



## **SUPERIOR COURT OF CALIFORNIA COUNTY OF MERCED**

### **PERSONNEL POLICIES EFFECTIVE 2007**

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## **1.0 INTRODUCTION AND EQUAL EMPLOYMENT OPPORTUNITY POLICY**

### **1.1 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.

The policies contained in the Personnel Policies shall apply to all Merced Superior Court employees as defined in Government Code Section 71601 (1).

The Court shall retain the right to adopt and enforce administrative rules and regulations, subject to any obligation to meet and confer.

The Court retains the right to amend, change or adopt Personnel Policies, unless subject to a Meet and Confer obligation. If any paragraph, sentence, clause, or phrase of the Personnel Policies is held to be unconstitutional or invalid, such shall not affect the remaining portion of the policies.

Changes to these policies may be made under the Work Rules section, if appropriate, by Management Rights as set forth in Government Code Section 71634 or by written agreement between the Court and the Bargaining Unit representative.

### **1.2 Equal Employment Opportunity Policy**

The court does not discriminate against qualified employees or applicants for employment on the basis of race, color, religion, sex, gender, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, or any other basis protected by law, or on the basis of a perception that an individual has any characteristic protected by law, 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. The court will afford equal employment opportunity to all qualified applicants or employees with respect to compensation and all terms and conditions of employment, including hiring, training, promotion, transfer, discipline, and termination.

## **2.0 EMPLOYEE STATUS**

**Note:** This Employee Status section applies unless otherwise provided for in a Memorandum of Understanding.

### **2.1 Appointments**

- a. Appointments to positions at the Court shall be made by the Court Executive Officer or designee in accordance with Recruitment and Selection procedures. Only those persons who meet the qualifications set forth in the job classification shall be appointed.
- b. Appointments shall be made in writing on forms prescribed by Human Resources. A copy of the appointment, signed by the appointing authority or designee, and approved by the Human Resources office shall be delivered to the Payroll Agent before payment shall be made to any employee.
- c. Appointment to Employment At-Will positions may be exempt from the recruitment and selection requirements and procedures. However, new appointments to an Employment At-Will position will require certification by Human Resources that the person selected does in fact meet the minimum qualifications for the position. If a recruitment flyer is used to attract applicants for these types of positions, recruitment flyers will announce prominently the Employment At-Will employment status. To assure that an individual who accepts employment in an Employment At-

Will position is fully and officially informed regarding their status and of the implications of serving at the pleasure of the appointing authority, he/she will be asked to initial that section on the classification specification or job description.

## **2.2 Introductory Period**

### **2.2.1. New Employees**

- a. The Court attempts to hire the most-qualified employee for each position. To ensure this, the Court requires all full-time and part-time regular status employees to complete an introductory period of 2080 regular paid hours not including overtime or time off on Workers' Compensation status, beginning on the date of hire. This period is used to determine whether the employment relationship should continue.
- b. Employees who receive an overall unsatisfactory evaluation rating may have, at the Court Executive Officer's or designee's discretion, the introductory period extended an additional five hundred and twenty (520) paid work status hours, not including overtime or time off on Workers' Compensation status.
- c. During the introductory period, frequent informal employee performance evaluations may be held, as well as a formal performance evaluation at the end of 1040 hours and at the end of 2080 hours. If the Court determines that a satisfactory performance level cannot be achieved during the introductory period, including any extension, employees will be released from employment.
- d. Upon satisfactory completion of the introductory period, the employee shall become a full regular status employee.
- e. Employees selected or appointed to Employment At-Will status are excluded from these introductory period provisions.
- f. The Court may extend an employee's introductory period commensurate with any leave taken by the employee during the introductory period.
- g. Supervisors will be responsible for training and evaluation during the introductory period.

### **2.2.2. Release During the Introductory Period**

- a. Release during the introductory period may be with or without cause and requires no advance notice. No due process rights attach to a release of an employee during the introductory period.
- b. Any such release shall be without right of appeal or grievance.

### **2.2.3. Promoted Employees**

- a. Any Bargaining Unit employee who is promoted into a represented classification will serve an introductory period of 1040 regular paid hours in the new position. A formal performance evaluation will be conducted at the end of 520 regular paid work hours and before reaching the end of 1040 regular paid work hours.
- b. For Bargaining Unit employees, at CEO or designee discretion, e.g., for an employee who has received an overall unsatisfactory evaluation, the promotional introductory period may be extended an additional five hundred and twenty (520) paid work status hours, not including overtime or time off on Workers' Compensation status.
- c. Employees promoted into an unrepresented classification will serve an introductory period of 2080 regular paid hours in the new position. A formal performance evaluation will be conducted at the end of 520 regular paid

work hours, at the end of 1040 regular paid work hours and before reaching the end of 2080 regular paid work hours. This promotional introductory period may be extended an additional five hundred and twenty (520) paid work status hours, not including overtime or time off on Workers' Compensation status, at the discretion of the Court Executive Officer or designee. The Court may also extend an unrepresented employee's promotional introductory period commensurate with any leave taken by the employee during the introductory period.

- d. Any employee who does not satisfactorily complete the introductory period following a promotion shall be placed back in a classification which they held prior to the promotion with a salary at the same level as the salary they received prior to promotion. The location of the position will depend on vacancies, court needs, and other relevant factors.
- e. If an employee returns to a former class in which the employee previously held regular status, the employee's seniority date in the former class shall be the date of original appointment to the former class. Time spent in the higher level classification will not be counted for seniority purposes.

**2.2.4. Responsibilities and Procedures**

- a. Supervisors or designee(s) will be responsible for training and supervisors will be responsible for evaluation during the introductory period. Informal performance appraisals should be provided on an as-needed basis.
- b. Human Resources is responsible for notifying supervisors thirty (30) days prior to an employee completing his or her introductory period. Upon satisfactory completion, employees move to full regular status and are subject to the standard performance evaluation process and continue to be subject to other Court policies. If the employee's performance is unsatisfactory, the employee may be released from employment or a promotional employee may not be made permanent in the promotion and will be returned to their previous classification.

**2.3 Regular Fulltime Employee**

Regular fulltime employee shall mean an employee who has satisfactorily completed their introductory period and is regularly scheduled to work forty (40) or more hours per week.

**2.4 Regular Parttime Employee**

Regular parttime employee shall mean employees engaged in regular, continuous part-time service assigned to work a schedule that is less than the normal time schedule for Court.

**2.5 Variable Shift Employee**

Variable shift employee shall mean a regular employee who has satisfactorily completed their introductory period and is regularly scheduled to work less than forty (40) hours per week but no less than thirty-two (32) hours per biweekly pay period.

**2.6 Intern Employee**

- a. Intern Employee shall mean an employee who is hired into a Training Program at the Court. They are paid an hourly wage and are paid only for actual hours worked. These employees are not regular Court employees and do not receive Court benefits except for Family Medical Leave, if eligible, and Pregnancy Disability Leave. There is no guarantee of continued employment with the Court and an Intern's employment may be terminated at any time without notice or stated cause. The total number of

Interns hired at the Court will depend on court needs. Interns are not part of any bargaining unit.

- b. When a need for an Intern employee occurs, the division supervisor shall complete a Notice of Open Position, obtain approval signature of Court Executive Officer or designee and submit the form to Human Resources who will forward eligible applications to the supervisor for interviewing. Applications will be accepted whenever it is determined to be necessary by Human Resources.
- c. Upon selection, the applicant must successfully complete the Criminal Record Background Check, all applicable paperwork must be completed with Human Resources and the Intern employee must complete all orientation requirements.
- d. Interns may work a fulltime, parttime or as needed work schedule, per court needs. Interns are expected to work their scheduled hours except in cases of illness or other emergency. Unexcused absences are not acceptable.
- e. Interns are not entitled to take time off with pay for the purpose of application for appointment to Court positions or for taking qualifying and/or promotional examinations and/or appearing for interviews conducted for regular appointment or promotional opportunities with the Court.
- f. Interns do not participate in the Court retirement system. They are not entitled to paid leave and are not eligible for health insurance, the Employee Assistance Program (EAP) or for participation in the Deferred Compensation Plan. They are not entitled to pay or reimbursement from the Court for Jury Duty.
- g. Social Security and Medicare deductions are made from the temporary employee's paycheck.
- h. Workers' Compensation and Unemployment Insurance benefits are provided to eligible Interns.

## **2.7 Temporary Employee**

- a. The term Temporary Employee shall mean and include all employees whose employment is not regular status, Intern or Employment At-Will and whose rate of pay is fixed on an hourly basis and who are paid only for actual hours worked. These employees are not regular Court employees and do not receive Court benefits except for Family Medical Leave, if eligible, and Pregnancy Disability Leave.
- b. Temporary employees are not part of a bargaining unit.
- c. Temporary employees may be terminated from Court employment at any time without notice or stated cause.
- d. When a need for a Temporary employee occurs, the division supervisor shall complete a Notice of Open Position, obtain an approval signature from the Court Executive Officer or designee and submit the form to Human Resources who will forward eligible applications to the supervisor for interviewing. Applications will be accepted whenever it is determined to be necessary by Human Resources.
- e. Upon selection, the applicant must successfully complete the Criminal Record Background Check, all applicable paperwork must be completed with Human Resources and the temporary employee must complete all orientation requirements.
- f. Temporary employees will be paid overtime only for actual time worked beyond forty (40) hours in a work week.
- g. Temporary employees may work a fulltime, parttime or as needed work schedule, per Court needs. Temporary employees are expected to work their scheduled hours except in cases of illness or other emergency. Unexcused absences are not acceptable.

- h. Temporary employees are not entitled to take time off with pay for the purpose of application for appointment to Court positions or for taking qualifying and/or promotional examinations and/or appearing for interviews conducted for regular appointment or promotional opportunities with the Court.
- i. Retired court employees may be re-employed in a position requiring special skills or knowledge, for a period not to exceed one hundred twenty (120) working days or nine hundred sixty (960) hours, whichever is greater, in any one (1) fiscal year.
- j. Temporary employees do not participate in the Court retirement system. They are not entitled to paid leave and are not eligible for health insurance, the Employee Assistance Program (EAP) or for participation in the Deferred Compensation Plan. They are not entitled to pay or reimbursement from the Court for Jury Duty.
- k. Social Security and Medicare deductions are made from the temporary employee's paycheck.
- l. Workers' Compensation and Unemployment Insurance benefits are provided to eligible temporary employees.

## **2.8 At Will Employee**

- a. Nothing contained in these Personnel Policies should be construed as a guarantee of continued employment for those employees designated as At Will.
- b. At Will employment means that the employment relationship may be terminated at any time by either the employee or the Court for any reason not expressly prohibited by law. Any written or oral statement to the contrary by a supervisor, manager or other agent of the court is invalid and should not be relied upon by any prospective or existing employee.

## **3.0 RECRUITMENT, SELECTION AND PROMOTION**

### **3.1 Equal Employment Opportunity (EEO)/Non-Discrimination Policy Pertaining to Recruitment and Selection**

- a. Recruitment, selection, and promotion decisions will be made on the basis of the applicant's relative ability, knowledge, and skills. The Court's recruitment, selection, and promotion policies shall not be based upon an applicant or employee's race, color, religion, sex, gender, age, national origin, marital status, sexual orientation, ancestry, physical or mental disability, medical condition, veteran's status or citizenship, or any other basis protected by law. This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, benefits, and transfer.
- b. 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.
- c. Any applicant or an employee who requires an accommodation to perform essential functions of a job should contact 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 an employee to submit to a mental or physical examination, at the Court's cost, to determine fitness for duty, indemnify any job-related disability or the employee's ability to perform job functions and identify reasonable accommodations.

- d. 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.
- e. The Court Executive Officer or designee will designate an ADA Coordinator and a Civil Rights Compliance Officer for employment issues.

### **3.2 General Recruitment Procedure**

- a. Upon Human Resources' receipt of a Notice of Open Position form from the Division Supervisor, Court Executive Officer or designee, and approval by the Court Executive Officer or designee, the recruitment process will commence. Human Resources will first determine if there is an eligibility list from a prior recruitment available for the classification. If no list is available, recruitment procedure will begin.
- b. At the Court's discretion, Subordinate Judicial Officers, Managerial, Confidential, Intern and Temporary positions may be excluded from these competitive selection and promotion processes.
- c. All applications for employment with the Court (with the exception of Transfer and Non-Competitive Promotions) shall be made on an official court application form and must be filed with Human Resources on or prior to the closing date and time for receipt of applications. Transfer and Non-Competitive Promotions will be made on specified application forms and filed with Human Resources on or prior to the closing date and time for receipt of applications.
- d. Failure to complete and sign the application and/or submit all documents as stated in the Job Announcement will constitute failure in the initial step of the selection process and the application will not be considered. It is the applicant's responsibility to notify Human Resources of any change of address, name or other pertinent information.
- e. An original and separate application must be filed and submitted for each position for which the applicant is applying.
- f. Completed application forms shall become the property of the Court. They shall not be returned to the individual. Applications may be destroyed after a period of three (3) years.
- g. All persons in the Bargaining Unit and all unrepresented regular status (including At-Will) employees shall be entitled to take necessary time off with pay for the purpose of taking qualifying and/or promotional examinations, and appearing for scheduled interviews conducted for selection of positions at the Court. Interns and Temporary employees are not entitled to take time off with pay. Employees are not entitled to use Court work time to complete applications.

### **3.3 Types of Recruitment**

The Court Executive Officer or designee shall determine whether the recruitment for a position shall be open, closed department promotional, non-competitive or a transfer opportunity. Applicants will be notified by mail if they do not meet the minimum qualifications of the position.

All Job Announcements shall include:

- Class title and salary information;
- A description of the duties, responsibilities, minimum qualifications and essential functions of the classification;
- Application filing period (which may be extended by Human Resources if needed);

- Type of recruitment;
- All other information necessary to assist interested persons in understanding the nature of the employment and the procedure necessary to participate in the selection process.

Introductory Period employees have the same rights as a full Regular Status employee in this section.

#### 3.3.1. Open

Open recruitments shall be open to all applicants (Court employees and non-Court employees) who meet the minimum qualifications for the position. Public announcement of open recruitment positions shall occur a minimum of fourteen (14) calendar days before the closing date for receipt of applications.

#### 3.3.2. Closed Department Promotional

- a. Closed Department Promotional recruitments shall be open to all Merced Superior Court employees who meet the minimum qualifications for the position. Closed Department Promotional recruitments shall be placed on designated court bulletin boards for a minimum of fourteen (14) calendar days before the closing date for receipt of applications.
- b. Salary on promotion shall be in accordance with established salary schedules.

#### 3.3.3. Promotional Opportunity

- a. The Court shall take reasonable steps to inform employees of promotional opportunities in the Court. Human Resources shall notify division supervisors or designee by Email of promotional opportunities. Notice of promotional opportunities shall be posted fourteen (14) days. The presence of an existing Eligibility List may take precedence over this posting and applicants on an existing list may be interviewed before a new Promotional Recruitment is opened.
- b. Regular Status Court employees will be entitled to take necessary time off with pay for the purpose of taking qualifying and/or promotional examinations, and appearing for scheduled interviews conducted for promotional opportunity at the Court. Such time off must be coordinated in advance by the employee with their supervisor.
- c. Completion of applications on court time is not authorized.
- d. In the appointment process, consideration shall be given to relative ability, knowledge and skills pursuant to Government Code 71642.

#### 3.3.4. Non-Competitive Promotions

The competitive selection process will be waived under three (3) circumstances:

- a. Any regular status employee being laid off in accordance with Court rules shall be eligible to apply for transfer to a vacant position at equal salary, or voluntarily accept a demotion to a vacant position of lower salary, in any division of the Court, if the employee meets the minimum qualifications as set forth in the classification specifications.
  1. Human Resources will refer a list of all such interested employees to the division hiring authority where the vacancy exists.
  2. Applicants from an eligibility list may not be interviewed until after the above interested employees are interviewed. In the absence of an existing eligibility list, a recruitment will not be conducted until after the above employees are interviewed.
- b. In situations where it is impractical to conduct a competitive selection process, positions may be filled using a non-competitive process, whereby candidates need meet only the minimum qualifications as required by the

classification specifications and determined by Human Resources. All candidate applications which meet the minimum qualifications required for the position will be maintained by Human Resources and referred, as needed, to hiring divisions. Use of an Oral Appraisal Panel is not required for this process. Any list will be alphabetical. The non-competitive selection process can be used when any, or all of the following circumstances occur:

1. Continuous scarcity of qualified candidates, therefore requiring continuous recruitment;
2. Number and frequency of vacancies to be filled;
3. Candidates are established as qualified by public licensure or certification.

These applications may be removed after one (1) year and placed inactive.

- c. Non-Competitive Promotions are available in flexibly staffed positions (ex: Court Processing Clerk I and II and Administrative Assistant I and II). Flexibly staffed positions have a first level that is considered the entrance or trainee level. Promotion to the higher position requires meeting the minimum qualifications of the higher position, a satisfactory Performance Evaluation, the recommendation of the division supervisor, and submission of the specified Non-Competitive Promotion form.

### 3.3.5. Transfers

#### a. Purpose

The Court encourages internal transfers to other divisions. The Court strives to find the best candidate for every open position. By encouraging internal transfers, employees will have an opportunity to broaden their skills and experience, and become more valuable in furthering the mission of the Court.

#### b. General Guidelines

1. A regular court employee who desires to initiate a request for a transfer within the same classification to another Court division shall be given consideration pursuant to Government Code 71642.
2. Upon notice of a vacancy in any division, Human Resources or designee shall post a notice in each division. Positions available to internal personnel only will be advertised for a period of fourteen (14) calendar days, unless otherwise directed by the Court Executive Officer or their designee. This requirement is waived if all positions in a classification are currently assigned to the same division. This requirement is also waived if a transfer for a position within the same classification in the same division has been posted within 30 days.
3. Employees who wish to be considered for a lateral transfer shall submit a Transfer Request form to Human Resources within the fourteen-day posting period.
4. Eligible Regular Status employees shall be interviewed for these openings before an external recruitment is initiated or before names from the Eligibility List are provided.
5. The transfer selection decision of the division supervisor is final.
6. An employee who is transferred from one position to another in the same class shall be compensated at the same step in the salary range as previously received. For purposes of further merit increases within the salary range, the employee's anniversary date shall remain the same as it was before the transfer. The effective date of all transfers shall be the first working day of a pay period.

#### c. Eligibility

Employees may only apply for an internal position if they (1) have completed their introductory period, (2) have been in their present position for no less than 12 consecutive months, (3) have demonstrated acceptable job performance and (4) are currently not subject to a performance-improvement-plan or the like.

### **3.4 Qualification Screening**

In determining whether or not an applicant is qualified for a position, the Human Resources Representative shall apply any or all of the following as may be necessary:

- a. Satisfactory evidence of certification, registration, license or educational attainment and minimum job qualifications, as set forth in the classification specification/job description and/or announcement.
- b. Satisfactory evidence of ability to perform the essential functions of the job, as set forth in the classification specification/job description and/or announcement.
- c. Satisfactory evidence of compliance with experience requirements, as set forth in the classification specification/job description and/or announcement.
- d. Successful completion of a written, performance or oral examination or a combination of two or more such examinations, designed to test the applicant's knowledge, skills, and ability as related to the position for which the examination is established, as set forth in the classification specification/job description and/or announcement.
- e. Any additional screening procedure set forth in the job announcement.
- f. Confirmation that all documents stated in the Job Announcement have been received.
- g. Applicant's willingness to accept employment in the present open position.
- h. An applicant's intentional false statement or omission of material fact in the application process may disqualify the candidate.
- i. Disqualified applicants will be notified of such disqualification by mail to the last known address.

### **3.5 Eligibility Lists**

- a. Those persons who have successfully completed the qualification process for a position being filled, will be placed on an eligibility list. Placement on an eligibility list does not guarantee that an individual will be chosen for a position.
- b. There may be separate eligibility lists for the same classification: Ex: Promotional Eligibility List; Eligibility List from an Open Recruitment; Reemployment List (from layoffs). If more than one (1) list exists, they shall be considered in the following order: Reemployment List, Promotional List, Open Eligibility List.
- c. The Court Executive Officer or designee shall determine the procedure to be used to refine each eligibility list. This may include a review of applicants' experience and/or education, written examinations(s), oral examination(s), oral interview(s), reference checks and/or other procedures deemed appropriate.
- d. If an Oral Appraisal Panel is chosen to rank applicants for an Eligibility List, the panel will consist of three (3) members. Court employees may serve on an Oral Appraisal Panel provided that the applicants being rated are not in their assigned division and that the position is not a higher classification than the one that the panel member holds. The Human Resources representative may serve on any panel. Composition of the panel will be at the discretion of Human Resources. In the event that a panel member does not appear at the scheduled time, the Oral Panel may continue with the members present.

Use of an Oral Appraisal Panel for Management positions will be at the discretion of the Court Executive Officer or designee.

- e. There will be no ranking for Continuous Recruitments. Human Resources will screen those applications and forward to division supervisors, as needed.
- f. After an Eligibility List is established, a minimum of five names shall be approved for interviews for each Vacancy Request, unless fewer than five (5) names are on the eligibility list. When more than one vacancy is to be filled from the eligibility list, three (3) additional names for each additional vacancy to be filled may be approved for interviews, providing additional names are available. If none of the applicants are found suitable by the division supervisor and/or Court Executive Officer, another five (5) names will be forwarded for interviews. In the event all candidates on the eligibility list are found unsuitable, Human Resources may approve a new recruitment.
- g. If a division supervisor has interviewed an applicant on an eligibility list within the previous three (3) months, that supervisor will not be required to reinterview that person before making a selection or non-selection.
- h. An eligibility list will remain in effect for six (6) months from the date the list is established, or until there are fewer than five (5) names on the list, whichever occurs first. The Court Executive Officer or designee has the authority to extend an eligibility list when it appears to be in the best interest of the Court. The Court Executive Officer or designee also has the authority to disestablish an eligibility list within his or her discretion at any time prior to the expiration of the list and to request that a new eligibility list be established. Human Resources will make the determination, based on circumstances, to merge applicants from the disestablished list or to require that they reapply. If applicants are merged onto the new list, their original score, if available, will be merged with scores of new applicants. If there is no original score because they did not interview with an Oral Appraisal Panel for the prior recruitment but a panel has been established to interview current applicants, the applicant will have to interview with the new panel in order to be ranked with the new applicants.

### **3.6 Removal from Eligibility List**

- a. The Court Executive Officer or designee may remove a name from an eligibility list for any of the following reasons:
  - 1. A candidate requests that his or her name be removed;
  - 2. A candidate does not respond, within seven (7) calendar days, to either a request for an interview, request for availability status, offer of employment/promotion, or cannot be reached by phone after three (3) attempts;
  - 3. An interview produces the determination that the candidate does not meet the qualifications for the position or that the candidate cannot perform one or more of the essential functions of the position for which there is no reasonable accommodation;
  - 4. A candidate refuses an offer of employment or offer of promotion on two occasions;
  - 5. The candidate is no longer eligible for employment in the position or is no longer eligible for court employment;
  - 6. The applicant has made an intentional false statement or omission of material fact in the application process;
  - 7. A candidate does not appear for a scheduled interview; or
  - 8. A candidate fails to return a Contact and Waiver form.

- b. Applicants on Eligibility Lists may request that their name be placed on the inactive eligibility list so that they are not sent for interviews for vacancies. They may request, in writing, active status as long as the eligibility list remains in effect.
- c. Applicants may also waive consideration for a specific position two times. After the second time, their name will be removed from the eligibility list.
- d. If an applicant is not available at the time scheduled for interviews for a position, which will be considered as waiving consideration and count as one of the two (2) allowed waivers.

### **3.7 Selection/Appointments**

- a. The Court Executive Officer or designee will consider for appointment candidates whose names appear on the eligibility list. Applicants submitted for an interview by Human Resources shall be scheduled for an interview.
- b. Appointments made to regular status positions, in which the competitive selection process has taken place, shall be made from the eligibility list certified by Human Resources.
- c. The appointment to a regular status position shall constitute introductory appointment for employees obtaining their first regular status position in the Court or upon promotion.
- d. Emergency Appointments may be made without regard to this recruitment and selection policy, when in the judgment of the Court Executive Officer or designee, immediate service in the position is required to prevent stoppage of essential public business. An emergency appointment may not exceed sixty (60) working days in a twelve (12) month period. If a person serving in an emergency appointment is subsequently selected for the position, the time served on emergency appointment will count toward the Introductory Period.
- e. All Selections/Appointments require the approval of the CEO or designee.

### **3.8 Voluntary Demotion**

- a. A Regular Status Bargaining Unit Employee, with the prior approval of the Court Executive Officer or designee, may voluntarily demote to any vacant position in a lower class in their current classification series within the Trial Court.
- b. With prior approval of the Court Executive Officer or designee, a former Bargaining Unit Employee may transfer or voluntarily demote to any vacant position in a class of equal or lower salary in any division of the Court, if the employee held full regular status in the classification within the previous twelve (12) months.
- c. Any employee who requests and receives a Voluntary Demotion to a position having a salary range lower than the class of position from which he was demoted shall have his salary reduced to the biweekly salary in the range for the class of position to which he has been demoted next lower than the salary received before demotion, provided the employee has held the higher position for a minimum of six (6) months. If the higher position has been held for less than six (6) months, the employee will receive the salary based on the range and step he was receiving when he held the lower paid position. If there has been a general salary increase for the former classification, the employee will receive that salary increase. For purposes of further merit increases within the salary range, the employee's salary anniversary date shall not change.

### **3.9 Recruitment and Selection Records**

Human Resources shall be responsible for the maintenance of all recruitment and selection records as listed below. The records are the property of Human Resources and,

as such, numbers 1, 2 and 7 are considered confidential and not subject to release except by court order.

- a. The report of a particular recruitment and selection process for a particular vacant position(s) containing the names and scores of all applicants on each part of the process.
- b. A record of the oral appraisal panel, when used, showing the ratings and composition of the panel.
- c. A copy of the Position Announcement.
- d. Notice of Open Position form that authorized the recruitment.
- e. Recruiting Checklist form.
- f. Copy of any advertisements.
- g. Any other material used in the recruitment and selection process.

### **3.10 Job Classifications**

#### **3.10.1. Classification Plan**

All positions shall be included in a classification plan. The classification plan shall be maintained by Human Resources. Each classification shall have a Classification 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.

#### **3.10.2. Amending the Classification Plan**

The Court Executive Officer or designee may create new classes, as needed. The CEO or designee may create and revise or abolish existing classes, subject to the obligation to meet and consult on classifications in the Bargaining Unit.

#### **3.10.3. Position Reclassification**

The Court Executive Officer may, at his or her discretion, reclassify a position when it appears that there has been a significant change in the 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 there are other qualified employees in the same class as the incumbent whose position was reclassified, Human Resources may conduct promotional examinations for the higher class of position.

### **3.11 Reassignments**

#### **3.11.1. Permanent or Temporary Reassignments**

Employees may be reassigned from one position to another position within the Court, either on a permanent or temporary basis, provided the positions are in the same job classification and the employee possesses the minimum qualifications for the new position. Temporary assignments generally will not be more than 180 days unless the Court Executive Officer or designee specifically authorizes a longer period. At the end of the temporary reassignment, the employee shall return to their former position.

#### **3.11.2. Inter-Department Reassignment in Lieu of Layoff**

Notwithstanding the provisions of this policy, the Court Executive Officer or designee, in the event of layoffs, may direct Human Resources to find alternative Court positions to which the employee facing layoff can be reassigned, provided the employee meets the requirements of the vacant position and the needs of the division. This section is not intended to provide for promotions to vacant positions without the appropriate recruitment. If the reassignment is to a position

in the same class, the employee shall not be required to serve an introductory period. Should the reassignment be to a position in a higher class the employee shall be an introductory employee for 1040 regular work hours.

**3.12 Employment of Relatives**

a. Relatives of employees may be hired by the Court only if the individuals will not work in a direct supervisory relationship and if the employment will not pose difficulties for supervision, security, safety or morale. 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 adversely affect the work environment.

b. 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 supervision, security, safety or morale. 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.

**3.13 Criminal History Record Background Check**

- a. Every person employed or offered employment by the Court shall be fingerprinted and undergo a Criminal History Record Background Check.
- b. New employees to the Court whose criminal history information indicates omissions, or false or inaccurate responses on their employment application, or a disqualifying conviction, shall be subject to termination of employment.
- c. Unrepresented employees may request a review of any decision made under the criminal history information review process by filing, in writing, with Human Resources, a request for review of the disqualifying information. Any such request must be filed within five (5) working days of notice of disqualification. The decision of the Court Executive Officer on any such review shall be final. Represented Regular status employees disciplined or terminated under the provisions of this section may appeal that discipline or termination through the Court's established appeal procedure.
- d. Employees in Employment At-Will status do not have appeal rights.
- e. All information related to the criminal information review process shall be kept in a confidential file separate from employee personnel files. The file shall be kept in Human Resources.

**3.14 Reviews**

- a. Applicants who are not court employees and contend that the Court has misapplied, misinterpreted, or violated the policies set forth in this section governing recruitment and selection may file a written notice with Human Resources for reconsideration of his or her qualifications within ten (10) days of the date the non-qualification notice was mailed, and a reply will be mailed to the applicant. Human Resources' decision shall be final.

- b. If an employee contends that the Court has misapplied, misinterpreted, or violated the policies set forth in this section governing recruitment and selection, notification must be filed with the Court Executive Officer, whose decision will be final. Any such request must be filed within ten (10) days of the date on which notification of non-qualification was received by the employee. If notice is provided by mail, the notice shall be deemed to have been received five days after the date of mailing. In accordance with the Memorandum of Understanding, recruitment and selection issues are excluded from the grievance procedure.

#### **4.0 HOURS OF WORK**

##### **4.1 Exempt or Non-Exempt Status**

- a. Exempt employees are not covered by state and federal minimum wage and overtime laws and are paid on a salary basis. The Court will protect an employee's exempt status as required by state and federal law.
- b. Non-exempt employees are those who are eligible for overtime in accordance with the provisions of applicable wage and hour laws. Pursuant to state and federal law, the Court will honor its overtime pay obligations to non-exempt employees.

##### **4.2 Work Hours**

Eight (8) hours shall constitute a usual day's work for all employees excepting parttime regular employees, part-time Interns and temporary parttime employees.

##### **4.3 Employee Attendance**

- a. Purpose

Timely and regular attendance is an expectation of performance for all Court employees. To ensure adequate staffing, positive employee morale, and productivity throughout the Court, employees will be held accountable for adhering to their workplace schedule.

Each Court employee is responsible for maintaining a good attendance record. Employees are expected to report to work on time, observe the Court's guidelines for breaks and lunch, and remain at their assigned work location until the established quitting time.

The Court has established uniform guidelines to ensure a consistent and fair approach to solving attendance problems. b. Definitions

- 1. Absence: An absence is any time an employee is not at work during their scheduled work hours, regardless of the reason. However, not all absences reflect negatively on the employee's attendance record. Only "Incident of Absence" may.
- 2. Incident of Absence: An "Incident of Absence" (or "Incident") is one or more *unscheduled or unapproved* continuous day(s) or partial day(s) of absence.
- 3. No Call/No Show: Employees must report their absence each day; failure to do so is considered a no call/no show.
- 4. Perfect Attendance: No unscheduled absences or tardies in any three month quarter.
- 5. Tardy: Tardiness occurs when an employee is not present, and ready to begin working, at their assigned desk, unless otherwise specified by their supervisor, at their scheduled time (at the start of the workday and returning from lunch and

breaks). Tardiness also occurs when an employee leaves work prior to the end of their scheduled shift without prior approval.

6. Three Month Quarter: January 1 through March 31, and April 1 through June 30, July 1 through September 30, and October 1 through December 31.
7. Unscheduled: Unscheduled means less than one day notice to the employee's direct supervisor.

c. Exceptions

The following absences will **not** be counted as an incident:

1. Approved vacation time
2. Approved personal leave time
3. Approved compensatory time
4. Bereavement leave - *advance notification to the supervisor is required, when possible*
5. Jury duty/subpoenaed court appearances - *court provided document and advance notification to the supervisor is required*
6. Military leave
7. Workers compensation time
8. Unscheduled absences that does not exceed on-half (1/2) of the sick leave that the employee accrues on an annual basis.
9. Scheduled and approved sick time (i.e., surgery, scheduled doctors' appointments).
10. Protected leaves under the state and federal family and medical leave acts and other applicable state and federal regulations.

d. Guidelines for Incidents

Division supervisors, managers, and Human Resources will monitor Incidents of Absences. The Court will determine the action to be taken upon the accumulation of a certain number of Incidents within a given time period, taking into consideration the following:

1. The number of days taken;
2. The number of Incidents;
3. The pattern of absences;
4. The employee's past record; and
5. The reasons for the incidents.

In the event an employee is unable to meet this expectation, he/she must obtain approval from their supervisor in advance of any requested schedule changes. This approval includes requests to use appropriate accruals, as well as late arrivals to or early departures from work. Managers/supervisors have discretion to evaluate extraordinary circumstances of a tardy or absence and determine whether or not to count the incident as an occurrence. Human Resources is available to advise supervisors regarding the evaluation of extenuating circumstances.

Guidelines established through collective bargaining will also be taken into account when considering action.

Although the specific action taken in each instance will be determined by the Court in its discretion, the chart below illustrates the actions likely to be taken upon the accumulation of a certain number of Incidents within a given time period.

Number of Incidents	Time Period	Action Likely to be Taken
2	30-day calendar period	Supervisor will review the employee's attendance record with the employee to determine contributing problems and possible solutions.
3	60-day calendar period	The Division Manager will review the employee's attendance record with the employee to determine contributing problems and possible solutions.
2	60-day calendar period following consultation with Division Manager	Supervisor will issue a counseling memo to the employee.
2	60-day calendar period following issuance of the counseling memo	Supervisor will issue a written reprimand to the employee, after consulting with the Division Manager and Human Resources.
Any additional (full) incidents	6-month period following issuance of the written reprimand	Employee may be subject to suspension and/or termination of employment, pending investigation and review by Human Resources.

This policy does not prevent the Court from taking separate disciplinary action against employees for other policy violations, including insubordination and fraudulent use of sick and other leave.

e. Procedures

1. Prescheduled Time Off

a. Vacation and Compensatory Time Use

Vacation leave and use of compensatory time shall be requested as far in advance as possible and is subject to Court operational needs.

b. Absences

When possible, employees should schedule all absences (including late arrivals and early departures) in advance with their supervisor. Pre-scheduled and approved use of sick and other types of leave, such as a doctor's appointment or funeral, will not be counted as an Incident of Absence.

2. Attendance Notification

Any employee who is unable to report to work as scheduled must personally notify their supervisor. In the event that the employee cannot reach their supervisor, the employee must then contact the Division Manager. Leaving a message on any voice mail other than the Division Manager's cell phone does not constitute notification. A person other than the employee may not call on behalf of the employee, except in an emergency. Failure to provide this notification may cause the absence to be recorded as unexcused without pay and the employee may be subject to disciplinary action.

3. Unscheduled Absences

If it is not possible to pre-schedule an absence (including a late arrival or early departure), employees must:

- Notify the Supervisor or Division Manager as soon as he/she becomes aware of that he/she will be absent or tardy;
- Give the reason for the absence; and
- Give an estimate of how long the absence will be.

- d. If the absence is continuous or lengthy, employees should notify their supervisor or contact the Division Manager on a daily basis, or as otherwise required by the supervisor.
- e. For each unscheduled absence, the employee will be charged with an Incident of Absence unless the absence is exempted from the definition of Incident.
- f. Employees who do not contact their supervisor or follow the proper attendance notification at all to notify the Court that they will be absent for the day (a.k.a. "no call, no show"), will be charged with an Incident of Absence and with an unauthorized leave for the day. Progressive discipline may be initiated for repeat offenses.

#### 4. Tardiness

Employees shall be at their desk, unless otherwise specified by their supervisor, ready to work at the start of their shift. When an employee reports to work late, after notification as required in Section e – Attendance Notification, the tardiness will be charged to accrued sick leave, if appropriate, to earned vacation or compensatory time earned (CTE) in one quarter (1/4) hour increments rounded to the nearest one quarter (1/4) hour. Consequently, tardiness of seven (7) minutes or less will not be charged to sick leave, vacation or CTE, but will still be subject to disciplinary action. Tardiness of eight (8) minutes or more will be charged to available leave time. Tardiness may not be made up by working through rest periods or after the regular shift time. If notification did not occur, the non-exempt employee's pay will be reduced in one quarter (1/4) hour increments rounded to the nearest one quarter (1/4) hour and charged as leave without pay. On rare occasions caused by extraordinary circumstances, a supervisor may allow the tardiness to be charged to leave time even though an employee did not follow the notification procedure.

All tardiness will be documented for performance purposes. Charging the tardiness to leave time will not excuse the tardiness in regard to disciplinary action.

Tardiness of less than two (2) hours will be considered one-half (1/2) incident. Tardiness of two (2) hours or more will be considered one (1) incident.

#### f. Exhaustion of Sick Leave Accruals

Employees may use other accrued leave in place of their exhausted sick leave. Employees who have exhausted all other accrued leave time in addition to their sick leave time will be charged with an unauthorized leave for the day.

#### g. Extended Leave

If an employee will be absent for an extended period of time because of illness or injury, the employee must:

- 1. Obtain a medical certification form and/or other applicable forms from Human Resources;
- 2. Have the form completed by the treating physician stating the return to work date; and
- 3. Return the completed form(s) to Human Resources at the time the employee returns to work.

An "extended period of time" is generally four (4) or more days.

#### **4.4 Work Week**

The regular workweek of the Court shall be five (5) working days of eight (8) hours each. It will be the duty of each division supervisor to arrange the work of his division so that each employee therein does not work not more than five (5) days in each calendar week except that a division supervisor may require any employee in his division to perform services in excess of eight (8) hours a day or five (5) days per week for operational needs. For purposes of computing overtime pay, each workweek begins at 12:01 a.m. on Monday.

#### **4.5 Overtime/Compensatory Time Earned (CTE) Accrual, Payment, Use**

- a. Overtime for any represented employee or any non-exempt unrepresented employee assigned to work a regular forty (40) hour work week shall be defined as time actually worked beyond eight (8) hours in a work day, or forty (40) hours in a work week. Holidays and CTO (compensatory time off) shall be considered hours worked.
- b. Overtime worked for pay or CTO must be approved in advance by the Court Executive Officer (CEO) or designee. In the event that CTO is disapproved by the CEO or designee, the employee shall be paid overtime at the applicable rate. On occasion, overtime may be restricted to payment only. For example, due to budgetary situations.
- c. Failure or refusal to work scheduled overtime or working overtime without prior authorization may result in disciplinary action up to and including termination.
- d. If, in the judgment of a department head or division supervisor, work beyond the normal work week provided in this section is required, he/she shall authorize such overtime to be compensated for in pay or equivalent time off at the rate of time and one-half. Overtime will be earned in one quarter (1/4) hour increments, rounded to the nearest one quarter (1/4) hour. Employees may accumulate up to eighty (80) hours of CTE. Overtime earned that would increase an employee's CTE balance beyond eighty (80) hours must be paid.
- e. The employee must designate on their weekly timecard as to whether the overtime is for payment or CTE accrual.
- f. Employees will be permitted to use accrued CTE as requested, provided it is requested with adequate advance notice and does not unduly disrupt department operations. If an employee is unable to take CTO within the fiscal year in which it is accrued due to workload in the department, the employee shall be paid overtime at the rate of time and one-half of their regular rate of pay including differential, but no other special pays. This CTO will be paid within two (2) pay periods after the employee notifies HR. The Court Executive Officer shall have the authority to oversee the overall use of overtime in the Court.
- g. Except for non-exempt unrepresented employees, compensatory time earned shall be used for approved time off prior to using earned vacation time. Division supervisors shall deny use of vacation hours to cover approved time off whenever the affected employee has an unused CTE balance to substitute for all or part of the approved time off.

#### **4.6 Alternate Work Schedules**

- a. Alternate work schedules may be established by the court upon completion of the following:
  1. Development of a plan by the division supervisor which is approved by the Court Executive Officer and Human Resources.

- b. Employees working on an alternate work schedule shall be eligible for overtime after completion of eighty (80) hours worked within a biweekly pay period unless otherwise specifically provided for in an approved departmental alternate work schedule, or required by FLSA.

#### **4.7 Meal Period**

- a. All employees will be provided a meal period of not less than thirty (30) minutes, nor more than one (1) hour, scheduled approximately at the midpoint or middle of work shift.
- b. Employees required to be at work stations for eight (8) or more consecutive hours shall have their meal during work hours.
- c. Meal break is to be taken no later than after five (5) hours of work. Exception is when six (6) hours of work completes the workday and the employee voluntarily chooses not to take the meal break and the supervisor is in agreement.
- d. The specific meal period schedule is subject to supervisor approval.

#### **4.8 Rest Periods**

- a. All employees shall be allowed rest periods of fifteen (15) minutes during each one-half (1/2) 4 hour work shift. Rest periods are to be scheduled at the middle of each one-half (1/2) shift whenever feasible, unless otherwise provided in an approved alternate work schedule (example: Parttime employees shall be allowed rest periods as follows: scheduled shifts of at least three (3) and up to five (5) hours = one (1) fifteen (15) minute rest period; scheduled shifts of more than five (5) and up to seven (7) hours = two (2) ten (10) minute rest periods; for scheduled shifts of more than seven (7) hours = two (2) fifteen (15) minute rest periods).
- b. In general, employees may not combine rest and meal periods nor use them in lieu of leave time at the beginning or end of the workday. However, if an employee is prevented from taking his rest period due to workload, he may combine the rest period with the meal period or request to leave work fifteen (15) minutes early. These employees shall not work longer than four (4) hours without a break.
- c. In addition, division supervisors, on rare occasions may grant permission for an employee to add his rest period to the meal period or authorize using the rest period time to leave work fifteen (15) minutes early. Supervisors will take into account the number of requests from the individual employee and how the granting of the request will impact the court's operations and other employees.

#### **4.9 Lactation Breaks**

- a. Upon reasonable notification from an employee who wants to express breast milk for the employee's own infant child, the Court will make reasonable efforts to provide the employee with a private location for that purpose. Notification for such accommodation should be made to Human Resources prior to the employee taking Pregnancy Disability Leave, if at all possible.
- b. The lactation break time shall, if possible, run concurrently with the employee's authorized break times. If additional break time is needed, the employee may request paid leave time or, if necessary, unpaid time.
- c. Break time that would seriously disrupt Court operations may not be able to be accommodated.

## **5.0 PAY**

### **5.1 Timekeeping**

- a. All employees are required to submit a time card at the conclusion of each week that accurately records the employee's hours worked. Division supervisors will submit time cards to the division handling payroll no later than 4:30 p.m. each Friday with any changes due by noon on the following Monday. Advance notification will be given to division supervisors at those times when time cards are requested at an earlier time due to holidays, etc.
- b. To ensure proper payment, time cards must be legible, correct, and complete and must be signed both by the employee (except in emergency situations where the employee is unable to sign the card) and the supervisor or designee. Payroll records will be handled and retained by the court in accordance with court policy and applicable state and federal law.
- c. The following rules must be observed regarding time cards:
  1. Employees shall record hours worked as well as all time away from work during regularly scheduled hours with the reason. Ex: Sick leave, vacation, leave without pay, union general time, union grievance time, union negotiation time, training, etc. Work hours to be recorded in quarter hour (15 minute) increments.
  2. Overtime must be authorized by the employee's supervisor or designee in advance of the time being worked, and timely notification provided to the employee.
  3. Any modifications or alterations to an employee's time card must be initialed by the employee's supervisor and timely notification provided to the employee.
  4. Employees must sign their time cards at the end of each week to verify that the card is accurate. Employees must then submit the time card to the supervisor for approval, signature and submission to payroll.
  5. Failure to adhere to these rules will subject the employee to discipline, up to and including dismissal.

### **5.2 Paydays**

- a. Payday is generally every other Friday. When a regular payday falls on a holiday, paychecks typically will be available on the last workday preceding the holiday.
- b. Payment upon separation will be available on the regular payday following separation.
- c. In most cases, payroll checks will be distributed to supervisors or their approved designee for distribution to employees.
- d. An employee may designate another person to pick up his check by written request to Human Resources.
- e. Employees may also request to have their payroll checks deposited directly into their bank account by submitting the appropriate form to Human Resources.
- f. An employee may request to have their check mailed to them, while they are on leave, by written request to Human Resources.
- g. Any advancement of pay, before regular paydays, is prohibited.

### **5.3 Salary Administration**

#### **5.3.1. New Court Employees**

- a. Except as otherwise provided in this policy, new employees shall receive compensation at the first step of the salary range in effect for their particular class or position. The Court Executive Officer may authorize advance-step

compensation appointments up through step five (5) of the salary range schedule in effect when warranted.

- b. Employees who are at-will shall have their salary step determined by the appointing authority within the applicable range. Any Court employee who is appointed to an employment at-will position shall receive a new anniversary date coinciding with the first working day of the pay period in at-will status.

5.3.2. Salary on Reinstatement

A person reinstated (not rehired) in a classification which he or she previously held regular status and from which he or she was separated in good standing, may be appointed to the same step of the salary range for the particular class of position as the step which he or she occupied at the effective date of his or her separation.

5.3.3. Increases within a Salary Range

- a. Every regular employee shall have a merit increase eligibility date which shall be the first day of the pay period following completion of the first 2,080 hours of service with the Merced Superior Court. After completion of each period of 2,080 hours of service (hours worked include accrued leave use and paid holidays), employees may be eligible for an increase in compensation. Catastrophic leave donations will not be counted toward the required 2,080 hours.
- b. Salary increases within a range shall not be automatic but shall be given to an employee with a satisfactory performance evaluation and recommendation by the division supervisor.
- c. Employees in positions which are designated as Intern or temporary shall not be eligible for salary advancement as detailed in this section.

5.3.4. Salary on Promotion

- a. Employees must meet the minimum qualifications of the higher classification upon promotion. Any employee who attains a position in a class allocated to a higher salary range than the classification which he or she formerly occupied shall receive the nearest higher biweekly salary in the new salary range or the step having a salary approximately 5% higher than the salary he or she was receiving prior to promotion as of the date upon which the promotion becomes effective. If the difference between such ranges is less than 5% and the employee is on the last step, he or she shall be promoted to the last step of the range even though it is less than 5%. The effective date of all promotions shall coincide with the first working day of the pay period.
- b. The Court Executive Officer has the authority to determine the salary range on unrepresented employees' promotions.
- c. An employee who is promoted shall have a new salary anniversary date of the effective date of promotion.

5.3.5. Salary on Demotion

- a. Any employee who is demoted for reasons of unsatisfactory performance to a classification having a salary range lower than the classification from which he or she was demoted shall have his or her salary reduced to the biweekly salary in the range for the class of position to which he has been demoted next lower than the salary received before demotion. The employee will receive a new salary anniversary date.
- b. Any employee in good standing who is demoted to a position having a salary range lower than the class of position from which he or she was demoted for reasons other than unsatisfactory service shall have his or her salary reduced

to the biweekly salary in the range for the class of position to which he has been demoted next lower than the salary received before demotion. The employee's salary anniversary date shall not change.

- c. Any employee who accepts a voluntary demotion in lieu of layoff shall be placed on the biweekly salary in the range of their new classification that is closest to, but not greater than, the biweekly salary they were receiving in his or her previous classification.
- d. Any employee who requests and receives a Voluntary Demotion to a position having a salary range lower than the class of position from which he was demoted shall have his salary reduced to the biweekly salary in the range for the class of position to which he has been demoted next lower than the salary received before demotion, provided the employee has held the higher position for a minimum of six (6) months. If the higher position has been held for less than six (6) months, the employee will receive the salary based on the range and step they were receiving when they held the lower paid position. If there has been a general salary increase for the former classification, the employee will receive that salary increase. For purposes of further merit increases within the salary range, the employee's salary anniversary date shall not change.
- e. An at-will employee who is eligible for reinstatement and is returned to a previously held classification in a regular status position (or equivalent classification as determined by Human Resources) in the department shall be placed in the same salary step held prior to appointment to at-will status. The salary anniversary date shall be the same as it was before appointment to at-will status.

5.3.6. Salary on Transfer

- a. Any employee who is transferred from one position in the same class or to another in a class having the same salary range shall be compensated at the same step in the salary range as previously received. The effective date of all transfers shall be the first working day of a pay period.
- b. A transfer within the same classification will not affect the employee's salary anniversary date.

5.3.7. Salary on Range Change

An employee who receives a range change (adjustment) to a higher overlapping salary range shall be placed upon the same step in the new salary range as he or she was in the former range. The employee's salary anniversary date shall not change.

5.3.8. Salary on Position Reclassification

The salary of the incumbent of a position which is reclassified shall be determined as follows:

- a. If the position is reclassified to a class which is allocated to the same salary range as the class of the position before it was reclassified, the salary anniversary date of the employee shall not change.
- b. If the position is reclassified to a class which is allocated to a higher salary range than the class of position before it was reclassified, the salary of the employee shall be governed by the Salary on Promotion section of this Personnel Policy. Employees occupying positions reclassified which are allocated to a higher salary range must meet the minimum qualifications of the higher classification prior to any change in salary.

- c. If the position is reclassified to a class which is allocated to a lower salary range than the class of the position before it was reclassified, the employee shall receive the step, if any, in the new range which is the same as the salary he was receiving prior to reclassification. The employee's salary anniversary date will not change.
- d. If the salary of the employee is greater than the maximum of the new range, the salary of the employee shall be frozen until such time as the range maximum is increased and exceeds the employee's salary.

#### 5.3.9. Special Pay Assignments

##### a. Purpose

It is the Court's policy to provide a compensation premium to qualified employees temporarily performing work of a higher level job classification or outside of the employee's scope of duties.

##### b. General Guidelines

1. A special pay assignment is the act of temporarily assigning the employee to a job classification different than their primary classification or assigning duties outside the employee's normal scope of work. Such assignments normally occur due to an extended illness of four weeks or more, operational needs, position vacancy, training needs, special projects, or other special circumstances.
2. An employee who receives a special pay assignment shall receive a salary that is approximately ten percent (10%) higher than their present salary.
3. A special pay assignment shall only apply if all of the following conditions are met:
  - a. The employee will be assigned to perform fifty percent (50%) or more of duties that are outside the employee's current scope of work;
  - b. The employee meets the minimum qualifications of the higher classification, unless waived by the Court Executive Office or designee
  - c. The Court Executive Officer, or designee, formally authorizes the assignment in writing specifying the period of the assignment.
4. The ten percent (10%) differential shall cease when:
  - a. The absent incumbent returns to duty; or
  - b. The position becomes vacant (i.e., where the incumbent does not return) and the position is filled accordingly; or
  - c. When the assignment is terminated by the Court Executive Officer, or designee.
5. However, under no circumstances may any special pay assignment or related pay differential continue in excess of one hundred twenty (120) work days, unless so authorized in writing by the Court Executive Officer.
6. Nothing in this section shall restrict the Court, in the best interest of divisional efficiency, from managing the normal sick leave and vacation scheduling, leaving authorized positions vacant, or from hiring temporary employees to fill temporality vacant positions.

c. Exclusions

Regular represented employees cannot be temporarily promoted to unrepresented, at-will positions.

**5.4 Bilingual Pay**

- a. Regular status employees who have been designated by the Court Executive Officer and who have been certified through a testing process shall receive a pay differential for bilingual services. In most cases, an employee must have worked in a division for a minimum of 6 months before a Bilingual Pay Certification Form is submitted.
- b. The Division Supervisor is responsible for identifying the need for a bilingual employee in their division, completing the Bilingual Pay Certification Form and obtaining the Court Executive Officer's signature on the form.
  1. The Division Supervisor will then submit the form to the Court Human Resources Office.
  2. Human Resources will schedule the employee for a bilingual examination in the language designated on the form.
  3. Employees who receive a "Satisfactory" rating shall be certified by Human Resources authorizing payment of the Bilingual Pay Differential to the employee.
  4. Employees who receive an "Unsatisfactory" rating shall not be certified to receive the Bilingual Pay Differential. If the Court Executive Officer desires, the employee may be permitted to participate in the examination a second time. The reexamination may not take place less than thirty (30) days after the first examination. A new Bilingual Pay Certification Form will need to be submitted.
  5. The employee will be notified in writing by the Court Human Resources of the results of the examination. Test records will be maintained in Human Resources.
- c. Employees are paid the Court designated differential for all hours worked, including any overtime worked, whether or not they have used their bilingual skills during those hours. It is considered assignment pay.
- d. Employees have the responsibility to designate the hours worked correctly on their Time Card.
- e. Employees receiving the Bilingual Pay Differential agree, in writing, to use their bilingual skills for any court need, as directed. Duties may include assisting the public in any division where their bilingual skills are needed; providing sight translation (reading written texts and giving an oral translation of text); performing brief instructional translations in the courtroom when an Interpreter is not available; other related duties as assigned by supervisor, manager, Court Executive Officer or judge. Requests for the employee's services in a division other than the one to which they are assigned, are to be channeled through the employee's supervisor or designee.
- f. The Court reserves the right to limit or expand the number of Bilingual Certifications depending on Court needs. Bilingual pay for an employee may be terminated when the Court determines there is no longer a need for the services; when an employee refuses to use their bilingual skills as directed; or when the level of service does not meet the court's needs.

**5.5 Travel/Training Time**

- a. Training must be approved in advance by Human Resources on the official Training Approval form.
- b. Non-exempt employees required to attend job-related training sessions shall be compensated at the time and one-half (1 ½) rate for time spent in training sessions in excess of eight (8) hours in any single work day, or forty (40) hours in any work week.

Travel time to and from such training sessions shall be compensated in accordance with FLSA provisions.

- c. Employees attending optional job-related training sessions shall not receive additional compensation for time spent in excess of eight (8) hours in any single work day, or forty (40) hours in any work week, including travel time to and from such training sessions, unless required under FLSA provisions.
- d. Employees required to use their personal vehicle to attend training shall be paid for the actual mileage traveled at the approved IRS mileage rate as specified by the Court based on Judicial Council of California directive. The Court reserves the right to only pay mileage to drivers with three (3) or more in the car when more than one (1) person is attending the training. In order for mileage to be paid to any employee, they must have a valid driver's license, automobile insurance, an acceptable driving record and an approved DMV Certified Authorization for Driving on Official Court Business form on file as determined by a Department of Motor Vehicles check and Human Resources.
- e. The Court reserves the right to approve or disapprove training requests.

## **6.0 TIME OFF (PAID AND UNPAID)**

### **6.1 Vacation**

#### **a. Purpose**

The primary purpose of paid vacation is to allow employees to renew their physical and mental capabilities and to remain a fully productive employee. Employees are encouraged to request leave during each year in order to achieve this purpose.

#### **b. Eligibility and Accruals**

1. Every employee in a regular full time position (including Introductory Period Employees) shall be entitled to paid vacations of approximately eleven (11) days per year during the first five (5) years of continuous employment, sixteen (16) days during the second five (5) years of continuous employment, twenty-one (21) days after ten (10) years of continuous employment, twenty-three (23) days after fifteen (15) years of continuous employment, and twenty-six (26) days after twenty (20) years of continuous employment. Said vacation shall be earned and credited on a paid regular scheduled work hour basis as hereinafter provided:

<b>Years of Continuous Service</b>	<b>Vac. Hrs./Work Hr. Accrual</b>	<b>Days Per Year Earned</b>	<b>Maximum Allowable Hours</b>
<b>0 - 5 Years</b>	<b>.04231</b>	<b>11</b>	<b>240</b>
<b>5+ - 10</b>	<b>.06154</b>	<b>16</b>	<b>320</b>
<b>10+ - 15</b>	<b>.08077</b>	<b>21</b>	<b>320</b>
<b>15+ - 20</b>	<b>.08846</b>	<b>23</b>	<b>320</b>
<b>20+</b>	<b>.10000</b>	<b>26</b>	<b>320</b>

5 years = 10,400 regular scheduled work hours<sup>1</sup>

<sup>1</sup> For current Court employees hired on or before January 1, 2010, the Court agrees to maintain its current practice of crediting employees on a one-time basis with forty (40) additional hours of vacation upon completion of 10,400 regular scheduled work hours and upon completion of 20,800 regular scheduled work hours. Further, current Court employees hired on or before January 10, 2010 will be credited

10 years = 20,800 regular scheduled work hours  
15 years = 31,200 regular scheduled work hours  
20 years = 41,600 regular scheduled work hours

Only paid regularly scheduled work hours are counted for vacation accrual. Unpaid leave, or receiving SDI Coordination of Benefits that result in the employee having less than the required hours noted above, will affect eligibility for accrual rates.

2. Employees engaged in regular continuous part-time service shall be allowed vacations by reducing the amount of vacation earned in direct proportion as such part-time service bears to regular full time service. Temporary employees shall not be entitled to any paid vacation at all.

c. Vacation Scheduling

1. Each division supervisor and/or department head shall be responsible for scheduling the vacation of employees in such a manner as to achieve the most efficient functioning of the division and the Court.
2. Commencing in November of each year, and for a period of thirty (30) calendar days, employees may designate on a form (which may be physical or electronic) provided by their division supervisor, their preferences for scheduled vacation leave of the year beginning February 1<sup>st</sup> and ending January 31<sup>st</sup>. The form provided by the division supervisor will indicate those dates, if any, when employees in the bargaining unit may not take vacation.
3. When a conflict exists among the designated preferences of bargaining unit employees in the same division, seniority shall prevail in order to resolve such conflicts, unless in the judgment of the division supervisor such scheduling would adversely affect the efficient operation of the division during the period requested.
4. The vacation/time off request shall be posted on the G drive, by division, within thirty (30) days after completion of the selection period, or no later than January 5<sup>th</sup>. Once posted on the G drive, each supervisor/senior shall make every reasonable effort to update the Time Off Request Calendar upon receipt of new time off requests or on a weekly basis.
5. The division supervisor or department head shall have the right to deny vacation requests if such requests conflict with the efficient functioning of the division and the Court. It shall be the obligation of the division supervisor or department head or their designated representative to notify the affected employee as soon as possible after said conflict becomes known to the division supervisor/department head. No employee shall lose any vacation time due to such action.
6. If a waiting list exists for any specific date, the employee whose vacation was approved for that date must give at least five (5) days advance notice of cancellation of their approved vacation. If the employee does not give the required notice in this situation, they may not be allowed to cancel the time off. When an employee cancels their vacation in accordance with the above, the employee whose name appears on the top of the vacation waiting list for that date will be offered vacation time off. If that person does not want vacation for that date, the date will be offered to the next interested employee on the list.
7. Notification of all cancellations will be given, in writing, to the division supervisor so that the master calendar may be kept up to date.

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on a one-time basis with forty (40) additional hours of vacation upon completions (or past completion) of 41,600 regular scheduled work hours, provided the employee's then current accrual is at least forty (40) hours below the maximum allowable hours. (See chart above)

8. All employees shall complete a time off request and submit it to the division supervisor for approval at the time Vacation Leave is requested, or in emergency situations, immediately upon return to work. In any use of vacation, the minimum charge to the employee's vacation account shall be one quarter hour, while any additional actual absence over one quarter hour shall be charged to the nearest quarter hour.
  9. No personal shall be permitted to work for compensation for the Court in any capacity during the time of their paid vacation from the Court.
  10. An employee who becomes ill or injured during their vacation leave will not be charged vacation leave time for the period of illness or injury provided a physician's statement is furnished as proof of such illness or injury, to the division supervisor upon return to work and provided that the employee has sick leave that can be used for the absence.
  11. If a designated holiday occurs during the workweek in which vacation leave is taken by the employee, the holiday shall not be charged to vacation leave.
  12. If an employee transfers, promotes, etc. into a new division or classification and has scheduled vacation that conflicts with the new division's or classification's schedule, the division supervisor will attempt to accommodate both employees' scheduled vacations. However, if no accommodation can be made, the employee with the most seniority will prevail.
  13. An employee is not permitted to borrow on future vacation benefits.
- d. Vacation Buy Back
1. Bargaining Unit Employees shall have the option of participating in a plan to sell back a portion of their accumulated vacation leave hours upon meeting the specific criteria outlined below.
  2. Employees who have a vacation leave balance of at least one hundred (100) hours at the end of Pay Period 24 may, at their option, request conversion into cash payment of up to a maximum of twenty-five (25) hours of vacation time. Payment for this vacation time will be based on the hourly wage rate of the employee at the end of Pay Period 24, and issued with paychecks for Pay Period 25.

For example, an employee with a vacation leave balance of one hundred (100) hours or more would be eligible to cash out up to twenty-five (25) hours. If the employee's hourly salary rate at the end of Pay Period 24 was \$20 per hour, the employee would receive a gross payment of up to \$500. This cash out will be based on the employee's regular rate of pay and will not include any special pays.

3. The Court will take all necessary steps to prepare for the financial impact of an annual vacation buy-back program that will permit employees who meet the conditions above to cash out an additional fifteen (15) hours of vacation time – up to a total of forty (40) hours maximum per employee. The Court reserves the right to suspend the employee's option of cashing out the additional fifteen (15) hours during any year where it is faced with a reduced budget allocation or other exigent financial circumstance. Reasonable notice will be provided to employees and MCTCE should the employee's option of cashing out the additional fifteen (15) hours be suspended in any given year. Notice will be provided to employees as early as possible, but no later than the end of Pay Period 23.

## 6.2 Holidays

### a. Purpose

The purpose of this policy is to provide regular employees with paid time off to recognized specified state and federal holidays. Personal holidays are provided to employees for the observance of days that hold a special significance such as religious holidays, birthdays, and the like. The following days are established as holidays for all full-time regular status Court employees, but are subject to change as laws are amended:

1. Benefit eligible full-time employees are entitled to paid time off for the following holidays:
  - a. **January 1** – New Year’s Day
  - b. **Third Monday in January** – Martin Luther King’s Birthday
  - c. **February 12** – Lincoln’s Birthday
  - d. **Third Monday in February** – Washington’s Birthday
  - e. **March 31** – Cesar Chavez Day
  - f. **Last Monday in May** – Memorial Day
  - g. **June 19** - Juneteenth
  - g. **July 4** – Independence Day
  - h. **First Monday in September** – Labor Day
  - i. **Fourth Friday in September** – Native American Day
  - j. **November 11** – Veteran’s Day
  - k. **Fourth Thursday in November** – Thanksgiving Day
  - l. **Fourth Friday in November** – The day after Thanksgiving Day
  - m. **December 25** – Christmas Day
  - n. **Personal Holiday**
2. Every Friday preceding a Saturday that falls on January 1, February 12, March 31, June 19, July 4, November 11, and December 25 shall be designated the holiday.
3. Every Monday following a Sunday that falls on January 1, February 12, March 31, June 19, July 4, November 11, and December 25 shall designated the holiday.
4. An exception to the above designated holidays are those special days declared/designated as a holiday by the President of the United States or the Governor of the State of California, provided the Court is closed in observance of the holiday so declared/designated.
5. In the case of employees working under an alternate work schedule, holidays as contained in this section shall be determined to consist of eight (8) working hours, unless otherwise provided in the alternate work schedule.
6. To be paid for the holiday, the employee must be in paid status on the last regular work day before and the first regular work day following the holiday. Employees are deemed to be in paid status when receiving regular, sick, or vacation pay. Employees will not receive holiday pay under the following circumstances:
  - a. A new employee whose first working day is the day after a paid holiday shall not be paid for that holiday.
  - b. An employee who is terminating their employment for reasons other than paid Court retirement and whose last day as a paid employee is the day before a holiday, shall not be paid for that holiday.
  - c. An employee who is on a leave of absence without pay in such a way that he is not authorized any pay for both the regularly scheduled working day before the holiday and after the holiday shall not be paid for that holiday.

- d. Part-time employees, with the exception of variable shift part-time employees, will not receive holiday pay. Other excluded positions include: contractual employees, interns and temporary employees.
  - 7. An employee required to work on a holiday shall receive pay as negotiated in the MOU.
  - 8. Variable shift part-time employees receive four (4) hours for holiday or personal holiday pay until they have worked six (6) full pay periods for the Court. After six (6) full pay periods of work with the Court, a part-time employee will receive holiday pay equal to the average daily hours worked based on the prior six (6) full pay periods.
  - 9. Holidays that occur during vacation or sick leave will not be charged against such leave.
- b. **Personal Holidays**
- Personal Holidays are defined as any working days during the fiscal year selected by the employee consistent with the following provisions:
- 1. It is intended that personal holidays will be used for time-off that has special significance, such as religious holidays, birthdays, anniversaries, and the like.
  - 2. Employees will accrue Personal Holidays annually (on July 1) based on the years of service criteria below.

0 – 5 years: One (1) full day  
 5+ - 10 years: Two (2) full days  
 10+ - 20 years: Three (3) full days  
 20+ years: Five (5) full days

The maximum number of days an employee may have in their Personal Holiday bank is equal to the number of Personal Holidays he/she can accrue for that year. Employees hired within the first three (3) quarters (July 1 through March 31) of the fiscal year will accrue one (1) personal holiday and may use their personal holiday after two (2) months of employment.

- 3. Personal holiday usage shall be one (1) full day.
- 4. Selection of Personal Holidays by the employee shall be requested at least fifteen days prior to the date requested, except in cases of emergency and for special circumstances, which would require immediate approval by the employee's division supervisor.
- 5. Any employee who has requested, in the payroll system, their personal holiday within the prescribed time frame and had it denied due to departmental workload constraints, and upon repeated attempts by the employee to secure a satisfactory date period to June 30, shall be paid for those days in the first pay period following the end of the fiscal year.

### **6.3 Early Dismissals**

Early dismissals of court staff, for any reason, only apply to employees actually at work at time of dismissal.

### **6.4 Sick Leave**

- a. **Purpose**  
 The purpose of this policy is to set forth rules governing employee sick leave.
- b. **Policy**

1. Accruals

a. Regular Full Time Employees

Each regular full time employee (including Introductory Period employees) of the Court shall earn .0462 hours of sick leave with pay for each paid regularly scheduled working hour to a maximum of 3.696 hours in a biweekly pay period.

- $80 \text{ Hours Worked} = .0462 \times 80 = 3.696 \text{ hours}$

b. Part Time Employees

Employees engaged in part-time service shall earn 1.386 hours of sick leave for every 30 hours worked.

c. Limited Term Employees

After the first 90 days of employment, limited term employees shall earn 1.386 hours of sick leave for every 30 hours worked.

d. Interns

Intern employment shall not be entitled to accumulate any sick leave hours.

e. Sick leave earned shall be added to the employee's sick leave accumulation account on the completion of the pay period and may be accumulated without limitation. No credit shall be applied during the progress of a pay period.

- Employees may use sick leave for those days the employee is scheduled to work and may not exceed eight (8) hours in a day or 40 hours in a biweekly pay period. In any biweekly pay period, total paid regular work hours when added to paid sick leave may not exceed 80 hours.

f. In the event an employee's regular work week is changed, any sick leave balance accumulated at the time of such change shall be converted to an equivalent balance under the employee's new regular work week.

2. Sick Leave Usage

An employee may take paid leave for employee's own diagnosis, care or treatment of an existing health condition or preventative care or that of a family member.

a. Employee

Accumulated sick leave hours may be used for absences caused by illness, injury, or preventative care of an employee. Employees may also use sick leave if the employee is a victim of domestic violence, sexual assault, or stalking. When authorized in advance, sick leave hours may also be used for medical, dental, optical, and audio appointments or other treatment by a licensed physician, when the absence is during working hours. Under unusual or emergency circumstance, the division supervisor may waive the advance authorization provision.

An employee has the obligation to personally notify their immediate supervisor before leaving the job because of sickness or illness. In an emergency, the notification can be through a co-worker. The employee has the obligation to notify the immediate supervisor daily of any continued absence unless the employee has stated an estimated date of return to work.

b. Family Member

Accrued sick leave may be used by an employee when an illness or injury of an employee's family member is serious enough to require the employee to be absent from duty to personally care for such a person. Consistent with the provisions 1 and 2 below and in accordance with Labor Code 245.5 as amended, a family member includes:

- A child means a biological, adopted, or foster child, stepchild, legal ward, or a child to who the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.
  - A biological, adoptive, or foster parent, stepparent or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.
  - A spouse
  - A registered domestic partner
  - A grandparent
  - A grand child
  - A sibling
1. Accrued sick leave may be used to care for an immediate family member (including son-in-law, daughter-in-law, and "legally dependent" relations) who permanently reside in the employee's household, when the immediate family member's illness or injury is serious enough to require the employee to be bent form duty to personally care for such a person.
  2. Accrued sick leave may be used for a parent-in-law who permanently resides in the employee's household, when the parent-in-law's illness or injury is serious enough to require the employee to be absent from duty to personally care for such a person.
    - (a.) If the parent-in-law does not reside with the employee, use of sick leave credit is subject to the employee providing a physician's written statement certifying the need for the employee's presence to provide care of a family member, and stating the number of days such care is required.
    - (b.) Such use of sick leave requires advance authorization by the Division Supervisor. Under unusual or emergency circumstances, the Division Supervisor may waive the advance authorization provision.
    - (c.) A Division Supervisor may require verification of the need to use family sick leave if they have reason to believe the time off is for an unauthorized purpose.
    - (d.) Family sick leave may be used in conjunction with approved Family Medical Leave to the extent provided by law.

c. Blood Donations

With advance notice, employees may use sick leave for a period of time, not to exceed four (4) hours, to donate blood. Absence from duty for donating

blood will be approved providing that the employee submit an official receipt reflecting the donation to their supervisor.

d. Minimum Usage

In instances involving the use of a fraction of a day's sick leave, the minimum charge to the employee's sick leave account shall be one-quarter (1/4) hour while any additional actual absence over one quarter (1/4) hour shall be charged to the nearest quarter (1/4) hour increment. Such sick leave with pay can only be granted upon authorization of a division supervisor/division head.

e. Verification of Sick Leave Usage

All employees shall complete a time off request and submit it to the Division Supervisor for approval. In the event the request is not submitted, the time away from work will be charged to either accumulated vacation credits, or leave without pay if the employee has insufficient vacation credits to cover the time off. No sick leave will be honored without submission of a time off request.

When an employee is absent for more than four (4) consecutive working days, the employee shall present a statement by the employee's physician releasing the employee for normal duty. Without his release, the employee cannot be allowed to work.

An employee who becomes ill or injured during their vacation leave will not be charged vacation leave time for the period of illness or injury provided a physician's statement is furnished as proof of such illness or injury, to the Division Supervisor upon return to work and provided that the employee has sick leave that can be used for the absence.

f. Separation and Retirement

Employees terminating or who have been terminated will not receive payment for unused sick time hours. However, if the terminated employee is rehired by the Court within 12 months of their termination, the employee can reclaim their unused sick leave balance.

Employees will be paid their accumulated unused sick leave upon service retirement, excluding deferred retirement, and upon disability retirement or death as follows:

1. After five (5) years of continuous service, 25% of their accumulated sick leave up to a maximum of three hundred twenty (320) hours, with the remainder credited toward service time as of the date of retirement.
2. After ten (10) years of continuous service, 50% of their accumulated sick leave up to a maximum of four hundred sixty (460) hours, with the remainder credited toward service time as of the date of retirement.
3. Instead of a. or b. above, the employee may elect to credit 100% of their accumulated sick leave toward service time as of the date of their retirement, with that time added to their service credit.

## **6.5 Family Medical Leave Act (FMLA)**

a. Purpose

It is the policy of the Court to provide a leave of absence in accordance with the Family and Medical Leave Act (FMLA) of 1993 (29 U.S. Code § 2601).

The Family Medical Leave Act of 1993 as amended is a lengthy, complex law with over a hundred pages of federal regulations written to explain and aid in the application of the act. This policy summarizes the key points of the act and its regulations to provide Court management and employees with the tools necessary to administer the law.

b. Definitions

1. FMLA: A United States federal law requiring covered employers to provide employees job-protected and unpaid leave for qualified medical and family reasons.
2. Child: a biological, an adopted or foster child, a stepchild, a legal ward, or a child of a person standing in loco parentis who is either under 18 years of age, or is 18 years of age or older, and “incapable of self-care because of a mental or physical disability” at the time FMLA leave is to commence.
3. Covered Service member: The term “covered service member” means:
  - a. A member of the Armed Forces (including a member of the National Guard or Reserves) who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or
  - b. A veteran who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness and who was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of five (5) years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.
4. Health Care Provider: The term “health care provider” means:
  - a. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery (as appropriate) by the State in which the doctor practices; or
  - b. Any other person determined by the Secretary of Labor to be capable of providing health care services.
  - c. Other providers capable of providing health care services include only:
    1. Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors
    2. Nurse practitioners, nurse-midwives, clinical social workers and physician assistants
    3. Christian Science Practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts
    4. Any health care provider from whom an employer or the employer's group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits
    5. A health care provider listed above who practices in a country other than the United States, who is authorized to practice in accordance with the law of that country, and who is performing within the scope of his or her practice as defined under such law.
5. Immediate Family Member: A spouse, domestic partner, child, or parent of the employee.
6. Intermittent Leave: Leave taken in separate periods of time due to a single illness or injury, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks.
7. Parent: The biological parent of an employee or an individual who stood in loco parentis to an employee when the employee was a son or daughter.

8. Reduced Leave Schedule: A leave schedule that reduces the usual number of hours per workweek, or hours per workday, of an employee.
  9. Rolling 12-month Period: A rolling twelve month period is measured backward from the date an employee uses any FMLA leave. Each time an employee takes an FMLA leave, the remaining leave entitlement is any balance of the twelve (12) workweeks that has not been used during the preceding twelve (12) months.+
  10. Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves:
    - a. Inpatient care in a hospital, hospice, or residential medical care facility; or
    - b. Continuing treatment by a health care provider.
  11. Spouse: A legal marital relationship, which includes same-sex marriages and "common law" marriages regardless of where the employee lives, provided the marriage was legal in the state in which it was originally celebrated.
- c. Policy
1. Eligibility  
To be eligible to take an FMLA leave, an employee must meet *all* of these criteria:
    - a. The employee must have been employed by the Court for at least twelve (12) months prior to the date on which the leave is to commence; and,
    - b. The employee must have worked at least 1,250 hours in the twelve (12) months preceding the leave.
  2. Qualifying Reasons  
FMLA authorizes an eligible employee to take up to a total of twelve (12) workweeks of unpaid job-protected leave with employer-paid health, dental, and vision benefits during a "rolling" twelve (12)-month period for one or more of the following reasons:
    - The birth of a child
    - The placement of a child with the employee in connection with adoption or foster care of a child
    - To care for an immediate family member with a serious health condition
    - When the employee is unable to work because of a serious health condition
    - Time taken to care for a covered service member injured in the line of covered active duty
    - *Because of any qualifying exigency (as the Secretary of Labor shall, by regulation, determine) arising out of the fact that the spouse, or a son, daughter, or parent of the employee is on covered active duty (or has been notified of an impending call or order to covered active duty) in the Armed Forces*
  3. Duration of FMLA
    - a. Provided all the conditions of this policy are met, eligible employees will be entitled to use a cumulative maximum of twelve (12) weeks of FMLA within a twelve (12) month period. The twelve (12) month period is a rolling twelve (12) months.
    - b. FMLA leave for the employee's own serious health condition or for the serious health condition of the employee's immediate family member may be taken intermittently or on a reduced leave schedule when medically necessary.
      1. 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.

2. If the leave is requested in connection with a planned, non-emergency medical treatment, the employee must make a reasonable effort to schedule the treatment to minimize the disruption to the Court's operations.
    - c. An employee who has an immediate family member with a covered service member may take up to 26 weeks of leave during a single 12-month period.
  4. General Provisions
    - a. Absences of more than four (4) days may be eligible for FMLA. FMLA begins the first day of illness or absence that the health care provider certifies. The Court shall notify the employee whether his or her absence qualifies under FMLA eligibility guidelines. Absences determined to be FMLA qualifying shall be deducted from the employee's FMLA leave entitlement.
    - b. Before leave is granted, the Court will require appropriate medical certification. In some instances, a second or third medical opinion, at the Court's expense may also be required. The opinion of the third health care provider concerning the information certified shall be considered to be final and shall be binding on the Court and the employee.
    - c. Employees on FMLA will continue to accrue sick leave and vacation hours at an adjusted rate based on leave hours used during the pay period.
    - d. When an employee is on FMLA leave to care for a family member and the leave is terminated by the death of the family member, the employee will be granted the normal time off for bereavement as described in the respective policy.
  5. Use of Accrued Leave
    - a. Employees are required to use sick leave for FMLA for their own serious health condition. After sick leave has been exhausted, employees have the option to take the remaining leave as unpaid or use vacation hours, personal holiday, or Compensatory Time Earned (CTE).
    - b. Employees are required to use all of their accrued leaves for FMLA to care for a family member.
    - c. The use of accrued leave during FMLA does not extend the twelve (12) week FMLA entitlement within the rolling twelve (12) month period.
  6. Effect of FMLA on Pay

FMLA does not provide paid leave. However, employees have options available to receive compensation during their leave. Such options are as follows:

    - Accrued sick leave hours
    - Accrued vacation hours
    - CTE hours
    - Paid Family Leave (through Employment Development Department)
    - State Disability Insurance (through Employment Development Department)
    - Workers Compensation Insurance
  7. Effect of FMLA on Benefits

During an approved FMLA leave, the Court will continue to pay the employer's share of the employee's health insurance plan(s). If the employee is responsible for a share of the premium(s) through payroll deduction, the employee must continue to pay his or her share during the leave.

If an employee fails to pay his or her share of the premiums, the Court will discontinue its payment of healthcare premiums, which will result in termination of benefits.

An employee, who elects to terminate health care coverage or defaults on premium payments, may re-enroll in the Court's healthcare benefit plan(s) when the employee returns to paid active status.

d. Procedures

1. Requesting Leave:

- a. A FMLA-CRFA-PDL Leave Request form must be completed and submitted to Human Resources thirty (30) days before the beginning date of the leave. In the event of an emergency, the employee should contact Human Resources and submit the required paperwork as soon as practicable. When medical conditions make such requirements impossible, a family member or designee of the employee should contact Human Resources.
- b. When the leave is to care for a sick child, parent, or spouse, the requesting employee must submit a Certification of Health Care Provider for Family Member's Serious Health Condition form.
- c. When the leave is for the employee, the employee must submit a Certification of Health Care Provider for Employee's Serious Health Condition form.

2. Leave Extensions:

Employees requesting to extend their leave must submit a new medical note to Human Resources **at least three (3) days prior** to their scheduled return date.

3. Return to Work/Reinstatement:

Upon return from FMLA, employees will be reinstated to their prior position, or if unavailable, be restored to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.

## 6.6 California Family Rights Act (CFRA)

a. Purpose

It is the policy of the Court to provide a leave of absence in accordance with the California Family Rights Act (CFRA) (Gov. Code, § 12945.2).

b. Policy

Under most circumstances, CFRA guidelines and eligibility mirrors FMLA and runs concurrently with FMLA leave entitlements when allowed by law. Where there is a conflict between the provisions of CFRA and FMLA, the provision which provides the greater family or medical leave rights to the employee will be applied.

## 6.7 Pregnancy Disability Leave (PDL)

[Pursuant to California Code of Regulations, Title 2, Division 4, Chapter 2, Subchapter 6A]

a. Statement of Policy

1. 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 will run concurrently with any family care or medical leave to which the employee may be entitled under the Court's FMLA policy.

b. Reassignments

Upon request, the Court will attempt to provide a reasonable accommodation to an employee disabled by pregnancy, childbirth or related medical condition. Such reasonable accommodation may include a temporary reassignment to a less strenuous position. A reassignment may be 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 reassign an employee with more seniority.

- c. Effect of Pregnancy Disability Leave on Pay
  1. Any employee taking pregnancy disability leave must use any available sick leave and may, at her option, use any accrued CTE and vacation time for her leave.
  2. Except to the extent that paid leave is used, pregnancy disability leave is unpaid.
- d. Effect of Pregnancy Disability Leave on Benefits
  1. 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.
  2. Employees on pregnancy disability leave earn employment benefits, such as sick leave or vacation benefits, only while they are in paid status.
- e. Procedures for Requesting Leave
  1. Requests for pregnancy disability leave or an extension of the leave must be submitted in writing on a Family Medical Leave Act (FMLA) Request Form thirty (30) days prior to the beginning date of the leave, except when medical conditions make such a requirement impossible. The employee will be required to submit verification of physical condition from a health care professional. After an employee has used their pregnancy disability leave, they may request other leaves for which they may be eligible, e.g. CFRA or leave without pay.
  2. A request to extend a leave beyond the original return to work date must be submitted on the Family Medical Leave Act (FMLA) Request Form as soon as the employee has reason to believe an extension is necessary, but in no event less than five (5) days before the employee's scheduled date of return.
- f. Procedures for Return to Work
  1. Upon return from pregnancy disability leave, employees will be returned to their prior position, or if unavailable, a comparable position for which the employee is qualified.
  2. Employees on pregnancy disability leave must notify Human Resources of their availability to return to work at least five (5) days prior to the end of their leave.
  3. The Court will require the 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.
  4. An employee's failure to return from leave may subject the employee to discipline for job abandonment.

## **6.8 Leave of Absence Without Pay**

- a. Any employee holding a regular position may request a leave of absence without pay for any of the following reasons, and approval or denial of such requests will be based on Court operational needs and/or law:
  1. Illness, disability, pregnancy, or injury.
  2. To take a course of study which will increase the employee's usefulness on return to their position.
  3. For personal reasons acceptable to the Court Executive Officer or designee.
  4. Attendance at official union functions as an authorized delegate.
  5. Serious illness for a child, parent, or spouse under FMLA or CFRA.

6. School Activity Leave (Labor Code 230.7 and 230.8)
- b. The above is exclusive of Military Leave and Workers' Compensation.
  - c. Any leave of absence without pay granted under this Section for thirty (30) continuous calendar days or less, shall require Division Supervisor approval. Any leave of absence without pay granted under this Section in excess of thirty (30) continuous calendar days shall require approval of the Court Executive Officer or designee whose decision is final and not subject to appeal. Denial of the leave request will be based on Court operational needs.
  - d. All requests for leave of absence without pay shall be in writing and submitted to the employee's immediate supervisor. The request shall include a reason for the request, and the date such leave is to commence and end.
  - e. Any employee returning from one (1) full year leave of absence without pay may not be granted an additional full year leave of absence unless he/she has resumed their duties for a period of not less than ninety (90) calendar days, and the leave extension is approved by the Court Executive Officer or designee.
  - f. Employees who are granted a leave of absence without pay shall be subject to use of accumulated leave prior to beginning their leave as follows:
    - 1. If the unpaid leave of absence is for pregnancy, childbirth or related medical conditions, the employee must exhaust all accumulated sick leave credits prior to beginning the unpaid leave of absence.
    - 2. For FMLA used for the employee personally, use of leave during the twelve (12) weeks is in accordance with the Court's personnel policies and procedures section on FMLA and the Miscellaneous Leaves section in the MOU. If an employee's illness extends beyond twelve (12) weeks, all accrued leave must be exhausted prior to beginning an unpaid leave of absence.
    - 3. For FMLA used for the employee's child, parent, or spouse, use of leave during the twelve (12) weeks is in accordance with the Court's personnel policies and procedures section on FMLA and the Miscellaneous Leaves section in the MOU. If the employee's FMLA use for child, parent, or spouse extends beyond twelve (12) weeks, the employee is required to exhaust all accumulated vacation and CTE/MTE prior to beginning an unpaid leave of absence.
    - 4. If the unpaid leave of absence is for CFRA, the same provisions outlined in paragraphs (2), and (3) above, apply.
    - 5. If the unpaid leave of absence is for educational purposes, employees do not have to exhaust accumulated leave credits prior to beginning the unpaid leave of absence.
    - 6. If the unpaid leave of absence is for a School Activities Leave, all applicable leave accruals must be exhausted prior to beginning the unpaid leave of absence.
    - 7. If the unpaid leave of absence is for any other reason, the employee must exhaust all accumulated vacation and CTE/MTE credits prior to beginning the unpaid leave of absence.
  - g. Whenever an employee who has been granted a leave of absence without pay desires to return before expiration of such leave, he/she shall notify Human Resources as soon as possible in advance of the return.
  - h. An employee on leave of absence without pay due to illness or injury for a period of four (4) or more consecutive workdays shall present a statement by the employee's physician releasing the employee for normal duty prior to returning to work.

## **6.9 Bereavement Leave**

- a. The Court shall authorize Bereavement Leave with pay for regular, part-time, or introductory employees, when needed, due to the death of their:
  1. Spouse by current marriage or former marriage;
  2. Child by current or former marriage;
  3. Stepchild by current or former marriage;
  4. Parent, stepparent, foster parent, or guardian, or a person to whom the employee stands in loco parentis;
  5. Grandparent;
  6. Grandchild;
  7. Brother, Sister;
  8. Brother-in-law, Sister-in-law by current marriage;
  9. Parent-in-law by current or former marriage;
  10. Any child or close relative who resided with the employee at the time of death;
  11. Grandparent-in-law by current marriage;
  12. Registered Domestic Partner;
  13. Registered Domestic Partner's Child or Stepchild;
  14. Other Parent of employee's children; or
  15. Next of kin or person for whom the employee is legally responsible. The employee must request approval by the CEO or designee.
- b. The employee shall give notice to their immediate supervisor prior to taking such leave.
- c. A full-time employee shall be entitled to five (5) days of Bereavement Leave, consisting of three (3) days of paid Bereavement Leave and two (2) days of unpaid Bereavement Leave, except that the employee may use accrued vacation, personal leave, sick leave, or compensatory time off that is otherwise available to the employee.
- d. Bereavement Leave may be taken non-consecutively.
- e. Under circumstances necessitated by travel distance of over 250 miles one way, an employee may be authorized by the Court Executive Officer to take up to an additional two (2) regularly scheduled working days off on paid Bereavement Leave.
- f. Employees on unpaid leaves are not eligible for paid bereavement leave.
- g. Part-time employees shall receive bereavement leave on a pro-rata basis based on their current work schedule.

## **6.10 Crime Victims Leave**

- a. 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 is also eligible for leave to attend related judicial proceedings when the employee's immediate family member, registered domestic partner, or a child of a registered domestic partner is the victim of a violent felony, serious felony, or felony involving theft or embezzlement.
- b. Employees must provide advance written notice to their supervisors (on a Time Off Request form) 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 paid time off during such absences. Otherwise, the absence will be unpaid.

#### **6.11 Domestic Violence and Sexual Assault Victim Leave**

[Pursuant to Labor Code 230 (c)]

- a. Victims of domestic violence and sexual assault are allowed to take time off from work to help ensure their health, safety, or welfare, or that of their child in order to obtain:
  1. A temporary restraining order;
  2. A restraining order; or
  3. Other Court assistance.
- b. In addition, time off may be taken to:
  1. Seek medical attention for injuries caused by domestic violence;
  2. Obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence;
  3. Obtain psychological counseling related to an experience of domestic violence; or
  4. Participate in safety planning and take other actions to increase safety from future domestic violence, including temporary or permanent relocation.
- c. Employees must give the Court reasonable advance notice of time off needed for the above purposes, using a Time Off Request form, unless notice is not feasible. If the time off is unscheduled, the employee must submit the police report, court order or other evidence from the court, or documentation from a medical professional or counselor, which documents the need for the time off.
- d. Employees may elect to use accrued paid time off during such absences. Otherwise, the absence will be unpaid.
- e. The law pertaining to domestic violence and sexual assault victim leave does not allow an employee to take unpaid leave that exceeds the unpaid leave time allowed under FMLA. It is not time off in addition to what is already permitted under FMLA.

#### **6.12 Jury/Witness Duty**

- a. Jury Duty
  1. A regular status employee (including an introductory period employee) who is summoned for attendance to any Superior or Federal Court for jury duty during their normal working hours shall be deemed to be on duty. There shall be no loss in compensation. The employee will not receive jury duty fees, however they will be paid travel expenses in accordance with Court policy and the law.
  2. An employee on jury duty shall report to work for their regularly assigned shift prior to reporting for jury duty, or receive prior approval from their supervisor to report directly to jury duty. An employee released from jury duty during their normal duty hours shall report back to their division.
  3. Employees on jury duty must complete and submit a Time Off Request to their Division Supervisor as soon as they are notified of jury duty.
  4. Employees on leave are not deemed to be on duty within the meaning of section a.1 above. However, if an employee actually appears for jury duty on a scheduled vacation day, the employee will not be charged vacation leave time; upon return to work, the employee must furnish to the Division Supervisor or designee proof of such jury duty, including the date and time.
- b. Witness Duty
  1. A regular status employee who is served with a subpoena which compels their presence as a witness during their scheduled work hours shall be deemed to be in

- a leave of absence with pay status, unless he/she is a party or expert witness. The party at whose request the subpoena is issued shall reimburse the Trial Court in accordance with Government Code Section 68096.1. An employee released from witness duty during their normal duty hours shall report back to their division.
2. Employees on witness duty must complete and submit a Time Off Request to their division supervisor as soon as they are notified of witness duty or receive a subpoena.
  3. During working hours, any regular status employee who is required as a result of their Court employment, to be a witness in a Court or official administrative hearing shall receive their regular rate of pay.
    - a. Any employee who shall be called as a witness at such hearing arising out of and in the course of their Court employment, during their off duty hours, shall be compensated in accordance with Court policy for the time spent at their normal rate of pay, including overtime or compensatory time off if applicable, or shall be compensated for a one (1) hour minimum, whichever is greater.
    - b. In such actions where the Court is not a party, the employee shall be compensated for preparation time, travel time and actual appearance time as indicated above. The party at whose request the subpoena was issued shall reimburse the Trial Court in accordance with the provisions of Government code Section 68096.1.
  4. Any regular status employee called as a witness in a private or civil matter between other parties, shall not be compensated by the Court.

#### **6.13 Military Service Leave**

- a. Regular status employees shall be entitled to a leave of absence for military service authorized by and under the conditions specified in the California Military Codes Section 395 through 395.9 inclusive. General provisions of those codes state that employees must provide as much advance notice as possible when requesting military leave of absence and provide a copy of their orders to verify the dates of leave requested.
- b. Subject to their having been employed by the Court not less than one (1) full year, employees are eligible to be paid for the first thirty (30) days of ordered military leave in an amount equal to their base pay received from the Court at the time the employee goes on military leave. After the 30-day period, and continuing up to a maximum of 120 days, the employee will receive pay in the amount of their base pay received from the Court less the gross pay received from the military during this period of time. To be eligible for this pay, the employee must submit documentation showing the amount of military pay received for the specified period.

#### **6.14 School Activities Leave**

[Pursuant to Labor Code Section 230.7 and 230.8]

- a. An employee who is the parent or guardian of a child who has been suspended from school shall be granted leave if he/she needs to appear at the school in connection with that suspension. The employee must give the Court reasonable notice of the request for time off.
- b. An employee, who is a parent or guardian of a child in kindergarten or grades one through twelve, or attending a licensed day care facility, shall be granted up to forty (40) hours off per calendar year for the purpose of participating in activities of the school or licensed day care facility. The employee will be limited to eight (8) hours off for this purpose in any one calendar month of the year.

- c. The employee is required to use vacation or CTO for this type of leave.
- d. The employee may request unpaid leave of absence if he/she does not meet the requirement in paragraph c. above. The employee must give reasonable notice of the request for time off by completing a Time Off Request form.
- e. Documentation of school activity may be required at the request of the Division Supervisor, if the employee requests an unpaid leave of absence.

#### **6.15 Volunteer Civil Service Leave**

[Pursuant to Labor Code Section 230.3]

- a. The Court shall grant employees leave to perform volunteer firefighter, reserve peace officer, or emergency rescue personnel duties to the extent required by law.
- b. Leave will be requested through the use of the Time Off Request form.

#### **6.16 Workers' Compensation**

- a. An employee absent from duty due to a verified on the job injury or occupational illness shall be deemed to be on Workers' Compensation leave, pursuant to the California Labor Code. An injured employee must complete the court's approved form for reporting an injury or illness and an "Employee's Claim for Workers' Compensation Benefits" (DWC Form 1).
- b. An employee, holding a position covered by the court's Workers' Compensation plan, who is compelled, by the direction of a physician, to be absent from duty due to an injury or occupational illness arising out of and in the course of their employment, shall receive full compensation during the first three (3) workdays of such absence, provided they have accumulated sick leave, vacation or compensatory time earned to cover the period. Employees will be paid only for those hours they have sufficient accrued sick leave, vacation or compensatory time earned to cover.
- c. Thereafter, during such medical absence, accrued time shall be used to coordinate with compensation to which they may be entitled under the Workers' Compensation Law and their regular salary. Combinations of such payments shall not exceed the established gross salary of such employee.
- d. Any disability leave under this section will run at the same time as any Medical Leave and/or Family Medical Leave Act benefit to which employee is entitled under this policy.
- e. If an employee is hospitalized or is out on a work-related injury or illness for fourteen (14) or more calendar days, the three (3) days of accrued time used, if any, shall be calculated as required by the California Labor Code and the balance re-credited to the employee's appropriate account.
- f. Whenever an employee has been on a Workers' Compensation leave, they shall be required to submit a return-to-work release signed by a physician prior to returning to work. Upon release to work, any further lost time from the original injury or illness shall require another medical authorization prior to receiving additional Workers' Compensation disability benefits.
- g. When an employee enters a State approved vocational rehabilitation program under provision 139.5 of the Labor Code, and when such vocational rehabilitation is for the purpose of employment in other than a court position, the employee will be terminated.

#### **6.17 State Disability Insurance**

- a. Court non-management employees are enrolled in the State Disability Insurance Program (SDI). Premiums for this insurance are paid solely by the employee. This

insurance is administered solely by the State, who determines eligibility and issues premium payments.

b. Coverage

1. Under the provisions for SDI, a disability is defined as any illness or injury, either physical or mental that prevents the employee from doing their regular or customary work. Non work-related disability also includes elective surgery, pregnancy, childbirth, or related medical conditions.

c. Waiting Period and Benefits

1. The first seven (7) days after a claim is filed are a waiting period and no benefits are paid. After all required information is received and coverage is approved, benefits are paid as soon as possible. Benefits are calculated by the state based on the employee's record of wage earnings during a 12-month base period. There are a number of specific rules and criteria used to calculate the benefit. Specific information on this is available from the State Employment Development Department.

- d. While receiving SDI benefits, employees shall coordinate the use of accrued leave balances such that payment shall not exceed their regular gross bi-weekly wages pursuant to the provisions of current regulations.

#### **6.18 Management Disability Program**

Fulltime Management employees classified as A, B, C, D, & E have disability insurance. The Court pays premiums for unrepresented management employees. Insurance becomes effective on the date of the employee's first paycheck. Please see current employee booklet concerning Group Short Term and Long Term Disability Insurance Program for complete schedule of benefits. A summary of benefits is as follows:

- a. Under the provisions of the Management Disability Program, "disability" means you are off work due to Injury or Sickness and:
  1. Unable to do the material duties of your job; and
  2. not doing any work for payment; and
  3. under the regular care of a physician
- b. "Injury" means bodily injury resulting directly from an accident, independent of all other causes. "Sickness" means illness or disease causing disability. Sickness includes pregnancy, childbirth, or related medical conditions.
- c. Benefits are payable after you have been disabled due to a covered illness or injury for 30 days. Benefit is 66 2/3% of basic salary (maximum benefit is described in the employee booklet discussed in a.). Long Term (LTD) benefits, for most disabilities, are paid until Normal Retirement Age. Your LTD benefit will be reduced by Social Security Disability benefits, retirement benefits, and Workers Compensation benefits.
- d. You may receive payment for sick, vacation, management, or compensatory time during your LTD benefit. You may not use fewer hours than necessary to bring your income to 100% of pre-disability income. Once you stop using paid time, you may not use it again until you return to work.

#### **6.19 Paid Family Leave Insurance Program (PFL)**

- a. Court non-management employees are enrolled in the Paid Family Leave Insurance Program. Premiums for this insurance are paid solely by the employee. This insurance is administered solely by the State, who determines eligibility and issues premium payments.
- b. PFL is intended to compensate in part for the lost wages of an individual who is unable to work due to the sickness or injury of a child, spouse, parent, or domestic partner, or

the birth, adoption, or foster care placement of a new child of the employee or domestic partner.

- c. Under the provisions of PFL, the employee is responsible for submitting claims for benefits to the Employment Development Department (EDD). EDD is responsible for determining that the employee has provided the required documentation for the claim. EDD, not the employer, is obligated to assess whether claims for the benefit are valid and are responsible for approving or denying claims.
- d. The first seven (7) days after a claim is filed are a waiting period and no benefits are paid. After all required information is received and coverage is approved, benefits are paid as soon as possible.
- e. While receiving PFL benefits, employees shall coordinate the use of accrued leaves balances such that payment shall not exceed their regular gross bi-weekly wages pursuant to the provisions of the California Unemployment Insurance Code, Sections 3300 et seq.

## **7.0 CATASTROPHIC LEAVE PROGRAM**

### **a. Purpose**

The Court recognizes that there are instances in which a catastrophic illness or non-work related injury may incapacitate an employee and cause the employee to exhaust all leave balances.

This program is established as a voluntary leave sharing arrangement by which one regular Court employee may donate vacation leave to a court-wide bank. The Catastrophic Leave Bank provides leave benefits to eligible employees who have exhausted all paid accruals due to a serious or catastrophic illness, injury, or condition of the employee, thereby maintaining their benefits once he/she has liquidated their own compensated absence balances.

Existing policies for other types of leave are not affected by this program. The Catastrophic Leave Bank Program creates no expectation or promise of continued employment and is intended simply to assist eligible employees during medical emergencies.

This program is not available to part-time, extra-help, or employees in their introductory period. This program is not available to employees who have been placed on notice or who have been disciplined (in accordance with Court Personnel Policy Employee Attendance) for abuse of sick leave within twelve months of the date of the request.

### **b. Definitions**

- 1. **Catastrophic Illness/Injury:** means a medical condition of an employee by a physician (or other individual as provided in CA Gov. Code, § 12945.2(6) (A) & (B)) which requires an employee's absence from duty for a prolonged period of time and which results in a substantial loss of income to the employee because of the exhaustion of all earned sick, vacation, holiday, and compensatory leave time.
- 2. **Catastrophic Leave:** means paid leave which is transferred to a leave recipient for the Court's Catastrophic Leave Bank. Catastrophic Leave may be granted only in one (1) hour increments. While a leave recipient is on catastrophic leave, he/she shall receive normal benefits such as the Court's contributions to insurance and retirement.
- 3. **Catastrophic Leave Bank:** means a pool of accrued vacation leave voluntarily donated by the employees of the Court.
- 4. **Eligible Employee:** means a person who is regularly appointed or employed in a position of service by the Court who is compensated on a full-time basis.

5. Leave Donor: means an employee whose voluntary written request to donate accrued vacation leave to the Catastrophic Leave Bank has been reviewed and approved by Human Resources. No employee shall be allowed to be a leave donor if such a donation will reduce that employee's combined accrued vacation leave to less than 40 hours. Accrued leave may be donated in no less than four (4) hour increments.
  6. Leave Recipient: means a current employee whose Catastrophic Leave Request has been reviewed and approved by Human Resources.
  7. Medical Condition: means a personal emergency limited to catastrophic and debilitating medical situations, severely complicated disabilities and severed accident cases which cause the employee to be incapacitated, require a prolonged period of recuperation and require the employee's absence from duty as documented by a physician (or other individual as provided in CA Gov. Code, § 12945.2(6)(A) & (B)).
  8. Prolonged Period of Time: means a continuous period of time whereby a medical condition prevents the employee from performing the employee's duties. A prolonged period of time is interpreted to be a minimum of fifteen (15) calendar days.
  9. Substantial Loss of Income: means a continuous period of time where the employee would not have otherwise been compensated by the Court due to a medical condition and the exhaustion of all earned sick, vacation, holiday, and compensatory leave, and such medical condition is not covered and compensated by Workers' Compensation.
- c. Responsibility  
The Court Human Resources and the Court Executive Officer are responsible of the administration of this program to include ensuring that all program requirements are met.
- d. Guidelines
1. Voluntary  
Participation in this program by both donors and recipients is voluntary. No one shall be coerced, intimidated or threatened with reprisal for either participating or not participating in this program. Employees who believe that they are being forced to participate in this program shall immediately report their concerns to the Court Human Resources. An investigation shall be conducted and the findings shall be communicated to the Court Executive Officer who will direct what action shall be taken based on the findings.
  2. Donation Guidelines  
Human Resources shall screen leave donated by employees to ensure that the following criteria are met:
    - a. Donation period will be during May and June unless Human Resources declares an emergency sign-up period due to a low level of hours in the Catastrophic Leave Bank. Sick and/or vacation leave may be donated to the Catastrophic Leave Bank in no less than four (4) hour increments up to a combined total of 40 hours per year. The Court Executive Officer reserves the right to make exceptions on a case-by-case basis.
    - b. No employee shall be allowed to donate leave to the Catastrophic Leave Bank if such donation will reduce that employee's accrued sick and annual leave balance to less than eighty (80) hours.
    - c. Vacation and/or sick leave which have been donated to the Catastrophic Leave Bank may not be restored to the employee who donated the leave time.
    - d. Vacation and/or sick leave donated to the Catastrophic Leave Bank by an employee cannot be designated to any one individual.
    - e. The Leave Donor must acknowledge that the time donated will be deducted from the employee's accounts and will not be counted toward retirement benefits, or cashed out at termination.

3. Recipient Guidelines

- a. Employees must be a regular/full-time employee.
- b. The employee must have worked 2080 hours and have successfully passed their introductory period in a regular full-time position.
- c. The employee must have exhausted all sick, vacation, holiday, and compensatory leave.
- d. The employee must complete a written request for benefits on the approved Court form. The form can be filed by the employee (if medically possible) or a family member.
- e. No employee shall be approved for catastrophic leave unless that employee is, or is reasonable expected to be, on leave without pay status.
- f. The illness or injury is not covered by Workers' Compensation or all such benefits have been exhausted.
- g. The employee has not been disciplined for attendance abuse in the last twelve (12) months.
- h. Donations received by an individual cannot exceed the lesser of, the amount needed to cover the absence or 240 hours in a twelve-month period (not to exceed 26.7 hours per pay period).
- i. Catastrophic leave shall not be awarded retroactively.
- j. No employee shall be approved for catastrophic leave unless that employee has provided an acceptable medical certificate from a physician (or other individual as provided in CA Gov. Code, § 12945.2(6)(A) & (B)) supporting the continued absence and setting forth that the employee is and will continue to be incapacitated from performing the employee's duties due to a catastrophic illness. Information relative to the employee's assigned duties shall be made available to the physician.
- k. In no case shall catastrophic leave be granted beyond the date certified by the physician as the date when the employee is able to return to work.
- l. Catastrophic leave may not be used to assist in caring for an immediate family member.
- m. In the event that an employee on catastrophic leave is terminated, retires, expires or returns to work prior to expiration of previously approved catastrophic leave time, all unused catastrophic leave shall be returned to the Catastrophic Leave Bank.
- n. Employees on catastrophic leave will continue to receive the normal Court paid benefits including contributions to insurance, retirement, etc.
- o. Approval for Catastrophic Leave shall be made within two (2) weeks from receipt of application and other required documents.
- p. Nothing shall prevent the Human Resources from taking into account the impact of a decision on the Court's operation in granting or denying catastrophic leave or in modifying previously approved catastrophic leave, if, in the judgment of the Court Executive Officer, such approved leave would seriously impact the Court's operations.
- q. Applications for catastrophic leave shall be reviewed on a first filed, first reviewed basis. Catastrophic leave which would result in a negative balance in the Catastrophic Leave Bank shall not be approved.

4. Prohibition of Concern

No employee shall directly or indirectly intimidate, threaten, coerce, or attempt to intimidate, threaten, or coerce any other employee for the purpose of interfering with any such employee with respect to donating, receiving or using vacation or sick leave. Any report of such described instances shall be reported in writing to Human

Resources. All written reports of such described instances shall be investigated thoroughly and appropriate disciplinary action shall be taken.

5. Supplying False Information and/or Abuse of Catastrophic Leave
  - a. Any employee who should knowingly and/or purposefully provide false information to Human Resources in an attempt to gain approval of catastrophic leave time may be subject to discipline, up to and including termination.
  - b. Any employee who knowingly abuses the use of approved catastrophic leave time for the purpose of monetary gain, recreational pleasures, or any such actions that are deemed contrary to the basic intent of the Catastrophic Leave Bank Program may be subject to discipline, up to and including termination.
6. Recordkeeping Requirements

The Catastrophic Leave Program will include a record keeping procedure which tracks:

  - a. The hours donated by each employee, the rate of pay and dollar value of such donated leave;
  - b. The hours of catastrophic leave awarded, including the name of the recipient, position, and rate of pay; and,
  - c. Any other such data as required by the Chief Financial Officer.

These records should be retained in Human Resources and may be subject to audit by the Judicial Council.

## **8.0 EDUCATION ALLOWANCE (Non-Work Time Education)**

- a. Employees may request to attend college courses or training sessions not selected by the Court on non-work hours on topics that are directly related to the employee's current job and that are likely to improve the employee's job knowledge and skills. Requests to attend college courses or such training must be submitted to Human Resources. It is within the sole discretion of the Court whether to grant an education or training request, but the following factors will be considered:
  1. The course or training is directly related to the employee's current job and is likely to improve the employee's job knowledge and skills;
  2. The employee submitted the Educational Allowance Reimbursement Form to Human Resources in advance of the course or training. This submission allowed a reasonable time prior to the course or training for the request to be considered.
  3. The course or training will not be accomplished during work hours unless employee is using approved leave.
  4. The Court reserves the right to suspend or terminate the Educational Allowance Reimbursement at any time for budgetary reasons. Reasonable notice will be provided to employees and the bargaining units should the program be suspended or terminated. The Court will honor any allowances approved prior to the effective date of the suspension or termination of the program.
- b. Employees will be notified of approval or disapproval of the request.
- c. An employee who has prior written approval for a job related course, seminar, or conference may be reimbursed up to \$1,500 per fiscal year for the cost of the tuition, registration, lab fees and books or educational materials required for class upon proof of successful completion (a grade of 'C' or better or a Pass in a Pass/Fail class or a certificate of completion for non-college courses) of the course of study. Receipts are required for all costs. Travel time, meals, parking, lodging, mileage, or any expense not specified here will not be compensated under the allowance.

## 9.0 TRAINING APPROVAL AND EXPENSE CLAIMS

### a. Purpose

The Court offers opportunities for court related training as funding permits. Employees are encouraged to avail themselves of these opportunities.

The purpose of this policy is to provide guidelines under which non-represented staff will be reimbursed for authorized travel expenses. In addition to these guidelines, specific procedures with regard to incurring and reporting travel expenses are provided. This policy relates only to travel expenses which are reimbursable from the Superior Court budget.

### b. Policy

#### 1. Authorization and Approval Levels

Training Approval Forms and Travel Expense Reports are approved by the divisional manager/director for employees within their applicable divisions. These approvals may be delegated to an authorized designee who shall be at the division manager/director level.

To qualify for consideration of reimbursement for any expenses, the employee submits a pre-approved Training Approval form to Human Resources. The training **MUST BE APPROVED IN ADVANCED** by both the division manager/director and Human Resources.

**Note:** Not all training requests are approved. Court needs and financial concerns are two of the considerations that must be evaluated. Employees are not to make their own travel arrangements. All arrangements will be made by an executive assistant.

#### 2. Compliance Responsibility

Human Resources is responsible for processing expense reports and reviewing them for compliance with the Court's policy and procedure. The Finance Division is responsible for processing expense reports for payment.

An employee who, without good cause, fails to attend a conference, seminar or training session/meeting for which the Court has paid a nonrefundable registration fee or other fee shall be liable to refund the Court for the full amount of the registration fee and/or other fee(s).

#### 3. Policy Change and Disputes

Any dispute regarding interpretation of this policy and procedure, as well as any serious non-compliance with this policy, is to be referred to the appropriate approval authority as designated above.

#### 4. Court Credit Card

Court credit cards are only issued to personnel approved by the Court Executive Officer. Use of a One day training within reasonable driving distance will not normally be eligible for lodging or use of the Court credit card. In general, the credit card may not be used for meals with the exception that use by a Manager or Director for group meals may be authorized to eliminate payment of several separate expense claims. (When paying for group meals, no alcohol or tips can be reimbursed; individual meal allowance limits still apply; and all receipts must be turned in with the credit card.) In the event the use of the card is approved, the card is to be returned to Finance on the first workday following the training along with all receipts. The employees must report the total amount charged on the card to Human Resources for the training file. Failure to return the card timely with receipts or failure to notify Human Resources of amount charged may cause the employee to be ineligible for future credit card approvals.

The employee will be responsible for any charges to the Court credit card in cases where the employee did not attend the approved training and did not timely cancel the hotel reservation(s) without good cause.

A request to use the Court credit card must be made to the Human Resources no less than three (3) working days prior to departure for the training. Use is subject to availability of the card.

5. Reimbursement

Payment will normally be made on a reimbursement method for approved training – employees pay expenses up front and submit a claim for reimbursement. Reimbursement for registration, meals, mileage, and/or other transportation, parking, etc. will be evaluated on a case by case basis at the time of the approval of the training. Receipts are required, in some cases, for reimbursement and will be noted at the time of approval. Receipts are always required for lodging, meals, transportation and registration reimbursement.

6. Travel

Paid time off may be allowed for travel to training and will be approved on a case by case basis. Approval may be based on court needs, distance to training, start time, etc. Travel/Training time as discussed in this policy will only be paid for **required** training – training to which the employee is **directed** to attend.

- a. All out-of-state travel and training requests are to be submitted to the CEO for prior approval using the Training Approval form.
  - All travel arrangements for common carriers and lodging are to be made through the Court's executive assistants and in accordance with the AOC's Trial Court Financial Policies and Procedures Manual.
- b. For mileage reimbursement and driving other employees to court paid training, employees must have a signed Annual Certificate of Privately Owned Vehicle form (certification that the employee has valid automobile insurance) on file with Human Resources and have an acceptable driving record. Approved mileage will be reimbursed at the current IRS standard mileage rates. The Court reserves the right to only reimburse for the most economical means of travel or the shortest mileage route to the destination.

Employees attending a mandatory training are required to carpool with other employees attending the same training in an effort to conserve resources. Mileage will be reimbursed to the licensed driver.

- c. Fines and Tickets –Employees are personally responsible for any fines incurred as a result of toll, traffic, or parking violations while driving on court business. Furthermore, no employee is permitted, under any circumstances to operate a rental car or court owned vehicle when any impairment causes the employee to not be able to drive safely.
- d. Court employees submitting claims for reimbursement for personal vehicle use should note the following:
  1. Travel between home and an employee's regular place of work is not reimbursable.
  2. When travel commences from home, and the employee is authorized to use their personal vehicle to travel to a business destination other than the employee's regular place of work, reimbursed mileage will be calculated from the employee's designated home court or home, whichever results in the lesser distance, to the business destination. If the employee departs from the last

business destination directly to the employee's home, mileage reimbursement will be calculated from the last business destination to the employee's designated home court or home, whichever results in the lesser distance. If the first or last business destination is closer to home than the regular place of work, no mileage reimbursement will be allowed.

3. Travel between court locations is reimbursable.

7. Lodging

All lodging arrangements will be made by an executive assistant.

8. Meals

Reimbursement is for the actual cost of the meal up to the maximums. Meal reimbursements do not include tips and alcohol.

Current maximum reimbursements:	Breakfast -	\$8.00
	Lunch -	\$12.00
	Dinner-	\$20.00

Breakfast is reimbursable only on overnight trip. Breakfast and lunch are not reimbursable when food is provided at a training/conference. Dinner is reimbursable when the employee is detained beyond 5:00 p.m. outside a 45 mile radius of their assigned work location. Receipts are required for the reimbursement of all meals.

9. Registration Fees

In cases where registration fees and/or other fees are discounted if made or paid by a certain date, no reimbursement will be made for additional costs incurred by registering and/or paying after that deadline, unless preapproved by the CEO or designee.

10. Proof of Completion

For some training, a copy of the course completion certificate may be required before an expense claim can be approved.

11. Claims

Travel/Expense claims should be submitted to Human Resources within two (2) weeks following the training. Claims submitted after the fiscal year in which expenses were incurred cannot be approved **unless** the expenses were incurred within a two-week extension. Any expenses submitted past the accepted timeframe may not be reimbursed and an explanation indicating reasons for the delay in submission should accompany the request for reimbursement.

For mileage reimbursements, proof of mileage (i.e., MapQuest, yahoo maps, Google maps, etc.) must be attached to the travel/expense claim.

12. Forms

Claims must be submitted on the appropriate expense form, which is available from Human Resources.

## 10.0 PERSONNEL RECORDS MANAGEMENT

- a. Personnel records will be maintained at a central office and made available to each Court employee as required by law and at reasonable intervals and reasonable times.
- b. Changes of address, home telephone number, person(s) to notify in an event of an emergency, and/or family status (births, marriage, death, divorce, legal separation, etc.) must be reported immediately to Human Resources as an employee's income tax status, group insurance and personnel records may be affected by these changes.
- c. Access to personnel files is restricted to authorized employees of Human Resources and supervisors for official Court business. Personnel files are the property of the Court and shall remain in the custody of Human Resources.

- d. An employee, upon completion of the written request form, may, with two (2) working days' notice, at reasonable times and intervals, inspect any official personnel files that are or were used to determine that employee's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action. An employee may inspect only his or her personnel file(s). The inspection will be done in the presence of a Human Resources representative.
- e. Employees do not have the right to view records relating to the investigation of a possible criminal offense, letters of reference, ratings, reports, or records that were obtained prior to the employee's employment, prepared by examination committee members or obtained in connection with a promotional examination.
- f. An employee has the right to have a copy of any document he has signed relating to obtaining or holding employment.
- g. With authorization from Human Resources, supervisors may examine active and separated employee files for official Court business. Access may be limited to the part of the file specifically needed.
- h. 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.
- i. Requests for information from employee personnel files received from other divisions and/or inquiries from outside the Court will be directed to Human Resources. Supervisors and other employees are prohibited from providing employment references on either former or current employees.
- j. Employment references on current or former employees will be provided only by Human Resources, as follows:
  - 1. The following information will be verified by Human Resources via telephone: (1) date of hire, (2) date of separation, (3) job title(s), (4) job status (regular, Intern, temporary, fulltime, parttime) and (5) confirmation of salary range. Record of inquiries will be kept in a Tracking Log.
  - 2. If the request for information is in writing, it may be copied before it is returned and the copy may be retained in the Tracking Log.
- k. When the Court hires an employee, a "permanent" personnel file will be established and generally contain the following information:
  - 1. Application for employment and related hiring documents such as resumes, benefit enrollment and course transcripts.
  - 2. Personnel action notices of pay and employment status changes.
  - 3. Performance documents including performance evaluations.
  - 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, time off requests and training records.
- l. Medical records (including ADA medical information) will be maintained separately from each employee's official personnel file. Medical records shall be disclosed only to those with a need to know.
- m. Immigration and Naturalization Service Form I-9 will be maintained separately from each employee's official personnel file. These documents will be retained for a minimum of three (3) years, or for one (1) year after termination of employment, whichever is longer.

- n. References from previous employers and background checks are kept in sealed envelopes in the Personnel File. Only appropriate officials conducting an investigation may examine these documents and/or files. Employees may place reasonable materials related to their employment with the Court in their “permanent” personnel file, subject to approval of Human Resources, which shall not be unreasonably withheld.
- o. Original personnel files will be maintained by Human Resources and will be retained for five (5) years after an employee’s separation date. Subordinate judicial officers are excluded from this provision.
- p. Payroll Records will be retained as required by requirements under the State Controller. Wage rate tables will be retained for at least two (2) years. Time cards will be kept for the current fiscal year plus five (5) years.

## **11.0 PERFORMANCE EVALUATIONS**

- a. Policy
  - 1. Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. Formal performance evaluations for regular status employees are done at periodic intervals, and at least annually to provide supervisors and employees the opportunity to discuss the employee’s 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.
  - 2. Written performance evaluations and any written response to the evaluation will be included in the employee’s personnel file.
  - 3. Satisfactory performance reviews will not necessarily result in wage increases. Likewise, unsatisfactory performance reviews will not necessarily result in wage decreases. The decision to make such an adjustment, and the amount of the adjustment, depends on the information documented by the review process as well as budgetary constraints.
- b. Procedures
  - 1. Each supervisor is responsible for conducting performance evaluations for each of their division’s subordinate employees.
  - 2. Supervisors are expected to complete the performance evaluation prior to the employee’s anniversary date. Supervisors are expected to meet with the employee regarding the evaluation no later than the employee anniversary date. The discussion shall be held at a private location which is free from interruptions.
  - 3. The supervisor is expected to consult with their supervisor or their designee on the performance evaluation prior to discussing the evaluation with the employee.
  - 4. 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, after three (3) working days of review time, 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.

## **12.0 Seniority**

- a. Seniority shall be determined by length of continuous paid employment within a classification (or series, if applicable), within the Court. Time on unpaid leave or suspension

shall not be included in calculating seniority. For purposes of this Section, time on State Disability Insurance (SDI) or Management Short/Long Term Disability (STD/LTD) will be included in calculating seniority to the extent the SDI/STD/LTD benefit is being coordinated with the employee's vacation, sick leave, or compensatory time off. Time off payroll, while on SDI/STD/LTD unpaid leave or suspension, shall not be included in calculating seniority. Employees using donated catastrophic leave hours shall not have such hours counted towards seniority.

If the length of service within a classification is the same for two or more employees, seniority shall be determined by the length of continuous paid employment from original date of hire. If the length of seniority within the same classification is the same for two or more employees and the original date of hire is the same, seniority will be determined by the total previous clerical or technical (depending on classification) experience at the time of hire with the most previous clerical or technical experience being given seniority preference.

- b. Seniority shall be recognized in the event of:
  - 1. Reduction in Force
  - 2. Reinstatement
  - 3. Assignment of Shifts
  - 4. Scheduling of vacations in accordance with the provisions of the Memorandum of Understanding which applies to represented employees and these Personnel Policies.
  - 5. Demotions
  - 6. Overtime shall be assigned on an equal basis except in those cases where continuity of services is required. Supervisor has the authority to make this decision.
- c. Overtime shall be assigned, to the extent possible, on an equal basis except in those cases where continuity of services is required. When sufficient volunteers are not available to cover overtime requirements, the overtime will be assigned using inverse seniority.
- d. The rules of seniority shall apply to all Regular full-time and Regular part-time employees. This policy does not apply to Employment At-Will employees.
- e. Notwithstanding the foregoing, if the Court determines that the application of seniority during a reduction in force will result in critical skills not being available to maintain critical services to the public, the order of layoff shall be adjusted. This application shall not be used in a capricious or arbitrary manner.
- f. The rules of seniority may be set aside to provide accommodation for placement of a disabled employee in the event of shift assignments or work site location changes.
- g. If an employee returns to a former class in which the employee previously held regular status, the employee's seniority date in the former class shall be the date of original appointment to the former class. Time spent in the higher level classification will not be counted for seniority purposes.

### **13.0 WORK RULES**

- a. Court Work Rules may be established and any work rules upon which disciplinary action is taken shall be subject to the test of reasonableness in the appeals or grievance procedures. The Court shall make reasonable efforts to acquaint employees with work rules and work rules shall be equitably applied. Work rules are defined to be employee regulations upon which disciplinary action may be taken.
- b. Any change in work rules initiated and established by the court shall be posted on the established employee bulletin boards ten (10) days prior to their effective date, except in emergency situations. The notice of proposed changes or new work rules shall be faxed to the representative of each affected employee bargaining unit no later than the date of

bulletin board posting. Such notices may be removed after thirty (30) days from the effective date.

## **14.0 EMPLOYEE CONDUCT**

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

This section is in conjunction with the Court Code of Ethics.

#### **a. Conflict of Interest**

1. 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.
2. An actual or potential conflict of interest occurs when an employee is in a position to influence a decision that may result in a personal gain for the employee or for a relative or friend because of Court business dealings. For the purposes of this policy a relative is defined as anyone who has a relationship with the employee either by blood, marriage or law, as well as anyone who shares a significant personal or financial relationship with the employee.
3. Any questions regarding a possible conflict of interest or outside work should be reported to the employee's immediate supervisor or Human Resources so that any needed appropriate measures may be taken.

#### **b. Confidential Information**

1. Employees are 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.
2. 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.
3. Employees shall not release or disclose any Court administrative or business information to the public, except as required by the employee's job, or at any time to any newspaper or media representative without permission from the Court Executive Officer.

#### **c. Interest in a Case**

1. 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 in any manner be involved with any case filed in the Court which involves any person who may pose a conflict of interest. (See Conflict of Interest section).
2. 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 accrued leave in accordance with these policies. If an employee is a party or witness in a case filed in the Court, or which involves any person who may pose a Conflict of Interest, the employee must report this information to their immediate supervisor. The supervisor is to take any needed appropriate measures.

### **14.2 Professional Behavior**

#### **a. General Statement of Conduct**

1. All court employees are to observe and demonstrate the highest standards of conduct and professionalism. The court adopts in its entirety the Judicial Council of California's Code of Ethics for Court Employees of California, as that document may be amended from time to time. A copy of the Code of Ethics is attached to these policies and is incorporated herein.
  2. The Code of Ethics outlines the responsibility of all court employees to engage at all times in professional behavior. It does not describe all prohibited conduct, however, and employees may also be disciplined for inappropriate conduct that is not addressed in the Code of Ethics.
- b. Courtesy/No Discrimination
1. The public and other court personnel are to be treated in a professional manner. Court employees are to exercise tact when interacting with others, whether in person, on the telephone, or by electronic mail. Be polite. If an employee has difficulty with anyone from the public, the employee should request assistance from his or her supervisor, as needed.
  2. When answering questions, employees should make sure they fully understand the question being asked. If an employee does not know the answer to a question or is uncertain of the answer, the employee should inform the other person of this and offer to find the answer. Information should be provided in a timely manner.
  3. No court employee shall discriminate against or harass any other person on the basis of race, color, religion, gender, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, or sexual orientation. Court employees must refrain from offensive conduct or comments that reflect bias or harassment on any of these bases.
- c. Performance of Duties
1. All court employees shall perform their duties diligently, thoroughly, and properly.
  2. A court employee is prohibited from altering, falsifying, destroying, mutilating, or backdating any records or failing to make required entries on any records. This shall not apply to records that are ordered to be altered or expunged pursuant to a court order.
  3. A court employee shall not give legal advice or recommend the names of private attorneys/law firms to any member of the public.
- d. Confidentiality
1. For purposes of this policy, "confidential information" includes, but is not limited to, information on pending cases that is not a matter of public record as well as information concerning the work product of any judge, commissioner, law clerk, or other court employee (for example, notes, papers, memoranda, drafts).
  2. No court employee shall disclose confidential information to any unauthorized person. Confidential information that must be disclosed pursuant to statute or a court order shall be provided only to the person(s) authorized to receive such information.
  3. This policy is not to be interpreted to prohibit court employees from responding to questions about court procedures. However, a court employee is not to give legal advice.
- e. Misuse and Abuse of Position

1. A court employee shall not use or attempt to use his or her position with the court to obtain privileges or exemptions, whether for the employee or for another person or organization.
2. A court employee shall not solicit or accept any gift, favor, or thing of value from any member of the public.
3. A court employee shall not give preference to anyone appearing before the court, nor shall any court employee give the impression that anyone appearing before the court is receiving or has received preferential treatment.

#### **14.3 Code of Ethics for the Court Employees of California**

- a. A fair and independent court system is essential to the administration of justice in a democratic society. Exemplary conduct by court employees inspires public confidence and trust in the courts, and conveys the values of impartiality, equity, and fairness that bring integrity to the court's work. Further, court employees are expected to adhere to a high standard of ethical behavior. To advance these values and to achieve justice we believe certain ethical principles should govern all that we do. We therefore commit ourselves to:

<i>Tenet One</i>	Provide impartial and evenhanded treatment of all persons;
<i>Tenet Two</i>	Demonstrate the highest standards of personal integrity and honesty in all our professional and personal dealings, avoiding the misuse of court time, equipment, supplies, or facilities for personal business;
<i>Tenet Three</i>	Behave toward all persons with respect, courtesy, patience, and responsiveness, acting always to promote public esteem in the court system;
<i>Tenet Four</i>	Safeguard confidential information, both written and oral, unless disclosure is authorized by the court, refusing ever to use such information for personal advantage, and abstain at all times from public comment about pending court proceedings, except for strictly procedural matters;
<i>Tenet Five</i>	Refrain from any actual impropriety, such as: <ul style="list-style-type: none"> <li>•violating the law</li> <li>•soliciting funds on the job</li> <li>•receiving gifts or favors related to court employment</li> <li>•accepting outside employment that conflicts with the employee's duties</li> <li>•recommending private legal service providers to the public on the job, or</li> <li>•using position at court to benefit self, friends, or relatives;</li> </ul>
<i>Tenet Six</i>	Avoid any appearance of impropriety that might diminish the integrity and dignity of the court;
<i>Tenet Seven</i>	Serve the public by providing accurate information about court processes that is as helpful as possible without taking one side over the other, or appearing to favor one side of a case;
<i>Tenet Eight</i>	Provide responsible and accountable stewardship of public resources;
<i>Tenet Nine</i>	Provide accurate information as requested in a competent, courteous, and timely manner. Improve personal work skills and

- performance through continuing professional education and development;
- Tenet Ten* Guard against and, when necessary, repudiate any act of discrimination or bias based on race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, or sexual orientation;
- Tenet Eleven* Renounce any use of positional or personal power to harass another person sexually or in any other way based on that person's race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, sexual orientation, or other personal choices and characteristics; and
- Tenet Twelve* Protect the technological property of the court by preserving the integrity of electronically stored information.
- b. A code of ethics cannot possibly anticipate every moral dilemma and ethical choice that may arise in the execution of one's day-to-day professional responsibilities. Personal discretion in the interpretation of this Code of Ethics is both necessary and desirable. Court employees should cultivate within themselves the ethical judgment that will foster the fair and impartial administration of justice.
- c. The following guidelines are intended to clarify and provide direction for the application of the tenets to which we subscribe:
1. Guideline for Tenet One — Impartiality  
All persons coming to the court for assistance are entitled to fair and equitable treatment, regardless of their personal behavior or legal situation. Court employees must remember that they are often dealing with people who may be having one of the worst experiences of their lives. They must offer to angry, confused, and sometimes deceitful court users the same level of competent and impartial help that they provide to those who are pleasant and appreciative. While every court employee has the right to freedom of association or political expression, he or she does not have the right to take sides in a legal dispute, interject himself or herself into the legal decision-making process, second-guess a judge's ruling, or give the appearance of partiality on any issue that is likely to come before the court. The procedural integrity of the court must be protected at all times.
  2. Guideline for Tenet Two — Personal Integrity  
The fundamental attitudes and work habits of individual court employees are of vital importance. Honesty is paramount. Employees should set an example for others and must not misuse the court's resources, including but not limited to, the telephone, facsimile machine, copying machine, email or internet access. Employees must not abuse their privileges, and must contribute to the integrity of the entire court staff by striving to avoid factionalism and inspire mutual support and trust.
  3. Guideline for Tenet Three — Professionalism  
Employment in the court system is a public trust engendered by the citizens' confidence in the professional knowledge and competency and personal integrity of the officers and employees of the judicial branch. A professional knows every aspect of his or her job and can provide complete, understandable answers to the public's questions. A professional presents a businesslike image of methodical and systematic efficiency and does not abuse the position of power that special knowledge affords. A professional never criticizes a co-worker in public nor denigrates a court user at any time. A professional raises

conflict resolution to an art form, always seeking to preserve the dignity of the individuals involved in a dispute, thereby preserving the dignity of the court. The word “respect” is never far from the professional’s mind.

4. Guideline for Tenet Four — Confidentiality

Sensitive information acquired by court employees in the course of discharging their official duties must never be revealed until it is made a matter of public record. Sometimes breaches of confidentiality do not involve intentional disclosure of official court records but are the result of innocent and casual remarks about pending or closed cases, about participants in litigation, or about juries, any of which could give attorneys, litigants, and reporters confidential information. Such remarks can seriously compromise a case or a person’s standing in the community. Court staff should discuss cases only for legitimate reasons and must handle sensational or sensitive cases with great care.

5. Guideline for Tenet Five — Impropriety

Improprieties can take many forms. A court employee who uses his or her title, badge, court affiliation, or other special access to the judicial system for personal gain or to avoid personal legal consequences is engaged in improper conduct. Examples of improper behaviors include seeking any favor, soliciting any gift, or actually receiving, directly or indirectly, any gift or the promise of one, whether it be money, services, travel, food, entertainment, or hospitality that could be construed as intending to influence the employee in performing his or her duties or as a reward for past or future services; or accepting outside employment that interferes with the employee’s effectiveness or conflicts with the proper discharge of official court duties. A court employee must not, for example, seek special consideration for his or her traffic citations, jury duty, or parking violations. In addition, any conduct that casts doubt upon the integrity and impartiality of the legal system is forbidden. For example, a court employee must not improperly intervene in expediting administrative processes, facilitate a favorable disposition to a case, or provide access to confidential case information to benefit self, friends, or family members. Moreover, while on the job an employee must not recommend private legal counsel to a member of the public. While court employees cannot regulate the conduct of others, they can conduct themselves in a manner that inspires public confidence in the role they play in the pursuit of justice. Proper conduct involves daily and scrupulous affirmation of moral principles and observance of all laws, rules, policies and procedures.

6. Guideline for Tenet Six — Appearance of Impropriety

Court employees are expected to refrain from engaging not only in improper behavior, but also in behavior that others might perceive to be improper. Any activity that gives the impression that court employees can be improperly influenced in the performance of their official duties is prohibited. A court employee must not, for example, openly discuss the merits of cases pending before the court or be overly solicitous to litigants or counsel, which could give the appearance of preferential treatment. Moreover, a court employee must not be involved in the hiring decision of a relative or close friend, as such involvement may give the appearance of an unfair advantage in the hiring process. To gauge the propriety of an action, consider how it would be viewed by the community if the action were made public.

7. Guideline for Tenet Seven — Prohibition Against Giving Legal Advice

Given the experience and visibility of court employees, it is natural for those who deal with the court, including attorneys and litigants as well as the general public, to ask questions such as “Should I fight this?” “How do I fight this?” “To whom should I go for legal assistance?” “What does the law say?” Court employees can and should provide information that is within their own level of professional training and experience, so long as the information does not compromise the neutrality of the court or the court’s appearance of neutrality. For example, court employees can and should patiently explain how to file forms and pay fines, and should clarify legal language and the court’s policies attendant to procedural due process and assist self-represented litigants in court self-help centers. They should provide litigants with information about non-profit legal services agencies, certified lawyer referral service programs and court-based self-help assistance. They must not, however, cross the line separating court employees, whether licensed attorneys or not, from attorneys practicing law in the community. Court employees must not give any legal or procedural information that tends to favor one side of a case. Court employees should cite this tenet when pressed by those seeking legal advice.

8. Guideline for Tenet Eight — Public Resources

Court resources must be used for the benefit of the citizens of our state. These resources include staff time, equipment, facilities, information systems, and the money allocated to the court. Court employees must ensure proper accountability of the court’s resources. Use of these resources must be transparent to the public and beyond reproach. Resources must not be expended simply for the direct benefit of individual employees or judicial officers. Physical resources must be safeguarded to avoid unnecessary damage or wear. Equipment must be properly maintained and replaced when appropriate. All court employees should constantly look for improved efficiency in job processes. Deficiencies and safety hazards must be reported and addressed in a timely manner. Sound business practices must be employed in managing contracts to avoid waste of court resources.

9. Guideline for Tenet Nine — Service and Competency

A major responsibility of all court employees is to provide accurate and timely information. When providing information, whether orally or in writing, present it in as easily understandable a format as the inquiry allows, and avoid legal jargon whenever possible. The laws and rules under which the courts operate are continually changing as a result of legislative actions, higher court decisions, and evolving values and technologies. Court employees are encouraged to participate in professional activities and associations. Court employees must participate in educational programs to stay abreast of changes and to improve their personal and professional skills. Court managers at all levels of the California court system should initiate and oversee ongoing professional growth programs for all court employees, including study of ethics-related issues.

10. Guideline for Tenet Ten — Discrimination

Each day, court employees assist users of court services of many races, religions, national origins, languages, sexual orientations, and varieties of personal appearance. They may deal with accused felons, child abusers, participants in painful dissolutions, those grieving from an injury or loss of a loved one, or people experiencing any one of numerous kinds of human pain or dysfunction. Court employees are expected to treat each other and each user of court services equally and with compassion. Equal access to the court

system and equal treatment for all are the cornerstones of the administration of justice. Court employees must expose and discourage discrimination wherever it exists.

11. Guideline for Tenet Eleven — Harassment

All court employees must conduct themselves in a professional manner at all times. Court employees must not engage in inappropriate, offensive, or unwelcome conduct of a sexual nature, or inappropriate or offensive conduct based upon a person's race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, sexual orientation, or other personal characteristic, regardless whether it rises to the level of harassment. Court employees are expected to treat all persons with dignity and respect and, by doing so, will foster a work environment that is free from harassment. Court employees should follow their appropriate local reporting procedures in reporting their concerns about inappropriate behavior so that their issues can be addressed.

12. Guideline for Tenet Twelve — Technology

Information retained in electronic files must be safeguarded like any other official court document. Its confidentiality should be assumed unless otherwise specified. To preserve the integrity of electronic systems, court employees must monitor court electronic information and take appropriate steps to ensure that the information is accurate. Great care should be taken in the transmission of electronic data so as not to embarrass the court or the sender if read by an unintended recipient. Court employees may not install personal software or equipment without prior approval, nor may they take copyrighted software outside the court for personal use.

#### **14.4 Harassment Prevention Policy**

a. Purpose

It is the policy of the Court that discrimination, harassment, and abusive conduct are unacceptable behaviors and will not be tolerated in the workplace or in a work-related situation based on an individual's race, color, religion, gender, national origin, sex, ancestry, age, marital status, physical disability, mental disability, pregnancy, medical condition, sexual orientation, genetic information, gender identity, gender expression, military or veteran status, or any basis protected by law, or based on a perception that an individual has any of these characteristics, or based on a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics. All employees are guaranteed the right to a work place free of hostility and intimidation based on any of the above-referenced protected classifications. This policy prohibits all inappropriate and unprofessional conduct directed at an individual because of a protected characteristic, even if such conduct does not rise to the level of illegal harassment

b. Definitions

1. Abusive Conduct/Workplace Bullying: conduct of an employer or employee in the workplace that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct/workplace bullying may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance.

2. Sex Discrimination: treating someone unfavorably because of that person's sex, gender, gender identity, gender expression, sexual orientation or because of his or her connections with an organization or group that is generally associated with people of these protected classifications.
  3. Sexual Harassment: a form of discrimination based on sex/gender (including pregnancy, childbirth, or related medical conditions), gender identity, gender expression, or sexual orientation. Individuals of any gender can be the target of sexual harassment. Unlawful sexual harassment does not have to be motivated by sexual desire. Sexual harassment may involve harassment of a person of the same gender as the harasser, regardless of either person's sexual orientation or gender identity. There are two types of sexual harassment: hostile work environment and quid pro quo.
  4. Hostile Work Environment: discriminatory conduct or behavior in the workplace that is hostile, offensive, and unwelcome to an employee or group of employees based on a protected class status. The harassment does not need to be directly aimed at an individual in order to cause a hostile work environment.
  5. Quid Pro Quo: a form of sexual harassment that generally involves a person in power pressuring an employee for sexual favors in exchange for advancement in the workplace or makes submission to the requested sexual activity a term or condition of employment or under the threat of adverse employment action.
  6. Third-Party Sexual Harassment: unwelcome sexual behavior that is directed toward one person, but negatively affects another individual's work environment.
- c. Prohibited Conduct

In order to ensure that such offensive conduct does not rise to the level which is illegal, the Court has a zero tolerance policy toward a single instance of any such conduct which either by itself or when repeated would constitute sexual harassment under this policy. It includes conduct of all court employees as well as conduct of persons with whom the Court contracts to do business, such as independent contractors, when the conduct is directed at, or involves, a court employee or contractor.

Prohibited conduct includes, but is not limited to:

- Verbal harassment, e.g., epithets, derogatory comments, or slurs due to or referencing on any protected basis identified in this policy;
- Physical harassment, e.g., physical touching or assault, impeding or blocking movement, or any physical interference with normal work or movement, when directed at an individual due to any protected basis;
- Visual forms of harassment, e.g., posters, cartoons, or drawings derogatory referencing or due to any protected basis;
- Sexual favors (Quid Pro Quo), e.g., unwanted sexual advances that condition an employment benefit upon an exchange of sexual favors;
- Written communications of a sexual nature;
- Retaliation for making harassment reports or threatening to report harassment; or,
- Engaging in abusive conduct/workplace bullying toward other employees.

It is the policy of the Court to provide training and information to all employees in an effort to eliminate such incidents and to respond to all such complaints expeditiously and in accordance with the procedures set forth in these policies.

d. Complaint Procedure

Any employee who believes he or she has been harassed or bullied in connection with his or her employment at the Court, or is aware of such harassment or bullying, of other employees or members of the public, must immediately notify Human Resources, or his or her division supervisor/manager or the Court Executive Officer.

1. Although not required by this policy, it may be helpful for individuals who believe they have been subjected to conduct that violates this policy to inform the individual that his or her behavior is unwelcome, offensive, or inappropriate. This may be the first and only action needed to end the harassment.
2. An employee may file a complaint, in good faith, either orally or in writing to any division supervisor/manager, Human Resources or the Court Executive Officer. The complaint should include details of the incident or incidents, names of the individuals involved and names of any witnesses.
3. The Court will investigate promptly and thoroughly all alleged violations of this policy. While absolute confidentiality is not possible, the Court will act with discretion during the investigatory process and confidentiality will be maintained to the extent practical and appropriate under the circumstances.
4. The investigation will be tailored to the facts and issues involved. The investigation will include an interview with the complainant, the accused harasser, and any other persons who are believed to have relevant knowledge concerning the complaint.
5. At the conclusion of the investigation, the investigator shall report the findings to the Court Executive Officer or designee. The Court Executive Officer (or designee) shall make the final determination regarding what occurred, and what corrective action (including discipline), if any, is appropriate. If the Court Executive Officer determines that wrongful conduct was committed, he or she shall take appropriate disciplinary action including, but not limited to counseling, reprimand, demotion, suspension or termination of employment.
6. The Court Executive Officer or Human Resources shall advise the complainant and any subject of the complaint that the investigation has concluded and of the results of the investigation. Depending upon the circumstances and interests involved, the complainant and the subject of the complaint, may not be entitled to specific confidential actions taken as a result of the investigation.
7. No employee will be subject to any form of retaliation or reprisal for reporting alleged violations of this policy, pursuing any such claim, or cooperating in any way in the investigation of such claims. Employees found to be retaliating against another employee shall be subject to disciplinary action up to, and including, termination.

e. Managers/Supervisor Responsibilities

1. All managers/supervisors are responsible for creating a business-like work environment free from harassment of any kind and retaliation. This includes closely scrutinizing their own actions to ensure compliance with this policy. In addition, managers/supervisors must make themselves available and create a work environment that provides employees with opportunities for open communication to discuss potential violations of this policy. No influence may be used to dissuade an employee from airing a complaint.

Managers/supervisors are also responsible for monitoring the workplace for retaliation after a complaint is filed.

2. Managers/supervisors are responsible for taking direct, effective action to stop conduct that violates this policy when they become aware of, or should have known, about such conduct. Ignorance of such conduct is not necessarily an acceptable defense for such inaction. Managers/supervisors will report complaints of misconduct to Human Resources and work with Human Resources to ensure that any action taken is effective in stopping the inappropriate conduct.

f. Training Requirements

1. All managers/supervisors are required to attend a two (2) hour sexual harassment prevention training once every two (2) years and all new managers/supervisors within six (6) months of their assumption of a supervisory position as required by state and/or federal law. Effective January 1, 2015, sexual harassment prevention training will include a segment on the prevention of abusive conduct/workplace bullying.
2. All employees are required to attend a one (1) hour sexual harassment and abusive conduct prevention training once every two (2) years.

g. Outside Agencies

In addition to notifying the Court about harassment or retaliation complaints, affected employees may also direct their complaints to the following external agencies:

Department of Fair Employment and Housing  
(800) 884-1684  
Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

Equal Employment Opportunity Commission  
(510) 637-3230 or (800) 669-4000

## **14.5 Workplace Violence Prevention**

a. Purpose

The purpose of this Workplace Violence Prevention policy is to provide direction to Court employees in preventing and/or responding to incidents of workplace violence or a perceived threat of violence in the workplace.

The goal of the policy is twofold:

1. To reduce the probability that employees will engage in verbal threats or physical actions that create a security hazard for others in the workplace; and
2. To ensure that any complaint of violence or the threat of violence is taken seriously and is thoroughly and promptly investigated.

The Court is firmly committed to providing a secure workplace free from acts or threats of violence. To achieve this goal, the Court requests the support of all employees. Compliance with this policy and with the Court's commitment to zero tolerance of workplace violence is every employee's responsibility.

b. Policy

Employees are required to report any incident involving a threat or act of violence immediately to their supervisor. The Court will review the matter and take necessary corrective action. This may include disciplining, and possibly dismissing, any employee who violates this policy.

Employees who become aware of any workplace violence incident should report that information to their supervisor. The Court will not tolerate retaliation against any employee who provides any information or reports to the Court under this policy.

The following actions are considered acts of violence and will subject an employee to disciplinary action, up to and including termination:

1. Striking, punching, slapping or assaulting another person.
2. Fighting or challenging another person to fight.
3. Grabbing, pinching or touching another person in an unwanted way (whether sexually or otherwise).
4. Engaging in dangerous, threatening or unwanted horseplay.
5. Possession, use, or threat of use, of a gun, knife, or other weapon of any kind on Court property, including parking lots, other exterior premises, or while engaged in activities for the Court in other locations, unless such possession or use is a requirement of the job.
6. Threatening harm or harming another person, or any other action or conduct that implies the threat of harm.
7. Intimidation or attempts to instill fear in others.
8. 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.
9. Defacing Court property or causing physical damage to the facilities.
10. Bullying
  - Verbal Bullying: slandering, ridiculing or maligning a person or their family; persistent name calling which is hurtful, insulting or humiliating; using a person as the brunt of jokes; abusive and offensive remarks.
  - Physical Bullying: punching; shoving; kicking; poking; tripping; assault, or threat of physical assault; damage to a person's work area or property.
  - Gesture Bullying: non-verbal threatening gestures, glances which can convey threatening messages.
  - Exclusion: socially or physically excluding or disregarding a person in work-related activities.
11. Other incidents involving threats or act of violence or propensity toward violence not specifically listed in this section.

Any acts of violence, either indirect or direct, and suspicious individuals or activities should be reported as soon as possible to a supervisor, human resources, or any member of senior management. When reporting a threat or incident of violence, the employee should be as specific and detailed as possible. Employees should not place themselves in peril, nor should they attempt to intercede during an incident.

Employees should promptly inform Human Resources of any protective or restraining order that they have obtained that lists the workplace as a protected area. Employees are encouraged to report safety concerns with regard to intimate partner violence. The Court will not retaliate against employees making good-faith reports. The Court is committed to supporting

victims of intimate partner violence by providing referrals to the Court's EAP and providing time off for reasons related to intimate partner violence.

The Court will promptly and thoroughly investigate all reports of threats of violence or incidents of actual violence and of suspicious individuals or activities. The identity of the individual making a report will be protected as much as possible. The Court will not retaliate against employees making good-faith reports of violence, threats or suspicious individuals or activities. In order to maintain workplace safety and the integrity of its investigation, the Court may suspend employees suspected of workplace violence or threats of violence, either with or without pay, pending investigation.

The Court encourages employees to bring their disputes to the attention of their supervisors or Human Resources before the situation escalates.

Any questions regarding this policy may be directed to the Court Executive Officer or designee.

#### **14.6 Drug and Alcohol Policy**

- a. Introduction and Purpose
  - 1. Drug and alcohol abuse in the workplace is detrimental to the health and safety of the user, other employees, and to the public. It also contributes to increased absenteeism, tardiness, medical costs, and decreased productivity, as well as resulting in danger to or loss of equipment and property.
  - 2. The Court is committed to maintaining a safe and healthy work environment for all Court employees free from alcohol and illegal drugs and ensuring that employees and independent contractors are not impaired due to the effects of drug or alcohol use.
  - 3. This Policy is implemented to meet these commitments, increase the awareness of personnel concerning the hazards of substance abuse and inform personnel regarding the consequences of substance abuse in the workplace.
- b. Definitions
  - 1. "Alcohol" includes beer, wine, and all forms of distilled liquor containing ethyl alcohol.
  - 2. "Drug" includes any substance (other than alcohol) that has known mind or function altering effects on human subjects, including but not limited to, substances prohibited or controlled by state or federal substance laws.
  - 3. "Illegal drugs" includes those drugs included in Schedules I through V of the Controlled Substances Act, but not when used pursuant to a valid prescription or when used as otherwise authorized by law. A partial list of illegal drugs includes: opiates (e.g. heroin, codeine, morphine and its derivatives), phencyclidine (PCP), cocaine and its derivatives, barbiturates, amphetamines (including methamphetamine), marijuana and other cannabinoids.
- c. Testing for Drugs and/or Alcohol
  - 1. For good cause, as determined by the Court Executive Officer or designee (who has been trained in substance abuse detection), an employee may be required to submit to a drug and/or alcohol test, to determine if the employee is under the influence of drugs and/or alcohol. Good cause includes a reasonable suspicion that the employee is under the influence of substances listed in section (b) above and, as such, is not allowed to be on Court property or working at the Court. Any employee required to submit to a drug and/or

- alcohol test shall be required to sign an authorization to release the test results and other relevant information to the Court.
2. Refusal to submit to a drug and/or alcohol test based on Reasonable Suspicion will result in termination of employment.
  3. Upon a confirmed positive test, the employee will be interviewed and questioned about drug or alcohol use. If the Court determines that the employee has used alcohol or drugs and has come to work under the influence of either, the Court will discipline the employee, up to and including termination of employment.
- d. Maintenance and Disclosure of Test Results
1. Test results and laboratory reports will be disclosed strictly on a need-to-know basis and to the employee upon request. Test results may also be disclosed under the following circumstances:
    - a. The information is compelled by law or by other judicial process;
    - b. The information has been placed at issue in a dispute between the Court and the employee;
    - c. The information is to be used in administering an employee benefit plan;
    - d. The information is needed by medical personnel for the diagnosis or treatment of the employee, and the employee is unable to consent.
  2. Test results and laboratory reports shall not be placed in the employee's general personnel file. Information of this nature will be maintained in a separate confidential medical folder. Access to the folders shall be controlled by Human Resources.
- e. Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance from the Employee Assistance Program Counselor or other appropriate services. While the Court will be supportive of those who seek help voluntarily, the Court will be equally firm in identifying and disciplining those who continue to be controlled substance or alcohol abusers and do not seek help.

It is the responsibility of each employee to seek assistance before the employee's alcohol or drug abuse problem leads to a violation of this or another Court policy, resulting in disciplinary action. An employee's decision to seek help voluntarily will not be used as a basis for disciplinary action, although the employee may be transferred, given work restrictions, or placed on leave, as the Court deems appropriate, while the employee seeks assistance and/or until the employee is drug and/or alcohol-free.

For an employee's decision to seek help to be considered voluntary, the employee must seek such help before the employee has been notified of the need for a drug and/or alcohol test and before notice is provided of a proposed disciplinary action. While an employee's decision to seek assistance or treatment is confidential, entering treatment can neither absolve nor protect employees from the consequences of failing to meet job expectations or for engaging in policy violations. Refusal to cooperate with, or to successfully complete, a Court approved substance abuse treatment program may constitute grounds for termination of employment.

- f. Searches
1. Lockers, desks, storage areas and Court vehicles and equipment are Court property and must be maintained according to Court standards. All such areas

must be kept clean. The Court reserves the right, without further notice, to have Court representatives conduct searches and inspections for the purpose of enforcing this policy or determining if this policy has been violated whenever it has reasonable suspicion to believe that this or another Court policy has been violated.

- g. The following conduct is grounds for discipline, up to and including termination:
  - 1. The prohibitions listed below apply whenever the interests of the Court may be adversely affected, including:
    - a. on Court property;
    - b. conducting or performing Court business, regardless of location; operation or responsible for the operation custody, or care of Court equipment or other property;
    - c. responsible for the safety of others; or
    - d. while on duty or subject to being called to duty.

**PROHIBITIONS:**

- 1. Unlawful use, manufacture, possession, distribution, dispensing, sale or solicitation of a controlled substance (as defined by California law);
- 2. Unauthorized use, possession, purchase, sale, or distribution of alcohol;
- 3. Being under the influence of alcohol, any illegal drug or other controlled substance;
- 4. Abuse of any legal drug;
- 5. Purchase, sale, manufacture, distribution, transportation, dispensation, or possession of any legal prescription drug in a manner inconsistent with law; or
- 6. Working while impaired by the use of a legal drug whenever such impairment might endanger the safety of the employee or some other person, pose a risk of significant damage to Court property or equipment, or substantially interfere with the employee's job performance or the efficiency of the Court's operations.
- 7. Failure to provide notification of a conviction of violations of a criminal drug or alcohol statute as a result of activity, occurrences, or events, which are also in violation of the terms of this policy.
- 8. Failure to participate satisfactorily in a drug abuse assistance or rehabilitation program following a controlled substance criminal conviction if ordered by the Court to participate in such a program.
- 9. The Court Executive Officer shall have discretion not to discharge an employee for a first violation of this policy if the employee satisfactorily participates in and completes an approved drug or alcohol abuse assistance or rehabilitation program when recommended by the Court. An employee who is not discharged for a first violation of this policy will receive an unfavorable performance or conduct report and may be subject to immediate suspension without pay. A second violation of this policy at any time will result in immediate discharge. Employees discharged for a violation of this policy will not be eligible for rehire by the Court.

Employees not discharged can be retested, without notice, anytime during a period of 12 months following a positive test.

#### **14.7 Social Media and Social Networking**

a. Purpose

The purpose of this policy is to provide parameters for proper use of social media as a Court employee. This policy incorporates the provisions of the Court's Information Systems Usage Policy (IT Policy), the Code of Ethics for Court Employees, and the Court's Harassment Policy, and is intended to be read in conjunction and consistent with such policies. Nothing in this policy is intended to interfere with, restrain, or prevent employee communications which constitute protected concerted activity regarding wage, hours, or terms and conditions of employment.

b. Definitions

"Social Media" means an electronic service or account, or electronic content, including, but not limited to, videos, still photographs, blogs, video blogs, journals, diaries, podcasts, personal web sites, web bulletin boards, chat rooms, instant and text messages, email, online services or accounts, or Internet Web site profiles or locations<sup>2</sup>.

c. Policy

Court employees shall not use or access social media on paid work time unless such usage is work-related, authorized by supervision or management, and in compliance with all Court policies. Employees shall not access social media on Court technology, unless such access is consistent with all Court policies, including the IT Policy.

Unless work-related and authorized, employees shall not use a Court email address to register on social networks, blogs, or other online sites intended for personal use.

Court employees are prohibited from using social media to harass, discriminate against, bully, make threats of violence, or engage in any unlawful conduct against any third party.

Consistent with the Code of Ethics for Court Employees, employees must not disclose any confidential case information through the use of social media and are prohibited from represented or otherwise creating a perception that personal opinions and beliefs are those of the Merced Superior Court<sup>3</sup>.

Consistent with and except as otherwise provided in Labor Code Section 980, no supervisor or manager shall request or require an employee to: (1) disclose a username or password for the purpose of accessing personal social media; or (2) access personal social media in the presence of the supervisor or manager.

d. Guidelines

Employees are encouraged not to identify themselves as employees of the Merced Superior Court to avoid a situation that could create an ethical conflict resulting from the post or comments from others.

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<sup>2</sup> Examples of popular social media sites include, but are not limited to, Facebook, LinkedIn, Twitter, and Instagram.

<sup>3</sup> Employees may not post content to a social media site that contains an endorsement, political lobbying, solicitations or contributions so as not to be construed as the political view of Merced Superior Court.

- Protect confidential and proprietary information: Employees may not post, blog, discuss or infer to information relating to court proceedings, a court user or actions taken by the court.
- Maintain professionalism, honesty, and respect. Employees may not post, blog, or discuss information, whether confidential or not about Merced Superior Court, its employees or judicial staff so as to adversely affect the employees' job performance or operation the Court. Employees shall not conduct themselves in a manner that could be deemed as "cyber-bullying" as referred to in 14.5 Workplace Violence Prevention policies.
- Employees must respect the privacy of co-workers. Do not discuss, reference or cite other court employees in any type of social media setting without their express consent.
- In an effort to maintain the integrity of the Court, employees shall not use or post the Great Seal of the State of California. Employees shall not use or post photos of any courthouse located in Merced County, or graphics or images related to the Merced Superior Court on any personal social media sites which may be construed as offensive.
- Social networking sites may not be accessed using court equipment during work hours for non-work reasons.
- The use of an employee's court email address to engage in social networking is strictly prohibited.
- The Court discourages "friending" between supervisors, managers and staff on social media sites.

Employees shall adhere to all applicable privacy and confidential policies.

#### Cyber-Bullying, Cyber-Stalking and Cyber-Harassment

Any Court employee who is found to have engaged in cyber-bullying, cyber-stalking or cyber harassment or behavior that is illegal and unprofessional that adversely affect the employees' job performance or operation of the Court, may be subject to disciplinary action, up to, and including termination.

### **14.8 Employee Dress Code**

#### **a. Employee Appearance**

The Court is committed to excellence in the delivery of services to our customers. We take pride in the work we do and in our professionalism in doing it. Each employee is a valuable representative of the Court and professionalism is reflected both in appearance as well as actual job performance. A professional appearance conveys an atmosphere of competence, respect, dignity, and efficiency. When we conduct ourselves in a professional manner, we encourage the same from our customers.

Although it may seem evident to most employees what constitutes appropriate dress, some standards are necessary due to differences in interpretation. These standards apply to all employees of the Court including volunteers, interns and others that represent the Court.

#### **b. General Guidelines**

Employees are expected to follow the dress code when attending training or conferences unless instructed otherwise. Extreme conditions may warrant exceptions to these standards which will be determined by the supervisor and/or appropriate manager or administrator. Since styles are subject to change and it is

not possible to include examples of all items that would be inappropriate; employees are expected to exercise good judgment and discretion in their choice of attire. All employees are expected to practice good grooming and personal hygiene. Their clothing should be neat and clean. Clothing should reflect a professional, business appearance as opposed to a casual appearance.

c. Acceptable Attire

Dresses and skirts of moderate length (no more than a maximum of four (4) inches above the knee when standing. Dress and skirts should not have an open front/back/side slit(s) that exceeds 5 inches above the knee. Dress cleavage area of the chest must be covered (i.e. top of cleavage line). Sheer or crochet style dresses/skirts are permitted provided it is worn over appropriate clothing that completely covers the torso, extends to four (4) inches above the knee and covers all undergarments.

Dress shirt and tie (worn appropriately and visibly); dress pants or dress slacks; and dress shoes are recommended whenever assigned to the courtroom.

Polo Shirts or like casual shirts are permitted.

Blouses/shirts (including polo or similar style casual shirt) must cover the midriff, back and shoulders ensuring that undergarments are not visible at all times including while bending lifting, reaching, etc. The straps of the blouse/shirt should be at least two (2) inches in width. See-through or crochet tops are permitted provided they are worn over appropriate clothing as referenced above. The cleavage area of the chest must be covered (i.e. top of cleavage line).

Dress pants and/or dress slacks can be worn. The following is a list of types of pants that are not appropriate: shorts, jogging or sweat pants, yoga pants, cargo style pants (with or without ties) and neon colored pants.

Leggings/Tights shall be permitted provided that the shirt/skirt/dress covering it comes to at least four (4) inches above the knee. Leggings/tights shall be professional in appearance and may include embossed professional looking designs. (i.e.: Not acceptable includes neon colors, fishnets, and skulls etc.).

Shoes must be worn at all times. Shoes should be business like in appearance. Dress sandals/slides are permitted provided the foot is secure in the shoe and they should be business like in appearance. The heel of the shoes shall not exceed 5 inches in height. Tennis shoes are permitted on the last court workday or designated "casual day" and must be in good order/repair and clean.

The following are not permitted: thongs, flip flops (regardless of material or heel height), Birkenstock style or croc style sandals, or Ugg style boots, house shoes or slippers of any style thereof. Tennis shoes, slippers and flip flops may be worn from the parking lot to the building before work hours, after exiting the building for lunch and after exiting the building at the end of the employee's scheduled work hours.

d. Unacceptable Attire

Tight and revealing clothing are never appropriate. The following items of clothing are not considered appropriate attire for the Court: garments printed with advertising, slogans or pictures; tie-dyed clothing; clothing that is torn or frayed; tee shirts (undershirts) and sweatshirts; Hoodies; tank tops (unless worn with a blazer or under a blouse) or sun dresses (unless worn with a blazer or under a blouse);

denim pants (see casual days); denim shirts or jackets (see casual days); sneakers (see casual days); thongs, flip flops, clogs and related footwear; and neon colored pants.

e. Casual Days

Certain days designated as “casual days” authorized by the Court Executive Officer or designee shall allow for the option of dressing more casually such as tennis shoes and denim clothing. The relaxed standard shall not apply if you are required to be in the courtrooms, attending training provided by another agency, or representing Merced Superior Court at any other meeting and/or function. All other provisions of the policy remain in effect.

f. Tattoos/Piercings

It is the Court’s preference that employees have no visible tattoos or body piercings, with the exception of pierced ears. However, the Court recognizes that subtle tattoos and piercings have become increasingly acceptable in the workplace, and will allow limited tattoos and piercings, as long as they are not so bold as to be unprofessional. Tattoos should not to be visible on the face, neck or chest.

Unprofessional is defined as:

1. Pornographic or sexually suggestive in nature
2. Gang related or gang suggestive
3. Illegal or drug activity related
4. Racially offensive (including but not limited to slurs, slogans, symbols)

Small stud nose piercings are permitted all other facial and tongue piercings are not permitted. Body jewelry and/or body modification jewelry is not permitted. Exceptions to this must be approved by the Court Executive Officer or designee.

g. Questions

Any questions regarding what constitutes proper attire within a given division should be directed to the Division Supervisor and/or Human Resources. Any gray areas will be reviewed and decided on by the Court Executive Officer, Court Manager or designee at the request of either the supervisor or the employee.

h. Employee Accountability

It is the responsibility of each employee to meet the Court's expectations for their personal appearance on a daily basis.

1. Employees reporting to work improperly dressed will have the following options:
2. Can choose to cover up in some way (ex. Putting on a jacket or sweater).
3. May choose to use accrued vacation or CTE to go home and change.
4. In some cases, the employee may just be counseled to not wear the item to work again.
5. Extreme or repeat offenses may require that the employee be sent home to change using the employee’s vacation or CTE.

i. Supervisor Accountability

It is the responsibility of each supervisor to ensure that all employees adhere to the dress code policy.

#### **14.9 Smoking**

- a. 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.

- b. On standard breaks, smoking is allowed outside of the building in areas at least twenty (20) feet away from an exit, entrance or operable window, in accordance with posted signs.

#### **14.10 Political Activity**

- a. No court employee, shall during his working hours seek election, nomination or appointment as an officer of a political campaign favoring or opposing any candidate for election; or distribute badges, pamphlets, dodgers, handbills, or political material of any kind favoring or opposing any political issue or any candidate for election or for nomination to any public office. This does not prevent any employee from becoming, or continuing to be a member of a political club or organization, from attending political meetings, or from seeking or accepting election or appointment to a public office during his off duty hours, nor does it prevent the display of campaign advertisement on personal vehicles.
- b. Violation of any of the provisions of this agreement shall make the employee subject to disciplinary action.

#### **14.11 Court Neutrality**

The Court needs to remain neutral and cannot be seen as taking a position on any cause, therefore employees are prohibited from the following activities: Wearing certain apparel, armbands, ribbons, etc. at the Court which pertain to an issue or cause, selling, advertising or otherwise promoting a certain product in the workplace, or advocating or opposing a cause in any other way. These activities could be seen as support or opposition and possibly give the perception that the Court is biased one way or the other in regard to the cause, issue, or product.

#### **14.12 Outside Employment**

- a. Outside employment is permitted only if it does not interfere with an employee's ability to perform the duties for which they were employed, does not create a conflict of interest with their Court employment, conforms to the Court Code of Ethics and will not expose the Court to embarrassment.
- b. A violation of this policy will subject the employee to discipline, up to and including termination.

#### **14.13 Information Systems Usage Policy**

- a. Purpose

The purpose of this policy is to ensure the proper use of Merced Superior Court's information systems in accordance with the Court's Code of Ethics and applicable Federal and State laws. It is designed to make users aware of what the Court deems as acceptable and unacceptable use. This is a standard information systems policy consistent with policies commonly used throughout other courts, counties, government agencies, universities, and corporate entities. The Court reserves the right to amend this policy at its discretion. In case of amendments, users will be informed appropriately. This applies to all users of the Court's information systems to include, but not limited to, regular employees, temporary employees, interns, at-will employees, and subordinate judicial officers.

Employees who are granted access to any of the Court's information systems are obligated to comply with this policy. Every time an employee accesses Court

information systems, the employee is acknowledging their obligation to comply with the policies.

b. Definition

Information systems consist of all electronic devices, software, and means of electronic communication including, but not limited to, the following: personal computers and workstations; notebook computers; computer hardware such as disk drives, servers, and network appliances; peripheral equipment such as printers, fax machines, and copiers; computer software applications and associated files and data, including software that grants access to external services such as the Internet; email; telephones; cellular phones; and voicemail systems.

c. Authorization

Access to the Court's Information Systems 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 information systems will be given access.

Continued use of Court information systems requires the Information Systems Usage Policy to be signed within 30 days of the document's release date. New hires must sign the Information Systems Usage Policy prior to unsupervised use of the Court's information systems.

d. Policy

1. System Practices

- a. Voicemail and e-mail have become important media for the communication of information. Employees are responsible for monitoring information on voicemail and email. Each employee is required to check their voicemail and e-mail at least twice a day, once in the morning and once in the afternoon.
- b. Email is a court operations communications tool and users are obligated to use this tool in a responsible, effective and lawful manner. Although digital information such as email and posting to the Internet by its nature may seem to be less formal than other written communication, the same laws apply.
- c. Employees are to report any activity which is unlawful or violates this policy to their immediate supervisor or Court management.
- d. Employees are never to leave their computer out-of-sight without first locking the screen, logging out, or shutting down. Employees are responsible for any activity performed under their username.
- e. Employees will not send attachments greater than 2MB to a distribution list without first contacting the Court Information Technology division (Court I.T.).
- f. Employees will not use their Court email address when completing on-line forms and/or registrations without permission from their supervisor or the Court's I.T. Director/Manager or their designee. The only exceptions are when accessing the Court or Judicial Council sponsored web-page. This guideline is to control spam.
- g. If an employee visits a non-Court/non-Judicial Council sponsored web page and are asked to install or download software, the employee must receive approval from the Court's I.T. Director/Manager or their designee before answering "yes".

- h. Employees must never send any confidential information via email. If an employee is in doubt as to whether to send certain information via email, the employee must check with their supervisor first before sending the information.
- i. All work related digital documents and data(not the actual programs, just the data) are to either be saved to the Court network drives or archived by Court I.T. onto CD/DVD or other appropriate media. Court I.T. is not responsible for the restoration of locally stored data (i.e., P Drive).
- j. The Court network file storage is designed for work-related documents and data only. Employees will not use the Court network to store any non-work related programs, applications, music, videos, pictures, documents, or data.

2. Prohibited Use

The following rules are required by law and are to be strictly adhered to. It is prohibited to:

a. Prohibition Against Harassing, Discriminatory & Defamatory Use

Employees shall not use the Court's information systems 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.

Employees shall not post, send, forward, intentionally download or display digital information (such as email and images) with any libelous, threatening, defamatory, offensive, racist or obscene remarks.

Violation of this policy will result in disciplinary action including possible dismissal.

b. Prohibition Against Violating Copyright Laws

Employees shall not use the Court's information systems 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.

c. Prohibition Against the Installation of Software

Employees shall not install any software (including screen savers) on any Court computer without a prior authorization from the Court Executive Officer and the Information Technology Director.

d. Prohibition Against Malicious and Destructive Software

Employees shall not install, post, create or execute viruses, mal-ware spyware, Trojan horses, worms, hacker tools, and/or other means of compromising security, causing damage, disrupting court systems, court operations, or third part equipment/operations.

e. Prohibition Against Fraudulent Activity

Employees shall not post, send, or forward confidential information or information that is untrue, distorted, or misleading.

- Employees will not disguise or attempt to disguise their identity, forge or attempt to forge digital information, login with an account not assigned to them, and/or attempt in any way to circumvent court security.
  - f. Prohibition Against Spam  
Employees will not send Spam<sup>4</sup>.
  - g. Prohibition Against Sending Personal Emails  
Employees are strictly forbidden to use the Court's email system for fund-raising, chain letters, junk mail, personal business enterprises, political activities, mail with content that could be deemed offensive, or any material which advocates any particular cause (the Court is required by law to remain neutral). The Court has specified means that employees can communicate interests (see Solicitation, Distribution, and Bulletin Boards Policy).
  - h. Prohibition Against the Unapproved Usage of High Bandwidth Applications  
Employees will not use unapproved high bandwidth applications. This includes Internet radio, video streaming, etc. The Court's I.T. Director/Manager or their designee reserves the right to monitor and control bandwidth in order to optimize the network for efficient court operations.
3. Email Usage Policy
- a. Writing Emails  
Merced Superior Court considers email as an important means of communication and recognized the importance of proper email content and speedy replies in conveying a professional image and delivering good customer services. Employees should take the same care in drafting an email as they would for any other communication. Therefore, the Court expects employees to adhere to the following guidelines:
    1. Use short, descriptive subjects.
    2. The Court's email style is informal. This means that sentences can be short and to the point.
    3. When sending business related email outside the Court, signature should include the employee's name, job title and the name of the court.
    4. Run a spell check prior to transmission.
    5. Reply with History, when history is needed for clarification.
    6. Do not write in ALL CAPS.
    7. Only send emails of which the content could be displayed on a public notice board. If the email cannot be displayed publicly in its current state, rephrase the email or use other means of communication.
    8. Only mark email *highly important* when justified by compelling business reasons.
    9. Attachments and wallpaper use valuable server and backup system resources.
      - Do not send unnecessary attachments. This includes long text files, music, videos, pictures, etc.
      - Do not apply wallpaper to emails.

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<sup>4</sup> Spam is defined as unsolicited bulk email messages, primarily commercial, including fraudulent business schemes, chain letters and offensive sexual and political messages.

- b. Replying to Emails

As a general guideline, respond to emails that warrant a response within eight (8) working hours and within four (4) hours if the email is marked “high importance”.
- c. Out of Office

If you are going to be out of the office for more than a day make it a practice to enable the email system’s “Out of Office” notification.
- d. Maintenance
  1. Delete any email messages that you do not need, *particularly those with attachments*.
  2. By using folders to help organize email. Email will be easier to locate and clean-up email in the future.
  3. Regularly revisit folders and delete unnecessary email.
  4. Occasionally visit mail archives and delete any email messages that you do not need.
- e. Log Off/Shutdown
  1. Log off any time you leave work and plan to return the next day.
  2. Shutdown whenever you do not plan on returning the next day (weekends, holidays, vacation, etc.)
- f. Email Retention

Email will be archived after 180 days.
- g. Inactive User Accounts

Accounts not used for 60 days will be deactivated and possibly deleted.
- 4. Minimal Personal Usage

The Court’s information systems are to be used by employees only for conducting Court business. However, employees may use the Court’s information systems for the following incidental personal uses if such use does not interfere with the employee’s duties, is not on work time, is not done for financial gain, does not conflict with the Court’s business, and does not violate any Court policy:

  - To send and receive any necessary and occasional personal communications;
  - To prepare and store incidental personal data (such as personal calendars, personal address lists, and similar incidental personal data) in a reasonable manner;
  - To use the telephone system for brief and necessary personal calls (see Telephones policy); and
  - 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 information systems.
- 5. Court Access To Information Systems
  - a. Privacy

Employees have no right of privacy with respect to any messages or information created or maintained on the Court’s information systems,

including personal information or messages. The Court may, at its discretion, inspect all files, messages, or information on its information systems at any time for any reason. The Court reserves the right to monitor, block, and filter all content (including email and Internet access) without prior notification.

b. 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 email messages. Employees shall not reveal their passwords to other employees without the authorization of the Court Executive Officer.

- Employees will change passwords for security reasons when directed by Court I.T.

c. Data Collection

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

- Voicemail: Although voicemail is password protected, an authorized administrator can reset the password and listen to voicemail messages.
- 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.
- Facsimile Use: Copies of all facsimile transmissions sent and received are maintained in the facsimile server.
- Document Use: Each document stored on Court computers has a history, which reveals which users have accessed the document for any purpose.
- 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 later audit the amount and type of information that it retains.

6. Deleted Information

Deleting or erasing information, documents, or messages maintained on the Court's information systems is, in most cases, ineffective. Any information kept on the Court's information systems 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.

7. Union Use

The Union may use the Court's Electronic Bulletin Board to notify their members of union meetings (including Labor/Management Committee meetings), elections, and events. Any notices posted by the Union on the Court's Electronic Bulletin Board must be sent to the Court's Human Resources Division for approval prior to posting.

- Subject Line shall be “Electronic Bulletin Board – Union Information”.
8. 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’s I.T. Director/Manager or their 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.
  9. Confidentiality

Most 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.
  10. 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 dismissal.
  11. Damage to Technology Resources

Employees are responsible for the care and proper usage of the Court’s technology resources. Employees shall keep food and beverages away from keyboards, computers and other equipment and may be subject to discipline, including dismissal for damage that results from carelessness.
  12. 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.
  13. Non-Compliance

If there is evidence that an employee is not adhering to the guidelines set out in this policy and/or the employee refuses to cooperate with a reasonable security investigation, the Court reserves the right to take disciplinary action, including dismissal and/or legal action.

#### **14.14 Solicitation, Distribution And Bulletin Boards**

- a. Purpose

The purpose of this policy is to establish the Court’s intent to have a work environment that is free from solicitation efforts that do not relate to the Court’s business or interest. While the Court actively encourages staff participation in community activities and organizations outside of work, the time spent at work is more productive and pleasant when not interrupted by solicitations and distribution of materials by other employees.
- b. Definitions

“Work time” means the time when an employee is scheduled and expected to be properly engaged in performing their work tasks. “Work areas” are all areas of the Court except break rooms and other areas designated for non-work use.
- c. Solicitation and Distribution

Solicitation or distribution of literature by any staff member or non-staff person for any purpose is not permitted on Court property.

Staff may not solicit on work time (when either the staff member or the person being solicited is on work time). Staff may not distribute any literature or other non-work related materials either on work time or on Court property, except as otherwise provided below. In addition, persons not employed by the Court may not solicit or distribute literature in the workplace at any time for any purposes.

d. Bulletin Board Procedure

1. Physical Court Bulletin Boards

There are Court designated bulletin boards located throughout the divisions for the purpose of communication with its employees. Posting 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. Nothing can be posted on the Court designated bulletin boards without prior approval from Human Resources.

2. General Physical and Electronic Bulletin Boards (EBB)

The Court has created and designated general bulletin boards (physical and electronic) on which Court employees may post items of general interest.

Employees may use the Court's general bulletin boards to:

*Advertise*

- Items for sale for the exclusive benefit of a school or recognized charitable/service organization (not-for-profit)
- Pets for free

*Announce*

- Fund-raising events for organizations in which employees or their children participate
- A particular event, such as a theater presentation, school carnival, charitable event, etc.
- Employee baby showers, wedding showers, potlucks, retirement celebrations, etc.

*Request*

- "Help-wanted" such as housecleaning, babysitting, handyman, etc.

3. Prohibited Solicitation and/or Activities

Some activities on Court property are strictly prohibited at all times. Examples of prohibited solicitation and activities by staff include, but are not limited to, activities involving:

- Soliciting business or advertising products or services that could be considered a second job or create personal income for staff or a third party. Examples include advertising or solicitation of a home based business (cosmetics, candles, coffee, jewelry, etc.)
- Raffles
- Sports pools
- Baked good sales, crafts, seasonal items (excluding non-charity or non-school event)
- Food vending (other than authorized by the Court)
- Proposing and/or procuring membership in any organization

- E-mail solicitations (excluding posting on the EBB)
- Commercial or real estate sales

No offensive or inappropriate material will be posted on any bulletin board within the Court. The general bulletin boards should not be used for messages that are related directly to employee welfare or that are work related, since all employees would receive the message. Court Administration has the final authority for the content and placement of information on general bulletin boards.

4. Message Preface for EBB

The following paragraph will automatically be added to an employee's message before it is sent on the EBB.

The Court has not reviewed the information contained in the following message for accuracy or completeness. The statements and opinions made in the above message are solely those of the author. The Court neither endorses nor subscribes to the ideas, products, services, or statements in the message.

5. Misuse and Consequences

Employees who send inappropriate messages or message that do not meet the guidelines above will be referred to their division supervisor and will be blocked from posting further messages on the EBB. Messages that violate any Court policy could result in disciplinary action for the sender.

6. Union Use

Notwithstanding any other provision of these policies, the employees' recognized bargaining representative(s) may maintain a bulletin board(s) at a location(s) specified by the Court Executive Officer for official business and as detailed in the Employer-Employee Relations Rules and/or MOU.

Unions representing Merced Superior Court employees may use the Court's designated physical bulletin board and electronic bulletin board to notify their members of union meetings (including Labor/Management Committee meetings), elections, and events. Any messages posted by the Union on the Court's electronic bulletin board must be sent to the Court's Human Resources Division for approval prior to posting. The subject line for Union messages shall be "Electronic Bulletin Board – Union Information."

#### **14.15 Gifts**

- a. The Court Code of Ethics states that Court employees are to refrain from any actual impropriety, such as receiving gifts or favors related to court employment.
- b. An example of improper behavior would include actually receiving any gift or the promise of one, whether it be an item, money, services, travel, entertainment, food, or hospitality that could be construed as a reward for past or future services.
- c. This section does not prohibit an exchange of gifts between employees on special occasions. Supervisors may accept gifts from staff and employees may accept gifts from a supervisor providing the gift is not in return for preferential treatment or a favor and the gift is of sufficient limited value. Gifts must be appropriate to workplace setting. Prohibited are gifts that are sexual, suggestive or otherwise inappropriate.
- d. Any violation of this policy could lead to disciplinary action, up to and including termination.

**14.16 Media Policy**

Employees may respond to requests for docket and calendar information from members of the public, including representatives of the media. No other information shall be released or disclosed by any employee. All requests for any other information must be referred to the Court Executive Officer or Presiding Judge.

**14.17 Telephones**

- a. Use of Court telephones for personal reasons is to be kept to a minimum due to work considerations. Supervisors have the right to monitor and restrict personal use in cases of misuse or work disruption.
- b. The charging of personal long distance calls to the Court is prohibited and disciplinary action may be taken if this occurs.
- c. Employees are responsible for monitoring information on their voicemail. Each employee, who is at his or her worksite, is required to check their voicemail and respond in a timely manner.
- d. Personal cell phones are to be muted or turned off during worktime. Use during worktime is restricted to emergency situations. Non-emergency calls are to be made or returned on non-worktime. No cell phones are allowed on in the courtroom during proceedings.
- e. Use of camera equipped devices are not permitted on Court premises except in employee break areas or at social events. Camera equipped devices are prohibited in Court restrooms at all times.
- f. In the interest of the safety of our employees and other drivers, employees are prohibited from using cell phones while driving on court business and/or court time. If your job requires that you keep your cell phone turned on while you are driving, you must use a hands-free device and safely pull off the road before conducting court business. Under no circumstances should employees place phone calls while operating a motor vehicle while driving on court business and/or court time.
- g. Employees who are provided a court cell phone may use it for personal business provided no additional charges are incurred and such use does not unduly interrupt employee's court duties.
- h. Employees may not have a court provided cell phone and be receiving a cell phone allowance also.

**14.18 Parking**

Employees are to park in legally marked parking spaces only. Employees are not to park in reserved or numbered parking spaces unless they have been assigned to the space. Violations may result in disciplinary action.

**14.19 Private Vehicle Use**

An employee who drives their personal automobile on approved Court business will be reimbursed for mileage at the Court approved rate. In most cases, if more than one (1) employee is involved in the approved Court business, car-pooling will be required and only one (1) licensed and insured driver will be paid mileage. Extenuating circumstances, such as off-site employees, will be evaluated on a case by case basis. All claims for mileage must be submitted within the fiscal year in which they were incurred unless the expense was incurred within two (2) weeks of the end of the fiscal year. Those cases will have a two (2) week extension. Any employee who drives a personal vehicle on Court business shall have previously completed, signed and delivered to Human Resources an Authorization To Use

Privately Owned Vehicles on State Business as required by the Administrative Office of the Courts.

The Court may adopt administrative rules establishing minimum driving standards for employees who drive vehicles on business for the Court. Employees who have a less than satisfactory driving record will not be paid mileage nor can that employee drive other employees to court paid training or other business.

Any employee who operates a vehicle on Court business must have a valid driver's license and be appropriately insured.

**14.20 Work At Home**

- a. Non-exempt employees are prohibited from working at home without prior authorization from the Court Executive Officer.
- b. Court files, including electronic court files, are not to be removed from court facilities without prior authorization from the Court Executive Officer.

**14.21 Children, Visitors and Animals**

- a. Children
  1. This policy applies to all employees, regardless of employment category, and independent contractors.
  2. Employees and independent contractors are prohibited from bringing minor children to the Court during working hours except as provided for in (4) below.
  3. Although the Court strives to be a family friendly environment, it must be recognized that it is not appropriate to bring children to work for the following reasons:
    - a. Safety is a primary concern when considering the presence of children in the workplace. Offices and workspaces are not designed with the safety of children in mind. Consequently, children at work create a potential liability for the Court.
    - b. Children in the workplace can disrupt the environment both for the employee with the child and for others in the area, and create an atmosphere that is not conducive to work performance and fulfillment of job expectations.
    - c. Under no circumstances should the parent employee bring an ill child into the workplace. Provisions for sick children should be made within the context of various forms of leave available to staff: leave relating to caring for a sick family member, vacation leave, personal holiday, or unpaid leave.
  4. The Court recognizes that children of employees have an interest in seeing where their parents work. Attendance may be permitted at Court-sanctioned functions such as special recognition ceremonies, holiday functions, or other events where families are invited and encouraged to participate and where safety issues have been appropriately and satisfactorily addressed.
  5. Employees are personally responsible for the behavior of their children when they are participating in a Court-sanctioned appropriate activity.
  6. An employee who is on leave or at lunch (non-worktime situations) but comes into the Court, may bring their children into the public access areas of the Court. The employee is responsible for the children at all times.
  7. Supervisors are expected to ensure that children are not in the work areas or left unsupervised in other court areas (ex: Breakroom, Jury Assembly Room).

8. Employees who fail to abide by this policy, or otherwise abuse its provisions, must use accrued leave (or if there is no accrued leave, must use Leave Without Pay) and immediately remove the child(ren) from the worksite.
- b. Visitors
  1. All people who go into non-public access areas, must have successfully completed the Criminal History Background check and in most cases those results must be sent directly to the Court.
  2. The Presiding Judge has made some exceptions to this rule. Ex: maintenance workers, record checkers, etc. The general public, including relatives of employees or friends of employees, are not allowed in the work areas. They must stay in the public access areas.
  3. Employees who don't abide by this policy are subject to disciplinary procedures.
- c. Animals
  1. Animals will not be brought into non-public access areas except for service animals where a determination has been made by the Court that the need for the animal is a reasonable accommodation for a disability of an employee.
  2. There is always the liability to the Court of an animal biting, scratching or otherwise harming someone. Also many people have allergies to animals.
  3. Employees who don't abide by this policy are subject to disciplinary procedures.

## **15.0 INJURY AND ILLNESS PREVENTION PROGRAM**

It is the objective of the court to ensure a safe and healthful workplace for its employees and visitors to the court. In keeping with this goal, the court has established an Injury and Illness Prevention Program (IIPP) to explain its safety policies and procedures. Some key components of the program are discussed here:

- a. Responsibility for Program Administration: The individual primarily responsible for implementing and administering the IIPP program is the Court Executive Officer.
- b. Employee Compliance: All employees, at every level and in all positions at the court, are required to comply with the court's safety policies and practices. Compliance with the court's safety standards is one of the factors taken into consideration in periodic evaluations of employee performance. In addition, violations of safety standards or conduct evidencing a disregard or negligent attitude for safety concerns may result in disciplinary action, including, but not limited to, requiring additional training or counseling regarding safe work practices.
- c. Communications Regarding Safety Issues: Periodically, the court will provide employees with information relating to occupational safety and health. This information may be contained in posted notices, memos, policy statements, employee newsletters, or safety guidelines. Safety issues may also be discussed at employee meetings and training programs. Employees are required to report immediately to their supervisor any hazardous or unsafe condition at the workplace. Furthermore, employees are encouraged to direct any questions or concerns regarding safety issues or the IIPP to the Safety Committee. Employees will not be retaliated against for any information they report or questions they raise in connection with this IIPP. Alternatively, employees may report unsafe conditions anonymously, if they prefer to do so, by writing to the program administrator and requesting anonymity.
- d. Workplace Inspections: One of the methods the court uses in identifying workplace safety hazards and unsafe work conditions is quarterly inspections or upon complaint, conducted by the Safety Committee and/or management or other agencies. Inspections may occur (a) upon introduction to the workplace of new substances, procedures, or equipment that

- potentially represent safety hazards; (b) when previously unidentified hazards are recognized; (c) following a workplace accident; or (d) when otherwise deemed appropriate.
- e. Investigation of Workplace Injuries or Illness: The court will review occupational injuries and illnesses when appropriate, and take necessary action. Such review may include an inspection of the location where the accident occurred and interviews with affected workers or witnesses. Either the program administrator, or another individual designated by the program administrator (ex: designated agent) will investigate, determine the cause of the problem, and identify corrective action to prevent future such occurrences
  - f. Remediation of Unsafe Conditions: Where the court finds that an unsafe workplace condition or practice exists, the court will take appropriate corrective action in a timely manner to correct the problem, taking into account the severity of the hazard, among other relevant factors. When an imminent hazard exists that cannot be corrected immediately without endangering employees or property, the court will remove all exposed workers from the area, except any who may be necessary to correct the problem. Any such workers will be provided with appropriate safety equipment.
  - g. Training and Instruction: From time to time, all court employees will receive training and instruction in conjunction with the IIPP on general and job-specific safety and health practices. Training may occur (a) when the IIPP is first established; (b) for new employees (c) upon introduction to the workplace of new substances, procedures, or equipment that potentially represent safety hazards; (d) when previously unidentified hazards are recognized; (e) for all employees regarding job or site-specific hazards and safety practices (supervisor's responsibility to train); (f) when individuals are promoted or transferred (supervisor's responsibility to train); (g) after an accident occurs; (h) when otherwise deemed appropriate.

Records: As a public entity, the court is not required to keep written records of the steps taken to implement and maintain this IIPP pursuant to Labor Code Section 6401.7 (k). Nonetheless, the court has elected to retain the employee's acknowledgment of the IIPP training.

## **16.0 EMERGENCY EVACUATION PLAN**

In the case of an emergency which necessitates the evacuation of any of the court facilities, all employees are to exit quickly and quietly to the area indicated on the Emergency Evacuation Plan. All employees are to congregate in the area indicated in order to allow the division supervisors to determine if all their staff is present and to report any absences to the Court Executive Officer or designee. Employees are not to proceed to any other location, or to their homes, until roll is completed and such direction is given to the division supervisors by the Court Executive Officer or designee.

## **17.0 REASONABLE ACCOMMODATION**

- a. In accordance with the California Fair Employment and Housing Act (FEHA) and the Americans with Disabilities Act (ADA), the court will provide reasonable accommodation to the known physical or mental impairments that rise to the level of a disability of otherwise qualified disabled employees.
- b. Disabled employees who desire a reasonable accommodation should make such a request in writing to the Human Resources Office. The request must identify (1) the impairment for which the employee is seeking reasonable accommodation (e.g., hearing impairment, vision impairment); and (2) for each impairment, how it affects the employee's daily activities, including but not limited to how it affects the employee's ability to do his or her job at the court; and (3) the anticipated duration of the disability.

- c. The human resources representative or designee will review the reasonable accommodation request and determine whether it appears that the employee may be disabled within the meaning of the FEHA and/or the ADA. The court may request that the employee submit to his or her treating physician a questionnaire regarding the employee's impairment and a release authorizing the court to receive relevant medical information. The Human Resources representative or designee will engage in a timely, good faith, interactive process with the employee to discuss the request for reasonable accommodation. Whether a reasonable accommodation can be made and what reasonable accommodation will be provided shall be determined on a case-by-case basis. Reasonable accommodations may include, but are not limited to a leave of absence, the purchase of assistive devices, a change in work schedule, and elimination of nonessential job functions. If a reassignment is requested as the reasonable accommodation, only reassignments in a classification for which the employee is qualified will be considered.
- d. The employee has the responsibility to notify Human Resources immediately if Reasonable Accommodation is no longer medically needed.
- e. An employee who alleges a denial of a reasonable accommodation may file a written complaint with the Court Executive Officer and applicable State and Federal agencies.

#### **18.0 PERSONAL PROPERTY**

All Court property, including but not limited to, lockers, desks, storage areas and equipment must be maintained according to court standards. All such areas must be kept clean. The Court reserves the right, without further notice, to access court property.

The Court is not responsible for employees' personal items which are damaged, lost or stolen.

All employees should remove any personal items at the time they leave Court employment. Personal items left at the Court by previous employees are subject to disposal if not claimed at the time of the employee's departure.

#### **19.0 DISCIPLINARY ACTION**

- a. Types of Disciplinary Action  
"Disciplinary Action" includes written reprimand, suspension, reduction in pay, demotion, and dismissal.
- b. Cause for Disciplinary Action  
Any Regular employee of the Court may be disciplined for just cause. "Just cause" is defined as any facts which, based on relevant circumstances, may be reasonably relied upon by the Court as a basis for disciplinary action. Cause for disciplinary action includes, but is not limited to:
  - 1. Incompetence
  - 2. Inefficiency
  - 3. Insubordination
  - 4. Neglect of duties
  - 5. Absence without leave
  - 6. Dishonesty
  - 7. Tardiness
  - 8. Fraud in securing employment
  - 9. Discourteous treatment of the public or co-workers

10. Conviction of any felony or misdemeanor which is of such a nature as to adversely affect the employee's ability to perform the duties and responsibilities of the employee's position.
  11. Conduct unbecoming a public employee or reflecting discredit upon the Court
  12. Willful abuse or damaging of public property
  13. Unlawful discrimination including but not limited to Sexual Harassment
  14. Violation of the Workplace Violence Prevention Policy
  15. Violation of the Illness, Injury and Prevention Policy (IIPP)
  16. Violation of any personnel policy issue
  17. Loss (including failure to renew) of any license or certification necessary for the performance of one's job duties
- c. Notice Requirement
1. For disciplinary actions that involve suspension, reduction in pay, or dismissal, the Court will provide the notice of proposed disciplinary action to the employee at least ten (10) working days prior to the effective date of the proposed action. The proposed action shall not be implemented prior to a pre-deprivation meeting provided one has been requested by the employee. Such notice shall be served upon the employee either personally, or by certified or registered mail, return receipt requested with a "cc" to MCTCE, Local 1 (for bargaining unit employees) to the last known address of record in the court personnel file. If notice is provided by certified or registered mail, the notice shall be deemed to have been received five days after the date of mailing.
  2. The notice of proposed disciplinary action shall include a statement describing the proposed action to be taken, the date the action is intended to become effective, facts supporting the action, and a statement advising the employee of the right to request a pre-deprivation ("Skelly") meeting. The Court will specify the date no less than ten (10) working days by which a written or verbal request for the meeting must be made by the employee. The notice will also inform the employee of their right to representation.
  3. To be considered timely, a request for a pre-deprivation meeting must be received by an authorized representative of the Court within ten (10) working days of the employee's receipt of the notice of proposed disciplinary action as described above. If the employee does not respond to the notice of proposed disciplinary action within the time specified in the notice, the action will be considered conclusive and shall take effect as specified in said notice.
  4. The Court may at any time place the employee on paid administrative leave pending resolution of the action.
  5. Such actions involving At-Will, Intern, Temporary and Introductory employees remain unaffected and have no notice requirement.
  6. In the case of employees working an alternate work schedule, the term "working days" shall mean Monday through Friday during the Court's regular work week. Holidays are excluded from this time period.
- d. Representation
1. Upon timely request of the employee or their representative, the Court will schedule a pre-deprivation meeting no later than ten (10) working days (exclusive of weekends and holidays) after the request is received. The purpose of said pre-deprivation meeting is to provide the employee with an opportunity to respond to the notice of proposed disciplinary action. Such a meeting shall be rescheduled by mutual agreement. Release time to attend the meeting, without loss of compensation, will be provided for the employee and the representative (if a Court employee).
  2. Within a reasonable time following any such pre-deprivation meeting, the Court will notify the employee in writing of its final disciplinary decision and the effective date

thereof. The final decision will have been subject to review by one other than the decision maker(s) before it is issued. It is understood that the Court retains the right at this stage of the process to affirm, modify, or rescind the disciplinary action.

## **20.0 APPEALS PROCEDURE**

### **20.1 Employee Right to Appeal**

- a. An employee who is subject to disciplinary action that involves suspension, reduction in pay, demotion, or dismissal shall have the right, within fifteen (15) calendar days after receiving the notice of disciplinary action, to appeal such action by filing a written notice of appeal signed by the employee and the employee's representative with the Court Human Resources Manager or designee. The notice of appeal shall contain the name and address of the person to whom all written communication regarding such appeal shall be sent.
- b. The Court Human Resources Manager shall promptly provide the Court Executive Officer or designee with a copy of the employee's notice of appeal.
- c. An employee who files a notice of appeal as provided herein shall be entitled to a hearing, as provided in this section and no other remedy.
- d. An appeal of a disciplinary action is a complaint of a regular full time or part-time employee regarding whether there was good cause for the disciplinary action taken against that employee.
- e. If the employee who was served with the notice of disciplinary action fails to file a notice of appeal within the time specified in paragraph a. of this section, the disciplinary action shall become final without further action.

### **20.2 Evidentiary Due Process Hearing**

- a. Selection of Hearing Officer
  1. The parties to the hearing and to the selection of the hearing officer shall be the employee, who may be represented by MCTCE (bargaining unit employees) or independent counsel, and the Court.
  2. The parties will make reasonable efforts to select a hearing officer by mutual agreement within fifteen (15) calendar days from the date of the employee's notice of appeal.
  3. If the parties are unable to mutually agree upon the hearing officer, one shall be selected from a list of seven (7) names provided by the State Mediation and Conciliation Service ("SMCS"). Unless otherwise agreed, the employee's representative shall make a written request for a list from SMCS. The parties shall alternately strike names from the list until one name remains, unless they agree otherwise.
- b. Hearing Procedures
  1. Unless the Hearing Officer's schedule dictates otherwise, the Hearing Officer shall schedule and hold a hearing within thirty (30) calendar days of selection.
  2. The Hearing Officer shall review written materials submitted by the parties and interview parties deemed pertinent to the appeal, and shall render a written recommendation within thirty (30) days of the close of the hearing. The Hearing Officer's recommendation shall include an appropriate record with a written report that has findings of fact and conclusions that reference the evidence.
  3. The employee and the Court shall have the right to call witnesses and present evidence. The Court shall release Trial Court employees to testify at the hearing without loss of compensation.

4. The Hearing Officer shall have the right to issue subpoenas for the attendance of witnesses and subpoenas duces tecum for the production of books, records, documents, and other evidence as provided in Section 1282.6 of the Code of Civil Procedure.
5. If the Hearing Officer disagrees with the Trial Court's disciplinary decision, the Trial Court shall furnish a certified copy of the record of proceedings before the Hearing Officer to the employee, or if the employee is represented by a recognized employee organization or counsel, to that representative, without cost.
6. Each party will each be responsible for one-half (1/2) of any costs of the Hearing Officer's fee, and any court reporter fee. Any cost for transcripts will be borne by the party requesting the transcript. If the Hearing Officer requests that a transcript be prepared, both parties shall equally share the cost of the transcript. The parties shall each bear their own costs for any attorney's fees.

### **20.3 Review of Hearing Officer's Report**

- a. The Court (one other than the disciplining officer) shall have thirty (30) calendar days from receipt of the Hearing Officer's report or receipt of the record of the hearing, whichever is later, to issue a written decision accepting, rejecting or modifying the Hearing Officer's report or recommendation, unless the Court and employee mutually agree to a different timeframe.
- b. In making a decision under paragraph a. above, the Court shall be bound by the factual findings of the Hearing Officer, except factual findings that are not supported by substantial evidence, and the Court shall give substantial deference to the recommended disposition of the Hearing Officer.
- c. If the Court rejects or modifies the Hearing Officer's recommendation, the Court shall specify the reason or reasons why the recommended disposition is rejected in a written statement which shall have direct reference to the facts found and shall specify whether the material factual findings are supported by substantial evidence. The Court may reject or modify the recommendation of the Hearing Officer only if the material factual findings are not supported by substantial evidence, or for any of the following reasons or reasons of substantially similar gravity or significance.
  1. The recommendation places an employee or the public at an unacceptable risk of physical harm from an objective point of view.
  2. The recommendation requires an act contrary to law.
  3. The recommendation obstructs the Court from performing its constitutional or statutory function from an objective point of view.
  4. 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.
  5. 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.
  6. From an objective point of view, and applied by the Court in a good faith manner, the recommendation exposes the Court to present or future legal liability other than the financial liability of the actual remedy proposed by the Hearing Officer.

#### **20.4 Basic Rules**

- a. In the case of employees working an alternate work schedule, the term “working days” as referred to in this Section shall mean Monday through Friday during the Court’s regular work week. Holidays are excluded from this period of time.
- b. If an employee does not present their appeal within the prescribed time limits, or fails to appear, unless an unforeseeable emergency arises, at any scheduled hearing date, the appeal shall be considered resolved in favor of the Court.
- c. The Court Executive Officer may temporarily suspend appeal processing on a Division-wide or Court-wide basis in an emergency situation.
- d. Upon written consent of both parties to an appeal, the time limitations at any level in the procedure may be extended.

### **21.0 SEPARATION FROM EMPLOYMENT**

#### **21.1 Resignation**

An employee may resign their employment with the Court by submitting a written resignation to Human Resources. An employee who gives less than two (2) weeks notice may be ineligible for reemployment. A resignation is effective once it is given by the employee and accepted by the Court. Employees have no right to rescind such a resignation.

#### **21.2 Job Abandonment**

Employees who do not return from leave when scheduled or who fail to report to work for three (3) consecutive days are subject to discipline for job abandonment unless permission has been granted by the Court Executive Officer or there is good cause for the employee’s failure to return or report to work.

#### **21.3 Retirement**

- a. Employees in Regular or Parttime Regular status shall be members of the Merced County Employees’ Retirement System in accordance with the Merced County Employees Retirement Law of 1937 as amended.
- b. Retired employees may, in accordance with the normal retirement age provisions of the Merced County Employees Retirement Association, be re-employed in a position requiring special skills or knowledge, for a period not to exceed one hundred and twenty (120) working days or nine hundred and sixty (960) hours, whichever is greater, in any one (1) fiscal year.

#### **21.4 Reduction in Force**

- a. Application
  1. Whenever it is necessary because of lack of work or funds, or whenever it is advisable in the interest of economy to reduce the number of employees, the Court may layoff employees pursuant to this section.
  2. Subordinate judicial officers, as well as confidential and managerial (all levels) employees, at the Court’s discretion, are excluded from the remainder of this policy.
- b. Scope of Layoff
  1. The Court will determine the area of layoff (e.g. court-wide, division) and the classification(s) subject to layoff. The decision to reduce the number of positions in a class in the Court and the reasons for any such reduction shall be within the sole and exclusive discretion of the Court. Once the scope of layoff is

determined, employees will generally be laid off by seniority in the following order:

- a. Contracted Employees
  - b. Temporary and Intern Employees
  - c. Introductory Employees
  - d. Regular Part-Time Employees
  - e. Regular Full-Time Employees
2. Employees on an approved leave of absence will be notified that they are subject to layoff under these procedures. If they are selected for layoff, their leave will be terminated and they will be converted to layoff status as described in "Layoff Status", paragraph f. below.
- c. Notice of Layoff
1. Each employee subject to layoff shall be given written Notice of Layoff. The notice shall prescribe the effective date of layoff. The written notice shall either be personally handed to the employee, delivered or mailed to their last known address. The last known address shall be deemed to be that address which is within the personnel file of the employee. The notice shall be deemed served on the date it is personally handed to the employee, or the date it is left at their last known address, or on the date it is mailed to their last known address, as the case may be.
  2. The effective date of layoff shall be not earlier than the 14<sup>th</sup> calendar day following the date of service of the Notice of Layoff.
  3. Each time a layoff is ordered, the Court shall mail to the appropriate bargaining unit, if any, not later than the date of service of the last Notice of Layoff, each seniority list by class in which an employee covered by an MOU is to be laid off. Each such list shall identify the employees to be laid off and show the date of service of the Notice of Layoff to each employee who is to be laid off.
- d. Seniority Calculation
- For the purposes of this procedure, seniority is determined by the length of continuous paid employment within the Court in the classification of layoff.
1. Time on unpaid leave or suspension shall not be included in calculating seniority.
  2. Time on State Disability Insurance (SDI) will be included in calculating seniority to the extent that SDI is being coordinated with the employee's vacation, sick leave, or compensatory time off. Time off payroll while on SDI will not be included in calculation of seniority.
  3. If the length of service within a classification is the same for two or more employees, seniority will be determined by the length of continuous paid employment from the employee's original date of hire.
  4. If the length of service is the same as determined by application of paragraph (3) above, seniority will be determined by the total previous clerical or technical experience (depending on the classification) at the time of hire with the most previous clerical or technical experience being given seniority preference.
  5. Notwithstanding the provisions of paragraph (1) through (4) above, a person appointed to a position requiring special qualifications or skills shall continue in the position unless a more senior employee has the same qualifications or skills to perform the work in the specific position. Such exceptions to the order of layoff shall require express approval of the CEO. The Court may administer such tests as deemed necessary to determine possession of the special qualifications and skills.

e. Alternatives to Layoff

1. Bumping – In lieu of layoff, a regular employee who is laid off shall have the right, within the area of layoff (e.g. division) to “bump” a less senior employee in a lower classification (i.e. one with a lower salary rate) in which the employee who is bumping had previously achieved regular status. The employee who is bumped shall be the employee with the least seniority in the lower classification. An employee who is bumped shall also have the right to bump a less senior employee in a lower classification in which the employee who is bumping had previously achieved regular status. Any employee who exercises bumping rights shall enjoy the pay, benefit, and terms and conditions of employment of the classification to which he or she bumps.
2. Voluntary Reduction in Hours – The Court may, as an alternative to, or in conjunction with a layoff, call for volunteers, from amongst the members of the class in which layoff is contemplated, to work reduced hours in lieu of layoff and/or the elimination of a full-time position.
3. Voluntary Leave of Absence Without Pay – The Court may, as an alternative to or in conjunction with a layoff, call for volunteers from amongst the members of the class in which layoff is contemplated, to take a leave of absence without pay for a period of time mutually agreed upon between the employee and the Court. No such leave of absence without pay shall extend beyond one year.

f. Layoff Status

Employees laid off will be separated from Court payroll effective the date of layoff. They will be paid their accrued vacation balance. During the layoff period, employees do not accrue any benefits such as vacation, holiday pay, sick leave, or seniority.

g. Recall

1. The names of employees laid off pursuant to this policy shall be placed on a court-wide reemployment list, by classification, for a period of twelve (12) months from the effective date of the layoff. The order of the reemployment list shall be highest seniority employee on the top of the list to the lowest senior employee on the bottom of the list. If a position is vacated or established in the classification from which the employee was laid off, such position will be offered to employees on the reemployment list in list order, prior to the position being posted.
2. If an employee accepts a recall and reports to work in a timely manner, the employee will be given a new anniversary date that reflects the amount of time they were on layoff status. Sick leave accrual attained by the employee at the time of layoff, if any, shall be reinstated upon re-employment. The vacation accrual rate the employee had prior to layoff will be reinstated upon re-employment.
3. To be eligible for recall, an employee must keep the Court notified as to his or her current address. Recall notices will be sent by certified mail to the employee’s last known address as reflected in the Court’s records. The employee must, within fourteen (14) calendar days from the date the notice was mailed, notify the Court of his or her intent to return to work on the date specified in the recall notice and must thereafter return to work on such date. If an employee refuses a recall offer, does not respond to a recall offer within the time specified in this policy, or does not return to work on the date specified in the recall offer, he or she will be removed from the reemployment list and will not be eligible for further recalls.

**21.5 Dismissal**

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.