



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF BUTTE**

**PERSONNEL MANUAL**

**Effective: October 1<sup>st</sup>, 2015**

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- Performance Evaluation Report	

## **Introduction**

It is the policy of the Court to comply with the Trial Court Employment Protection and Governance Act (Government Code section 71600 and following) and to base all employment decisions on job-related factors.

## **1.0 Employee Definitions**

### **1.1 Scope**

Unless the context otherwise requires, the definitions and general provisions herein govern the construction of these rules.

### **1.2 Anniversary Date**

The date of initial appointment and each year thereafter.

### **1.3 Applicant**

A person who has submitted a written application for employment in accordance with these rules.

### **1.4 Appointing Authority**

The Court Executive Officer is the appointing authority for all employees.

### **1.5 Appointment**

The offer and acceptance of a position with the Court made by the appointing authority.

### **1.6 Certification**

The action by which persons on eligibility list are certified as eligible for appointment or promotion.

### **1.7 Class**

A position or group of positions having duties and responsibilities sufficiently similar that (a) the same title may be used, (b) the same qualifications may be required, and (c) the same schedule of compensation may be made to apply with equity.

### **1.8 Classified Service**

All positions in the Court service except (a) elective officials, (b) extra-help employees, and (c) other positions specifically designated to be exempt.

### **1.9 Competitor**

An individual applicant who is taking part in a merit system selection procedure.

### **1.10 Confidential Employee**

An employee who, in the course of his or her duties, has access to information relating to the Court's administration of employer-employee relations on a regular basis.

**1.11 Court**

The Superior Court of California, County of Butte.

**1.12 Court Executive Officer**

Includes the Court Executive Officer and his or her designee.

**1.13 Day**

The period of time between any midnight and the midnight following.

**1.14 Demotion**

A change in classification of any employee in one classification to a position in another classification which has a lower salary or salary range, either on a voluntary or involuntary basis.

**1.15 Eligibility**

The condition of having met the minimum qualifications for a specific position and being ranked with other applicants.

**1.16 Eligibility List**

A list of persons who have been examined in open competitive examinations and are eligible for certification to a specific class.

**1.17 Employee**

Any person employed by the Court. Those persons performing professional and specialized services under contract are not considered Court employees unless specifically designated.

**1.18 Entry Level Positions**

Those positions having minimum qualifications that do not require previous work experience.

**1.19 Exempt Employee**

Exempt employees are exempt from earning overtime compensation. Exempt employees are paid on a salary basis and are not required to keep a daily accounting of their hours.

**1.20 Extra Help Employee**

An employee employed in an extra help position.

### **1.21 Extra Help Position**

A position which is intended to be occupied on less than a year-round basis including, but not limited to, emergencies, extra workloads of limited duration, to fill vacant positions during the recruitment period, and other situations involving a fluctuating staff or workload.

An extra help position will not be authorized for a period exceeding 1000 hours in any fiscal year. In the case of PERS – covered retirees, a position will not be authorized for a period exceeding 960 hours in any calendar year. Extra help employees shall be hired at step one of the salary range except as otherwise directed by the Court Executive Officer and shall receive no additional benefits other than those required by law. Employees hired under this status shall be subject to the same background checks as Regular employees.

### **1.22 Hourly Employee**

Hourly employees are paid by the hour. Wages may fluctuate according to the number of hours worked.

### **1.23 Hourly Rate**

The amount of individual compensation, for a full hour's service, as set forth in the Job Classifications.

### **1.24 Introductory Employee**

Employees who are within the introductory period.

### **1.25 Introductory Period**

The period of time following his/her appointment during which an employee demonstrates satisfactory performance in order to justify his/her right to hold regular status.

### **1.26 Layoff**

Termination of service without fault on the part of the employee because of lack of work, lack of funds, or other causes unrelated to the employee's job performance.

### **1.27 Limited Term Employee**

An employee who holds a limited term position. Limited term employees are eligible for the Court's benefits.

### **1.28 Limited Term Position**

A position of limited duration arising out of special projects, abnormal workloads, or emergencies.

**1.29 Mediation**

Non-binding process for resolving disputes between the Court and a recognized employee representative organization facilitated by the State of California Mediation and Conciliation Service, such as prior to the matter being referred for arbitration or a hearing panel.

**1.30 Minimum Qualifications**

The minimum qualifications of education, experience, ability, knowledge, licenses, and other requirements for entrance examinations, for appointments, or for promotion.

**1.31 Month**

A calendar month.

**1.32 Non-Exempt Employee**

Non-exempt employees are those who are eligible to be paid for overtime work in accordance with the provisions of applicable wage and hour laws. This classification of employees is paid hourly and must receive additional pay for overtime work.

**1.33 Open Examination**

A competitive examination which shall be open to all applicants who meet the minimum qualifications for the particular classification for which the examination is to be held.

**1.34 Payroll**

Refers to the Payroll unit as designated by the Court Executive Officer.

**1.35 Permanent**

Permanent is defined as the status of an employee, following successful completion of his/her introductory period, which entitles him/her to appeal a discharge which he/she believes to be made without reasonable cause.

**1.36 Position**

A specific office, employment, or job calling for the performance of certain duties and the carrying of certain responsibilities by one individual either on a full-time, part-time, or extra help basis as defined by one class specification or job description.

**1.37 Professional Employee**

An employee who is engaged in work requiring specialized knowledge and skills attained through the completion of a recognized course of instruction, including, but not limited to, attorneys.

**1.38 Promotion**

The movement of an employee from one class to another class having a higher maximum rate of pay.

**1.39 Promotional Examination**

A competitive examination which shall be open to current employees of the Court who meet the minimum qualifications for the particular classification for which the examination is to be held.

**1.40 Promotional List**

A list of names of Court employees who have passed a promotional examination for a class in the classified service, ranked in the order of score earned.

**1.41 Range**

A sequence of salary steps used to identify the minimum, maximum, and intermediate salary rates which may be paid to employees within a class.

**1.42 Reassignment**

Movement of an employee from one Position, Primary Work Location, or Division to another within the same class within the Court.

**1.43 Reclassification**

A change in the allocation of a position by raising it to a higher class, reducing it to a lower class, or changing the title on the basis of substantial changes in the kind, difficulty, or responsibility of duties performed.

**1.44 Regular Full-Time Employees**

Employees who have successfully completed the introductory period, and are scheduled to work forty (40) or more hours per week are considered full-time and are eligible for the Court's benefit package, subject to the terms, conditions, and limitations of each benefit program.

**1.45 Regular Part-Time Employees**

Employees who have successfully completed the introductory period and are regularly scheduled to work less than forty (40) hours per week and at least twenty (20) hours per week, are considered part-time and are eligible for the Court's benefit package, subject to the terms, conditions, and limitations of each benefit program.



**1.46 Regular Status**

The status of an employee, following the successful completion of his/her introductory period, which entitles him/her to appeal a discharge which he/she believes was made without reasonable cause.

**1.47 Reinstatement**

The return of a discharged employee to his or her former position as a result of the appeal process.

**1.48 Salaried Employees**

Salaried employees are paid a fixed compensation on a periodic basis and not by the hour. A non-exempt employee paid on a salary basis will, however, receive overtime pay.

**1.49 Selection Procedure**

The process of testing, evaluating, and/or investigating the fitness and qualification of applicants based on merit procedures, validity, and reliability.

**1.50 Seniority**

Length of service with the Court measured from the employee's date of hire. For the purposes of determining the order of layoff, retirement credit and vacation accrual, seniority shall include the employee's length of service with the County of Butte as a previous employer for those employees who transferred to the Court by operation of law on January 1, 2001 pursuant to the Trial Court Employment Protection and Governance Act, Government Code section 71600 and following, or who transferred before the effective date of any agreement between the Court, all recognized employee representative organizations and the County of Butte or the expiration date for such transfers provided in the Trial Court Employment Protection and Governance Act, Government Code section 71600 and following. An employee's length of service shall include all approved leaves of absence of one year or less.

**1.51 Separation**

Any termination of employment. Termination may include death, discharge, layoff, resignation, retirement, or work completion.

**1.52 Series**

Means two (2) or more classes of positions with duties substantially similar in nature and character, but differing in level of difficulty, responsibility, and perhaps supervision.

**1.53 Step**

One of the salary rates identified in the salary structure by number which are used to identify the specific compensation of an employee within the established range for his/her class.

**1.54 Technical Skill Assessment**

An objective, non-competitive process by which an employee in a designated classification may demonstrate his/her knowledge, skills and abilities relative to a specific division or operational unit of the court.

**1.55 Temporary Employee (\*This applies to only the General and Professional Units)**

An employee who holds a temporary position. Temporary employees are not eligible for the Court's benefit package.

**1.56 Temporary Position (\*This applies to only the General and Professional Units)**

A position of limited duration arising out of special projects, abnormal workloads, or emergencies.

**1.57 Week**

A period of seven (7) consecutive days.

**1.58 "Y" Rate**

A salary above the maximum salary of a range that is paid to an employee who occupies a position within the range because the employee has a vested right in the higher salary.

## 2.0 Recruitment, Selection and Promotion

### 2.1 Equal Employment Opportunity (EEO)/Non-Discrimination Policy

Employment practices shall not be based upon an applicant or employee's race, color, religion, sex, age, national origin, marital status, sexual orientation, ancestry, physical or mental disability, medical conditions, political affiliation, veteran's status, or citizenship, or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics. This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, and transfer.

The Court will not discriminate against any qualified individual based on a known disability. Where appropriate, the Court will make reasonable accommodation to permit a qualified individual with a disability to perform the essential functions of the job, unless such accommodation would create undue hardship for the Court or pose a threat to the health and safety of others.

Any applicant or an employee who requires an accommodation to perform essential functions of a job should contact the Human Resources Administrator or designee (hereafter Human Resources) and request accommodation. The employee should specify what accommodation is needed to perform the job. If the accommodation is reasonable and will not impose an undue hardship or pose a threat to the health and safety of others, the Court will make the accommodation.

The Court reserves the right to require applicants, as part of the recruitment process, to submit to a physical examination, at the Court's cost, to determine fitness for duty, identify any job-related disability, or the employee's ability to perform job functions and identify reasonable accommodations, so long as the testing or examination required is uniformly applied to all applicants; provided, however that the Court may make an offer of employment conditional upon satisfactory completion of a physical examination.

The Court is committed to providing a work environment that is free from discrimination. In keeping with its commitment, the Court maintains a strict policy prohibiting unlawful harassment on the basis of any of the protected classes stated above; this includes sexual harassment. It is the responsibility of every manager and employee to follow this policy.

The Human Resources Administrator shall be the Civil Rights Compliance Officer and the ADA Coordinator.

#### 2.1.1 Status of Employees

All employees are subject to the Trial Court Employment Protection and Governance Act (Government Code section 71600 and following) except those employees who are "at will". The Court has the right to terminate the employment of an "at will" employee at any time and for any reason not prohibited by law.

## **2.2 Employment Selection and Advancement System**

### **2.2.1 Recruitment of Employees**

Human Resources may announce and hold promotional or open examinations for the purpose of establishing promotional or open eligible lists on a court promotional or open basis.

Hiring and promotion shall be done in a nondiscriminatory manner based on job-related factors. Recruiting, selecting, transferring, and advancing employees shall be on the basis of their relative ability, knowledge, and skills. Initial appointment shall be through an open, competitive process. Preference shall be given to internal candidates.

When a vacancy occurs, the appointing authority will submit an approved Personnel Requisition form to Human Resources. This completed form includes all job-related requirements necessary for proper applicant screening. Human Resources will first determine if an eligibility list is available for the job classification. If a list is available, it will be forwarded to the appointing authority for interview scheduling. If no list is available, then selection procedures will begin.

Subordinate judicial officers, managerial, confidential, temporary, and limited-term positions are excluded from section 2.0 of this manual. Managerial and confidential employees shall be entitled to the same preference on promotions as is afforded other court employees.

### **2.2.2 Selection Procedures**

Human Resources shall select from the following procedures those it determines to be appropriate for positions as they become available: written applications, oral interviews, testing, personal and employment references, background check, drug and alcohol testing, physical examination, mental or psychological examination, credit history, DMV history, and criminal history. Only those procedures determined by Human Resources to be appropriate for the position will be used and some procedures may not be used for individual positions. Scheduled selection procedures may be postponed, canceled, or modified and the closing date for any position may be extended. Human Resources will notify all persons affected and post public notice of the changes.

#### **2.2.2.1 Job Posting**

Human Resources will prepare a Job Posting form for general circulation and display to all employees. The steps to apply for any posted position and the necessary qualifications for the position appear at the bottom of the posting form. All postings will first appear internally at least one business day before public release and will last a minimum of twenty-one (21) calendar days.

### **2.2.2.2 Employment Applications**

All employment applications must be filed in Human Resources in the time and manner specified in the posting. The time for filing applications may be extended by Human Resources after consultation with the appointing authority. All applications shall be signed. Applications will not be returned to the applicants. The names of the applicants shall not be made public unless permission is granted in advance by the applicant.

### **2.2.2.3 Testing**

Whenever utilized, testing procedures shall be competitive and of such a nature to fairly test and determine the qualifications, fitness, and ability of applicants to perform the duties of positions for which they have applied. This may include written tests, oral tests, performance or skill tests, tests of physical strength, stamina, and dexterity and any other test reasonably related to the requirements of the position. A test shall be deemed competitive if applicants are tested as to their relative qualifications and abilities or if a single applicant is scored against a fixed standard. No test shall be administered unless it is previously approved by Human Resources.

Any explanations that need to be given to applicants during a test will be given to all applicants. No question will be explained to an individual applicant.

An applicant who finds an ambiguous or doubtful question or item in a written test must call it to the attention of the proctor either during or immediately after the written test. The proctor will then record the nature of the doubt and notify Human Resources. Competent authority will be used to determine whether the item is proper. Appropriate adjustments in all scoring computations will be made if any material is found to be improper.

Communication between applicants during a written test is forbidden. Applicants are forbidden to receive aid from one another or to use help in any form. Before the commencement of a written test, applicants shall be required to give to the proctor any printed or written matter in their possession that might serve to aid them in the written test. Evidence of copying or collusion may result in the cancellation of the applicant's written test papers and the debarment of the applicant from future selection procedures, subject to final disposition pursuant to the disciplinary procedures outlined in this manual when an allegation has been lodged against an employee of the Court. Copies of the questions in the written test may not be made or taken from the test room.

An applicant who is not employed by the Court who fails a written test will not be allowed to take a second test for the same class for sixty (60) days.

Supplemental questions attached to an employment application and hypothetical job-related questions posed to an applicant during an interview shall not be considered tests and may be incorporated into the selection process at the discretion of the Court; provided that any such questions are uniformly asked of all applicants.

Human Resources may convene an oral board for the purposes of testing and ranking applicants. Oral boards for promotional testing and ranking shall be composed of persons who are not employed by the Court.

#### **2.2.2.4 Employment Suitability Assessment**

To ensure that newly hired employees are well qualified, it is Court policy to check employment references. Background checks will be conducted and employment history will be verified. Verification processes may include, but are not limited to: physical examination, drug/alcohol testing, review of credit history, and criminal or DMV reports. Applicants shall provide Human Resources with waivers as necessary to authorize the disclosure of background or employment history information.

In the event the Court establishes a promotional classification for which it deems a suitability assessment is necessary, it will offer to meet and confer with the employee's recognized representative.

#### **2.2.2.5 Disqualification**

When permitted by law, Human Resources may disqualify any person whose qualifications warrant such action. Human Resources may refuse to examine or, after selection procedures, may refuse to declare as eligible, or may withhold or withdraw from certification prior to appointment, anyone who comes under any of the following categories which are job-related to any given position:

- (a) Lacks any of the minimum qualifications established for the examination or position for which he or she applied.
- (b) Has been dishonest or deceptive in the application, in the selection procedure, or in securing eligibility, subject to final disposition pursuant to the disciplinary procedures outlined in this manual when an allegation has been lodged against an employee of the Court.
- (c) Has failed to reply within a reasonable time, as specified by Human Resources, to communications concerning availability for employment.
- (d) Has been made unavailable for employment by withdrawing from consideration.

### 2.2.3 Eligibility List

Human Resources shall establish an eligibility list of persons who have successfully completed a selection procedure for a position. In establishing the eligibility list, the names of the applicants shall be placed on the list in the order of final ranking. The final ranking shall be determined by the scores of each applicant for each part of the selection process, based upon the value assigned to each part of the procedure, and totaled.

- a) Establishment of Eligible Lists. The Human Resources Administrator shall establish eligible lists for each class of position in the classified service whenever it is deemed necessary.
- b) Composition of Eligible Lists. An eligible list consists of the names and scores of applicants who qualified with a minimum final score of 70% for the class of position in the selection process. The final scores of the applicants shall be recorded in incremental score groups ranging from 70% to 100% by rounding to the nearest five percent (5%).
- c) A name may be removed from the eligibility list:
  - (1) For any cause set forth in section 8.0 except for violation of the dress and grooming standards, subject to final disposition pursuant to the disciplinary procedures outlined in this manual when an allegation has been lodged against an employee of the Court.
  - (2) On evidence that the applicant cannot be located by the postal authorities.
  - (3) On receipt of a statement from the applicant declining an appointment or stating that he or she no longer desires consideration for a position with the Court.
  - (4) After the applicant refuses three offers of appointment to the class for which the eligibility list was established.
  - (5) For failure to respond within the specified time after notice of certification, without suitable explanation.
  - (6) Acceptance of an offer for that position.

Applicants whose names are placed on the eligibility list shall be responsible for keeping Human Resources informed of changes to their address. The Court Executive Officer may cancel an eligibility list after no less than one-hundred-twenty (120) days that no longer meets the needs of the Court.

#### 2.2.4 Certification and Appointment (\*Supervisory and Professional Unit Only)

The Human Resources Administrator shall certify to the hiring authority from the appropriate promotional or open eligibility list for the class of position, the names of the highest ranking three (3) incremental score groups of eligibles who have indicated a willingness and availability to accept the conditions of employment. In the event that there are less than five (5) names of eligibles in the three (3) highest incremental score groups to be certified to a hiring authority for a vacancy, or when the request for eligible's is for multiple vacancies in the same class of position and there are less than five (5) eligibles plus one eligible for each additional vacancy in the three (3) highest incremental score groups, the Human Resources Administrator may certify in addition the names of eligible's in the next lower incremental score group or groups.

The Court may interview any or all of the certified applicants and may offer employment to any of them. The Court Executive Officer may appoint an interview panel for the purpose of determining which applicant shall receive an offer of employment.

The membership of the interview panel shall be disclosed to all internal interviewees no less than five (5) business days before the interview. An internal interviewee may challenge the participation of any panel member(s) by notifying Human Resources in writing or by e-mail. Human Resources shall consider the challenge and either affirm or deny it in writing to the interviewee before the interview. All panelists shall be free of bias or prejudice towards the interviewees and shall sign a statement to that effect and describe any circumstances where bias or prejudice sufficient to affect the panelists impartial assessment of the interviewee's qualification may exist.

If there are insufficient qualified applicants to prepare a certified list or if the existing list has been found by the Court Executive Officer to no longer meet the needs of the Court, then the Court may make a provisional appointment of any person who possesses the minimum qualifications for the class for a period not to exceed three (3) calendar months or one (1) month following establishment of a certified list, whichever occurs sooner.

This section shall not prevent permanent appointment of a qualified person from the list if there are less than five (5) applicants for the position.

Veterans shall be given five (5) preference points.

Existing employees shall be given preference for appointments. Preference shall be determined by adding five percent (5%) to the aggregate score of each employee.



#### **2.2.4 Certification and Appointment (\* General Unit Only)**

The Human Resources Administrator shall certify to the hiring authority from the appropriate promotional or open eligibility list for the class of position, the names of the highest ranking three (3) incremental score groups of eligibles who have indicated a willingness and availability to accept the conditions of employment. In the event that there are less than five (5) names of eligibles in the three (3) highest incremental score groups to be certified to a hiring authority for a vacancy, or when the request for eligibles is for multiple vacancies in the same class of position and there are less than five (5) eligibles plus one eligible for each additional vacancy in the three (3) highest incremental score groups, the Human Resources Administrator may certify in addition the names of eligibles in the next lower incremental score group or groups.

The Court may interview any or all of the certified applicants and may offer employment to any of them. The Court Executive Officer may appoint an interview panel for the purpose of determining which applicant shall receive an offer of employment.

The membership of the interview panel shall be disclosed to all internal interviewees no less than five (5) business days before the interview. An internal interviewee may challenge the participation of any panel member(s) by notifying Human Resources in writing or by e-mail. Human Resources shall consider the challenge and either affirm or deny it in writing to the interviewee before the interview. All panelists shall be free of bias for or against any and all interviewees based on present or past social, working, and/or personal relationship(s) and shall disclose such relationships in writing once the identities of the interviewees are known.

If there are insufficient qualified applicants to prepare a certified list or if the existing list has been found by the Court Executive Officer to no longer meet the needs of the Court, then the Court may make a provisional appointment of any person who possesses the minimum qualifications for the class for a period not to exceed three (3) calendar months or one (1) month following establishment of a certified list, whichever occurs sooner.

This section shall not prevent permanent appointment of a qualified person from the list if there are less than five (5) applicants for the position.

Veterans shall be given five (5) preference points.

Currently employed regular, limited-term and extra help employees shall be given preference for appointments. Preference shall be determined by adding five percent (5%) to the aggregate score of each employee.

### 2.2.5 Promotions

Every person at the Court shall be given the opportunity to advance according to merit and ability.

Promotional selection procedures will be announced and conducted whenever requested by the appointing authority or when Human Resources determines that the needs of the Court so require. Existing employees shall be given preference for promotions. Preference shall be determined by adding five (5%) to the aggregate score of each employee.

Employees may not participate in a promotional selection procedure unless they meet the minimum education and/or experience requirements and possess any license, certificate or other evidence of fitness as prescribed for the class for which the selection procedure is given. Any employee who is promoted shall serve a six-month introductory period in the new position. Before expiration of the six (6) months, the employee's performance shall be evaluated and the Court and the employee may agree to extend the introductory period for up to six (6) additional months. If the final performance evaluation of the introductory period is not completed, the employee shall be granted permanent status in the promoted class. If an existing employee is promoted and then fails to satisfactorily complete the introductory period, the employee shall be entitled to return to the same or equivalent position held before the promotion.

Employees in positions designated by the appointing authority for automatic promotion upon completion of the Training, Orientation and Mentoring Program shall not serve an introductory period for promotions within that program.

The Court may promote employees without the employee going through the open recruitment or court-only promotional process. This takes place when there is a flexibly staffed position within a classification series, and the court chooses to promote an employee from the lower-level classification to the higher-level classification. It is within the Court Executive Officer's discretion to determine whether or not the employee is qualified for promotion to the higher classification. It is within the Human Resources Administrator's discretion as to whether or not the employee meets the minimum qualifications for the higher level classification. The exercise of such discretion shall not limit the right of an employee to bring a grievance based on the employee's belief that he or she is working in a higher-level classification.

These positions are as follows:

- Administrative Analyst I, II, III
- Court Services Analyst I, II, III
- Court Staff Attorney I, II
- Information Systems Analyst I, II, III
- Information Systems Technician I, II, III
- Office Assistant I, II, III
- Court Compliance Specialist I, II
- Court Clerk I, II, III, Senior

### **2.2.6 Reemployment**

The recruitment and selection process is not applicable to a former employee who was separated in good standing if, within one year of their separation, they request reemployment in a classification in which they formerly held permanent status. When a vacancy occurs, the reemployment request shall be considered in addition to a current eligibility list for the position. A former employee who is reemployed under this provision shall serve an introductory period in the class in which the reemployment occurs.

### **2.2.7 Employment of Relatives**

Relatives of employees may be hired by the Court only if the individuals will not work in a direct supervisory relationship and the employment will not pose difficulties for security or safety. For the purposes of this policy a relative is defined to include the employee's spouse, children, parents, siblings, grandparents, aunts, uncles, nieces, and nephews, who have this relationship with the employee either by blood or marriage, as well as someone who is the employee's domestic partner.

Employees who marry will be permitted to continue employment with the Court only if they do not work in a direct supervisory relationship with one another, or otherwise pose difficulties for security or safety. If employees who marry work in a direct supervisory relationship with one another, the Court will attempt to reassign one of the employees to another position for which he or she is qualified, if such a position is available. If no such position is available, then one of the employees will be required to terminate employment with the Court. The decision as to which employee terminates will be left solely to the spouse-employees. In the event that no alternative position is available and neither employee voluntarily leaves the Court, the employee with lesser seniority will be terminated.

If a judge or the Court Executive Officer becomes related by marrying, adopting or being adopted by or becoming a guardian to or of a Court employee during the course of that employee's employment with the Court, the employee will be asked to resign. In the alternative the judge or Court Executive Officer to which the employee is related may choose to resign their position with the Court, in which case the employee may continue in their employment with the Court.

## 2.3 Introductory Period

### 2.3.1 New Employees (\* General Unit)

The Court attempts to hire the most-qualified employee for each position. To ensure this, the Court requires an introductory period of one (1) year beginning on the date of hire. This period is used to determine whether the employment relationship should continue.

During the introductory period, two formal employee performance evaluations will be held. If the Court determines that a satisfactory performance level cannot be achieved during the introductory period, employees will be released from employment immediately; provided, however, that no such release will occur unless and until the performance evaluations required up to the period of release have taken place.

Upon satisfactory completion of the introductory period, the introductory employee will become a regular employee. Accrual of sick leave and vacation shall begin on the date of hire. However, employees may not use vacation benefits for the first six (6) months of their employment, without written permission of the Court Executive Officer.

An employee who is demoted for disciplinary purposes shall serve a probationary period in the new class unless the employee previously held permanent status in that class or a higher class in the same class series. An employee who voluntarily demotes to a classification with a lower salary range shall not be required to serve a new probationary period provided the employee held permanent status in an equivalent or higher class level. Employees who have not held permanent status and who voluntarily demote while on probation must complete the probationary period in the lower classification.

An employee whose position is reclassified or range reallocated shall not serve an introductory period if they have held permanent status in the reclassified or reallocated position. An introductory employee who is reclassified or reallocated shall serve the balance of their former introductory period in the reclassified or reallocated position.

### 2.3.2 Responsibilities and Procedures (\* General Unit)

Supervisors will be responsible for training and evaluation during the introductory period.

Formal performance appraisals will be conducted after four (4) months, but before 6 months and, again before completion of the introductory period.

Human Resources will notify supervisors thirty (30) days prior to an employee completing his/her introductory period. Upon satisfactory completion, employees move to regular status and are subject to the standard performance appraisal process and other Court policies. If the employee's performance is unsatisfactory, the employee may be released from employment.

### **2.3.1 New Employees (\* Supervisory Unit)**

The Court attempts to hire the most-qualified employee for each position. To ensure this, the Court requires an introductory period of one (1) year beginning on the date of hire. This period is used to determine whether the employment relationship should continue.

During the introductory period, two formal employee performance evaluations will be held. If, at any time, the Court determines that a satisfactory performance level cannot be achieved during the introductory period, employees will be released from employment immediately; provided, however, that no such release will occur unless and until the performance evaluations required up to the period of release have taken place.

Upon satisfactory completion of the introductory period, the introductory employee will become a regular employee. Accrual of sick leave and vacation shall begin on the date of hire. However, employees may not use vacation benefits for the first six (6) months of their employment, without written permission of the Court Executive Officer.

An employee who is demoted for disciplinary purposes shall serve a probationary period in the new class unless the employee previously held permanent status in that class or a higher class in the same class series. An employee who voluntarily demotes to a classification with a lower salary range shall not be required to serve a new probationary period provided the employee held permanent status in an equivalent or higher class level. Employees who have not held permanent status and who voluntarily demote while on probation must complete the probationary period in the lower classification.

An employee whose position is reclassified or range reallocated shall not serve an introductory period if they have held permanent status in the reclassified or reallocated position. An introductory employee who is reclassified or reallocated shall serve the balance of their former introductory period in the reclassified or reallocated position.

### **2.3.2 Responsibilities and Procedures (\* Supervisory Unit)**

Supervisors will be responsible for training and evaluation during the introductory period.

Required performance evaluations will be conducted after four (4) months, but before 6 months, and again before completion of the introductory period. Supervisors are encouraged, but not required, to conduct informal performance appraisals on a daily or as-indicated basis.

Human Resources will notify supervisors thirty (30) days prior to an employee completing his/her introductory period. Upon satisfactory completion, employees move to regular status and are subject to the standard performance appraisal process and other Court policies. If the employee's performance is unsatisfactory, the employee may be released from employment.

### **2.3.1 New Employees (\* Professional Unit)**

The Court attempts to hire the most-qualified employee for each position. To ensure this, the Court requires an introductory period of one (1) year beginning on the date of hire. This period is used to determine whether the employment relationship should continue.

During the introductory period, frequent informal and formal employee performance evaluations will be held. If the Court determines that a satisfactory performance level cannot be achieved during the introductory period, employees will be released from employment immediately; provided, however, that no such release will occur unless and until the performance evaluations required up to the period of release have taken place.

Upon satisfactory completion of the introductory period, the introductory employee will become a regular employee. Accrual of sick leave and vacation shall begin on the date of hire. However, employees may not use vacation benefits for the first six (6) months of their employment, without written permission of the Court Executive Officer.

An employee who is demoted for disciplinary purposes shall serve a probationary period in the new class unless the employee previously held permanent status in that class or a higher class in the same class series. An employee who voluntarily demotes to a classification with a lower salary range shall not be required to serve a new probationary period provided the employee held permanent status in an equivalent or higher class level. Employees who have not held permanent status and who voluntarily demote while on probation must complete the probationary period in the lower classification.

An employee whose position is reclassified or range reallocated shall not serve an introductory period if they have held permanent status in the reclassified or reallocated position. An introductory employee who is reclassified or reallocated shall serve the balance of their former introductory period in the reclassified or reallocated position.

### **2.3.2 Responsibilities and Procedures (\* Professional Unit)**

Supervisors will be responsible for training and evaluation during the introductory period.

Formal performance appraisals will be conducted after four (4) months, after eight (8) months, and before completion of the introductory period. Informal performance appraisals should be provided on a daily or as-indicated basis.

Human Resources is responsible for notifying supervisors thirty (30) days prior to an employee completing his/her introductory period. Upon satisfactory completion, employees move to regular status and are subject to the standard performance appraisal process and other Court policies. If the employee's performance is unsatisfactory, the employee may be released from employment.



## **2.4 Job Classifications**

### **2.4.1 Classification Plan**

All positions shall be included in a classification plan except the Court Executive Officer. The classification plan shall be maintained by Human Resources so that all positions substantially similar in duties, responsibilities, authority, and qualifications are so classified that schedules of compensation may be applied equitably. Each classification shall have a written specification setting forth the title of the class, defining the class, describing duties and responsibilities of the positions in the class, and setting forth qualifications of applicants for positions in the class.

### **2.4.2 Amending the Classification Plan**

Human Resources may create new classes and revise or abolish existing classes, subject to meeting and conferring with affected employee organizations on issues within the scope of bargaining.

### **2.4.3 Allocation of Positions**

The number and classifications of permanent positions shall be as approved by the Court Executive Officer, who shall not appoint more employees to a class of positions than is provided, except that a new employee may be appointed to a position before an employee being replaced is separated.

### **2.4.4 Position Reclassification**

The Court Executive Officer may reclassify a position when it appears that there has been a significant change in the assigned duties and responsibilities of the position. When a position is reclassified to a higher classification, Human Resources shall make a determination whether or not an incumbent is qualified to advance to the higher class. If the incumbent meets the minimum qualification of the higher class and received an overall rating of at least “meets standards” in their most recent evaluations, they will advance to the higher class. If the incumbent does not meet the minimum qualifications of the higher class or received an overall rating less than “meets standards” on their most recent evaluation, they will be reassigned to a position appropriate to their qualification and “y” rated if necessary.

### **2.4.5 Salary Upon Position Reclassification**

The salary rate of an employee in a position which is reclassified shall be determined as follows:

- a) **Reclassification & No Change in Salary.** If the position is reclassified to a classification at the same salary range, the employee’s salary step shall not change.

- b) **Reclassification to Position With Higher Salary Range.** If the position is reclassified to a classification with a higher salary range the employee shall have compensation set at the step of the new class which is closest to the employee's base salary in the former class, which results in an increase in salary to the employee.
- c) **Reclassification to Position with Lower Salary Range.** If the position is reclassified to a classification with a lower salary range, the salary rate of the employee shall not be reduced, but shall be maintained in a "Y" rate condition until the employee's merit advancement date or an adjustment is made to the salary range for the classification at which time the employee's salary rate shall be adjusted to the nearest higher rate in the pay range for the class.

## **2.5 Reassignments**

### **2.5.1 Reassignment - Position**

The Court Executive Officer may reassign employees from one position to another position within the Court, provided the positions are in the same salary range and the employee possesses the minimum qualifications for the position.

No reassignment shall be made for punitive purposes. No employee shall be reassigned more than twice in a fiscal year without agreement of the employee. A reassignment based on an employee's request will not be counted as a reassignment in a fiscal year.

### **2.5.2 Reassignment – Primary Work Location**

The Primary Work Location shall be defined as the Facility Assignment listed on an employee's most recent Personnel Action Form, which is the Facility at which it is anticipated an employee will spend the majority of their work time.

The Court Executive Officer may reassign employees from one Primary Work Location to another Primary Work Location. The employee shall be given at least ten (10) days notice of any reassignment pursuant to this section.

No reassignment shall be made for punitive purposes. No employee shall be reassigned more than twice in a fiscal year without agreement of the employee. A reassignment based on an employee's request will not be counted as a reassignment in a fiscal year.

When there is a reassignment of an employee for whom such reassignment would create a hardship, the Court and the affected employee representative organization will meet and confer as to the effect of the proposed reassignment.

Employees may be required to report to alternate facilities (Temporary Work Locations) on an as-needed basis as determined by the Court Executive Officer. A Temporary Work Location is defined as any Court facility, or other location, other than their Primary Work Location, to which an employee is directed to report for a short term or defined period.



Temporary Work Locations shall not be considered reassignments, and employees reporting to Temporary Work Locations shall therefore be eligible for Transportation Expenses in accordance with §4.6 (Transportation Expenses).

### **2.5.3 Reassignment – Division**

The Court Executive Officer may reassign employees from one Division to another Division. A Division is defined as a unit of the Court consisting of a number of employees overseen by an individual Supervisor.

No reassignment shall be made for punitive purposes. No reassignment longer than ten (10) consecutive work days shall be made to create an open position for another employee to participate in the Court Clerk Certification Program unless all affected employees agree. No employee shall be reassigned more than twice in a fiscal year without agreement of the employee. A reassignment based on an employee's request will not be counted as a reassignment in a fiscal year.

Requiring an employee to attend mandatory training in another Division, or to assist in another Division, shall not be considered a reassignment so long as it does not exceed five (5) working days at any one time.

### **2.5.4 Temporary Assignment To Higher Classification**

The Court Executive Officer or designee may temporarily reassign a regular employee to a regularly authorized position in a class having a higher salary range, when such assignment is at least five (5) consecutive working days but not more than one-hundred-eighty (180) days unless the Court Executive Officer specifically authorizes a longer period. The salary of the employee during the temporary reassignment shall be set at the nearest salary step of the higher position or five percent (5%) above the reassigned employee's regular base salary step, whichever is greater. Payment of the salary for the temporary reassignment shall only be made if it is pre-authorized by the Court Executive Officer or designee and shall be documented on a personnel action form.

A request that an employee perform certain duties of a higher classification shall not be considered a temporary reassignment, if such assignment is for less than 5 consecutive working days. The employee must be required to perform at least 50% or greater of the distinguishing duties of the higher classification and a personnel action form has been completed pre-authorizing the temporary reassignment. In no case shall any such reassignment to perform a duty or duties of a higher classification be made for less than five (5) consecutive working days. If an employee believes he or she has been asked to perform the duties of a higher classification but has not signed or been given a personnel action form which pre-authorizes the temporary reassignment and the salary difference, the employee must immediately bring the matter to the attention of the Human Resources Administrator, or designee, before performing the newly-assigned duties of the higher classification, but no later than two days of performing the newly-assigned duties of the higher classification. No grievance may be filed until the Human Resources Administrator, or designee, has rendered a determination. If an employee is found to have been performing at least 50% or greater of the distinguishing duties of the higher classification, payment of the salary for the temporary reassignment shall be made from the first day of the reassignment, providing all of the above provisions have been met.

### **2.5.5 Voluntary Demotion**

An employee who wishes to voluntarily demote must make a request for voluntary demotion in writing. The salary of the employee after voluntary demotion shall be set at the nearest salary step below the employee's salary preceding demotion in the salary range of the lower classification.

## **2.6 Arbitration**

In the event that an employee contends that the Court has misapplied, misinterpreted, or violated the policies governing hiring, promotion, transfer, and reclassification, the employee may file a grievance. Such a grievance must be submitted in writing within ten (10) calendar days of the date the employee knew, or should have known of, the alleged misapplication, misinterpretation, or violation. The grievance shall set forth the employee's name, the date the grievance is submitted, and the alleged facts upon which the grievance is based. The Court shall respond to the grievance in writing within ten (10) calendar days of the date it is submitted to the Court. If the employee is not satisfied with the Court's response (or if the Court does not respond in writing within ten (10) calendar days), the employee may, within five (5) days of receipt of the response (or, if there is not a response, within five (5) calendar days of the due date of the response), request in writing that the matter be submitted to the State Mediation and Conciliation Service for mediation. If there is no resolution satisfactory to the parties, the employee may, within five (5) days of finding of a no resolution by the mediator, request that the matter be submitted to binding arbitration. The parties may mutually agree to an arbitrator. If the parties are unable to mutually select an arbitrator, they shall request a list of seven (7) experienced labor arbitrators from the State Mediation and Conciliation Service and alternately strike names from the list until an arbitrator is selected. The arbitrator shall issue a binding decision. The arbitrator's authority and jurisdiction is limited to the issue of whether the Court misapplied, misinterpreted, or violated this section in the manner set forth in the grievance. The arbitrator shall have no authority to add to, detract from, alter, amend, or modify any of the Court's rules, policies, or procedures. The parties shall each bear their own costs and attorney fees, if any. The cost of the arbitrator shall be shared equally. The cost of a certified shorthand reporter, if any, shall be borne by the party who requests the reporter.

## **2.7 Salary Program Administration**

### **2.7.1 Statement of Policy**

The Court provides a salary program that is designed to stimulate employee productivity, reward performance, and ensure equity. All positions except subordinate judicial officers and the Court Executive Officer shall be included in the salary program.

The salary program is administered by Human Resources. The program will be reviewed periodically and adjusted consistent with market conditions and other compensation-related issues such as, difficulty of recruitment or retention and available resources, subject to meeting and conferring with the effected employee organization on issues within the scope of bargaining. This review determines the competitiveness of the salary structure. Recommendations for changes are made to the Court Executive Officer who shall make adjustments as appropriate.

### **2.7.2 Salary Program Elements**

Each position has been assigned in a salary range which establishes the value of the position in relation to other positions in the Court.

An employee's ability to move through the salary steps will be related to demonstrated performance. Employees will receive a salary step that is within the range for the applicable position. The salary at the lowest step in the range is generally paid to newly hired employees. The Court Executive Officer may hire an employee of a step higher than the lowest step.

A fully qualified employee is one who demonstrates sustained performance that "meets requirements" of the position, as well as all Court criteria.

If an employee is paid a salary that is more than the highest step at the time the classification is established, the salary will not be reduced. Rather, the employee will be ineligible for an increase in pay ("y rated") until an adjustment in the salary structure is made which places the highest step of the range above the employee's y-rated step.

### **2.7.3 Salary Upon Promotion**

Regular employees promoted to a position in a class with a higher salary range shall have compensation set at the step of the new class which is as close to 5% as is possible, but in no event shall be an increase of less than four (4%) percent. The date of promotion establishes a new anniversary date for a merit review.

### **2.7.4 Salary Upon Involuntary Demotion**

An employee who is demoted pursuant to Section 11.0 of this manual, shall be paid less than their previous salary as determined by the discipline process.

The salary of an employee who involuntarily demotes shall be set at the nearest salary step below the employee's salary preceding demotion in the salary range of the lower classification.

## **2.8 Performance Evaluation**

### **2.8.1 Statement of Policy**

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal basis, as frequently as is needed. Formal performance evaluations are conducted annually to provide supervisors and employees the opportunity to discuss job tasks, training needs, identify and correct weaknesses, encourage and recognize strengths, discuss positive, purposeful goals and objectives, and approaches for meeting those goals and objectives.

Written performance evaluations and any written response to the evaluation will be included in the employee's personnel file.

## 2.8.2 Procedures

Each supervisor is responsible for conducting performance evaluations for each subordinate employee.

### (\*Below Paragraph- General and Professional Unit Only)

Supervisors should complete the performance evaluation form at least thirty (30) days prior to each employee's anniversary date. A copy of the approved performance evaluation form is attached as Attachment A. The Court Executive Officer must approve every performance evaluation before it is discussed with the employee. After approval, supervisors shall give the employees a copy of the evaluation at least three (3) working days before meeting with the employee regarding the evaluation. The discussion shall be held at a private location which is free from interruptions.

### (\*Below Paragraph- Supervisory Unit Only)

Supervisors should complete the performance evaluation form at least thirty (30) days prior to each employee's anniversary date. A copy of the approved performance evaluation form is attached as Attachment A. The Court Executive Officer, or designee, must approve every performance evaluation before it is discussed with the employee. After approval, it is desirable that supervisors give the employees a copy of the evaluation at least three (3) working days before meeting with the employee to discuss the evaluation. The discussion shall be held at a private location which is free from interruptions.

The employee will be asked to comment on the evaluation and acknowledge it by signing where indicated. A copy of the signed evaluation should be given to the employee. If the employee declines to sign the form, he or she should be encouraged to discuss any concerns and write comments where indicated on the form. If the employee still declines to sign the evaluation, the supervisor should write "employee declined to sign" at the bottom of the form, add his or her initials and the date, have another supervisor and/or Human Resources verify that the employee refuses to sign the form and give the employee a copy. The supervisor should then notify Human Resources of the situation. The employee shall have the right to submit reasonable rebuttal information within thirty (30) days. Any such material shall be placed in the employee's personnel file.

## 2.8.3 Step Advancement Within Range

Whenever an employee is entitled to a step advancement the supervisor shall complete a personnel action form and forward it, together with the performance evaluation form, to Human Resources.

Step advancements shall be scheduled as follows:

1. New Employees. A newly hired court employee shall have a step advancement date which is one (1) year following the appointment date.
2. Promotion or Involuntary Demotion. An employee who is promoted or demoted shall have a step advancement date, which shall be one (1) year from the date of promotion or demotion.

3. Voluntary Demotion. An employee who transfers or who voluntarily demotes to a classification at a lower salary range shall have no change in step advancement date.
4. Change in Range Allocation. If the salary range for an employee's class is changed, the employee's advancement date shall not change.
5. Position Reclassification. An employee whose position is reclassified to a classification having the same or a lower salary range shall have no change in step advancement date.

An employee whose position is reclassified to a classification having a higher salary range shall have a step advancement date which is one (1) year following the effective date of the position reclassification.

6. Step Adjustments. An employee whose salary step is adjusted out of sequence to a higher step within the salary range shall have a step advancement date effective one (1) year from the date of adjustment. A performance evaluation shall be completed at this time.

When an employee's step advancement date falls in the first week of a pay period, the employee's step increase shall take place on the first day of that pay period. When an employee's step advancement date falls in the second week of the pay period, the employee's step increase will take place on the first day of the next pay period.

## 2.9 Personnel Records Management

### 2.9.1 Statement of Policy

Personnel records will be maintained on each Court employee at their location of employment or shall be made available to the employee at their location of employment within a reasonable time.

Changes of address, telephone number and/or family status (births, marriage, death, divorce, legal separation, etc.) must be reported within thirty (30) days to Human Resources as an employee's income tax status and group insurance may be affected by these changes.

Access to personnel files is restricted to authorized employees of Human Resources and supervisors on a "need to know" basis. Personnel files are the property of the Court and may not be removed from Human Resources. Employees who wish to review their personnel files must first make arrangements with Human Resources. The file must be viewed in the presence of a Human Resources employee at a mutually convenient time during regular business hours.

Requests for information from employee personnel files received from other



departments and/or inquiries from outside the Court will be directed to Human Resources. Supervisors and other employees are prohibited from providing, without approval from Human Resources, personal or employment references on either former or current employees.

### **2.9.2 Procedures**

When the Court hires an employee, a personnel file will be established generally containing the following information:

1. Application for employment and related hiring documents such as resumes and course transcripts.
2. Personnel action notices of pay and employment status changes.
3. Performance documents including performance appraisals.
4. Personal information changes and employee history updates including recent education, records of outside achievements, changes affecting withholding tax, etc.
5. Other documents pertaining to employment such as appreciation letters, corrective action reports, employment contracts, record of automobile insurance, employment verifications, and training records.
6. No material regarding the employee's performance or conduct shall be included in the employee's personnel file without prior notice to the employee. Employees shall have thirty (30) days from the date they were notified of its inclusion in the file to submit a reasonable amount of rebuttal material for permanent attachment to any negative materials entered into their files. No prior event which might have led to demotion, suspension, or termination of the employee which has not otherwise been included in the employee's official personnel file shall be used against the employee in a current disciplinary action, with the exception of allegations that are the subject of a current notice of intent to discipline. By agreement of the employee and the Court, negative material in the employee's personnel file may be sealed.

Medical records (including ADA medical information) and documents necessary for the administration of Court benefit programs will be kept in a separate confidential file. I-9 forms are also kept in a separate file. References from previous employers and background checks are also kept in a separate file. Only the appointing authority and Human Resources may examine these files.

Inspection of an employee's personnel file may be accomplished at reasonable times during office hours under the following conditions:

1. An employee and/or his or her representative, authorized in writing, may examine their files no later than the close of

business on the next business day following the request. Employment references and notes of legal or disciplinary investigations in progress, if any, will be removed before the employee views the file. The file must be viewed in the presence of a Human Resources employee at a mutually convenient time during regular business hours.

2. Supervisors may examine active and separated employee files on a “need to know” basis. Each file shall contain a log of all persons who have viewed the file.
3. The Court generally will cooperate with federal, state and local government agencies investigating an employee if the investigators furnish proper identification and proof of legal authority to investigate. However, the Court may first seek advice of legal counsel. The Court may permit a government investigator to review a personnel file on Court premises, but the investigator will not be allowed to remove or reproduce this information without consent from Human Resources and/or the Court’s attorneys.

If employees want the Court to verify information requested by outside sources for credit or other purposes, a release form with the employee’s signature must accompany the request.

Employment references on former employees will be provided only by Human Resources, as follows:

1. Salary history, job chronology and performance information may be released with written approval of the employee or ex-employee. This information will be released in writing and a copy retained in the employee’s personnel file.
2. Information will be verified by Human Resources via telephone (after reasonable caller identification) but will be limited to the following: (1) date of hire, (2) date of separation, (3) job title(s), and (4) confirmation of salary stated by caller.

A summary of the conversation shall be written using the appropriate form. This shall be included in the employee’s personnel file.

3. If the request for information is in writing, it shall be copied before it is returned and the copy shall be retained in the employee’s file.

Original personnel files will be maintained by Human Resources and will be retained for five years after an employee’s separation date.

## 3.0 Hours of Work, Overtime, and Pay Day

### 3.1 Hours of Work and Timekeeping

#### 3.1.1 Workweek

The normal work schedule shall be from 8:00 a.m. to 5:00 p.m. each day of the year except Saturdays, Sundays and holidays with up to one (1) hour unpaid scheduled lunch. The normal work schedule shall be eighty (80) hours per biweekly pay period for a full-time employee.

Alternate work schedules may be approved by the Court Executive Officer or designee. Such schedules may include, but are not limited to, so called “9-80s and 4-10s”. The Supervisor may approve a temporary work schedule adjustment, within one (1) workweek, designed to accomplish a specific purpose. Individuals assigned to alternative work schedules shall be charged time off based on the number of hours in the scheduled workday missed.

#### (\*Below Paragraph-General and Professional Unit Only)

Employees are provided two (2) fifteen-minute paid break periods, one in the morning and one in the afternoon. Unless approved in advance, neither lunch time nor break times can be used to offset work time.

Part-time employees are provided breaks and lunch according to their schedule.

Each workweek begins at 12:01 a.m. on Saturday.

#### (\*Below Paragraph- Supervisory Unit Only)

Employees are provided two (2) fifteen-minute paid break periods, one fifteen minute period in the mid-morning and one fifteen minute period in the mid-afternoon. Unless approved in advance, lunch time cannot be used to offset work time.

Part-time employees are provided breaks and lunch according to their schedule.

Each workweek begins at 12:01 a.m. on Saturday.

#### 3.1.2 Timekeeping

##### 3.1.2.1 Exempt Employees

Because Court employees are accountable to the public, all exempt employees shall certify on a bi-weekly timecard that they worked all the hours in the pay period or indicate what hours they did not work. Timecards should be given to Payroll on a bi-weekly basis.

##### 3.1.2.2 Non-Exempt Employees

Employees shall be responsible for preparing a timecard and forwarding it to Payroll through appropriate channels on a bi-weekly basis.



Accurately recording time worked is the responsibility of every non-exempt employee. The Court is required to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is defined as the time actually spent on the job performing assigned responsibilities.

Non-exempt employees are required to record accurately the time they begin and end their work as well as the beginning and ending time of any split shift or departure from work for personal reasons. Altering, falsifying, or tampering with any timecards may result in disciplinary action, up to and including immediate termination of employment. It is the employee's responsibility to sign his or her timecards to certify the accuracy of all time recorded. The supervisor will review and then initial the timecard before submitting it to Payroll. If corrections or modifications are made to the timecard, both the employee and the supervisor must verify the accuracy of the changes by initialing the timecard.

### **3.1.2.3 Submitting Timecards**

Each department's manual timecards will be submitted for approval to the supervisor before the end of the pay period. The supervisor will then submit the signed timecards to Payroll. Any changes or corrections noted on the timecards must be approved by the employee and the supervisor or department head.

Timecards may be submitted on a group or individual basis. Each Supervisor is responsible for informing employees of the submission procedures.

### **3.1.2.4 Scheduling**

Except in an emergency, no employee's work schedule shall be changed unless the employee has been notified at least ten (10) calendar days in advance.

## **3.2 Overtime Pay**

### **3.2.1 Overtime Definitions and Rates of Pay**

When operating requirements or other needs cannot be met during regular working hours, employees may be scheduled to work overtime hours.

All non-exempt employees who work more than eight (8) hours in one day will receive overtime pay computed at the rate of one and one-half (1 1/2) times the employee's regular rate of pay for all hours worked in excess of eight (8) hours in any one day or in excess of 40 hours in a work week. Employees working an approved alternate schedule shall receive overtime pay only for hours worked in excess of the employee's regularly scheduled workday or in excess of the employee's regularly scheduled workweek.

Only those hours that are actually worked are added together to determine an employee's pay. Use of accrued hours (holidays, vacation, sick leave, compensatory time off, jury duty, time off to vote) for any other leave of absence, will not be counted as hours worked for the purposes of determining overtime for non-exempt employees.

### **3.2.2 Pre-Authorization**

Non-exempt overtime work must be approved before it is performed. The employee must complete a written request to work additional hours, and submit it to the appropriate supervisor for signature. Approved written requests should be attached to the employee's bi-weekly timecard. Under certain circumstances, such as courtroom proceedings that run late, authorization to work overtime will be presumed to have been given. If additional overtime is necessary, the employee must request authorization and the court shall furnish employees with after-hours telephone numbers in order to request authorization.

Except as provided above, working overtime without prior authorization from the supervisor may result in disciplinary action, up to and including termination of employment.

### **3.2.3 Makeup Time**

Non-exempt employees may make up work time that is or would be lost as a result of personal obligations if the makeup time is performed during the same workweek in which the work time is lost. A non-exempt employee will be permitted to make up work time only if the employee obtains the advance authorization of their supervisor. Any non-exempt employee who performs makeup work will not be paid overtime unless more than forty (40) hours is worked in the workweek.

### **3.2.4 Compensatory Time**

For each pay period in which a non-exempt employee works authorized overtime, he or she may earn compensatory time off (one and one half-hour for each hour of overtime worked) in lieu of paid overtime at the election of the employee. This election is made each pay period, and must be included on the employee time sheet. Employees may accrue compensatory time off up to eighty (80) hours.

Employees must provide reasonable advance notice of the date or dates upon which they wish to take compensatory time off. Upon separation, the employee will be paid for any outstanding compensatory time off. The Court retains the right to require employees to use compensatory time off within twelve (12) months of its accrual or to pay employees for the compensatory time off.

### **3.3 Other Types of Pay**

#### **3.3.1 Reporting Pay**

An employee who reports to work at the Court's request, for work at other than a scheduled shift, will be paid a minimum of two (2) hours straight pay or time off or time and one half pay or compensated time off for the time actually worked whichever is greater, plus mileage, roundtrip, to and from their residence.

#### **3.3.2 Callback Pay**

Any employee who is called back to work for a second work period in any one workday will be paid a minimum of two (2) hours straight pay or time off or time and one half pay or compensated time off for the time actually worked whichever is greater, plus mileage, roundtrip, to and from their residence

#### **3.3.3 Holiday Pay**

Employees are paid their regular wages for Court-paid holidays as set forth under the policy entitled "Holidays." To receive holiday pay, the employee must work the regularly scheduled workdays immediately preceding and following the Court holiday, or receive prior approval from their supervisor to take the time off, and be on authorized paid leave. Non-exempt employees who are authorized to work during a Court-paid holiday are paid at one and one half (1 1/2) times their regular rate of pay.

#### **3.3.4 Standby Pay**

Any employee assigned by the Court to be on call during non-duty hours shall receive standby compensation at the rate of three dollars per hour during such standby period, provided the employee is available for, and responds to, all calls for work. If the employee is not available or fails to respond to a call for work, the employee shall receive no compensation for the entire period.

#### **3.3.5 Bilingual Pay**

When it has been determined that an employee's periodic use of bilingual language skills or specialized communication skills are essential and critical for the successful performance of Court functions, a bilingual differential shall be paid at a rate of three dollars twenty five cents (\$3.25) per day for any day in which an employee is required to communicate any information involving Court operations to a member of the public in person or by telephone.

When it is determined that there is a continual need for an employee's use of bilingual language skills, the Court shall verify the employee's bilingual language skills and certify the employee to receive bilingual differential of thirty-two dollars fifty cents (\$32.50) per pay period.

The Court will review the need for continued bilingual language skills on an annual basis, subject to meeting and conferring with any affected employee

representative organization if the Court proposes to take action to modify this program following such revision.

### **3.4 Payday**

#### **3.4.1 Regular Paydays**

Employees are paid on a bi-weekly basis. Each paycheck will include earnings for all work performed through the end of the current payroll period. If a regularly scheduled payday falls on a day off (e.g., a holiday), employees will be paid on the first workday preceding the regularly scheduled payday.

Each December, Human Resources will distribute the time sheet deadline and payday schedule to all employees for the following year. In addition, Human Resources will provide employees with the deadlines for submittal of deduction changes for the month's payroll.

#### **3.4.2 Payment Upon Resignation or Termination**

If an employee resigns, his or her paycheck will be available on the next scheduled payday or by regular mail, at the request of the employee. If an employee fails to return to work, the paycheck will be mailed by regular mail to the employee's last known address on the next scheduled payday after the date when the employee is considered to have terminated.

If an employee is terminated involuntarily, his or her paycheck will be mailed to the last known address on the next scheduled payday. The employee's final paycheck will include payment for all wages due and eligible leave, minus authorized deductions.

#### **3.4.3 Paycheck Distribution**

Payroll checks will be distributed to employees. An employee may designate another person to pick up his or her check by written request to Payroll. Employees may also request to have their payroll checks deposited directly into their bank accounts by written request to Payroll.

Payroll checks may be mailed to employees who are on sick leave or on any other leave.

Employees are responsible for providing the Court with an accurate mailing address for payroll purposes. If a paycheck is misdirected as a result of inaccurate or obsolete information provided by an employee, a replacement paycheck will be issued within four (4) working days. The Court shall not be considered to have violated this provision if a paycheck is delayed for reasons outside the Court's control.

## 4.0 Expense Reimbursement Policy

### 4.1 Scope

When it is necessary for employees to travel or incur expenses on Court business, it is the intent of the Court that those employees neither suffer or derive any financial burden as a result of that requirement. Employees are not expected to derive financial benefit from the conduct of Court business.

Actual and necessary costs of transportation and registration fees will be fully reimbursed with prior approval of the Court Executive Officer, or designee. Transportation includes common carrier costs, supplementary ground transportation, including travel to and from a common carrier terminal (including parking), and private auto mileage, when authorized, for the sole means of transportation to and from the meeting.

The Court will not pay for any costs incurred by or related to a spouse or companion.

The Court will not pay for any alcoholic beverages or tobacco products.

For the purposes of this section, an employee includes all Judicial Officers, employees, and persons in the service of the Court.

### 4.2 Reimbursement Claims

In the event a required receipt does not accompany the employee's claim for reimbursement, the Court's Accounting Division will require the employee to sign a declaration verifying that the receipt is either not available or has been lost or misplaced.

To claim reimbursement for the same costs from more than one source is prohibited. For example, submitting claims for reimbursement to a State or Federal agency or other source and to the Court. However, if another source provided only partial reimbursement, the balance up to the limits authorized by this policy, may be claimed. Appropriate documentation must be submitted with the claim (e.g. the State claim form showing the costs that are being paid by the State).

### 4.3 Lodging and Meals

#### 4.3.1 Lodging

Reimbursement for lodging shall be in accordance with rates and procedures approved by the Controller of the State of California and the Administrative Office of the Courts.

### **4.3.2 Meals**

Reimbursement for meals shall be in accordance with rates and procedures approved by the Controller of the State of California and the Administrative Office of the Courts

#### **4.3.2.1 In-County Meetings**

When an employee is required to attend a breakfast, luncheon, or dinner meeting within the County, the employee shall be reimbursed at the above per diem rate for that meal, with prior approval of the Court Executive Officer, or designee. Reimbursement for attendance at other meals within the County shall be at the Court Executive Officer's discretion.

#### **4.3.2.2 In-County Training**

Meals for in-county training will not be reimbursed unless the meal is included in the cost of registration.

## **4.4 Attending Conventions, Conferences, or Business Meetings**

The Court Executive Officer must approve attendance, during regular work hours, at Court-related conventions, conferences, or business meetings. Requests for reimbursement for registration fees and travel expenses must be made in advance.

## **4.5 Advance**

Employees may request an advance of estimated expenses. To request an advance employees must submit an Expense Form to the Court Executive Officer that describes the anticipated expense and the reason it will be incurred.

## **4.6 Transportation Expenses**

Reimbursement will not be made for transportation expenses between an employee's place of residence and their Primary Work Location.

Authorized travel between home and other Court business destination(s) (including Temporary Work Locations), and/or between Court business destination(s), shall be reimbursable as follows: only the mileage/transportation expense in excess of the usual round trip commute from home to Primary Work Location is reimbursable.

If any employee is authorized to perform overtime work, which necessitates more than one trip to the work location on a normal workday, the employee shall receive mileage for the additional commute.



Reimbursement under this section will be made, upon submission of a claim by the employee, at the current federal mileage reimbursement rate established by the Internal Revenue Service that corresponds to the date(s) of travel, or for actual incurred transportation expenses, whichever is less.

Travel arrangements made by the Court are presumed to comply with the requirements of this policy.

## **4.7 Transportation by Aircraft**

Reimbursement for airline travel will be allowed for the most inexpensive class of travel. Employees may not travel by private plane or non-scheduled airline without prior approval of the Court Executive Officer.

The Court's Administrative Services Division will make the necessary arrangements for travel that will be paid and/or reimbursed from Court funds.

## **4.8 Transportation by Automobile**

### **4.8.1 Court Vehicles**

Use of Court provided vehicles for approved travel is encouraged. Court provided vehicles should normally be used when the sole means of transportation is by automobile. Court vehicles should not be used for non-Court business. The Court's Administrative Services Division will make the necessary arrangements. If a Court vehicle is not available, reimbursement for the use of a private vehicle shall be made in accordance with this policy.

If use of a rental car is approved, reimbursement up to fifty dollars (\$50) per day may be obtained with receipts. Reimbursement in excess of fifty dollars (\$50) per day requires prior approval of the Court Executive Officer. The court will reimburse employees for fuel costs for a rental vehicle.

### **4.8.2 Private Vehicles**

An employee who drives their personal automobile on approved Court business will be reimbursed for mileage at the rate approved by the State of California. All claims for mileage reimbursement must be submitted within ninety (90) days of incurring the mileage expense. Any employee who drives a personal vehicle on Court business shall provide the Court with proof of insurance as required by law and the Administrative Office of the Courts.

Use of a private vehicle to conduct Court business is voluntary on the part of the employee.

Expenses for gasoline or routine repairs shall not be allowed.

Reimbursement will be allowed for necessary parking while on Court business.

## **4.9 Transportation by other Carrier**

Reimbursement will be allowed for travel by railroad or bus if approved in advance by the Court Executive Officer.

Meals incurred while on overnight train or bus travel will be reimbursed in accordance with section 4.3.2.

## **4.10 Travel Allowances While on Sick Leave, Vacation or Compensatory Time Off (CTO)**

Reimbursement for expenses incurred by employees while on sick leave, vacation, or compensatory time off shall not be allowed without approval of the Court Executive Officer.

## **4.11 Miscellaneous Expenses**

### **4.11.1 Incidental Expenses**

Incidental expenses are available only after the first full 24-hour period of travel at reimbursement rates approved by the Controller of the State of California and the Administrative Office of the Courts. No receipts are required. Examples of incidental expenses are baggage, tips, laundry, and dry cleaning.

### **4.11.2 Telephone Charges**

Reimbursement for telephone charges is limited to work-related business. If claiming reimbursement, identification of locations called will be required.



## **5.0 Court Meeting and Training Expenses Reimbursement Policy**

### **5.1 Scope**

It is the purpose of this policy to authorize reimbursement for the reasonable and necessary expenses incurred by the Court for refreshments and meals for on-site training and for facility rentals. This policy is applicable to all Judicial Officers, employees, and persons in the service of the Court.

### **5.2 Refreshments**

The Court Executive Officer shall be authorized to expend Court funds for refreshments and meals in connection with administrative meetings or training sessions for Court employees. The costs for any refreshments or meals shall be submitted to the Court Executive Officer at least two (2) working days in advance of the meeting or training session. Under no circumstances shall the costs for any meeting or session exceed the amount established by the Court.

### **5.3 Facility Rentals**

The Court Executive Officer shall be authorized to expend funds for facility rental fees in connection with administrative meetings or training sessions for Court employees. The costs associated with any facility rental shall be submitted to the Court Executive Officer at least ten (10) working days in advance of the meeting or training session. Under no circumstances shall an off-site facility be rented when an adequate Court facility is available.

## 6.0 Employee Benefits

Government Code section 71612 provides that the enactment of the legislation transferring court employees from County employment to Court employment shall not be cause for the modification or elimination of any existing wages, hours or terms and conditions of employment. This includes all existing benefits, such as worker's compensation, social security, employee assistance program, group insurance benefits, federally regulated benefits, retirement, and deferred compensation benefits. The County is required to continue to provide all existing benefits for twenty-four (24) months or until successor benefits are in place, whichever occurs first. Many of these benefits are provided pursuant to contract between the County and the benefit administrator or vendor. The Court is not a party to these contracts and has no direct relationship with the benefit provider.

Subject to the County's continued provision of the benefits as required by statute, all employees will continue to receive benefits as defined in the Memorandum of Understanding between the Court and the Butte County Employee's Association and Butte County Management Employees Association until the expiration of the Memorandum of Understanding or until replacement benefits are obtained whichever occurs first. The Court shall not be responsible for the interruption or discontinuation of benefits caused by the benefit provider, administrator, or vendor.

The employees' share of cost for these benefits will continue to be a subject of meet and confer.

### 6.1 Eligibility

All regular and limited term employees assigned to a (1/2) one-half time or more position and the employees' dependents shall be entitled to participate in the court-sponsored group health plan. Eligible employees enrolling in the plan within (30) thirty days following their appointment will be covered subject to the provisions of the MOU with the appropriate bargaining unit and the contract limitations with the carrier. Employees enrolling after the (30) thirty day enrollment period will be approved only upon evidence of insurability. Regular and limited-term employees assigned less than (1/2) one-half time and extra-help employees shall not be eligible for participation in the health plan.

### 6.2 Premiums

Employees shall pay their share (as set forth in the MOU with the appropriate bargaining unit) of the total monthly premium for employee and dependent coverage to be paid through a payroll deduction, unless otherwise specified in this section. To be eligible for premium sharing, an employee must have no less than the total of (10) ten days of compensated employment occurring within the (2) two regular pay periods immediately preceding the pay period from which the premium deduction is made. Employees with less than the required compensated days of employment may continue coverage by advancing to the Superior Court Accounting Division the total premium amount for the month. For the purpose of this section only, an employee on an approved industrial disability leave of

absence, who is receiving temporary disability payments from the compensation insurance fund, shall be considered in full compensated employment status. A covered employee granted an approved non-compensated leave of absence may continue health insurance coverage by advising the Human Resources Administrator and advancing to the Superior Court's Accounting Division each month the total monthly premium cost.

### **6.3 Description**

The Court group health insurance program is available to all employees in a regular or limited term position (hereinafter called employee). There will be two (2) participation levels, identified as Employee A and Employee B as per 6.4 of this manual.

### **6.4 Participation Levels**

#### **EMPLOYEE A- CORE HEALTH PLAN**

The Court will pay the first \$16/month of the premium for the medical coverage elected through PERS. If the employee elects medical coverage, then the employee must participate in a dental plan option and the vision insurance (Core Plan) effective the month following ratification of this agreement. The Court will make the premium contribution pursuant to a negotiated agreement and/or MOU's with recognized employee representatives.

#### **EMPLOYEE B- FLEXIBLE BENEFITS OPTION**

Employees who elect not to participate in Option A will be asked to sign a waiver and will be required to provide proof of medical insurance.

The Court will provide an employer monthly contribution for employees who elect Option B in the amount pursuant to a negotiated agreement and/or MOUs with recognized employee representatives.

### **6.5 Continuation of Coverage**

Continuation and conversion of the health plan benefits shall be as prescribed by law or contract limitations with the plan carrier. Continuation of conversion coverage shall be paid fully by the subscriber. Employees covered under the health plan who terminate from Court employment for reasons other than gross misconduct, may continue coverage under the health plan for up to 18 months. Covered child dependents of an employee who become ineligible under the terms of the plan, or the covered surviving spouse or legally separated or divorced spouse of an employee, may continue coverage under the plan for up to 36 months. Application for continuation of coverage must be made to the Human Resources Administrator in a manner and form prescribed by the Human Resources Administrator.

Any dispute as to what constitutes misconduct sufficient to deny continued coverage under this section shall be subject to the grievance process.

## 7.0 Time Off (Paid & Unpaid Leave)

### 7.1 Vacation

#### (\*Below Section Only for General and Professional Unit)

##### 7.1.1 Eligibility and Accrual

All regular full and part-time employees begin earning vacation benefits on the date of hire. Introductory employees may earn, but cannot use, vacation before six (6) months of continuous service without the approval of the Court Executive Officer.

Part-time and temporary employees who work less than twenty (20) hours per week do not earn vacation benefits. Part-time and temporary employees who work twenty (20) or more hours per week shall accrue pro-rated vacations and benefits.

Employees shall accrue vacation at the rate specified in the Memorandum Of Understanding for their unit.

Once the maximum accrual is reached, the employee will no longer earn vacation benefits. An employee will once again earn vacation benefits after the employee has taken vacation and accrued hours have dropped below the maximum. Where extenuating circumstances can be demonstrated, the terms of temporary relief from the maximum accrual shall be negotiated among the Court, the employee, and any affected employee representative organization.

##### 7.1.2 Vacation Increments and Use

Accrued vacation must be taken by eligible employees in increments of at least fifteen (15) minutes.

#### (\*Below Section Applies Only to Supervisory Unit)

##### 7.1.1 Eligibility and Accrual

All regular full and regular part-time limited-term full and limited part-time employees begin earning vacation benefits on the date of hire. Introductory employees may earn, but cannot use, vacation before six (6) months of continuous service without the approval of the Court Executive Officer.

Regular and limited-term part-time employees who work less than twenty (20) hours per week do not earn vacation benefits. Regular and limited-term Part-time employees who work twenty (20) or more hours per week shall accrue pro-rated vacations and health insurance contribution benefits.

Employees shall accrue vacation at the rate specified in the Memorandum of Understanding for their unit.

If on the last day of the calendar year, the employee has exceeded the maximum accrual, the employee will no longer earn vacation benefits, unless the employee has submitted a request for time off that will reduce their accruals to below the maximum by the end of March of the following year and the request has been approved by the supervisor. An employee whose vacation accruals have stopped due to failure to secure the approved time off will once again earn vacation benefits after the employee has taken vacation and accrued hours have dropped below the maximum. Where extenuating circumstances can be demonstrated, the terms of temporary relief from the maximum accrual shall be negotiated among the Court, the employee, and any affected employee representative organization.

**(\*Below Section Applies Only to Supervisory Unit)**

### **7.1.2 Vacation Increments and Use**

Accrued vacation must be taken by eligible employees in increments of at least fifteen (15) minutes.

Unless there is a situation beyond the control of the employee, vacation accruals may only be used if the employee receives approval in advance with 7.1.3. of the Butte Personnel Manual. Failure to secure advance approval will result in the non-compensation of the employee for those hours not worked and not pre-approved.

### **7.1.3 Vacation Approval and Scheduling**

All vacations must be approved in advance by the employee's supervisor. Employees must complete a form requesting time off in paper or electronic form, in advance, except when the vacation is two (2) days or less, in which case approval must be obtained no later than the day before the requested time off. Approval will depend on whether the request can be accommodated within the Court's workload requirements. A request for time off shall be deemed approved if the employee's supervisor does not act on it within ten (10) working days of the date it was submitted, provided however, that there shall be no automatic approval of requests to take vacation during the Thanksgiving, Christmas and New Year's holiday season between November 15<sup>th</sup> and the following January 2<sup>nd</sup>.

During certain times of the year when numerous vacation requests are received, the possibility exists that not all requests can be granted. Generally, vacation requests will be accommodated according to the business needs of the Court and the priority of the requests received. Where a conflict arises in which not all employee vacation requests can be approved for the same date(s), the operational needs of the Court shall govern. If operational needs are not affected, seniority of the employee shall govern.

#### **7.1.4 Vacation Buy-Back**

Annually in January, the Court will compile projections on which employees will be expected to exceed the maximum vacation accrual at the end of the calendar year. Employees who are expected to exceed the maximum will be given the priority in scheduling vacation time off requests to bring them below the maximum accrual and such request shall be approved to the extent necessary to bring the employee under the maximum. If, for any reason, an employee expected to otherwise exceed the maximum accrual does not take vacation time off prior to the end of the year, that employee will be entitled to take vacation time off during the January through March of the following calendar year. Should the employee voluntarily choose not to take the scheduled vacation during the January through March period, the excess accrual hours will be forfeited.

The Court Executive Officer, in her/his sole discretion, may buy back any or all vacation time from any employee who expects to exceed their maximum accrual for vacation at the end of the current year.

Each employee who has completed more than one (1) but less than ten (10) consecutive years of service shall take at least five (5) days of vacation per calendar year. Each employee who has completed more than ten (10) consecutive years of service shall take at least ten (10) days of vacation per calendar year.

#### **7.1.5 Vacation Benefits During Leaves of Absence**

No vacation is earned during an unpaid leave of absence or while on disability salary continuation. Vacation benefits will be earned again when an employee returns to work.

#### **7.1.6 Vacation Advances**

An employee is not permitted to borrow on future vacation benefits.

#### **7.1.7 Holidays Occurring During Vacation**

If an observed Court holiday occurs during an employee's scheduled vacation, no deduction from accrued vacation will be made for the holiday.

#### **7.1.8 Vacation for Family Medical Leave Act (FMLA)**

Employees who request family care or medical leave pursuant to the Court's FMLA policy must use any available accrued vacation during their family or medical leave unless receiving disability payments or worker's compensation benefits, with the exception that the employee may elect to leave up to one half (1/2) of the employee's annual accrual unused.

#### **7.1.9 Vacation Pay Upon Termination**

Upon termination of employment, the employee is paid for all accrued vacation at the employee's base rate of pay at the time of termination.



## 7.2 Holidays

The Court shall observe holidays in accordance with the Code of Civil Procedure, the Government Code and the Rules of the Court. All regular full and part-time employees will receive their regular rate of pay for holidays observed by the Court. Subject to amendment by the Legislature or the Judicial Council, the holidays currently are:

<u>Holiday:</u>	<u>Calendar Day:</u>
New Year's Day	January 1 <sup>st</sup>
Dr. Martin Luther King, Jr. Day	3 <sup>rd</sup> Monday in January
Lincoln Day	February 12 <sup>th</sup>
President's Day	3 <sup>rd</sup> Monday in February
Cesar Chavez Day	March 31 <sup>st</sup>
Memorial Day	Last Monday in May
Independence Day	July 4 <sup>th</sup>
Labor Day	1 <sup>st</sup> Monday in September
Columbus Day	2 <sup>nd</sup> Monday in October
Veteran's Day	November 11 <sup>th</sup>
Thanksgiving Day	3 <sup>rd</sup> Thursday of November
Day After Thanksgiving	Friday after Thanksgiving
Christmas	December 25 <sup>th</sup>
Every day, in addition to the days outlined above, appointed pursuant to California Code of Civil Procedure 135.	
Every day, in addition to the days outlined above, assigned by the Administrative Office of the Courts as a Court holiday.	

When a designated holiday falls on Sunday, the following Monday shall be observed. When a designated holiday falls on a Saturday, the preceding Friday shall be observed.

### 7.2.1 Eligibility for Holiday Compensation

Each regular employee in compensated status on the assigned work day immediately preceding and following a designated holiday shall be entitled to compensation for the designated holiday.

### 7.2.2 Holiday Compensation

Regular employees required to work on a designated holiday or whose regular scheduled day off falls on a designated holiday shall, at the discretion of the Court Executive Officer, be entitled to equivalent compensated time off scheduled anytime from the day preceding the designated holiday forward.

Those on alternative work schedules shall receive credit for eight (8) hours per holiday, unless otherwise noted in a side letter with any affected employee representative organization on alternate work shifts.

## 7.3 Sick Leave

### 7.3.1 Eligibility and Accrual (\* General and Professional Units Only)

All regular full and part-time employees begin earning sick leave on the date of hire.

Part-time and temporary employees who work less than twenty (20) hours are not eligible to earn or receive sick leave benefits.

Regular full-time employees earn twelve (12) sick leave days per year. Part-time employees earn sick leave days on a *pro rata* basis, calculated as the ratio of hours worked in a regular workweek to forty (40) hours. Employees may carry over accrued sick leave from one calendar year to the next. Employees do not earn sick leave while absent from work and not compensated by the Court.

### 7.3.1 Eligibility and Accrual (\* Supervisory Unit Only)

All regular and limited-term full and part-time employees begin earning sick leave on the date of hire.

Part-time employees who work less than twenty (20) hours are not eligible to earn or receive sick leave benefits.

Regular and limited-term full-time employees earn twelve (12) sick leave days per year. Part-time employees earn sick leave days on a *pro rata* basis, calculated as the ratio of hours worked in a regular workweek to forty (40) hours. Employees may carry over accrued sick leave from one calendar year to the next. Employees do not earn sick leave while absent from work and not compensated by the Court.

Unless there is a situation beyond the control of the employee, Sick leave accruals may only be used if the employee receives approval by the employee's supervisor in accordance with 7.3.3 of the Butte Personnel Manual. Failure to secure advance approval will result in the non-compensation of the employee for those hours not worked and not pre-approved.

### 7.3.2 Use of Sick Leave

Sick leave may be taken for a personal illness, a disability, or for a family care or medical leave as described in the Court's policy. Employees may also use sick leave to attend to an illness of a child, parent, or spouse. Additionally, hours absent for the employee's medical and dental appointments will be treated as sick leave.

Employees on sick leave must use any available accrued sick leave during their sick leave unless they are receiving disability payments or worker's compensation.

Sick leave must be used in increments of at least fifteen (15) minutes.



The Court retains the right to request verification from a licensed health care provider for all absences due to illness or injury of three (3) days or more, or less than three (3) days if sick leave abuse is suspected and the verification demand has been approved by Human Resources. The verification from a licensed healthcare provider shall include the anticipated duration of absence, that the absence was medically necessary and the employee's ability to return to work on a full or limited duty basis.

The Court will notify the employee at the earliest possible time when it has determined that verification of the employee's need to be absent from work due to an illness or injury is required. Under this provision, use of leave accruals in order to receive compensation for the absence may be denied if the employee does not provide the verification cited in the above paragraph.

### **7.3.3 Approval of Sick Leave**

Employees who are unable to report to work due to illness or injury are to notify their supervisor no later than thirty (30) minutes after the scheduled start of their workday. Employees shall first call their immediate supervisor to inform them of their absence. If the immediate supervisor is not available, the employee will leave a voice mail informing the supervisor of the absence and any pending work that the supervisor needs to be aware of. The employee shall, in addition, then immediately call the lead worker of the employee's unit to inform the lead worker of the absence. If the lead worker is not available, the employee will leave a voice mail informing them of the absence and any work pending that the lead worker needs to be aware of. The employee's supervisor must also be contacted on each additional day of absence, unless other arrangements have been made with the supervisor, using the same protocol

An employee who must leave work due to illness or injury is to notify the employee's immediate supervisor or lead worker before the employee leaves work. If the employee's supervisor or lead worker is unavailable, the employee shall notify the supervisor's manager or any other manager or supervisor, if the employee's manager is unavailable.

Once an employee has discharged her or his duty to notify the supervisor or lead worker as outlined above, the employee will not otherwise be required to receive a telephone call at the employee's home or otherwise be required to engage in further conversation of the employee's need for sick leave with any employee of the Court. However, should a supervisor or lead worker subsequently discover insufficient information has been left by the employee with regard to any project, assignment, task requiring attention that work day, subsequent telephone communication with the worker will be permitted merely for the purpose of obtaining the required information.

Whenever possible (e.g., for a scheduled doctor's or dentist's appointment), employees must seek approval from their immediate supervisor before taking their sick leave.

### 7.3.4 Compensation for Sick Leave

Eligible employees will receive pay at their normal rate of pay for any sick leave taken. No employee will receive pay instead of sick leave under any circumstances, except that, upon retirement or termination in good standing, an employee who has accrued more than two-hundred forty (240) hours of sick leave may be compensated for the hours in excess of two-hundred forty (240) at one-half (1/2) the employee's regular rate of pay up to a maximum of three thousand dollars (\$3,000).

### 7.3.5 Coordination of Sick Leave Benefits with Other Benefits (\*General and Supervisory Units Only)

The Court will pay sick leave benefits to an eligible employee with accrued leave during the normal three-day waiting period before the employee is paid workers' compensation benefits pursuant to applicable law governing industrial injury or illness.

The Court will also pay accrued sick leave benefits during any waiting period required by the plan before the eligible employee is paid benefits from either state unemployment disability or other insured unemployment disability plan.

Following any applicable waiting period, an employee will continue to receive accrued sick pay, less the disability benefits actually received.

### 7.3.5 Coordination of Sick Leave Benefits with Other Benefits (\*Professional Unit Only)

There shall be no coordination of sick leave accruals with other benefits. Employees shall use their sick leave accruals. Disability benefits actually received shall not be deducted from the employee's pay.

### 7.3.6 Wellness Incentive Program

In order to encourage employee efforts to maintain good health, reduce unplanned employee absenteeism, and support the accrual of sick leave balances for unexpected future illnesses, the Court establishes a Wellness Incentive Program which provides paid time off as an incentive for the minimal usage of sick leave.

#### Award Period

Wellness awards will be made twice per year based on the amount of sick leave used during pay periods 1-13 (approximately July 1 through December 31) and during pay periods 14 -26 (approximately from January 1 through June 30).

#### Eligibility for Participation

To qualify for participation in the award program, a full-time Regular-Help or Limited-Term employee must have worked for an entire six-month award period. (For example: An employee hired March 1, would not be eligible to participate until the award period from July 1 – December 31.) Employees must not have any unpaid leave or unexcused absences during the six-month period. Extra-help employees or employees scheduled to work less than 20 hours per week are

excluded from eligibility for this award program. Employees who transfer from a part-time to full-time position during the award period shall qualify for an award based on the criteria for the status held for the majority of the award period. Employees who transfer from extra help to a part-time or full-time position shall be excluded from participation until they have worked for the entire six-month period in a Regular-help or Limited-term position. Employees who are exempt from the Fair Labor Standards Act (FLSA) are not eligible to participate in this award program

Award Criteria

To qualify for an award under the program, employees must meet the eligibility requirements stated above AND meet the following:

An eligible Full-time employee must have used twelve (12) hours or less of sick leave in the designated six-month period. Vacation used in lieu of sick leave shall be counted for this purpose. Sick leave used as a result of receiving a catastrophic leave donation(s) shall also be counted for this purpose.

AND

An eligible Full-time employee shall have a minimum sick leave balance at the end of the designated six-month period as follows:

1-3 years of service	175 hours of sick leave
3+ to 6 years of service	240 hours of sick leave
Over 6 years of service	375 hours of sick leave

Eligible employees who are scheduled to work more than 20 hours per week shall have the award criteria and the award benefit prorated.

Award

An employee who meets all of the eligibility and award criteria shall receive 8 hours of paid time off (PTO) for each qualifying six-month period.

Limitations

Employees must use wellness awards within the six-month time period immediately following the time period in which the awards were earned. Awards will expire at the end of the six month time period immediately following the time period in which the awards were earned. Awards shall have no monetary value and shall not be paid out if an employee separates from employment. Time off must be scheduled and pre-approved by the employee's supervisor in the same manner as vacation requests.

Grievances

Whenever an employee believes that they have a grievance as defined in Section 10.2.2 of the Court Personnel Manual, the employee may proceed in accordance with Section 10.2.3, up to and including the decision by the Court Executive Officer. A grievance of the Wellness Incentive Program may not be submitted to a hearing panel. The decision of the Court Executive Officer shall be final.

## 7.4 Catastrophic Leave Donations

### 7.4.1 Policy

Catastrophic Leave Donations permits salary and benefit continuation for a specified, eligible employee who has exhausted all paid leave as the result of the employee's catastrophic illness or injury or because the employee needs to care for a member of the employee's immediate family that has a catastrophic illness or injury. Participation in the donations is strictly confidential and voluntary. Donations are not available for illnesses or injuries that do not meet the definition of "catastrophic" as defined in this policy.

### 7.4.2 Eligibility

An eligible recipient of the Catastrophic Leave Donation is any regular or limited-term employee who has exhausted all paid leave as the result of the employee's catastrophic illness or injury or because the employee needs to care for a member of the employee's immediate family that has a catastrophic illness or injury. Immediate family is defined as father, mother, child, spouse, brother, sister or any of the above that is step-related.

A Review Committee shall be established consisting of 4 committee members, two (2) selected by the represented employee organization and two (2) selected by the Court Executive Officer.

The request shall be referred to the Review Committee and either approved or denied within 10 working days of receipt of the written request.

The Court will require the requesting employee to provide written verification of the catastrophic illness or injury from a licensed medical practitioner. The medical verification will be sufficient to allow the Review Committee to make a determination regarding whether or not the condition meets the definition of catastrophic as defined in this policy.

An eligible employee, as approved by a majority vote of the Review Committee, will have donations solicited on their behalf to all qualifying court employees.

The decision of the Review Committee shall be final.

### 7.4.3 Definition

"Catastrophic" is defined as:

An illness or injury that is sudden, unexpected or unusual, and is life-threatening or severely debilitating.

### 7.4.4 Usage Following Return to Work

An employee who returns to work after a health-related leave for which the employee otherwise qualified for the Catastrophic Leave Donation will be permitted to accept donations of leave for purposes of following up medically with the condition which originally resulted in the leave, such as, but not limited

to, doctor's appointments related to the employee's medical condition and/or prescribed visits to therapy providers. To qualify, an employee's request must be clearly related to the condition which originally resulted in the leave and have insufficient sick leave accrued upon his/her return to work to be able to attend such appointments without moving into non compensated status. The Court may require verification that the follow-up medical care is related to the original catastrophic condition.

The maximum time available for use by any employee for this after return to work donation shall be 40 hours in any calendar year. A waiver of this maximum may be requested by appeal to the Review Committee, who shall determine if there is an extraordinary need for the waiver on a case-by-case basis. This determination shall be made by majority vote of the Review Committee.

Donations shall be established whenever requested by an employee who qualifies to use it. The donations shall end when the employee returns to work, or if follow-up care is needed pursuant to this section, when the need for follow-up care ends. The donation is not in continuous existence; it is tied to the specific instance as originally requested.

This policy shall not prevent the Court from medically separating an employee.

#### **7.4.5 Donation Parameters**

Regular and limited-term, full and regular limited-term part-time employees may donate accrued leave in increments of two (2) hours to a specified employee. Donations may only be made from an employee's vacation, CTO, sick or management leave. Only employees with a total of more than eighty (80) hours of accrued vacation, CTO, PTO and management leave shall be allowed to donate.

The annual maximum donation by any single employee is a total of forty (40) hours of which not more than sixteen (16) may be from sick leave. No donation of sick leave will be permitted where such donation shall leave any donating employee with less than one hundred and sixty (160) total hours of sick leave themselves. The total annual maximum amount of sick leave that one employee may receive from employee catastrophic leave donations shall not exceed a cumulative total of forty (40) hours in a calendar year. Donated hours shall remain in the donor's leave accruals until it is needed to be applied to the receiving employee's paycheck. Donations will be used on a first-come, first-applied basis. Once processed and transferred, all donations are irrevocable. Donated hours may only be used for the catastrophic condition for which the original request was made.

An employee who is eligible to receive either short or long-term disability insurance benefits may coordinate those benefits with donated leave for which the employee is eligible through the Catastrophic Leave Donation, pursuant to the negotiated coordination of benefits, if any.

In no event shall the donation of leave pursuant to this policy result in the receiving employee being credited into their leave accruals, any leave accrual from the donating employee. Leave accruals that are earned as a result of being

in a compensated status due to the donation, will accrue to the receiving employee.

Accrued leave shall be transferred hour for hour, regardless of differing pay scales.

An employee may request information from Human Resources regarding the number of donated hours remaining, in order to determine whether or not the employee should make a request for additional donations.

Any unused donations will remain in the donating employee's accruals.

#### **7.4.6 Procedures**

An employee who wishes to request leave donations shall submit a Catastrophic Leave Donation Request form and medical verification of the catastrophic illness or injury to the Human Resources Administrator. The medical verification must be sufficient for the Review Committee to determine whether or not the condition meets the definition of catastrophic as defined in this policy.

The request shall be made on a form approved by the Human Resources Administrator.

The Human Resources Administrator shall refer the request and verification to the Review Committee for review and action. Upon determination that the employee is eligible to receive donations, Human Resources will communicate the request to the court employees.

Employees who wish to donate leave to the employee shall submit an Authorization for Donation form to the Human Resources Administrator.

### **7.5 Leaves of Absence**

An employee may be granted a leave of absence only for good and sufficient reason. All leaves of absence granted, and return from leaves, are to be documented on personnel action forms and filed with the Human Resources Administrator. Should the classification or pay rate of the position held by an employee on a leave of absence change during the leave, the employee, upon returning from leave, shall be assigned to the new classification or pay rate.

- a. Limited Leave. The Court Executive may grant a regular employee a limited leave of absence not to exceed thirty (30) consecutive days. During such leave, if not Court-compensated, the employee shall not accrue seniority or benefits.
- b. Extended Leave. The Court Executive may authorize a regular employee an extended leave of absence not to exceed one (1) year. During such leave, if not Court-compensated, the employee shall not accrue seniority or benefits.
- c. Industrial Disability Leave Without Pay. Each regular employee who is injured or contracts an industrial illness while on duty shall be granted an unpaid disability leave by the Court Executive Officer from the time accrued leave benefits are

exhausted until the employee is released to return to work or it is determined by a physician the employee may not return to normal work.

## **7.6 Family and Medical Leave Act (FMLA)**

### **7.6.1 Eligibility**

To be eligible for family care and medical leave an employee must have worked for the Court for at least twelve (12) months prior to the date on which the leave is to commence and have worked at least one thousand two-hundred fifty (1,250) hours in the twelve (12) months preceding the leave.

### **7.6.2 Use of FMLA**

“Family care leave” may be taken for (1) the birth of a child of the employee; (2) the placement of a child with the employee in connection with adoption or foster care of a child; or (3) care for the employee’s parent, spouse, or child who has a serious health condition.

“Medical leave” may be taken for an employee’s serious health condition. A “serious health condition” is one that requires either in-patient care in a medical facility or continuing treatment or supervision by a health care provider.

### **7.6.3 Duration of FMLA**

Provided all the conditions of this policy are met, eligible employees will be entitled to up to a cumulative maximum of twelve (12) weeks of family and/or medical leave within a twelve (12) month period. The maximum amount of family leave that may be taken in a twelve (12) month period is twelve (12) weeks. The twelve (12) month period is measured backwards from the date an employee’s requested family and/or medical leave will begin. Parents who both work for the Court are entitled to a combined total of twelve (12) weeks leave each in a twelve (12) month period for the birth of a child or placement of a child with the employee in connection with adoption or foster care unless the parents both work in the same division in which case, they will be entitled to an aggregate of twelve (12) weeks.

Family care leave taken for the birth, adoption, or foster care placement of a child generally must be taken in blocks of at least two (2) weeks duration; provided, however, that the employee shall be given the option twice to take shorter periods.

Family care or medical leave for the employee’s own serious health condition, or for the serious health condition of the employee’s spouse, parent, or child, may be taken intermittently or on a reduced schedule where medically necessary. If leave is taken intermittently or on a reduced schedule, the Court retains the discretion to transfer the employee temporarily to an alternative position with equivalent pay and benefits which better accommodates the employee’s leave schedule and the operational needs of the Court.

If the leave is requested in connection with a planned, non-emergency medical treatment, the employee shall provide reasonable advance notice to the Court and



make a reasonable effort to schedule the treatment to minimize the disruption to the Court's operations.

#### **7.6.4 Use of Paid Leave In Conjunction with FMLA**

Employees are required to use all accrued vacation time during family care and medical leave, with the exception that the employee may elect to leave up to one half (1/2) of the employees annual accrual unused. However, employees are required to use sick leave only for medical leaves, subject to the same exception. Employees may elect to use sick leave for family care leave.

The use of paid leave during family care or medical leave does not extend the total duration of family care and medical leave to which an employee is entitled beyond twelve (12) weeks in a 12-month period.

#### **7.6.5 Effect of FMLA on Pay**

Except to the extent that paid leave is used, family care and medical leave is unpaid.

#### **7.6.6 Effect of FMLA on Benefits**

During an employee's family care or medical leave, the Court shall continue to pay for the employee's participation in the Court's health plans, to the same extent and under the same terms and conditions as if the employee had not taken leave.

If the employee fails to return from the leave for a reason other than the recurrence or continuation of the health condition that brought about the leave or other circumstances beyond the employee's control, the employee may be required to reimburse the Court for any health premiums paid on the employee's behalf during any unpaid periods of leave. The employee may also be required to reimburse the Court for such health premiums paid during the employee's unpaid leave if, upon the employee's return, the employee requests and is granted a reduced work schedule for which such benefits would not ordinarily be paid by the Court.

Employees on family care or medical leave earn employment benefits, such as sick leave or vacation benefits, only when paid leave is being used.

#### **7.6.7 Definitions**

A child is anyone under eighteen (18) years of age who is the employee's biological child, adopted child, foster child, stepchild, legal ward, or an adult legally dependent child. This may also include a child for whom the employee has day-to-day responsibility.

A parent is a biological, foster or adoptive parent, stepparents, legal guardians, mother or father-in-law, or someone who plays or has played the role of parent.

A spouse is defined by a legal marital relationship.

A serious health condition is an illness, injury, impairment, physical or mental



condition serious enough to involve hospitalization, in-patient care in a residential health care facility, continuing treatment, or supervision by a health care provider while the patient is housed in the residence. Before leave is granted, the Court may require appropriate medical certification. In some instances, a second or third medical opinion may also be required. In the event of a conflict between the opinions of the first and second physicians, those physicians shall select a third physician for the purpose of rendering a final opinion.

#### **7.6.8 Procedures to Request Leave**

A Leave of Absence Request form must be completed and submitted to Human Resources thirty (30) days prior to the commencement date, except where medical conditions make such a requirement impossible. A copy of the Request for Leave form is appended to this manual.

When the leave is to care for a sick child, parent, or spouse, the requesting employee must submit a letter signed by a physician that states:

- (a) The date the illness or condition began;
- (b) The probable duration of the condition;
- (c) The estimated time the employee will need to care for the family member; and
- (d) A statement that the illness or condition requires the participation of the employee.

When the leave is for planned medical treatment, the employee shall provide reasonable advance notice to the Court and make a reasonable effort to schedule the treatment so as not to disrupt Court operations.

When the leave is for the employee, the employee must submit appropriate medical verification.

#### **7.6.9 Procedures for Reinstatement**

Upon return from FMLA, an employee will be reinstated to his or her prior position, or if unavailable, a comparable position for which the employee is qualified at the same facility, provided that the Court shall retain the right to reassign in accordance with section 2.5 of this manual.

Employees on leave must notify their supervisor at least one (1) business day prior to the end of leave to inform the Court of availability to return to work. The Court shall require appropriate medical certification before an employee returns to work.

An employee's failure to return from leave, or failure to contact his or her immediate supervisor or Human Resources within three (3) days of the scheduled date of return, will be considered a voluntary resignation.

## **7.7 Pregnancy Disability Leave**

### **7.7.1 Statement of Policy**

Any employee who is disabled by pregnancy, childbirth, or related medical conditions may request a pregnancy disability leave. This leave may be used for the period of actual disability up to a maximum of four (4) months. This leave is in addition to any family care or medical leave to which the employee may be entitled under the Court's FMLA policy.

### **7.7.2 Transfers**

Upon request, the Court will provide a reasonable accommodation to an employee disabled by pregnancy, childbirth or related medical condition. Such reasonable accommodation may include a temporary transfer to a less strenuous or hazardous position. A transfer is available (1) if the employee requests it; (2) if the request is supported with a medical certification from her health care provider; and (3) if she is qualified to perform the job. However, the Court will not create an additional position for such an accommodation nor will the Court discharge any employee or transfer an employee with more seniority.

### **7.7.3 Substitution of Paid Leave for Pregnancy Disability Leave**

An employee taking pregnancy disability leave must use any available sick leave and may, at her option, use any accrued vacation time for her leave, with the exception that the employee may elect to leave up to one half (1/2) of the employee's annual accrual unused. The use of paid leave does not extend the total duration of the leave to which the employee is entitled.

### **7.7.4 Effect of Pregnancy Disability Leave on Pay**

Except to the extent that paid leave is used, pregnancy disability leave is unpaid.

### **7.7.5 Effect of Pregnancy Disability Leave on Benefits**

During an employee's pregnancy disability leave, the Court shall continue to pay for the employee's participation in the Court's health plans, to the same extent and under the same terms and conditions as if the employee had not taken leave.

If the employee fails to return from the leave for a reason other than complications relating to the pregnancy, or other circumstances beyond the employee's control, the employee may be required to reimburse the Court for any health premiums paid on the employee's behalf during any unpaid periods of leave. The employee may also be required to reimburse the Court for such health premiums paid during the employee's unpaid leave if, upon the employee's return, the employee requests and is granted a reduced work schedule for which such benefits would not ordinarily be paid by the Court.

Employees on pregnancy disability leave earn employment benefits, such as sick leave or vacation benefits, only when paid leave is being used for unpaid leave and only if the employee would otherwise be entitled to earn such benefits.

### **7.7.6 Procedures for Requesting Leave**

Requests for pregnancy disability leave or an extension of the leave must be submitted in writing on a Leave of Absence Request form thirty (30) days prior to the commencement date, except when medical conditions make such a requirement impossible. The employee may be required to submit verification of physical condition from a health care professional. Extensions of pregnancy disability leaves are ordinarily not granted, but under critical circumstances may be granted with the Court Executive Officer's approval.

### **7.7.7 Procedures for Reinstatement**

Upon return from pregnancy disability leave, an employee will be reinstated to her prior position, or if unavailable, a comparable position for which the employee is qualified at the same facility; provided that the Court shall retain the right to reassign in accordance with section 2.5 of this manual.

Employees on pregnancy disability leave must notify their supervisor of their availability to return to work at least one (1) business day prior to the end of leave.

The Court shall require an employee to bring a statement from her doctor indicating that she is physically able to resume her regular work prior to return from pregnancy disability.

An employee's failure to return from leave of absence, or failure to contact her supervisor or Human Resources within three (3) days after the scheduled date of return, will be considered a voluntary resignation.

## **7.8 Workers Compensation Leave/Reasonable Accommodation Leave**

In addition to medical or pregnancy disability leaves, employees may take a temporary leave of absence due to a workplace injury, pursuant to section 7.5 (c), or to reasonably accommodate a qualified disability under the Americans with Disabilities Act (ADA). Any disability leave under this section will run at the same time as any medical leave to which the employee is entitled under this manual. The employee may be required to submit verification of physical condition from a health care professional.

With the exception of worker's compensation benefits, leaves under this section will be unpaid, except that the employee may elect to have Human Resources coordinate available accrued time off with leave under this section.

The Court's policies on leaves shall at all times conform to the requirements of state and federal law.

## 7.9 Fitness for Duty Examinations

### 7.9.1 Statement of Policy

The Court may require an employee or prospective employee to have a health-related examination including, but not limited to, a physical examination and psychological evaluation under the following circumstances:

- (a) When the employee's physical fitness to perform their job or safety for the employee or others is an issue, as determined by the Court Executive Officer;
- (b) In order to be eligible for hiring or rehiring more than three (3) years from previous employment; or
- (c) For any other job-related reasons, including, but not limited to, prevention of violence or sexual harassment in the work place, provided the Court Executive Officer provides the employee who is to be examined a written notice detailing the full justification thereof.

The Court will provide written notification of the need for the "Fitness for Duty" examination to the employee or prospective employee. The Court shall pay all costs of the examination and the employee shall be on paid status during the examination process. The Court Executive Officer will make arrangements for the examination with a licensed healthcare provider and will advise the employee or prospective employee of the name, address, telephone number and the date and time of the appointment. Failure of an employee to keep a scheduled appointment or to cooperate with the healthcare provider may result in disciplinary action, up to and including dismissal. Failure of an applicant to whom an offer of conditional employment offer has been given to keep a scheduled appointment or to cooperate with the healthcare provider may result in the prospective employee being eliminated from further consideration of employment with the Court. The healthcare provider report to the Court following such an exam shall be limited to a determination of whether the employee is fit for duty in the subject classification or position.

### 7.9.2 Medical Demotion, Transfer, Termination, or Retirement

When the Court Executive Officer or designee, after considering the conclusions of the medical examination provided for by this section or medical reports from the employee's physician and other pertinent information provided by the employee, find medical cause that the employee is unable to perform the work of the present class of position, but is qualified and able to perform the work of another class of position of less capacity, the Court Executive Officer may initiate a demotion or transfer of the employee to such an available position in the Court for which the employee meets the minimum qualifications as determined by the Human Resources Administrator. When the Court Executive Officer initiates a demotion, the affected employee may appeal the demotion through the grievance process outlined in this manual.

When the appointing authority finds that a medical cause exists and the employee is unable to perform the work of the present position, or any other available position in the department, the employee may be terminated. All original copies of medical reports, findings, and information shall be submitted by the Court Executive Officer to Human Resources to be placed in the employee's separate confidential medical file as defined in section 2.9.2. When the Court Executive Officer initiates a termination, the effected employee may appeal the termination through the grievance process outlined in this manual.

The Human Resources Administrator shall make applications on behalf of the Superior Court of California, County of Butte for disability retirement for all employees regardless of classification and shall initiate with CALPERS requests for reinstatement of such employees who are retired for disability.

## **7.10 Management Leave**

Employees who are exempt from overtime pursuant to the Fair Labor Standards Act (FLSA) shall receive five (5) days of management leave each year, which shall be accrued pro rata throughout the year. A total of eighty (80) hours management leave can be accrued except where provided otherwise by a Memorandum of Understanding with a recognized employee representative organization.

## **7.11 Miscellaneous Leave**

### **7.11.1 Military Leave of Absence**

The Court will grant employees a military leave of absence to the extent required by law.

### **7.11.2 Jury/Witness Duty**

The Court will provide employees time off to serve, as required by law, on a jury or grand jury if the employee provides reasonable advance notice. The Court will also provide employees with time off to appear in court or other judicial proceeding as a witness to comply with a valid subpoena or other court order or to obtain any relief, including a temporary restraining order, to help ensure the health, safety, or welfare of a domestic violence victim or child.

Employees will receive their regular pay for the working hours lost while on jury duty and while serving as a non-party witness in response to a subpoena, provided that any payment received for service is given to the Court.

This policy does not apply to employees who elect to serve as expert witnesses. If an employee elects to do so, accrued vacation or compensatory time must be used. Depending on the nature of the expert testimony, prior written consent of the Court Executive Officer may be required.

### **7.11.3 Bereavement Leave**

This leave of absence will be granted to any employee who requires time off due to the death of the employee's spouse, a parent, grandparent, sibling, child,



grandchild, aunt, uncle, niece, nephew, or any of these relations to the employee's current spouse. Registered domestic partners shall be considered spouses for all purposes contained within this section. All regular full and part-time employees will be granted up to a total of (5) five days court-paid time off per calendar year. Requests for leaves for the death of any other person or for leaves of longer duration, using accrued vacation, sick leave, or any other paid leave, will be considered on a case-by-case basis and require the approval of a supervisor. An employee may appeal a denial to the Court Executive Officer or designee. Any employee, with approval, may use available paid leave for additional time off.

Upon separation, employees will not be paid for unused bereavement time.

#### **7.11.4 Time Off to Vote**

Employees who do not have sufficient time outside of their regular working hours to vote in a municipal, county, school district, special district, or statewide election may request time off to vote. If possible, employees should make their request at least two (2) days in advance of the election. Up to two (2) hours of paid time off will be provided, at the beginning or end of the employee's regular shift, whichever will allow the most free time for voting and the least time off work.

#### **7.11.5 Volunteer Firefighter Duty**

The Court shall grant employees leave to perform volunteer firefighter duties to the extent required by law.

#### **7.11.6 Paid Administrative Leave (\*Supervisory Unit Only)**

Employees may be granted a paid leave of up to five days by the Court Executive Officer or designee because of:

- A state of emergency such as a natural disaster, civil unrest or an act of terrorism or war, as determined by the Court Executive Officer or designee, that prevents the employee from going to work,
- Personnel-related matters as determined by the Court Executive Officer or designee
- Other highly unusual circumstances, as determined by the Court Executive Officer or designee, that involve the security and/or safety of the workplace

Extensions of the five-day limit may be granted by the Court Executive Officer or designee as he/she determines appropriate.

Administrative leave is not disciplinary, and, by itself, carries no disciplinary stigma. Administrative leave is not subject to due process rights. The terms and conditions of administrative leave shall be determined on a case-by-case basis by the Court Executive Officer or designee.

## **7.11.7 Crime Victims Leave**

### **7.11.7.1 Eligibility**

Labor Code section 230.2 allows eligible employees to be absent from work to attend judicial proceedings. An eligible employee is an employee who is a victim of a violent felony, a serious felony, or a felony involving theft or embezzlement who requests leave to attend judicial proceedings related to the crime. An employee also is eligible for leave to attend related judicial proceedings when the employee's immediate family member, registered domestic partner, or child of a registered domestic partner is the victim of a violent felony, serious felony, or felony involving theft or embezzlement.

### **7.11.7.2 Procedure for Taking Crime Victims Leave**

Employees must provide advance written notice to their supervisors of the planned absence to attend scheduled proceedings. Notice should be provided at least two weeks prior to the planned absence, if possible. This notice must include the reason for the time off and the specific date(s) and time(s) requested for attending judicial proceedings. If advance notice is not possible, employees must provide documentation of the proceeding to their supervisor within a reasonable period of time after the absence. Employees may elect to use accrued vacation or CTO time off during such absences. Otherwise, the absence will be unpaid.

## 8.0 Employee Conduct

### 8.1 Professional Behavior

The Court strives to operate efficiently while providing a safe and pleasant working environment for its employees. To this end, it is necessary to set certain standards of conduct and provide employees with guidance concerning unprofessional behavior. Infractions of these rules will result in disciplinary action, up to and including, termination. This list is not exhaustive and merely contains examples of the types of conduct that is unprofessional. In addition, this list in no way alters the “at will” employment relationship.

The following conduct is unprofessional and unacceptable:

- 1) Falsification of any Court document, including information on an application, a physical examination questionnaire, time record, and personnel records, including falsification by omission;
- 2) The operation of machinery or equipment in an unsafe manner that might endanger the safety of oneself or others;
- 3) Misuse of or intentional damage to Court, state or staff property;
- 4) Altering, falsifying, tampering, removing, or destroying records without permission;
- 5) Insubordination;
- 6) Dishonesty;
- 7) Theft;
- 8) Violating Court operating standards with regard to conflict of interest;
- 9) Interfering with the work performance of others;
- 10) Altercations;
- 11) Harassment, including sexually harassing employees or members of the public;
- 12) Being under the influence of, using, or possessing alcohol or illegal substances on Court property or while conducting Court business;
- 13) Gambling on Court property or while conducting Court business;
- 14) Sleeping at a time and place when duties are typically expected to be performed or leaving work without authorization, except in an emergency;



- 15) Unauthorized possession of weapons on Court property or while conducting Court business;
- 16) Being convicted of a crime or entering a plea of nolo contendere, or no contest, to a criminal charge that indicates unfitness for the job or raises a threat to the safety or well-being of the Court, its employees or property;
- 17) Misuse of Court funds or property for personal gain or for other unauthorized purposes;
- 18) Violation of any policy contained in this manual;
- 19) Violation of any provision contained in the Court Employee's Code of Ethics; and
- 20) Unauthorized absence from duty.

Supervisors at all levels are responsible for ensuring that employees are familiar and comply with the Court's standards of conduct. In the event of a violation, supervisors are responsible for proceeding with appropriate disciplinary measures.

## **8.2 Harassment-Free Workplace**

The Court is committed to providing a work environment that is free from unlawful harassment. In keeping with this commitment, the Court strictly prohibits the unlawful harassment of an employee, applicant, or any other person with whom the Court has a business, service, or professional relationship on the basis of race, color, religion, sex, age, national origin, marital status, sexual orientation, ancestry, physical or mental disability, medical condition, political affiliation, citizenship, veteran's status, or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics. Any incident of discriminatory insult, intimidation, or harassment is strictly prohibited.

This policy prohibits harassment in any form, including verbal and/or written harassment such as epithets, jokes, derogatory comments or slurs, physical harassment, or visual harassment.

Harassment includes conduct that has the purpose or effect of unreasonably interfering with the individual's work performance, creating an intimidating, hostile, threatening, or offensive working environment or retaliating against an employee who has reported a violation of this or any other Court policy.

Any employee who engages in this type of conduct will be disciplined. Disciplinary actions may range from verbal reprimand to discharge from employment, depending on the specific circumstances.

Employees are required to attend the Court's educational seminars on harassment.

## **8.3 Sexual Harassment Prevention Policy**

### **8.3.1 Statement of Policy**

The Court is committed to providing a workplace free of sexual harassment. The Court will not tolerate sexual harassment of any kind by employees or by supervisors. Similarly, the Court will not tolerate harassment of its employees by persons with whom the Court has a business, service or professional relationship.

### **8.3.2 Sexual Harassment Defined**

Sexual harassment includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, or other verbal, visual, or physical conduct of a sexual nature when:

- a) Submission to the conduct is made either an explicit or an implicit condition of employment;
- b) Submission to or rejection of the conduct is used as the basis for employment decisions affecting the individual; or
- c) The conduct has the purpose or effect of interfering with work performance; creating an intimidating, hostile, threatening or offensive working environment; or adversely affecting the employee's performance, evaluation, assigned duties, or any other condition of employment or career development.

Sexual harassment also includes any act of retaliation against an employee for reports of violations of this policy or for participating in the investigation of a sexual harassment complaint.

Harassing conduct can take many forms and can include: slurs, jokes, statements, gestures, assault, impeding or blocking movement of another employee, physically interfering with normal work, and pictures, drawings or cartoons based on another employee's sex.

### **8.3.3 Reporting**

Any incident of sexual harassment should be promptly reported to the Court Executive Officer. Supervisors who receive complaints or who observe harassing conduct should immediately inform the Court Executive Officer or designee, who will be responsible for investigating the matter.

### **8.3.4 Informal Procedures**

Employee's who feel they have been subjected to discrimination or harassment may use any or all of the following steps to try to stop the behavior before making a complaint. Steps may include:

- a) Speaking with the person who is engaged in the inappropriate conduct. Explain as clearly as possible what behavior or conduct is considered discriminatory, unwelcome or offensive and make it clear that the behavior must stop. The statement may be made in writing. Employees should keep a copy of any such written statement.
- b) Maintaining a record of the discriminatory, unwelcome or offensive conduct and the efforts to stop it. This can include a description of the behavior, when and where it occurred, who engaged in it and who, if anyone, witnessed it.

If these efforts are unsuccessful or if the employee does not want to interact with the person who is engaged in the inappropriate conduct, the employee may file a complaint.

### **8.3.5 Complaint Procedures**

If the matter cannot be resolved otherwise or if the employee prefers, a complaint may be submitted to the Court Executive Officer. The Court will promptly conduct an investigation, which shall be confidential. Every employee is required to participate in the investigation process, as directed. This includes truthfully disclosing facts and maintaining confidentiality. When the investigation is completed, the Court will make a determination concerning the conduct that is the subject of the complaint.

If the Court determines that an employee has engaged in inappropriate conduct, the Court will discipline the employee. Discipline may range from oral or written warnings to immediate termination, depending on the circumstances.

When the offender is a member of the public or a vendor or other person with whom employees interact, the Court will take reasonable corrective action under the circumstances to eliminate the hostile or unwelcome behavior.

If the complaint concerns conduct of the Court Executive Officer, the complaint should be submitted to the Presiding Judge of the Court or to any other Judge of the Court. A complaint about a judge should be reported to the Commission on Judicial Performance at (415) 557-1200.

## **8.4 Workplace Security**

### **8.4.1 Statement of Policy**

The Court recognizes that workplace violence is a growing concern among employers and employees across the country. The Court is committed to providing a safe, violence-free workplace. In this regard, the Court strictly prohibits employees, consultants, visitors, or anyone else on Court premises or engaging in a Court-related activity from behaving in a violent or threatening manner. Moreover, as part of this policy, the Court seeks to prevent workplace violence before it begins and reserves the right to deal with behavior that

suggests a propensity towards violence even prior to any violent behavior occurring.

The Court believes that prevention of workplace violence begins with recognition and awareness of potential early warning signs and has established security procedures with Human Resources for responding to any situation that presents the possibility of violence.

#### **8.4.2 Workplace Violence Defined**

Workplace violence can include the following:

- a) Threats of any kind;
- b) Threatening, physically aggressive, or violent behavior, such as intimidation of or attempts to instill fear in others;
- c) Other behavior that suggests a propensity towards violence, which can include belligerent speech, excessive arguing or swearing, sabotage, or threats of sabotage to Court property, or a demonstrated pattern of refusal to follow Court policies and procedures;
- d) Defacing Court property or causing physical damage to the facilities; or
- e) With the exception of security personnel, bringing weapons or firearms of any kind on Court premises, in Court parking lots, or while conducting Court business.

#### **8.4.3 Reporting**

If any employee observes or becomes aware of any of the above-listed actions or behavior by an employee, consultant, visitor, or anyone else, Human Resources should be notified immediately.

Employees should also notify Human Resources of any situation that they are aware of which may lead to violence in the workplace.

#### **8.4.4 Investigation**

All reports of workplace violence will be taken seriously and will be investigated promptly and thoroughly. In appropriate circumstances, the Court will inform the reporting individual of the results of the investigation. To the extent possible, the Court will maintain the confidentiality of the reporting employee and of the investigation but may need to disclose results in appropriate circumstances, for example, in order to protect individual safety. The Court will not tolerate retaliation against any employee who reports workplace violence.

#### **8.4.5 Corrective Action and Discipline**

If the Court determines that workplace violence has occurred, the Court will take appropriate corrective action and will impose discipline on offending employees. The appropriate discipline will depend on the particular facts but may include written or oral warnings, probation, and reassignment of responsibilities, suspension, termination, or the Court may request that the employee participate in counseling.

If the violent behavior is that of a non-employee, the Court will take appropriate corrective action in an attempt to ensure that such behavior is not repeated.

### **8.5 Drug and Alcohol Policy**

#### **8.5.1 Introduction and Purpose**

It is the intention of this policy to eliminate or prevent substance abuse and its effects in the workplace comply with the Federal Drug Free Workplace Act of 1988 and California Drug Free Workplace Act of 1990 as contained in Government Code sections 8350-8357. While the Superior Court of California, County of Butte has no intention of intruding into the private lives of its employees, involvement with drugs and alcohol off the job can take its toll on job performance and employee safety. Our concern is that employees are in a condition to perform their duties safely and efficiently, in the interests of their fellow workers and the public as well as themselves. The presence of drugs and alcohol on the job and the influence of these substances on employees during working hours, are inconsistent with this objective.

Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program. While Superior Court of California, County of Butte will be supportive of those who seek help voluntarily, the Court will be equally firm in identifying and disciplining those who continue to be substance abusers and do not seek help.

Supervisors, shop stewards, and union staff will be trained to recognize abusers and become involved in this control process. Alcohol or drug abuse will not be tolerated, and disciplinary action, up to and including termination, will be used as necessary to achieve this goal.

This policy provided guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of Court managers and employees. To that end, the Court will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs, of any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job) which increases the potential for accidents, absenteeism, substandard performance, poor employee morale, or damage the Court's reputation.

In recognition of the public service responsibilities entrusted to the employees of the Superior Court of California, County of Butte, and that drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the following policy against drug and alcohol abuse is hereby adopted by the Superior Court of California, County of Butte.

### **8.5.2 Policy**

It is Court policy that employees shall not be under the influence of or in possession of alcohol or drugs; nor possess alcohol or drugs while on Court property at work locations, or while on duty or on call back status; shall not utilize such substances while they are on call back status subject to Court duty, sell, or provide drugs or alcohol to any other employee or to any person while such employee is on duty or on call back status, nor have their ability to work impaired as a result of the use of alcohol or drugs.

While use of medically prescribed medications and drugs is not per se, a violation of this policy, failure by the employee to notify his/her supervisor, before beginning work, when taking medications or drugs which, with reasonable knowledge, could foreseeably interfere with the safe and effective performance of duties or operation of Court equipment can result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

The Court reserves the right to search all areas and property in which the Court maintains control or joint control with an employee in accordance with applicable state and federal laws. A search of any container for employee property such as desks, cubicles, and lockers may be conducted at any time with the affected employee's prior permission. Otherwise, the Court may notify the appropriate law enforcement agency that an employee may have illegal drugs in his or her possession.

Employees reasonably believed to be under the influence of alcohol or drugs shall be prevented from engaging in further work and shall be detained for a reasonable time until they can be safely transported from the work site. Such detention may include ordering the employee to overtime status.

The Court is committed to providing reasonable accommodation to those employees whose drug or alcohol problem classifies them as a person with a disability under federal and /or state law.

The Court has established a voluntary Employee Assistance Program (EAP) to assist those employees who voluntarily seek help for alcohol or drug problems. Employees should contact their supervisors or the EAP provider for additional information.

### **8.5.3 Applications**

This policy applies to all employees of, and to all applicants for positions with, the Court. This policy applies to alcohol and to all substances, drugs, or



medications, legal or illegal, which could impair an employee's ability to effectively and safely perform the functions of the job.

#### **8.5.4 Employee Responsibilities**

An employee must:

- a.) Not report to work or be on call back status while his/her ability to perform job duties is impaired due to on or off duty alcohol or drug use.
- b.) Not use alcohol, use or possess impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours, on call back status, or on breaks.
- c.) Not be impaired by use of alcohol or impairing drugs during meal periods or at any time while on Court property.
- d.) Not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either employee or both employees are on duty or on call back status (this requirement is subject to having reasonable knowledge that the other employee is on duty or on call back status).
- e.) Notify his/her supervisor, before beginning work, when taking any medications or drugs, prescription or non-prescription, which may, with reasonable knowledge, interfere with the safe and effective performance of duties or operation of Court equipment when in combination with one or more of the elements of reasonable suspicion listed in this policy.
- f.) In cases where reasonable suspicion or positive test results exists, provide, within five (5) days of request, bona fide verification of a current valid prescription for any potentially impairing drug or medication. The prescription must be in the employee's name.
- g.) Notify the Court Executive Officer of any criminal drug statute arrest or conviction no later than five (5) days after such arrest or conviction.

#### **8.5.5 Management Responsibilities and Guidelines**

Managers and supervisors are responsible for reasonable enforcement of this policy.

Managers and supervisors may request that an employee submit to a drug/alcohol test and/or an examination by a physician when a manager or supervisor has a reasonable suspicion that an employee is intoxicated or under the influence of drugs or alcohol while on the job or on call back status. "Reasonable suspicion" is a belief based on objective, specific, and articulate facts sufficient to lead a reasonable prudent supervisor to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or so that the employee's ability to perform his/her job safely is reduced.



### 8.5.6 Reasonable Suspicion

For example, any of the following, alone or in combination, may constitute reasonable suspicion:

- a.) Slurred speech, not normal to the employee.
- b.) Alcohol odor on breath.
- c.) Unsteady walking and movement, not normal to the employee.
- d.) An on duty accident or accident involving personal injury or death.
- e.) Behavior that is not normal to the individual employee.
- f.) Possession of alcohol or drugs in violation of this policy.
- g.) Information obtained from a reliable person with personal knowledge.
- h.) Managers and supervisors shall notify the court executive officer or human resources manager when they have reasonable suspicion to believe that an employee may have illegal drugs in his/her possession. If the court executive officer or human resources manager concurs that there is reasonable suspicion of illegal drug possession, the court may notify the appropriate law enforcement agency.
- i.) Any manager or supervisor requesting an employee to submit to a drug/alcohol test and/or medical examination shall document in writing the facts constituting reasonable suspicion that the employee in question is intoxicated or under the influence of drugs. If information obtained from a reliable person with personal knowledge is the sole reason in determining reasonable suspicion, documentation shall include the name of that individual and their statement(s).
- j.) Any manager or supervisor encountering an employee who refuses an order to submit to a medical examination upon request shall remind the employee of the requirements and disciplinary consequences of such refusal. The employee shall also be informed that such a refusal shall be deemed to be a positive test result.

Where there is reasonable suspicion that the employee is then under the influence of alcohol or drugs, the manager or supervisor should obtain assistance as needed and detain the employee for a reasonable time until the employee can be safely transported home.

- k.) Managers and supervisors shall not physically search the person of employees, nor shall they search the personal possessions of employees without the freely given consent. Employees are entitled to have a

representative of their choosing, provided that representatives can be present in a reasonable period of time.

#### **8.5.7 Drug or Alcohol Testing and/or Physical Examination Procedure**

The drug/alcohol test and/or physical examination may test for any substance which could impair an employee's ability to effectively and safely perform the functions of his/her job.

#### **8.5.8 Results of Drug and/or Alcohol Analysis**

Pre-Employment Physicals. A positive result from a drug and/or alcohol analysis may result in the applicant not being hired where the applicant's use of drugs and/or alcohol could affect requisite job standards, duties, or responsibilities.

If a drug screen is positive at the pre-employment physical, the applicant must provide within twenty-four (24) hours of request bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name or the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

Post-Employment Alcohol/Drug Tests. A positive result from a drug and/or alcohol examination may result in disciplinary action, up to and including discharge.

If the drug screen is positive, the employee must provide within five (5) days of request bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable verification of a valid prescription or if the prescription is not in the employee's name, or if the employee has not previously notified his or her supervisor, the employee will be subject to disciplinary action, up to and including discharge.

If an alcohol or drug test is positive for alcohol or drugs, the county shall conduct an investigation to gather all facts. The decision to discipline or discharge will be carried out in conformance with Court Personnel Rules.

#### **8.5.9 Confidentiality**

Laboratory reports or test results shall not appear in an employee's general personnel folder. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Human Resources Administrator. The reports or test results may be disclosed to Court management on a strictly need-to-know basis and to the tested employee or designated representative upon request. Disclosures, without patient consent, may also occur when:

- the information is compelled by law or by judicial or administrative process;

- the information has been placed at issue in a formal dispute between the employer and employee;
- the information is to be used in administering an employee benefit plan; and
- the information is needed by medical personnel for the diagnosis or treatment of an employee on Court premises who is unable to authorize disclosure.

#### **8.5.10 Testing Process and Standards**

Substance testing shall comply with the following standards and procedures:

The drug testing process shall be one that is scientifically proven to be at least as accurate and valid as urinalysis using an immunoassay screening test, with all positive screening results being confirmed before a sample is considered positive. The alcohol testing process shall be one that is scientifically proven to be at least as accurate and valid as urinalysis using an enzymatic assay screening test, with all positive screening results being confirmed before a sample is considered positive.

The cost of such initial testing shall be borne by the Court.

Substances to be tested for shall include, but are not limited to:

- Amphetamines and Methamphetamines
- Cocaine
- Marijuana/Cannabinoids (THC)
- Opiates (narcotics)
- Phencyclidine (PCP)
- Barbiturates
- Benzodiazepines
- Methaqualone
- Alcohol

In addition, with the approval of the Human Resources Office, testing may be conducted for other controlled substances when the appointing authority reasonably suspects the use of other substances.

The expert staff of the laboratory or laboratories selected to perform the testing shall identify positive test samples while minimizing false positive test results.

Test samples will be collected in a clinical setting such as a laboratory collection station, doctor's office, hospital, or clinic or in another setting approved by the Human Resources Office on the basis that it provides for at least an equally secure and professional collection process. Samples shall be separated into two samples at the time they are collected with the second sample kept for validation purposes. The Human Resources Office shall specify procedures to ensure the true samples are obtained.

The Human Resources Office shall specify measures to ensure that a strict chain of custody is maintained for the sample from the time it is taken, through the testing process, to its final disposition.

Drug/alcohol tests shall be performed by a commercial laboratory selected based on its meeting standards that are the same as those used by the National Institute on Drug Abuse (NIDA) to certify laboratories engaged in urine drug testing for Federal agencies (Mandatory Guidelines for Federal Workplace Drug Testing Program, Federal Register, Vol. 53, No. 69) or those used by the College of American Pathologists (CAP) to accredit laboratories for forensic urine drug testing (standards for Accreditation, Forensic Urine Drug Testing Laboratories, College of American Pathologists).

The sample collection process shall include the opportunity for the employee to provide information about factors other than illegal drug use, such as taking legally prescribed medication that could cause a positive test result. At the employee's option, this information may be submitted in a sealed envelope to be opened only a Medical Review Officer if the test result is positive.

The employee shall receive a full copy of any test results and related documentation of the testing process as soon as practicable after it is available to the court.

All confirmed positive samples shall be retained by the testing laboratory in secure storage for one year following the test or until the sample is no longer needed for appeal proceedings or litigation, whichever is longer. At the employees request and expense, the sample may be re-tested by that laboratory or another laboratory of the employees choice.

The Human Resources Administrator shall receive test results from the laboratory. Upon receiving results, the Human Resources Administrator shall:

Review the results and determine if the standards and procedures required by this Article have been followed.

- 1) For positive results, interview the affected employee to determine if factors other than illegal drug use may have caused the result.
- 2) Consider any assertions by the affected employee of irregularities in the sample collection and testing process.

If the employee raises either of the above issues, the Human Resources Administrator shall refer the employee to a medical review officer, who shall be a licensed physician to resolve the issues raised. The employee may be accompanied to the medical review officer by a representative.

Upon final determination of a positive result, the Human Resources Administrator shall refer the employee to a Behavioral Health Clinician to determine the severity of the employee's alcohol or drug use and to recommend a course of treatment to address the situation. For the first offense, the employee shall be given a last chance agreement to complete the recommended course of treatment and follow-up testing in lieu of disciplinary action. No such last chance agreement shall contain any condition that violates an employee's right to

just cause guarantees set forth in this Personnel manual. All such agreements shall be copied to the employee's representative.

Any violation of the terms of the last chance agreement may result in disciplinary action.

## 8.6 Dress and Grooming Standards

It is necessary that employees maintain a professional appearance at all times. It is the policy of the Court that each employee's dress, grooming and personal hygiene be appropriate to a Court setting and to the work situation. Hair should be clean and well maintained in a style appropriate to a Court setting. Employees must dress in a professional manner. Those assigned to work in the Courtroom may be required to dress in the same manner as other officers of the Court. Designated "business casual days," certain projects, or work areas may allow for a more relaxed standard of dress. Unless combined with another garment that presents an appearance appropriate to a court setting, undershirts, tank tops, halter tops and tube tops shall not be worn. Blue denim pants, overalls, bare midriff outfits, shorts, T-shirts, sweat suits, flip flops, slippers, athletic apparel or clothing that is torn or has holes may not be worn at anytime. Employees who report to work in violation of these standards may be sent home to change clothing. Any employee who is sent home for that purpose may use accrued leave time, but not sick leave.

## 8.7 Smoking

In keeping with state law and the Court's intent to provide a safe and healthy work environment, smoking is prohibited in the workplace. For the purposes of this policy, the workplace is defined as Court buildings, Court vehicles, or privately owned vehicles used while performing Court business if a non-smoking employee is in the vehicle.

On standard breaks, smoking is allowed outside of the building in areas where smoke will not enter the building.

## 8.8 Non-Fraternization

### (\*Applies to General and Professional Units Only)

The Court is committed to maintaining a professional work environment where all employees are treated fairly and impartially and their performance evaluated on the basis of job-related factors. In order to maintain the integrity of the work environment and the supervisor/supervisee relationship, supervisors are not allowed to date or pursue romantic or sexual relationships with employees they supervise. Violations of this policy will subject the offending employee to discipline, up to and including termination of employment.

## 8.8 Non-Fraternization

### (\*Applies to Supervisory Unit Only)

For purposes of this section, the Court is committed to maintaining a professional work environment where all employees are treated fairly and impartially and their performance evaluated on the basis of job-related factors. In order to

maintain the integrity of the work environment and the supervisor/supervisee relationship, supervisors are not allowed to date or pursue romantic or sexual relationships with employees they supervise. Violations of this policy will subject the offending employee to discipline, up to and including termination of employment.

## **8.9 Court Facilities and Resources**

### **8.9.1 Court Facilities**

All Court facilities should be kept neat and orderly. Employees share responsibility for maintaining orderly work areas and shall not contribute to clutter or unsanitary conditions. Additionally, employees should keep common areas and walkways near their work area free from trash or other nonessential objects. Employees should report any spills or other hazards to their supervisor, or above, as soon as possible, and should follow the Court Injury and Illness Prevention Program.

Any intentional destruction or damage to Court facilities may result in disciplinary action, up to and including termination of employment.

### **8.9.2 Court Resources**

Equipment essential to accomplishing job responsibilities is expensive and may be difficult to replace. When using Court resources, employees are expected to exercise care, ensure that the equipment is maintained, and follow all operating instructions, safety standards, and guidelines.

Employees are required to notify their supervisors if any equipment, machines, tools, or vehicles appear to be damaged, defective, or in need of repair. Prompt reporting of damages, defects and the need for repairs could prevent deterioration of equipment and possible injury to employees and others. Your supervisor can answer any questions about your responsibility for maintenance and care of equipment or vehicles used on the job.

Personal use of Court resources is prohibited. Any Court equipment assigned to an employee must be returned immediately upon the Court's demand and at its sole discretion.

### **8.9.3 Obligations Upon Termination**

Upon termination of employment, whether voluntary or involuntary, all Court documents, computer records, and other tangible Court property in the employee's possession or control must be returned to the Court.

## **8.10 Technology Use and Privacy**

### **8.10.1 Technology Resources Defined**

Technology resources consist of all electronic devices, software, and means of electronic communication including, but not limited to, the following: personal computers and workstations; notebook computers; mini and mainframe

computers; computer hardware such as disk drives, servers and tape drives; peripheral equipment such as printers, modems, fax machines, and copiers; computer software applications and associated files and data, including software that grants access to external services, such as the Internet; e-mail; telephones; cellular phones; pagers; and voicemail systems.

Employees who are granted access to any of the Court's technology resources are obligated to comply with this policy. Every time an employee accesses Court technology resources, the employee is acknowledging their obligation to comply with the policies. These policies apply to the Court Executive Officer, all managers, supervisors, and employees including contract employees, extra-help employees, part-time employees, temporary employees and vendors who have authorized access to the Court's technology resources.

### **8.10.2 Authorization**

Access to the Court's technology resources is within the sole discretion of the Court. Generally, employees are given access to the Court's various technologies based on their job functions. Only employees whose jobs require access to the Court's technology resources will be given access. Employees must successfully complete Court approved training before access will be granted.

### **8.10.3 Use**

The Court's technology resources are to be used by employees only for conducting Court business. However, employees may use the Court's technology resources for the following incidental personal uses if such use does not interfere with the employee's duties, is not done for pecuniary gain, does not conflict with the Court's business, and does not violate any Court policy:

- a) To send and receive necessary and occasional personal communications;
- b) To prepare and store incidental personal data (such as personal calendars, personal address lists, and similar incidental personal data) in a reasonable manner;
- c) To use the telephone system for brief and necessary personal calls; and
- d) To access the Internet for brief personal searches and inquiries.

The Court assumes no liability for loss, damage, destruction, alteration, disclosure, or misuse of any personal data or communications transmitted over or stored on the Court's technology resources. The Court accepts no responsibility or liability for the loss or non-delivery of any personal e-mail or voicemail communications or any personal data stored on any Court property. The Court strongly discourages employees from storing any personal data on any of the Court's technology resources.



## **8.10.4 Improper Use**

### **8.10.4.1 Prohibition Against Harassing, Discriminatory & Defamatory Use**

Employees shall not use the Court's technology resources including, but not limited to, the Internet or e-mail systems in any way that may be considered insulting, disruptive, or offensive to any person or harmful to Court morale. E-mail files or programs containing offensive or harassing statements, including comments based upon race, national origin, sex, sexual orientation, age, disability, religion or political belief, as well as all unwanted or unwelcome e-mail or information is prohibited. Sexually explicit messages, cartoons, jokes, expressions of romantic or sexual interest, love letters, or any other message or information that can be construed as harassing or disparaging to any person or group, are prohibited. Violation of this policy will result in disciplinary action including possible termination of employment.

### **8.10.4.2 Prohibition Against Violating Copyright Laws**

Employees must not use the Court's technology resources to copy, retrieve, forward or send copyrighted materials unless the employee has the author's permission or is accessing a single copy only for the employee's reference.

### **8.10.4.3 Prohibition Against the Installation of Software**

Employees shall not install any software on any Court computer without a prior written authorization from the Court Executive Officer.

## **8.10.5 Court Access to Technology Resources**

### **8.10.5.1 Privacy**

Employees have no right of privacy with respect to any messages or information created or maintained on the Court's technology resources, including personal information or messages. The Court may, at its discretion, inspect all files, messages, or information on its technology resources at any time for any reason.

### **8.10.5.2 Passwords**

All passwords shall remain strictly confidential to each employee. Employees are prohibited from the unauthorized use of the passwords of other employees to gain access to other employee's e-mail messages. Employees shall not reveal their passwords to other employees without authorization of the Court Executive Officer.

### 8.10.5.3 Data Collection

The best way to guarantee the privacy of personal information is to not store or transmit it on the Court's technology resource. To ensure that employees understand the extent, in which information is collected and stored, below are examples of information currently maintained by the Court:

- 1) Telephone Use and Voicemail: Records are kept of all calls made to and from a given telephone extension. Although voicemail is password protected, an authorized administrator can reset the password and listen to voicemail messages.
- 2) E-mail: E-mail is backed-up and archived. Although e-mail is password protected, an authorized administrator can reset the password and review electronic mail.
- 3) Desktop Facsimile Use: Copies of all facsimile transmissions sent and received are maintained in the facsimile server.
- 4) Document Use: Each document stored on Court computers has a history, which reveals which users have accessed the document for any purpose.
- 5) Internet Use: Internet sites visited, the number of times visited, and the total time connected to each site is recorded and periodically monitored.

The Court, in its discretion, may alter the amount and type of information that it retains.

### 8.10.5.4 Deleted Information

Deleting or erasing information, documents, or messages maintained on the Court's technology resources is, in most cases, ineffective. Any information kept on the Court's technology resources may be electronically recalled or recreated regardless of whether it may have been "deleted" or "erased" by an employee. Because the Court periodically backs-up all files and messages, and because of the way in which computers re-use file storage space, files and messages may exist that are thought to have been deleted or erased. Therefore, employees who delete or erase information or messages should not assume that such information or messages are confidential.

## **8.10.6 The Internet and On-Line Services**

### **8.10.6.1 Confidentiality**

Some of the information to which the Court has access is confidential. Employees should avoid sending confidential information over the Internet, except when necessary. Employees should verify electronic mail addresses before transmitting any messages.

### **8.10.6.2 Monitoring**

The Court monitors both the amount of time spent using telephone and on-line services and the sites visited by individual employees. The Court reserves the right to limit such access by any means available to it, including revoking access altogether.

### **8.10.6.3 Prohibited Conduct**

Access to sexually oriented web sites or to information that might be considered offensive is prohibited. Employees shall not download anything from the Internet that might compromise the security, integrity or operational performance of any of the Court's technology resources. Employees shall not follow any links or searches that would reflect unfavorably on the Court or embarrass the Court if they were disclosed publicly. Employees shall not accept or assign any charges to the Court or provide any Court account or billing information to any site without authorization from the Court Executive Officer and shall, at all times, conform their usage of the Internet and other online services to the policy that the Court is a public judicial institution that is subject to public scrutiny and must maintain the highest ethical standards. Violation of this policy will result in discipline including possible termination.

## **8.10.7 Software Use**

All software in use at the Court is officially licensed. No software is to be installed or used that has not been duly paid for and licensed appropriately for its intended use. No employee may load any software on the Court's computers, by any means of transmission, unless authorized in writing in advance by the Court Executive Officer or designee. Authorization for loading software onto the Court's computers will not be given until the software to be loaded has been thoroughly scanned for viruses.

## **8.10.8 Confidential Information**

Employees shall protect all confidential Court information and shall not release or disclose it to any member of the public or otherwise compromise its confidentiality without authorization from the Court Executive Officer. All employees shall conform their behavior to the Code of Ethics for Court Employees in California.

### **8.10.9 Security**

The Court has installed a variety of programs and devices to ensure the safety and security of the Court's computers. Any employee found tampering or disabling any of the Court's security devices will be subject to discipline up to, and including termination.

### **8.10.10 Audits**

The Court may perform auditing activity or monitoring to determine compliance with these policies. Audits of software and data stored on the Court's technology resources may be conducted without warning at any time.

### **8.10.11 Judicial Officers**

All judicial officers shall be subject to the Judicial Operating Standards for Technology Resources adopted on March 17, 2000.

## **8.11 Conflict of Interest and Confidential Information**

### **8.11.1 Conflict of Interest**

Employees are expected to devote their best efforts and attention to the full-time performance of their jobs. Moreover, employees are expected to use good judgment, to adhere to high ethical standards, and to avoid situations that create an actual or potential conflict between their personal interests and the interests of the Court.

An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a financial gain for that employee or for a relative because of Court business dealings. For the purposes of this policy a relative is defined to include the employee's spouse, children, parents, siblings, grandparents, aunts, uncles, nieces, and nephews, who have this relationship with the employee either by blood or marriage, as well as someone who shares a significant personal or financial relationship with the employee which may affect the outcome of a Court action or the proper conduct of Court business.

Any questions regarding a possible conflict of interest or outside work should be discussed with the immediate supervisor or Human Resources. All outside employment shall be subject to approval by the Court Executive Officer whose decision shall not be arbitrary or capricious.

Supervisors shall periodically distribute Conflict of Interest Statements to all employees who have purchasing signature authority or who influence the selection or purchase of goods and services used by the Court. Supervisors are responsible for seeing that the statements are completed and returned to Human Resources in a timely manner.

### **8.11.2 Confidential Information**

Employees are expected to keep confidential information secure from the public and from all persons who do not have a right to see or use such information. Employment information, sealed files, and any other Court information designated confidential are examples of confidential information.

Employees must not use or disclose any confidential information that they produce or obtain during employment, except as required by their jobs. This obligation remains even after the employment relationship with the Court ends.

Employees shall not release any Court administrative or business information to the public or to any newspaper or media representative without permission from the Court Executive Officer.

Employees are required to sign a confidentiality agreement as a condition of employment. The agreement shall contain a full description of all information the Court considers confidential.

### **8.11.3 Interest in a Case**

Employees shall not process, handle or in any manner be involved with any case filed in the Court in which the employee is a party or a witness. Employees shall not process, handle, or be involved with any case filed in the Court in which a relative or friend of the employee is a party, alleged victim, or witness (see 8.10.1 for the definition of a relative) and shall bring any such situation to the prompt attention of the Court. For purposes of this section, a “friend” is anyone with whom the employee shares a significant personal or financial relationship as defined in section 8.10.1.

If an employee is a party to a case filed in the Court, the employee shall not use work time to address any matter relating to that case. If time off is needed to address any matter relating to the case, the employee must use the accrued leave in accordance with these policies. If an employee is a party or witness in a case filed in the Court, or has a relative or friend whose case is filed in the Court, the employee should inform the supervisor of the division where the case is being processed.

## **8.12 Solicitation, Distribution, and Bulletin Boards**

In an effort to assure a productive and harmonious work environment, persons not employed by the Court may not solicit or distribute literature in the workplace at any time for any purpose.

The Court recognizes that employees have outside interests in events and organizations. However, employees may not solicit during working time or distribute literature concerning these activities during working time or in work areas. For the purposes of this policy, working time does not include lunch periods, breaks, or the time before and after work. Work areas do not include the employee lounge.

The Court has bulletin boards located throughout the office for the purpose of communication with its employees. Postings on these boards is limited to Court related materials including statutory and legal notices, safety, disciplinary rules, Court policies, memos of general interest relating to the Court, and other items. The posting of non-Court related written notices on Court bulletin boards is restricted except where such posting is controlled by a memorandum of understanding with a recognized employee organization. If an employee has a message of interest to other Court employees, it should be submitted to the Court Executive Officer for approval and posting.

### **8.13 Media Policy**

All requests for information from newspapers, reporters, television stations, freelance writers, authors, or any representative from the media, shall be referred to the Presiding Judge or Court Executive Officer. No employee shall respond to any such inquiry or request without authorization from the Presiding Judge or Court Executive Officer, but may release public information about the status of pending cases.

## **9.0 Continuing Education and Safety Program**

### **9.1 Continuing Education**

The Court will make available to its employees continuing education on the subjects of, but not limited to, sexual harassment awareness, discrimination and bias, ethics (including conflict of interest and confidentiality), and safety. Attendance at specified Court educational programs may be mandatory. Unexcused failure to attend mandatory educational programs may be cause for disciplinary action, up to and including termination of employment.

### **9.2 Safety Program**

Establishment and maintenance of a safe work environment are the shared responsibility of the Court and all employees of the organization. The Court will take all reasonable steps to assure a safe environment and compliance with the law.

Employees are expected to comply with safety rules and to exercise caution in all their work activities. They must immediately report any unsafe conditions to their supervisor. Employees and their supervisors are expected to correct unsafe conditions as promptly and as safely as possible.

All accidents that result in an injury must be reported upon the employee's first knowledge of the injury to the employee's supervisor and Human Resources, regardless of how insignificant the injury may appear. Such reports are necessary to comply with the law and, if appropriate, to initiate insurance and workers' compensation procedures.

All employees are responsible for complying with the safety procedures as outlined in the written Injury and Illness Prevention Program. Violations of safe working procedures are cause for disciplinary action, including termination of employment.

Employees will be trained and given periodic updates in accordance with the Court's Injury and Illness Prevention Program.

### **9.3 Court Injury and Illness Prevention (IIP) Program**

#### **9.3.1 Statement of Policy**

It is the policy of the Court to establish and maintain a safe work environment. This responsibility is shared with all employees of the Court. Although it is not possible to eliminate all safety hazards, the Court will take all reasonable steps to ensure a safe environment and compliance with federal, state, and local safety regulations.



### **9.3.2 Responsibility, Compliance, and Communication**

The IIP Program administrator has the authority and responsibility for implementing and maintaining the Court's IIP Program. Managers and supervisors are responsible for implementing and maintaining the IIP Program in their work areas and for answering worker questions about the IIP Program. A copy of the IIP Program is available from each manager, supervisor, and Human Resources.

All workers, including managers and supervisors, are responsible for complying with safe and healthful work practices. The Court system of ensuring that all workers comply includes, informing workers of the provisions of the IIP Program, evaluating the safety performance of all workers, recognizing employees who perform safe and healthful work practices, providing training to workers whose safety performance is deficient, and disciplining workers for failure to comply with safe and healthful work practices.

All managers and supervisors are responsible for communicating with workers about occupational safety and health. All workers are encouraged to inform their managers and supervisors about workplace hazards without fear of reprisal. The Court communication system includes, new worker orientation, review of the IIP Program, training programs, posted or distributed safety information, and a system for workers to anonymously inform management about workplace hazards without fear of retaliation for making the report.

### **9.3.3 Identifying Workplace Hazards**

Periodic inspections to identify and evaluate workplace hazards shall be performed by a competent supervisor in the Courthouse and other Court facilities.

Periodic inspections are performed according to the following schedule:

- 1) At the establishment of the IIP Program;
- 2) When new processes, procedures or equipment which present potential new hazards are introduced into the Court;
- 3) When new, previously unidentified hazards are recognized;
- 4) When occupational injuries and illnesses occur; and
- 5) Whenever workplace conditions warrant an inspection.

### **9.3.4 Correcting Workplace Hazards**

Unsafe or unhealthy work conditions, practices or procedures shall be corrected in a timely manner based on the severity of the hazards. Hazards shall be corrected according to the following procedures:

- 1) When observed or discovered; and
- 2) When an imminent hazard exists which cannot be immediately abated without endangering employee(s) and/or property, the Court will remove all exposed workers from the area except those necessary to correct the existing condition. Workers who are required to correct the hazardous condition shall be provided with the necessary protection.

### **9.3.5 Investigating Injuries and Illnesses**

Procedures for investigating workplace accidents and hazardous substance exposures include:

- 1) Interviewing injured workers and witnesses;
- 2) Examining the workplace for factors associated with the accident/exposure;
- 3) Determining the cause of the accident/exposure;
- 4) Taking corrective action to prevent the accident/exposure from reoccurring; and
- 5) Recording the findings and actions taken.

### **9.3.6 Training and Instruction**

All workers, including managers and supervisors, shall have training and instruction on general and job-specific safety and health practices. Safety training is provided at no cost to the employee and is conducted during the employee's normal working hours.

Training and instruction is provided:

- 1) When the IIP Program is first established;
- 2) To all new workers;
- 3) To all workers given new job assignments for which training has not previously been provided;
- 4) Whenever new processes, procedures or equipment are introduced to the workplace and represent a new hazard;
- 5) Whenever the employer is made aware of a new or previously unrecognized hazard.

Supervisors are required to be trained on the hazards to which the employees under their immediate control may be exposed. Training must also be given to all workers with respect to hazards specific to each employee's job assignment. Specific topics which may be appropriate to department personnel are not limited to, the following:

- 1) Fire prevention techniques and fire extinguisher use;
- 2) Obtaining emergency medical assistance and first aid;
- 3) Disaster preparedness and response, including building evacuation procedures;
- 4) Health and safety for computer users;
- 5) Back care, body mechanics, and proper lifting techniques; and
- 6) Maintaining orderly workstations and common areas.

### **9.3.7 Record Keeping**

The Court is a local governmental agency and is not required to keep written records of the steps taken to implement and maintain its IIP Program.

## 10.0 Complaint Procedures

### 10.1 Open Communication Policy

The Court encourages employee participation in decisions affecting them and their daily professional responsibilities. Employees who have job-related concerns or complaints are encouraged to discuss them with their supervisor or other management representative, including the Court Executive Officer. Although the Court cannot guarantee that in each instance the employee will be satisfied with the result, the Court will attempt in each instance to explain the result to the employee if the employee is not satisfied.

The Court believes that employee concerns are best addressed through this type of informal and open communication. Because no solution is possible without candid discussion, employees are encouraged to speak openly with their supervisor or other management, and are assured that they may use the Court's open door policy without fear of reprisal.

## 11.0 Employee Discipline

### 11.1 Discipline Rules and Policies

#### 11.1.1 Statement of Policy

When an employee engages in misconduct or when an employee's job performance is unsatisfactory disciplinary procedures may be initiated.

The possible disciplinary actions that may be taken against an employee include written reprimand, suspension without pay, demotion, and dismissal. A notation or copy of all documentation related to actions that resulted in the imposition of discipline shall be placed in the employees' personnel file.

The Court has established a process for conducting an evidentiary due process hearing to review disciplinary decisions that require an evidentiary due process hearing pursuant to Government Code section 71653.

#### 11.1.2 Grounds for Discipline

Employees may be disciplined for poor job performance, unsatisfactory work quality, inappropriate conduct, excessive absenteeism or tardiness, failure to follow Court procedures, failure to follow safety regulations, or violation of any Court policy.

#### 11.1.3 Disciplinary Actions

Types of disciplinary action include the following:

- (a) Oral Counseling: An oral discussion with the employee's supervisor concerning expected performance and conduct and workplace behavior.
- (b) Oral Warning: An oral admonition about inappropriate conduct or performance with an oral explanation of expected performance and conduct and workplace behavior.
- (c) Written Warning: A written admonition about inappropriate conduct or performance with an explanation of expected performance and conduct. A copy of the warning will be placed in the employee's personnel file.

Each employee shall be given an opportunity to read and sign written warnings prior to the placement of such material in his/her personnel file, and employees shall receive a copy of the written warning.

If an employee receives a written warning and no subsequent disciplinary action has been taken by the Court during the

following two (2) years, the employee may request removal of the letter from his/her personnel file.

- (d) **Suspension Without Pay:** For circumstances that warrant discipline more severe than a written warning, an employee may be suspended without pay. The employee's supervisor, with the approval of the Court Executive Officer, may impose such a suspension.

Any suspension without pay is subject to the employee's due process rights as described in sections 11.1.5 and following. Such a suspension may be imposed only with the authorization of the Court Executive Officer.

- (e) **Demotion:** A demotion is a reduction in or loss of seniority or a reassignment or transfer to a position that results in a loss in or reduction of compensation. A demotion may be ordered by the Court Executive Officer under circumstances that warrant discipline other than a written warning or suspension. A demotion is subject to the employee's due process rights as set forth in sections 11.1.5 and following.

- (f) **Dismissal:** Upon authorization of the Court Executive Officer, an employee may be terminated and dismissed from the Court's employment. Dismissal is subject to the employee's due process rights as set forth in sections 11.1.5 and following.

The Court shall use progressive discipline whenever the Court determines, in the Court's discretion, that progressive discipline will serve the dual purpose of correcting unsatisfactory performance or behavior and disciplining an employee. The Court may begin discipline at any level, in the Court's discretion, and is not required to impose discipline at any level or in any sequence provided that discipline shall always be commensurate with the alleged offense.

#### **11.1.4 Administrative Leave**

Under appropriate circumstances as determined by the Court, an employee may be placed upon administrative leave, with pay. Administrative leave is not disciplinary and, by itself, carries no disciplinary stigma. Administrative leave is not subject to due process rights. The terms and conditions of administrative leave shall be determined on a case-by-case basis by the Court.

#### **11.1.5 Notice of Proposed Disciplinary Action**

If the Court is considering disciplinary action against an employee more severe than written warning, the employee shall be given written notice of the proposed disciplinary action. The notice shall include a description of the proposed discipline, the date it is intended to become effective, a description of the facts and circumstances upon which the proposed discipline is based, and a statement informing the employee of his or her right to respond either orally or in writing to the charge by a specified date. If the proposed discipline is based, in whole or in

part, on written materials or documents, the notice shall either provide the employee with copies of the materials or documents or, in the alternative, inform the employee of when and where they may be reviewed.

If the employee does not respond to the notice within ten (10) calendar days of receipt of the notice, the Court may implement the proposed disciplinary action, without further notice. The disciplinary action shall be conclusive and final.

If the employee does respond to the notice within the time specified the Court shall consider the employee's response and all information relevant to the circumstances. The Court shall thereafter issue a written determination on the notice of proposed disciplinary action. If the determination recommends the implementation of discipline more severe than a written warning, the employee shall have the right to request an evidentiary due process hearing within five (5) working days of the date that the court issues its written determination.

An employee may be placed on paid administrative leave in connection with a disciplinary action, at any time while the action is pending.

#### **11.1.6 Due Process Evidentiary Hearing**

If an employee timely requests a hearing on the Court's determination to impose discipline more severe than a written warning, such hearing panel shall be formed as follows:

The hearing panel shall be composed of one member appointed by the Court Executive Officer, one member appointed by the employee or the employee's bargaining representative, and one member selected from a list jointly prepared by the Court Executive Officer and the employee's recognized employee organization. The list shall be jointly prepared no later than January 30th of each year and the order of the names on the list shall be arranged by drawn lot. For each Hearing Panel, the first name on the list shall be utilized for that hearing. Once a name has been utilized from the list for purposes of convening a Hearing Panel, that name will be removed from list. If the list is not prepared by January 30th of each year, the third member of the hearing panel shall be appointed by the State Mediation and Conciliation Service, unless the parties otherwise agree.

The cost of the panel member appointed by the Court shall be borne by the Court. The cost of the panel member appointed by the employee or representative of the employee shall be borne by the employee. The cost of the mutually agreed upon Hearing Panel member shall be split evenly between the two parties.

At hearing the employee and the Court shall have the right to call witnesses and present evidence. Upon request of the employee, the Court shall release employees to testify at the hearing. The employee may issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, documents, and other evidence as provided by Code of Civil Procedure section 1282.6. The employee shall have the right to representation, including legal counsel paid by the employee. The hearing shall be conducted within thirty (30) days of the date of the employee's request unless the parties agree to some other time. An appropriate record of the hearing shall be made at the expense of



the requesting party.

If the hearing panel disagrees with the Court's determination of discipline, the Court shall furnish a certified copy of the record of the hearing to the employee or, if the employee is represented by a recognized employee organization or legal counsel, to that representative without cost.

#### **11.1.7 Review and Appeal**

The Court shall have thirty (30) calendar days from receipt of the hearing panel's report and recommendation to issue a written decision accepting, rejecting or modifying the hearing panel's report and recommendation. The Court and employee may agree to a different time in writing. The Court's review of the hearing panel's report and recommendation shall be conducted by an individual other than the disciplining officer.

In making its decision, the Court shall be bound by the factual findings of the hearing panel, except findings that are not supported by substantial evidence.

If the Court rejects or modifies the hearing panel's recommendation, the Court shall provide a written explanation of its reasons for the modification. The Court shall reject or modify the recommendation of the hearing panel only if the material factual findings are not supported by substantial evidence, for any of the following reasons, or for reasons of substantially similar gravity or significance:

- (a) The recommendation places an employee or the public at an unacceptable risk of physical harm.
- (b) The recommendation requires an act contrary to law.
- (c) The recommendation obstructs the Court from performing its constitutional or statutory function.
- (d) The recommendation disagrees with the Court's penalty determination, but the hearing officer has not identified material, substantial evidence in the record that provides the basis for that disagreement.
- (e) The recommendation is contrary to past practices in similar situations presented to the hearing officer that the hearing officer has failed to consider or distinguish.
- (f) The recommendation exposes the trial court to present or future legal liability other than the financial liability of the actual remedy proposed by the hearing officer.

#### **11.1.8 Judicial Review**

An employee may challenge the final decision of the Court by filing a writ of mandamus pursuant to Code of Civil Procedure section 1094.5 in the appropriate court. Review by that court shall be limited to the record. In reviewing the

Court's decision, the reviewing court shall be bound by the hearing officer's factual findings that are supported by substantial evidence.

## 12.0 Termination of Employment

### 12.1 Voluntary Termination

The Court will consider an employee to have voluntarily terminated employment if any of the following occur:

- a) Elects to resign from the Court;
- b) Fails to return from an approved leave of absence within three (3) working days of the date specified by the Court; or
- c) Fails to report for work without notice to the Court for three consecutive working days.

### 12.2 Termination Due to Reduction in Force

Occasionally, the Court may need to terminate an employee due to a reduction in force necessitated by reorganization, job elimination, economic downturns, or lack of work. Should the Court consider such terminations necessary, the Court will attempt to provide all affected employees with advance notice when practical, subject to meet-and-confer obligations imposed by a collective bargaining relationship with a recognized employee organization.

### 12.3 Release from the Introductory Period

An employee may be involuntarily separated during the introductory period because the employee is not qualified for, or has not adapted to, the type of work assigned. Release during the introductory period may be with or without cause and requires no advance notice. No due process rights attach to a release during the introductory period.

### 12.4 Involuntary Termination

Involuntary termination of an employee shall be effective on the date specified in the notice of proposed disciplinary action, when the employee does not request a due process evidentiary hearing. When the employee does request a due process evidentiary hearing, the date of termination shall be the date specified in the final decision or such other date as determined by the Court and employee. For purposes of calculating any benefit or pay which becomes due on such termination date, no date shall be set which creates the requirement that the separating employee be required to disgorge pay or benefits already received.

### 12.5 Exit Interview and Separation Form (\*General and Professional Units Only)

When an employee's employment is terminated, either voluntarily or involuntarily, the employee's supervisor should ask the employee to complete a separation form and participate in an exit interview. The exit interview shall be conducted by Human Resources. The employee may request that the interview be conducted by the Court Executive Officer.

### **12.5 Exit Interview and Separation Form (\*Supervisory Unit Only)**

When an employee's employment is terminated, either voluntarily or involuntarily, the employee may request to complete a separation form and participate in an exit interview. The exit interview shall be conducted by the Human Resources Administrator. The employee may request that the interview be conducted by the Court Executive Officer, however, the Court Executive Officer may decline to conduct the interview and appoint the Human Resources Administrator instead.

### **12.6 Final Payment**

The employee's final paycheck shall be mailed to his or her mailing address or made available for the employee to pick up at the Court or such other agreed location on the next regular payday.

## **13.0 Exit Interview**

Employees who leave the Court for any reason shall be asked whether s/he wishes to participate in an exit interview. This interview is intended to permit terminating employees the opportunity to communicate their views regarding their work with the Court. At the time of the interview, employees are expected to return all Court resources, such as equipment, I.D. cards, keys, documents, and handbooks. The exit interview shall be conducted by Human Resources and the employee may request that the Court Executive Officer participate.

Supervisors should notify Human Resources of the employee's last scheduled workday at the Court as soon as the separation decision has been made and communicated. The exit interview shall be scheduled at the time notice is given.

Human Resources is responsible for the completion of forms such as health insurance continuation and the retrieval of all Court resources.

# **ATTACHMENT “A”**









