in accordance with the following:

- A. On the date a new examination is announced if a different test is administered. Any person whose name remains on the list shall be notified of such abolishment and of the new examination. Eligibles on a promotional Eligible List shall be sent a copy of the announcement for the new examination.
- B. If fewer than three names remain on the eligible list, the appointing authority may request the establishment of a new list.
- C. Whenever the list is one year old and without any other consideration. The eligibles shall be so notified.
- D. In no case shall an eligible list be maintained for longer than two years.
- E. If the same or alternate form examination is administered, the names remaining on the list shall be integrated by score and the persons so notified. Such integration may be effected twice for any given examination.

Sec. 705 ***Eligible List Confidential:*** Eligible lists are confidential and the relative position of any eligible on a list or a score shall not be made available except to the eligible, his designated representative or the authorized representative of the department or agency to whom the person has been certified.

Sec. 706 ***Priority of Lists:*** The order of priority of eligible lists for certification to an appointing authority shall be:

Classification Reinstatement List;
Re-employment List;
Agency/Department Promotional List;
Countywide Promotional List;
County Service Reinstatement List;
Apprentice/Work Training Lists; and
Open List.

Sec. 707 ***Classification Reinstatement List:*** All persons who have been demoted to a lower classification as a result of a reduction in workforce shall have their names placed on a Classification Reinstatement List for the classification from which they were demoted. There shall be two classification reinstatement lists: one which includes only the names of the demoted employees within a department or agency, and the other which has the names of all other County employees who were demoted from the specific classification. The department/agency classification reinstatement

list shall have priority over the countywide classification reinstatement list. Eligibles on the Classification Reinstatement List shall be ranked in reverse order of the order of their demotions. Each person's name may remain on such list for a period of two years following the date that their name was placed on such eligible list, or until they have been reinstated to the classification from which they were demoted, or until their name has been removed from the eligible list in accordance with the provisions of Section 717, whichever occurs first. To remain on a Classification Reinstatement List, a person must maintain status as a County employee.

- Sec. 708** *Re-Employment List:* All persons who have been laid off as a result of a reduction in workforce shall have their names placed on a re-employment eligible List for the classification in which they were employed immediately prior to being laid off and for all classifications in which they previously held permanent status prior to being laid off. There shall be two Re-employment Eligible Lists: one which includes only the names of the laid off employees within a department or agency, and the other which has the names of all other County employees who were laid off. The department/agency re-employment eligible list shall have priority over the countywide re-employment list. Eligibles on the re-employment list shall be ranked in reverse order of the order of layoff. Each persons' name shall remain on such list for a period of two years following the date that their name was placed on such eligible list, or until they have been re-employed, or until their name has been removed from the eligible list in accordance with the provisions of Section 717, whichever occurs first.
- Sec. 709** *Agency/Department Promotional List:* An eligible list for a classification composed of all applicants who passed an agency/departmental promotional examination. To remain on the agency/departmental list, a person must hold status within the County service. For persons on an agency/departmental eligible list who do not currently hold status in the agency/department, such person shall have their name certified for selection only if the regular position to be filled is vacant.
- Sec. 710** *County-Wide Promotional List:* An eligible list for a classification composed of all applicants who passed a countywide promotional examination. To remain on the countywide list, a person must hold status within the County service.
- Sec. 711** *Open List:* An eligible list composed of all applicants who passed an examination for a classification.
- Sec. 712** *County Service Reinstatement List:* As an alternative to appointment from an eligible list, other than a classification reinstatement or re-employment list, a position may be filled by reinstatement. All persons who are eligible for County service reinstatement in accordance with

Article 15, Section 1502 of these rules shall have their names placed on a County Service Reinstatement List. Each person's name shall remain on such list for a period of one year following the date that their name was placed on such eligible list or until they have been reinstated to the County service, whichever occurs first, or until their name has been removed from the eligible list in accordance with the provisions of Section 717.

Sec. 713 ***Apprentice/Work Training List:*** Any person who has satisfactorily completed a minimum of six (6) months of County service through participation in any apprenticeship program or any other federal, state, local training or work program approved by the Board of Supervisors may be placed on an Apprentice/Work Training List with the approval of Director-Human Resources. The request for placement on an Apprentice/Work Training List shall be in writing and shall include a completed, written County Performance Review. Satisfactory completion of the County service training period shall constitute the examination process. All minimum requirements for the class shall be met upon satisfactory completion of the apprenticeship or Work Training Program. Each person's name shall remain on such list for up to one year following the date that their name was placed on such eligible list or until they have achieved status in the County service, whichever occurs first, or until their name has been removed from the eligible list in accordance with the provisions of Section 717.

Sec. 714 ***Transfer:*** As an alternative to appointment from an eligible list, a position may be filled by transfer. All transfers must have the written approval of the appointing authorities concerned and the Director-Human Resources. Transfer is a change from one public agency to another or from one department to another in the same or similar classifications. It is also a change from one class to a similar class within a department or agency. A person so transferred must meet the employment standards for the classification. The releasing appointing authority shall release the transferee within thirty days after being accepted by the accepting appointing authority.

Sec. 715 ***Disability Reassignment:*** As an alternative to appointment from an eligible list, a position may be filled by reassignment of a permanent or probationary employee to another position upon his request with the consent of the appointing authorities involved and the Director-Human Resources, if he has become unable to perform the responsibilities of his position because of accident or disability. An employee so incapacitated may be reassigned to a classification if it is determined that he is qualified to perform the new responsibilities.

Sec. 716 ***Provisional Appointments:*** If the appointing authority believes that there are compelling reasons for filling a vacancy and there is no eligible list, he

may temporarily employ any person who meets the minimum requirements for the class to fill the vacancy pending the establishment of an eligible list.

Sec. 717 ***Removal of Names from Eligible List:*** The name of an eligible may be removed from any eligible list by the Director-Human Resources whenever:

- A. The eligible submits a written notice waiving certification; or
- B. The eligible fails to respond to the written certification notice; or
- C. Upon presentation of written, satisfactory information verified by the Director-Human Resources that there is sufficient reason for not employing the eligible; or
- D. The eligible refuses an offer of employment three times; or
- E. The eligible is determined to be unacceptable and is disqualified for appointment by three appointing authorities after certification from the eligible list; or
- F. The eligible has practiced or attempted to practice any deception or fraud in any matter materially related to securing eligibility or appointment.

The eligible shall be notified in writing by the Director-Human Resources of his removal from the eligible list.

Sec. 718 ***Restoration to Eligible List:*** The Director-Human Resources, upon recommendation of the appointing authority, may restore a separated probationary employee to an eligible list from which he was appointed for future certification if the circumstances of his separation, in the opinion of the Director-Human Resources, warrants such action.

ARTICLE 8 CERTIFICATION

Sec. 801 ***Purpose:*** To refer for each vacancy the best qualified persons available.

Sec. 802 ***Requisitions:*** Each appointing authority shall notify the Director-Human Resources in writing of his personnel requirements as far in advance as possible in order that sufficient time will be available to establish eligible lists for certification.

Sec. 803 **Certifications:** The Director-Human Resources is responsible for certifying eligible candidates for selection by the appointing authority in the following manner:

- A. For open, Countywide and agency/department eligible lists, upon receipt of the appointing authority's request for certification, and in order of the priority of eligible lists, the Director-Human Resources shall furnish him the names and addresses of all persons in the highest standing to fill one vacancy. Names shall be submitted by standings, priority 1 through 6. The minimum number of names to be certified pursuant to this subsection shall be three (3) for the first vacancy to be filled and one additional name for each additional vacancy. If less than three names are certified, the Director-Human Resources, upon request of the appointing authority, shall furnish an additional standing.

- B. For classification reinstatement and re-employment eligible lists, upon receipt of the appointing authority's request for certification and in order of the priority of eligible lists, the Director-Human Resources shall furnish the names and addresses of three persons for each vacancy and one additional name for each additional vacancy in order of their ranking on such lists. If less than three names remain on the eligible list from which names are to be certified, the appointing authority may either accept the certification of fewer than the required number of names or request the Director-Human Resources to furnish additional names from other available eligible lists.

- C. For open eligible lists, if more than ten (10) names are eligible for certification pursuant to Section 803(a), upon request of the appointing authority, the Director-Human Resources may certify the ten (10) highest ranked candidates eligible for certification in lieu of the certification of eligibles in accordance with Section 803(a) above. The minimum number of names to be certified pursuant to this subsection shall be ten (10) for the first vacancy and one additional name for each additional vacancy. Once the method of certification, as provided in Subsections A or C of this section, has been selected, all subsequent certifications to the appointing authority from the specific open eligible list shall be made in accordance with the method previously selected, (either Subsection A or Subsection C of this section), until the particular eligible list has been abolished. If the provisions of Subsection C cannot be met, certification shall be made in accordance with Subsection A.

- D. For agency/departmental promotional eligible lists, if more than ten names are eligible for certification pursuant to Section 803A, the Director-Human Resources shall certify no more than ten names for one vacancy and three additional names for each additional vacancy. Such names shall be certified according to highest ranking. Whenever two or more applicants have the same final grade, priority shall be by random selection.

Sec. 804 **Selective Certification:** For certain classifications an eligible may request, at the time of examinations, selective certification to a specific agency/department and/or geographic location. For purposes of a bona fide occupational qualification of bilingual skill or sex, names can be selectively certified from the eligible list, upon request of the agency/department. An employee who has not been certified on the basis of a bona fide occupational qualification may, within twelve (12) days of the certification in questions, file an appeal in the same manner as provided for examination appeals by these rules and regulations. All other rules concerning certification shall apply as appropriate.

Sec. 805 **Additional Names:** Whenever an appointing authority has presented sufficient written reasons for not appointing from the eligibles certified to him, he may request the Director-Human Resources to certify additional eligibles.

Sec. 806 **Certification From Alternate Lists:** Whenever a vacancy exists for a class for which there is no eligible list, the Director-Human Resources may authorize certification of all persons in a standing from an eligible list for a higher level class in the same classification series. If there is no appropriate lists in the same classification series, certifications may be made from a list for a closely related class for which employment standards, job duties and examinations are similar to or higher than those required for the class in which the vacancy exists.

Sec. 807 **Notification of Eligibles:** Whenever the name of an eligible is certified, the appointing authority shall send a written notice to his address as it appears on the eligible list. The notice shall state the fact of certification, the title of the position, the starting and maximum rates of pay for the classification, the organization unit, and the name and business address of the appointing authority or his delegated representative. It is the responsibility of the eligible to notify Human Resources in writing of any change in address.

Sec. 808 **Time for Replying to Certification:** Such notification shall state that within ten (10) calendar days of the date that the eligible was certified, the eligible must communicate with the appointing authority to arrange for an

interview and that his failure to do so may result in the removal of his name from the list.

Sec. 809 ***Selection Interview by Appointing Authority:*** All of the candidates certified to an appointing authority who respond in accordance with Section 808 to the notification of certification must be interviewed by the appointing authority, unless the interview is mutually waived by the candidate and the appointing authority. However, in the case of a candidate who is not already a regular employee, the appointing authority may decline to interview said candidate if that candidate has been previously interviewed within the last year for the same or similar position and if the applicant's qualifications have not changed since the previous interview. The appointing authority shall report to the Director-Human Resources in writing the reasons for selecting the successful candidate and not selecting other eligibles who were certified, including those candidates previously interviewed. No appointing authority shall discriminate against any candidate because of race, color, national origin, religion, sex, age or functional limitation.

Sec. 810 ***Report of Appointment:*** The appointing authority shall report in writing to the Director-Human Resources the name or names of persons appointed, the date service is to begin, or if all eligibles are unacceptable, the reasons for not making an appointment. All applicants interviewed shall be sent written notice of the results of the interview by the appointing authority within ten working days following appointment.

Sec. 811 ***Inspection of Papers:*** The appointing authority may inspect all papers, records and data of eligible certified to him on file in Human Resources.

ARTICLE 9 CLASSIFICATION

Sec. 901 ***Purpose:*** To provide County government with an equitable and logical arrangement of classifications which will promote and increase the economy and efficiency of County service. This objective is attained by placing positions into classes and establishing the relationship between those classes.

Sec. 902 ***Classification Plan:*** The County Classification Plan shall consist of an orderly arrangement of all classifications except those excluded in Article 1, Section 101B, together with the appropriate class specifications approved by the Director-Human Resources.

- Sec. 903** **Number and Classification of Authorized Positions:** The number and initial classification of authorized positions shall be determined by resolution of the Board of Supervisors. No department or agency head shall hire employees in excess of the authorized positions designated by the Board.
- Sec. 904** **Classification Specifications:** All classified positions shall have a classification specification established by the Director-Human Resources. Such specification shall consist of a job title, definition of the class, examples of the typical as well as the significant duties assigned to positions in the class, distinguishing characteristics if applicable, employment standards and any other pertinent data as may be considered appropriate.
- Sec. 905** **Position Classification:** Positions involving similar duties, responsibilities and employment standards shall be included in the same classification.
- Sec. 906** **Administration of Classification Plan:** The Director-Human Resources is responsible for administering the County's Classification Plan. He shall recommend changes in the Classification Plan to meet the needs of the County and its departments and agencies. Upon order of the Board of Supervisors or the County Executive Officer, the request of a department or agency head, or upon his own initiative, the Director-Human Resources shall conduct studies of the duties and responsibilities of the various positions and recommend adjustments indicated. Such adjustments may include reclassification of the position only, or reclassification of the incumbent with position.
- Sec. 907** **Classification Review Requests:** A written request for review of an allocated position or proposed allocation in a classified service may be made to a department or agency head, Human Resources, or the Board of Supervisors, and thereafter the review shall be conducted by the Director-Human Resources as soon as possible.
- Sec. 908** **Determination of Classification Changes:** The County Executive Officer shall determine the classification changes of all positions in the County Civil Service except for positions included in studies (recommendations which relate to a substantial number of related adjustments) and those requiring the establishment of new classification titles and salary ranges. These two exceptions must be approved by the Board of Supervisors.
- Sec. 909** **Reclassification:** No change in classification of a position shall be made unless the Director-Human Resources finds:

- A. That the job duties of the position have substantially and gradually changed over a period of time to make the class specifications inaccurate and/or incomplete for that position; or
- B. The position itself was previously classified improperly; or
- C. The position has to be reclassified due to development or refinement of the classification plan.

Sec. 910 *Allocations:* The Director-Human Resources may recommend to the County Executive officer additions, deletions or changes in allocations and/or salaries due to recruitment, staffing or organizational problems.

Sec. 911 *Notification of Change:* Departments and agencies shall notify Human Resources whenever changes in individual assignments are contemplated which might affect the position classifications involved. All classification requests are to be submitted in advance of any changes in assignment.

Sec. 912 *Salary on Position Reclassification:* The salary of an incumbent, regular employee whose position is reclassified shall be determined:

- A. If reclassified to a class having the same salary range, the salary and anniversary date of the employee shall not change.
- B. If reclassified to a class having a lower salary range, the employee shall be "y" rated when his present salary exceeds the maximum of the salary range assigned the new classification to which he is being reclassified.
- C. If reclassified to a position having a higher salary range, the employee shall receive the minimum pay rate of the new salary range or 5% above his present salary, whichever is greater. In no case shall such salary increase be effective prior to the effective date of the reclassification. Affected employees shall have their anniversary date adjusted in accordance with Section 1011 and shall serve a new probationary period.

Sec. 913 *Y-Rates:* With the approval of the Director-Human Resources, an employee may be "y" rated when his present salary exceeds the maximum of the salary range assigned the new classification to which he is being reclassified. Other provisions notwithstanding, the Director-Human Resources may establish "Y" rates when downward salary movement is indicated.

**ARTICLE 10
APPOINTMENTS, GENERALLY**

- Sec. 1001** *Purpose:* To describe the types of appointments which can be made to County service, the conditions under which such appointments can be made, and the benefits to which different appointees are entitled.
- Sec. 1002** *Certificate of Director-Human Resources:* The Auditor shall not approve any salary or compensation for services for any person holding or performing the duties of any position in the classified service unless the certificate of the Director-Human Resources is on file with the Auditor to the effect that the person named therein has been appointed or employed to perform services for the County. After reasonable notice to the appointing authority, the Director-Human Resources may for proper cause remove and invalidate or suspend the effectiveness of a certificate filed with the Auditor.
- Sec. 1003** *Employment of Retirees:* Any person who has retired may be employed in a position requiring special skills or knowledge, as determined by the Director-Human Resources and the appointing authority for not to exceed ninety (90) working days in any one fiscal year and may be paid for such employment. Such employment shall not be regular permanent status and shall not operate to reinstate the person as a member of the retirement system or to terminate or suspend his retirement allowance, and no deductions shall be made from his salary as contributions to the system.
- Sec. 1004** *Persons Ineligible for Employment:* The Director-Human Resources may deny employment to any person who fails to meet the criteria specified in these Personnel Rules and Regulations or criteria established by law for the position sought.
- Sec. 1005** *Employment of Relatives:* An appointing authority shall not employ nor continue to employ a member of his immediate family in his agency/department and no compensation shall be paid to any person who is a member of the immediate family of the appointing authority. No person shall be employed in a position directly or indirectly supervised by a member of his immediate family, without the approval of the Board of Supervisors after a recommendation by the Director-Human Resources.
- Sec. 1006** *Transfer from Outside the County Service:* A person transferred from another public agency must also meet the employment standards of the classification to which he is to be transferred. A person so transferred must serve a probationary period. Previous seniority status accumulated outside the County Service will apply only for retirement purposes, if applicable, and shall not count toward total County service seniority.

- Sec. 1007 *Dual Employment:*** No person who is employed by one department or agency shall be hired to work simultaneously for another department or agency, or in another position within the same department or agency, without the written approval, the Director-Human Resources shall ascertain that a diligent effort has been made to hire other qualified persons and that none are available.
- Sec. 1008 *Salary of New, Regular Employees:*** Except as otherwise provided in Section 1009, new regular employees shall be appointed at the minimum of the salary range in effect for their particular classification.
- Sec. 1009 *Advanced Salary Appointments:*** The Director-Human Resources may provide that a position be filled at any point in the salary up to the midpoint of the range, or, the Board of Supervisors, upon a recommendation of the Director-Human Resources, with the approval of the County Executive officer may provide that a particular position be filled at a salary level beyond the midpoint of the salary range. An advanced salary appointment may be made when either of the following occurs:
- A. Whenever reasonable proof has been presented that no qualified person can be recruited to fill a position at the minimum rate.
 - B. Whenever reasonable proof has been presented that an applicant has qualifications deserving a starting salary higher than the recruiting salary.
- Sec. 1010 *Under filling Positions:*** A vacant position classified at one level may be utilized by employment of a person at any lower related level class with the approval of the Director-Human Resources.
- Sec 1011 *Anniversary Date:*** whenever a person is appointed to and begins work in a position on or before the fifth working day of the pay period, his initial employment date for anniversary salary increase purposes shall be deemed to be the first day of that pay period during which he was employed. Whenever a person is appointed to and begins working in a position on or after the sixth working day of the pay period, his initial employment date for anniversary salary increase purposes shall be deemed to be the first day of the pay period following the date of his employment.
- Sec. 1012 *Salary on Re-employment:*** Employees re-entering the County service who are not being reinstated within the meaning established in these articles or re-employed following a reduction in force shall be deemed to be new employees for salary purposes and determinations concerning sick leave and vacation, except that an employee being re-employed

within three working days from the date of termination shall be deemed to have been on leave of absence without pay for such period of time.

ARTICLE 11
EXTRA HELP/INTERMITTENT/FIXED TERM EMPLOYEES
(Amended and Adopted July 31, 1984)

Sec. 1101 *Purpose:* To provide regulations which govern the employment and compensation of extra help and intermittent appointees.

Sec. 1102 *Reasons for Appointing:*

- A. Extra Help Employees - The purpose for employing extra help employees is to cover peak workloads, emergency extra workloads of limited duration, necessary vacation relief and other situations which involve a fluctuating staff.
- B. Intermittent - The purpose for employing intermittent employees is where the workload requires periodic and fluctuating augmentation on a regular basis, yet does not warrant a full-time employee or cannot be handled by additional regular employees.
- C. Fixed Term Employees - The purpose of employing fixed term employees is to fill positions of a project of limited term as designated by the Director-Human Resources or ordinance of the Board of Supervisors.

Sec. 1103 *Limitations:*

- A. Extra Help Employment - No extra help employee may be employed unless the Director-Human Resources finds that the conditions set forth in Section 1102(A) are present. No extra help employee may be employed to fill a classified position for more than thirty (30) working days other than provided for in Section 1105, if there are at least three (3) persons eligible to be certified by the Director-Human Resources for that vacancy. No person shall be employed as an extra help employee for any purpose for more than 720 hours in any one fiscal year. The Director-Human Resources may grant special authorization upon extenuating circumstances to extend extra help employment periods after receiving written justification from the appointing authority. Such special authorization shall be in writing to the appointing authority and copies shall be sent to the Auditor/Controller and any appropriate employee organization. The Auditor/Controller shall

not authorize payment to any extra help employee over 720 hours without such special authorization from the Director-Human Resources. Whenever it is determined that the extra help employee does not meet the same qualifications required for regular classified employees, he shall be terminated from County employment.

- B. Intermittent Employment - No intermittent employee shall be hired unless the Director-Human Resources finds that the conditions set forth in Section 11-2(B) are present. No intermittent employee may be employed to fill a classified position for more than thirty (30) working days other than provided for in Section 1105, if there are at least three (3) persons eligible to be certified by the Director-Human Resources for that vacancy. No person shall be employed as an intermittent employee for any purpose for more than 1664 hours in any one fiscal year. The Director-Human Resources may grant special authorization to extend intermittent employment periods upon receiving written justification from the appointing authority. Such special authorization shall be in writing to the appointing authority and copies shall be sent to the Auditor-Controller and any appropriate employee organization. The Auditor-Controller shall not authorize payment to any intermittent employee in excess of the periods specified herein without such special authorization from the Director-Human Resources.
- C. Fixed Term Appointments - No fixed term appointments shall be made to regular positions in the classified service.

Sec. 1104 **Classification of Extra Help Employees:** A department or agency head may employ these employees in any classification authorized by the Director-Human Resources within the department or agency budget for such help.

Sec. 1105 **Student Workers:** Student workers are extra help employees but may be employed for more than ninety (90) days in any fiscal year.

Sec. 1106 **Merit Increases:** Extra help employees are not eligible for merit increases. Intermittent employees are eligible for merit increases on a prorated basis as range structure permits. This eligibility is at the discretion of the appointing authority and is not regarded as a right of the employee. Fixed term employees are eligible for merit increases.

Sec. 1107 **Salary and Benefits:**

- A. Extra Help - Extra help employees shall be compensated at the minimum of the salary range or otherwise as approved by the

Director-Human Resources, and such compensation shall be considered as full compensation covering the value of vacation, sick leave, holidays and other benefits afforded regular employees.

- B. Intermittent - Intermittent employees shall be compensated at an appropriate step of the salary range and such compensation shall be considered as full compensation covering the value of vacation, sick leave, holidays, and other benefits afforded regular employees. Intermittent employees designated as "hospital employees" by the Director-Health Care Agency (according to the SEIU Memorandum of Agreement, Article 6, Section 601, and Article 11, Section 1104) will be eligible for overtime and night shift differential pay.
- C. Fixed Term - Except as otherwise provided in these articles, fixed term employees shall be treated as regular County employees.

Sec. 1108 *Special Consideration/Intermittent Only:*

- A. Intermittent employees shall be selected from an established eligible list, and be subject to the same selection criteria as regular employees.
- B. Employees working in intermittent positions, if certified to the department and employed off a regular eligible list, shall not be required to re-compete or be re-certified to transfer to regular status.
- C. Every intermittent employee shall be required to serve and pass a probationary period of 1040 hours. Upon successful completion of 1040 hours, he/she shall be eligible for compensation at an hourly rate above the first step and shall be dismissed only for cause, as specified in Ventura County Ordinance, Code Section 1234-1.4.13.1, during the period prior to the 1664 hours per year limitation or authorized extension. Such an intermittent employee shall have the right to a hearing to contest his/her dismissal in accordance with the procedure set forth in Section 2326 of these rules.
- D. Nothing contained herein shall be construed to grant regular or civil service status to any intermittent employee, nor shall it be construed to be any guarantee of assigned work hours.

Sec. 1109 *Special Considerations/Expiration of Fixed Term Appointment:* All appointments to Fixed Term positions shall expire at the end of the term designated at time of appointment; persons so separated from the service shall not be eligible for re-employment and/or reinstatement as defined in

these rules, but shall be eligible for appointment to regular positions (i.e., certified to the departments).

Sec. 1110 Benefits that have been paid to extra help employees, other than those stated in Section 1107, shall cease as of September 9, 1984.

ARTICLE 12 TEMPORARY APPOINTMENTS

Sec. 1201 **Purpose:** To provide regulations that govern the appointment and compensation of persons appointed on a temporary basis.

Sec. 1202 **Authorization for Temporary Appointments:** Any appointing authority requiring or requesting an employee to temporarily fill a vacancy caused by sick leave, leave of absence, termination or other reasons, except vacation leave, shall notify the Director-Human Resources by submitting an appointment form and an application accurately and completely reflecting the qualifications of the temporary appointee.

Sec. 1203 **Temporary Appointments and Employment Standards:** Any person who is appointed on a temporary basis must meet the employment standards required for employment in that classification. In consideration of the lack of qualified employees or other exceptional conditions, the Director-Human Resources may make an exception concerning employment standards. Such decisions must consider the qualification of other employees within the department or agency, morale, the effect of the contemplated action on productivity, its effect on employee confidence in the personnel program, the needs of County service, and the economy and efficiency in County government. Any person for whom an exception is made concerning employment standards shall be required to execute a certificate indicating that he is aware of the fact that he is ineligible to compete in the examination for this position and is nevertheless willing to accept a temporary appointment.

Sec. 1204 **Temporary Appointment to Fill a Vacancy Caused by Termination:** If the appointing authority temporarily appoints a person to fill a position vacated by termination and there is no existing eligible list for the classification which is vacant, then the appointing authority shall, at the time of the submission of the appointment and application forms, request that the Director-Human Resources schedule an examination to create eligible lists for the classification which is being temporarily filled.

Sec. 1205 **Time Limitations for Temporary Appointments:** If a temporary appointment has been made to fill a vacancy caused by sick leave, leave of absence, military leave or any authorized leave, the temporary

appointment shall be for the period of time for which leave of absence is authorized. In no case shall the temporary appointment be continued beyond the expiration of the date of the authorized leave of absence. When temporary appointments are made to fill a position vacated by termination, such temporary appointment shall not be honored for more than 90 days, unless the Director-Human Resources and the appointing authority can demonstrate adequate reasons for not being able to fill the position.

Sec. 1206 *General Treatment of Temporary Appointments:* Except as otherwise provided in these articles, persons who are temporarily appointed shall be treated in the same manner as regular County employees.

ARTICLE 13 PROVISIONAL APPOINTMENTS

Sec. 1301 *Purpose:* To provide regulations which govern the appointment and employment conditions of all persons employed on a provisional basis.

Sec. 1302 *Provisional Appointments in Lieu of Regular Appointments:* If the appointing authority believes that there are compelling reasons for filling a vacancy and there is no eligible list, he may temporarily employ any person who meets the employment standards for the classification to fill the vacancy pending the establishment of an eligible list. The appointing authority shall accompany a provisional appointment to fill a regular vacancy with a written request and the appointee's application for examination for that classification.

Sec. 1303 *Time Limitations for Provisional Appointments:* A provisional appointment shall terminate three months following the effective date or not later than 30 days after certification of an eligible list whichever is earlier. However, the Director-Human Resources may, upon satisfactory evidence being presented to him, extend a provisional appointment for a period not to exceed 60 days from the date it was to have terminated.

Sec. 1304 *Return from Provisional to Former Position:* Whenever a provisional appointee does not obtain a permanent appointment to the position occupied by him as a provisional appointee, and who had regular status in the County service prior to the provisional appointment, then he shall be reinstated to the position he held at the time he accepted the provisional appointment. If another employee is at the time occupying the position vacated by the provisional appointee, then such employee shall be returned to his previous status, if any. An appointment to a position vacated by a person appointed provisionally to another position shall be

temporary in nature until the status of the provisional appointee is determined.

Sec. 1305 *General Treatment of Provisional Appointees:* Except as otherwise provided in these articles, provisional appointees shall be treated as regular County employees.

ARTICLE 14 DISABILITY REASSIGNMENT/REAPPOINTMENT

Sec. 1401 *Purpose:* To provide a means by which employees who are disabled may continue or return to employment with the County.

Sec. 1402 *Policy:* A permanent or probationary employee or a former employee may be reassigned to another position upon his request with the consent of the appointing authorities involved and the Director-Human Resources if he has become unable to perform the responsibilities of his position because of accident, injury, disease or disability. An employee so incapacitated may be assigned or reassigned to a classification if it is determined that he is qualified to perform the new responsibilities.

Sec. 1403 *Request for Disability Reassignment:* Request for disability reassignment shall be submitted in writing and shall be accompanied by the certificate of a physician designated by the Director-Human Resources stating that the employee is incapable of performing his present duties and that he has the ability to perform the duties of the position to which he requests reassignment.

Sec. 1404 *Meeting Employment Standards:* In authorizing the reassignment of a disabled employee, the Director-Human Resources may substitute any combination of related education and experience requirements for the new classification.

Sec. 1405 *Assignment to Non-Related Classifications:* If an employee is reassigned to a non-related classification, then such an assignment shall not be above the journeyman level of the class if it results in a higher salary level. It is intended that assignments to non-related classes shall be at the entry level whenever feasible. The salary of an employee so reassigned shall be established within the range of the new classification as determined, upon recommendation of the County Executive Officer and with the approval of the Board of Supervisors.

Sec. 1406 *Probationary Period Upon Disability Reassignment:* An employee reassigned to a non-related or higher classification must serve a new probationary period.

- Sec. 1407 *Disability While on Military Leave:*** Any permanent employee who has become incapable of resuming his former position through disability incurred on active service with the Armed Forces while on military leave of absence from the County service, may, upon application after his separation from active military service, be reassigned under the provisions of this Article.
- Sec. 1408 *Recovery From Disability:*** Either former employees or employees reassigned under the provisions of this Article, upon recovery from disability and with the approval of the Director-Human Resources may be placed on the classification reinstatement list for certification to vacancies in their former classifications.
- Sec. 1409 *Reinstatement of Employees Who Separated as a Result of a Disability:*** Former employees are eligible for reinstatement following disability retirement. Former employees who wish to be reinstated must request in writing to the Director-Human Resources to be reinstated to the class which they held immediately prior to separation. Such written requests for reinstatement must be accompanied by a certificate from a physician designated by the Director-Human Resources that states that the employee is capable of performing the duties of the position to which he seeks reinstatement.
- Sec. 1410 *Restoration of Benefits for Former Employees Returning to Work Following Disability:*** Upon reinstatement to County service due to a disability reassignment or a recovery from disability, the benefits of the former employee shall be restored as listed in this section. These benefits also apply to the current County employees who have been reinstated following prior disability retirements and who are maintaining their recovery from disability.
- A. **Seniority:** Seniority status held immediately prior to separation shall be restored and all time spent on disability shall be treated as an authorized leave of absence without pay for seniority purposes.
 - B. **Salary:** Salary shall be equivalent to that which they were receiving immediately prior to separation. Equivalent salary shall include negotiated salary increases granted to the job classification but shall exclude merit increases.
 - C. **Vacation/Annual Leave Accrual Rates:** The vacation/annual leave accrual rate shall be restored at a rate which is the most comparable to that held immediately prior to separation.

- D. Merit Increases: For the purposes of merit increases, upon return to work of a formerly disabled employee, such employee's anniversary date shall be adjusted in accordance with applicable resolution or Memorandum of Understanding or Agreement.
- E. Sick leave: Sick leave balance held immediately prior to separation shall be restored unless said sick leave balance has been eliminated in accordance with Section 31724 of the Government code of the State of California.

ARTICLE 15 COUNTY SERVICE REINSTATEMENT

- Sec. 1501** *Purpose:* To provide a means by which persons who have resigned in good standing from County service may be reinstated to County service.
- Sec. 1502** *Persons Eligible for Reinstatement:* A permanent employee who has resigned in good standing from County service with a satisfactory performance report at the time of resignation may apply to the Director-Human Resources for reinstatement within one year from the date of his resignation. If the request is approved, the name of the applicant shall be placed on the County Service Reinstatement Eligible List for the same classification as the position from which he resigned. Such an employee shall be placed on said list as of the date the Director-Human Resources accepts his application.
- Sec. 1503** *Physician's Certification:* Each applicant for reinstatement may be required to furnish at his own expense a certificate by a physician designated by the Director-Human Resources showing that he is physically competent to perform the position to which he seeks appointment.
- Sec. 1504** *Salary on Reinstatement:* whenever an employee is reinstated to a position, he shall receive the minimum of the salary range for the position for which he is reinstated, unless an exception is recommended by the appointing authority and approved by the Director-Human Resources in accordance with Article 10, Section 1009.
- Sec. 1505** *Benefits on Reinstatement:* Whenever an employee is reinstated to a position, he shall receive no credit for sick leave or vacation accumulated prior to his resignation. He shall accrue vacation credit as if he were a new employee.

Sec. 1506 ***Anniversary Date on Reinstatement:*** Whenever a person is reinstated and begins working in a position on or before the fifth working day of the pay period, his anniversary date shall be deemed to be the first day of that pay period during which he was reinstated. Whenever a person is reinstated and begins working in a position on or after the sixth working day of the pay period, his anniversary date shall be deemed to be the first day of the pay period following the date of his employment.

Sec. 1507 ***Probationary Period:*** An employee reinstated in accordance with the provisions of this Article shall serve a new probationary period prior to gaining permanent status in County service.

ARTICLE 16 MILITARY LEAVE

Military leave will be granted as provided for by Federal and California law or as set forth in any Memorandum of Understanding or Agreement.

ARTICLE 17 LEAVE OF ABSENCE TO RUN FOR ELECTIVE OFFICE

Sec. 1701 ***Purpose:*** To provide a leave policy for employees who are running for elective office which would insure that participation in such an election would not disrupt the efficiency and integrity of the County service.

Sec. 1702 ***Employees Affected:*** An employee who is a candidate for an elective County office shall be required to take a leave of absence. Said leave of absence shall commence at least thirty (30) days prior to the date of election and shall include the privilege of using earned vacation and compensatory time credits.

Sec. 1703 ***Review by the Civil Service Commission:*** An employee wishing an exception to Section 1702 shall timely request in writing a review by the Civil Service Commission. The findings of the Civil Service Commission shall be announced prior to the commencement of said leave of absence. The Commission in its findings shall determine as follows:

- A. The absence of facts indicating a disruptive effect on the efficiency and integrity of the County service thus requiring that the candidate be returned to his position of employment.

- B. The presence of facts indicating a disruptive effect on the efficiency and integrity of the County service thus requiring that the leave of absence be taken.

The Civil Service Commission shall review its findings should disruptions upon the efficiency and integrity of County service occur, following a decision that the candidate be returned to his position of employment.

Sec. 1704 *Reinstatement Following the Election:* Following the date of the election, any employee who has been on a leave of absence to run for a political office shall be reinstated without penalty or forfeiture to the position he held prior to taking said leave of absence; except that an employee who is elected to a County political office shall resign from his previous position prior to the assumption of said elective office.

ARTICLE 18 SPECIAL AUTHORIZATIONS AND RESTRICTIONS

Sec. 1801 *Purpose:* To describe certain authorizations and restrictions and the conditions under which they are applicable.

Sec. 1802 *Senior Attorney Designations:* To be eligible for designation as a Senior Attorney, an Attorney must be performing in a non-supervisory assignment and must have at least six months of experience in the classification of Attorney/60 months. A Senior Attorney shall be compensated at the point in the salary range for the Senior Attorney classification designated by the Department/Agency Head. Designation as Senior Attorney shall be at the discretion of the department head, who, among other things, shall consider the excellence of professional performance of the individual attorney and the need of the County for retention. A designation as a Senior Attorney shall be for a period of six months and may be renewed by the Department Head.

Sec. 1803 *District Attorney and Public Defender Supervisory Appointments:* The District Attorney is authorized to make five supervisory assignments. The Public Defender is authorized to make one supervisory assignment. The attorneys performing supervisory duties may be compensated with the approval of the Director-Human Resources and the County Executive officer by salary increments of five to ten percent of base pay to be determined by the level and nature of the supervisory duties assigned.

Sec. 1804 *Natural Disaster:* A natural disaster is an emergency caused by the happenings of war, storm, flood, explosion, earthquake, epidemic, riot or

insurrection. Upon the recommendation of the County Executive Officer and adoption of a resolution by a majority of the Board of Supervisors, employees whose absence from work arises out of or is due to such natural disaster shall not suffer any loss in pay or other benefits.

Sec. 1805 **Civil Defense:** Civil Defense is a part of the duties and responsibilities of all employees of the County and is not to be considered an addition to regular and normal duties. Preparation and training for service in time of disaster or emergency is by law (Government Code Section 3100), a function of all employees.

Sec. 1806 **Limitations on Compensation:** All fees, mileage, commissions and prerequisites allowed by law and received by any employee by virtue of his office shall be paid into the County treasury and shall become the property of the County of Ventura immediately upon its receipt by such employee. No employee of the County shall be compensated by fees.

Sec. 1807 **Relief from Duty:** An appointing authority may, upon approval from the Director-Human Resources, relieve an employee from duty with pay for a period not to exceed five (5) working days unless circumstances merit an extension. Such relief from duty may occur during an investigation to determine appropriate action concerning an employee. If, as the result of an investigation, it is determined that the affected employee was without fault, any reference to the fact that said employee was relieved from duty pursuant to this section shall be deleted from that employee's personnel file.

ARTICLE 19 OUTSIDE EMPLOYMENT

Sec. 1901 **Purpose:** To control the practice of outside employment by employees, particularly where there exists a conflict of interest or where such employment would impair an employee's ability to perform his County duties.

Sec. 1902 **Prohibiting Conditions:** County employees are prohibited from holding employment outside the County service when the following conditions exist:

- A. The employment interferes with satisfactory service due to physical or mental fatigue; or,
- B. A conflict of interest exists which is detrimental to the County service.

- Sec. 1903** *Limitation of Outside Employment:* Attorneys employed by the County shall not engage in the private practice of law for compensation. Criminalists employed by the County shall not engage in private criminalist work. The Medical Director and the Director of Behavioral Health shall not engage in the private practice of medicine for a period in excess of 16 hours in any one month.
- Sec. 1904** *Authorization:* A written notification must be given to the department/agency head for all regular outside employment and for all occasional outside employment in excess of eight hours in any one week. Failure to provide such information may be cause for disciplinary action. An outside work statement must contain the name of the employer, the hours to be worked and the nature and duration of the employment.
- Sec. 1905** *Order to Cease Working:* A department/agency head may order an employee to cease working outside of the County if the employment is in violation of any of the provisions of this Article.

ARTICLE 20 EMPLOYER/EMPLOYEE RELATIONS

- Sec. 2001** *Purpose:* To promote the improvement of personnel management and relations between the County and its employees, and to protect the public by assuring at all times, the orderly and uninterrupted operation and services of County government.
- Sec. 2002** *Intent:* Rules and procedures provide for the orderly and systematic presentation, consideration and resolution of employee relations matters. This Article provides such rules.
- Sec. 2003** *Definitions:* Unless the context otherwise requires, the definitions contained in this Section govern the construction of this Article. The definition of a word applies to any of its variants.
- A. Board - when used alone means the Board of Supervisors of the County of Ventura.
 - B. Certification - official recognition by the County as the employee organization designated to represent an appropriate bargaining unit.
 - C. Collective Negotiation - means to meet and confer in good faith as defined in subsection "P" below.

- D. Commission - means the Civil Service Commission-Board of Review and Appeals of the County of Ventura.
- E. Confidential Employee - means an employee who has access to confidential information in employee relations matters.
- F. Consult and Consultation in Good Faith - means to communicate verbally or in writing for the purpose of presenting and obtaining views or advising of intended actions.
- G. County - means the County of Ventura, a body corporate and politic and a political subdivision of the State of California, including those special districts whose affairs and finances are under the supervision and control of the Board of Supervisors, and where appropriate herein, County refers to the Board of Supervisors, the governing body of said County, or any duly authorized management representative.
- H. Day - means calendar day.
- I. Decertification - the procedure for removing an organization as the certified bargaining representative of employees in an appropriate unit. The unit may be an existing unit or a redefined or modified unit.
- J. Department/Agency Head - means those officers or employees who are elected or appointed or employed as the principal employee of a department for the discharge of duties provided by law or of particular delegated functions.
- K. Employee Organization - means any organization or union which includes employees of the County and which has as one of its primary purposes representing such employees in their employee relations with the County.
- L. Fact-Finding - means identification of the major issues in a particular dispute, review of the positions of the parties, resolution of factual differences by one or more impartial fact-finders, and the making of recommendation for settlement of such issues.
- M. Impasse - means a deadlock in collective negotiations between a recognized employee organization and the County over any matters within the scope of representation as set out in Section 2007, Subsection A, of this Article.

- N. Management Employee - means a department/agency head or any employee having the authority and responsibility for the formulation and administration of County policies and programs.
- O. Mediation - means effort by an impartial third party to assist in reconciling a dispute between the County and recognized employee organizations.
- P. Meet and Confer in Good Faith - means that the County, or such representatives as it may designate, and representatives of recognized employee organizations, shall have 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, as set out in Section 2003, Subsection A, of this Article.
- Q. Modification - the procedure for modifying or redefining a bargaining unit into a more appropriately constituted bargaining unit or units. Such redefinition does not involve a change in employee organization representation.
- R. Negotiate Collectively - means meet and confer in good faith, as defined in Section 2003, Subsection P, above.
- S. Officers - means elected or appointed department heads enumerated in Section 24000 of the California Government Code and such other officers as are provided by law.
- T. Professional Employees - 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, registered nurses, engineers, architects, teachers, and the various types of physical, chemical and biological scientists.
- U. Public Employee and Employee - means any person employed by the County, excepting those persons elected by popular vote or appointed to office by the Governor of this State.
- V. Recognized Employee Organization - means an employee organization formally acknowledged by the County as representing a majority of employees in an appropriate unit.
- W. Supervisory Employee - means an employee having authority to exercise independent judgment in assigning work and evaluating performance and to effectively recommend on actions to hire,

promote, transfer, lay off, recall, discipline, suspend, discharge, or adjust grievances of other employees, if in connection with the foregoing, the exercise of such authority is not a merely routine or clerical nature but requires the use of independent judgment.

- X. Unit - means a unit established pursuant to Section 2008 and 2009 of this Article.

Sec. 2004 *Employee Rights:* Employees of the County shall have the right to form, join and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters of employee relations. Employees of the County also shall have the right to refuse to join or participate in the activities of employee organizations and shall have the right to represent themselves individually in their employment relations with the County. The County and employee organizations shall not interfere with, intimidate, restrain, coerce or discriminate against employees because of their exercise of these rights.

Sec. 2005 *County Rights:* Nothing contained in this Article shall be deemed to supersede the provision of existing state law and the ordinances and rules of the County which established the Civil Service system. It is also the exclusive right of the County to direct its employees, take disciplinary action for proper cause, relieve its employees from duty because of lack of work or for other legitimate reason, classify and reclassify positions, and determine the methods, means, and personnel by which the County's operations are to be conducted; provided, however, that the exercise and retention of such rights does not preclude employees or their representatives from consulting about the practical consequences that decisions on these matters may have on wages, hours and other terms and conditions of employment.

Sec. 2006 *Procedural Rights:*

- 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. Matters unresolved at the appropriate level of management shall be referred to the County's designated representatives.
- B. If agreement is reached by the representatives of the County and a recognized employee organization, they shall jointly present to the Board for its consideration and adoption a written memorandum of such understanding. One week prior to final adoption of the memorandum of understanding, the Board shall hold a public hearing on the terms of the agreed upon memorandum of

understanding. A second public hearing on the terms of the agreed upon memorandum of understanding shall be held immediately prior to the final adoption of such memorandum of understanding. In no case shall a memorandum of understanding be adopted by the Board without the public hearings provided for herein.

- C. The County may adopt reasonable rules and regulations after consultation in good faith with representatives of the employee organizations concerning the administration of employee relations under this Article.
- D. The County shall give reasonable written notice to each recognized employee organization of any proposed ordinance, rule or regulation relating to matters within the scope of representation set forth in Section 2007 of this Article.

Sec. 2007 Scope of Representation:

- A. The scope of representation shall consist of all matters relating to employer-employee relations, including wages, hours, and other terms and conditions of employment. Consideration of the merits, necessity, or organization of any service or activity provided by law or executive order is excluded.
- B. The County and recognized employee organizations may, by mutual agreement, meet and confer on matters which are not required or prohibited by this Article.
- C. Representatives of recognized employee organizations who are County employees shall receive reasonable time off without loss of compensation or other benefits when formally meeting and conferring with the County on matters within the scope of representation.
- D. Management employees and confidential employees may not act as representatives of any employee organization which represents non-management and non-confidential employees on matters within the scope of representation.

Sec. 2008 Units

- A. In the establishment of employee units:
 - 1. Professional employees shall not be denied the right to be represented separately from non-professional employees;

2. Supervisory, management or confidential employees shall not be included in the same unit with non-supervisory, non-management or non-confidential employees.
- B. In the determination of appropriate employee units, the following factors must be considered:
1. Which unit will assure employees the fullest freedom in the exercise of rights granted under this Article?
 2. The community of interest of the employees.
 3. Consistent with maintaining the community of interest, the unit shall be the largest feasible.
 4. The history of employee relations in the unit, within the County, and in similar public employment.
 5. The effect on the efficient operation of the County.
 6. The effect on the classification structure.

Sec. 2009 *Formal Acknowledgement of Recognized Employee Organizations:*
Any employee organization seeking to obtain or retain formal acknowledgement by the County as a recognized employee organization or seeking to register as an employee organization, or filing its petition for certification, shall furnish the Director-Human Resources with:

- A. Its name and mailing address.
- B. A current roster of its officers and those representatives authorized to meet and confer within the scope of representation or to consult in good faith.
- C. A copy of its constitution and bylaws.
- D. A statement that it has as one of its primary purposes representing employees in their employee relations with the County.
- E. A statement that it has no restriction on membership based on race, color, creed, national origin, sex, age, religion, citizenship or physical handicap.
- F. A designation of two persons and their addresses, to whom notice sent by regular United States mail will be deemed sufficient notice on it for any purpose in this Article.

- G. A petition for certification must be accompanied by proof of employee approval equal to at least 30 percent of the employees within the proposed unit. Proof may be shown by payroll dues deductions, membership cards, signed authorization cards or petitions or statements of intent signed by the employees.
- H. Description of unit or units requested. The Director-Human Resources shall file such description with the Board.
- I. Upon receipt of the aforesaid documents from an employee organization, the Director-Human Resources shall within 30 days establish a unit or units based upon the criteria as set forth in Section 2008 of this Article and shall issue a certificate to the employee organization a copy of which shall be filed with the Board, setting forth such unit or units, provided that verification of the proof submitted established that a majority of the employees involved have designated such employee organization to represent them.
- J. If the applying employee organization or any other employee organization desires to protest the determination of the Director-Human Resources, it shall within 10 days file its protest with the Director-Human Resources, requesting a review by the Commission. The Director-Human Resources may request review upon his own motion.
- K. The Commission may sustain, modify or reverse the unit determination of the Director-Human Resources. It may then conduct an election in accordance with the rules and procedures of the State Conciliation Service and certify the results therein, or the matter may be returned to the Director-Human Resources for appropriate action.
- L. The unit or units thus certified may not be protested, modified or decertified until the expiration of one year from the date of the certification.

Sec. 2010 *Time Limitations for Filing Petitions:* Petitions for certification, modification or decertification may be filed only during the time period of September 15 to November 1.

Sec. 2011 *Decertification Procedure:*

- A. The status of an organization as the recognized representative may be contested by employees of the unit after at least one year has

elapsed following the recognition, modification or decertification of the unit. In the case of a multi-year agreement, decertification can only occur during the second and subsequent years of the agreement.

- B. A petition for decertification of a recognized employee organization in an appropriate employee unit may be submitted by employees included in the certified unit. Such decertification petition shall be submitted to the Director-Human Resources and shall be accompanied by evidence of authorization from at least thirty percent (30%) of the employees in the appropriate employee unit which the petitioners request be decertified. If the employees are requesting decertification to be followed by recognition by a new employee organization not recognized, the information in Section 2009 (A through F) must also accompany the petition. After investigation, the Director-Human Resources shall refer the petitioner with a recommendation to the Civil Service Commission for hearing and a determination. If the Commission finds the unit appropriate, it may then conduct an election in accordance with the rules and procedures of the State Conciliation Service and certify the results therein. The ballot shall include a choice of "No Representation." The organization certified shall become the recognized bargaining representative immediately and assure the existing memorandum of understanding for the remainder of its duration. Should a group of represented employees decertify and become unrepresented, they shall continue under the existing memorandum of understanding for the remainder of its duration.
- C. The unit to be decertified need not be coterminous with the certified unit but it cannot exceed in scope the certified unit, and the unit to be decertified must be an appropriate unit standing alone.

Sec. 2012 Modification Procedure:

- A. If a representation unit has been established, that unit shall not be contested for at least one year from the date of determination. The procedure for modifying a unit shall be the same as found in Section 2011 of this Article. In the case of a multi-year agreement, a unit modification can only occur during the second and subsequent years of the agreement.
- B. The proposed unit to be modified must be an appropriate unit standing alone.
- C. New classes established by the Board of Supervisors shall be placed in appropriate bargaining units by the Director-Human

Resources based on the criteria in Section 2008 of this Article. His decision will be transmitted in writing to the Civil Service Commission and any employee organizations affected, who shall have 10 days to file a protest with the Commission requesting their review of the decision.

Sec. 2013 *Withdrawal of Certification:* The County shall not deny, suspend, or withdraw its certificate without a showing of a failure to comply with this Article and until the County has first given 30 days notice to the recognized employee organization of the deficiency and has further given it a reasonable opportunity to make any modification or amendments or take any action that may be require.

Sec. 2014 *Unfair Practices:* It shall be an unfair practice for the County:

- A. To interfere with, restrain, or coerce employees in the exercise of the rights recognized or granted in this Article.
- B. To refuse to meet and confer with representatives of a recognized employee organization within the scope of representation as set out in Section 2006, Subsection A, of this Article.
- C. For either the County or a recognized employee organization to fail or refuse to cooperate with the Commission or any mediators or fact finders selected as set out herein.

Sec. 2015 *Initiation of Charges of Violation:* Charges of violations of this Article, or of applicable rules or regulations, may be initiated by the County, by any employee organization, or by an employee. Such charges shall be filed in writing with the Director-Human Resources. The party may request a review by the Commission. The Commission shall conduct an investigation to determine whether a party has engaged in an unfair practice or has otherwise violated this Article or any rule or regulation issued there under, and shall file a report and recommendation with the Board.

Sec. 2016 *Impasse Procedures:* If the County and a recognized employee organization reach an impasse, either party may request mediation. They may agree upon the appointment of a fact finder. Such mediator or fact finder may be selected from a panel to be provided by the State Conciliation Service, or some other agreed upon source. Costs of mediation or fact finding shall be divided equally by the parties. The fact finder may remand the matter for further consideration, or file a report with the Board and all parties.

Sec. 2017 Construction:

- A. Nothing in this Article shall be construed to deny any person or employee the rights granted by Federal and State laws.
- B. The rights, powers and authority of the Board in all matters, including the right to maintain any legal action, shall not be modified or restricted by this Article.
- C. The enactment of this Article shall not be construed as making the provisions of Section 923 of the California Labor Code applicable to employees of the County.
- D. The provisions of this Article are not intended to conflict with the provisions of Chapter 10, Division 4, Title 1, of the Government Code of the State of California (Sections 3500 et seq).

**ARTICLE 21
DISCIPLINARY ACTION**

Sec. 2101 Purpose: To create an equitable and uniform method for initiating and administering disciplinary actions.

Sec. 2102 Written Order for Demotion, Suspension, Reduction in Pay, Dismissal: The continuing employment of every permanent employee shall be contingent upon good behavior. Any such employee may be dismissed, demoted, suspended, reduced in pay, or demoted and suspended for cause as specified in Section 2105 by the appointing authority in the following manner:

- A. The appointing authority shall serve upon the employee a Notice of Proposed Disciplinary Action stating the nature of the proposed action and its effective date. Such Notice shall also set forth in writing the reasons for the proposed disciplinary action, a statement of the charges upon which the action is to be based, a notice to the employee that he has the right to review the materials being used against him, and a statement advising the employee that he has a right to respond to the charges.
- B. Within five calendar days from receipt of the Notice of Proposed Disciplinary Action, unless additional time is otherwise specified by the appointing authority in said Notice of Disciplinary Action, the

employee may respond to the County's proposed action. Such response may be presented orally or in writing. The employee has a right to have a representative if he so chooses.

- C. At the completion of the period provided in "B" above, the appointing authority shall review the employee's response, if any, and make a determination whether to dismiss, amend or sustain the proposed disciplinary action. If the appointing authority decides to amend or sustain the proposed action, the employee will be served with Notice of Disciplinary Action again setting forth in writing the reasons for disciplinary action and offering a statement of the charges upon which the action is based.

The Notice of Disciplinary Action shall also advise the employee that the action being taken is final, and apprise him of his right to appeal that action to the Civil Service Commission within 10 calendar days. A duplicate of that Notice must be filed with the Director-Human Resources and the Civil Service Commission.

Nothing in this Section shall be considered to restrict the right of the County to take immediate disciplinary action when it is deemed appropriate.

Sec. 2103 *Disciplinary Appeal Procedure:* An employee may, if he so chooses, appeal such order to the Civil Service Commission provided said appeal is in writing and is made within ten (10) days of this receipt of the final notice of disciplinary action. A copy of the written appeal shall be delivered concurrently to the Director-Human Resources.

Sec. 2104 *Disciplinary Action Imposed During Probationary Period:* The appointing authority may dismiss, demote, suspend, demote and suspend, or impose any other disciplinary action on any probationary employee during the probationary period. The Civil Service Commission shall not hold a hearing on any such disciplinary action taken against any probationary employee.

A promoted employee who is dismissed during his probationary period shall return to the position in which he held permanent status, if vacant, or any other vacant position in his former classification in the department/agency. If no such vacancy exists, every reasonable attempt will be made by the appointing authority to retain the employee in an underfill capacity. Only if there is no vacancy and the appointing authority is unable to make reasonable accommodation, the employee shall be placed on a leave of absence without pay not to exceed one year and shall be granted the first position that becomes available in his former classification. The above provisions shall not apply if the cause of the

dismissal warrants dismissal from County service. If the cause for dismissal warrants dismissal from County service, the employee shall be entitled to appeal such action to the Civil Service Commission within 10 days.

- Sec. 2105 *Causes for Demotion, Suspension, Reduction in Pay, Dismissal:*** In accordance with Section 1345.1.4.13.1 of the Ventura County Ordinance Code, causes for disciplinary action are as follows: fraud in securing appointment, incompetency, inefficiency, inexcusable neglect of duty, physical or mental disability, insubordination, dishonesty, drunkenness on duty, intemperance, addiction to the use of narcotics or habit forming drugs, inexcusable absence without leave, conviction of a felony or misdemeanor involving moral turpitude, immorality, discourteous treatment of the public or other employees, improper political activity in violation of Article 24 or Sections 1351 and 1351.1 of the Ventura County Ordinance Code, willful disobedience, violation of any provisions of Article IV of the Ventura County Ordinance Code, which among other things includes the corrupt use of official authority or influence, or any other failure of good behavior or acts which are incompatible with or inimical to the public service.
- Sec. 2106 *Duty of Director-Human Resources:*** The Director-Human Resources shall submit written notification to the appointing authority of any facts concerning a permanent employee which in his opinion would support and justify a dismissal, demotion, reduction in pay, or suspension for cause. The notification shall set forth the facts in detail and request the appointing authority to take appropriate action. A copy of such notification shall be sent to the Civil Service Commission at the time of appeal. Not later than five days before the next Civil Service Commission meeting, the appointing authority shall submit to the Commission a written report of the action taken.
- Sec. 2107 *Non-Discrimination:*** Disciplinary actions shall be taken without regard to race, color, national origin, religion, sex, age, or functional limitations.
- Sec. 2108 *Disciplinary Reduction in Salary:*** In accordance with the necessity for taking disciplinary action, the salary of a represented employee may be decreased by either 2-1/2% or 5% for a period of time not to exceed thirteen pay periods for any one offense.
- Sec. 2109 *Suspension Without Pay:*** Suspension without pay may not exceed thirty (30) calendar days. Whenever an employee is suspended without pay, no salary shall be paid the suspended employee for the duration of his suspension and such suspension shall be treated as an authorized leave of absence without pay for purposes of vacation and sick leave accruals.

Sec. 2110 **Demotion:** The employee may be demoted to a classification which has a lower salary range than the position which he occupied. In cases of disciplinary demotion, the compensation of the employee shall be adjusted to the salary in the range of the position to which he has been demoted which is approximately 5% lower than the salary he was receiving in the higher class. An employee do demoted shall retain his anniversary date.

ARTICLE 22 RESIGNATION/TERMINATIONS

Sec. 2201 **Purpose:** To define and describe resignations and terminations and the conditions which govern such actions.

Sec. 2202 **Resignation/Termination Procedure:** A resignation shall not terminate a permanent employee from the classified service until such resignation is accepted by the appointing authority. A resignation shall be submitted in writing no less than ten working days prior to the date of intended separation unless the appointing authority consents to employee's leaving at an earlier date. If the appointing authority takes no action, the resignation shall be deemed accepted on the tenth working day following the date the appointing authority received the resignation. Any employee who leaves the classified service without so filing a resignation or giving ten days notice shall have that fact entered into his service record and may be denied entrance to examinations for which he may apply in the future.

Sec. 2203 **Absence From Work for Three Consecutive Days Without Authorization:** An employee who is absent from work without authorized leave for three days or two consecutive twenty-four hour work shifts may be deemed by the appointing authority to have voluntarily terminated. The appointing authority shall make an immediate report in writing on the regular termination form stating the reasons for such resignation and shall forward it to the Director-Human Resources. Appeal to the Civil Service Commission by the terminated employee shall be in conformance with Section 2209.

Sec. 2204 **Vacation and Annual Leave Payoff on Termination:** Any regular employee who terminates or is terminated, shall be paid the hourly equivalent of his salary for each hour of earned vacation and annual leave, based on the pay rate in effect for such person on the last day actually worked, spent on authorized leave, or spent on authorized time off as compensation for overtime.

- Sec. 2205 *Holiday Payoff on Termination:*** Any regular employee who terminates or is terminated, shall be paid the hourly equivalent of his salary for each hour of earned holiday time, based on the pay rate in effect for such person on the last day actually worked, spent on authorized leave, or spent on authorized time off as compensation for overtime.
- Sec. 2206 *Cancellation of Sick Leave on Termination:*** Termination of the continuous service of an employee, except by reason of layoff for lack of work or funds, shall result in cancellation of all sick leave accrued by him at the time of such termination irrespective of whether or not such a person subsequently re-enters the County service.
- Sec. 2207 *Payment on Termination:*** Any employee who terminates or is terminated shall be paid the monetary value of his accrued overtime or compensatory time.
- Sec. 2208 *Re-Employment within Three Days of Termination or Resignation:*** An employee being re-employed within three working days from the date of termination or resignation shall be deemed to have been on leave of absence without pay for such period of time and shall not be deemed to have terminated or resigned.
- Sec. 2209 *Involuntary Resignations:*** A petition requesting hearing and including specific facts regarding the resignation alleged to be involuntary and coerced by improper action of the appointing authority shall be filed with the Civil Service Commission ten (10) days following notice to petitioner of the acceptance of the resignation by the appointing authority. The petitioner shall have the burden of proving that the resignation was involuntary. Should the Commission find that the resignation was not voluntary and was coerced by improper conduct of the appointing authority, the appointing authority shall have ten (10) days following notice of the decision of the Commission to serve the petitioner with an order in writing dismissing, demoting, suspending, or demoting and suspending the petitioner. Should no order in writing be served upon petitioner he shall be reinstated to his former position with back pay to the effective date of the resignation.

ARTICLE 23 HEARINGS

- Sec. 2301 *Purpose:*** To provide a means by which the Civil Service Commission hearings shall be conducted.

Sec. 2302 *Time for Hearing:* A petition for hearing shall be delivered to the Commission no later than three (3) working days before the next regular meeting. All petitions for hearings delivered less than three (3) days prior to the next regularly scheduled meeting of the Civil Service Commission shall be placed on the agenda for the subsequent scheduled meeting. When such condition is met, the petition shall be placed on the agenda at the next meeting of the Civil Service Commission prior to setting a hearing and shall be considered for sufficiency. A petition shall be in writing, signed by the petitioner or the petitioner's representative, giving the mailing address, the action being appealed, and in plain language and in detail, sufficient facts and reasons upon which the petitioner's case is based. The Civil Service Commission may, at its discretion and for good cause, waive the three-day requirement of this section.

Sec. 2303 *Action on Petition for Hearing:*

- A. In cases of discharge, demotion, reduction in pay, suspension, or demotion and suspension of a permanent employee, other than a probationary employee, an employee may file a petition for hearing pursuant to Article 21, Section 2103.
- B. In examination appeals and matters involving allegations of discrimination, the Commission may, at its discretion, grant a hearing. The Commission shall deny a request for a hearing if the petition fails to state sufficient specific facts and reasons, or it in the opinion of the Commission the specific facts and reasons stated, if true, would not entitle the petitioner to any relief. An amended petition will not be considered if it is not filed within fourteen (14) calendar days of the date of denial of the original petition. No more than one amended petition may be filed.
- C. The appearance of the petitioner or the petitioner's representative is required at the meeting in which the petition is considered by the Commission. Failure to appear shall be deemed as a withdrawal of the petition unless prior notice of the non-appearance has been served upon the Commission, or unless good cause can be shown.
- D. The Commission shall give notice to the parties of the date, place and time of the Commission meeting at which the petition shall be considered.

Sec. 2304 *Hearing Board or Officer:* Upon receiving a petition which complies with the foregoing rules, the Commission shall determine whether the matter will be heard before the entire Commission or one or more members of the Commission, or a hearing board or officer appointed by the Commission. Recommendations of a hearing board or hearing officer

may be modified by the Commission and shall not become effective until ratified by the Commission.

Sec. 2305 *Duty of Law Officer.* It shall be the duty of the law officer to advise the Chairperson, or chairperson pro tem, on all questions of law, including rulings or evidence, arising at hearings of the Commission. The law officer shall not be present during the deliberations of the Commission. However, he shall be available so that he may be called upon by the Commission upon any questions of law arising during its deliberation of the facts.

Sec. 2306 *Rights of Petitioner.* When a hearing is granted, the petitioner shall attend, unless excused by the Commission, the Hearing Board, or the Hearing Officer. The petitioner shall be entitled to:

- A. Be represented by counsel, by a representative, or by himself;
- B. Testify under oath or affirmation;
- C. Examine and cross-examine witnesses;
- D. Examine and cross-examine employees of the County who have investigated any of the matters involved in the case and whose reports are offered in evidence before the Commission.
- E. Impeach any witness before the Commission or hearing board;
- F. Resent such affidavits, exhibits and other evidence as the Commission or hearing board deems pertinent to the inquiry;
- G. Argue the case.

The appointing authority or the Director-Human Resources shall be entitled to the same privileges.

Sec. 2307 *Appearance of Petitioner.* The appearance of the petitioner shall be required at all hearings except as otherwise provided herein:

- A. The Commission or hearing board shall have discretion to consent to the absence of the petitioner upon a showing of good cause.
- B. Unexcused absence of the petitioner at such a hearing may be deemed a withdrawal of the petition and consent to the action or ruling from which the appeal was taken.

- Sec. 2308 Subpoena Power:** Before the hearing has commenced, the Chairperson and Chairperson pro tem or the assigned hearing officer shall issue subpoenas and subpoenas duces tecum at the request of any party for attendance or production of documents at the hearing. Compliance with the provisions of Section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of the subpoena duces tecum. After the hearing has commenced, the Chairperson or Chairperson pro tem hearing the case, or the assigned hearing officer, may issue subpoenas and subpoenas duces tecum. Any person duly subpoenaed to appear and testify or to produce any books and papers before the Commission who willfully neglects or refuses to appear or testify or to produce such books and papers is guilty of a misdemeanor.
- Sec. 2309 Public Hearing:** All hearings by the Commission shall be public unless the Commission, for good cause shown, orders that a hearing shall not be open to the public.
- Sec. 2310 Burden of Proof:** In disciplinary hearings, the burden of proof shall be on the appointing power. In all other hearings, including hearings granted on allegations of discrimination, the burden of proof shall be on the petitioner. The Commission shall hear all the evidence and shall base its findings and decision solely upon the evidence admitted.
- Sec. 2311 Determination of the Civil Service Commission:**
- A. For hearings held on disciplinary appeals, examination appeals, promotional appeals, unit determination, unfair practices, and illegal discrimination, the decision of the Civil Service Commission shall be final and binding.
 - B. All decisions by the Commission shall be by majority vote. Determinations of the Commission shall be in writing and transmitted to the parties within seven calendar days after the close of the hearing whenever possible. In the event of a tie vote the Commission shall rule in favor of the party not having the burden of proof.
- Sec. 2312 Evidence:** The hearing shall be formal, but need not be conducted according to technical rules relating to evidence and witnesses. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs.

Hearsay evidence may be admitted for any purpose but shall not be sufficient in itself to support a finding unless it would be admissible over

objections in civil actions. Irrelevant and repetitious evidence shall be excluded. Oral evidence shall be taken only under oath or affirmation.

Exhibits shall be marked and numbered. Exhibits when offered by either party may be received in evidence by the Chairperson. The names of all witnesses and exhibits in order received shall be made a part of the record.

Sec. 2313 *Duty to Testify:* During a hearing, all witnesses have a duty to truthfully answer under oath or affirmation any question properly asked by the appointing authority, the petitioner, a Commissioner or the hearing officer.

Sec. 2314 *Exclusion of Witness:* In disciplinary hearings only, the Commission, hearing board or hearing officer may, at its or his discretion, exclude witnesses not under examination, excepting the Director-Human Resources, the petitioner, the petitioner's representative, the appointing authority and counsel. When hearing testimony of scandalous or indecent conduct, all persons not having a direct interest in the hearing may be excluded.

Sec 2315 *Witness Fees:* witnesses subpoenaed before the Civil Service Commission are entitled to the same fees and mileage paid witnesses in Superior Court. If requested, witness fees and mileage shall be paid by the party at whose instance the witnesses appear. Employees of the County of Ventura shall not be entitled to witness and mileage fees if they appear at the Commission hearing during their regularly scheduled working hours. Employees of Ventura County shall be entitled to witness and mileage fees if they are on a regularly scheduled vacation or holiday, or are required to appear outside of their regularly scheduled working hours.

Sec. 2316 *Depositions:* If the presence of any witness cannot be procured at the time of the hearing, his deposition must have been taken in accordance with the rules applicable to depositions in civil cases. The cost of a deposition shall be borne by the party taking the deposition.

Sec. 2317 *Report of Hearing:* Any party or interested person may, at his own expense, have a hearing reported by a Certified Shorthand Reporter or an Official Court Reporter.

Sec. 2318 *Findings and Decisions:* (Applies to disciplinary hearings only.) If the Commission finds that none of the charges contained in the written notice are true, then it shall set aside the action taken by the appointing authority. If the Commission finds that some or all of the charges are true, then it shall make and enter its decision confirming or modifying the action of the

appointing authority. Nothing shall preclude the Commission from ordering the reinstatement of an employee with or without back pay.

Sec. 2319 ***Vacation of Order:*** A decision of the Commission may be modified or vacated, in whole or in part, and a new or further hearing granted on all or part of the issues, or the application of a party to the hearing or on motion of the Commission, for any of the following causes, materially affecting the substantial rights of the applicant or the appointing authority:

- A. Irregularity in the hearing proceedings, or any order of the Commission or abuse of discretion by which either party was prevented from having a fair hearing.
- B. Accident or surprise, which ordinary prudence could not have guarded against;
- C. Newly discovered evidence which could not, with reasonable diligence, have been discovered and produced at the hearing and which is material to the question that was before the Commission.

Sec. 2320 ***Application for Vacation of Order:*** The application or motion to the Commission shall be made either before the signing of the order of the Commission or within ten (10) days of the Commission mailing notice of its order and shall designate the grounds upon which vacation is requested. The time for hearing the application of motion shall be governed by Section

Should the Commission grant a hearing on the application or motion, the Commission shall, after review of the application or motion, specify the ground or grounds on which it is granted and the Commission's reason or reasons for granting the application or motion. At the hearing, the evidence introduced shall be limited to the ground or grounds upon which the hearing was granted. At the conclusion of the hearing, the Commission shall either confirm its prior findings and decision or issue a new finding and decision.

The filing of an application under this section shall not be necessary to exhaust administrative remedies and the application or motion shall not operate to stay the effectiveness of the order of the Commission except by discretion of the Commission upon a showing, by affidavit, or emergency or hardship should the order not be stayed.

Sec. 2321 ***Judicial Review:*** Judicial review of a decision or order of the Commission may be had by filing and serving a petition for a writ of mandate in accordance with the provisions of the Code of civil Procedure. Such petition shall be filed and served upon the parties within one-

hundred eighty (180) days of the date of the Commission's decision or order. The right to petition shall not be affected by the failure to seek reconsideration, rehearing or reopening before the Commission. The party seeking judicial review shall bear the cost of having a record of the proceedings prepared for the reviewing court.

Sec. 2322 *Record:* The Civil Service Commission shall record the proceedings on a recording device and shall make such recording available to the parties upon request, at the expense of the requesting party.

Sec. 2324 *Waiver of Rules:* Any party who proceeds with the hearing after knowledge that any provision or requirement of these rules has not been complied with and who fails to object in writing or on record shall be deemed to have waived the right to object.

Sec. 2325 *Disqualification of Commissioners:* A Civil Service Commissioner or hearing officer shall voluntarily disqualify himself and withdraw from any hearing in which he believes he cannot accord a fair and impartial hearing.

Sec. 2326 *Hearings for Non-Permanent Employees:* To the extent a hearing is not otherwise provided for in these rules, any non-permanent employee, including probationary, extra help, part-time and intermittent employees, including intermittent employees who have passed a probationary period, shall be entitled to a hearing before his/her agency or department head whenever such employee believes that he/she was terminated from County employment in violation of these rules or any state or federal law. A request for such a hearing must be in writing and made within ten (10) days of termination. Such a hearing shall be informal. The employee may be represented by counsel or other representative, may call and examine witnesses, and may present any relevant evidence. Except in the case of a "for cause" dismissal of an intermittent employee who has passed probation, the employee shall have the burden of proof. The agency or department head shall consider all the evidence adduced at the hearing and may sustain or rescind the termination. The decision of the agency or department head shall be final and binding and the employee shall have no right to review by the Civil Service Commission. (Adopted 7/31/84.)

ARTICLE 24 POLITICAL ACTIVITY

Sec. 2401 *Purpose:* In accordance with Section 1351, et. Seq., of the Ventura County Ordinance Code, to delineate those political activities which are restricted and those which are allowed while an individual is an employee of the County.

- Sec. 2402 *Soliciting or Receiving Funds or Contributions:*** No employee of the County shall solicit for a candidate for elective office any contribution, pecuniary or otherwise, from other employees of the County. No employee of the County shall permit the services of his department/agency to be utilized to solicit, or process any political contribution, pecuniary or otherwise, from other employees of the County. Notwithstanding the provision so of this Article, an employee is not prevented from soliciting or receiving political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of employees of the County. A ballot measure shall be defined as any constitutional amendment or other proposition submitted to a popular vote at any election. The aforementioned activities are prohibited during the regular working hours of employees.
- Sec. 2403 *Participation in Political Activity While in Uniform:*** No employee of the County shall participate in political activities of any kind while he is in uniform.
- Sec. 2404 *Prohibition of Entry for Political Assessment, Subscription or Contribution:*** The purpose of this section is to deny the use of County property, its buildings, appurtenances or resources, for the solicitations of political assessments or contributions. Every employee of the County shall prohibit the entry into any place under his control, occupied and used for the governmental purposes of the County, of any person, for the purpose of therein making, or giving notice of any political assessment or subscription. No person shall enter or remain in any place as described above for the purpose of therein making, demanding, or giving notice of any political assessment or subscription. This section shall not apply to any auditorium or other place used for the conduct of public or political rallies or similar events, not to any park, street, public land or other place not being used for the governmental purposes of the County.
- Sec. 2405 *Use of Official Authority of Influence:*** No one who holds, or is seeking elective appointment to any office of employment in the County shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority or influence, whether then possessed or merely anticipated, to confer upon or secure for any person, or to aid or obstruct any person in securing, or to prevent any person from securing, any position, nomination, confirmation, promotion, change in compensation or position, within said County upon consideration that the vote or political influence or action of such person or another that the vote or political influence or action of such person or another shall be so given or used in behalf of or withheld from, any candidate, officer, or party, or upon any other corrupt condition or consideration.

Sec. 2406 *Leave of Absence to Run for Elective Office:* Leaves of absence to run for elective office are governed by Article 17 of these Rules and Regulations.

ARTICLE 25 CODE OF ETHICS

Sec. 2501 *Purpose:* To establish standards of conduct and to delineate the ethical responsibilities of the public service for the guidance of all employees.

Sec. 2502 *Discrimination:* There shall be no discrimination in any County activity because of race, color, national origin, religion, sex, age or functional limitation.

Sec. 2503 *Acceptance of Gratuities:* No employee shall accept any fee, compensation, gift, payment of expense, or any other thing of monetary value in circumstances in which acceptance may result in, or create the appearance of resulting in, the use of public office for private gain; preferential treatment of any person, impeding governmental efficiency or economy; any loss of complete independence or impartiality; the making of a County decision outside official channels; of any adverse effect on the confidence of the public in the integrity of County government.

Sec. 2504 *Ethical Responsibilities:* Each employee has an obligation to the citizens, to the people's elected representatives, to fellow employees, and to the administration, to cooperate in accomplishing the County's goals, to expose corruption wherever discovered, to refrain from disclosing any confidential information, to preserve and safeguard the County's assets, and to uphold these principles, ever conscious that public office is a public trust.

ARTICLE 26 CONSTRUCTION

Sec. 2601 The provisions of this Resolution shall be liberally construed so as to effectuate its purposes and to avoid and prevent inequities.

**ARTICLE 27
RESOLUTION, CONSTITUTIONALITY, AMENDMENTS
REPEALS AND EFFECTIVE DATE**

- Sec. 2701** *Allocations and Resolutions:* The number of positions and the classifications of such positions within a department/agency shall be established from time to time by resolution of the Board.
- Sec. 2702** *Constitutionality:* If any article, section, subsection, subdivision, sentence, clause or phrase of this Resolution is for any reason held to be illegal or unconstitutional, such decision shall not affect the validity of the remaining portion of this Resolution. The Board hereby declares that they have adopted this Resolution and each article, section, subsection, subdivision, sentence, clause and phrase thereof irrespective of the fact that any one or more articles, sections, subsections, subdivisions, sentences, clauses or phrases is declared illegal or unconstitutional.
- Sec. 2703** *Amendments:* Amendments to any articles or section of these Rules and Regulations where subject matter is described in Section 1345, et.seq., of the Ventura County Ordinance Code may be proposed at any meeting of the Commission but action thereon shall not be taken until a subsequent meeting. The Commission shall announce public hearings for such proposed changes either upon its own initiative or upon the request of the Board of Supervisors or the County Executive Officer. The announcement of any hearing requested by either the Board of Supervisors or the County Executive Officer shall be made within one week after receipt of a request therefore by serving notice. Such public hearing shall be commenced no earlier than two weeks after their public announcement and no later than five weeks after their public announcement. The Commission shall submit recommendations on matters so heard to the Board of Supervisors no later than seven weeks after the request for hearing has been made. For those articles and sections described within this section, all rules and amendments shall become effective on the day of their approval by the Board of Supervisors.
- Sec. 2704** *Effective Date:* This Resolution shall take effect and be enforced on and after December 15, 1992.

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PERB Received
05/12/21 15:25 PM

Exhibit 5

PERB Received
05/12/21 15:25 PM

DAVID P. MASTAGNI
JOHN R. HOLSTEDT
CRAIG E. JOHNSEN
BRIAN A. DIXON
STEVEN W. WELTY
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SCOTT P. THORNE
SAMUEL S. SIAVOSHI
BEHNAM M. PARVINIAN
JESSICA E. BERLAT
DALBIR K. CHOPRA
CARLY M. MORAN

February 10, 2021

Via Electronic & U.S. Mail

Sheriff William Ayub
Ventura County Sheriff's Office
800 South Victoria Avenue
Ventura, California 93009
Email: william.ayub@ventura.org

Re: VCDSA Demand to Meet and Confer Regarding Changes in Promotional Process

Dear Sheriff Ayub:

This letter is on behalf of the Ventura County Deputy Sheriffs' Association ("VCDSA") regarding the recent promotion of three individuals to the Sheriff's Captain position. While VCDSA is always happy to hear of advancements within the Department, the process followed for these promotions violated the Ventura County Code and Personnel Rules and differed from the Department's past practice. Thus, VCDSA respectfully requests that you rescind the promotions and meet and confer with VCDSA regarding any changes to the promotional process.

As you are aware, in November of 2020, the Department posted a job announcement for the position of Sheriff's Captain. The announcement was posted on the County website and a memo was emailed within the Department. In January of 2021, the Department conducted oral examinations of all qualified applicants. Applicants who received a passing score were notified via email that they had passed and would be placed on the eligibility list. Candidates were not told their score nor their ranking on the list. These individuals then completed a second oral examination with the Undersheriff and two Assistant Sheriffs. On February 3rd, the promotions were announced via email.

This process was a significant deviation from the Department's past practice and did not align with the requirements laid out in the County's Personnel Rules. First, the Department unilaterally changed the exam format. Previously, the Department conducted both written and oral exams, whereas here, they only conducted an oral exam. Further, rather than following their normal practice of giving two separate oral exams—one conducted by members of the Department and one conducted by members of outside agencies—they combined these exams into one mixed exam with both internal and external evaluators. In addition, VCDSA has reason to believe that not all candidates were asked the same questions in the oral exam, nor were all members of the panel present at every interview.

Sheriff Ayub
Re: VCDSA Demand to Meet and Confer
February 10, 2021
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A. The Department's Failure to Follow the Personnel Rules was Unlawful.

The Department failed to follow Personnel Rules in creating eligibility lists and certifying candidates. Section 517 of the County Personnel Rules provides that all candidates must receive a final score of at least 70% to pass the examination. (A copy of Article 5 and Article 8 of the Personnel Rules attached hereto as Exhibit 1.) Section 518 requires that candidates be divided into "standings" based on their final examination score. Those with a score of 95% to 100% fall into standing one, 90% to 94% are in standing two, etc.; this continues until standing six—70% to 74%. Section 803 provides that the Director of Human Resources must certify the names of candidates in the **highest standing** to fill a vacancy, and that the "names *shall be submitted by standings*, priority one to six." At least three names must be certified for the first vacancy plus an additional name for each additional vacancy. The Director of Human Resources may certify the next highest standing only if there are less than three names certified.

As discussed above, VCDSA has reason to believe that the Department did not divide candidates into standings based on their examination scores, nor did they request that the Director of Human Resources certify those candidates in the highest standing. Candidates were never given scores on the examination or ranked on an eligibility list. Instead, candidates were merely sorted into those who passed the oral exam and those who failed. The Department then selected the three new captains from this passing group. This failure to score and rank candidates gave the Department an unprecedented amount of discretion. The purpose of the civil service system is to eliminate biases in the hiring process and ensure that individuals are hired and promoted based on merit rather than favoritism. The Department's failure to follow civil service procedures undermines these principles and introduces room for bias.

Moreover, the Department's failure to follow the Personnel Rules was unlawful. Section 1345-1.4, *et seq.* of the Ventura County Code provides that the rules for classified service are to be set forth in the Ventura County Personnel Rules. (A copy of Article 4 of the County Code attached hereto as Exhibit 2.) The Board of Supervisors "has the power to create rules for its own government," and these rules have the force of law. (*Campbell v. City of Los Angeles* (1941) 47 Cal.App.2d 310, 312; see also *Bruce v. Civil Service Board of Oakland* (1935) 6 Cal.App.2d 633, 637; *Mitchell v. McKevitt* (1932) 128 Cal.App. 458, 461.) "After their adoption, the board's power to modify [the rules] may be exercised only in conformity with the prescribed mode." (*Campbell, supra*, at p. 312.) A Department cannot unilaterally and arbitrarily suspend a rule. To allow this would permit "the long-cherished principle of universal application of the law [to] be cast into the discard." (*Id.* at p. 313.)

Campbell involved an individual who was mistakenly reinstated to his position in violation of the city's civil service rules. (*Id.* at pp. 311-12.) He was later discharged when the commission discovered that his reinstatement was illegal. The court of appeal found that the civil service commission *did not have the power to disregard or make exceptions to the civil service rules*, and therefore the commission had a duty to discharge Campbell as soon as they discovered that his employment violated these rules. (*Id.* p. at 313.) Similarly, here, the Department did not have the power to disregard the process created by the Board of Supervisors and codified in the Personnel

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Rules. Because the Department did not adhere to the Personnel Rules in making these promotions, the promotions are illegal and must be rescinded.

B. The Department's Unilateral Change Violated the MMBA.

Further, the Department's change to the promotional process violated the Meyers-Milias-Brown Act ("MMBA"). The MMBA requires the County meet and confer in good faith with VCDSA before implementing any change in policy or past practice altering working conditions. (Gov. Code § 3505; *Building Material & Construction Teamster's Union v. Farrell* (1986) 41 Cal.3d 651, 658.) Government Code section 3504.5 requires the County to provide advanced written notice to each recognized employee organization of any proposed changes "relating to matters within the scope of representation." The "scope of representation" includes "all matters relating to employment conditions and employer-employee relations, including, but not limited to, wages, hours, and other terms and conditions of employment." (Gov. Code § 3505.) Promotional opportunities are **mandatory subjects of bargaining**. (*County of Orange* (2019) PERB Decision No. 2663M; *City of Santa Maria* (2020) PERB Decision No. 2736M.) PERB has recognized that changes in the promotional process directly define the employment relationship. (*Ibid.*) Thus, before making any such changes, employers are obligated to provide the employee organization written notice and the opportunity to meet and confer.

Given the strong working relationship VCDSA has built with the Department, it is disappointing that the Department did not communicate their intent to alter the promotional process with VCDSA or provide VCDSA with the opportunity to meet and confer over these changes. Shortly before the job announcement was released, the Sheriff called VCDSA Executive Director Kasey Sirody and during a brief phone conversation informed her that they were eliminating the written exam this year due to low participation in the last hiring cycle. At no point did the Sheriff mention that the test would be administered pass/fail, the Department's intention to deviate from the certification process provided by the Personnel Rules, or any of the other changes mentioned above. This brief conversation with Ms. Sirody cannot satisfy the Department's obligation under the MMBA to provide advanced *written* notice. Similarly, the department-wide memo notifying employees of the promotional opportunity did not satisfy the notice requirement. (See *State of California (Department of Veteran Affairs)* (2010) PERB Decision No. 2110-S at p. 5.) The memo gave a vague description of the promotional process and was emailed to VCDSA members rather than directed to VCDSA's designated representatives. Proper notice should have been made to a designated representative and included specific details of the changes that the Department intended to make. Thus, the Department violated the MMBA by making unilateral changes to the promotional process without giving VCDSA notice or the chance to meet and confer.

Please accept this letter as a demand that the Department rescind the promotions and follow the requirements of the Personnel Rules in certifying a new list—or alternatively, administering a new test—and making selections. Should the Department intend to persist in its efforts to alter the promotional process, please provide VCDSA notice and the opportunity to meet and confer as required by the MMBA. If any of these modifications deviate from the process provided in the Personnel Rules, the Department is required to first meet and confer with VCDSA regarding these

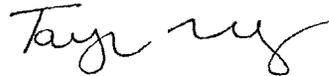
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changes, and then follow the process described in Section 2703 to officially alter the Personnel Rules.

Please contact VCDSA Executive Director Kasey Sirody or the undersigned to begin the meet and confer process.

Sincerely,

MASTAGNI HOLSTEDT, A.P.C.



for

DAVID E. MASTAGNI
Attorney at Law

DEM/tdm

cc: Nick Odenath, VCDSA President
Kasey Sirody, VCDSA Executive Director

Exhibit 1

Sec. 411 **Applications Not To Be Returned:** Applications, whether accepted or rejected, shall not be returned.

Sec. 412 **Grandfather Clause:** An employee who desires to compete in a promotional examination under educational requirements higher than those existing at the time he entered the lower related class may be permitted to compete, provided that, in the opinion of the Director-Human Resources, he has sufficient applicable experience in the employment of the County to substitute for the education lacked. Experience may be substituted only on the basis of a minimum of one year thereof for each year of education lacked.

ARTICLE 5 EXAMINATIONS

Sec. 501 **Purpose:** To test the knowledge, skills, abilities and fitness of persons seeking employment or promotions to ascertain the best qualified applicants.

Sec. 502 **Nature of Examinations:** All examinations shall be devised to ascertain as far as practical the capacity of the applicant to perform the work of the classification or position and shall be conducted in a fair and reasonable manner.

Sec. 503 **Non-Discrimination:** No examination or test shall be designed, used, or result in discrimination against any person because of their race, color, religion, national origin, sex, age, or functional limitation. No examination shall be administered for any County position until a thorough job analysis has been completed, job-related performance elements have been determined and reasonable content or construct validity is evident.

Sec. 504 **Preparation of Examination:** The Director-Human Resources shall prepare or acquire all examinations given.

Sec. 505 **Participation in Examination Procedures:** County employees may be called upon by the Director-Human Resources to assist in examination procedures with the approval of their Department or Agency Head; however, such County employees shall not both devise a specific examination as defined in Section 508 of these Rules and Regulations and score or rate said examination.

If the Director-Human Resources determines that the participation of a current employee of the Agency/Department for which the recruitment is

being conducted is necessary to enhance the quality and validity of an Agency/Departmental promotional examination, then no more than one (1) such employee may participate as a rater in an oral examination. The Agency/Departmental employee who is to serve as a rater in the oral examination shall be selected by the Director-Human Resources and shall not be the employee responsible for final selection, nor shall such rater be the examinee's immediate supervisor.

Sec. 506 **Examination Schedules:** The Director-Human Resources shall schedule examinations in accordance with current and anticipated needs of the service. Scheduled examinations may be postponed or cancelled by the Director-Human Resources by notifying in advance all persons affected and posting public notice of the cancellation.

Sec. 507 **Continuous Testing:** Examinations may be administered on a continuing basis.

Sec. 508 **Types of Examinations:** Any device which is used to select a person for employment or used to make any differentiation between applicants is an examination. The results of examinations may be either scored ratings or pass/fail decisions concerning inclusion or exclusion for the remainder of the examination process. The Director-Human Resources may administer any appropriate device including but not limited to the following:

- A. Application Screening - The process by which candidates' applications, resumes or other required documentation are evaluated on a comparative basis against pre-established criterion.
- B. Oral Examinations - A test where questions, situations or role plays are submitted to an applicant or a group of applicants by a person or group of persons and the candidate's responses and observable behaviors to these situations and questions form the basis upon which the candidate is rated.
- C. Physical Performance Examination - A test composed of one or more events which require candidates to display their physical skills, strength, stamina or endurance, agility and/or speed.
- D. Practical Examination - A job task sampling where essential job duties and the job environment are simulated and the candidates are required to perform these job tasks while being observed by raters. The method of completing the tasks, the time required, and the final product are scored and evaluated. Practical examinations may also encompass actual job performance in the position and/or successful completion of any required job training.

- E. Promotability Review - A scored rating of candidates for promotional examinations where each candidate's previous on-the-job performance, educational and experienced background, and other job-related life experiences, which have been documented or observed, are rated by employee's supervisors, outside experts, or managers of the Department/Agency for which the promotional recruitment is being conducted. A Promotability Review Examination shall not be the sole testing device used in any examination to develop an eligible list.
- F. Questionnaire Examination - A form of written examination where applicants are required to submit additional information at the time of application which is elicited by means of written questions or statements.
- G. Total Assessment Examination - An examination process which evaluates candidates by using a combination of testing instruments which may include, but is not limited to, practical, written, oral, reference, and promotability review examinations.
- H. Written Examinations - A paper and pencil test which may include any portion or combination of the following types of items.
 - 1. True/False
 - 2. Multiple Choice
 - 3. Matching
 - 4. Completion
 - 5. Essay

Sec. 509 **Retest Policy - Written Examinations:** Unless an exception is approved by the Director-Human Resources, no applicant may take the same written examination more than four (4) times within a calendar year except on open examinations where there will be no limit on the number of times an examination can be taken.

Sec. 510 **Promotion in an Underfill Situation:** Whenever an employee is filling a position in a classification lower than that of the authorized allocation, an underfill situation exists. To be eligible for promotion to a higher allocation level, the employee must have either originally competed for appointment to the underfill position or must successfully compete with other candidates for the promotion to the higher allocated classification. In no case shall an employee in an underfill situation be promoted without a competition as described above. If a position which is being under filled is allocated at a higher level and if the employee in the underfill situation is satisfactorily and substantially performing the duties of the higher classification, and if the employee in the underfill situation meets the

established minimum employment standards for the higher classification, then such employee shall be promoted, provided that the other provisions of this section are met.

Sec. 511 **Promotion by Nomination:** Whenever there are three or fewer qualified applicants or whenever there are three or fewer qualified employees in an agency/department who file application for examination, the appointing authority may, upon written justification and approval of the Director-Human Resources conduct a selection interview. If the decision of the appointing authority is unsatisfactory to a competing employee, he may petition within seven calendar days to the Civil Service Commission.

Sec. 512 **Suspension of Examination:** In the event of the creation of a new classified position or of a vacancy in any classified position requiring peculiar and exceptional qualifications of a scientific, professional, or expert nature, upon satisfactory evidence that a competitive examination is impractical, and that the position can be filled by a person of recognized attainment, the competitive examination may be suspended by the Director-Human Resources. No such suspension of examination shall be general in its application to such position. The Director-Human Resources shall report to the Board of Supervisors the reasons for suspension of any examination. The foregoing provisions are not applicable to newly created positions or vacancies in appointive or appointive interim elective department head vacancies.

Sec. 513 **Examination Scores:** Unless otherwise provided on the examination announcement, applicants shall be required to attain a passing score of not less than seventy percent (70%) on each part of an examination in order to be placed on the eligible list. However, the Director-Human Resources may increase or decrease the minimum score required for an examination by no more than ten percent (10%). An explanation of such action shall be placed on file by the Director-Human Resources. The determination to increase or decrease the required minimum score shall be made in accordance with the following factors:

- A. Difficulty of examination.
- B. Quality of competition.
- C. Current needs of the County service.

Sec. 514 **Examination Weights:** The Director-Human Resources shall determine the weight of each part of an examination.

Sec. 515 **County Service Points:** In open examinations, additional credit in the amount of five percent (5%) of the maximum score attainable shall be

given to all eligible County employees who have attained permanent status. Provisional, extra help employees and enrollees in training and work programs are not eligible to receive this additional credit. Such credit shall only be allowed if the employee attains a passing score on each phase of the examination. No credit shall be given in a Countywide or agency/department promotional examination. Credit available pursuant to this section is an alternative to Veteran's preference credit provided in Section 517 and both cannot be given simultaneously to an employee or applicant.

- Sec. 516** ***Veteran's Points:*** Any person who has been discharged or released under condition other than dishonorable within fifteen (15) years of the final filing date for the position being examined, and who enters a competitive Civil Service Examination for entry level and trainee classifications as designated by the Director-Human Resources, shall receive a preferential credit of five percent (5%) of the maximum score attainable in the examination. Persons retired with pension from the various military services shall not receive this preferential credit. Notwithstanding their date of discharge, veterans who have a service-connected disability rating of twenty percent (20%) or more shall be eligible to receive this preferential credit. Such credit shall be allowed only if the veteran attains a passing score in each phase of the examination. No veteran's credit shall be given in a Countywide or agency/departmental promotional examination. Presentation of discharge papers or a certified copy thereof for inspection by the Director-Human Resources prior to the final filing date of the announcement shall be required of all applicants seeking Veteran's preference credit.
- Sec. 517** ***Final Examination Scores:*** In order to be placed on the eligible list for the classification, each applicant must attain a final examination score of seventy percent (70%) or more. For the purpose of determining the standing in which an eligible is placed, only the final examination score shall be rounded off to the nearest whole number.
- Sec. 518** ***Standings:*** Final examination scores inclusively of 95% to 100% shall fall in Standing No 1; scores from 90% to 94% shall fall in Standing No. 2; scores from 85% to 89% shall fall in Standing No. 3; scores from 80% to 84% shall fall in Standing No. 4; scores from 75% to 79% shall fall in Standing No. 5; scores from 70% to 74% shall fall in Standing No. 6.
- Sec. 519** ***Notice of Results:*** As soon as the eligible list is established, each applicant who took the examination shall be notified by mail whether he passed or failed, and, if he passed, his final examination score and his relative position on the eligible list.

- Sec. 520** **Written Examination Review:** Except when the County is subject to contractual limitations with test publishers, any person who took a written examination may inspect the records of his rating and review his answer sheet and a keyed correction overlay within a period twelve (12) calendar days from the date of written notification of the results. The Director-Human Resources shall, upon written request by an applicant, authorize another person to review the applicant's rating records and examinations. An applicant shall not have the right to re-examine the test questions.
- Sec. 521** **Oral Examination Review:** Access to individual oral examination rating forms and tape recordings of oral examinations shall not be granted to persons other than the Director-Human Resources, his designated representative, or the Civil Service Commission, unless subpoenaed by a court of competent jurisdiction. The Director-Human Resources, or his representative, shall summarize oral ratings and comments for applicants, or his designated representative, upon request. Such request for review and summation must be made by an applicant within a period of seven (7) calendar days from the date that the written notification of the results of the examination was mailed to the applicant.
- Sec. 522** **Promotability Examination Review:** Any candidate who participated in a promotability review examination may inspect the records of his ratings. Access to individual promotability review rating forms will not be granted to persons other than the Director-Human Resources, his designated representative, or the Civil Service Commission, unless subpoenaed by a court of competent jurisdiction. The Director-Human Resources, or his representative, shall summarize promotability ratings and comments for applicants, upon request. The inspection of the rating records as well as the request for summation must be made within a period of twelve (12) calendar days from the date that the written notification of the results of the examination was mailed to the candidate.
- Sec. 523** **Examination Appeal Procedure:** Within twelve (12) calendar days after notice of results has been mailed in accordance with Section 520, an applicant may appeal the examination ratings to the Director-Human Resources. The appeal shall be in writing and shall provide the facts, information or circumstances upon which the appeal is made. At his discretion, the Director-Human Resources may, with proper cause and reasonable notice, suspend, cancel, discontinue and/or invalidate any examination process, part thereof, to avoid, correct, or redress any fraud, favoritism, failure to follow proper exam procedure, or discrimination in such process.
- Sec. 524** **Basis for Appeal:** Basis for appeal is appropriateness or correctness of item or items in written examinations; fraud, favoritism or other non-merit factors involved in the oral examination interview.

- Sec. 525** *Review by the Director-Human Resources:* Within seven (7) calendar days after receiving the appeal, the Director-Human Resources or his designated representative will meet with the appellant and discuss the appeal. The Director-Human Resources shall give his written decision within ten (10) calendar days after the discussion. If the decision rendered by the Director-Human Resources is unsatisfactory to the appellant, he may petition in writing for a hearing within seven calendar days to the Civil Service Commission.
- Sec. 526** *Examination Records:* Examination rating records may not be destroyed earlier than three (3) years after the eligible list has been established.
- Sec. 527** *Time Off for Examinations:* Any regular employee shall be entitled to necessary time off with pay for the purpose of taking qualifying or promotional examinations administered by the County Human Resources Division for County positions, in the same or similar series within which he is classified. The appointing authority may authorize an employee time off with pay to take County examinations for positions in a classification series different from the one in which he is classified.

ARTICLE 6 MEDICAL EXAMINATIONS

- Sec. 601** *Purpose:* The County shall conduct medical examinations to determine the physical and mental fitness of employees and candidates in regards to prescribed minimum medical standards and to place such people in positions most advantageous to the County and the employee. Moreover, the examinations will assist in the economical administration of the County's group insurance, worker's compensation, retirement and sick leave benefits.

To accomplish these purposes and to meet the intent of law governing the employment of qualified handicapped or disabled persons, minimum medical standards shall be job-related for each position in the County service.

- Sec. 602** *Medical Examinations:* All candidates, except as noted in Sections 604, 605, and 606, shall successfully complete a medical examination by a County-appointed physician or designated examiner prior to appointment. It is the responsibility of the appointing authority to insure that the candidate completes the medical examination process. If Federal or State law specifies other medical examination requirements, such law shall prevail.

may temporarily employ any person who meets the minimum requirements for the class to fill the vacancy pending the establishment of an eligible list.

Sec. 717 ***Removal of Names from Eligible List:*** The name of an eligible may be removed from any eligible list by the Director-Human Resources whenever:

- A. The eligible submits a written notice waiving certification; or
- B. The eligible fails to respond to the written certification notice; or
- C. Upon presentation of written, satisfactory information verified by the Director-Human Resources that there is sufficient reason for not employing the eligible; or
- D. The eligible refuses an offer of employment three times; or
- E. The eligible is determined to be unacceptable and is disqualified for appointment by three appointing authorities after certification from the eligible list; or
- F. The eligible has practiced or attempted to practice any deception or fraud in any matter materially related to securing eligibility or appointment.

The eligible shall be notified in writing by the Director-Human Resources of his removal from the eligible list.

Sec. 718 ***Restoration to Eligible List:*** The Director-Human Resources, upon recommendation of the appointing authority, may restore a separated probationary employee to an eligible list from which he was appointed for future certification if the circumstances of his separation, in the opinion of the Director-Human Resources, warrants such action.

ARTICLE 8 CERTIFICATION

Sec. 801 ***Purpose:*** To refer for each vacancy the best qualified persons available.

Sec. 802 ***Requisitions:*** Each appointing authority shall notify the Director-Human Resources in writing of his personnel requirements as far in advance as possible in order that sufficient time will be available to establish eligible lists for certification.

Sec. 803 **Certifications:** The Director-Human Resources is responsible for certifying eligible candidates for selection by the appointing authority in the following manner:

- A. For open, Countywide and agency/department eligible lists, upon receipt of the appointing authority's request for certification, and in order of the priority of eligible lists, the Director-Human Resources shall furnish him the names and addresses of all persons in the highest standing to fill one vacancy. Names shall be submitted by standings, priority 1 through 6. The minimum number of names to be certified pursuant to this subsection shall be three (3) for the first vacancy to be filled and one additional name for each additional vacancy. If less than three names are certified, the Director-Human Resources, upon request of the appointing authority, shall furnish an additional standing.

- B. For classification reinstatement and re-employment eligible lists, upon receipt of the appointing authority's request for certification and in order of the priority of eligible lists, the Director-Human Resources shall furnish the names and addresses of three persons for each vacancy and one additional name for each additional vacancy in order of their ranking on such lists. If less than three names remain on the eligible list from which names are to be certified, the appointing authority may either accept the certification of fewer than the required number of names or request the Director-Human Resources to furnish additional names from other available eligible lists.

- C. For open eligible lists, if more than ten (10) names are eligible for certification pursuant to Section 803(a), upon request of the appointing authority, the Director-Human Resources may certify the ten (10) highest ranked candidates eligible for certification in lieu of the certification of eligibles in accordance with Section 803(a) above. The minimum number of names to be certified pursuant to this subsection shall be ten (10) for the first vacancy and one additional name for each additional vacancy. Once the method of certification, as provided in Subsections A or C of this section, has been selected, all subsequent certifications to the appointing authority from the specific open eligible list shall be made in accordance with the method previously selected, (either Subsection A or Subsection C of this section), until the particular eligible list has been abolished. If the provisions of Subsection C cannot be met, certification shall be made in accordance with Subsection A.

- D. For agency/departmental promotional eligible lists, if more than ten names are eligible for certification pursuant to Section 803A, the Director-Human Resources shall certify no more than ten names for one vacancy and three additional names for each additional vacancy. Such names shall be certified according to highest ranking. Whenever two or more applicants have the same final grade, priority shall be by random selection.

Sec. 804 **Selective Certification:** For certain classifications an eligible may request, at the time of examinations, selective certification to a specific agency/department and/or geographic location. For purposes of a bona fide occupational qualification of bilingual skill or sex, names can be selectively certified from the eligible list, upon request of the agency/department. An employee who has not been certified on the basis of a bona fide occupational qualification may, within twelve (12) days of the certification in questions, file an appeal in the same manner as provided for examination appeals by these rules and regulations. All other rules concerning certification shall apply as appropriate.

Sec. 805 **Additional Names:** Whenever an appointing authority has presented sufficient written reasons for not appointing from the eligibles certified to him, he may request the Director-Human Resources to certify additional eligibles.

Sec. 806 **Certification From Alternate Lists:** Whenever a vacancy exists for a class for which there is no eligible list, the Director-Human Resources may authorize certification of all persons in a standing from an eligible list for a higher level class in the same classification series. If there is no appropriate lists in the same classification series, certifications may be made from a list for a closely related class for which employment standards, job duties and examinations are similar to or higher than those required for the class in which the vacancy exists.

Sec. 807 **Notification of Eligibles:** Whenever the name of an eligible is certified, the appointing authority shall send a written notice to his address as it appears on the eligible list. The notice shall state the fact of certification, the title of the position, the starting and maximum rates of pay for the classification, the organization unit, and the name and business address of the appointing authority or his delegated representative. It is the responsibility of the eligible to notify Human Resources in writing of any change in address.

Sec. 808 **Time for Replying to Certification:** Such notification shall state that within ten (10) calendar days of the date that the eligible was certified, the eligible must communicate with the appointing authority to arrange for an

interview and that his failure to do so may result in the removal of his name from the list.

Sec. 809 ***Selection Interview by Appointing Authority:*** All of the candidates certified to an appointing authority who respond in accordance with Section 808 to the notification of certification must be interviewed by the appointing authority, unless the interview is mutually waived by the candidate and the appointing authority. However, in the case of a candidate who is not already a regular employee, the appointing authority may decline to interview said candidate if that candidate has been previously interviewed within the last year for the same or similar position and if the applicant's qualifications have not changed since the previous interview. The appointing authority shall report to the Director-Human Resources in writing the reasons for selecting the successful candidate and not selecting other eligibles who were certified, including those candidates previously interviewed. No appointing authority shall discriminate against any candidate because of race, color, national origin, religion, sex, age or functional limitation.

Sec. 810 ***Report of Appointment:*** The appointing authority shall report in writing to the Director-Human Resources the name or names of persons appointed, the date service is to begin, or if all eligibles are unacceptable, the reasons for not making an appointment. All applicants interviewed shall be sent written notice of the results of the interview by the appointing authority within ten working days following appointment.

Sec. 811 ***Inspection of Papers:*** The appointing authority may inspect all papers, records and data of eligible certified to him on file in Human Resources.

ARTICLE 9 CLASSIFICATION

Sec. 901 ***Purpose:*** To provide County government with an equitable and logical arrangement of classifications which will promote and increase the economy and efficiency of County service. This objective is attained by placing positions into classes and establishing the relationship between those classes.

Sec. 902 ***Classification Plan:*** The County Classification Plan shall consist of an orderly arrangement of all classifications except those excluded in Article 1, Section 101B, together with the appropriate class specifications approved by the Director-Human Resources.

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Exhibit 2

Article 4. - Civil Service System

1341 - Purposes.

The purpose of this article is to establish and maintain an employment relationship between the County and its employees which will promote and increase economy and efficiency in the County service. In order to achieve and foster this end each position must be filled with the best qualified person available. Except as otherwise provided herein appointments shall be made solely on the basis of merit and fitness ascertained through practical and competitive examinations. Positions involving comparable duties and responsibilities shall be similarly classified. It is recognized that efficiency is attained by assuring county civil service employees continuance in employment regardless of the political fortunes of elective officers and by providing for promotion of employees as a reward for faithful and efficient work. Tenure of employment is therefore subject to good behavior, efficiency, the necessity of the performance of the work, and the appropriation of public funds. A county civil service employee who is discharged or otherwise subject to disciplinary action is entitled to a hearing before the Civil Service Commission-Board of Review and Appeals. The Civil Service Commission shall have jurisdiction to review the propriety of any disciplinary action properly brought before it. No county civil service employee may be arbitrarily or capriciously dismissed, demoted or suspended. Elected officers, all county employees occupying supervisory positions and the Civil Service Commission shall therefore perform their duties and responsibilities so that unqualified and undesirable personnel are removed and replaced with qualified persons.

1342 - Commission members.

There is hereby created a Civil Service Commission-Board of Review and Appeals, the members of which shall be appointed by the Board of Supervisors. The Commission shall consist of five (5) members, each of whom shall hold office for four (4) years, and until his successor is appointed and qualified. The members shall be selected from among the qualified electors of the County.

1342-1 - Compensation.

The compensation that the Civil Service Commission shall receive for attendance at a meeting or hearing shall be established by the salary ordinance.

1342-2 - Restriction.

No member of the Civil Service Commission shall hold any other salaried county office or employment, nor shall he have been, within the year preceding his appointment, an active official of any political organization.

1342-3 - Records.

The Commission shall keep minutes of its proceedings.

1342-4 - Report.

The Commission shall make an annual report to the Board.

1342-5 - Removal.

The Board of Supervisors may, by a four-fifths vote of all members, remove any member of the Commission during his term of office for misconduct in office, failure or inability to perform his duties, or any other act or omission which is incompatible with or inimical to public service. Removal proceedings shall require that the Board of Supervisors state in writing its reasons for removal and thereafter allow the member an opportunity to be heard in his own defense.

(Add. Ord. 3287—3/8/77)

1343 - Disqualification of commissioners.

A Commissioner shall voluntarily disqualify himself and withdraw from any hearing in which he believes he cannot accord a fair and impartial hearing or for any of the grounds for which a judge of the superior court may be disqualified pursuant to the provisions of Section 170 of the Code of Civil Procedure.

1344 - Law officer.

The County Counsel, or his designated representative, shall serve as law officer.

(Am. Ord. 2419—3/16/71)

1345 - Duties of the civil service commission—Board of review and appeals.

- (a) The Civil Service Commission shall, pursuant to the office space and staffing recommendation by the Personnel Department, utilize its own staff to conduct the business of the Commission and make investigations concerning the administration of the civil service system as deemed appropriate.
- (b) The Civil Service Commission shall perform the duties and exercise the powers set forth in this Article 4. It shall function as a review board and may review any aspect of the civil service system.
- (c) The Civil Service Commission shall, in accordance with the provisions of Sections 1352, et seq., hear all appeals in connection with disciplinary action taken.
- (d) The Commission shall have such other powers and duties as delegated to it from time to time by the Board of Supervisors.

(Rep. & Reen. Ord. 2602—7/11/72)

1345-1 - Rules.

1345-1.1 - Duties of the County Executive.

The County Executive shall assist the Civil Service Commission in the development of orderly policies and procedures governing the civil service system. However, nothing herein shall limit the powers and duties of the County Executive relating to matters of personnel administration.

(Rep. & Reen. Ord. 2602—7/11/72)

1345-1.2 - Board of Supervisors.

The Ventura County Board of Supervisors shall enact ordinances, resolutions, rules and regulations constituting and governing the County civil service system upon a majority vote of the Board of Supervisors.

(Rep. & Reen. Ord. 2602—7/11/72)

1345-1.3 - Hearings of the Civil Service Commission.

Hearings of the Civil Service Commission may be requested by the Board of Supervisors, the County Executive, or any recognized employee organization, or may be called by the Civil Service Commission upon its own initiative. All requests for hearings shall be placed on the agenda for the next regularly scheduled meeting of the Commission, at which time the Commission may establish a hearing date or, in the alternative, the Commission may, at its discretion, call a special meeting. Recommendations of the Commission shall be submitted to the Board of Supervisors no later than 15 working days after the close of the hearing.

(Rep. & Reen. Ord. 2602—7/11/72)

1345-1.4 - Written rules.

Written rules for the classified service shall be incorporated into and set forth in the Ventura County Personnel Rules and Regulations. Such written rules for the classified service shall provide for:

(Rep. & Reen. Ord. 3202—6/1/76)

1345-1.4.1 - The classification of positions in the County civil service.

1345-1.4.2 - The public advertisement of examinations.

1345-1.4.3 - Examinations to test the relative fitness of the applications for positions in the classified service of the County.

1345-1.4.4 - The establishment of employment lists, including eligible lists created as a result of competitive, non-competitive and promotional examinations, and reserve lists of laid-off employees.

1345-1.4.5 - A record of all examinations (written, oral or practical) which shows the basis of rating.

1345-1.4.6 - The certification of the names and addresses of at least three (3) persons on the highest standing or standings on the appropriate eligible lists.

1345-1.4.7 - Vacancies in the classified service are to be filled by promotion whenever practicable, except that whenever three (3) or less eligible employees file applications for a promotional examination, or whenever three (3) or less employees in a department are eligible for a promotion to a position in that department, the appointing authority may, upon written justification and approval of the Personnel Director, nominate an employee for promotion, or the appointing authority, in his discretion, may call for a departmental, county service-wide or open examination. In the event of a disapproval as to any nomination, the appointing authority may appeal directly to the Commission.

(Am. Ord. 2680—3/6/73; Am. Ord 3672—1-31-84)

1345-1.4.8 - Minimum standards and qualifications to be met by all applicants for positions in the classified service.

1345-1.4.9 - A probationary period of six (6) months for every position except:

- (a) A probationary period of twelve months for persons entering the service as deputy sheriffs, firefighters, or in trainee or apprentice classifications; or,
- (b) A probationary period of twelve months for management, confidential clerical, or other unrepresented employee classifications not exempt from the classified service; or,
- (c) A probationary period of twelve months, or other specified period, for any other classification when such specific provision is incorporated into a Memorandum of Agreement as the result of negotiations between the County and the recognized employee organization for that classification.

(Am. Ord. 3965—1/15/91)

1345-1.4.10 - Provisional appointments without examination to existing positions in the classified civil service.

1345-1.4.11 - The appointing authority may dismiss, demote, suspend or demote and suspend any probationary employee during the probationary period. Neither the Commission nor the Grievance Committee shall hold a hearing on any such disciplinary action taken against any probationary employee.

1345-1.4.12 - Permanent status after completion of the probationary period by any person in the classified service, subject to dismissal for cause.

1345-1.4.13 - The tenure of office during good behavior of a person who attained permanent status in the classified service subject to removal, demotion, suspension and demotion, and suspension for any of the following causes:

1345-1.4.13.1 - Fraud in securing appointment, incompetency, inefficiency, inexcusable neglect of duty, physical or mental disability, insubordination, dishonesty, drunkenness on duty, intemperance, addiction to the use of narcotics or habit-forming drugs, inexcusable absence without leave, conviction of a felony or misdemeanor involving moral turpitude, immorality, discourteous treatment of the public or other employees, improper political activity in violation of Sections 1351 and 1351-1 of this Code, willful disobedience, violation of any provision of this Article, any other failure of good behavior or any other act which is incompatible with or inimical to the public service.

1345-1.4.14 - Transfer, including transfer from a public agency other than the County, without examination if the individual has achieved employment in another public agency in a qualifying class as a result of a qualified or competitive personnel merit system; leave of absence; promotion; demotion; suspension; dismissal; resignation; layoff; reinstatement; and a performance record system.

1345-1.4.15 - A preferential credit of 5% of the maximum grade possible in any competitive civil service examination to any person or employee taking the examination who is a veteran as defined in Section 18973 of the Government Code. No preferential credit shall be given in promotional examinations.

1345-1.4.16 - Additional matters as may be necessary to provide for the administration of the classified civil service system.

(Ord. No. 4489, § 2, 4-5-2016)

1345-2 - Repealed by Ord. 2602—7/11/72

1345-3 - Grievance procedure.

The Board of Supervisors may, after meeting and conferring in good faith with all recognized employee organizations, adopt or modify county grievance procedures.

1346 - Quorum.

Three (3) members shall constitute a quorum for any meeting, and any finding, decision or order of the Commission must have the concurrence of at least a majority of the Commissioners present.

1347 - Classified service.

The classified service shall consist of all of the officers, deputies, and employees of the County of Ventura except the following:

1347-1 - Officers elected by the people.

1347-2 - The Assistant District Attorney, the Chief Deputy District Attorney and the Chief Investigator of the District Attorney.

(Am. Ord. 3415—1/9/79)

1347-3 - No more than two (2) confidential or special investigators to be designated by the Sheriff, The Undersheriff, The Executive Commander.

(Am. Ord. 3106—1/13/76)

1347-4 - Appointed boards and commissions.

1347-5 - The Law Library Trustees and employees.

1347-6 - Members of the County Board of Education.

1347-7 - Employees of the Superintendent of Schools whose salaries are paid wholly from County School service funds of the State.

1347-8 - Persons serving the County without compensation.

1347-9 - Physicians and dentists employed at the County Hospital.

1347-10 - Casual patient and inmate employees of county institutions.

1347-11 - Any casual work position or trainee positions exempted by the County Executive.

1347-12 - The County Executive.

1347-13 - Director-Public Works.

(Ord. 3324—8/2/77)

1347-14 - Superior Court Secretaries. The Jury Commissioner.

1347-15 - Supervisors' Field Deputies.

1347-16 - Rehabilitation Trainee.

1347-17 - Supervisors' Secretaries.

1347-18 - Juvenile Court Referee.

1347-19 - Traffic Hearing Officer.

1347-20 - Assistant Assessor.

(Am. Ord. 3806—3/31/87)

1347-21 - Director-Area Agency on Aging.

(Ord. 3486—3/25/80)

1347-22 - County Fire Chief and Deputy Chief-Fire Services.

(Ord. 3324—8/2/77; Am. Ord. 3801—1/13/87)

1347-23 - County Counsel and Chief Assistant County Counsel.

(Ord. 3324—8/2/77; Am. Ord. 3719—2/5/85)

1347-24 - Assistant County Auditor.

(Ord. 3324—8/2/77; Am. Ord. 3801—1/13/87)

1347-25 - Court Executive Officer.

(Ord. 3324—8/2/77)

1347-26 - Deputy County Executive-Finance and Budgets.

(Ord. 3324—8/2/77)

1347-27 - Director-Information Systems and Assistant Director -Information Systems.

(Ord. 3324—8/2/77; Am. Ord. 3726—3/26/85)

1347-28 - Deputy County Executive-Personnel.

(Ord. 3324—8/2/77)

1347-29 - Director-Corrections Services Agency.

(Ord. 3324—8/2/77)

1347-30 - Director-Environmental Resources Agency.

(Ord. 3324—8/2/77)

1347-31 - Director-Health Services Agency.

(Ord. 3324—8/2/77)

1347-32 - Director-Library Services.

(Ord. 3324—8/2/77)

1347-33 - Director of Financial Administration.

(Ord. 3324—8/2/77; Am. Ord. 3801—1/13/87)

1347-34 - Director-Public Social Services.

(Ord. 3324—8/2/77)

1347-35 - Director-General Services Agency, Chief Deputy Director-General Services Agency, and Deputy Director-General Services Agency.

(Ord. 3324—8/2/77; Am. Ord. 3801—1/13/87)

1347-36 - Executive Assistant-Governmental Relations.

(Ord. 3324—8/2/77)

1347-37 - Executive Assistant-Organizational Relations.

(Ord. 3324—8/2/77)

1347-38 - Assistant Clerk Superior Court, Assistant Registrar of Voters, Assistant Recorder, and Assistant Clerk-Board of Supervisors of the County Clerk and Recorder's Department.

(Ord. 3324—8/2/77; Am. Ord. 3801—1/13/87)

1347-39 - Public Defender and Chief Deputy Public Defender (Ord. 3224—8/2/77; Am. Ord. 3699—7/31/84)

1347-40 - Superior Court Executive Officer.

(Ord. 3324—8/2/77)

1347-41 - Airports Administrator.

(Ord. 3725—3/26/85)

1347-42 - Assistant Director-Health Care Agency

(Ord. 3861—5/31/88)

1347-43 - Assistant Treasurer-Tax Collector

(Ord. 3861—5/31/88)

1347-44 - Assistant Fire Chief

1347-45 - Deputy Director I-Adult Services

(Ord. 3871—9/20/88)

1347-46 - Deputy Director I-Income Maintenance

(Ord. 3871—9/20/88)

1347-47 - Deputy Director I-PSSA Children's Services

(Ord. 3871—9/20/88)

1347-48 - Deputy Director II-PSSA

(Ord. 3871—9/20/88)

1347-49 - Deputy Director II-PSSA Fiscal Services

(Ord. 3871—9/20/88)

1347-50 - Deputy Director II-RMA

(Add. Ord. 3887—1/31/89)

1347-51 - Deputy Director I-RMA

(Add. Ord. 3887—1/31/89)

1347-52 - Hospital Administrator

(Add. Ord. 3893—4/11/89)

1347-53 - Director-Mental Health

(Add. Ord. 3893—4/11/89)

1347-54 - Deputy Courts Executive Officer

(Add. Ord. 3891—3/28/89; Am. Ord. 4043—10/26/93)

1347-55 - Director-Employee Health Services

(Add. Ord. 3892—3/28/89)

1347-56 - Municipal Court Commissioner

(Add. Ord. 3911—10/3/89)

1347-57 - Deputy Director II-PWA

(Add. Ord. 3908—9/26/89)

1347-58 - Deputy Director I-PWA

(Add. Ord. 3908—9/26/89)

1347-59 - Agricultural Commissioner

(Add. Ord. 3910—10/3/89)

1347-60 - Manager-Animal Regulation

(Add. Ord. 3910—10/3/89)

1347-61 - Solid Waste Manager

(Add. Ord. 3910—10/3/89)

1347-62 - Deputy Director—Corrections Services Agency

(Add. Ord. 3913—11/7/89)

1347-63 - Director—Alcohol and Drug Programs

(Add. Ord. 3950—7/31/90)

1347-64 - Assistant Public Defender

(Add. Ord. 3950—7/31/90)

1347-65 - Assistant County Clerk

(Add. Ord. 3956—10/16/90)

1347-66 - Assistant Courts Executive Officer

(Add. Ord. 3956—10/16/90; Am. Ord. 4043—10/26/93)

1347-67 - Chief Deputy Director-PSSA

(Add. Ord. 3956—10/16/90)

1347-68 - Assistant Public Administrator-Guardian-Conservator

(Add. Ord. 3969—3/26/91)

1347-69 - Court Commissioner

(Add. Ord. 3987—11/19/91)

1347-70 - Chief Medical Examiner

(Add. Ord. 4004—9/22/92)

1347-71 - Assistant Chief Medical Examiner

(Add. Ord. 4004—9/22/92)

1347-72 - Chief Deputy Sheriff

(Add. Ord. 4038—7/13/93)

1347-73 - Director—Public Health

(Add. Ord. 4038—7/13/93)

1347-73(a) - "Chief Assistant District Attorney" and Sec. 1347-73(b) "Supervising Criminal Attorneys"

(Add. Ord. 4077—11/1/94)

1347-74 - Director—Behavioral Health

(Add. Ord. 4106—1/9/96)

1347-75 - Director of Airports

(Add. Ord. 4112—3/12/96)

1347-76 - Deputy Director of Airports

(Add. Ord. 4112—3/12/96)

1347-77 - Director—Harbor

(Add. Ord. 4115—4/23/96)

1347-78 - Deputy Director—Harbor

(Add. Ord. 4115—4/23/96)

1347-79 - Deputy Director—Health Care Agency

(Add. Ord. 4121—8/6/96)

1347-80 - Chief Deputy Administrative Officer

(Add. Ord. 4147—9/16/97)

1347-81 - Chief Deputy—Probation Agency

(Add. Ord. 4159—1/6/98)

1347-82 - Executive Officer—Probation Agency

(Add. Ord. 4159—1/6/98)

1347-83 - Deputy Director—Library Services

(Add. Ord. 4161—3/24/98)

1347-83 - Chief Deputy District Attorney

(Add. Ord. 4167—6/16/98)

1347-84 - Retirement Manager

(Add. Ord. 4167—6/16/98)

1347-85 - Supervising Civil Trial Attorney

(Add. Ord. 4167—6/16/98)

1347-86 - Retirement Administrator

(Add. Ord. 4173—9/22/98)

1347-87 - Assistant Retirement Administrator

(Add. Ord. 4173—9/22/98)

1347-88 - Director—Probation Agency

(Add. Ord. 4181—11/24/98)

1347-89 - Chief Deputy Public Defender

(Add. Ord. 4181—11/24/98)

1347-90 - Chief Deputy Agriculture Commissioner

(Add. Ord. 4190—6/15/99)

1347-91 - Director—Area Agency on Aging

(Add. Ord. 4196—9/14/99)

1347-92 - Director, Department of Child Support Services

(Add. Ord. 4260—5/7/02)

1347-93 - Director-Human Services Agency

(Am. Ord. 4202—11/9/99)

1347-93(a) - Assistant Director, Department of Child Support Services

(Add. Ord. 4260—5/7/02)

1347-94 - Deputy Director-Human Services Agency

(Am. Ord. 4202—11/9/99)

1347-95 - Director-Business and Employment Services Department

(Am. Ord. 4202—11/9/99)

1347-96 - Director-Children and Family Services Department

(Am. Ord. 4202—11/9/99)

1347-97 - Director-Transitional and Adult Services Department

(Am. Ord. 4202—11/9/99)

1347-98 - Deputy Assessor

(Am. Ord. 4202—11/9/99)

1347-99 - Assistant Chief Administrative Officer/Chief Financial Officer

(Am. Ord. 4208—6/13/00)

1347-100 - Chief Information Officer

(Am. Ord. 4208—6/13/00)

1347-101 - Medical Director-Behavioral Health

(Am. Ord. 4228—2/27/01)

1347-102 - Deputy Director RMA—Planning

(Am. Ord. 4230—3/3/01)

1347-103 - Civil Service Commission Assistant

(Ord. 4239, § 1, 2001)

1347-104 - Chief-Deputy Executive Officer

(Add. Ord. 4248—12/9/01)

1347-105 - Assistant Chief Information Officer

(Add. Ord. 4248—12/9/01)

1347-106 - Deputy Chief Information Officer

(Add. Ord. 4248—12/9/01)

1347-107 - Deputy Director, Auditor Controller

(Add. Ord. 4255—2/17/02)

1347-108 - Director-Department of Child Support Services

(Add. Ord. 4255—2/17/02)

1347-109 - Assistant Director-Department of Child Support Services

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(Add. Ord. 4255—2/17/02)

1347-110 - Deputy Director-Animal Regulation

(Add. Ord. 4261—6/9/02)

1347-111 - HSA Assistant Director

(Add. Ord. 4278—12/28/02)

1347-112 - Deputy Executive Officer

(Add. Ord. 4279—1/17/03)

1347-113 - APCD Senior Manager—Engineering

(Add. Ord. 4298—4/25/04)

1347-114 - APCD Senior Manager—Monitoring and Planning

(Add. Ord. 4298—4/25/04)

1347-115 - APCD Senior Manager—Compliance

(Add. Ord. 4298—4/25/04)

1347-116 - APCD Air Pollution Control Officer/Executive Officer

(Add. Ord. 4298—4/25/04)

1347-117 - VCREA Project Manager

(Add. Ord. 4303—7/4/04)

1347-118 - Director-VCREA

(Add. Ord. 4303—7/4/04)

1347-119 - VCREA Administrative Assistant

(Add. Ord. 4303—7/4/04)

1347-120 - WIOA Executive Officer

(Add. Ord. 4309—9/12/04)

1347-121 - Chief Financial Officer—Retirement

(Add. Ord. 4312—11/7/04)

1347-122 - Deputy Chief Information Officer

(Add. Ord. 4314—2/13/05)

1347-123 - Assistant Clerk and Recorder

(Add. Ord. 4320—6/19/05)

1347-124 - Principal Assistant County Counsel

(Add. Ord. 4327—9/13/05)

1347-125 - Public Authority Administrator

(Add. Ord. 4337—2/7/06)

1347-126 - Director—Harbor Planning and Redevelopment

(Add. Ord. 4346—6/20/06)

1347-127 - LAFCO Deputy Executive Officer

(Add. Ord. 4346—6/20/06)

1347-128 - Assistant County Executive Officer

(Add. Ord. 4348—6/27/06)

1347-129 - Chief District Attorney Investigator

(Add. Ord. 4359—4/24/07)

1347-130 - APCD Deputy Air Pollution Control Officer

(Add. Ord. 4392—11/25/08)

1347-131 - Public Administrator

1347-132 - Chief Financial Officer—HCA

1347-133 - Assistant Sheriff

1347-134 - Chief Deputy Assessor

1347-135 - Chief Deputy Director Health Care Agency

1347-136 - Director Water and Sanitation

1347-137 - Director Transportation

1347-138 - Director Watershed Management

1347-139 - Director PWA Central Services

1347-140 - Director Engineering Services

1347-143 - Retirement Chief Investment Officer

1347-144 - Board Supervisor's Chief of Staff

1347-145 - Senior Deputy Executive Officer

1347-146 - Assistant Director Behavioral Health

1347-147 - Chief Financial Officer—Hospital

1347-148 - Chief Financial Officer—Ambulatory Care

1347-149 - Chief Deputy Director—Human Services Agency

1347-150 - County Chief Financial Officer

1347-151 - Chief Information Security Officer

1347-152 - Chief Hospital Operations—E

1347-153 - Chief Hospital Operations—Professional & Support Services—E

1347-154 - Chief Nursing Executive—E

1347-155 - Medical Director

1347-156 - Ambulatory Care/Population Health Administrator

1347-157 - Medical Director—Hospital and Ambulatory Care

1347-158 - Chief Deputy Director Strategy and Growth

1347-159 - Managing Attorney

1347-160 - Sheriff's Director of Emergency Services

1347-161 - Public Information Officer—E

1347-162 - Administrative Services Director III

1347-163 - Administrative Services Director IV

(Ord. No. 4399, § 2, 2-24-2009; Ord. No. 4401, § 1, 5-5-2009; Ord. No. 4424, § 1, 1-11-2011; Ord. No. 4433, § 1, 7-12-2011; Ord. No. 4441, § 1, 11-1-2011; Ord. No. 4444, § 1, 3-20-2012; Ord. No. 4467, § 1, 12-2-2014; Ord. No. 4482, § 1, 11-3-2015; Ord. No. 4488, § 1, 3-22-2016; Ord. No. 4494, § 1, 7-26-2016; Ord. No. 4508, § 1, 4-11-2017; Ord. No. 4533, §§ 1, 2, 11-6-2018; Ord. No. 4536, § 1, 1-8-2019; Ord. No. 4538, § 1, 3-12-2019; Ord. No. 4541, § 1, 4-9-2019; Ord. No. 4545, § 1, 9-24-2019; Ord. No. 4559, § 1, 2-11-2020)

1348 - Deleted by Ord. 3202—6/1/76.

1349 - Substitute employees.

Any employee who is substituting for a person on military leave from county employment shall have probationary status until six (6) months after it is determined that the employee in military service will not return to his employment following discharge from the military service.

1350 - Deleted by Ord. 3202—6/1/76.

1351 - Political activities.

1351-1 - Soliciting or receiving funds or contributions.

- (a) No officer or employee of the county shall solicit for a candidate for elective office any contribution, pecuniary or otherwise, from other officers or employees of the County.
- (b) No officer or employee of the county shall permit the services of his department to be utilized to solicit, or process any political contribution, pecuniary or otherwise from other officers or employees of the County.

EXCEPTION: Notwithstanding the provisions of Section 1351-3, this Section does not prevent an officer or employee of the County of Ventura from soliciting or receiving political funds or contributions to promote the passage or defeat of a ballot measure which would affect the rate of pay, hours of work, retirement, civil service or other working conditions of officers or employees of said County.

The aforementioned activities are prohibited during the regular working hours of officers or employees.

For the purposes of this Section a ballot measure means any constitutional amendment or other proposition submitted to a popular vote at any election.

1351-2 - Participation in political activity while in uniform.

No officer or employee of the County shall participate in political activities of any kind while he is in uniform.

1351-3 - Prohibition of entry for political assessment subscription or contribution.

- (a) The purpose of this Section is to deny the use of County property, its buildings, appurtenances or resources, for the solicitation of political assessments or contributions.
- (b) Every officer or employee of the County shall prohibit the entry into any place under his control, occupied and used for the governmental purposes of said County, of any person, for the purpose of therein making, or giving notice of any political assessment, or subscription.
- (c) No person shall enter or remain in any such place described in subsection (a) of this Section for the purpose of therein making, demanding or giving notice of any political assessment or subscription.
- (d) This section shall not apply to any auditorium or other place used for conduct of public or political rallies or similar events, nor to any park, street, public land or other place not being used for the governmental purposes of said County.

1351-4 - Use of official authority or influence, corrupt condition or consideration.

No person who holds, or who is seeking election or appointment to, any office or employment in the County shall, directly or indirectly, use, promise, threaten or attempt to use, any office, authority or influence, whether possessed or merely anticipated, to confer upon or secure for any person, or to aid or obstruct any person in securing, or to prevent any person from securing, any position, nomination, confirmation, promotion, change in compensation or position, within said County upon consideration that the vote or political influence or action of such person or another shall be so given or used in behalf of or withheld from, any candidate, officer or party, or upon any other corrupt condition or consideration.

1351-5 - Disciplinary action.

If, as a result of any Commission hearing, the Commission finds that any officer or employee may have willfully, by himself or in cooperation with another, acted to defeat, deceive or obstruct any officer or employee with respect to his rights under this Article 4, or any Civil Service Rules, the Commission may, at its discretion, submit a report to the appointing authority with a copy to the Board of Supervisors.

(Add. Ord. 2602—7/11/72)

1352 - Disciplinary hearings.

All hearings provided for in the following subsections to this Section 1352 shall be conducted in accordance with the following provisions and the Civil Service Rules.

1352-1 - Order in writing.

Any permanent officer or employee in the classified civil service may be dismissed, demoted, suspended, or demoted and suspended by the appointing authority by an order in writing. Such order shall contain the specific acts or omissions, including dates and time periods, which resulted in the disciplinary action taken. An original copy of said order shall be filed with the Civil Service Commission and a copy thereof shall be served on the officer or employee at the time of the disciplinary action.

1352-2 - Time for appeal.

Such officer or employee may, upon petition in writing, appeal from such order to the Civil Service Commission within ten (10) days of receipt of the order in writing. A copy of such petition shall be delivered to the Personnel Director for the insertion in the personnel records of the employee or officer.

1352-2.1 - Involuntary resignations.

A petition requesting hearing on a resignation alleged to be involuntary and coerced by improper action of the appointing authority shall be filed with the Civil Service Commission within ten (10) days following notice to petitioner of the acceptance of the resignation by the appointing authority. The petitioner shall have the burden of proving that the resignation was involuntary. Should the Commission find that the resignation was not voluntary and was coerced by improper conduct of the appointing authority, the appointing authority shall have ten (10) days following notice of the decision of the Commission to serve the petitioner with an order dismissing, demoting, suspending or demoting and suspending the petitioner. Should no order in writing be served upon petitioner he shall be reinstated to his former position with back pay to the effective date of the resignation.

(Add Ord. 3023—5/20/75)

1352-3 - Time for hearing.

The petition shall be placed on the agenda at the next meeting of the Commission and shall be considered for sufficiency. The petition shall be deemed as insufficient if it fails to state specific facts or reasons as grounds for the appeal or if in the opinion of the Commission the facts and reasons stated, even if true, would not entitle petitioner to any relief. However, such denial shall be without prejudice to the filing of an amended petition of appeal within ten (10) days of such denial.

If the petition is found to be sufficient, the Commission shall fix the date of the hearing of appeal, which date may be changed by the Commission for good cause shown.

1352-4 - Hearing board or officer.

Upon receiving a petition which complies with the foregoing rules, the Commission shall determine whether the matter will be heard before the entire Commission or one (1) or more members of the Commission, or a hearing board or officer appointed by the Commission. The County Counsel or his designated representative may be appointed as a hearing officer. Recommendations of a hearing board or hearing officer may be modified by the Commission and shall not become effective until ratified by the Commission.

1352-5 - Duty of law officer.

It shall be the duty of the law officer to advise the Chairman or Chairman Pro Tem on all questions of law, including rulings on evidence, arising at hearings of the Commission. The law officer shall not be present during the deliberations of the Commission. However, he shall be available so that he may be called upon by the Commission upon any questions of law arising during its deliberation on the facts.

1352-6 - Appearance of petitioner.

The appearance of petitioner shall be required at all hearings except as otherwise provided herein.

- (a) The Commission, hearing board or hearing officer shall have discretion to consent to the absence of the petitioner upon a showing of good cause therein.
- (b) An unexcused absence of the petitioner at such a hearing may, in the discretion of the Commission, hearing board or hearing officer, be deemed a withdrawal of the petition and consent to the action taken.

1352-7 - Right to counsel.

The petitioner may be represented by counsel or any person of his choosing at any hearing. If the petitioner elects to be so represented, he shall notify the Commission in writing of such election not later than the tenth calendar day preceding the date set for the hearing. The Commission shall notify the appropriate appointing authority in order that the latter may arrange to be represented. If the petitioner elects not to be represented, and his request for an informal hearing is approved by the Commission, the appointing authority shall not be represented.

1352-8 - Formal or informal hearing.

If the petitioner elects to proceed to a hearing with representation, the hearing shall be formal. If the petitioner elects to proceed to a hearing without representation, he may request either a formal or informal hearing. A formal hearing shall include opening statements by the parties, the presentation of evidence on a question and answer basis, final arguments and other formalities and procedures typical of a civil trial. An informal hearing contemplates narrative presentations by the parties and their witnesses in a conference as opposed to a courtroom setting.

1352-9 - Subpoena power.

Before the hearing has commenced, the Chairman or Chairman Pro Tem or the assigned hearing officer shall issue subpoenas and subpoenas duces tecum at the request of any party for attendance or production of documents at the hearing. Compliance with the provisions of Section 1985 of the Code of Civil Procedure shall be a condition precedent to the issuance of the subpoena duces tecum. After the hearing has commenced, the Chairman or Chairman Pro Tem hearing the case, or the assigned hearing officer may issue subpoenas and subpoenas duces tecum. Any person duly subpoenaed to appear and testify or to produce any books and papers before the Commission who willfully neglects or refuses to appear or testify or to produce such books and papers is guilty of a misdemeanor.

1352-10 - Public hearing.

All hearings by the Commission shall be public unless the Commission, for good cause shown, orders that a hearing shall not be open to the public.

1352-11 - Oaths.

The Chairman, the Chairman Pro Tem, the hearing officer or any member of the Commission when authorized by the Chairman or the Chairman Pro Tem, shall have the power to administer oaths when necessary in the performance of Commission functions.

1352-12 - Order of proof.

The appointing authority shall present its order in writing alone or may offer corroborative evidence. The petitioner may then submit oral or written contradictory evidence. The Commission shall hear all the evidence and shall base its findings and decision solely upon the evidence admitted. The decision of the Civil Service Commission shall be final and conclusive.

1352-13 - Duty to testify.

During a hearing, the petitioner, appointing authority and all officers and employees of the County of Ventura have a duty to answer under oath any question properly propounded by the appointed authority, the petitioner, a Commissioner or the hearing officer.

1352-14 - Evidence.

Evidence shall be taken under oath or affirmation. Each party and the Commissioner shall have the right to call and examine witnesses; to introduce exhibits; to cross-examine witnesses on any matter relevant to the issues even though such matter was not covered on direct examination; and to impeach any witness regardless of which party first called him to testify. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objections in civil action. Hearsay evidence shall be admissible for any purpose but shall not be sufficient itself to support a finding unless it would be admissible over objection in civil actions.

1352-15 - Parties as witnesses.

Each party shall have the right to call and examine the other party as if under cross-examination. The party calling such adverse witness shall not be bound by his testimony, and the testimony given by such witness may be rebutted by the party calling him.

1352-16 - Exclusion of witnesses.

The Commission, hearing board or hearing officer may, at its or his discretion, exclude witnesses not under examination, excepting the Personnel Director, the petitioner, the appointing authority and counsel. When hearing testimony of scandalous or indecent conduct, all persons not having a direct interest in the hearing may be excluded.

1352-17 - Witness fees.

Witnesses subpoenaed before the Civil Service Commission are entitled to the same fees and mileage paid witnesses in Superior Court. If requested, witness fees and mileage shall be paid by the party at whose instance the witnesses appear. Officers and employees of the County of Ventura shall not be entitled to witness and mileage fees if they appear at a Commission hearing during their regularly scheduled working hours. Officers and employees shall be entitled to witness and mileage fees if they are on a regularly scheduled vacation or holiday, or are required to appear outside of their regularly scheduled working hours.

(Rep. & Reen. Ord. 3013—4/8/75)

1352-18 - Depositions.

If the presence of any witness cannot be procured at the time of the hearing, his deposition must be taken in accordance with the rules applicable to depositions in civil cases. The cost of a deposition shall be borne by the party taking the deposition.

1352-19 - Report of hearing.

Any party or interested person may, at his own expense, have a hearing reported by a Certified Shorthand Reporter or an Official Court Reporter.

1352-20 - Findings and decisions.

If the Commission finds that none of the charges contained in the order are true, then it shall set aside the order. If the Commission finds that some or all of the charges are true, then it shall make and enter its decision confirming or modifying the order of the appointing authority.

1352-21 - Modification procedures.

An order imposing disciplinary action may be modified by ordering the petitioner demoted or suspended or both. The Commission must determine the degree and the type of disciplinary action to be imposed, but in no event shall the Commission impose more severe disciplinary action than that imposed by the appointing authority. The degrees of demotion consist of the classified positions to which the petitioner may be demoted. The period of suspension may not exceed thirty (30) days.

Sections 1352, 1352-1, 1352-2, 1352-3, 1352-5, 1352-6, 1352-7, 1352-8, 1352-9, 1352-10, 1352-11, 1352-12, 1352-13, 1352-14, 1352-15, 1352-16, 1352-17, 1352-18, 1352-19, 1352-20, 1352-21, 1352-21.1, 1352-21.2, 1352-22, 1352-23.

(Repealed, Reenacted and Renumbered Ord. 2419—3/16/71)

1352-22 - Modification or vacation of order.

An order of the Commission may be modified or vacated, in whole or in part, and a new or further hearing granted on all or part of the issues, on the application of a party to the hearing or on motion of the Commission, for any of the following causes, materially affecting the substantial rights of the applicant or the appointing authority:

- (a) Irregularly in the hearing proceedings, or any order of the Commission or abuse of discretion by which either party was prevented from having a fair hearing;
- (b) Accident or surprise, which ordinary prudence could not have guarded against;
- (c) Newly discovered evidence which could not, with reasonable diligence, have been discovered and produced at the hearing and which is material to the question that was before the Commission;
- (d) Error in law, occurring at the hearing and excepted to at the hearing by the party making the application or motion.

The application or motion to the Commission shall be made either before the signing of the order of the Commission or within ten (10) days of the Commission mailing notice of its order and shall designate the grounds upon which modification or vacation is requested. The time for hearing the application or motion shall be governed by Section 1352-3.

Should the Commission grant a hearing on the application or motion, the Commission shall, after review of the application or motion, specify the ground or grounds on which it is granted and the Commission's reason or reasons for granting the application or motion. At the hearing, the evidence introduced shall be limited to the ground or grounds upon which the hearing was granted. At the conclusion of the hearing, the Commission shall either confirm its prior findings or issue a new finding and decision.

The filing of an application under this Section shall not be necessary to exhaust administrative remedies and the application or motion shall not operate to stay the effectiveness of the order of the Commission except by discretion of the Commission upon a showing, by affidavit, of emergency or hardship should the order not be stayed.

(Add Ord. 3013—4/8/75)

1352-23 - Judicial review.

Judicial review of a decision or order of the Commission may be had by filing and serving a petition for a writ of mandate in accordance with the provisions of the Code of Civil Procedure. Such petition shall be filed and served upon the parties within one hundred eighty (180) days of the date of the Commission's decision or order. The right to petition shall not be affected by the failure to seek reconsideration, rehearing or reopening before the Commission. The party seeking judicial review shall bear the cost of having a record of the proceedings prepared for the reviewing court.

(Add. Ord. 3023—5/20/75)

1352-24 - Record.

The Civil Service Commission shall record the proceedings on a recording device and shall make such recording available to the parties upon request, at the expense of the requesting party.

(Add. Ord. 3023—5/20/75)

Exhibit 6



VENTURA COUNTY SHERIFF'S OFFICE

800 South Victoria Avenue, Ventura CA 93009 | 805.654.2380 | VenturaSheriff.org

Bill Ayub
Sheriff
Monica McGrath
Undersheriff

March 5, 2021

Sent Via Electronic Mail: davidm@mastagni.com

Re: Response to Letter Regarding the Sheriff's Captain Promotional Examination Process

Dear Mr. Mastagni,

We are in receipt of your letter dated February 10, 2021, addressed to Sheriff Bill Ayub on behalf of the Ventura County Deputy Sheriff's Association (VCDSA), in which you demanded that certain promotions to the rank of Captain be rescinded, alleging that the promotional examinations preceding the promotions did not comply with the County's Personnel Rules and Regulations (PR&R), and that the Sheriff's Office violated the Meyers-Milias-Brown Act (MMBA) by changing the promotional examination process without first meeting and conferring with VCDSA. This response was prepared in collaboration with County Human Resources and County Counsel.

First, in regard to your request that the Sheriff's Office meet and confer with VCDSA concerning the process for promotions to Captain, the Sheriff's Captain classification is not in the bargaining unit represented by VCDSA and is therefore not subject to any MMBA meet and confer requirements with VCDSA. In contrast to the cases cited in your letter in which the promotions at issue were to positions within the bargaining unit, there is no requirement that the Sheriff's Office bargain over promotions to management classifications.

Second, regarding your assertion that the Sheriff's Office failed to comply with the County's PR&Rs in the referenced Sheriff's Captain promotional process, we have found no violations of the PR&Rs. Responses to the specific assertions are set forth below.

Additionally, we bring to your attention the provision of Section 523 of the PR&Rs that states that appeals of the examination process may be heard within 12 calendar days from the date candidates are notified of the examination results. In addition, an appeal must be filed by individual candidates. For this examination process, all candidates were notified no later than January 21, 2021. As of the writing of this letter, we have no knowledge of any candidate having timely filed an appeal to this examination process.

March 5, 2021
Page 2

Examination Process Review

Your letter asserts that the examination did not comply with the County PR&Rs because the Sheriff's Office: 1) changed the examination format; 2) did not administer the oral examinations appropriately as not all candidates were asked the same questions; 3) used different groups of raters and not all raters were present at every interview; 4) failed to appropriately certify names in standings; and 5) exercised excess discretion.

Each allegation is addressed as follows:

- 1.) Unsubstantiated. As discussed above, the Captain classification is not represented by VCDSA, and therefore the Sheriff's Office was not required to meet and confer to changes in the examination process. As a matter of courtesy, the Sheriff's Office contacted Ms. Sirody to inform her of the changes. Moreover, the PR&Rs provide a wide range of examinations and afford great latitude to the Sheriff's Office in selecting and conducting the examinations.
- 2.) Unsubstantiated. There is no indication that the oral examination was inappropriately conducted. The oral examination was monitored by an objective, third-party analyst from Sheriff's Personnel. All candidates were asked the same questions, which were prepared in advance of the interview. These questions were plainly affixed to the table in front of the candidates during the exam so they could be referenced at any point. Your letter provides no specific information to the contrary for us to review, nor did any candidates file appeals.

During the selection interviews, conducted by the Undersheriff and two of the Assistant Sheriffs, candidates were asked different questions regarding topics such as leadership, management philosophy, specific accomplishments, and so on. The selection interview is designed to assist in determining the most qualified individual candidates through work related questions that are, at times, tailored to the individual. This practice is consistent with PR&R.
- 3.) Unsubstantiated. There is no PR&R requirement that the same raters be utilized for every oral examination interview. Logistical reasons at times mean that the same raters are not always available, or at times raters may abstain from rating candidates when there is a perceived conflict of interest. In this case, one of the three raters arrived late on the first day due to traffic congestion. As a result, two interviews were conducted by the two panel members that were present. Aside from these two interviews, the raters were the same for all candidates and every candidate was rated based on the same criteria.
- 4.) Unsubstantiated. The PR&Rs permit a pass/fail scoring methodology. Section 508 of the PR&Rs states that, "*the results of examinations may be either scored ratings or pass/fail decisions concerning inclusion or exclusion.*" Candidates were appropriately certified and interviewed in accordance with this process.

March 5, 2021
Page 3

Related to this selection process, VCDSA alleges that candidates were told neither their scores nor rankings in line with PR&R Section 517. PR&R section 519 states:

"As soon as the eligible list is established, each applicant who took the examination shall be notified by mail whether he passed or failed, and, if he passed, his final examination score and his relative position on the eligible list."

In this instance, the examinations were scored pass/fail. The candidates received notification indicating if they had passed and were placed on the list. They were not provided with their standings because there were not different standings. Every candidate who passed the examination was placed in the same standing. This process was clearly articulated in advance on the job bulletin and was in compliance with the PR&Rs Unsubstantiated. All candidates who passed the examination were invited to a selection interview.

- 5.) The recruitment bulletin for Sheriff's Captain clearly stated in bold language: "The Sheriff will reserve his right to select the most qualified applicant participating in the selection interviews and may not select in score order." From among those candidates who passed the examination, the Sheriff interviewed and selected those whom he determined were the most qualified. Accordingly, the Sheriff's Office appropriately exercised the discretion provided by the PR&Rs.

We thank you for your correspondence. Please do not hesitate to contact me should you have any further questions.

Best regards,



Eric Dowd
Assistant Sheriff

cc: Matthew Smith, Senior Civil Attorney, County of Ventura
Shawn Atin, Assistant County Executive Officer/Human Resources Director
Bill Ayub, Sheriff

1 DAVID E. MASTAGNI, ESQ. (SBN 204244)
TASHAYLA D. BILLINGTON, ESQ. (SBN 307050)
2 TAYLOR DAVIES-MAHAFFEY, ESQ. (SBN 327673)
3 **MASTAGNI HOLSTEDT**
4 *A Professional Corporation*
1912 I Street
5 Sacramento, California 95811-3151
Telephone: (916) 446-4692
6 Facsimile: (916) 447-4614

7 Attorneys for Charging Party

8 BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD
9 OF THE STATE OF CALIFORNIA

<p>10 VENTURA COUNTY DEPUTY SHERIFFS') 11 ASSOCIATION,) 12) 13 Charging Party,) 14 v.) 15) 16 COUNTY OF VENTURA; and VENTURA) COUNTY SHERIFF'S OFFICE,) Respondent.)</p>	<p>PERB Case No. DECLARATION OF NICK ODENATH IN SUPPORT OF FIRST AMENDED UNFAIR LABOR PRACTICE CHARGE</p>
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18 I, NICOLAS ODENATH, declare as follows:

- 19 1. I am over the age of eighteen years old. I have personal knowledge of the matters herein,
20 and if called upon to do so, I could and would completely testify thereto.
- 21 2. I have been employed by the Ventura County Sheriff's Office for over 19 years. I have
22 worked in the Custody Division, Patrol Division and Investigations. I am currently a
23 Sergeant.
- 24 3. I am the current President of the Ventura County Deputy Sheriffs' Association
25 ("VCDSA"). I have served in this role since April of 2019. Prior to assuming the role of
26 President, I served on the VCDSA Executive Board as Director from April 2006 to
27 December 2012.

- 1 4. VCDSA's members are employed by Ventura County ("County") and work in the
2 Sheriff's Office and District Attorney's Office.
- 3 5. The VCDSA represents the following bargaining units and job classifications: Deputy
4 Sheriffs, Senior Deputy Sheriffs, Sergeants, and District Attorney Investigators.
- 5 6. As President, I represent members in contract negotiations, grievances, disciplinary
6 matters, and employer-employee relations related to wages, hours, and working
7 conditions.
- 8 7. I attend labor-management meetings, where VCDSA representatives and County
9 management discuss issues relating to working conditions, including safety and
10 equipment issues, training, and try to reach resolution on potential grievance matters.
- 11 8. As President of VCDSA, I am designated to receive notice of changes to wages, hours
12 and working conditions on behalf of VCDSA. In the past, I have received notices from
13 the County and the Department regarding proposed changes that affect the wages, hours
14 and working conditions of VCDSA members. I have represented VCDSA in numerous
15 meet and confers with the County and the Department.
- 16 9. On November 9, 2020, the Department emailed a memorandum to its employees stating
17 that they would be accepting applications for the Sheriff's Captain position from
18 November 16th to November 30th and that all non-probationary Sheriff's Sergeants were
19 eligible to apply. This email did not contain any information on the content, format, or
20 scoring of the oral examination that was mentioned. It also did not indicate if there would
21 be a written portion of the exam.
- 22 10. As is the usual practice for internal Department memos, the memo was not sent to me in
23 my official capacity as VCDSA President.
- 24 11. The promotional opportunity was also posted on the Ventura County website. The
25 posting did not contain detailed information about the oral examination or state if a
26 written examination would be given.

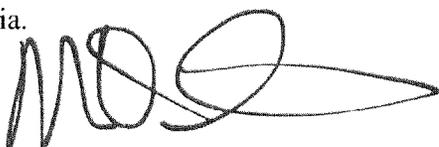
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- 1 12. To my knowledge, 26 individuals applied for the position. In January of 2021, candidates
2 who met the minimum qualifications went through an oral exam in front of a panel
3 composed of interviewers employed by the department as well as interviewers employed
4 by outside law enforcement agencies.
- 5 13. 24 individuals received a passing score and were notified by email that they had passed
6 and would be placed on the eligibility list. The candidates were not told their score nor
7 their ranking on the list. These candidates then completed a second oral examination
8 with the Undersheriff and two Assistant Sheriffs.
- 9 14. This process was a significant deviation from the Department's past practice regarding
10 promotions. The Department eliminated the written exam and combined the two oral
11 exams into one mixed exam with both internal and external evaluators.
- 12 15. Further, in the past, the oral exam was scored and candidates were placed into standings
13 and selected based on score. This year, the exam was only scored pass/ fail and the
14 Department had complete discretion to select anyone from the 24 individuals who
15 passed.
- 16 16. Based on conversations with some of the candidates, I have reason to believe that not all
17 the candidates were asked the same questions in the oral exam. Similarly, not all
18 members of the panel were present for the entirety of every interview. This lack of
19 continuity in both the panel members and the questions differed from the Department's
20 past practice.
- 21 17. On February 3, 2021, the Department emailed out the names of the individuals selected
22 for the positions.
- 23 18. Around this time, I began hearing from VCDSA members concerned about the changes
24 to the promotional process. It was only at this point that I became aware of the full extent
25 of the changes that the Department had made to the process.
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- 19. On February 10th, VCDSA sent a letter to the Department demanding that the Department rescind the promotions and give VCDSA advanced written notice and the opportunity to meet and confer over any changes in the promotional process.
- 20. On February 22, 2021, the Department went forward with implementing the promotions despite VCDSA's request.
- 21. On March 5, 2021, the Department replied to VCDSA's letter. The Department admitted to making a number of changes to the promotional process but claimed that they were not required to meet and confer with VCDSA because the Sheriff's Captain classification is not in the bargaining unit represented by VCDSA.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except where alleged on information and belief. Executed this 10 day of May, 2021 in Moorpark, California.



NICK ODENATH

1 DAVID E. MASTAGNI, ESQ. (SBN 204244)
TASHAYLA D. BILLINGTON, ESQ. (SBN 307050)
2 TAYLOR DAVIES-MAHAFFEY, ESQ. (SBN 327673)
3 **MASTAGNI HOLSTEDT**
4 *A Professional Corporation*
1912 "I" Street
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5 Telephone: (916) 446-4692
6 Facsimile: (916) 447-4614
7 Attorneys for Charging Party

8
9 **BEFORE THE PUBLIC EMPLOYMENT RELATIONS BOARD**

10 **OF THE STATE OF CALIFORNIA**

11
12 VENTURA COUNTY DEPUTY SHERIFFS')
ASSOCIATION,)

13 Charging Party,)

14 v.)

15 COUNTY OF VENTURA; and VENTURA)
16 COUNTY SHERIFF'S OFFICE,)

17 Respondent.)

**DECLARATION OF KASEY SIRODY IN
SUPPORT OF FIRST AMENDED
UNFAIR LABOR PRACTICE CHARGE**

18 I, KASEY SIRODY, declare as follows:

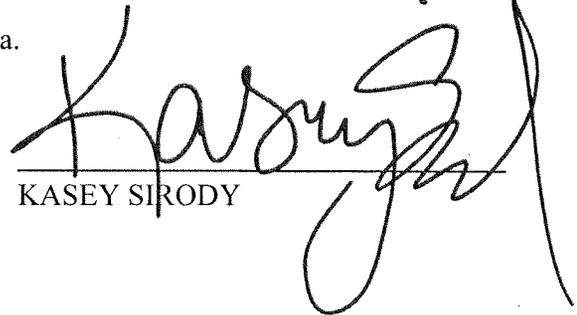
- 19 1. I am over the age of eighteen years old. I have personal knowledge of the matters herein,
20 and if called upon to do so, I could and would completely testify thereto.
21 2. I am the current Executive Director for the Ventura County Deputy Sheriff's Association
22 ("VCDSA"). I have served in this role since February of 2017.
23 3. Prior to working with VCDSA, I spent 13 years as Senior Deputy District Attorney for
24 Ventura County and 5 years as a labor attorney for police associations throughout
25 California.
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- 1 4. As VCDSA Executive Director, I represent members in contract negotiations,
2 grievances, disciplinary matters, and employer-employee relations related to wages,
3 hours, and working conditions.
- 4 5. I attend labor-management meetings, where VCDSA representatives and County
5 management discuss issues relating to working conditions and try to reach resolution on
6 potential grievance matters.
- 7 6. As Executive Director of VCDSA, I am designated to receive notice of changes to wages,
8 hours and working conditions on behalf of VCDSA. In the past, I have received notices
9 from the County and the Department regarding proposed changes that affect the wages,
10 hours and working conditions of VCDSA members. I have represented VCDSA in
11 numerous meet and confers with the County and the Department.
- 12 7. On November 9, 2020, Sheriff William Ayub called me to discuss the promotional
13 process for the Sheriff's Captain Position. I stepped out of a meeting with the Ventura
14 County Retirement Board to briefly take Sheriff Ayub's call.
- 15 8. During our short phone conversation, Sheriff Ayub advised me that the Department
16 would be making a minor change to the captains' promotional process to encourage more
17 people to apply because only a few people had put in for the promotion last year.
- 18 9. I am informed and believe that around 25 people applied for the captain positions last
19 process. However, more than half the candidates did not pass the written exam and were
20 eliminated from consideration.
- 21 10. During the November 9th phone call, Sheriff Ayub did not provide me with any other
22 details about the changes to the promotional process.
- 23 11. Approximately 50 minutes after this phone call, the Department emailed a memorandum
24 to its employees stating that they would be accepting applications for the Sheriff's
25 Captain position.
- 26 12. As is the usual practice for internal Department memos, this memo was not sent to me.
27 I only received the memo later when it was forwarded to me by VCDSA members.
28

- 1 13. I am informed and believe that since 1997, the Sheriff's Captain promotional process
2 has consisted of a promotional file review, a written exam, and an oral exam conducted
3 by outside evaluators employed by other law enforcement agencies.
- 4 14. In 2007, minor changes were made to the process to provide for an additional internal
5 oral exam. Prior to making this change in 2007, the Department met and conferred with
6 VCDSA.
- 7 15. It is my understanding that since 2007, the process has remained the same: a promotional
8 file review, a written exam, an outside oral exam, and an internal oral exam.
- 9 16. Additionally, in the past, written exams were scored and candidates were told their
10 numerical score and their ranking on the eligibility list. Individuals were then sorted into
11 standings based on their scores in accordance with the County's Personnel Rules and
12 Regulations; those with a score of 95% to 100% were given standing one, 90% to 94%
13 standing two, etc. The Director of Human Resources then certified the highest standing,
14 and the new captains were selected from that certified standing.
- 15 17. This year, the Department made a number of changes to the promotional process for the
16 captain position, including eliminating the written exam and changing the scoring and
17 format of the oral exam.
- 18 18. The Department's selections for the new captains were announced via email on February
19 3, 2021.
- 20 19. Around this time, I began hearing from VCDSA members concerned about the changes
21 to the promotional process. It was only at this point that I became aware of the full extent
22 of the changes that the Department had made to the process.
- 23 20. Prior to making these changes, the Department never provided VCDSA with written
24 notice or the opportunity to meet and confer.
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, except where alleged on information and belief. Executed this 10th day of May, 2021 in Ventura, California.



A handwritten signature in black ink, appearing to read 'Kasey Sirody', written over a horizontal line.

KASEY SIRODY

PROOF OF SERVICE

I declare that I am a resident of or employed in the County of Sacramento,
State of California. I am over the age of 18 years. The name and address of my
Residence or business is Mastagni Holstedt, A.P.C.
1912 "I" Street, Sacramento, California 95811

On 05/12/2021, I served the Amended Unfair Labor Practice Charge
(Date) (Description of document(s))

with Exhibits & Supporting Declarations in Case No. LA-CE-1509-M
(Description of document(s) continued) PERB Case No., if known)

on the parties listed below by (check the applicable method(s)):

- placing a true copy thereof enclosed in a sealed envelope for collection and delivery by the United States Postal Service or private delivery service following ordinary business practices with postage or other costs prepaid;
- personal delivery;
- electronic service - I served a copy of the above-listed document(s) by transmitting via electronic mail (e-mail) or via e-PERB to the electronic service address(es) listed below on the date indicated. (May be used only if the party being served has filed and served a notice consenting to electronic service or has electronically filed a document with the Board. See PERB Regulation 32140(b).)

(Include here the name, address and/or e-mail address of the Respondent and/or any other parties served.)

Shawn Atin
Assistant County Executive Officer
County of Ventura
800 S. Victoria Avenue
Ventura, CA 93009
Email: shawn.atin@ventura.org

Matthew Smith
Senior Civil Attorney
County Counsel Office
800 S. Victoria Ave, L#1830
Ventura, CA 93009
Email: matthew.smith@ventura.org

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on 05/12/2021,
(Date)
at Sacramento, California
(City) (State)

Jessica Delgado
(Type or print name)


(Signature)