

MEMORANDUM
OF
UNDERSTANDING

UNION OF AMERICAN PHYSICIANS
AND DENTISTS

and the

COUNTY OF ALAMEDA



June 20, 2005 – December 15, 2007

2005 - 2007
MEMORANDUM OF UNDERSTANDING
BETWEEN THE UNION OF AMERICAN PHYSICIANS
AND DENTISTS, UNITS 18 AND 24
AND THE COUNTY OF ALAMEDA

Table of Contents

| | Page No. |
|--|-----------------|
| Section 1. Recognition | 1 |
| Section 2. No Discrimination | 1 |
| Section 3. Union Security | 1 |
| Section 4. Union Bulletin Boards, Meetings and Access to Employees | 3 |
| Section 5. Shop Stewards | 4 |
| Section 6. Work Schedule and Change of Shift | 6 |
| Section 7. Overtime | 6 |
| Section 8. Leaves of Absence | 7 |
| Section 9. Holidays | 11 |
| Section 10. Vacation Leave | 13 |
| Section 11. Sick Leave | 16 |
| Section 12. Premium Conditions | 20 |
| Section 13. Special Performance Pay | 20 |
| Section 14. Medical and Dental Plans | 21 |
| Section 15. Allowance for Use of Private Automobiles | 25 |
| Section 16. Wages | 25 |
| Section 17. Two Weeks Notice Upon Termination | 26 |
| Section 18. Grievance Procedure | 26 |
| Section 19. Disability Insurance Benefits | 28 |
| Section 20. Malpractice Insurance | 29 |
| Section 21. Life Insurance | 30 |

| | Page No. |
|---|-----------------|
| Section 22. Vision Reimbursement Plan..... | 30 |
| Section 23. Catastrophic Sick Leave Program..... | 30 |
| Section 24. Reimbursement for Certification Required to Supervise Physician Assistants..... | 31 |
| Section 25. Reimbursement for Drug Enforcement Administration Registration Fee..... | 31 |
| Section 26. Notice of Layoffs | 32 |
| Section 27. No Strike, No Lockout | 32 |
| Section 28. Effect of Mandated Fringe Benefits..... | 32 |
| Section 29. Continuing Medical Education Stipend..... | 32 |
| Section 30. Disability Insurance Policies..... | 32 |
| Section 31. Vacation Sellback..... | 33 |
| Section 32. Agency/Department Head..... | 33 |
| Section 33. Savings Clause | 33 |
| Section 34. Scope of Agreement | 33 |
| Section 35. Enactment..... | 33 |
| Section 36. Term of Memorandum..... | 34 |
| Appendix A, Salaries..... | 35 |
| Appendix B, Salaries (SAN)..... | 36 |
| Appendix C, Domestic Partners..... | 37 |
| Appendix D, Employment Discrimination Complaint Procedures..... | 38 |
| Subject Index..... | 42 |
| Sideletters of Agreement Table of Contents | 44 |
| Sideletters of Agreement | 45 |

2005 - 2007
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BETWEEN THE UNION OF AMERICAN PHYSICIANS
AND DENTISTS, UNITS 18 AND 24
AND THE COUNTY OF ALAMEDA

This MEMORANDUM OF UNDERSTANDING is entered into by the Director, Human Resource Services Department of the County of Alameda, said political subdivision hereinafter named as "County," and the Union of American Physicians and Dentists hereinafter named as "Union," as a recommendation to the Board of Supervisors of the County of Alameda of those conditions of employment to be in effect during the period of June 20, 2005 through December 15, 2007, for those employees working in the representation units referred to and further described in Section 1 of this Memorandum.

SECTION 1. RECOGNITION

The County recognizes the Union as the exclusive bargaining representative for the following employees:

1. All full-time employees in classifications included in Representation Unit 18 as specifically enumerated in Appendix A.
2. All part-time employees in classifications included in Representation Unit 18, as referenced above, who are regularly scheduled to work two-fifths or more time per pay period, and
3. All services-as-needed employees included in classifications in Representation Unit 24, as specifically enumerated in Appendix B, who are regularly scheduled to work two-fifths time or more per pay period.

SECTION 2. NO DISCRIMINATION

A. DISCRIMINATION PROHIBITED. No person in the classified Civil Service shall be appointed, reduced, or removed, or in any way favored or discriminated against because of political or religious opinions or affiliations, or because of racial or national origin; and to the extent prohibited by law, no person shall be discriminated against because of age, sex, or physical disability. Complaints arising pursuant to the provisions of this subsection shall only be processed according to the Uniform Complaint Procedure contained in Appendix D, which is incorporated by reference to this Memorandum of Understanding, and shall be excluded from the Grievance Procedure.

B. NO DISCRIMINATION BECAUSE OF UNION ACTIVITY. Neither County nor Union shall interfere with, intimidate, restrain, coerce, or discriminate against employees covered by this agreement because of the exercise of rights to engage or to not engage in Union activity.

SECTION 3. UNION SECURITY

A. NOTICE OF RECOGNIZED UNION. Each County department or agency shall post within the employee work or rest area a written notice which sets forth the classifications included within each representation unit referred to in Section 1 hereof and which includes any classification existing in the department or agency, and the name and address of the recognized employee organization for each such unit. The department or agency shall also give a written notice to persons newly

employed in representation unit classifications which notice shall contain the name and address of the employee exclusive bargaining representative recognized for each unit; the fact that the Union is the exclusive bargaining representative for the employee's unit and classification; and a copy of the current Memorandum of Understanding to be supplied by the Union. Each Union shall receive from the County on a flow basis, but at least once bi-weekly, the names and addresses of all new employees hired within such units. The Union agrees it has a duty to provide fair and non-discriminatory representation to all employees in all classes of the units for which this Section is applicable provided the employee pays Union dues, a service fee or a charitable contribution.

- B. AGENCY SHOP.** Except as provided otherwise in this Section, employees in representation units referred to in Section 1. hereof, shall, as a condition of continuing employment, become and remain members of the Union or shall pay to the Union a service fee in lieu thereof. Such service fee shall be ninety-eight (98) percent of Union dues and initiation fees (hereinafter collectively termed "service fee") of the Union representing the employee's classification and representation unit. Initiation fees shall not exceed a total of Fifty Dollars.
- C. IMPLEMENTATION.** Any employee hired by the County subject to this Memorandum of Understanding shall be provided through the employee's department or agency with a notice advising that the County has entered into an agency shop agreement with the Union and that all employees subject to the Memorandum of Understanding must either join the Union, pay a service fee to the Union, or execute a written declaration claiming a religious exemption from this requirement. Such notice shall include a form for the employee's signature authorizing payroll deduction of Union dues or a service fee. Said employee shall have five working days following initial date of employment to fully execute the authorization form of his/her choice and return said form to agency/department payroll. If the form is not completed properly and returned within five working days, the County Auditor shall commence and continue a payroll deduction of service fees from the regular biweekly pay warrants of such employee. The effective date of union dues, service fee deductions or charitable contribution for such employees shall be the beginning of the first pay period of employment except that initiation fees shall be deducted in two installments in successive pay periods, beginning with the first pay period.

The employee's earnings must be sufficient after other legal and required deductions are made to cover the amount of the dues or service fees checkoff authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in a non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions (including health care deductions) have priority over union dues and service fees.

- D. RELIGIOUS EXEMPTION.** Any employee of the County subject to this Memorandum of Understanding who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting a public employee organization shall, upon presentation of verification of active membership in such religion, body or sect, be permitted to make a charitable contribution equal to the service fee in lieu of union membership or service fee payment.

To qualify for the religious exemption, the employee will be required to submit to the Union and County a notarized letter signed by an official of the bona fide religion, body or sect certifying that person's membership. The deduction shall not be forwarded to the charity until the Union has approved of the exemption. Charitable contributions shall be by regular payroll deduction only. For purposes of this section, charitable deduction means a contribution to the Women's Refuge, the Emergency Shelter program, the Emergency Food Bank Network, or the Narcotics Education League.

- E. EXCLUSION OF EMPLOYEES.** The agency shop provisions set forth in paragraph B, C and D. herein shall not apply to persons occupying positions designated as management, supervisory or confidential, nor to persons not in the classified civil service. The County may designate positions as confidential in accordance with Administrative Code Section 7-2.02.
- F. FINANCIAL REPORTS.** The Union shall submit a copy of the financial report required pursuant to the Labor-Management Disclosure Act of 1959 to the County Administrator once annually. Copies of such report shall be available to employees subject to the agency shop requirements of this Section at the offices of the Union.
- Failure to file such a report within one-hundred (100) days of the close of each Union's fiscal year shall result in the termination of all agency fee deductions without jeopardy to any employee, until said report is filed.
- G. PAYROLL DEDUCTIONS AND PAYOVER.** The County shall deduct Union dues or service fees and premiums for approved insurance programs from employees' pay in conformity with State and County regulations. The County shall promptly pay over to the designated payee all sums so deducted. The County shall also periodically provide a list of all persons making charitable deductions pursuant to a religious exemption granted herein.
- H. HOLD HARMLESS.** Union shall indemnify and hold County, its officers and employees, harmless from any and all claims, demands, suits, or any other action arising from the agency shop provisions herein. In no event shall the County be required to pay from its own funds, union dues, service fees or charitable contributions, which the employee was obligated to pay, but failed to pay, regardless of the reasons.
- I. SUSPENSION OF AGENCY FEES.** For the duration of any strike, sanctioned, called or supported by Union, County may suspend collection of agency service fees without jeopardy to the employee.
- J. WAIVER OF ELECTION FOR NEWLY-REPRESENTED EMPLOYEES AND NEW REPRESENTATION UNITS.** The accretion of classifications and/or employees to the representation units set forth in Section 1. of this Memorandum of Understanding, shall not require an election herein for the application of this agency shop provision to such classifications and/or employees. The recognition of newly established bargaining units and the inclusion of same within Section 1. of this Memorandum of Understanding, shall also not require an election herein for the application of this agency shop provision to such units.

SECTION 4. UNION BULLETIN BOARDS, MEETINGS AND ACCESS TO EMPLOYEES

- A. BULLETIN BOARDS.** Reasonable space shall be allowed on bulletin boards as specified by Agency/Department Heads for use by employees and Union to communicate with agency/departmental employees. Material shall be posted upon the bulletin board space as designated, and not upon walls, doors, file cabinets or any other place. Posted material shall not be obscene, defamatory, or of a partisan political nature, nor shall it pertain to public issues which do not involve the County or its relations with County employees. All posted material shall bear the identity of the sponsor, shall be neatly displayed, and shall be removed when no longer timely.
- B. USE OF COUNTY FACILITIES.** County facilities may be made available upon timely application for use by off-duty employees and the Union. Application for such use shall be made to the management person under whose control the facility is placed.
- C. JOB CONTACTS.** Any authorized representative of the Union shall have the right to contact individual employees working within the representation unit represented by his/her organization in County facilities during business hours on matters within the scope of representation providing prior

arrangements have been made for each such contact with the Agency/Department Head who shall grant permission for such contact, if, in his/her judgment, it will not disrupt the business of the work unit involved. When contact in the work location is precluded by confidentiality of records, or of work situation, health and safety of employees or the public, or by disturbance to others, the Agency/Department Head shall make other arrangements for a contact location removed from the work area during the same work day or the following work day.

- D. MEETINGS.** Meetings of a representative of a recognized employee organization and a group of employees shall not be permitted during working hours, except as provided in Section 18. hereof. The Agency/Department Head may, upon timely application, allow meetings of a representative of a recognized employee organization and a group of employees during the lunch period in County facilities and at convenient dates. No contacts shall be permitted during working hours with employees regarding membership, collection of monies, election of officers, or other similar internal employee organization business.
- E. DEPARTMENTAL MEETINGS.** Unless otherwise agreed, Union representatives shall not be permitted to attend meetings or conferences called by agency/departmental personnel to attend to matters arising out of the normal course of agency/departmental activities.

As used herein, agency/department meetings shall not include meetings between management and affected employees on matters mutually acknowledged to be submitted under Section 18. Grievance Procedure.

- F. ACCESS TO RECORDS.** An employee shall be permitted to review his/her own personnel record. Union representatives shall be permitted to review employee records when accompanied by the employee or upon presentation of a written authorization signed by the employee. The employee or the Union representative when accompanied by the employee or upon presentation of a written authorization signed by the employee may request a copy of the employee's personnel record. The County shall provide one copy of the record without charge. The County may verify any written authorization. The Union's access to employee records shall be for good cause only. Third party reference material shall not be made available.
- G. DATA TO UNION.** The County shall, upon request, supply the Union with data processing runs of the names, home and office addresses and Civil Service classifications of all employees in represented units. Such service shall be supplied at no more than cost to the County.

SECTION 5. SHOP STEWARDS

- A. PURPOSE.** The County recognizes the need and affirms the right of the Union to designate shop stewards from among employees in the unit. It is agreed that the Union in appointing such shop stewards does so for the purpose of promoting an effective relationship between supervisors and employees by helping to settle problems at the lowest level of supervision.
- B. ROLE OF STEWARD AND SUPERVISOR.** The shop steward recognizes the fact that the supervisor is the key person in the agency/department and, as such, is responsible to higher management for the quality and quantity of work. As the supervisor is the key person for management, the shop steward is the key person for the Union. They must promote and maintain good morale and friendly relations and must be willing to meet in good faith to settle grievances as they arise, exercising a positive approach. There must be mutual respect on both sides in these relations. The shop steward understands that his/her stewardship function does not relieve him/her from conforming to all rules of conduct and standards of performance established by law, regulation, County or agency/department policy or Memorandum of Understanding.

C. SELECTION OF STEWARDS. The Union shall reserve the right to designate the method of selection of shop stewards. The Union shall notify the Agency/Department Head in writing of the names of the stewards and the units they represent. If a change in stewards is made, the Agency/Department Head shall be advised in writing of the steward being replaced and the steward named to take his/her place. The number of stewards shall be mutually agreed upon and a list of stewards shall be submitted to each agency/department concerned.

D. DUTIES AND RESPONSIBILITIES OF STEWARDS. The following functions are understood to constitute the complete duties and responsibilities of shop stewards.

1. SHOP STEWARDS WORKING FULL TIME. After obtaining supervisory permission, shop stewards will be permitted to leave their normal work area during on-duty time not to exceed eight hours per pay period in order to assist in investigation of facts and assist in presentation of a grievance.

2. SHOP STEWARDS WORKING LESS THAN FULL TIME. After obtaining supervisory permission, shop stewards employed two-fifths time or more (but less than full-time) will be permitted to leave their normal work area during on-duty time not to exceed four hours per pay period in order to assist in investigation of facts and assist in presentation of a grievance.

To obtain permission to investigate a grievance on on-duty time, the steward shall advise the supervisor of the grievant of his/her investigation of the facts and the general nature of the grievance. The shop steward shall report such time to his/her supervisor as shop steward leave (payroll code UNI). The shop steward is permitted to discuss the problem with all employees immediately concerned, and, if appropriate, to attempt to achieve settlement with the supervisory personnel involved. Agencies, wards, clients, detainees and outside interested parties will not be contacted by stewards as part of the grievance process. The employee may be represented by a steward at such times as a grievance is reduced to writing.

If, in the judgment of the supervisor, because of the necessity of maintaining adequate level of service, permission cannot be granted immediately to the shop steward in order to present or investigate a grievance during on-duty time, such permission shall be granted by the supervisor no later than the next working day from the date the shop steward was denied permission.

Employee representatives/employees who participate in the meet and confer process and/or participate on a labor-management committee, must report such time to their supervisor as payroll code MCL for meet and confer and payroll code LMC for participation on a labor management committee.

E. CHANGES IN STEWARDS OR NUMBER OF STEWARDS. If management reassigns a shop steward which will leave his/her present shift or work location without a steward, the Union shall have the right to appoint a replacement. Should the Union wish to change stewards during the grievance procedure, it may do so provided that only one steward will be allowed time off from work upon one occasion to investigate the grievance.

F. CONDUCT OF MEETINGS. Any meeting of shop stewards and supervisors will be held in a quiet, dignified manner. Management personnel will agree to recognize and work with Union stewards in a conscientious effort to settle problems at the earliest possible step of the grievance procedure.

G. LIMITATIONS OF TIME OFF. Stewards shall not be permitted time off from their work assignment for the purpose of conducting general Union business.

SECTION 6. WORK SCHEDULE AND CHANGE OF SHIFT

- A. WORK SCHEDULE AND CHANGE OF SHIFT.** Except for an employee in a classification enumerated in Appendix B, the Agency/Department Head shall prepare a schedule showing the hours each employee of the County in his/her agency/department is to work. Except in cases of emergency, employees shall be given ten working days' notice of any change in shift schedule.
- B. WORK DAY AND WORK WEEK.** The following shall apply:
1. For each full-time employee who works 8 hours per day, the normal work week shall be 40 hours.
 2. For each part-time employee, the workday and/or workweek will be determined by the Agency/Department Head. The workday and/or workweek will be a proration of time scheduled to work to the normal 40 hour workweek base for the employee's classification enumerated in Appendix A.
 3. For services as needed employees, the workweek is scheduled on an as needed basis as determined by the Agency/Department Head, with the workweek base being 40 hours as designated for the employee's classification.
 4. For part-time and services as needed employees, the "work week base," as used herein, shall mean an amount of hours in a work week which are equivalent to the full time hours listed for classifications as enumerated in Appendix A.
- C. REST PERIODS.** Each employee shall be granted a rest period of 15 minutes during each work period of more than three hours duration; provided, however, that rest periods are not scheduled during the first or last hour of such period of work. No wage deduction shall be made nor time off charged against employees taking authorized rest periods, nor shall any right to overtime be accrued for rest periods not taken. There is no obligation upon the County to provide facilities for refreshments during the rest periods, or for procurement thereof.

SECTION 7. OVERTIME

- A. HOW OVERTIME IS AUTHORIZED.** Work for the County by an employee at times other than those scheduled pursuant to Section 6.A. shall be approved in advance in writing by the Agency/Department Head, or in cases of unanticipated emergency, shall be approved by the Agency/Department Head, after such emergency work is performed. No employee shall receive compensation for overtime in cash, in time off or a combination thereof unless such overtime work has been approved in writing by the Agency/Department Head as set forth above.
- B. OVERTIME WORK DEFINED.** Overtime work shall be defined as all work performed in a work week pursuant to subsection A of this Section in excess of the normal full-time work week for the job classification. Holidays which fall on an employee's regularly scheduled day off shall not count towards the accumulation of the work week. Holidays worked, holidays which fall on an employee's regularly scheduled work day and paid time off shall count toward the accumulation of the work week.
- C. OVERTIME PAYMENT.** All overtime work shall be compensated as follows:
1. For classifications with a 40-hour work week or a 40-hour work week base, employees shall be compensated at the normal hourly rate for all time worked in excess of 40 hours.

2. Employees will be compensated for overtime work either in cash or in compensatory time off at the option of the Agency/Department Head.
3. There shall be no overtime payment unless the employee has actually worked at least some portion of time during said work week (e.g., an employee on paid leave only, during an entire work week, is not entitled to any overtime compensation).

D. HOURLY RATE DEFINED. For purposes of this section, hourly rate shall be defined as follows:

For employees working a 40-hour work week, or 40-hour work week base, the hourly rate shall be the biweekly rate divided by 80.

E. WHEN OVERTIME SHALL BE PAID. Compensation for overtime work shall be paid not later than the completion of the pay period next succeeding the pay period in which such overtime was earned.

SECTION 8. LEAVES OF ABSENCE

A. LEAVE MAY NOT EXCEED SIX MONTHS. A leave of absence without pay may be granted by the Agency/Department Head upon the request of the employee seeking such leave, but such leave shall not be for longer than six months, except as hereinafter provided.

B. NO LEAVE TO ACCEPT OUTSIDE EMPLOYMENT. A leave of absence without pay may not be granted to a person accepting either private or public employment outside the service of the County of Alameda, except as hereinafter provided.

C. MILITARY LEAVE. Every employee shall be entitled to military leaves of absence as specified in Chapter 7, Part 1, Division 2 of the California Military and Veterans Code. The employee must present to his/her supervisor a copy of his/her military orders which specify the dates and duration of such leave. Inactive duty such as scheduled reserve drill periods are exempt from this provision as stated in the California Military and Veterans Code. If such employee shall have been continuously employed by the County for at least one year prior to the date such absence begins, he/she shall be entitled to receive paid military leave as follows:

1. Paid military leave which may be granted during a fiscal year is limited to an aggregate of thirty calendar days during ordered military leave, including weekend days and travel time.
2. During the period specified in Section 8.C.1. above, the employee shall be entitled to receive pay only for those days or fractions of days which the employee would have been scheduled to work and would have worked but for the military leave.
3. The rate of pay shall be the same rate the employee would have received for shifts he/she would have been scheduled to work or scheduled for paid holiday leave, had he/she not been on military leave.
4. In no event shall an employee be paid for time he/she would not have been scheduled to work during said military leave.

Time spent on military leave shall be included in determining eligibility to occupy a classification based upon length of service.

D. TEMPORARY APPOINTMENT DUE TO MILITARY LEAVE. An Agency/Department Head may grant an employee a leave of absence without pay from his/her position to permit such an employee

to be temporarily appointed to fill a position which is vacant as the result, and during the period of, a military leave of absence.

E. EDUCATIONAL LEAVE. A leave of absence without pay may be granted by the Agency/Department Head upon the request of the employee seeking such leave for the purpose of education, but no one such leave of absence shall exceed a period of one year.

F. PAID TIME OFF FOR EDUCATIONAL PURPOSES. Employees in Unit 18 only will be granted paid leave for up to eighty hours per fiscal year for Category One State-mandated training required to maintain their licenses, provided that the County may substitute on an hour-for-hour basis, accredited mandated training offered by the County on an in-service basis. Paid leave for any employee regularly scheduled to work less than the normal work week for the job classification shall be prorated within a pay period in which leave is granted, based upon a proportion of the hours which would have been worked during that pay period but for the leave to the normal full-time period of the job classification.

Services-as-Needed employees in Unit 24 who have four or more years of paid County service and who have worked 50 percent or more each pay period in the preceding six months, will be granted paid leave for up to eighty hours per fiscal year for Category One State-mandated training required to maintain their licenses, provided that the County may substitute on an hour-for-hour basis, accredited mandated training offered by the County on an in-service basis. Paid leave for any employee regularly scheduled to work less than the normal work week for the job classification shall be prorated within a pay period in which leave is granted, based upon a proportion of the hours which would have been worked during that pay period but for the leave to the normal full-time period of the job classification.

G. LEAVE WHEN LENT TO OTHER GOVERNMENTAL AGENCY OR GOVERNMENTAL INSTITUTION. A leave of absence without pay may be granted by the Agency/Department Head to any employee who is lent to another governmental jurisdiction, to an agency engaged in a survey of government practices, or to an educational institution, but no one such leave of absence shall exceed a period of one year.

H. LEAVE OF ABSENCE TO ACCEPT APPOINTMENT TO THE UNCLASSIFIED SERVICE. A leave of absence without pay may be granted to an employee to permit such person to accept employment for an indefinite period in the unclassified civil service of the County or in a position outside the County service, the salary of which is paid in whole or in part by the County. Upon termination of such employment, such person shall revert to the position from which said leave of absence was granted and, in the event such position has been filled by another person, the reduction in force procedures set forth in the Civil Service Commission Rules shall apply.

I. LEAVES OF ABSENCE TO ACCEPT APPOINTMENT TO ANOTHER POSITION IN THE CLASSIFIED SERVICE. An employee having tenure in a classification in the classified civil service who is appointed to another classification in the classified service of the County may be granted a leave of absence without pay from the position to which he/she has tenure until he/she obtains tenure to such other position, or his/her appointment thereto is terminated for any reason, whichever first occurs. In the event of the return of such employee to the position from which leave of absence was granted, the employee with the least seniority in such class in such agency/department shall be laid off if all authorized positions are filled.

J. LEAVE FOR ASSIGNMENT TO SPECIAL PROJECT. An employee having tenure in a classification in the classified civil service, who is appointed to the classification of Project Specialist, may be granted a leave of absence without pay from the classification in which he/she has tenure, by the Agency/Department Head, for the duration of said employee's assignment to the special project.

K. LEAVE FOR JURY DUTY OR IN ANSWER TO A SUBPOENA.

1. Sufficient paid leave shall be granted to permit an employee to travel between the work place and the court and while serving on jury duty or in answer to a subpoena as a witness. Compensation for any employee regularly scheduled to work less than the normal work week for the job classification shall be prorated within a pay period in which leave is granted, based upon a proportion of the hours which would have been worked during that pay period but for the leave to the normal full-time pay period for the job classification. Any jury or witness fee awarded to such person, less reimbursement for mileage, shall be deposited in the County Treasury. Any person assigned an afternoon or evening shift shall be entitled to equal time off as leave with pay from his/her next regularly scheduled shift for all time spent serving on jury duty, or answering a subpoena as a witness and for traveling to and from court.
2. The following employees shall not be entitled to paid leave under this Section:
 - a. An employee who is a party in the case for which the subpoena is issued, or
 - b. An employee who is subpoenaed to appear because, or as the result of, his/her outside employment, including but not limited to, activities as a paid consultant or expert.
3. Employees assigned to testify as the result of a subpoena regarding matters within the course and scope of their employment shall be considered to be on County time.
4. When an employee is excused from jury duty or from answering a subpoena as a witness in time to report for at least one-half his/her regularly scheduled shift, the employee shall report to duty and jury duty pay under this section shall be reduced accordingly. If the employee fails to report as set forth herein, he/she shall be docked for the balance of the day.
5. Employees shall apply for standby jury duty if the court permits this option. An employee whose work assignment precludes participation in the standby jury duty shall be exempted from this requirement, provided that an Agency/Department Head may adjust an employee's work assignment to permit the employee to apply for standby duty.

L. DISABILITY LEAVE FOR OTHER EMPLOYMENT. Anything in this Memorandum of Understanding to the contrary notwithstanding, any person who, because of sickness or injury, is incapable of performing his/her work or duties in the service of the County but who is nevertheless capable of performing other work or duties outside the service of the County may, within the discretion of the Agency/Department Head, be granted sick leave of absence without pay during such disability to accept such employment.

M. MATERNITY. A pregnant employee is entitled to a maternity leave of up to six months, the dates of which are to be mutually agreed upon by the employee and Agency/Department Head. Such an employee may elect to take accrued vacation or compensatory time off or sick leave during the period of maternity leave, except that in the case of an employee who is regularly scheduled to work less than the normal full-time work week for the classification, paid leave shall be granted only for those days, or fractions thereof, on which such an employee would have been regularly scheduled to work and would have worked but for the maternity leave. The employee shall be entitled to sick leave with pay accumulated pursuant to Section 11.D. of this Memorandum of Understanding. Reinstatement subsequent to maternity leave of absence shall be to the same classification from which leave was taken and the Agency/Department Head shall make its best effort to return such employee to the same geographical location, shift, and where there is specialization within a classification, to the same specialization. Questions as to whether or not the Agency/Department Head has used its best effort herein, shall not be subject to the grievance procedure.

N. PATERNITY AND ADOPTIVE LEAVE. A prospective father or adoptive parent is entitled to paternity or adoptive leave of up to six consecutive months, the dates of which are to be mutually agreed by the employee and the Agency/Department Head. Such an employee may elect to take accrued vacation or compensating time off during the period of paternity/adoptive leave except that in the case of an employee who is regularly scheduled to work less than the normal full-time workweek for the classification, paid leave shall be granted only for those days, or fractions thereof, on which such an employee would have worked but for paternity/adoptive leave. The use of sick leave during paternity/adoptive leave shall not be permitted to fathers or adoptive parents unless they are otherwise eligible to use it as provided in Section 11.D. Reinstatement subsequent to paternity/adoptive leave of absence shall be to the same classification from which leave was taken and the Agency/Department Head shall make its best effort to return such employee to the same geographical location, shift, and where there is specialization within a classification, to the same specialization. Questions as to whether or not the Agency/Department Head has made its best effort herein, shall not be subject to the grievance procedure.

O. DEATH IN IMMEDIATE FAMILY. Leave of absence with pay because of death in the immediate family of a regularly scheduled person in the County service may be granted by the Agency/Department Head for a period of up to 5 days. An employee shall be allowed to take such leave within a four week period. For purposes of this section, "immediate family" means mother, stepmother, father, stepfather, husband, wife, domestic partner (upon submission of an affidavit as defined in Appendix C), son, stepson, daughter, stepdaughter, brother, sister, foster parent, foster child, mother-in-law and father-in-law, or any other person sharing the relationship of in loco parentis; and when living in the household of the employee, a brother-in-law or sister-in-law, grandparent and grandchild.

Entitlement to leave of absence under this section shall be only for all hours the employee would have been scheduled to work for those days granted, and shall be in addition to any other entitlement for sick leave, emergency leave, or any other leave.

P. LEAVE FOR PARTICIPATING IN EXAMINATION PROCESS. Upon 48 hours advance notice by the employee to his/her supervisor, an employee shall be granted paid leave while participating in an Alameda County examination which is scheduled during the employee's working hours. Sufficient paid leave shall be granted to permit the employee to travel between the work place and the testing site. Examinations for jurisdictions other than the County of Alameda are exempted from this provision.

Q. LEAVE FOR PARTICIPATING IN SELECTION PROCESS. Upon 24 hours advance notice by the employee to his/her supervisor, an employee who has received a certification for an Alameda County employment interview shall be granted paid leave while participating in the interview scheduled during the employee's working hours. Sufficient paid leave shall be granted to permit the employee to travel between the work place and the site of the interview. Interviews for jurisdictions other than the County of Alameda are exempted from this provision.

SECTION 9. HOLIDAYS

A. HOLIDAYS DEFINED. Except for employees enumerated in Appendix B, (Unit 24) paid holidays shall be:

1. January 1 – New Year's Day
Third Monday in January – Dr. Martin Luther King, Jr.'s. Birthday
February 12 – Lincoln's Birthday
Third Monday in February – Washington's Birthday
Last Monday in May – Memorial Day
July 4 – Independence Day
First Monday in September – Labor Day
November 11 – Veterans' Day
Fourth Thursday in November – Thanksgiving
Day after Thanksgiving
December 25 – Christmas
2. All other days appointed by the President of the United States or Governor of the State of California as a nationwide or statewide public holiday, day of fast, day of mourning or day of thanksgiving, provided that observance of the day as a paid holiday is approved in writing by three or more members of the Board of Supervisors.

Four floating holidays are to be scheduled by mutual agreement of the employee and his/her Agency/Department Head and taken within the fiscal year. The first four full days (8 hours) of vacation or compensatory time taken during each fiscal year shall be charged as floating holidays. Employees shall have the primary responsibility to schedule and take their floating holidays. Agency/Department Heads shall make a reasonable effort to accommodate floating holiday requests. When a written request for a floating holiday is submitted, the Agency/Department Head shall respond in writing within 14 calendar days or shall schedule the floating holidays as requested by the employee.

Effective January 2003, floating holidays will be allocated and used on a calendar year basis. Each employee hired prior to July 1 of each year shall be entitled to the floating holiday(s). Employees hired after July 1 will not be entitled to the floating holiday(s) for the calendar year in which they were hired.

3. In the administration of the above paragraph, the provision set forth in Section 10.1.5. governing Vacation Leave Segments shall not apply when an employee's leave request is solely for Floating Holidays.

Less than full-time eligible employees shall be entitled to prorated floating holidays based upon a proration of the hours the employee is regularly scheduled to work.

B. VALUE OF A HOLIDAY. The value of a holiday which falls during a pay period is 1/10th of said scheduled pay period, excluding overtime. The maximum potential value of a holiday is 8 hours for a scheduled 80 hour pay period.

C. NUMBER OF HOLIDAYS FOR SHIFT WORKERS. Except as provided in subparagraph C. hereof, no employee assigned to shift work shall receive a greater or lesser number of holidays as defined in Section 9.A. in any calendar year than employees regularly assigned to work during the normal work week, regardless of how the holiday is compensated. The intent of this section is to compensate each employee for each holiday defined in Section 9.A. above, whether compensation is in cash or time off. For holiday administration purposes only, when an assigned shift overlaps two calendar days, the day worked or scheduled to be worked shall be that calendar day upon which a majority of work, excluding overtime, was performed or scheduled.

- D. HOLIDAYS TO BE OBSERVED ON WORK DAYS.** In the event that January 1; February 12, known as "Lincoln's Birthday"; July 4; November 11, known as "Veterans' Day"; or December 25 shall fall on a Saturday, said holiday shall be observed on the preceding Friday. In the event that any of said holidays enumerated in this subparagraph shall fall on a Sunday, said holiday shall be observed on the following Monday. A day proclaimed as a nationwide or statewide public holiday, day of fast, day of mourning or day of thanksgiving, and approved in writing by three or more members of the Board of Supervisors, shall be granted only to those employees who are regularly scheduled to work on the day for which such holiday is proclaimed.

Notwithstanding the observance of holidays specified in Section 9.D. herein, and including the provisions of 9.C. herein, when December 25 and January 1 appear in the calendar year on a Saturday or Sunday, and a weekend worker is scheduled on said day, the employee shall celebrate the Christmas holiday on December 25 and the New Years Day holiday on January 1.

E. HOLIDAY COMPENSATION.

1. For Full-time Employees.

- a. Holidays not worked by full-time employees shall be compensated at straight time.
- b. In the event that any employee, by virtue of having worked a holiday, as defined in this section, should work longer than the normal work week as set forth in Section 6.B. of this Memorandum, said employee shall be compensated as provided in Section 7.B. and 7.C. hereof.

2. For Part-time Employees.

- a. For part-time employees, the compensation for holidays not worked shall be at straight time, prorated each pay period in which a holiday occurs, based upon a proration of the hours which would have been worked within the pay period, but for the holiday, to the normal full-time period for the job classification.

Such an employee may, in writing, with a minimum of seven calendar days notice to his/her Agency/Department Head elect to use accrued vacation and/or compensatory time off to replace a decrease experienced in the employee's regular biweekly salary due to a prorated holiday.

- b. Less than full-time employees shall be compensated for hours worked on holidays defined herein at the normal hourly rate.

- 3. In-Lieu Day Off.** When a holiday as set forth in paragraph A hereof, other than days appointed by the President of the United States or Governor of the State of California as a nationwide or statewide public holiday, day of fast, day of mourning or day of thanksgiving, and approved in writing by three or more members of the Board of Supervisors, falls on an employee's regularly scheduled day off, such employee may be given an in-lieu day off (a less than full-time employee will receive a prorated in-lieu day off) within 26 pay periods to be scheduled by mutual agreement of the employee and the County. Should an in lieu-day off not be taken within the 26 pay periods, the Department Head may schedule the day off or authorize compensation in cash pursuant to Section 9.E.1.a., or Section 9.E.2.a. On the holiday, should an in-lieu day off not be granted, compensation shall be paid in cash pursuant to Section 9.E.1.a. or Section 9.E.2.a.

- F. ELIGIBILITY FOR HOLIDAY PAY.** To be eligible for holiday pay, except pay for a floating holiday, an employee must be on paid status the employee's scheduled work day before and the employee's scheduled work day after the holiday.
- G. CONFORMITY WITH STATE HOLIDAYS.** In the event the Legislature shall amend Section 6700 of the Government Code to change the date of a holiday listed in paragraph A. hereof is observed, employees subject to this Memorandum of Understanding shall celebrate said holiday in conformity with the State. This paragraph shall not be applied so as to increase or decrease the number of holidays set forth in paragraph A. hereof.
- H. EXEMPT WORK SITUATIONS.** Time spent in study courses, seminars and meetings of professional groups is exempt from the provisions of this section.
- I.** Employees enumerated in Appendix B (Unit 24) will be compensated at one and one-half (1-1/2) times their normal hourly rate when assigned to work the following holidays:
 - January 1 – New Year's Day
 - Third Monday in January – Dr. Martin Luther King, Jr.'s Birthday
 - February 12 – Lincoln's Birthday
 - Third Monday in February – Washington's Birthday
 - Last Monday in May – Memorial Day
 - July 4 – Independence Day
 - First Monday in September – Labor Day
 - November 11 – Veteran's Day
 - Fourth Thursday in November – Thanksgiving
 - Day after Thanksgiving
 - December 25 – Christmas Day

SECTION 10. VACATION LEAVE

Services-as-needed (Unit 24) employees working in classifications which are enumerated in Appendix B are excluded from the provisions of Section 10.

Employees in the service of the County shall accrue vacation as specified below. Vacation pay shall be granted only for those days or fractions thereof on which employees would have been regularly scheduled to work and would have worked but for the vacation period. An employee who is regularly scheduled to work less than the normal work week for the job classification shall accrue vacation leave entitlement according to the following schedules, except that the vacation accrual entitlement shall be prorated each pay period based upon a proration of the hours worked within that pay period to the normal full-time pay period for the job classification.

A. VACATION ACCRUAL.

- 1. Except employees enumerated in Appendix B, each employee in the service of the County employed after January 1, 1956 shall accrue vacation leave as follows:
 - a. Two Weeks Accrual** – Employees shall accrue two weeks of vacation annually until completion of 104 biweekly pay periods (4 years) of continuous employment.
 - b. Three Weeks Accrual** – Employees shall accrue three weeks of vacation annually as of the completion of 104 biweekly pay periods (4 years) of continuous employment and until completion of 286 biweekly pay periods (11 years) of continuous employment.

- c. **Four Weeks Accrual** – Employees shall accrue four weeks of vacation annually as of the completion of 286 biweekly pay periods (11 years) of continuous employment and until completion of 520 biweekly pay periods (20 years) of continuous employment.
- d. **Five Weeks Accrual** – Employees shall accrue five weeks of vacation annually as of the completion of 520 biweekly pay periods (20 years) of continuous employment.

B. CASH PAYMENT IN LIEU OF VACATION LEAVE.

- 1. An employee who accrues vacation leave pursuant to subsection 10.A.1. and who leaves the County service for any reason shall be paid at the biweekly or hourly rate for each classification as set forth in Appendix A, for unused vacation accrued to the date of his/her separation provided that such entitlement shall not exceed the employee’s applicable maximum vacation balance as set forth in subsections 10.C.
- 2. Employees shall have the primary responsibility to schedule and take sufficient vacation leave to reduce their accrued vacation leave balances to levels which do not exceed the amount for which they can receive cash payment hereunder upon termination. Agency/Department Heads shall make reasonable effort to accommodate written vacation leave requests submitted by employees which state that the purpose of such requests is to reduce accrued vacation leave balances to the level which can be paid for in cash upon termination.

C. LIMITATION ON UNUSED VACATION LEAVE BALANCES. Maximum vacation leave balances allowable prior to the pay period containing January 1 of each year beginning in the year 2000, shall be no more than two times the employees vacation accrual rate, and shall be as follows:

| Vacation Accrual Rate in Pay Period Prior to January 1 | Maximum Balance in Pay Period Containing January 1 |
|--|--|
| 10 days | 20 days |
| 15 days | 30 days |
| 20 days | 40 days |
| 25 days | 50 days |

D. DATE WHEN VACATION CREDIT STARTS. Vacation credit shall begin on the first day of employment.

E. CHANGEOVER TO MAXIMUM ALLOWABLE VACATION BALANCE AND USE OF PREVIOUSLY ACCRUED VACATION. Employees who accrue vacation under subsection 10.A.1. shall have the primary responsibility to schedule and take sufficient vacation to reduce their accrued vacation leave balances to levels which do not exceed the amount for which they can receive cash payment hereunder upon termination or which will avoid a downward adjustment at the beginning of the pay period containing January 1. As of the pay period containing January 1, and every such pay period containing January 1 of each year thereafter, the vacation leave balance of any employee which exceeds the maximum allowable vacation balance will be adjusted downward to the maximum allowable vacation balance (by placing the excess vacation in a departmental catastrophic sick leave pool) and the County will thereafter have no obligation with respect to the vacation leave affected by the adjustment. Department Heads shall make a reasonable effort to accommodate written vacation leave requests submitted by employees which state that the purpose of such request is to reduce accrued vacation leave balances to the level which can be paid for in cash upon termination or to avoid a downward adjustment.

F. MAXIMUM VACATION LEAVE. An employee shall be allowed to take one and one-half times his/her annual vacation accrual during any calendar year, provided that he/she has accumulated sufficient unused vacation leave. An employee, with the permission of his/her Agency/Department

Head, may take vacation in excess of one and one-half times his/her annual vacation accrual during any calendar year, if he/she has accumulated sufficient unused vacation leave.

- G. EFFECT OF LEAVE WITHOUT PAY ON VACATION CREDIT.** No vacation credit shall be earned during the period when an employee is absent on leave without pay.
- H. EFFECT OF ABSENCE ON CONTINUOUS SERVICE.** Absence on authorized leave with or without pay, time during which a person is laid off because his/her services are not needed, and time during which a person is temporarily not employed by the County, if followed by reemployment within three years in the case of persons reemployed on or after July 1, 1975, or if followed by reemployment within one year in the case of persons reemployed prior to July 1, 1975, shall not be considered as an interruption of continuous service for the purpose of this section. However, the period of time such employee is absent on authorized leave without pay or so laid off or so temporarily not employed shall not be counted in computing such years of continuous employment for the purpose of this section, provided that persons who were reemployed prior to July 1, 1975, after one year and within three years from the date such break in service commenced shall, after completing ten years of uninterrupted service following such reemployment, receive credit for all prior service in determining eligibility for vacation entitlement at the accrual rate of five weeks annually.
- I. WHEN VACATION LEAVE MAY BE TAKEN.** Paid leave may be granted only for those days or fractions thereof on which an employee would have been regularly scheduled to work and would have worked but for the vacation leave.
1. **Vacation Seniority.** An employee's seniority for vacation seniority purposes begins once he/she enters a vacation scheduling unit within his/her classification. Should an employee change his/her scheduling unit and/or classification, the seniority accrual for vacation purposes starts over. Promotion within a flexible staffed position for purposes of vacation seniority will not be considered a change in classification.
 2. **For Full-Time Employees.** Except as provided in subsection 3 hereof, vacation shall be scheduled by mutual agreement of the employee and the Agency/Department Head. In the event of conflicting requests from employees, the matter shall be decided in favor of the employee having the longest County service in a classification within a vacation scheduling unit. Subsequent vacation requests within the same calendar year shall be resolved in favor of the most senior employee who has not, by virtue of his/her senior position, previously had such a conflict resolved in his/her favor during the calendar year. In the event of vacation schedule conflict among employees, all of whom have, by virtue of their senior position, had such conflicts resolved in their favor during the calendar year, the senior employee who has had the least number of such conflicts resolved in his/her favor shall prevail. When written submission of a vacation request is required pursuant to this subsection 2., the Agency/Department Head shall respond within 30 calendar days in writing or shall schedule the vacation requested by the employee.
 3. **For Part-Time Employees.** Any employee scheduled to work less than the full-time work week and two-fifths or more time for the job classification may, at the discretion of the Agency/Department Head be included in a vacation scheduling unit with full-time employees in the same job classification, and in such cases both the full-time and the less than full-time employees shall have conflicting requests resolved according to the procedure indicated herein.
 4. **Alternative Scheduling Procedure.** In the event that vacation scheduling pursuant to subsection 2. or 3., hereof is impractical due to the size of the agency/department vacation scheduling unit involved or other reasons, the following procedures shall apply:

In a month established by the Agency/Department Head, any employee may submit up to three choices of preferred vacation period for the subsequent 12 months. The Agency/Department Head shall approve such choices on the basis of employee seniority as set forth in subsection 2. hereof. The Agency/Department Head shall post a list of approved and scheduled vacations no later than six weeks following the end of the designated month in which the vacation requests were due. Any employee who fails to submit a choice or choices or any new employee who misses the sign-up period for the agency/department shall schedule vacations by mutual agreement pursuant to subsection 2. or 3. hereof provided that such vacation scheduled by mutual agreement shall not supersede any vacation scheduled by submission. In the administration of this subsection, the Agency/Department Head shall post seniority lists; list of the number of employees by classification allowed to be on vacation at one time or for any period; and blank calendars, or other means which shall make it possible for employees to submit their three choices and to determine which employees have applied for which vacation periods.

- 5. Vacation Leave Segments.** An employee shall be allowed to divide his/her vacation leave in any calendar year into five segments. An Agency/Department Head, at his/her discretion, may grant an employee additional segments of vacation. These segments are to be in addition to any segments of vacation leave used as personal leave as defined in Section 10.J.
- J. PERSONAL LEAVE.** An employee shall be allowed two days in any calendar year from his/her regular vacation allowance for personal leave. An Agency/Department Head shall not deny a request for this leave except for reasons critical to the operation of his/her agency/department. Such personal leave shall be in segments of one hour or more.
- K. RATE OF VACATION PAY.** Compensation during vacation shall be at the rate of compensation which such person would have been entitled to receive, including premium pay, if in active service during such vacation period.
- L. CONTINUATION OF SECTION.** This Section 10. shall remain in full force and effect notwithstanding the expiration of the other sections of this Memorandum of Understanding on December 15, 2007 provided in Section 36., and unless otherwise agreed to by the County, shall be incorporated into the successor Memorandum of Understanding.
- M. EMPLOYEE ENTRY INTO BARGAINING UNIT COVERED BY THIS MOU.** Employees who enter the bargaining unit covered by this Agreement after January 1, 2000 shall have two full calendar years to reduce his/her vacation balance to the maximum allowable, unless the employee is coming from a bargaining unit where the "maximum allowable vacation balance" is already applicable. After two full calendar years, the vacation leave balance of any employee which exceeds the maximum balance allowable will be adjusted downward to the maximum balance (by placing the excess vacation in a departmental catastrophic sick leave pool) and the County will thereafter have no obligation with respect to the vacation affected by the adjustment. Department Heads shall make every reasonable effort to accommodate written vacation leave requests submitted by employees which state that the purpose of such request is to reduce accrued vacation leave balances to the level which can be paid for in cash upon termination or to avoid a downward adjustment.

SECTION 11. SICK LEAVE

Unless specifically stated otherwise, Services-as-Needed employees working in classifications which are enumerated in Appendix B are excluded from the provisions of Section 11.

- A. SICK LEAVE DEFINED.** As used in this section, "Sick Leave" means leave of absence of a Unit 18 employee because of any of the following: (i) illness or injury which renders him/her incapable of

performing his/her work or duties for the County; (ii) his/her exposure to contagious disease; and (iii) routine medical or dental appointment of the employee.

B. EMPLOYEE DEFINED. As used in this section, "Employee" means any person, except for employees in classifications enumerated in Appendix B, holding a regular, provisional, or temporary appointment in the County, and otherwise subject to the provisions of this Memorandum of Understanding.

C. SELF-INFLICTED INJURY EXCLUDED. In no case shall absence due to purposefully self-inflicted incapacity or injury be deemed as a basis for granting either sick leave or sick leave with pay under the provisions of this section.

D. CUMULATIVE SICK LEAVE PLAN.

1. Accumulation of Sick Leave

a. **For full-time employees – 40-hour work week.** Each employee shall accumulate sick leave with pay entitlement at the rate of one-half work day for each full bi-weekly pay period on paid status up to a maximum accumulation of 125 days of unused sick leave with pay entitlement.

b. **For part-time employees – 40-hour work week base.** Each employee who is regularly scheduled to work less than the full-time 40 hour work week base shall accrue sick leave pursuant to Section 11.D.1.a. above, except that the sick leave accrual shall be prorated each pay period based upon the proportion of the hours worked within a pay period to the 40-hour work week base up to a maximum accumulation of 125 days of unused sick leave with pay entitlement.

E. RESTORATION OF CUMULATIVE SICK LEAVE BALANCES. An employee laid off due to a reduction in force who is, within three years of the date of layoff, returned to County service from layoff status shall have the balance of unused cumulative sick leave accrued pursuant to Section 11.D. (Cumulative Sick Leave subsection), restored to him/her for use as provided in this Section.

F. CONVERSION OF SICK LEAVE TO VACATION. When an employee's sick leave balance accrued pursuant to subsections 11.D. (Cumulative Sick Leave) hereof reaches 125 days, 5 days shall be deducted from said sick leave balance and shall be converted to 1 day of vacation, subject to the vacation accrual limitations set forth in Section 10.A. Vacation Leave. Said vacation shall be added to vacation balances accumulated pursuant to Section 10. Vacation Leave, and shall thereafter be subject to the provision of Section 10. Vacation Leave.

G. SICK LEAVE CREDIT AT RETIREMENT. County employees who are members of the Alameda County Employees' Retirement System and who retire, shall be credited for 50 percent of their unused paid sick leave accumulated as of the date of their retirement, up to a maximum credit of 62.5 days.

H. MAJOR MEDICAL SUPPLEMENTAL PAID SICK LEAVE.

1. LIMITS ON DURATION OF MAJOR MEDICAL SUPPLEMENTAL PAID SICK LEAVE.

a. For employees who, as of June 25, 1979, completed the equivalent of 26 pay periods but less than 130 pay periods, the maximum aggregate lifetime eligibility for major medical supplemental paid sick leave shall be as follows:

1. 22 days for those employed on a full-time basis as of 6/25/79.

2. 22 days prorated based upon a proportion of the hours worked in the pay period immediately preceding 6/25/79 for those employed on a less than full-time basis.
- b. For employees who, as of June 25, 1979, completed the equivalent of 130 pay periods of continuous employment, the maximum aggregate lifetime eligibility for major medical supplemental paid sick leave shall be as follows:
 1. 44 days for those employed on a full time basis as of 6/25/79.
 2. 44 days prorated based upon a proportion of the hours worked in the pay period immediately preceding 6/25/79 for those employed on a less than full time basis.
- 2. CRITERIA WHICH MUST BE MET BEFORE GRANTING MAJOR MEDICAL SUPPLEMENTAL PAID SICK LEAVE.** An Agency/Department Head in his/her sole discretion, may grant major medical supplemental paid sick leave in those instances in which:
- a. the employee was eligible for the sick leave bonus in subsection H.1.a. or b. hereof,
 - b. the employee exhausted paid cumulative sick leave entitlement accrued pursuant to subsection 11.D. hereof, including the sick leave bonus in subsection H.1.a. or b.,
 - c. the employee's absence is caused by a serious injury or illness requiring prolonged absence from work,
 - d. the work or duties of the employee requesting such paid leave are being performed by others in the employee's work unit and another person has not been hired or assigned to the work unit to perform such duties,
 - e. the injury or illness was not incurred in the course of employment, AND
 - f. the employee has not incurred a break in service subsequent to June 24, 1979.
- 3.** The Agency/Department Head's determination to deny major medical supplemental paid sick leave shall be final and non-grievable.
- I. MEDICAL REPORT.** The Agency/Department Head, as a condition of granting sick leave with pay, may require medical evidence of sickness or injury acceptable to the agency/department.
- J. FAMILY SICK LEAVE.** Employees are eligible to use, in any calendar year, nine days of sick leave to attend to family members who are ill. For the purpose of this Subsection, "immediate family" means, mother, step-mother, father, step-father, husband, wife, domestic partner (as defined in Appendix C), child of domestic partner, son, step-son, daughter, step-daughter, foster parent, foster child, mother-in-law, father-in-law, or any other person sharing the relationship of in loco parentis; and, when living in the household of the employee, brother, sister, brother-in-law, sister-in-law, and grandparents.
- K. INDUSTRIAL SICK LEAVE SUPPLEMENT.** If an employee is incapacitated by sickness or injury received in the course of his/her employment by the County, such employee shall be entitled to pay as provided herein.
1. **Employees Excluded.** The provisions of Section K.2.a.b. do not apply to safety members who are subject to the provisions of California Labor Code Section 4850 and all incumbents of positions in classes designated intermittent or by the letter N.

2. Amount and Duration of Payment.

- a. Full-time employees.** Such employees shall be entitled to receive supplemental industrial sick leave with pay commencing with the fourth calendar day of the incapacity. The supplement shall be equal to the difference between 80 percent of his/her normal salary and the amount of any Worker's Compensation temporary disability payments to which such employee is entitled during such incapacity. This period shall not exceed one calendar year from the date of sickness or injury resulting in the incapacity. Following one calendar year, accrued paid leaves may be granted to supplement temporary disability payments to provide the disabled employee a total of 80 percent of salary (the amount of leave necessary for this purpose is computed in each case by the County Auditor's Office). Such accrued paid leave shall include sick leave, vacation leave, compensatory time, and floating holidays, unless the employee provides written notice to the Agency/Department Head to limit the integration of such leaves.

In the event that the period of the incapacity exceeds 14 calendar days, the employee so incapacitated shall be granted supplemental industrial sick leave with pay at the rate of 100 percent of his/her normal salary for the first three calendar days of such incapacity. If the period of incapacity does not exceed 14 calendar days, the employee so incapacitated will be eligible to receive accrued paid leaves for the first three workdays of such incapacity.

- b. Part-time employees.** Part-time employees will receive the Industrial Sick Leave Supplement as provided in subsection 11.K.2.a. hereof, but shall be on a prorated basis.

- 3. Amount and Duration of Payment for Services-as-Needed Employees.** Employees in Unit 24 shall be entitled to receive supplemental industrial sick leave with pay commencing with the fourth calendar day of such incapacity equal to the difference between 80 percent of his/her normal salary and the amount of any Worker's Compensation temporary disability payments to which such employee is entitled during such incapacity, but not for a period exceeding one calendar year from the date of sickness or injury resulting in such incapacity. In the event that the period of such incapacity shall exceed 14 calendar days, the employee so incapacitated shall be granted industrial sick leave with pay at the rate of 100% of his/her normal salary for the first three calendar days of such incapacity.

- 4. When Payments Shall be Denied.** Payments shall not be made pursuant to subsection 11.K.2.a. and 11.K.3. to an employee:

- a. Who does not apply for or who does not receive temporary disability benefits under the Worker's Compensation Law,
- b. Whose injury or illness has become permanent, and stationary,
- c. Whose injury or illness, although continuing to show improvement, is unlikely to improve sufficiently to permit the employee to return to work in his/her usual and customary position, and the employee has been declared a "Qualified Injured Worker" (QIW) and referred to vocational rehabilitation,
- d. Who is retired on permanent disability and/or disability retirement pension,
- e. Who unreasonably refuses to accept other County employment for which he/she is not substantially disabled,
- f. Whose injury or illness is the result of failure to observe County health or safety regulations or the commission of a criminal offense,

- g. Whose injury or illness has been aggravated or delayed in healing by reasons of the failure of the employee to have received medical treatment or to have followed medical advice, except where such treatment or advice has not been sought or followed by reason of the religious beliefs of the employee, and
- h. Whose injury or illness is a recurrence or reinjury of an earlier job-related injury or illness, or is contributed to by a susceptibility or predisposition to such injury or illness related to an earlier job-related injury or illness.

5. Fringe Benefit Entitlement During Industrial Injury Leave.

Employees receiving industrial sick leave with pay shall maintain and accrue all benefits to which they are entitled under this Memorandum of Understanding at 100 percent of their regularly scheduled biweekly hours immediately preceding an industrial illness or injury.

SECTION 12. PREMIUM CONDITIONS

- A. SPLIT SHIFT.** Except as provided otherwise in paragraph B., below, any employee required to work a split shift shall be paid at a rate of five percent over and above his/her regular biweekly or hourly rate of pay for the entire shift so worked. For purposes of this paragraph "split shift" is defined as any daily tour of duty divided into two work periods of time and taking more than nine and one-half consecutive hours to complete. Individual employees may waive this premium payment.
- B. NIGHT SHIFT.** Employees who are required to work at least five-eighths of their normal daily tour of duty after 4:30 p.m. and before 8:00 a.m. shall be paid at a rate of five percent over and above their normal hourly rate of pay for the entire shift so worked.
- C. BILINGUAL PAY.** Upon the recommendation of the Agency/Department Head and the approval of the Director, Human Resources, a person occupying a position designated as requiring fluency in a language other than English shall receive an additional \$30 per pay period compensation. Effective June 25, 2001, this premium shall be increased to \$35 per pay period.

SECTION 13. SPECIAL PERFORMANCE PAY

- A. FOR STANDBY DUTY.** Unless otherwise provided in the Salary Ordinance, employees who are required to perform standby duty shall be compensated at the rate of one-eighth pay for such duty.
- B. FOR CALL-BACK.** An employee called back to work from either standby duty or non-standby status, shall be compensated at one and one-half times the hourly rate for such work, provided, however, that the minimum compensation shall be two hours at the overtime rate. An employee called back to work because of a shift change shall be compensated at one and one-half times the hourly rate for only the hours worked prior to the beginning of the employee's regular shift. An employee notified of a shift change before going off duty is not eligible for call back pay.
- C. FOR TEMPORARY ASSIGNMENT TO A HIGHER LEVEL POSITION.** An employee specifically assigned on a temporary basis to a higher level position in which there is no appointed incumbent or in which the appointed incumbent is on paid or unpaid leave, shall be compensated at the pay rate for the higher level position provided that all of the following criteria are met:
 - 1. The full range of duties of the higher level position has been specifically assigned in writing by the Agency/Department Head.

2. Assignment for out-of-class pay can only be made for the full shift of the higher level position. Under the provisions of this section, part-time employees can only meet the "full shift" criteria by being assigned to a higher level part-time position, or by being assigned to work the full shift of a full-time position.

Compensation for temporary assignment to a higher level position shall be as follows:

1. The service in such position exceeds 10 days in any 12-month period, and payment shall be retroactive to the first day of such services in a 12-month period.
2. The rate of pay pursuant to this section shall be calculated as though the employee has been promoted to the higher level position. Since out-of-class pay is an assignment rather than a Civil Service appointment to the position, the employee is not eligible for step increases which apply to the higher level position, but continues to receive step increases for the lower level position, if the employee is otherwise eligible for step increases in the lower level position.
3. An employee otherwise eligible for out-of-class pay who is absent on paid leave shall be paid at the out-of-class pay rate for such paid leave, provided that:
 - a. Another person has not been hired or assigned to work on an out-of-class pay basis to the same position to which the out-of-class pay assignment has been made for the same period.
 - b. Paid leave shall be granted at the higher level during an employee's assignment in the higher level, provided, however, when an absence exceeds five consecutive work days, the employee shall be paid for such absence in excess of five work days at the employee's regular non-out-of-class rate.
4. Time worked in a higher level assignment in excess of the work week affixed to the employee's Civil Service appointed position shall be compensated pursuant to the provisions of Section 7 hereof.

D. REPORTING PAY. In the event that an employee is scheduled or directed to report for work and so reports and is told by the Agency/Department Head that his/her services are not required, he/she will be entitled to two hours pay at the straight time rate. If such employee is sent home through no fault of his/her own before completion of a shift, such employee will be entitled to a minimum of four hours of pay at the straight time rate, or straight time pay for hours actually worked, whichever is greater.

SECTION 14. MEDICAL AND DENTAL PLANS

A. MEDICAL PLANS

1. MEDICAL PLAN COVERAGE FOR FULL-TIME EMPLOYEES:

- a. For coverage from June 19, 2005 through the term of this agreement, the County shall contribute the total monthly premium of the lowest cost Health Maintenance Organization (HMO) Plan offered by the County at the corresponding level of coverage (i.e., Self, Self + 1 Dependent, Family) in a Plan Year. The County will offer a comprehensive group medical plan for either a Health Maintenance Organization or an indemnity medical plan for eligible full-time employees, as well as their spouses/domestic partners and eligible dependents.

The benefit plan design offered through a comprehensive group medical plan shall be available to the extent that the carrier continues to offer these benefits. The County shall give notice to the Union of medical benefit plan design changes. Upon receiving such notice, the Union may request to meet and confer regarding a substitute benefit, but if a substitute benefit is not possible, as determined by the County, the parties will meet and confer regarding the effect of such benefit changes.

- b. The County contribution toward the medical carrier premiums shall be the full cost of the lowest cost HMO premium for eligible, full-time employees. If an employee is on paid status, on less than a full time basis, the County contribution shall be as specified in 14.A.2.

- 2. MEDICAL PLAN COVERAGE FOR EMPLOYEES REGULARLY SCHEDULED TO WORK LESS THAN THE NORMAL WORKWEEK:** An employee regularly scheduled to work less than the normal workweek for the job classification shall be entitled to elect coverage under either the comprehensive group Medical Plan by a Health Maintenance Organization or the indemnity option for full-time employees; provided, however, that the employee is on paid status at least 50 percent of the normal full-time workweek for the job classification.

The County's contribution toward the provider's charge for such plan shall be the full-time contribution prorated each pay period based upon a proportion of the hours the employee is on paid status within that pay period to the normal full-time pay period for the job classification, provided the employee is on paid status at least 50 percent of the normal full-time biweekly pay period for the classification. If an employee is not on paid status at least 50 percent of the normal full-time bi-weekly pay period for the classification, the employee will be responsible for paying the entire bi-weekly premium for the benefit.

Notwithstanding the foregoing, however, such employees who normally work at least 50 percent of the normal full-time bi-weekly schedule for the job classification who were on the County payroll for the pay period beginning April 1, 1979, and who received 100 percent of the County Contribution during said pay period, shall continue to be eligible for 100 percent of said contribution until (1) a break in part-time service, (2) a break in medical plan coverage, (3) a change to full-time service from part-time service even if the employee reverts to part-time service, whichever shall first occur, but in no event shall said contribution exceed the County contribution for coverage of full-time employees in comparable classes.

- 3. DUPLICATE COVERAGE:** This applies to married County employees (and employees in domestic partnerships as defined in Appendix C) both employed by the County. The intent of this section limits County employees who are married or in a domestic partnership from both covering each other within the same medical plan. Married County employees and employees in domestic partnerships, both employed by the County, may choose one option from the following list of medical plans:
 - a. Up to one full family HMO membership.
 - b. Up to one full family PPO/Indemnity membership.
 - c. Up to one full family HMO membership or alternative PPO option membership together with up to one full family PPO/Indemnity membership.
 - d. Up to one full family HMO membership with up to one full family alternative PPO option membership.
- 4. EFFECT OF AUTHORIZED LEAVE WITHOUT PAY ON MEDICAL PLAN COVERAGE:** Employees absent on authorized leave without pay, with lapsed medical plan coverage for a

duration of three months or less, will be able to re-enroll as a continuing member in the same plan under which they had coverage prior to the authorized leave by completing the appropriate enrollment form within thirty calendar days of the return to work date. The deductibles, maximums, and waiting periods shall be applied as though the employee has been continuously enrolled.

Medical plan coverage allowed to lapse for a duration greater than three months is subject to re-enrollment within thirty calendar days of the return to work date. Such employees will be subject to new deductibles, maximums, and waiting periods.

5. **30-DAY RE-ENROLLMENT:** Newly hired eligible employees have thirty days after appointment to enroll in a health maintenance organization or indemnity option plan. Employees enrolled in a County sponsored Medical Plan, and experiences a Change In Status such as: marriage, adoption, loss of medical coverage by spouse/domestic partner, or change in job title, must within thirty calendar days of the change in status, enroll in or add dependants to one of the County's sponsored Medical Plans. -
6. **OPEN ENROLLMENT:** Eligible employees may choose from among a Health Maintenance Organization or, a PPO/Indemnity Medical Plan during an Open Enrollment period held annually.

B. DENTAL PLAN COVERAGE

1. DENTAL PLAN COVERAGE FOR FULL-TIME EMPLOYEES:

- a. The County shall contribute the full cost of the provider's charge for a Dental Plan for full-time employees and their dependents, including domestic partners (upon submission of an affidavit as defined in Appendix C) and their dependents, provided that the employee is on paid status at least fifty percent of the normal full-time pay period for the job classification. Eligible full-time employees may elect any one of the following dental plan options. This contribution shall apply to the dental plan options listed below:
 1. A PPO/Indemnity dental plan
 2. A supplemental spousal plan
 3. A prepaid, closed panel dental plan

The benefit plan design offered through a Dental Plan shall be available to the extent that the carrier continues to offer these benefits and the County continues to contract with the dental carrier. The County shall give notice to the Union of such benefit changes. Upon receiving such notice, the Union may request to meet and confer regarding a substitute benefit but if a substitute benefit is not possible, as determined by the County, the parties will meet and confer regarding the effect of such benefit changes. The maximum annual benefit for each covered individual is \$1,200.

2. **DUPLICATIVE COVERAGE:** The intent of this section limits County employees who are married or in a Domestic Partnership (as defined in Appendix C), from both covering each other within the same dental plan. Married County employees and employees in Domestic Partnerships, both employed by the County shall be entitled to one choice from the following list of dental plan coverages:
 - a. Up to one full family PPO/Indemnity plan together with up to one supplemental spousal plan.
 - b. Up to one full family PPO/Indemnity plan together with up to one full pre-paid closed panel dental plan.

- c. Up to one full pre-paid closed panel dental plan.
- d. Up to one full family PPO/Indemnity plan.

3. DENTAL PLAN COVERAGE FOR LESS THAN FULL-TIME EMPLOYEES AND SERVICES AS NEEDED EMPLOYEES: The County shall contribute the full cost of the provider's charge for a Dental Plan for Services-as-Needed and less than full-time employees and their dependents, provided, however, that the employee is on paid status at least fifty percent of the normal full-time work week for the job classification.

The dental plan for less than full-time employees shall provide the same benefit coverage as in effect for full-time employees as described in B.1. above. To participate, an employee working in a classification normally subject to a 40-hour work week must be on paid status at least 40 hours in each and every biweekly pay period.

Should an employee fail to have been on paid status at least 40 hours in any biweekly pay period for any reason other than those stated in Section 14.B.5.a., they will be responsible for the bi-weekly premium payment for that benefit.

4. DENTAL PLAN PREMIUM PAYMENT ON FINAL PAYCHECK BEFORE AUTHORIZED LEAVE WITHOUT PAY OR EMPLOYEE SEPARATION: The County shall make a dental plan premium payment on a final paycheck before an authorized leave without pay or an employee separation, provided that an employee is on paid status at least one-half of the scheduled hours for the employee's classification in the employee's last biweekly pay period. Therefore, an employee working in a classification normally subject to an 80-hour biweekly pay period must have been in paid status at least 40 hours in the last biweekly pay period.

5. EFFECT OF AUTHORIZED LEAVE WITHOUT PAY ON DENTAL PLAN COVERAGE: Employees who were absent on authorized leave without pay, and whose dental plan coverage was allowed to lapse for a duration of three months or less, will be able to re-enroll as a continuing member in the same plan under which they had coverage prior to the authorized leave by completing the appropriate enrollment form within 30 calendar days of the date they return to work. The deductibles, maximums, and waiting periods shall be applied as though the employee had been continuously enrolled. The effective date of coverage will be based on guidelines established by the County.

Those whose dental plan coverage was allowed to lapse for a duration greater than three months will be able to re-enroll within 30 calendar days of the date they return to work in the same manner as is allowed for new hires. Such employees will be subject to new deductibles, maximums, and waiting periods.

6. 30-DAY RE-ENROLLMENT: For employees who are enrolled in a County sponsored Dental Plan, and experience a Change In Status such as marriage, adoption, or change in job title, an employee must within 30 calendar days, enroll in one of the County sponsored Dental indemnity plans as a new member.

7. OPEN ENROLLMENT: Eligible employees may choose from among the options listed in 14.B.1.a. during an Open Enrollment period in the Fall of 2000 and annually thereafter. Premiums of all County dental options will be paid according to dependent status (single, two-party, or family).

C. MEDICAL AND DENTAL COVERAGE: The County and Union agree that this Memorandum of Understanding shall be reopened at the County's request to meet and confer regarding possible changes related to the Medical and Dental Plans, benefits and contribution rates.

SECTION 15. ALLOWANCE FOR USE OF PRIVATE AUTOMOBILES

- A. MILEAGE RATES PAYABLE.** Mileage allowance for authorized use of personal vehicles on County business shall be paid at the standard business rate as prescribed by the Internal Revenue Service effective January 1 of each year.
- B. MINIMUM ALLOWANCE.** An employee who is required by his/her Agency/Department Head to use his/her private automobile at least eight days in any month on County business shall not receive less than \$10 in that month for the use of his/her automobile.
- C. PREMIUM ALLOWANCE.** An employee who is required by his/her Agency/Department Head to use his/her private automobile at least 10 days in any month and, in connection with such use, is also regularly required to carry in his/her private automobile, County records, manuals and supplies necessary to his/her job of such bulk and weight (20 lbs. or more) that they may not be transported by hand, shall be compensated an additional \$12 per month for any such month.
- D. REIMBURSEMENT FOR PROPERTY DAMAGE.** In the event that an employee, required or authorized, by his/her Agency/Department Head to use a private automobile on County business, while so using the automobile, should incur property damage to the employee's automobile through no negligence of the employee, and the employee is unable to recover the costs of such property damage from either his/her own insurance company or from any other driver, or other source, such costs shall be paid to such employee of the County, in a sum not exceeding \$500, provided that any claims the employee may have against his/her insurance company or any third party have been litigated or settled, and provided further, that the employee is not found guilty of a violation of the California Vehicle Code or Penal Code in connection with the accident causing such damage. Employees shall submit proof of loss, damage or theft (i.e., appropriate police report and/or estimated statement of loss) to the Agency/Department Head within 30 days of such loss, damage or theft. Property damage or loss incurred by the private automobile while located on the street or at the parking facility serving the employee's normal place of work shall not be compensated under this section, but property damage or loss incurred by the private automobile while located on the street or at the parking facility serving the employee's County business destination shall be compensated as provided above.

SECTION 16. WAGES

- A.** Effective December 4, 2005, salaries for represented classifications shall be increased by three percent, as specifically set forth in Appendix A and Appendix B.
- B.** Effective December 3, 2006, salaries for represented classifications shall be increased by three percent, as specifically set forth in Appendix A and Appendix B.
- C.** The County has the right at its discretion to increase the wage rates contained in Appendix A and Appendix B based on recruitment and retention operational needs.

SECTION 17. TWO WEEKS NOTICE UPON TERMINATION

In the event of the termination of an employee subject to this Memorandum of Understanding for a cause other than intoxication on the job, gross insubordination, dishonesty, or conviction of a felony which substantially relates to the employee's job, the appointing authority or his/her designated agent shall give to such employee a written notice of termination no less than ten working days prior to the effective date of said termination. In the event, however, that such employee is not on the job on the date he/she would be entitled to such notice, it shall be mailed to him/her on such date. Time spent on the job during such ten-day notice period by a probationary employee shall not be counted toward completion of the probationary period. The County agrees to furnish a copy of any such notice to the Union if the employee so requests in writing, but failure to receive such notice shall not invalidate such termination.

SECTION 18. GRIEVANCE PROCEDURE

- A. DEFINITION.** A grievance is defined as an allegation by an employee or group of employees that the County has failed to provide a condition of employment, which is established by the annual Salary Ordinance, by written agency/departmental rules, or by this Memorandum of Understanding as adopted by Ordinance, provided that the enjoyment of such right is not made subject to the discretion of the Agency/Department Head for the County; and, provided further, that the condition of the grievance is a matter within the scope of representation as defined in California Government Code Section 3504.
- B. EXCLUSION OF CIVIL SERVICE MATTERS.** The grievance procedure herein established shall have no application to matters over which the Civil Service Commission has jurisdiction pursuant to the County Charter or rules adopted thereunder.
- C. DEPARTMENTAL REVIEW AND ADJUSTMENT OF GRIEVANCES.** The following is the procedure to be followed in the resolution of grievances for full-time employees. For less than full-time employees the procedure shall be the same as herein except that the time limits for filing written grievances, appeals and responses shall be ten calendar days.
1. An employee having a grievance shall first discuss it with his/her immediate supervisor and endeavor to work out a satisfactory solution in an informal manner with such supervisor.
 2. If a satisfactory solution is not accomplished by informal discussion, the employee shall have the right to consult with, and be assisted by, a representative of his/her own choice in this and all succeeding steps of this subparagraph C. and may thereafter file a grievance in writing with his/her immediate supervisor within seven working days after the date of such informal discussion. Within seven working days after receipt of any written grievance, the immediate supervisor shall return a copy of the written grievance to the employee with his/her answer thereto in writing. If the grievance is not resolved at this level, the employee shall have seven working days from receipt of the answer within which to file an appeal to the section head.
 3. The section head, or corresponding administrative level, shall have seven working days after receipt of the written appeal in which to review and answer the grievance in writing. If the grievance is not resolved at this level, the employee or his/her representative shall have seven working days from receipt of the answer within which to file an appeal with the division head, or corresponding administrative level.
 4. The division head, or corresponding administrative level, shall have seven working days after receipt of the written appeal in which to review and answer the grievance in writing. Although no hearing is required at this step, the employee and his/her representative may be present at, and participate in, any such hearing as the division head may conduct. If the grievance is not

resolved at this level, the employee shall have seven working days from receipt of the answer within which to file an appeal with the Department Head.

5. An Agency/Department Head shall have fifteen working days after holding the grievance hearing for a grievance filed by an individual and twenty working days after holding the grievance hearing of a Union grievance filed pursuant to Section 20.D., in which to answer the grievance in writing. Unless waived by mutual agreement of the employee or his/her representative and the Agency/Department Head, a hearing is required at this step, and the employee and his/her representative shall have the right to be present at, and participate in, such hearing. The time limits at this step may be extended by mutual agreement between the Agency/Department Head and the employee or his/her representative.

D. UNION GRIEVANCE. Union may, in its own name, file a grievance alleging that the County has failed to provide it some organizational right which is established by the Board of Supervisors in Chapter 3.04 of the County of Alameda Administrative Code, by written agency/departmental rules, or by this Memorandum of Understanding as adopted by Ordinance, provided that such right is not made subject to the discretion of the agency/department. Such Union grievances shall be filed with the Agency/Department Head and heard and determined pursuant to the provisions of the fifth step of the grievance procedure.

E. WAIVER OF APPEAL STEPS. If the grievance is not resolved after the first-line supervisor has answered it in writing, the Union and the Agency/Department Head may by mutual agreement waive review of the grievance at the section head or equivalent level, or at the division head or equivalent level, or both, in those cases in which such levels of management are without authority to resolve the grievance as requested by the employee or his/her representative. Grievances raised pursuant to Section 2.A. which allege sexual harassment by the first-line supervisor may be filed initially with the section head, grievances alleging sexual harassment by the section head may be filed initially with the division head, and grievances alleging sexual harassment by the division head may be filed initially with the Agency/Department Head.

F. BINDING ARBITRATION OF GRIEVANCES. In the event that the grievance is not resolved at Step 5 of subparagraph C. herein, the grievant or his/her representative may, within 30 calendar days after receipt of the decision of the Agency/Department Head made pursuant to said subparagraph C., request that the grievance be heard by an arbitrator.

G. INFORMAL REVIEW BY DIRECTOR. Prior to the selection of the arbitrator and submission of the grievance for hearing by said arbitrator, the Director, Human Resource Services, shall informally review the grievance and determine whether said grievance may be adjusted to the satisfaction of the employee. The Director, Human Resource Services shall have ten working days in which to review and seek adjustment of the grievance.

H. SELECTION OF ARBITRATOR. The arbitrator shall be selected by mutual agreement between the Director, Human Resource Services and the employee or his/her representative. If the Director, Human Resource Services and the employee or his/her representative are unable to agree on the selection of an arbitrator, they shall jointly request the American Arbitration Association to submit a list of five qualified arbitrators. The Director, Human Resource Services and the employee or his/her representative shall then alternately strike names from the list until only one name remains, and that person shall serve as arbitrator.

I. DUTY OF ARBITRATOR. Except when an agreed statement of facts is submitted by the parties, it shall be the duty of the arbitrator to hear and consider evidence submitted by the parties and to thereafter make written findings of fact and a disposition of the grievance which shall be final and binding upon the parties. The arbitrator shall have no power to amend this Memorandum of Understanding, a Resolution of the Board of Supervisors, the Charter, Ordinance, State law, or written agency/departmental rule, or to recommend such an amendment.

- J. PAYMENT OF COSTS.** Each party to a hearing before an arbitrator shall bear his/her own expenses in connection therewith. All fees and expenses of the arbitrator and of a reporter shall be borne one-half by the County and one-half by the grievant.
- K. EFFECT OF FAILURE OF TIMELY ACTION.** Failure of the employee to file an appeal within the required time limit at any step shall constitute an abandonment of the grievance. Failure of the County to respond within the time limit at any step shall result in an automatic advancement of the grievance to the next step.
- L. LIMITATION OF STALE GRIEVANCES.** A grievance shall be void unless received within 60 calendar days from the date upon which the County has allegedly failed to provide a condition of employment or an union organizational right. In no event shall any grievance include a claim for money relief for more than a 60-day period.
- M. DESIGNATION OF APPEAL LEVELS.** Each Agency/Department Head shall designate in writing the positions or levels in his/her agency/department to which the various appeals provided in subparagraph C. hereof shall be made.
- N. EXCLUSION OF NONRECOGNIZED ORGANIZATIONS.** For the purposes of this Section, the provisions of Section 1. of the Memorandum of Understanding shall be construed to limit the employee's right of selection of a representative to the extent that agents of any other employee organization as defined in Section 3.04.020 of the Alameda County Administrative Code, which is not a party to this Memorandum of Understanding, are specifically excluded from so acting. The Union shall be notified of all grievances filed pursuant to Section 18.C.2. In those cases in which the employee elects to represent himself/herself, or arranges for independent representation, the County shall make no settlement or award which shall be inconsistent with the terms and conditions of this Memorandum of Understanding. In the event the Union shall determine that such inconsistent award has been made, the Union, on its own behalf, may file a grievance pursuant to paragraph D. of this section for the purpose of amending such award. In the event any unrepresented or independently represented employee shall elect to go to arbitration under subsection F. hereof, the Union may elect to be a full and equal party to such proceeding for the purpose of protecting the interests of its members in negotiated conditions of employment.
- O. GRIEVANCE RIGHTS OF FORMER EMPLOYEES.** A person who because of dismissal, resignation, or layoff is no longer a County employee may file and pursue a grievance at the Agency/Department Head level and may also pursue such grievance through the remaining levels of the grievance procedure, including binding arbitration, provided that the grievance is timely filed as provided in subsection L. hereof, that the grievance is filed no later than 30 calendar days from date of issuance of the warrant complained of, that the issue would otherwise be grievable under this Section; and provided further, however, that under no circumstances may a former employee file or pursue any grievance unless it relates solely to whether such person's final pay warrant(s) correctly reflected the final salary, or fringe benefits taken in the form of cash owed to such person.

SECTION 19. DISABILITY INSURANCE BENEFITS

- A. PARTICIPATION.** The County shall continue to participate under the State Disability Insurance (SDI) Program.
- B. PAYMENT OF SDI PREMIUMS.** Effective January 1, 2002, the SDI premiums for full-time, part-time (Unit 18), and Services-as-Needed employees (Unit 24) shall be shared equally by the employee and the County.

C. AUTOMATIC INTEGRATION OF SDI AND PAID LEAVE BALANCES EFFECTIVE JUNE 3, 1993.

1. **DEFINITION.** For Unit 18 employees only, an employee who is eligible to receive SDI benefits shall automatically integrate accrued paid leave with the SDI benefits. Such accrued paid leaves shall include sick leave, vacation leave, compensatory time, floating holiday pay, and/or, with the consent of the Agency/Department Head, discretionary major medical supplemental paid sick leave, unless the employee provides written notice to the Agency/Department Head to limit the integration of accrued sick leave only with SDI benefits. The automatic integration of accrued sick leave and SDI benefits may not be waived by the employee or the County.
2. **AMOUNT OF SUPPLEMENT.** The amount of the supplement provided in Section D. hereof, for any hour of any normal work day, shall not exceed the difference between 100 percent of the employee's normal gross salary rate, including premium conditions specified in Section 12 and applicable Salary Ordinance footnotes, and the "weekly benefit amount" multiplied by two and divided by 80.

D. HOW A SUPPLEMENT TO SDI IS TREATED. Hours, including fractions thereof, charged against the employee's accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensatory time, and/or floating holiday balances as supplements to disability insurance benefits will be regarded as hours of paid leave of absence. Vacation and sick leave shall be accrued based upon a portion of the hours charged against the employee's accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensatory time and/or floating holiday balances to the normal pay period.

E. MEDICAL AND DENTAL PLAN COVERAGE IN CONJUNCTION WITH SDI. For purposes of determining eligibility for the County's hospital and medical care contributions and dental coverage, employees who are receiving a supplement to disability insurance benefits paid from and charged to accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensating time off and/or floating holiday balances shall be regarded as on paid status for their regular work schedules with regard to the days for which such supplement is paid.

The group medical care providers will permit employees, who are dropped from medical and/or dental plan coverage because of exhaustion of their accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensatory time and/or floating holiday balances, to re-enter the group plans upon returning to their former work schedules, if the employee is otherwise eligible pursuant to Section 14 herein.

F. HOLIDAY PAY IN CONJUNCTION WITH SDI. In the event that a paid holiday occurs during a period of absence for which the employee receives disability insurance benefits, holiday pay shall be prorated in proportion to the amount paid to the employee as a supplement to the disability insurance benefit from accrued sick leave, discretionary major medical supplemental paid sick leave, vacation leave, compensatory time, and/or floating holiday balances on the day before and the day after the holiday.

SECTION 20. MALPRACTICE INSURANCE

The County will provide professional liability coverage for employees acting within the course and scope of employment with the County, in accordance with California Government Code Sections 825, 995 and related sections.

SECTION 21. LIFE INSURANCE

- A. BASIC LIFE INSURANCE.** Except for an employee who is regularly scheduled to work less than half the normal work week for the job classification, Basic Group Life insurance coverage of \$20,000 will be provided to each employee who meets the enrollment requirements. Effective two pay periods after the adoption of the 2005-2007 Memorandum of Understanding, this amount shall be increased to \$25,000.

The County shall continue to pay necessary premiums for two pay periods after the employee goes on approved leave without pay. This coverage reduces by 33 percent at age 65, and an additional reduction of 35 percent at age 70. This reduction will apply to the amount in force just prior to each reduction interval. The reduced amounts will be rounded in accordance with the existing schedule.

- B. SUPPLEMENTAL LIFE INSURANCE.** Effective Plan Year 2007, Supplemental Life Insurance, for employees only, may be purchased on a pre-tax basis through payroll deduction by eligible employees in increments of \$10,000 up to a maximum of \$80,000. During the initial enrollment period, eligible employees may purchase up to \$80,000 of supplemental life insurance or three times their annual earnings, whichever is less, without a requirement to provide evidence of insurability (proof of good health). Subsequent to the initial enrollment period, eligible employees must provide evidence of insurability, when electing coverage for the first time or when increasing the amount of their supplemental life insurance coverage over \$10,000.

Supplemental Life Insurance is subject to premium costs, eligibility requirements, age limitations, coverage exclusions, conversion rights, and all other provisions set forth in applicable insurer contracts.

SECTION 22. VISION REIMBURSEMENT PLAN

Employees shall be eligible for vision care reimbursement subject to the following criteria: The employee is eligible for reimbursement after six months of continuous employment working at least 50 percent time or more each pay period.

Eligible employees enumerated in Appendix A (Unit 18), shall be reimbursed for the cost of either lenses and frames or contact lenses specifically prescribed for the employee only, up to a maximum reimbursement of \$150 in the twenty-four month period ending August 31, 1997, and each twenty-four month period beginning on September 1 of odd numbered years. Effective September 1, 2001, the twenty-four month reimbursement shall be increased to \$200.

Eligible employees enumerated in Appendix B (Unit 24), shall be reimbursed for the cost of either lenses and frames or contact lenses specifically prescribed for the employee only, up to a maximum reimbursement of \$150 in the twenty-four month period beginning January 1, 1998, and each twenty-four month period beginning on January 1 of even numbered years. Effective January 1, 2002, the twenty-four month reimbursement shall be increased to \$200.

Reimbursement will be made subject to applicable Auditor's Office procedures and requirements.

SECTION 23. CATASTROPHIC SICK LEAVE PROGRAM

An employee may be eligible to receive donations of paid leave to be included in the employee's sick leave balance if she/he has suffered a catastrophic illness or injury which prevents the employee from being able to work. Catastrophic illness or injury is defined as a critical condition considered to be terminal, a long-term major physical impairment or disability.

Eligibility:

1. The recipient employee, recipient employee's family, or other person designated in writing by the recipient employee, must submit a request to the Human Resource Services Department.
2. The recipient employee is not eligible so long as he/she has paid leaves available, however, the request may be initiated prior to the anticipated date leave balances will be exhausted.
3. A confidential medical verification including diagnosis and prognosis must be provided by the recipient employee.
4. A recipient employee is eligible to receive 180 working days of donated time per employment.
5. Donations shall be made in full-day increments of 8 hours, and are irrevocable. The maximum that may be donated in a calendar year is ten donor employee's days per recipient except that a husband and wife or domestic partners, both employed by the County, may donate unlimited amounts of time between one another. Employees with vacation balances that exceed the amount that can be paid off, may donate unlimited amounts of vacation to the Agency/Department catastrophic sick leave pool.
6. The donor employee may donate vacation, compensatory time or in-lieu holiday time which shall be converted to recipient employee's sick leave balance and all sick leave provisions will apply. Time donated in any pay period may be used in the following pay periods. No retroactive donations will be permitted.
7. The donor's hourly value will be converted to the recipient's hourly value and then added to the recipient's sick leave balance on a dollar-for-dollar basis.
8. The recipient employee's entitlement to personal disability leave will be reduced by the number of hours added to the recipient's sick leave balance.
9. The determination of the employee's eligibility for Catastrophic Sick Leave donation shall be at the County's sole discretion and shall be final and non-grievable.
10. Recipient employees who are able to work but are working less than their regular schedule will integrate Catastrophic Sick Leave donations with time worked and their own paid leaves, which must be used first, not to exceed 100 percent of the employee's gross salary.

SECTION 24. REIMBURSEMENT FOR CERTIFICATION REQUIRED TO SUPERVISE PHYSICIAN ASSISTANTS

The County will reimburse the cost of the California State certification fee for any employee occupying a position designated by the County as one requiring State certification to supervise Physician Assistants. To obtain reimbursement under this section, the employee must complete appropriate reimbursement forms and provide specified documentation according to procedures established by the County Auditor-Controller.

SECTION 25. REIMBURSEMENT FOR DRUG ENFORCEMENT ADMINISTRATION REGISTRATION FEE

The County will reimburse the cost of the application fee for the Drug Enforcement Administration Registration, up to a maximum reimbursement of \$390 for a three-year registration period, for any

eligible employees who are required as part of their official duties to administer, dispense or prescribe controlled substances.

Reimbursement will be made subject to applicable Auditor's Office procedures and requirements.

SECTION 26. NOTICE OF LAYOFFS

The County shall give reasonable notice to the Union before effecting any layoffs which materially affect employees represented under this agreement. Upon receiving such notices, the Union may meet and confer regarding the effect of the layoff.

SECTION 27. NO STRIKE, NO LOCKOUT

- A. The Union, its members and representatives, agree that it and they will not engage in, authorize, sanction, or support any strike, slow down, stoppage of work, curtailment of production, concerted refusal of overtime work, refusal to operate designated equipment (provided such equipment is safe and sound) or to perform customary duties; and neither the Union nor any representatives thereof shall engage in job action for the purpose of effecting changes in the directives or decisions of management of the County, nor to effect a change of personnel or operations of management or of employees not covered by this Memorandum of Understanding.
- B. The County will not lockout employees during the term of this Memorandum of Understanding.

SECTION 28. EFFECT OF MANDATED FRINGE BENEFITS

In the event that State or Federal law shall mandate the granting to employees of benefits or other terms and conditions of employment which duplicate, supplement, or otherwise impinge upon benefits or other terms and conditions of employment set forth herein, the provisions of this Memorandum of Understanding so duplicated, supplemented, or impinged upon shall be void and of no further effect as of the date the mandated benefit or term and condition of employment becomes effective, but the parties hereto shall then meet and confer with regard to such benefit or other term and condition of employment in order to assure that the State or Federal mandate does not result in an overall loss of benefits to employees.

SECTION 29. CONTINUING MEDICAL EDUCATION STIPEND

Upon the approval of the Agency/Department Head and/or his/her designee, of a plan submitted by an employee to engage in continuing medical education (CME) courses which shall maintain or upgrade the employee's skills on the job, the County shall pay up to \$1,000 per employee per fiscal year. More than one plan may be approved in any fiscal year, but in no event shall the stipend exceed \$1,000 per employee per fiscal year.

SECTION 30. DISABILITY INSURANCE POLICIES

County-sponsored disability insurance policies will be made available. Coverage can be purchased either through the use of vacation sellback (up to five days) or through payroll deduction. These policies are subject to premium costs, eligibility requirements, age limitations, coverage exclusions, conversion rights, and all other provisions set forth in the applicable insurer contracts.

SECTION 31. VACATION SELLBACK

- A.** Full-time and part-time employees in Unit 18 may sell up to 5 vacation days (prorated for part-time employees) to be used for the purchase of County-sponsored Disability Insurance Plans.
- B. Vacation Sellback.** Effective July 1, 2001, employees may receive equivalent cash payment for up to 5 vacation days per fiscal year. Effective July 1, 2002, employees accruing at least 20 days of vacation may receive equivalent cash payment for up to 10 days per fiscal year. This benefit shall be prorated for part-time employees based on the proportion of the normal 40 hour workweek for which the employee is regularly scheduled to work. In lieu of, or in addition to the foregoing, an employee may have accrued vacation leave credited against his/her transition pay obligation to the County. Vacation sellback under this section is in addition to the amount of sellback that can be used to purchase County-sponsored Disability Insurance Plans under Section 31.A. Requests for vacation sellback are irrevocable.
- C.** Services-As-Needed employees working in classifications which are enumerated in Appendix B are excluded from the provisions of Sections 31.A. and 31.B.

SECTION 32. AGENCY/DEPARTMENT HEAD

“Agency/Department,” as used herein, shall mean the Agency Head, the Department Head, or the designee of the Agency Head or Department Head.

SECTION 33. SAVINGS CLAUSE

If any provision of this Memorandum of Understanding shall be held invalid by operation of law or by any court of competent jurisdiction, or if compliance with or enforcement of any provision shall be restrained by any tribunal, the remainder of this Memorandum of Understanding shall not be affected thereby, and the parties shall enter into negotiation for the sole purpose of arriving at a mutually satisfactory replacement for such provision.

SECTION 34. SCOPE OF AGREEMENT

Except as otherwise specifically provided herein, this Memorandum of Understanding fully and completely incorporates the understanding of the parties hereto regarding the provisions contained in this Memorandum of Understanding. Neither party shall, during the term of this Memorandum of Understanding, demand any change herein, provided that nothing herein shall prohibit the parties from changing the terms of this Memorandum of Understanding by mutual agreement. This Memorandum of Understanding shall become effective upon the approval of the Board of Supervisors and shall remain in full effect to and including December 15, 2007, except for Section 10. Vacation Leave which shall continue in full effect as provided in subsection 10.L.

SECTION 35. ENACTMENT

It is agreed that the foregoing shall be jointly submitted to the Alameda County Board of Supervisors by the Director, Human Resource Services Department and the Union for the Board’s consideration and approval. Upon approval, the Board shall adopt an Ordinance to approve the Memorandum of Understanding in its entirety. Upon such adoption, the provisions of this Memorandum of Understanding shall supersede and control over conflicting or inconsistent County Ordinances and Resolutions.

SECTION 36. TERM OF MEMORANDUM

This Memorandum of Understanding shall become effective upon the approval of the Board of Supervisors and shall remain in full effect to and including December 15, 2007.

SIGNED AND ENTERED INTO THIS _____ DAY OF _____, _____.

ALAMEDA COUNTY

**UNION OF AMERICAN PHYSICIANS
AND DENTISTS, UNITS 18 and 24**

Director, Human Resource Services

Approved as to Form:
RICHARD E. WINNIE, County Counsel

By: _____

APPENDIX A

Listed herein are all those Alameda County job classifications represented by the Union of American Physicians and Dentists in Representation Unit 018. These wages are established by the Alameda County Board of Supervisors and are effective on the dates shown. The work week for all these job classes is 40 hours.

| <u>Job Code</u> | <u>Title Effective</u> | <u>Step 1</u> | <u>Step 2</u> | <u>Step 3</u> | <u>Step 4</u> | <u>Step 5</u> |
|------------------------|-------------------------------|----------------------|----------------------|----------------------|----------------------|----------------------|
| 5135 | Physician I | | | | | |
| | 12/04/2005 | 4425.60 | 4639.20 | 4872.80 | 5115.20 | 5373.60 |
| | 12/03/2006 | 4558.40 | 4778.40 | 5019.20 | 5268.80 | 5535.20 |
| 5137 | Physician II | | | | | |
| | 12/04/2005 | 4872.80 | 5115.20 | 5373.60 | 5642.40 | 5921.60 |
| | 12/03/2006 | 5019.20 | 5268.80 | 5535.20 | 5812.00 | 6099.20 |
| 5139 | Physician III | | | | | |
| | 12/04/2005 | 5373.60 | 5642.40 | 5921.60 | 6215.20 | 6524.80 |
| | 12/03/2006 | 5535.20 | 5812.00 | 6099.20 | 6401.60 | 6720.80 |
| 5519 | Staff Dentist | | | | | |
| | 12/04/2005 | 4447.20 | 4664.00 | 4897.60 | 5140.80 | 5403.20 |
| | 12/03/2006 | 4580.80 | 4804.00 | 5044.80 | 5295.20 | 5565.60 |

APPENDIX B

Listed herein are all those Alameda County job classifications represented by the Union of American Physicians and Dentists in Representation Unit 024. These wages are established by the Alameda County Board of Supervisors and are effective on the dates shown. For Services-As-Needed employees, the work week is scheduled on an as-need basis as determined by the Agency/Department Head, with the work week base of 40 hours.

| <u>Job Code</u> | <u>Title Effective</u> | <u>Step 1</u> | <u>Step 2</u> | <u>Step 3</u> | <u>Step 4</u> | <u>Step 5</u> |
|------------------------|--|----------------------|----------------------|----------------------|----------------------|----------------------|
| 5135 N | Physician I 12/04/2005 12/03/2006 | | | | | 70.04 72.14 |
| 5135 N | Physician II 12/04/2005 12/03/2006 | | | | | 79.52 81.91 |
| 5135 N | Physician III 12/04/2005 12/03/2006 | | | | | 88.07 90.71 |

APPENDIX C

DOMESTIC PARTNERS

Domestic Partner Defined. A “domestic partnership” shall exist between two persons, one of whom is an employee of the County, covered by this Memorandum of Understanding, regardless of their gender and each of them shall be the “domestic partner” of the other if they both complete, sign, and cause to be filed with the County an “Affidavit of Domestic Partnership” (or submit to the County a notarized “Declaration of Domestic Partnership” (State Form DP-1) filed with the California Secretary of State) attesting to the following:

- a. the two parties reside together and share the common necessities of life;
- b. the two parties are: not married to anyone; eighteen years or older; not related by blood closer than would bar marriage in the State of California; and mentally competent to consent to contract;
- c. the two parties declare that they are each other’s sole domestic partner and they are responsible for their common welfare;
- d. the two parties agree to notify the County if there is a change of circumstances attested to in the affidavit;
- e. the two parties affirm, under penalty of perjury, that the assertions in the affidavit are true to the best of their knowledge.

Termination. A member of a domestic partnership may end said relationship by filing a statement with the County. In the statement, the person filing must affirm, under penalty of perjury, that: 1) the partnership is terminated, and 2) a copy of the termination statement has been mailed to the other partner. For those who filed a State “Declaration of Domestic Partnership”, a copy of a notarized State of California “Notice of Termination of Domestic Partnership” (State Form DP-2) filed with the State of California must be provided to the County.

New Statements of Domestic Partnership. No person who has filed an affidavit of domestic partnership may file another such affidavit until six months after a statement of termination of the previous partnership has been filed with the County or State of California as described herein.

APPENDIX D

Chapter 3.48

EMPLOYMENT DISCRIMINATION COMPLAINT PROCEDURES

Sections:

| | |
|-----------------|---|
| 3.48.010 | Purpose. |
| 3.48.020 | Scope. |
| 3.48.030 | Application to civil service matters and grievance procedures set forth in memorandums of understanding. |
| 3.48.040 | Objectives. |
| 3.48.050 | Definitions. |
| 3.48.060 | Filing of FEPC and EEOC complaints not prohibited. |
| 3.48.070 | Informal and formal procedures. |
| 3.48.080 | Costs of hearing. |
| 3.48.090 | Representation. |
| 3.48.100 | Freedom from reprisal. |

3.48.010 Purpose.

The purpose of this procedure is to provide a uniform and effective system for resolving certain allegations and complaints of employment discrimination. (Prior admin. code 2-18.01)

3.48.020 Scope.

This procedure pertains to allegations made by aggrieved persons of discrimination in regard to recruitment, appointment, training, promotion, retention, discipline or other aspects of employment because of race, religion, color, sex, handicap, sexual orientation, age, national origin, political affiliation or any other factor which applicable state or federal law or regulation prohibits as the basis for discrimination in employment. Complaints which do not allege discrimination based upon one or more of the foregoing factors will not be handled under this procedure.

Where applicable, this procedure supersedes the grievance procedure set forth in Chapter 3.44 of this code. This procedure does not confer upon nontenured employees the right to a good cause hearing upon the imposition of disciplinary action. (Prior admin. code 2-18.02)

3.48.030 Application to civil service matters and grievance procedures set forth in memorandums of understanding.

This procedure shall not apply to complaints relating to matters within the jurisdiction of the civil service commission under the Charter until and unless the commission elects to make this procedure applicable to such complaints. In such event, the findings and decision of the hearing officer or arbitrator shall be made to the commission for final determination. This procedure shall apply to complaints of discrimination pursuant to grievance procedures set forth in memorandums of understanding only in the event that such memorandums specifically provide for its application to such complaints. In the event that the use of this procedure is not adopted by the commission or specified by the applicable memorandum of understanding, an aggrieved person who elects to pursue an appeal through procedures provided by the commission or the memorandum of understanding may not pursue the same allegations of discrimination under this procedure. (Prior admin. code 2-18.03)

3.48.040 Objectives.

The objectives of this procedure are: to provide an efficient means of resolving individual or group problems of a sensitive nature quickly and with a minimum of formal procedural requirements; to decrease significantly formal complaints which are expensive, time consuming and detrimental to good employee relations; and to sensitize managers and supervisors to the needs of individual employees or groups and to improve their capability of handling problems before they become complaints (Prior admin. code 2-18.04)

3.48.050 Definitions.

“Affirmative action coordinator” means the agency/department affirmative action coordinator or other person in close reporting relationship to top management who is assigned the responsibility of managing the procedure for handling discrimination complaints.

“Complainant” means an aggrieved person who has filed a formal complaint.

“Discrimination in regard to age” means disparate treatment of persons who are at least forty (40) years of age but less than seventy (70) years of age, as prohibited by the U.S. Age Discrimination in Employment Act of 1967, or of persons who are at least forty (40) years of age, as prohibited by the California Fair Employment Practice Act.

“Discrimination in regard to handicap” means disparate treatment of persons having a physical or mental handicap not related to employment needs or the person’s ability to perform the duties of the job.

“Equal employment opportunity counselor” means an employee trained in equal employment opportunity procedures and counseling techniques to provide informal counseling on matters pertaining to discrimination.

Factors Which Applicable State or Federal Law or Regulation Prohibits as the Basis for Discrimination in Employment. These factors are those personal or social characteristics which are unrelated to either the needs of the position or to employment in general. Such factors as poor personal hygiene, unwillingness or inability to take direction, to work in harmony with supervision, peers, or the public, or to work without excessive absenteeism are examples of factors which normally are related to the needs of the position and to employment.

“Formal complaint” means written complaint which states clearly the basis for an allegation of discrimination and the relief requested. (Prior admin. code 2-18.05)

3.48.060 Filing of FEPC and EEOC complaints not prohibited.

This procedure is not intended to and does not interfere with the rights of an aggrieved person to file a complaint with the Fair Employment Practice Commission, the Equal Employment Opportunity Commission, the courts, or, except as specifically provided herein, any other available source or redress. (Prior admin. code 2-18.07)

3.48.070 Informal and formal procedures.

A. An aggrieved person may contact the designated equal employment opportunity counselor no later than thirty (30) days from the alleged discrimination, except that when the action complained of is a specific personnel action, of which the employee has notice, such as a promotion, demotion, rejection for appointment, or disciplinary action, the contact with the designated equal employment opportunity counselor may be made no later than ten days from the alleged discrimination. The equal employment opportunity counselor shall consult with the aggrieved person and, after making necessary inquiries, shall counsel him on the issues of the case, and seek informal resolution of the problem. The equal employment opportunity counselor shall keep a record of counseling activities and shall advise the aggrieved person of the formal complaint process and of his or her right to file complaints thereunder, under civil service rules, under an applicable memorandum of understanding, or pursuant to state and federal statutes. The equal employment opportunity counselor shall complete the informal pre-complaint counseling within fifteen (15) working days of being contacted by the aggrieved person.

B. Resolving Formal Complaints.

1. Departmental Review. If informal resolution of the problem through conciliation and negotiation cannot be effected, an aggrieved person may file a formal complaint with the departmental affirmative action coordinator or other designated official. Such a complaint must be filed on a form provided for this purpose and within five working days after the attempted resolution of the problem by the equal employment opportunity counselor or within twenty-five (25) working days after the date of the alleged discriminatory action, whichever shall first occur. The affirmative action coordinator will decide whether the complaint falls within the jurisdiction of the procedure and accept or reject it. Upon acceptance of the complaint, the affirmative action coordinator shall obtain the notes on the case from the equal employment opportunity counselor; may conduct a prompt, impartial investigation if he deems it necessary; shall explore the possibility of resolving the problem through negotiation or conciliation; shall present findings and recommendations on resolving the complaint to the agency/department head; and within forty-five (45) working days from the date the formal complaint was filed, shall present his written decision, as approved by the agency/department head, to the complainant, with a copy of the complaint and decision to be forwarded to the director of personnel.
2. Appeal from Decision of Department Head. The decision of the department head shall be final unless appealed by the complainant to the director of personnel within ten working days of the date of mailing or personal delivery of the decision to the aggrieved person.
3. Review County Affirmative Action Officer. The director of personnel shall forward a copy of the decision and appeal to the county affirmative action officer who shall have ten working days from the date of filing of the appeal in which to determine whether to conduct his or her own investigation of the problem. In the latter event, the county affirmative action officer shall have twenty (20) additional working days in which to complete his or her investigation, counseling or settlement efforts.
4. Setting of Hearing. If the county affirmative action officer decides not to conduct his own investigation or if his or her efforts to settle the problem are unsuccessful, the director of personnel shall set the appeal for hearing before a State Hearing Officer or, by mutual agreement of the complainant and the agency/department head, before an agreed-upon arbitrator.
5. Exclusion of Frivolous or Vague Appeals and Appeal Therefrom. In the event that the director of personnel shall determine that the complaint is frivolous, vague, or that the facts alleged in the complaint, even if true, would not substantiate a claim of discrimination, or that the appeal claims discrimination based upon a factor for which state or federal law or regulation does not prohibit discrimination, he or she shall not schedule the appeal for hearing. The aggrieved person may, within ten working days of the mailing to him or her of notice that the complaint has been rejected by the director of personnel, request that the director's action be reviewed by an impartial practicing attorney selected by the civil service commission. If the aggrieved person makes such an appeal, the director of personnel shall forward to the impartial attorney a copy of the complaint, the written decision of the agency/department head, and of his or her determination which is the subject of the request for review. The impartial attorney, after reviewing the foregoing documents and without a hearing, shall determine whether the action of the director of personnel in refusing to schedule the appeal for hearing was correct. The determination of the impartial attorney in this regard shall be final, but a determination by the impartial attorney that the appeal should be scheduled for hearing shall not preclude the hearing officer or arbitrator from determination, upon the evidence adduced at the hearing, that the factor upon which the disparate treatment was based was related to the needs of the position or to employment in general.

6. Hearing of Appeal. The hearing officer or arbitrator shall fully hear the complaint and make written findings of fact as part of its decision. The decision of the hearing officer or arbitrator, on matters of employment discrimination within the scope of this procedure, shall be binding on the department/agency head. The director of personnel shall notify the Merit Systems Services of the California State Personnel Board regarding the disposition of all formal complaints received and of all heard by a hearing officer or arbitrator. (Prior admin. code 2-18.07)

3.48.080 Costs of hearing.

The cost of the hearing officer or the arbitrator, as well as of any reporter required by the hearing officer or arbitrator, shall be paid by the county. In the event, however, that the aggrieved person is represented in his or her appeal by a recognized employee organization or is furnished counsel by said organization, the costs of the hearing officer or the arbitrator as well as of the reporter shall be shared equally by the county and the organization. (Prior admin. code 2-18.08)

3.48.090 Representation.

The aggrieved person/complainant has a right to be accompanied, represented and advised by a person of his or her own choosing at all stages of the process, but no recognized employee organization shall be obligated to furnish such representation or advice except upon such basis as the aggrieved person/complainant and the recognized employee organization shall mutually agree. (Prior admin. code 2-18.09)

3.48.100 Freedom from reprisal.

An aggrieved person/complainant, his or her representative, and witness shall be free from restraint, interference, coercion, discrimination or reprisal at all stages in presenting and processing a complaint, including the informal counseling state. (Prior admin. code 2-18.10)

Subject Index

Page No.

| | |
|---|----|
| Access to Records | 4 |
| Adoptive Leave | 10 |
| Agency/Department Head..... | 33 |
| Agency Shop..... | 2 |
| Allowance for Use of Private Automobiles..... | 25 |
| Appendix A, Salaries..... | 35 |
| Appendix B, Salaries, Services-As-Needed..... | 36 |
| Appendix C, Domestic Partners | 37 |
| Appendix D, Employment Discrimination Complaint Procedures..... | 38 |
| Automobiles, Allowance for Use of | 25 |
| | |
| Binding Arbitration of Grievances | 27 |
| Bilingual Pay | 20 |
| Bulletin Boards, Union..... | 3 |
| | |
| Call-Back Pay..... | 20 |
| Catastrophic Sick Leave Program | 30 |
| Continuing Medical Education Stipend | 32 |
| County Facilities, Use of | 3 |
| | |
| Death in Immediate Family | 10 |
| Dental Plan Coverage..... | 23 |
| Disability Insurance Benefits..... | 28 |
| Disability Insurance Policies..... | 32 |
| Discrimination Prohibited | 1 |
| Domestic Partners, Appendix C..... | 37 |
| Duplicate Coverage, Medical Plan..... | 22 |
| Duplicative Coverage, Dental Plan | 23 |
| | |
| Educational Leave | 8 |
| Employment Discrimination Complaint Procedures, Appendix D..... | 38 |
| Enactment..... | 33 |
| | |
| Family Sick Leave | 18 |
| Financial Reports | 3 |
| | |
| Grievance Procedure | 26 |
| | |
| Hold Harmless..... | 3 |
| Holiday Compensation..... | 12 |
| Holidays..... | 11 |
| | |
| Industrial Sick Leave Supplement..... | 18 |
| | |
| Job Contacts | 3 |
| Jury Duty or Subpoena Leave | 9 |
| | |
| Layoffs, Notice of | 32 |
| Leaves of Absence..... | 7 |
| Life Insurance..... | 30 |
| | |
| Mandated Fringe Benefits, Effect of..... | 32 |
| Major Medical Supplemental Paid Sick Leave..... | 17 |
| Malpractice Insurance | 29 |
| Maternity Leave | 9 |

| | |
|---|----|
| Medical Plans | 21 |
| Medical Report | 18 |
| Meetings | 4 |
| Mileage Rates Payable | 25 |
| Military Leave | 7 |
| | |
| Night Shift..... | 20 |
| No Strike, No Lockout | 32 |
| Notice of Layoffs | 32 |
| Notice of Recognized Union..... | 1 |
| | |
| Open Enrollment, Dental Plan | 24 |
| Open Enrollment, Medical Plan | 23 |
| Overtime..... | 6 |
| | |
| Paternity Leave | 10 |
| Personal Leave | 16 |
| Premium Conditions..... | 20 |
| | |
| Recognition | 1 |
| Reimbursement for Certification Required to Supervise Physician Assistants..... | 31 |
| Reimbursement for Drug Enforcement Administration Registration Fee..... | 31 |
| Reimbursement for Property Damage | 25 |
| Religious Exemption | 2 |
| Reporting Pay | 21 |
| Rest Periods..... | 6 |
| | |
| Salaries, Appendix A..... | 35 |
| Salaries, Appendix B (SAN)..... | 36 |
| Savings Clause | 33 |
| Scope of Agreement | 33 |
| Shift, Change of | 6 |
| Shop Stewards..... | 4 |
| Sick Leave..... | 16 |
| Sideletters of Agreement, Table of Contents..... | 44 |
| Special Performance Pay..... | 20 |
| Split Shift | 20 |
| Standby Duty Pay | 20 |
| State Disability Insurance Program (SDI) | 28 |
| | |
| Term of Memorandum..... | 34 |
| Two Weeks Notice Upon Termination | 26 |
| | |
| Union Bulletin Boards..... | 3 |
| Union Security | 1 |
| | |
| Vacation Leave | 13 |
| Vacation Sellback..... | 33 |
| Vision Reimbursement Plan..... | 30 |
| | |
| Wages | 25 |
| Work Schedule and Change of Shift..... | 6 |

SIDELETTERS OF AGREEMENT

Sideletters of Agreement and Letters of Understanding are provisions negotiated by the Union and the County that are separate from, and supplemental to, our Memorandum of Understanding.

These provisions are not grievable, unless so specified in their language, but they are legally enforceable through the courts.

TABLE OF CONTENTS

| | Page No. |
|---|-----------------|
| Deferred Compensation..... | 45 |
| Dependent Care Salary Contribution | 46 |
| Enhanced Retirement Benefit | 47 |
| Medical Advisory Committee (M.A.C.) | 48 |
| Medical Copays Effective 2007 Plan Year | 49 |
| Political Action Committee (P.A.C.) | 50 |
| Release Time to Attend Retirement Planning Sessions | 51 |
| Services-As-Needed Scheduling | 52 |
| 125 Plan..... | 53 |

*FOR COPIES OF SIDELETTER OF AGREEMENTS, PLEASE CONTACT EMPLOYEE RELATIONS
AT (510) 272-3878*