Board of Supervisors Memorandum

September 17, 2013

Revisions to Merit System Rules and Personnel Policies

Background

Attached are proposed revisions to Pima County's Merit System Rules and Personnel Policies. The Merit System Commission recommended the changes to the Merit System Rules as presented for approval by the Board of Supervisors.

Explanations for these proposed changes are noted below.

1. Merit System Rule 6 - APPLICATION FILES

   6.2 - "is" changed to "are" for grammatical correctness.

2. Merit System Rule 7 - CERTIFICATION AND APPOINTMENT

   7.1 A.3 - "is" changed to "are" for grammatical correctness.

3. Merit System Rule 8 - PROMOTION, DEMOTION, REAPPOINTMENT, OPEN RANGE REAPPOINTMENT REASSIGNMENT AND DETAIL

   8.7 – language is added stating the effective date for actions defined in this rule shall be the first day of a pay period unless otherwise addressed.

4. Merit System Rule 11 – TERMINATIONS

   11.4 – "inability to perform the essential functions of an employee's position with or without reasonable accommodation" is added as a reason an employee may be laid off reverting to the practice in place prior to the November 2012 revision.

   11.5 - "inability to perform the essential functions of an employee's position with or without reasonable accommodation" is removed as a reason an employee may be terminated reverting to the practice in place prior to the November 2012 revision.

5. Merit System Rule 12 - DISCIPLINARY AND OTHER PERSONNEL ACTIONS

   The title of Rule 12 is revised to succinctly denote the actions defined in the rule.

12.1 B.1 – the words "effectuation of the discipline" are replaced with "effective date of the action" to accurately represent the different types of actions defined in the rule.
12.1 C.14 – the word "other" is deleted to accurately describe what would constitute cause for discipline.

12.1 C.15 – the words "or without" are added to accurately describe an action that would constitute cause for discipline.
12.3 B – amended to clarify notification and right to representation requirements for administrative suspensions.
12.3 C – added to clarify notice requirements for administrative suspension pre-action meetings.
12.3 D – re-lettered due to the addition of C and amended to delete specific references as to when administrative suspensions may be concluded.
12.3 E – re-lettered due to the addition of C and amended by adding the word "administrative" to accurately describe the type of suspension.
12.6 – amended to clarify right to representation and notice requirements for pre-action meetings held prior to issuance of disciplinary actions.

6. Merit System Rule 14 - MERIT SYSTEM COMMISSION APPEALS

14.1 C – deleted to remove any confusion as to what matters may be appealed to the Merit System Commission.
14.3 B – "fees pursuant to ARS" is replaced with "reasonable expenses" for clarification.

7. Personnel Policy 8-107 - Special Leaves of Absence with Pay

8-107 A.3.b adds language regarding collection of County property from an employee prior to commencement of Administrative Leave with Pay.
8-107 A.4 clarifies requirements for granting of management leave to exempt employees.

8. Personnel Policy 8-111 - Outside Employment

8-111 A. clarifies the definition of outside employment by adding "active participation in" any business-related activity.
8-111 E. adds language prohibiting outside employment while on Family and Medical Leave
unless approval has been obtained from the employee's Appointing Authority and HR-FMLA.

9. Personnel Policy 8-119 – Rules of Conduct

   8-119 V. deletes unenforceable prohibition of actions performed on non-work time.
   8-119 Y. clarifies language regarding acceptance of gifts to conform to current practice.

Recommendation

I recommend the Board of Supervisors approve the recommended changes to the Merit System Rules and Personnel Policies as outlined above.

Respectfully submitted,

C.H. Huckelberry
County Administrator

CHH/mjk – September 3, 2013

Attachments

c: Allyn Bulzomi, Director, Human Resources

A. Administrative Leave

1. Upon approval of the Appointing Authority and the County Administrator, an employee may be granted administrative leave with pay when emergency situations exist such as extreme weather conditions, fire, flood, or malfunction of publicly owned or controlled machinery or buildings, making it hazardous or impossible for the employee to get to or perform at his/her workstation (providing alternate work or workstation has not been designated).

2. An employee shall be granted administrative leave with pay upon the declaration of the Board of Supervisors that a state of emergency, disaster, or grief exists, and that such leave is to be granted.

3. Administrative leave with pay may be given to an employee by the Appointing Authority when it is determined to be in the best interest of the County, except in the case of layoffs, which may require County Administrator approval.

   a. An employee may be placed on administrative leave with pay for up to thirty (30) business days. For extensions beyond thirty (30) business days, County Administrator approval is required.

   b. The notification of administrative leave shall be delivered to the employee no later than five (5) business days after the effective date of the leave. The notice shall contain the specific reason(s) for the leave in sufficient detail to inform the employee of the reason(s) for the action. **PRIOR TO THE COMMENCEMENT OF ADMINISTRATIVE LEAVE UNDER THIS SECTION, ALL COUNTY PROPERTY, INCLUDING COUNTY ISSUED IDENTIFICATION CARDS, ACCESS BADGES/KEY CARDS, KEYS, MOBILE DEVICES, ETC., SHALL BE COLLECTED FROM THE EMPLOYEE AND RETAINED BY THE DEPARTMENT UNTIL THE CONCLUSION OF THE LEAVE.**

   c. At the conclusion of administrative leave, the employee shall be returned to work and advised of any appropriate action.

4. Upon approval of the Appointing Authority, an exempt employee may be granted **UP TO THREE (3) WORK DAYS OF** management leave with pay **PER FISCAL YEAR** during ~~the time when he/she is~~ **HIS/HER NORMALLY** scheduled ~~to~~ work **DAYS AND WORK HOURS**. The purpose of management leave is to recognize exceptional performance. ~~Management leave may be granted for up to a maximum of three (3) work days at any one time at the discretion of the Appointing Authority.~~ **REQUESTS FOR ADDITIONAL MANAGEMENT LEAVE MUST BE**

SUBMITTED TO THE COUNTY ADMINISTRATOR FOR CONSIDERATION AND SHALL NOT BE AWARDED TO THE EMPLOYEE(S) UNTIL APPROVAL IS RECEIVED. EACH DEPARTMENT SHALL PROVIDE THE COUNTY ADMINISTRATOR WITH A REPORT DETAILING ALL MANAGEMENT LEAVE AS IT IS AWARDED. THE REPORT MUST INDICATE THE DEPARTMENT, EACH EMPLOYEE'S NAME AND POSITION HELD, THE REASON LEAVE IS BEING GRANTED AND THE DATES AND TOTAL HOURS OF MANAGEMENT LEAVE AWARDED. Management leave is non-accruable.

B. Grievance/Appeal Activity Leave

Grievance/appeal activity leave applies to preparation and/or investigation of a grievance or appeal.

1. A permanent employee shall be granted grievance/appeal activity leave with pay up to three (3) hours per grievance/appeal. Grievance/appeal activity leave is limited to two (2) occurrences per fiscal year. Time in excess of the three (3) hour limit shall be charged to some other type of leave and must be approved in advance. Pursuant to Merit System Rule 13.1 D., this three (3) hour limit does not apply to those times when the employee is called to testify in a Human Resources grievance/appeal proceeding.

2. An employee representative shall be granted grievance/appeal activity leave with pay up to three (3) hours per grievance/appeal, when requested for the purposes of investigation or representation on behalf of another employee, for grievances/appeals formally submitted to the appropriate authority. Grievance/appeal activity leave is limited to two (2) occurrences per fiscal year. Time in excess of the three (3) hour limit shall be charged to some other type of leave and must be approved in advance.

3. Grievance/appeal activity leave is non-accruable and shall not be taken in increments of less than one (1) hour.

4. Requests for grievance/appeal activity leave shall be made in writing at least three (3) business days in advance, unless conditions preclude such advance notice as determined by the Appointing Authority.

C. Special Program Leave

1. Upon approval of the Appointing Authority, an employee may be granted special program leave with pay.

2. Special program leave applies only to those programs which have been

approved by the County Administrator and/or Board of Supervisors for employee participation.

3. Requests for special program leave shall be made in writing at least five (5) business days in advance, unless conditions preclude such advance notice as determined by the Appointing Authority.

D. César Chavez Remembrance Day Leave

1. Upon proclamation of the Board of Supervisors, the fourth Monday in March shall be designated as a day of remembrance in honor of César Estrada Chavez, for his efforts in establishing the farm labor movement.

2. Eligible employees, hired prior to the fourth Monday of March, shall be granted a day of administrative leave with pay.

a. For those departments with normal working hours of Monday through Friday, 8:00 am to 5:00 pm, the administrative day may be granted either the fourth Monday in March or the Friday immediately preceding the fourth Monday in March.

b. For those departments with twenty-four (24) hour operations, Elected Official departments or departments given specific written approval by the County Administrator, the administrative day may be granted any day beginning the three weeks preceding the fourth Monday in March up through and including the three weeks immediately following the Friday that precedes the fourth Monday in March.

3. Only employees who are working (i.e., not on any type of approved leave of absence) are eligible for the remembrance day. The only exceptions are employees on intermittent family and medical leave or employees on modified duty workers' compensation who are actually working.

4. Full-time employees shall be granted a single day of eight (8) hours of paid time off. Part-time and variable-time employees and employees on intermittent family and medical leave or employees on modified duty workers' compensation who are actually working shall receive a prorated amount of paid time off based on regular hours paid in the previous pay period. If no regular hours were paid in the previous pay period, the amount of paid time off shall be based upon regular hours worked during the pay period in which the remembrance day is administered.

5. Intermittent employees, as defined in Merit System Rule 1, are not eligible for this remembrance day leave.

Bereavement Leave

1. Upon approval of the Appointing Authority, an eligible employee may be granted paid bereavement leave for each occurrence in the case of the death of a family member. For purposes of bereavement leave, "family member" includes an employee's spouse, mother, father, step-mother, step-father, grandparent, child, stepchild, foster child, grandchild, brother, sister, father-in-law, mother-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, domestic partner or child of a domestic partner. The employee must file an affidavit with the department in order to take bereavement leave for the death of the domestic partner or the child of a domestic partner once a calendar year or more often if a relationship has changed in that calendar year or must have a current affidavit on file with the Human Resources Department for the domestic partner or child of the domestic partner enrolled under the County's health benefits plan.

2. Paid bereavement leave shall be for a period of up to three (3) consecutive work days per occurrence for the death of an eligible family member occurring within the State of Arizona, or up to five (5) consecutive work days per occurrence for the death of an eligible family member occurring out of state.

3. All employees except Elected Officials, intermittent employees as defined in Merit System Rule 1 and temporary employees with less than (6) months of service are eligible for bereavement leave.

4. An employee on an approved unpaid leave of absence as defined in 8-108.A. is not eligible for bereavement leave unless on intermittent FMLA or intermittent medical disability leave and working during the pay period when bereavement leave is requested.

5. Bereavement leave may be used for the purpose of making funeral arrangements, settling family affairs, bereavement, and/or attending the funeral or memorial service of an eligible family member.

6. The Appointing Authority or designee may require a death certificate, obituary, or documentation from the funeral home.

7. Upon approval of the Appointing Authority, an eligible employee may use his or her annual leave, compensatory time or unpaid leave under 8-108.F., when additional bereavement time is needed.

8. Full-time employees shall receive eight (8) hours of paid time off for each day of approved bereavement leave. Part-time and variable-time employees shall receive a prorated amount of paid time off based on regular hours paid in the previous pay period. If no regular hours were

paid in the previous pay period, the amount of paid time off shall be based upon regular hours worked during the pay period in which paid bereavement leave is approved.

9. Bereavement leave shall not be counted as hours worked for the purpose of computing overtime.

All County employees must observe the following basic work rule principles:

A. Observe Personnel Policies and Merit System Rules.

B. Report to work on scheduled work days at the proper starting time and remain at assigned work station for the scheduled periods, unless permission to leave has been granted by the supervisor or Appointing Authority.

C. Do not abuse County leave policies, departmental break, rest, or lunch periods.

D. Be careful and considerate in the use of County property and equipment. Keep tools, machines, vehicles and other County property clean and in proper condition.

E. Notify your immediate supervisor as required in these Policies if absence from assigned duties is necessary.

F. Obtain County Administrator permission before soliciting, selling, passing petitions, or distributing or circulating written or printed matter of any description on County property. Employees may post written or printed material on employee bulletin boards without permission, provided such material is not detrimental to the County.

G. Follow established safety practices and report any accidents to the supervisor.

H. Cooperate in keeping the work site clean and sanitary.

I. Carry out specific orders or instructions from the immediate supervisor or another employee in charge.

J. Perform a full day's work in an efficient and professional manner in accordance with the methods and standards required by the County.

K. Be responsive to the citizens of the County at all times while performing any duties which are related to County employment, or whenever representing the County in any capacity.

L. Prepare all records and reports truthfully and completely.

M. Establish and maintain effective working relationships with others and do not take part in harmful and/or malicious gossip.

N. Report to the immediate supervisor all known mistakes, policy violations, or infractions of the Rules of Conduct.

O. Report to the immediate supervisor any known willful damage, thievery, or unauthorized removal of County property.

P. Do not engage in physical violence or threats of physical violence with fellow employees and the public.

Q. Do not use abusive, profane, or obscene language or gestures or display obscene or offensive materials. Materials related to the health field which are determined to be of business necessity are excluded from this Policy.

R. Do not make slurs and/or remarks concerning race, color, religion, national origin, age, sex, disability, veteran's status, sexual orientation or results of a genetic test received by the County, when applicable.

S. Treat all co-workers and general public in a courteous manner.

T. Report to immediate supervisor any criminal conviction of the employee that results from drug statute violations in the workplace. The report must be made no later than five (5) calendar days following such conviction.

U. Follow Pima County Procurement Policy regarding acceptance of gifts.

V. Do not engage in unethical or illegal behavior with minors who are employed with the County or who participate in any County program or activity. ~~Relationships between employees and minors that include dating or romantic involvement are strictly prohibited.~~

W. Do not engage in practical jokes or other activities commonly referred to as 'horseplay'. Horseplay is defined as behavior, essentially without malice, and usually involves, for example, rough, boisterous or rowdy physical interaction such as tripping, grabbing, wrestling, or scuffling and may be inconsistent with ordinary and reasonable common sense safety rules.

X. Supervisory responsibilities include:

1. Assuring that employees are informed regarding changes in County policy and working conditions.

2. Administering Pima County Merit System Rules, Personnel Policies and Administrative Procedures in a fair and equitable manner.

3. Assuring that the work activity of subordinates is performed in an efficient manner and is of high quality.

4. Monitoring employee conduct for compliance with the Merit System Rules and Personnel Policies.

Y. Prohibited conduct - County employees shall not:

1. Hold financial or personal interests that could negatively impact the interest of the County.

2. Use or attempt to use their official positions or confidential information for financial gain or for personal advantage.

3. Permit themselves to be placed under any kind of personal obligation or allow themselves to be put in any kind of situation which could lead any person to expect official or personal favors.

4. Give preferential treatment to any private organization or individual.

5. Engage in any outside employment as defined in Personnel Policy 8-111 or outside activities, including seeking and negotiating for employment, that conflict with official and assigned County duties and responsibilities.

6. Perform any act in a private capacity which could be considered to be an official act.

7. Accept or solicit, directly or indirectly, anything of economic value~~, which means anything exceeding $25 in value,~~ **SUCH** as a gift, gratuity, favor, **SERVICE,** entertainment, or loan, which ~~is, or~~ may **OR MAY** appear to be, designed to influence the employee's official conduct. **SPECIFIC PROVISIONS OF THE COUNTY GIFT POLICY ARE SET OUT IN BOARD POLICIES AND ADMINISTRATIVE PROCEDURES.**

8. Directly or indirectly use or allow the use of County property of any kind, including property leased by the County, for other than official or assigned duties.

14.1 MATTERS WHICH MAY BE APPEALED

A. A permanent employee may appeal only the following actions:

1. Dismissal;

2. Demotion for disciplinary reasons;

3. Reduction in pay for disciplinary reasons;

4. Suspension;

5. Termination as set forth in Merit System Rule 11.5 B. through D.

B. Matters not specifically stated in this Rule cannot be appealed. Employees on initial probation, permanent employees laid off, employees hired under the provisions of the Trainee Program, intermittent employees, and employees who are exempt from the Merit System, as provided in the Merit System Ordinance, may not appeal.

~~C. Claims of discrimination based upon Federal and/or State civil rights laws, including Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act (ADA), the Age Discrimination in Employment Act (ADEA), the Equal Pay Act (EPA) and the Family and Medical Leave Act (FMLA) must be filed with the appropriate State and/or Federal agency charged by Federal and/or State law with the enforcement of those laws.~~

14.2 APPEAL PROCEDURE

A. Filing the Appeal

Appeals to the Commission must be filed with the Human Resources Department in writing within ten (10) calendar days of receipt of notice of an appealable action. If all attempts to deliver the notice fail, the right to appeal expires seventeen (17) calendar days from the date of the appealable action. In the absence of good cause, failure to file a timely appeal results in denial of the appeal due to lack of jurisdiction.

1. The appeal shall state the basis of the appeal and the remedy requested. The Appellant's department shall be the Respondent. Human Resources shall serve a copy of the appeal on the Respondent.

2. Respondent may file an answer to the appeal with Human Resources. Human Resources shall send copies to the Appellant and the Commission.

3. Respondent may serve an amended notice of suspension, demotion, reduction in pay, or dismissal prior to the beginning of the appeal hearing. In accordance with Merit System Rule 12.1 B, a pre-action meeting to discuss the specifics of the additional charges shall be held prior to serving the amended notice.

4. The Appellant may submit a written request to Human Resources to withdraw the appeal at any time prior to the decision by the Commission.

B. Hearing Officers/Commission

Appeals may be heard by a Hearing Officer, who shall be a Commission member, or by the Commission, as determined by the Chair, and in accordance with appeal hearing guidelines adopted by the Commission.

C. Time for Hearing

Within twenty (20) calendar days after receiving the appeal, the Commission shall set a date for a hearing of the appeal.

D. Notice of Hearing; Continuance

1. Written notice of the time, date, place of hearing and the name of the Hearing Officer, if applicable, shall be mailed by Human Resources to the Appellant and Respondent at least fourteen (14) calendar days before the date of such hearing.

2. Either Respondent or Appellant may request in writing that a hearing set pursuant to these Rules be continued.

3. Failure to request a continuance in conformance with these Rules, and subsequent failure by either party to appear at the time and place set for hearing, may result in dismissal of the case upon motion of either party, or on motion of the Hearing Officer/Commission.

4. A hearing may be continued by the Hearing Officer or, if the hearing is to be conducted by the Commission, by the Chair or designee.

E. Nature of Hearing

1. Each hearing shall be held pursuant to ARS §38-431 and ARS §11-356 and in accordance with appeal hearing guidelines adopted by the Commission. The technical rules of evidence and court procedure shall not apply to the proceedings, except that irrelevant, immaterial, incompetent, or unduly repetitious evidence, or evidence protected by the rules of privilege recognized by law, may be excluded.

2. All testimony at the hearings shall be recorded manually or by mechanical or electronic device. The Commission shall pay all charges incurred in connection with the presence of a court reporter or the utilization of mechanical or electronic devices, excluding, however, the costs of the preparation of all or any part of any transcript. The cost of a copy or copies of any such transcription shall be paid by the party or parties ordering the same.

3. In the event there is a dispute as to the Commission's jurisdiction to hear the appeal, the Commission shall decide the jurisdiction issue prior to hearing the appeal.

4. The Commission may request the Chair of the Board of Supervisors to issue subpoenas to compel attendance of any person and the production of any books, papers, or any other evidence relating to any investigation or hearing authorized by these Rules in accordance with the power of the Board pursuant to ARS §11-218. Pursuant to ARS § 12-2212, any member of the Commission may issue subpoenas to compel the attendance of witnesses and/or the production of documentary evidence. In the event that any person fails to appear and/or produce a document in response to said subpoena, any member of the Commission may, by affidavit setting forth the facts, apply to Superior Court for relief.

5. Upon the motion of any Appellant or Respondent, any witnesses not at the time under examination may be excluded from the hearing room. The Appellant, Respondent, their attorneys, or other representatives, shall not be excluded.

6. Witnesses other than employees, who are subpoenaed to attend a hearing or investigation, are entitled to the same fee as is allowed witnesses in civil cases of the State of Arizona. If a witness is subpoenaed by any Hearing Officer on his/her own motion, fees and mileage may be paid from funds of the Commission upon

presentation of a duly executed claim. If a witness is subpoenaed upon request of the Appellant or Respondent, the fees and mileage shall be paid by the party requesting the witness. Reimbursement to County employees subpoenaed as witnesses shall be limited to payment of mileage, if appropriate, by the party requesting the witness.

14.3 DEPOSITIONS; DISCOVERY

A. Depositions

If a witness does not reside within Pima County or within one hundred (100) miles of the place where the hearing or investigation is to be held, is out of state, or is too infirm to attend the hearing or investigation, any party, at his/her own expense, may cause a deposition to be taken. If the presence of a witness cannot be procured at the time of the hearing or investigation, the deposition may be used in evidence by either party or the Commission.

B. Discovery by Appellant

Upon Appellant's written request, received by the Respondent not less than seven (7) business days before the hearing, with a copy of said request to the Commission, any Appellant in any appeal before the Commission shall be entitled to receive, subject to payment of ~~fees pursuant to ARS~~ **REASONABLE EXPENSES**, not less than four (4) business days before the hearing, copies of the following documents:

1. The Appellant's entire personnel file, including any personnel file or files retained by offices other than Human Resources;

2. All memoranda, writings, other documents or printed or recorded materials prepared by or for the Respondent as a result of the events underlying the disciplinary action which is the subject of the appeal, except those which are protected by privilege. In the event any such memoranda, writings, or other documents are claimed by the Respondent to be privileged, the Respondent shall identify each such memorandum, writing, or other document, and inform the Commission and the Appellant;

3. Any and all documents which the Respondent intends to utilize as an exhibit at the hearing.

C. Discovery by Respondent

Upon Respondent's written request, received by the Appellant not less than seven (7) business days before the hearing, with a copy of said request to the Commission, any Respondent in any appeal before the Commission shall be entitled to receive, subject to payment of reasonable costs, not less than four (4) business days before the hearing, copies of the following documents:

1. All memoranda, writings, or other documents or printed or recorded materials prepared by or for the Appellant as a result of the events underlying the disciplinary action and pending appeal, except those which are protected by privilege. In the event any such memoranda, writings, or other documents are claimed by the Appellant to be privileged, the Appellant shall identify each such memorandum, writing, or other document, and inform the Commission and the Respondent.

2. Any and all documents which the Appellant intends to utilize as exhibits at the hearing.

D. Non-Compliance

Failure to comply with the discovery requirements may result in postponement of the hearing and/or exclusion of evidence.

E. Pre-hearing Conference

After the discovery called for in sections B. and C. above, but not less than two (2) business days before the hearing, the parties shall meet to identify witnesses and exhibits, agree to admissibility of exhibits, to stipulate to those facts not in dispute, and to discuss possible settlement. In the absence of good cause, the failure by either party to cooperate in such a conference may result in the exclusion of evidence, the cancellation of the hearing by the Hearing Officer or Commission, and/or the granting of other relief by the Commission, including the dismissal or granting of the appeal.

14.4 DECISION BY COMMISSION

A. If, after the hearing, the Commission determines that there was just cause for the action imposed, then the order shall be affirmed. If the Commission determines that there was not just cause for the action taken either: (1) because some or all of the charges were not proven to the satisfaction of the Commission; and/or (2) whether or not all of the charges were proven, the action imposed was, in the sole discretion of the Commission, too severe, then the order shall be revoked or modified. The

Commission shall have the power to direct appropriate remedial action and shall do so after taking into consideration just and equitable relief to the employee in the best interest of the County and the public.

B. Deductions from Back Pay Award

If an employee has been dismissed or suspended without pay, and, upon appeal, the Commission revokes or modifies said disciplinary order, and said employee is ordered reinstated with back pay, any interim earnings or amounts earnable with reasonable diligence, including unemployment compensation, shall be deducted from the back pay award. The back pay award, reduced by the amounts specified herein, shall be determined at a hearing before the Commission.

C. Compliance of Appointing Authority

Within ten (10) business days of a notice of decision by the Commission revoking or modifying any order of disciplinary action, the Appointing Authority shall comply with the Commission's decision, and shall render a report to Human Resources.

D. Judicial Review

The decisions of the Commission shall be final and shall be subject to judicial review only as provided in ARS § 12-901 *et seq*. The decision of the Commission shall not be deemed final for purposes of initiating judicial review under ARS § 12-901 *et seq*. until an order as to the amount of back pay, if any, has been duly made.

A. Definition

"Outside employment" **MEANS ACTIVE PARTICIPATION IN** ~~is~~ any business-related activity which results in reportable income to the Internal Revenue Service.

Outside employment must be compatible with the full and proper discharge of the duties and responsibilities of County employment. It shall not impair the employee's capacity to perform the County duties and responsibilities in an acceptable manner.

B. Eligibility

An Appointing Authority may grant a regular full-time employee approval for outside employment, limited to a maximum of twenty (20) hours per week, or twenty-four (24) hours per week if justified by the Appointing Authority and approved by the County Administrator, if:

1. Such outside employment has no actual or potential conflict with the employee's official duties;

2. The outside employment does not require an amount of time or effort which shall prevent the rendering of good service to the County;

3. The outside employment does not prevent the employee from performing overtime, on-call, or callback work when requested to do so.

C. Procedure

1. Any regular County employee desiring to engage in outside employment shall provide information to the Appointing Authority concerning the duties and the hours of employment.

2. Permission to perform outside employment shall require prior approval of the Appointing Authority on the official form provided by Human Resources.

3. It is the responsibility of the employee to report any change in the status/duties pertaining to outside employment to the Appointing Authority. Any change in classification and/or department shall require new approval for outside employment.

4. Permission for outside employment must be renewed annually by calendar year.

D. Department Responsibility

It shall be the responsibility of each Appointing Authority to maintain records on approvals and to periodically review them for compliance with this Policy. The Appointing Authority shall retain the form in the employee's department personnel file, with a duplicate copy to the employee.

E. **FAMILY AND MEDICAL LEAVE**

ANY EMPLOYEE ON FAMILY AND MEDICAL LEAVE FOR HIS/HER OWN SERIOUS HEALTH CONDITION SHALL NOT WORK OUTSIDE EMPLOYMENT UNLESS:

1. **APPROVAL HAS BEEN OBTAINED FROM THE APPOINTING AUTHORITY, AND**

2. **THE EMPLOYEE HAS A VALID MEDICAL STATEMENT THAT THE APPROVED OUTSIDE EMPLOYMENT SHALL IN NO WAY INTERFERE WITH NORMAL CONVALESCENCE OR PROLONG THE EMPLOYEE'S ABSENCE FROM COUNTY SERVICE.**

EMPLOYEES ON FAMILY AND MEDICAL LEAVE AND UNDER RESTRICTION LIMITING THE NUMBER OF HOURS THAT MAY BE WORKED SHALL ALSO OBTAIN APPROVAL FROM HUMAN RESOURCES-FMLA ADMINISTRATION PRIOR TO WORKING OUTSIDE EMPLOYMENT.

F. Workers' Compensation

1. Any employee on sick leave or workers' compensation shall not work outside employment unless:

   a. Approval has been obtained from the Appointing Authority, and

   b. The employee has a valid medical statement that the approved outside employment shall in no way interfere with normal convalescence, or prolong the employee's absence from County service.

   c. Employees on workers' compensation and under restriction limiting the number of hours that may be worked shall also obtain approval from Risk Management.

2. Any injury occurring during outside employment must be reported to and recorded by the Appointing Authority. Copies of the report shall be sent to the County Risk Manager.

A. Definition

"Outside employment" **MEANS ACTIVE PARTICIPATION IN** ~~is~~ any business-related activity which results in reportable income to the Internal Revenue Service.

Outside employment must be compatible with the full and proper discharge of the duties and responsibilities of County employment. It shall not impair the employee's capacity to perform the County duties and responsibilities in an acceptable manner.

B. Eligibility

An Appointing Authority may grant a regular full-time employee approval for outside employment, limited to a maximum of twenty (20) hours per week, or twenty-four (24) hours per week if justified by the Appointing Authority and approved by the County Administrator, if:

1. Such outside employment has no actual or potential conflict with the employee's official duties;

2. The outside employment does not require an amount of time or effort which shall prevent the rendering of good service to the County;

3. The outside employment does not prevent the employee from performing overtime, on-call, or callback work when requested to do so.

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F. Workers' Compensation

1. Any employee on sick leave or workers' compensation shall not work outside employment unless:

   a. Approval has been obtained from the Appointing Authority, and

   b. The employee has a valid medical statement that the approved outside employment shall in no way interfere with normal convalescence, or prolong the employee's absence from County service.

   c. Employees on workers' compensation and under restriction limiting the number of hours that may be worked shall also obtain approval from Risk Management.

2. Any injury occurring during outside employment must be reported to and recorded by the Appointing Authority. Copies of the report shall be sent to the County Risk Manager.

6.1 MAINTENANCE OF APPLICATION FILE

A. Human Resources shall be responsible for the establishment and maintenance of all application files for classifications covered by these Rules.

B. Applicants who have successfully demonstrated they possess the necessary qualifications shall have their applications maintained on file for that classification for at least six (6) months.

6.2 REINSTATEMENT/REEMPLOYMENT

A laid-off County employee shall be eligible for reinstatement and/or reemployment for a period of two (2) years from the effective date of layoff. A written request and completion of an official application ~~is~~ **ARE** required in order to be included in the application file and ranked in accordance with Merit System Rule 7.1 A.

6.3 SELECTIVE CERTIFICATION

Human Resources may make a selective certification of eligible applicants from the appropriate application file(s) when the vacant position requires specialized knowledge and/or experience or special background or qualification within the particular classification or within a particular geographic area.

6.4 USE OF RELATED APPLICATION FILES

If a vacancy exists in a classification for which few, if any, applications have been received, Human Resources may use a related application file(s). The related classification(s) must have minimum qualifications equal to or greater than those of the classification for which the vacancy exists.

6.5 REMOVAL OF APPLICATIONS

A. Human Resources may remove an application from an application file at any time for any of the following reasons:

1. Any of the reasons specified in Rule 4.2 C.;

2. The applicant cannot be located, despite reasonable efforts by the department or Human Resources;

3. The applicant has indicated to Human Resources or the department that he/she is no longer interested in a position in that classification, or that he/she is no longer available for appointment;

6.5 A. 4. Refusal or rejection by the applicant of an offer of appointment;

5. Failure of the applicant to respond to a reinstatement notice and/or refusal to accept reinstatement;

6. The applicant has accepted an initial or promotional appointment, at which time all applications for classifications of the same or lower grade or open salary range in the same classification family shall be removed;

7. Acceptance of a position by a laid off employee during the reemployment period; the laid off employee's reinstatement application shall remain in the reinstatement application file;

8. For internal County-wide or intradepartmental recruitment, the applicant has been terminated from County employment (i.e., the applicant is no longer a County employee);

9. The elimination of an application file pursuant to Rule 6.6.

B. When an application is removed from an application file, the applicant may request an Administrative Review under Rule 4.3.

6.6 ELIMINATION OF AN APPLICATION FILE

Human Resources may eliminate an application file when the classification is deleted or revised with a significant change to the minimum qualifications, or when a major revision has been made to the written test for that application file.

7.1 CERTIFICATION

A. Once a request is received and recruitment, if required, is complete, Human Resources shall prepare a Certificate of Eligible Applicants.

1. Reinstatement: When there are laid-off employees eligible for reinstatement to the requesting department, the Certificate shall contain only the names of those employees who were laid off from that department and who meet the minimum qualifications for that position. The department must appoint from this Certificate, unless none of these employees accepts reinstatement.

2. Reemployment: If County-wide or intradepartmental recruitment is used, the Certificate shall include the names of employees who have been laid off and who are eligible for reemployment for the classification requested.

3. Rehire: A qualified permanent status employee, who resigned in good standing in accordance with Merit System Rules from the classification of Corrections Officer, Sheriff's 9-1-1 Dispatcher, or Sheriff's 9-1-1 Call Taker shall be eligible for rehire for a period of one (1) year from the date of separation. A written request and completion of an official application ~~is~~ **ARE** required in order to be included on the current Certificate of Eligible Applicants.

B. If intradepartmental, County-wide and public recruitment have been requested, a Certificate of Eligible Applicants for each recruitment type may be prepared simultaneously.

C. The Certificate of Eligible Applicants for a public recruitment may contain internal and public applicants.

7.2 CERTIFICATE OF ELIGIBLE APPLICANTS

A. The Certificate of Eligible Applicants is valid for one (1) month. Human Resources, giving consideration to the geographic area, type of position and other factors, may extend the Certificate for up to an additional ninety (90) days with concurrence of affected departments. The County Administrator may extend the Certificate past the additional ninety (90) days.

B. A change in an application file shall not affect the content of an existing Certificate of Eligible Applicants.

7.3 APPOINTMENTS

A. Except as otherwise provided in these Rules, all appointments shall be made from a Certificate of Eligible Applicants prepared in accordance with these Rules.

B. A temporary appointment may be made for up to a maximum of eighteen (18) months.

C. An intermittent appointment shall not exceed one thousand forty (1040) hours worked per fiscal year without prior approval by the County Administrator, for up to a maximum of one thousand four hundred (1400) hours per fiscal year. An intermittent appointment may be continued from year to year without further certification. Intermittent appointments shall be made for non-exempt classifications only.

D. A reinstatement appointment may be made for a laid-off employee into a position of the same classification in the same department from which laid off, or the return of an employee as ordered by the Merit System Commission.

8.1 PROMOTION

A. Departments are encouraged to fill all vacancies by promotion.

B. Promotions shall be competitive and the selection made from a Certificate of Eligible Applicants.

C. Failure of promotion probation may result in layoff.

8.2 DEMOTION

A. Involuntary

1. An employee who fails to successfully complete promotion probation may be involuntarily demoted to a position with the same classification and to the same salary previously held. The demoted employee shall be placed into his/her previous position if the position is vacant. If the previous position has been filled on a permanent basis, the employee shall be placed into a vacant position in the current department with the same classification and salary previously held. If such a placement action cannot be made, the employee shall be laid off from the classification to which demoted and within the present department. An employee demoted under this section shall have no right of appeal.

2. An employee may be involuntarily demoted for a disciplinary reason in accordance with Rule 12.

B. Voluntary

1. If an employee makes a written request for a voluntary demotion within his/her current department, the Appointing Authority may make the demotion non-competitively if the employee meets the minimum qualifications. An employee demoted under this section shall have no right of appeal.

2. An employee may voluntarily demote through the competitive process. The employee shall have no right of appeal.

3. If an employee sustains a job-related injury or illness which precludes working in the current classification, the Appointing Authority may, upon written request of the employee, grant the employee a demotion non-competitively if the employee meets the minimum qualifications. An employee demoted under this section shall have no right of appeal.

8.3 REAPPOINTMENT

A. An employee may be offered reappointment competitively within the same department to a position of another classification with the same starting salary as the classification currently held; or to a position in another department of any classification with the same starting salary as the classification currently held.

B. An employee may be offered reappointment non-competitively within the County system at the discretion of the County Administrator.

C. At the discretion of the County Administrator, in consultation with Risk Management, an employee may be offered reappointment non-competitively within the County system to a position of the same classification, or another classification with the same or lower starting salary, if the employee has sustained a work-related injury precluding the employee from working in the current assignment. The employee must satisfactorily meet the minimum qualifications and physical requirements, with or without reasonable accommodation, for the reappointment.

D. The County Administrator may offer an employee a reappointment non-competitively within the County system if Human Resources determines that the employee is a qualified individual with a disability, who is seeking reappointment to a position for which he/she is qualified, as an accommodation for his/her disability.

8.4 OPEN RANGE REAPPOINTMENT

A. An employee may be offered an open range reappointment competitively from or to a position with a discrete grade to or from a position with an open salary range.

B. An employee may be offered an open range reappointment non-competitively within the County system at the discretion of the County Administrator.

C. At the discretion of the County Administrator, in consultation with Risk Management, an employee may be offered an open range reappointment non-competitively within the County system to a position of the same classification, or another classification with the same or lower starting salary, if the employee has sustained a work-related injury precluding the employee from working in the current assignment. The employee must satisfactorily meet the minimum qualifications and physical requirements, with or without reasonable accommodation, for the open range reappointment.

8.4 D. The County Administrator may offer an employee an open range reappointment non-competitively within the County system if Human Resources determines that the employee is a qualified individual with a disability, who is seeking open range reappointment to a position for which he/she is qualified, as an accommodation for his/her disability.

8.5 REASSIGNMENT

A. An Appointing Authority has the authority to make competitive or non-competitive reassignments within the department.

B. The County Administrator may offer an employee a reassignment non-competitively if Human Resources determines that the employee is a qualified individual with a disability, who is seeking reassignment to a position for which he/she is qualified, as an accommodation for his/her disability.

8.6 DETAIL

A. When the services of an employee are needed temporarily for more than fifteen (15) work days in a position other than the position to which regularly assigned, the employee may be detailed to that position for a period up to one (1) year and may not be extended. An Appointing Authority may use a non-competitive process to fill any detail forty-five (45) work days or less at which time the detail ends and may not be extended. A competitive process, in compliance with Merit System Rules 4, 5, 6 and 7, shall be used to fill any detail which exceeds forty-five (45) work days.

B. An employee is eligible for detail into a non-tested classification only if that employee meets the minimum qualifications of the classification upon detailing or upon completion of the detail assignment. An employee is eligible for detail into a tested classification only if he/she meets the minimum test scores prior to beginning the detail assignment. Temporary and intermittent employees and employees in trainee status are not eligible to serve detail assignments.

C. A detail assignment may be ended by the Appointing Authority at any time, at which point the employee will be returned to his/her regularly assigned position and salary. An employee whose detail assignment has ended shall have no right of appeal.

8.7. EFFECTIVE DATE

THE EFFECTIVE DATE FOR ACTIONS DEFINED IN RULE 8 SHALL BE THE FIRST DAY OF THE PAY PERIOD FOLLOWING THE COUNTY ADMINISTRATOR'S APPROVAL, UNLESS OTHERWISE ADDRESSED IN POLICY OR BY BOARD OF SUPERVISORS DIRECTIVE. THE EFFECTIVE DATE FOR ACTIONS DEFINED IN RULE 8 NOT REQUIRING COUNTY

ADMINISTRATOR APPROVAL SHALL BE THE FIRST DAY OF A PAY PERIOD.

11.1 RESIGNATION

A. Written notice of resignation shall be submitted to the Appointing Authority at least ten (10) business days prior to the effective date of the resignation. If written notice is not received, oral notice of resignation becomes effective on the date stated by the employee and must be witnessed and documented by the Appointing Authority or designee. A written confirmation of the resignation shall be sent to the employee within two (2) business days of the employee's oral notification.

B. In accordance with ARS § 23-1502, if an employee believes that intolerable working conditions exist that compel him/her to resign, in order to preserve the right to bring a constructive discharge claim against the County, the employee must notify the department in writing fifteen (15) calendar days prior to submitting his/her resignation.

1. The department shall investigate the employee's working conditions and submit a written response to the employee within fifteen (15) calendar days after receiving the employee's written communication of alleged intolerable conditions.

2. If the employee rejects the department's response, he/she may proceed with submitting his/her resignation.

C. A resignation may be withdrawn by an employee, with the written consent of the department, no later than ten (10) business days after the effective date of the resignation.

D. An employee who is chosen for a County elected position shall resign from regular County employment prior to taking the oath of office.

E. In accordance with the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), a regular employee inducted, ordered, or enlisted into active service of the uniformed service may resign from County employment and retain all reemployment rights. Pursuant to USERRA, a termination action for the purpose of military service is not considered a "break in service" if the employee has been separated for less than five (5) years.

11.2 DISMISSAL

A dismissal is the involuntary termination of employment for a disciplinary reason as provided in Rule 12.

11.3 TERMINATION DURING INITIAL PROBATION

An employee may be terminated, without the right of appeal, at any time during initial probation. However, the terminated employee may file a grievance in accordance with Merit System Rule 13.3 if unlawful discrimination under County Personnel Policies, Merit System Rules, or Administrative Procedures is alleged.

11.4 LAYOFF

Layoff shall not be used in lieu of discipline.

A. An employee may be laid off due to reduced demand for services, functions or programs; lack of funds; elimination of position; **FOR INABILITY TO PERFORM THE ESSENTIAL FUNCTIONS OF THE EMPLOYEE'S POSITION WITH OR WITHOUT REASONABLE ACCOMMODATION,** or for failure to successfully complete promotion, demotion or reappointment probation as provided in Merit System Rule 8. An employee laid off under this Rule shall have no right of appeal.

B. The decision regarding which classification(s) shall be affected by layoff and when layoff shall be effective shall be made by the Appointing Authority. In each instance, based on circumstances within the department, the layoff plan shall state whether or not grant-funded employees shall be grouped with other employees for layoff purposes.

C. When an Appointing Authority determines that a layoff is necessary, the Appointing Authority shall draft a layoff plan, which, when the layoff is for reasons other than reduced demand for services, functions or programs, lack of funds and/or elimination of position, may be merely an explanation of the grounds for layoff. All layoff plans shall be approved by the County Administrator prior to implementation.

D. When any classification is subject to layoff, non-permanent status employees in that classification in the same department shall be terminated before any permanent status employee is laid off, unless exempted by the Board of Supervisors. All vacant positions in that classification should be eliminated before laying off any employee in such classification.

E. When permanent employees in a classification become subject to layoff due to reduced demand for services, functions or programs, lack of funds and/or elimination of position, the Appointing Authority shall determine which employee(s) shall be laid off based on seniority as defined in MSR 1 and qualifications of all permanent employees in that classification in the same department. Seniority is the primary factor, unless exempted by the County Administrator. Qualifications (i.e. knowledge, skills and abilities) are the secondary factor, unless otherwise exempted by the County Administrator.

F. Human Resources shall notify employees to be laid off, in writing, as soon as possible, but no later than thirty (30) calendar days prior to the effective date of layoff. The written notice shall be hand delivered or sent certified with return receipt and first class mail. The notice shall contain the effective date of layoff, pre-layoff reappointment, reemployment and reinstatement rights, and a copy of the County Administrator approved layoff plan.

G. Pre-layoff Reappointment: Prior to the effective date of layoff, an employee subject to layoff may be appointed non-competitively by any Appointing Authority having a vacant position of the same or lower salary grade or open salary range for which the employee meets the minimum qualifications.

1. The salary for pre-layoff reappointment shall be set in the same manner as for entrance salary, Personnel Policy 8-117.

2. The effective date for pre-layoff reappointment shall be before the date on which the layoff would have been effective. The employee shall retain all accrued sick leave, annual leave and compensatory time.

3. An employee who accepts a pre-layoff reappointment shall serve a twelve (12) month probation.

4. An employee who accepts a pre-layoff reappointment retains reinstatement rights.

5. An employee who accepts a temporary or detail assignment, prior to layoff, retains pre-layoff reappointment rights during the assignment and is subject to layoff at the end of the temporary or detail assignment.

H. Reinstatement: An employee who is laid off shall be eligible and may apply for reinstatement to the department and the classification from which laid off. The employee shall be eligible for reinstatement for a period of two (2) years from the effective date of layoff.

I. Reemployment: An employee who has been laid off may apply for reemployment to any classification by submitting a written application and shall be considered a County employee for certification purposes. A laid-off employee shall be eligible for reemployment and shall be considered a County employee for certification purposes for a period of two (2) years from the effective date of layoff. Additional applications may be submitted any time during this period.

11.5 TERMINATION FOR OTHER REASONS

A. Employees on initial probation, temporary employees, intermittent employees, or new hire Pima County Trainee Program employees who have not completed the Trainee Program, may be terminated at any time without cause and with no right of appeal.

B. Any employee may be terminated pursuant to the Policy on Employment of Relatives, Personnel Policy 8-101.

C. An employee may be terminated for ~~inability to perform the essential functions of the employee's position with or without reasonable accommodation, for~~ inability to meet the minimum qualifications, for failure to pass a required background check, or for failure to maintain licensing, certification or other requirements for the position currently held.

D. An employee may be terminated for failure to return to work from an approved leave of absence without pay.

E. An employee shall be terminated pursuant to federal and/or state law for failure to establish or resolve employment authorization or identity verification.

12.1 GENERAL PROVISIONS

A. Disciplinary Action

A disciplinary action is an action taken only for cause to correct inappropriate performance or other work-related behavior. The degree of disciplinary action shall relate to the gravity of the improper performance or conduct and the past performance and conduct of the employee. Progressive discipline, including counseling and other supervisory actions to improve conduct and performance, should be used whenever possible before taking formal disciplinary action.

B. Pre-action Meetings

Before a permanent employee is suspended, demoted for disciplinary reasons, reduced in pay for disciplinary reasons, dismissed, placed on administrative suspension without pay or with reduced pay, or involuntarily terminated under Rule 11.5 B. through D., a pre-action meeting shall be held. The affected employee shall receive written notice of the charges, an explanation of the department's evidence and an opportunity to address a department representative concerning the charges.

1. The pre-action meeting shall be held at a time when the employee is reasonably able to attend, with due notice, and prior to ~~effectuation~~ **THE EFFECTIVE DATE** of the ~~discipline~~ **ACTION**.

2. Any relevant information presented by the employee regarding the proposed action shall be considered. The department representative will make a recommendation to the Appointing Authority to support, modify, or revoke the proposed action. If the recommendation and final action are adverse to the employee, the employee may appeal the action using the appeals procedure specified in Merit System Rule 14.

3. When a department determines that an employee should be out of the workplace while a pre-action investigation is conducted, the employee may be placed on administrative leave with pay pursuant to Personnel Policy 8-107.

C. Any of the Following Constitute Cause for Discipline:

1. Fraud in securing appointment or securing or attempting to secure workers' compensation benefits;

2. Incompetence;

3. Inefficiency;

4. Neglect of duty;

5. Insubordination, including, but not limited to, conduct which is unruly;

6. Dishonesty;

7. Possessing, dispensing, or being under the influence of alcohol, a narcotic, barbiturate, marijuana, or a tranquilizing or hallucinogenic drug, while on duty, except in accordance with medical authorization, or in the lawful performance of the employee's regular assigned duties;

8. Absence without leave without reasonable cause;

9. Commission or conviction of a felony or of a misdemeanor involving moral turpitude, either of which would affect the employee's suitability for continued employment;

10. Discourteous treatment of the public;

11. Willful disobedience, i.e. a specific violation of a command or prohibition;

12. Engaging in prohibited political activity;

13. Misuse of County computers, County internet access, County email systems, or any other County electronic communication devices;

14. Misuse of any ~~other~~ County property and/or systems;

15. Seeking to obtain financial, sexual, or political benefit from another employee with **OR WITHOUT** his/her consent, induced by wrongful use of force or fear, or under color of official right;

16. Violation of the Rules of Conduct, Personnel Policy 8-119;

17. Failure to satisfactorily perform job duties and responsibilities;

18. Failure to maintain minimum qualifications for the position;

19. Any other improper conduct or performance, which constitutes cause for disciplinary action.

12.2 TYPES OF DISCIPLINARY ACTIONS

A. Informal Discipline

1. Verbal Counseling

A supervisor may engage in verbal counseling with a permanent employee at any time for problem resolution. If the verbal counseling is documented, a copy of the documentation, with the employee's acknowledgment of receipt and any written response, shall be placed in the employee's department personnel file and shall be automatically purged one (1) year from the date of the verbal counseling, unless an earlier removal is authorized by the Appointing Authority. Verbal counseling is neither grievable nor appealable.

2. Letter of Counseling

An Appointing Authority or designee may issue a Letter of Counseling to a permanent employee at any time to correct or improve improper performance or conduct. The letter shall contain the specifics of the improper performance or conduct and shall be identified as a Letter of Counseling. A copy of the Letter of Counseling, with the employee's acknowledgment of receipt and any written response, shall be placed in the employee's department personnel file and shall be automatically purged one (1) year from the date of issuance, unless an earlier removal is authorized by the Appointing Authority. A Letter of Counseling is neither grievable nor appealable.

B. Formal Discipline

1. Letter of Reprimand

An Appointing Authority or designee may issue a Letter of Reprimand to a permanent employee to admonish the employee for serious or repetitive improper performance or conduct. The letter shall contain the specifics of the improper performance or conduct and shall be identified as a Letter of Reprimand. The Letter of Reprimand shall advise the permanent employee of the right to grieve the disciplinary action within ten (10) business days of receipt. Copies of the Letter of Reprimand, with the employee's acknowledgement of receipt, shall be placed in the employee's department personnel file and filed with Human Resources once the grievance process is completed or the time frame for filing a grievance has expired.

2. Suspension

   a. Suspension is considered to be a significant disciplinary action and may be used for more serious incidents or repetitions of improper performance or conduct. An Appointing Authority or designee may suspend without pay a permanent employee for a disciplinary reason. Permanent employees may be suspended for any appropriate length of time in full day increments.

   b. The Notice of Suspension shall contain the specific reason(s) for the suspension in sufficient detail to inform the employee of the reason(s) for the action and shall advise the employee of the right to appeal the suspension to the Merit System Commission within ten (10) calendar days of receipt of notice.

   c. The Notice of Suspension must be delivered to the employee prior to or no later than the effective date of the suspension. The date of receipt must be documented. Copies of the Notice of Suspension shall be filed with Human Resources and the Clerk of the Board once the merit system appeal process is completed or the time frame for filing a merit system appeal has expired.

3. Demotion

   a. Demotion for a disciplinary reason is considered to be a significant disciplinary action and may be used for more serious incidents or repetitions of improper performance or conduct. An Appointing Authority or designee may demote a permanent employee for a disciplinary reason provided the employee meets the minimum qualifications of the demoted classification.

   b. The Notice of Demotion shall contain the specific reason(s) for the demotion in sufficient detail to inform the employee of the reason(s) for the action and shall advise the employee of the right to appeal the demotion to the Merit System Commission within ten (10) calendar days of receipt of notice.

c. The Notice of Demotion must be delivered to the employee prior to or no later than the effective date of the demotion. The date of receipt must be documented. Copies of the Notice of Demotion shall be filed with Human Resources and the Clerk of the Board once the merit system appeal process is completed or the time frame for filing a merit system appeal has expired.

4. Dismissal

a. Dismissal for a disciplinary reason is the most significant disciplinary action and may be used for the most serious incidents or repetitions of improper performance or conduct. An Appointing Authority may dismiss a permanent employee for a disciplinary reason.

b. The Notice of Dismissal shall contain the specific reason(s) for the dismissal in sufficient detail to inform the employee of the reason(s) for the action and shall advise the employee of the right to appeal the dismissal to the Merit System Commission within ten (10) calendar days of receipt of notice.

c. The Notice of Dismissal must be delivered to the employee prior to or no later than the effective date of the dismissal. The date of receipt must be documented. Copies of the Notice of Dismissal shall be filed with Human Resources and the Clerk of the Board once the merit system appeal process is completed or the time frame for filing a merit system appeal has expired.

12.3 ADMINISTRATIVE SUSPENSION

An Appointing Authority may impose a non-disciplinary suspension without pay or with reduced pay when a permanent employee is charged with a felony or other crime involving moral turpitude, or when it is deemed to be in the best interest of the County while an inquiry is being made into the conduct of the employee.

A. Permanent employees may be placed on administrative suspension for any appropriate length of time in full day increments. Exempt permanent employees may be placed on administrative suspension only without pay.

B. ~~Notification shall be the same as for disciplinary suspension.~~ **THE NOTICE OF ADMINISTRATIVE SUSPENSION SHALL CONTAIN THE SPECIFIC REASON(S) FOR THE ADMINISTRATIVE SUSPENSION IN SUFFICIENT DETAIL TO INFORM THE EMPLOYEE OF THE REASON(S) FOR THE ACTION AND SHALL ADVISE THE EMPLOYEE OF THE RIGHT TO APPEAL THE ADMINISTRATIVE SUSPENSION TO THE MERIT SYSTEM COMMISSION WITHIN TEN (10) CALENDAR DAYS OF RECEIPT OF NOTICE.**

C. THE PRE-ACTION MEETING SHALL BE HELD UPON REASONABLE NOTICE TO THE EMPLOYEE AND AT A TIME WHEN THE EMPLOYEE IS REASONABLY ABLE TO ATTEND.

~~C~~**D.** ~~The employee may be suspended until the inquiry is completed and the employee is acquitted of the charges, the charges are dismissed, or the employee is otherwise exonerated.~~ Administrative suspensions that exceed thirty (30) business days must be approved by the County Administrator.

~~D~~**E.** At the conclusion of the **ADMINISTRATIVE** suspension, the employee shall be returned to work with or without back pay, or advised of disciplinary or other action.

12.4 SPECIAL OBSERVATION PERIOD

An Appointing Authority or designee may place a permanent employee on a Special Observation Period for the purpose of closely monitoring the employee's performance or conduct during the specified period of time. A Special Observation Period is a non-disciplinary action and may or may not be issued in conjunction with a disciplinary action. The Notice of Special Observation Period shall be separate from any accompanying disciplinary action documentation.

A. The Notice of Special Observation Period shall be provided to the employee in writing upon the effective date, and shall specify the conduct involved, the purpose of the observation period and the length of the period. Copies of the Notice of Special Observation Period shall be placed in the employee's department personnel file and filed with Human Resources for placement in the employee's official personnel file.

B. At the end of the Special Observation Period, the employee's supervisor shall prepare a special performance evaluation report specific to the performance issue(s) being monitored. Copies of the report shall be placed in the employee's department personnel file and filed with Human Resources.

C. Unsatisfactory performance or conduct during the Special Observation Period may result in disciplinary action taken during the Special Observation Period. Unsuccessful completion of the Special Observation Period may result in disciplinary action taken at the end of the Special Observation Period.

12.5 EFFECTIVE DATE

The demotion, administrative suspension, suspension, or dismissal for a disciplinary reason shall be effective on the date stated in the notice. The effective date of the action shall not be altered by the employee exercising the right of appeal.

12.6 RIGHT TO REPRESENTATION

The affected employee is entitled to be assisted by a person of the employee's choosing in a meeting where a Letter of Reprimand is being issued to the employee and at pre-action meetings held prior to issuance of disciplinary actions. The employee's assistant may **SPEAK ON BEHALF OF THE EMPLOYEE AND** participate in the discussions with the employee during such meetings. The employee ~~must~~ **SHALL** be given **AT LEAST THREE (3) FULL WORK DAYS'** notice of ~~this~~ **THE PRE-ACTION** meeting. ~~at least three (3) full work days from the date of written notification.~~ If the employee has not obtained an assistant within that period of time, management may proceed without further delay.