



HENNEPIN COUNTY

**HUMAN
RESOURCES
RULES**

July 2014

HENNEPIN COUNTY HUMAN RESOURCES RULES CONTENTS

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Laws of Minnesota, MS Chapter 383B.26 to 383B.42 (Human Resources Act)

Hennepin County Human Resources Rules as adopted by County Board Resolution 95-10-676, October 17, 1995, and revised by County Board Resolution 95-12-785, December 12, 1995; by County Board Resolution 96-10-601, October 1, 1996; by County Board Resolution 97-11-699, November 4, 1997; by County Board Resolution 01-10-694, October 16, 2001; by County Board Resolution 01-12-828R1, December 11, 2001; by County Board Resolution 01-12-895, December 18, 2001, by County Board Resolution 03-03-332, June 10, 2003; by County Board Resolution 03-12-802, December 16, 2003; by County Board Resolution 05-03-72, March 1, 2005; by County Board Resolution 05-06-299, June 28, 2005; by County Board Resolution 05-12-667, December 13, 2005, by County Board Resolution 09-0024, January 27, 2009; by County Board Resolution 09-0243, June 16, 2009; by County Board Resolution 12-0434, October 30, 2012; by County Board Resolution 13-0315, September 12, 2013; and by County Board Resolution 14-0287, July 29, 2014.

SECTION 1

DEFINITIONS

Unless otherwise indicated, the following words and terms, wherever used in these Rules, shall have the meaning indicated below.

ALJ - Administrative Law Judge - See Hearing Officer.

Appointing Authority - an elected official, County Administrator, the Director and management staff of a department, who have the power by law, by resolution of the County Board or by lawfully delegated authority to make appointments to positions in the County service within the scope of the Human Resources Act.

Appointment - the act of assigning a person to a position established within the County service.

Base Pay Rate - the basic hourly or annual pay rate exclusive of overtime premium, shift premium, longevity, or any other special allowance.

Board - County Human Resources Board.

Class - one or more positions similar with respect to duties and responsibilities for which the same descriptive title can be used with clarity to designate each position; that similar general qualifications are needed for the performance of duties, and that the same schedule of compensation can be applied to all positions.

Classified Service - the service which includes all positions except those placed in the unclassified service by the Human Resources Act.

Classification Plan - a list of the classes of positions in the County service by their official title.

County - all departments and employees coming under the jurisdiction of the County Board.

Days - unless otherwise indicated, this means working days.

Demotion – an involuntary change by an employee for just cause from a position in one class to a position in another class with less responsible duties and a lower salary range maximum.

Department Director - same as Department Head in Human Resources Act.

Discipline - an oral or written reprimand, suspension, involuntary demotion (not related to a position reclassification), or dismissal.

Hearing Officer - a member of the Office of Administrative Hearings pursuant to Minnesota Statutes, Section 14.55; or other impartial hearing officer.

Human Resources Act - Minnesota Statutes, 1994, Chapter 383B.26 to 383B.42.

Insubordination - failure to obey a lawful order given by a person authorized to give such order or the willful failure to follow a required policy, procedure, guideline or rule.

Layoff - a separation of regular or probationary employees necessitated by lack of work, lack of funds, or medical disability and without delinquency or misconduct on their part.

Limited Duration – appointment to a temporary position that is six (6) months or less; more than six (6) months but less than two (2) years; or intermittent, non-continuous or irregular in nature regardless of the anticipated duration of the appointment.

Military Leave - the leave of absence granted by state law to employees entering active duty in the armed forces of the United States.

Organizational Unit - the County or any subdivision thereof which is approved by the Human Resources Director as an entity for the purposes of employment, layoff or both.

Paid Time Off (PTO) – A bank of flexible leave that does not distinguish reason for use.

Position - a group of current duties and responsibilities assigned or delegated by an appointing authority.

Probationary Period - that part of the hiring process following certification and appointment from a list of certified candidates, to enable the appointing authority to determine whether employees are fit and suitable for the position to which they have been appointed, reinstated, demoted, transferred or promoted. In this working period, the employee is required to demonstrate fitness for the position by actual performance of the duties of the position.

Promotion - a change of an employee from a position of one class to a position of another class with more responsible duties and a higher salary range maximum except as provided in the definition of transfer.

Reassignment - a change by an employee from one position to another position in the same class in the same organizational unit.

Regular Employee - an employee in the classified service who has satisfactorily completed his/her probationary period. This designation means that the employee has achieved a status entitling that employee to the benefits, rights, privileges and obligations conferred by these Rules but the designation is not a guarantee of lifetime/career employment with Hennepin County.

Regular Hours - time on compensated payroll status exclusive of overtime hours.

Rehire - appointment of a former County employee who has held regular or probationary employee status.

Retirement - termination of a regular employee who at the time of termination meets the qualification requirements to receive retirement annuity benefits under a County approved retirement program.

Significant Underrepresentation - a condition that exists when the representation based on race and/or sex in the class in the department is less than four-fifths of the representation of these groups (race and sex) in the relevant labor market. For purposes of determining representation in classes which have fewer than thirteen (13) incumbents, the Human Resources Director may consider other appropriate class groupings.

Supervisor - any person having authority in the interests of the employer to perform or effectively recommend a majority of the following actions: hire, transfer, suspend, promote, discharge, discipline, reward, assign and direct work, evaluate performance and adjust grievances.

Trainee/Intern - an individual in a formalized training program who has no status as an employee in the classified service and is serving on an at-will-employment basis. Such individual may be dismissed at any time without written notice, specifying cause or granting a hearing.

Transfer - a change by an employee from a position in the same class to a different county department/organizational unit; or a change from one position in one class to a position in another class in the same county department/organizational unit or another department/organizational unit.

Unclassified Service - those positions which are exempted from the jurisdiction of the Human Resources Board unless otherwise provided by the Human Resources Act.

Veteran - any person who has been separated under honorable conditions from any branch of the armed forces of the United States after having served on active duty for 181 consecutive days or by reason of disability incurred while serving on active duty, and who is a citizen of the United States or resident alien (MS 197.447).

SECTION 2

PURPOSE, ADOPTION AND AMENDMENT OF THE HUMAN RESOURCES RULES

2.1 Purpose

It is the purpose of these Rules to provide a system of human resources administration in Hennepin County pursuant to Minnesota Statutes, 1994, Chapter 383B.26 to 383B.42. Further to ensure equal employment opportunity, these Rules and their interpretation shall in no way limit the effect or authority of Hennepin County affirmative action policy or other applicable laws.

2.2 Adoption and Amendment of Rules

These Rules are prepared and recommended by the Human Resources Director and approved by the Board at a regular or special Board meeting.

The Board may initiate or approve, modify, reject or approve as modified, the Rules prepared and recommended by the Human Resources Director for carrying out an effective Human Resources program. Seven (7) calendar days posted notice shall be given of the meeting to elected officials, appointing authorities and interested employee representatives at a specified time and place to be held upon the proposed Rule changes. Copies of the Rules shall be sent to all appointing authorities and interested union representatives, and printed copies of the Rule changes shall be prepared and available for public distribution.

Human Resources actions taken prior to the effective date of new, abolished or amended Rules shall be governed by the Rules in effect on the effective date of the action.

2.3 Departmental Policies

In accordance with the County Human Resources Rules, each Department Director may establish a set of operating policies for the purpose of handling Human Resources matters which are unique to the department concerned and which shall be governed by the County Human Resources Rules.

To be effective, such operating policies shall be filed with the Human Resources Director, who shall indicate in writing that in his/her opinion such departmental operating policies are not in conflict with the County Human Resources Rules.

A copy of such policies shall be made available for reference within each department.

SECTION 3

HUMAN RESOURCES ORGANIZATION

3.1 Powers and Duties of the Board

The powers and duties of the Human Resources Board shall be those prescribed by the Human Resources Act and such other powers as are specifically prescribed by law or these Rules.

3.2 Organization of the Board

The Board at the first regular meeting in March of each year shall elect one member to act as Chairperson and one member to act as Vice Chairperson for terms of one year each or until a successor or successors are duly elected in the same manner to fill the unexpired term at the next regular meeting of the Board.

No meetings of the Board shall be held unless at least four members are present. A majority vote of all members present shall constitute the decision of the Board. When any member of the Board is not present at the time a matter is submitted, such matter shall be deemed submitted to each member as though he/she had been present at the time of submission of the matter.

The Human Resources Director shall serve as Secretary of the Board. He/she shall keep a calendar of all business to be transacted at each meeting, issue notices of regular and special meetings, present to the Board all matters which require consideration by the Board, keep the records and files of the Board and minutes and proceedings, gather information and shall conduct other matters as the Board may direct or the circumstances may indicate as necessary and proper in order to facilitate and give effect to the actions of the Board within the scope of its power and duties.

3.3 Meetings of the Board

The Board shall meet regularly once each month and may hold additional meetings it may deem necessary. Any scheduled meeting of the Board may be cancelled by consent of four Board members. All meetings shall be held at a location set by the Board unless the Board shall specify another meeting place prior to the date of the meeting. Meetings may be called by the Chairperson, any four Board members or the Human Resources

Director. Notices of each meeting shall be given in writing to each member by the Chairperson or by the Human Resources Director, provided that such notice shall be deemed to have been waived by any member attending any meeting where the requirement has not been met. Notice of meeting shall be posted in the office of the Human Resources Department and shall specify the day, hour and place of the meeting. All meetings of the Board shall be open to the public.

3.4 Appointment and Employment of the Human Resources Director

The County Administrator, with the approval of the County Board, shall appoint a Human Resources Director. The director shall be in the classified service and shall not be removed by the Board except under written charges in accordance with section 383B.26 to 383B.42 and after a public hearing by the Board.

3.5 Powers and Duties of the Human Resources Director

The powers and duties of the Human Resources Director shall be those prescribed by the Human Resources Act and such others as are specifically prescribed by law or the provisions of these Rules.

In addition to the functions expressly vested in the Human Resources Director and the duties expressly imposed upon him/her by the provisions of the Human Resources Act and Rules, the Human Resources Director shall carry on functions of the same kinds as specified in the Human Resources Act and these Rules or of different kinds as he/she may deem necessary and proper to carry into effect the provisions of the Act and Rules or to accomplish their purposes. Any power vested in the Human Resources Director and any duty imposed upon him/her by the Act or these Rules may be exercised or discharged by the Human Resources Director in person or by him/ her through the agency of an employee or employees of the department whom he/she may designate.

3.6 Minutes of Board Proceedings

The minutes of the proceedings of the Board shall be prepared and maintained by the Secretary on behalf of and subject to the approval of the Board. Such minutes may be examined by interested parties at times and under conditions prescribed by the Human Resources Director. The Board may establish reasonable fees, not to exceed the actual cost, for furnishing copies of the records, minutes or transcripts of testimony of any of its proceedings.

3.7 Report of Human Resources Changes

The Human Resources Director shall provide the necessary forms for reports of all Human Resources changes in the service. Such forms shall provide spaces for the entering of such supporting or otherwise pertinent information as the Human Resources Director shall deem to be needed for the records of the department. Such forms or supplementary instructions to appointing authorities shall explain which of the changes call for prior approval of the Human Resources Director before they may become effective, which of them require reports when made and which of them need to be reported sufficiently in advance of the end of the payroll period to permit them to be given effect in checking and approving the transaction.

SECTION 4

CLASSIFICATION PLAN

4.1 Classification Plan

A classification plan shall be developed and maintained so that all positions substantially similar with respect to the type, difficulty and responsibility of work, are included in the same class and that the same schedule of pay may be applied to all positions in a class.

4.2 Allocation of Positions

When a new position is to be established or a change in duties is proposed for an existing position which is to be filled, the appointing authority shall notify the Human Resources Director in writing, and he/she shall allocate the position to its appropriate class. After the Human Resources Director has allocated a position, he/she shall notify the appointing authority affected, in writing, of that allocation. The allocation shall become effective immediately, but the appointing authority may within fifteen (15) working days file with the Human Resources Director a request for reconsideration in accordance with Section 4.5.

4.3 Reallocation of Positions

Whenever a position appears to be improperly allocated, the Human Resources Director, upon his/her own initiative or at the request of a regular employee or the appointing authority, shall investigate the duties of the affected position. In the event of a request by a regular employee, the employee's request shall be submitted to the Department Director for review prior to submission to the Human Resources Director. The Department Director or his/her designee shall have twenty-one (21) calendar days following the receipt of the submission to review and submit the employee's request to the Human Resources Director. Based on the results of the investigation, the Human Resources Director shall advise the appointing authority of the appropriateness of the position's current classification. The appointing authority may then have the option of accepting the classification decision of the Human Resources Director or modifying the duties, tasks and responsibilities so that they conform to the existing class allocation of the position.

In determining the class to which any position shall be allocated, the definition of each class shall be considered as a whole. Consideration shall be given to the general duties, specific tasks, responsibilities, qualification requirements and relationships to other classes, which in total affords a picture of employment that the class is intended to encompass. To be reallocated, the preponderance of the higher order/most significant tasks of the new class must be encompassed in the work being performed and the tasks must be at similar levels of difficulty and complexity; and the percentage of time spent performing the higher order/most significant tasks must be reflective of the time spent on these tasks by the typical incumbent of the new class.

In making a request for a review of a position, the regular employee or the appointing authority shall set forth the changes that have occurred in the particular position since the last review or other factors which in his/her opinion warrant reallocation. When the Human Resources Director allocates a position or denies an application for reallocation, he/she shall notify the appointing authority, the employee and the exclusive representative affected by his/her action.

4.4 Effect of Reallocation of Positions

A reallocated position shall be considered the same as a vacant position and the appointing authority shall submit a request to fill the position as reallocated in accordance with the section governing appointment or transfer within sixty (60) calendar days following the date of the notice of reallocation of the position. An employee whose position is reallocated shall continue in his/her status in the former class, but he/she shall be ineligible to continue in the position in the new class, unless he/she is appointed to that position in accordance with the section governing appointment. Any employee in a position which is reallocated shall, subject to qualifying in the examination, be considered for appointment in accordance with Section 8.3g.

4.5 Appeal of Allocation or Reallocation of Positions

A regular employee or appointing authority affected by an allocation, reallocation, or denial of request for reallocation shall have the right to make a request for reconsideration to the Human Resources Director. The request for reconsideration to the Human Resources Director (in accordance with Section 4.2) must be filed within fifteen (15) working days together with written evidence by way of affidavits, statements or exhibits which the appointing authority or regular employee may desire to be considered by the Human Resources Director. The Human Resources Director shall act upon that request within thirty (30) working days for a single incumbent

classification decision appeal or within a reasonable period for a multiple incumbent classification decision appeal after receiving it and shall notify the appointing authority or regular employee of the Human Resources Director's determination. Any appealed allocation or reallocation granted by the Human Resources Director shall be effective on the first pay period following the date of the original notice of determination by the Human Resources Director.

Subsequent to the Human Resources Director's decision on the request for reconsideration, should a regular employee or appointing authority disagree with the Human Resources Director on classification assignment of the position, the action may be appealed to the Board. The appeal shall be made by written notice served on the Human Resources Director within fifteen (15) working days from receipt of the Human Resources Director's decision in response to the reconsideration request of the classification assignment. The request for appeal of the Human Resources Director's allocation must be on the basis:

- a. That the action of the Human Resources Director was unreasonable, arbitrary, capricious or lacked proper factual basis.
- b. That the action of the Human Resources Director was procured by fraud, coercion or the improper conduct of any party in interest.

The Human Resources Director shall submit the record upon which he/she acted for the Board's consideration which shall include, but not be limited to:

1. A copy of the employee's position description questionnaire,
2. A copy of the request for reconsideration submitted by the employee(s) or appointing authority,
3. A copy of the class specification for the class to which the employee's position was assigned,
4. A succinct written statement from the Human Resources Director and appointing authority or permanent employee setting forth the reasons and necessity for the classification assignment of the position.

The employee or appointing authority shall submit in writing, at least ten (10) working days before the date scheduled for hearing, a succinct written statement stating the reasons for disagreement with the proposed classification assignment of the position.

Thereafter, the Board shall review the information submitted and may request further evidence from the parties. The Board may sustain the action of the Human Resources Director or determine that the action of the Human Resources Director was unreasonable, arbitrary or capricious or lacked proper factual basis. Where the Board does not sustain the action of the Human

Resources Director, the Board shall give the Human Resources Director the opportunity to review the classification assignment and the Human Resources Director thereupon shall conduct an investigation into the facts and circumstances relating to the classification assignment of the position and report the findings to the Board within thirty (30) working days or a reasonable period as determined by the Board. Following the presentation of the results of the Human Resources Director's investigation, the Board shall then either sustain, reverse or modify the Human Resources Director's action. The Board's decision shall become effective on the date of the Human Resources Director's original decision and shall be implemented in accordance with Section 4.4.

The Department Director, subject to County Board approval, or any employee may petition the District Court for review and determination of any alleged, arbitrary or capricious action on the part of the Human Resources Board involving allocation.

4.6 Class Specifications

The Human Resources Director shall provide and may amend written specifications for each class in the classification plan. Each of the class specifications shall include the class title, a description of the duties and responsibilities of the work and a statement of qualifications (minimum requirements) a person shall possess to enable him/her to enter upon the duties of a position of the class with reasonable prospect of success.

The specifications of classes of positions in the classification plan and their various parts are hereby declared to have the following force and effect:

- a. The definitions are descriptive and not restrictive. They are intended to indicate the kinds of positions that are allocated to the several classes as determined by their duties and responsibilities and shall not be construed as declaring to any extent or in any way what the duties or responsibilities of any position shall be, or limiting, or in any way modifying the power of any appointing authority to assign, direct and control the work of employees under his/her supervision. The use of a particular expression or illustration as to duties shall not be held to exclude others not mentioned that are of similar kind or quality.
- b. The specification for any class shall constitute the basis and source of authority for the examinations or standards by which employees are considered qualified for appointment to a specific class.

4.7 Use of Class Title

The title of a class shall be the official title of every position assigned to the class for all purposes having to do with the position and shall be used on all payrolls, budget estimates, with official records and reports relating to the position. Any abbreviations or code symbols approved by the Human Resources Director may be used in lieu of the title to designate the class of position in any such connection. Any other titles desired by the appointing authority may be used to designate any position for the purposes of internal administration and any other connection not involving Human Resources processes covered by this plan.

4.8 Amendment to the Classification Plan

Whenever any change in organization, creation of a new position or change in duties or responsibilities of any individual position makes the revision of the classification plan necessary, the Human Resources Director shall recommend the necessary revision to the County Board. The proposed changes shall become effective after adoption by the County Board.

The Human Resources Director may determine there is urgent need for establishing a new class in the classification plan to eliminate delay in the announcement, examination and appointment to a position. In such instances he/she may anticipate formal action by the County Board by tentatively adding the new class to the classification plan. He/she may then announce and hold an examination for the class or authorize appointment.

SECTION 5

COMPENSATION PLAN

5.1 Compensation Plan

The salary plan approved by the County Board, together with the provisions of the Human Resources Act and these Rules and with such amendments as shall be made in accordance with the Act and these Rules, shall constitute the official compensation plan for all positions in the County service not represented by an exclusive bargaining representative. The compensation plan may include benefits and other emoluments as may improve the public service as determined by the Human Resources Director. Retroactive adjustments in salary ranges may be approved by the County Board.

5.2 Administration of the Compensation Plan

The following provisions assume that funds are available and expenditures have been authorized by the County Administrator.

a. Rate of Pay

The payroll period shall be bi-weekly. Annual salary shall be converted to hourly rates for computation purposes based on the formula listed below.

$$\text{Hourly rates} = \frac{\text{Annual Salary}}{2,080}$$

No payment of compensation for services to any person in the classified or unclassified service shall be made until the Human Resources Director certifies that person was appointed in accordance with the Act or the Rules.

b. Beginning Salary

The minimum rate of pay for a class shall normally be paid upon appointment to that class. Upon written certification by the appointing authority that original appointment at one of the salary steps above the minimum rate is justified based on the qualifications and previous compensation of the eligible person or other relevant factors, the Human Resources Director may authorize such appointment at the requested salary. (For other beginning salaries for current employees, see Section 5.2c.).

c. Rates of Pay Upon Promotion, Demotion and Reallocation

When an employee is promoted or demoted, his/her rate of pay for the new position shall be determined as follows:

1) Salary on Promotion

Promotional increases shall normally be of one salary step, depending on the actual increase in responsibilities assumed upon promotion, unless greater adjustment is necessary to bring the employee's salary to the minimum of the new pay range. Any promotional increase beyond that provided for above must be approved in advance by the Human Resources Director based on documentation to support such additional increase. No salary increase may be granted which would place the employee's rate of pay above the authorized salary range. If promotion is to a classification unrelated to the classification from which promotion occurs, the provisions of Section 5.2b. may serve as a guideline in setting the salary.

2) Salary on Demotion or Alternative Placement

If the rate of pay in the previous position was more than the maximum rate established for the class of the new position to which he/she is demoted or placed, his/her pay shall normally be set at a point within the range for the class of the new position to be determined by the appointing authority subject to the approval of the Human Resources Director.

The Human Resources Director, upon the recommendation of the appointing authority, may give consideration to the circumstances of the demotion, alternative placement or other considerations. When, as a result of such consideration, the Human Resources Director determines that the best interest of the County will be served by such action, the Human Resources Director may establish the demoted employee's rate of pay at a rate higher than the class to which he/she demoted but not higher than the employee's previous rate of pay. Thereafter, as long as his/her salary remains above the salary range for his/her class, such employee shall not be eligible to receive any salary increases until such time his/her salary once again is within the range of the class to which he/she demoted or was alternatively placed.

3) Salary on Reallocation

When a position is reallocated to a class in a lower salary range, the Human Resources Director, upon the recommendation of the appointing authority, may give consideration to the employee's service, qualifications or other considerations. When, as a result of such consideration, the Human Resources Director determines that the best interest of the County will be served by such action, the position shall be reallocated, but the employee shall continue at the same rate of pay. Thereafter, as long as he/she remains in the same position, such employee may not be eligible to receive any salary increases until such time his/her salary once again may be within the range of the class to which his/her position has been reallocated.

d. Salary Increases

Salary increases within an established range shall be dependent upon the recommendation of the appointing authority or his/her delegated representative based on the performance of the employee. Such increases shall be made at the beginning of the first payroll period after which the employee becomes qualified and authorized to receive such adjustment.

Increases in salary within the range shall normally be one step and shall be considered once each six (6) months or every year as indicated by the compensation plan. A salary increase shall be given to an employee upon satisfactory completion of his/her probationary period unless that employee is either at the top step of the salary range or completing a transfer probation. Upon approval of the Human Resources Director an increase may be granted prior to completion of the probationary period. In such an instance the early increase may satisfy the probationary increase requirement. An appointing authority may propose salary increases of more than one step or more frequently than specified in the compensation plan upon detailed written statements to the Human Resources Director specifying the employee's exceptional performance or the unusual conditions that make such action necessary.

Each appointing authority and his/her delegated representative shall at least once a year review the salary of each employee to determine the employee's rate of pay within the salary range based on his/her performance and shall advise the employee in accordance with Section 13.1.

e. Salary for Acting Appointment

When an employee is expressly assigned to perform the duties of a position allocated to a different classification, and such assignment is for forty (40) or more continuous regular hours, the employee shall be paid for all such hours at the employee's current salary rate when assigned to work in a class with a salary range which is lower or equal to the employee's current class, or at a rate within a higher class salary range which is equal to the minimum rate for the higher class or five (5) percent higher than the employee's current salary, whichever is greater, provided that the salary may not exceed the maximum step of the higher range. In unusual situations, the Human Resources Director may authorize more than the normal five (5) percent increase.

In order to qualify for such higher rate, the employee must perform that work which distinguishes the higher classification from the employee's regular class in terms of quality and quantity of work accomplished, types of duties and level of responsibility.

That exceptional salary may continue only for the duration of the appointment not to exceed six (6) calendar months, unless approved by the Human Resources Director, and not to exceed twelve (12) calendar months, unless approved by the Board. Where an extension has been granted by the Human Resources Director or by the Board, the Department Director may increase the employee's salary rate by one additional step in the appropriate salary range or one additional five (5) percent adjustment. If the duration of the employee's acting appointment is for a period greater than twelve (12) continuous months, the Human Resources Director may authorize additional salary increases until the employee reaches the top of the salary range for the class in which he/she is serving the acting appointment.

f. Total Remuneration

No County employee shall receive any pay from a governmental jurisdiction other than that specifically authorized by the Board for the discharge of his/her ordinary duties or additional duties which may be assigned to him/her or which he/she may undertake or volunteer to perform.

Whenever an employee works for a period less than the regularly established number of hours a day, days a week or weeks a month, the amount paid shall be proportionate to the time actually employed.

g. Overtime

Nonexempt employees shall be paid premium overtime pay as allowed under Section 12.2. Overtime shall be confined to necessary essential services. Bona fide executive, administrative and professional employees are exempt from overtime payment.

h. Retention Payments

When a regular employee has completed five (5) years of continuous service in the County as of December 1 of the current year, he/she shall be eligible to receive two and one-half (2 1/2) percent of his/her annual salary for the prior twelve (12) month period based on his/her current base rate of pay. For each additional year of continuous service after five (5), the employee shall qualify for an additional one-half (1/2) of one (1) percent up to and including his/her tenth (10th) year. For all service after ten (10) years, the payment shall continue at the rate established for the tenth (10th) year of five (5) percent.

Employees employed at least half time but less than full time in a continuing position who have completed five (5) years of service in such a position shall be eligible to receive two and one-half (2 1/2) percent of his/her annual salary for the current calendar year based on his/her current base rate of pay. For each additional year of service in such a position, such employee shall qualify for an additional one-half (1/2) of one (1) percent up to and including the equivalent of ten (10) years. For each year of service after ten (10) years in such a position, the payment shall continue at the five (5) percent rate established for the tenth (10th) year.

The retention payment shall be computed on an employee's current salary up to a maximum as provided in the following calculation schedule:

<u>Years of Service</u>	<u>Percent of Annual Salary</u>	<u>Maximum Eligible Salary*</u>
5	2.5	\$16,000
6	3.0	16,000
7	3.5	16,000
8	4.0	16,000
9	4.5	16,000
10	5.0	16,000
11	5.0	17,000
12	5.0	18,000
13	5.0	19,000
14	5.0	20,000
15	5.0	21,000
16	5.0	22,000
17	5.0	23,000
18 and over	5.0	24,000

*Maximum on which retention payment will be computed.

Such retention payment shall be paid in a lump sum on a December payroll.

Any eligible employee, upon retiring from County service, shall be paid a retention payment as of the date of his/her retirement. The retention pay of a deceased employee shall be paid in accordance with 5.2j.

Employees on an approved leave of absence without pay on December 1 are also eligible to receive a retention payment.

Employees on layoff shall receive retention payments at the time December payments are issued.

i. Severance Pay

Employees who have completely severed their employment with the County and accrued paid time off (PTO) will receive their PTO balance and are subject to the severance pay provisions below.

Employees who have completely severed their employment with the County in good standing and accrued vacation and/or sick leave are subject to the severance pay provisions below.

Upon request of the employee, severance shall be paid to the employee who has been laid off or who is receiving County-sponsored Long Term Disability insurance benefits and has not returned to employment with the County. An employee shall not receive in excess of 800 hours severance pay during his/her lifetime. Such severance pay shall be based upon and measured by the unused accumulated sick leave and unused accumulated vacation leave accruing to such employee during Hennepin County employment, to be paid upon complete separation or retirement of the employee from County employment. Such severance pay shall not exceed 800 hours of the unused accumulated sick leave and unused vacation leave which has accrued to the credit of the employee at the date of severance of such employment. Severance pay shall be computed on the basis of the employee's base pay rate in effect on the date of termination or date of request for severance in the event of layoff.

Employees who are discharged from employment for disciplinary reasons shall be ineligible to receive unused accumulated sick leave severance benefits.

For an employee who fails to provide the required advanced written notice of his/her resignation, the County shall: (a) exclude eighty (80) hours of sick leave severance benefits if the employee was required to give a fourteen (14) calendar day written notice of separation, or; (b) exclude one hundred sixty (160) hours of sick leave severance benefits if the employee was required to furnish the County with a twenty-eight (28) calendar day written notice of separation. All severance so forfeited will be included computing maximum lifetime severance accrual and excluded from any hours reinstated upon subsequent return to County service. Those newly employed, rehired or reinstated must complete eight (8) years of continuous County service to become eligible for the accumulated sick leave portion of severance pay. The eligibility regarding years of service shall not apply to employees who die prior to achieving eight (8) years of service with the county.

j. Deceased Employee: Payment of Wages and Severance

All unpaid wages and severance (accrued vacation, sick leave and/or paid time off (PTO), and unpaid prorated retention pay, deferred holiday hours and compensatory time, accruing to date of death of an employee shall be paid, upon request of the decedent's appointed personal representative, in accordance with applicable probate law.

In the case of a married employee who dies, payment of accrued wages of up to twenty thousand dollars (\$20,000) will be made, upon request, to the surviving spouse, provided no personal representative has been appointed, pursuant to Minnesota Statutes, Section 181.58. Any remaining unpaid compensation will be paid to the appointed personal representative. Severance pay (accrued vacation, sick leave and/or PTO), prorated retention pay, deferred holiday hours and accrued compensatory time shall only be paid, upon request, to the deceased employee's appointed personal representative.

k. Compensation Adjustments Ordered by the Human Resources Director

To resolve a grievance or to remedy a situation where the Human Resources Director determines that an employee may have been inappropriately compensated for work assigned or relative to starting salary, the Human Resources Director may order an adjustment to the employee's compensation. Such adjustment will be authorized to the extent the Human Resources Director deems appropriate considering the facts presented and may include a retroactive salary adjustment.

5.3 Employee Life and Medical Insurance

Any employee of the County who is employed at least fifty (50) percent or more time in a continuing position is eligible to participate in the County's life and medical insurance program. Temporary, intermittent, provisional, emergency or seasonal employees are specifically excluded from such participation.

This insurance coverage is provided in accordance with County Board action.

Each employee has the option to insure his/her family under this plan; however, such additional coverage shall be paid by the employee.

5.4 Amendment to the Compensation Plan

The County Board shall consider amendments to the compensation plan at a regular or special meeting. Notice of the proposed amendments shall be posted on the bulletin board of the Human Resources Department and sent to each elected official and Department Director at least seven (7) calendar days before the hearing.

As soon as possible, but not later than one month after the effective date of any amendments to the salary plan, the rates to be paid to employees in positions of any class for which a rate is established or changed shall be adjusted as follows:

An employee in a class where the salary range is adjusted upwards shall receive an adjusted salary bearing the same relation to the minimum and maximum salaries of the employee's former salary immediately preceding the adjustment bore to the minimum and maximum of the former range, except that employees over the maximum of the range shall be adjusted in accordance with Section 5.2c. (3).

SECTION 6

ANNOUNCEMENTS AND EXAMINATIONS

6.1 Announcements

a. Distribution of Announcements

Announcements of all employment opportunities shall be given such publicity as deemed necessary by the Human Resources Director to attract sufficient numbers of qualified applicants. Promotional announcements shall be supplied to each Department Director under whom there are employees eligible to compete. It shall be the duty of each Department Director to post the announcements when received.

Promotional opportunities resulting from reallocation will not require announcement except as determined by the Human Resources Director.

Applicants are solely responsible for knowing what announcements are currently posted in the Human Resources Department office.

b. Announcement Contents

Announcements shall specify the title or working title and salary of the class for which the position is announced. The announcements shall also identify the nature of the work to be performed, the qualifications, the time, place and manner of making application and other pertinent information consistent with the Act and these Rules.

6.2 Eligibility

a. Open Employment Opportunities

Competitive opportunities for original appointment, except as provided in Section 6.8b., to a position in the County service shall be open to all applicants who are citizens of the United States who are eligible and have applied for citizenship or who meet all the requirements for employment as defined by laws or U. S. Bureau of Immigration regulations; and who meet reasonable qualifications or standards fixed by the Human Resources Department that relate to the abilities of candidates to perform the duties of the position efficiently.

b. Promotional Opportunities

Promotional opportunities shall be open to all regular or probationary employees who meet the qualifications for the position and who work in the organizational unit for which the examination is being held.

All employees on layoff lists shall be eligible to compete for promotional opportunities for which qualified.

In accordance with Section 4.4, the incumbent employee who is occupying a position at the time it is reallocated shall be eligible to take a qualifying examination as determined by the Human Resources Director, provided that he/she meets the minimum qualifications as defined in the class specification.

6.3 Applications

a. Forms

Applications for positions with the County must be filed on forms furnished by the Human Resources Department. Applicants must comply with all requirements in any way affecting employment in the positions for which they apply. Applications must be received in the County Human Resources Department (or the department designated on the announcement) by the application deadline indicated on the announcement. The Human Resources Director may require the presentation of certificates of competency, licenses or other evidence of special qualifications when necessary. The application form shall contain a certification by the applicant attesting to the accuracy of the statements made in the application. Should it be determined on a subsequent date that a statement(s) on the application was fraudulent, the applicant will be subject to immediate dismissal.

b. Rejection of Applications

The Human Resources Director may reject applications from persons who are found to lack in any of the requirements established for the position or employment for which he/she applies. The Human Resources Director may reject any applicant who:

1. Has been convicted of any crime which has a direct relationship to the position sought in accordance with Minnesota Statutes, Chapter 364.
2. Has been dismissed or, in lieu of dismissal for just cause, has been allowed to resign from employment.

3. Has made false statements of any material fact.
4. Directly or indirectly shall render or pay or promise to give any money, service or other valuable things to any person in connection with his/her appointment.
5. Practices or attempts to practice any deception or fraud in his/her application, examination(s) or appointment.
6. Has previously abandoned a position with the County (see Section 12.4).

When the Human Resources Director refuses to accept an application or rejects an application at a later date as provided in this Section, the applicant will be given written notice.

6.4 Conditional Admission to Examination

Where doubt exists regarding the applicant's ability to meet the requirements for admission to the examination, the Human Resources Director may authorize conditional admission to the examination pending clarification of the circumstances leading to the conditional admission and subsequent acceptance or rejection of the candidate by the Human Resources Director based on the facts obtained.

6.5 Examination Modification for Applicants With Disabilities

Special examination arrangements shall be made for qualified applicants whose disabilities are so severe that the usual selection process cannot adequately predict job performance unless:

- (1) the test or other selection criteria are shown to be job-related

OR

- (2) alternative or equally job-related tests or selection criteria with the same or less adverse impact are not shown to be available.

Examination facilities and/or procedures may be modified to accommodate such disabled applicants to provide for comparable assessment of essential job skills.

6.6 Postponement or Cancellation of Examination

When the Human Resources Director determines that the best interests of the County would be served, he/she may postpone the last filing date and the date of the examination, or cancel the examination and shall make suitable notice of the action taken.

6.7 Character of Examination

Examinations for positions in the classified service shall determine the qualifications of persons seeking employment in any class. Such examination may consist of any one or a combination of the following: written or oral tests of the subjective or objective type, physical tests, practical or demonstration tests, or evaluation of past training and experience and any other quality, characteristic, attribute, or reasonable requirement which the Human Resources Director deems appropriate. Oral tests, either of the question and answer type or the interview type may be used to test the candidates.

Promotional positions shall have similar experience and education requirements as required for original appointment to positions of the same class.

Examinations for positions in the classified service shall be developed and administered in compliance with Title VII, Civil Rights Act of 1964, as amended, and all applicable state, federal and local laws, regulations and guidelines.

6.8 Alternative Selection Procedures

a. Trainee and Intern Program

Selection of students or other suitable persons to serve as trainees or interns may be noncompetitive when the appointment is to a program established in accordance with Section 14.1. Employment in such position is a noncontinuous temporary appointment for a limited period of time in the unclassified County service. The appointee shall be subject to removal at any time without specifying cause or granting a hearing and shall acquire no tenure in the classified service by virtue of such appointment. Such period of service shall not be counted as part of his/her probationary period should an individual subsequently be appointed to a regular position.

During the training period, the appointing authority will evaluate the applicant's ability to perform the work required in the appropriate class. If, after the training period, the appointing authority attests that the individual is able to satisfactorily perform the work and the Human Resources Director certifies that the individual meets the minimum qualification or reasonable alternative requirements for the class (as determined by the Human Resources Director), the individual's name will be placed on a Trainee and Intern eligible list for the appropriate classification without reference to examination rank. The Human Resources Director may require such individual to take a qualifying exam before placing his/her name on the eligible list. All such qualified individuals may be referred to an appointing authority when a vacancy exists.

b. Acquisition of an Organization, Function or Activity

When the County assumes, in whole or part, the duties, tasks or responsibilities of an outside public or private activity or entity, the Human Resources Director may, for the purpose of staffing these newly assumed duties, tasks or responsibilities, authorize the creation of eligible lists for the appropriate classes in the classified service based upon an eligibility requirement of having performed these duties, tasks or responsibilities for this outside activity or entity. The Human Resources Director may require an individual to take a qualifying exam before placing his/her name on the appropriate eligible list. All such qualified individuals may be referred to an appointing authority to fill the vacancies in the new acquisition area.

c. Certificate or Licensed Occupations

Where a certificate or license is required by the state and/or federal government in order for an individual to work in an occupation, the Department Director may request that a list be established which consists of the names of all applicants who have satisfied such certificate or license requirements. All applicants on such a list may be referred to an appointing authority when a vacancy exists.

6.9 Conduct of Examination

Examinations shall be held at such times and places as most nearly meeting the practicability of administration and the needs of the County. The tests shall be conducted by representatives authorized by the Human Resources Director. All reasonable precautions shall be taken to protect the identity of applicants.

6.10 Scoring of Examination

- a. Appropriate techniques and procedures shall be used in scoring the results of examinations and determining the relative rankings of the candidates. In all examinations the minimum passing score shall be set by the Human Resources Director. All candidates may be required to obtain at least a minimum score in each part of the examination in order to receive a final passing grade or to be scored on the remaining parts of the examination.
- b. The Human Resources Director may announce, in advance of the establishment of an eligible list, the maximum number of candidates who shall have their names placed on the list, or who shall be permitted to compete in any of the separate parts of the examination. Under such procedures those considered as having passed or as being permitted to take the remainder of the examination shall be the set number of candidates scoring highest in the examination or part thereof.
- c. In the case of ties in final scores involving two or more candidates, names shall be placed on the eligible list in alphabetical order and all shall be assigned the same rank, subject to provisions of Section 6.11.
- d. Inadvertent errors shall be corrected in such manner as the Human Resources Director deems reasonable and appropriate considering the costs to the County and the overall impact on the merit process.

6.11 Veterans Preference

In all competitive examinations where candidates are entering County service, names of veterans receiving a passing examination score will be ranked on the eligible list in order of their final score with the addition of preference points as provided in Minnesota Statutes, Section 197.455. Qualifying disabled veterans will have ten (10) preference points added to their examination rating and nondisabled veterans may claim five (5) preference points. In the event of tie scores, where one of the candidates is a veteran, the veteran will be placed ahead of the nonveteran on the eligible list.

In promotional examinations, a disabled veteran may claim a five (5) point preference. Such preference will be granted only to the first promotion after receiving County employment and only to employees who document a permanent, service-connected disability rated at 50% or more. Rank on the eligible list shall be determined by the combination of the examination score plus the five (5) preference points approved. In the event a veteran's score with preference points added is the same as a nonveteran's score, the name of the veteran shall be placed ahead of the nonveteran on the eligible list.

6.12 Notification of Results

All persons competing in any examination shall be given written notice of their examination results including scores where utilized. The examination papers and records of scores of candidates shall be held as official records of the department in compliance with the Minnesota Data Practices Act.

Explanations of the methods by which the scores were determined shall be provided.

6.13 Examination for Employees Returning from Military Leave

When a promotional examination for a class has been given during the absence on military leave of a regular or probationary employee eligible to take such examination, such employee shall have the right to take the promotional examination for such class, provided application is made to the Human Resources Director within thirty (30) days from the date of return of the employee and the eligible list is still in effect. The employee shall be given the same or equivalent examination as given at the original promotional examination. If the employee attains a final score of passing or above, his/her name shall be placed on the promotional eligible list in the same manner as though the original promotional examination had been taken. If the employee attains a final score higher than the lowest ranking person certified to an appointing authority from the original promotional list, the name of the employee shall be certified to the Department Director who may appoint him/her to a position which has already been filled by a person appointed from the original promotional list. An employee so displaced shall have his/her name restored to the eligible list and shall be restored to a position in the class held prior to the promotion or to an equivalent class.

6.14 Medical and Psychological Examinations

a. Pre-employment

Prior to the appointment to a position in the County service, an applicant may be required to take a medical and/or psychological examination to determine his/her ability to perform the duties of the position. The County's examining authority must certify the applicant is qualified to perform the duties of the position to be filled.

b. Fitness for Duty

Periodic medical and/or psychological examinations may be required of employees. An employee may also be required to participate in a medical and/or psychological examination when it is in the best interest of the County. The Human Resources Director or his/her designee shall designate the examining authority to perform such examination and the County shall bear the cost of such examination. The examining authority shall certify to the employee's ability to perform the duties of the current position held.

Should the examining authority certify that the employee is not able to perform the duties of the current position within the limits of these Rules and the employee's medical and/or psychological condition; the appointing authority, the employee, the Human Resources Director and/or their designee(s) shall, through a cooperative effort, make an attempt to place such employee in gainful employment within the County. This effort may include placement, through competitive examination, transfer, reassignment, demotion, alternative placement or other procedure provided within these Rules, in an existing position, a redesigned position or a newly created position. If such employee is unable to qualify for a position in an existing classification, is unwilling to accept a suitable offered position, demonstrates a lack of cooperation in seeking employment, or if a suitable position is not available and/or cannot be reasonably created, he/she shall be placed on leave, layoff or terminated in accordance with these Rules.

SECTION 7

ELIGIBLE LISTS

7.1 Purpose of Eligible Lists

The Human Resources Director shall establish and maintain eligible lists necessary to carry out the intent of the Human Resources Act and these Rules.

Eligible lists shall be established by class of employment and shall be Countywide in application except where these Rules or action of the Human Resources Director specifically provide for the establishment of lists by organizational unit.

7.2 Types of Lists

a. Organizational-Unit Layoff List

An organizational-unit layoff list shall contain the names of regular employees laid off from the class of employment in the organizational unit from which the list was established. Names shall be placed on the layoff list in the order of seniority as determined under the provisions of Section 10.3 and Section 11.1.

b. Countywide Layoff List

A Countywide layoff list shall contain the names of regular employees ranked in order of seniority in accordance with Section 10.3 who are eligible to fill vacant positions outside their organizational unit and in the class from which laid off.

c. Alternative Placement List

Alternative placement lists shall contain the names of regular employees ranked in order of seniority in accordance with Section 10.3 and who have been determined by the Human Resources Director to be qualified to be appointed to a vacant position in an alternative classification.

d. Organizational-Unit Promotional List

Promotional lists shall consist of the names of all persons employed in the organizational unit who have passed the promotional examination for the class for which the list was established. Names shall be placed on a promotional list in the order provided by Section 6.10 and 6.11.

e. Countywide Promotional List

Countywide promotional lists shall be established by class of employment and shall consist of the names of all persons employed by the County in an eligible class who have passed a promotional examination for the class for which the County-wide promotional list is established. Names shall be placed on the Countywide promotional list in the order provided by Sections 6.10 and 6.11.

f. Open Competitive List

Each open competitive list shall be established by class of employment and shall consist of a list of names of all persons who have passed the examination for the class for which the open competitive list is established. Names shall be placed on an open competitive list in the order provided by Sections 6.10 and 6.11.

7.3 Duration of Eligible Lists

The Human Resources Director shall determine the period during which promotional or open competitive lists shall remain in effect, but this period shall not exceed three (3) years. When an eligible list exists for any class and the Human Resources Director deems it necessary to establish another such list for the same class, the existing list may be cancelled. However, candidates on such list shall be notified of such action and be given the opportunity to apply for the new examination. In the event the existing list is not cancelled, names of eligible candidates thereon shall be merged with the newly established list. Such eligibles shall not remain on the list concerned in excess of three (3) years.

The eligibility of individual names placed on organizational-unit layoff lists, Countywide layoff lists or alternative placement lists shall expire after one (1) year; however, the Human Resources Director may extend such eligibility for an additional period or periods provided that no such extension shall continue the name of any individual on such lists beyond three (3) years.

7.4 Statement of Availability

When a candidate submits a statement restricting the conditions under which he/she will be available for employment, his/her name shall be withheld from all certifications which do not meet the specified conditions. A candidate may file a new written statement of availability at any time during the duration of an eligible list modifying any previous statement of conditions under which he/she is available for employment.

7.5 Removal of Names from Eligible Lists

In addition to other causes stated in Sections 6.3b. and 6.14, the Human Resources Director may remove names from eligible lists permanently or temporarily for any of the following reasons:

- a. Appointment through certification from that eligible list to fill a regular position.
- b. The candidate fails to report for duty at the time set by the appointing authority.
- c. The term of the candidate's eligibility on the eligible list expires.
- d. In the case of organizational-unit promotional lists, the candidate is appointed or transfers to another organizational unit.
- e. In the case of promotional lists, the candidate terminates from the County service.
- f. The former employee has been dismissed or, in lieu of dismissal for just cause, has been allowed to resign from employment.
- g. The employee refuses recall from an organizational-unit or Countywide layoff list in accordance with Section 8.3a.
- h. The employee refuses recall from an alternative placement list.
- i. The candidate fails to maintain a record of current address with the Human Resources Department.
- j. The eligible candidate fails to respond within five (5) days to a written inquiry or two (2) days to an email inquiry from the Human Resources Director or appointing authority relative to availability for appointment.

- k. The candidate declines an appointment under such conditions as the candidate previously indicated he/she would accept.
- l. The candidate who on five (5) separate vacancies has been referred and considered or declined to interview.
- m. Refusal to take a drug and/or alcohol test after conditionally being offered employment.
- n. Upon a positive drug/alcohol test result in a confirmatory test (without a valid medical reason), the applicant's name will be removed from all eligible lists and the individual may be disqualified for up to five (5) years from applying for employment in the classified service with Hennepin County.
- o. Following a conditional offer of employment, the candidate who fails to meet the standard for a required medical, psychological, drug and alcohol and/or background investigation.

7.6 Restoration of Names to Eligible List

- a. An eligible candidate whose name is removed from an eligible list as provided above may make a written request to the Human Resources Director for the restoration of his/her name to such list for the duration of that list. Such request shall set forth the reasons for the conduct resulting in removal of the name from the list and shall further specify the reasons for restoration of the name to the list. The Human Resources Director, after consideration of the request, may restore the name to the eligible list or may refuse such request. The candidate shall be notified of the Human Resources Director's action.
- b. Upon written request of the appointing authority, a former employee reinstated in the County service, shall have his/her name restored to any existing Countywide or organizational-unit promotional list from which it was removed because of separation from the County.
- c. Upon transfer or appointment to the jurisdiction of a new appointing authority, an employee whose name has been removed from an organizational-unit promotional list may petition to have his/her name placed on the new organizational-unit promotional list by making written application to the new appointing authority and the Human Resources Director. Upon approval by the new appointing authority and the Human Resources Director, such eligibility remains in effect for the duration of the list from which the name was removed.

SECTION 8

APPOINTMENTS AND TRANSFERS

8.1 Request to Fill Vacancies

When an appointing authority wishes to fill a position, a requisition for an employee shall be submitted to the Human Resources Director on the prescribed form. The form shall provide for a description of the position, qualifications, the kind of appointment the appointing authority wishes to make and such other information as may be pertinent.

8.2 Procedure for Filling Vacancies

On receiving a request for an employee the Human Resources Director shall certify the proper number of names from the appropriate eligible list or authorize another type of appointment as provided for in these Rules. Where an organizational-unit layoff list, Countywide layoff list or alternative placement list exists for the class, no other type of appointment may be authorized. No appointment except an emergency appointment shall be made without such certification or prior authorization. If a regular position is to be filled, certification shall first be made from the appropriate organizational-unit layoff list. If no such list exists, the Human Resources Director shall certify from the Countywide layoff list.

If neither such list exists, the Human Resources Director shall certify from the appropriate alternative placement list. If certification is to be made from any of these lists and the position to be filled is in a bargaining unit having an exclusive representative, names of employees from that bargaining unit and previous employees who retain seniority rights in the unit shall be certified first from the appropriate eligible list. If the position is not included in such a bargaining unit, names of employees not exclusively represented by a bargaining unit shall be certified first from the appropriate eligible list. In the absence of these lists, the Human Resources Director shall certify from the organizational-unit promotional list. In the absence of any of these lists, the certification shall be made from the appropriate eligible list taking into consideration any request made by an appointing authority regarding the list to be used.

If a Department Director submits specific written statements that the County's interest would be served by certification from some list other than the organizational-unit promotional list and the Human Resources Director finds that there are significantly better qualified persons on other eligible lists, names may be certified from some other eligible list. However, each instance in which an appointment is made under the provisions of this paragraph shall be reported to the Board.

8.3 Certification of Eligible Candidates

a. Order of Certification

Names shall be certified from lists in the following order: the organizational-unit layoff list, the Countywide layoff list and the alternative placement list, except as provided in Section 10.8.

In the absence of these lists, certification must be made from the organizational-unit promotional list except for temporary appointments or regular appointments made by rehire, transfer or demotion. If there is no organizational-unit promotional list or if such list is incomplete, certification may be made from the Countywide promotional or open competitive eligible lists.

For referral from eligible lists, the first twenty (20) candidates on such list shall be certified except as provided in Sections 6.8a., 6.8b., 8.3g. and 10.8. County employees and veterans ranked in the top seven shall be contacted and, if available, interviewed for open competitive and promotional certifications with the exception that an appointing authority need not reinterview a candidate that has interviewed with the appointing authority for the same class in the last ninety (90) days. Inadvertent errors shall be corrected in such manner as the Human Resources Director deems reasonable and appropriate considering the costs to the County and the overall impact on the merit process. More than twenty (20) names may be certified to fill a vacancy when extreme or unique conditions exist and the Board, by six-sevenths (6/7) approval, authorizes such action. Veteran's Preference will be granted to eligible candidates under Minnesota Statutes, Section 197.45.

Where a requirement of special qualifications is specified by the appointing authority in his/her written request and the Human Resources Director is satisfied that the facts and reasons specified warrant such action, certification may be limited to eligible candidates possessing the special qualifications.

b. Expanded Certification

When the Human Resources Director determines that there is significant underrepresentation by race and/or sex in the class in the department where the vacancy exists and where the first twenty (20) candidates do not include a member of the significantly underrepresented group(s), the Human Resources Director shall add the highest ranking available individual from that group(s) to the list of candidates certified.

c. Concurrent Certifications

In referral from open competitive examination eligible lists, groups of candidates shall be certified to vacancies in order of receipt of requisitions, with due regard for the rights of eligible candidates standing highest on the list; provided that this Section shall not require simultaneous certifications of the same name on more than two (2) different certifications made within a thirty (30) calendar day period.

d. Incomplete Certification

When the number of names available for filling any vacancy is fewer than twenty (20), except in the case of certification from the appropriate layoff list or an alternative placement list, the appointing authority may decline certification for that vacancy and proceed to fill the vacancy in any other manner provided by these Rules.

e. Certification from Related Lists

Names may be certified from eligible lists for higher classes to vacancies occurring in lower classes or from eligible lists for one class to vacancies in another class where it has been determined the examination reasonably measures the ability of the eligible candidates to perform the duties in the class to which the certification is made.

f. Withdrawal of Certification

In the event an appointment is not reported within thirty (30) days of the date of certification, the Human Resources Director may withdraw such certification.

g. Order of Certification for Reallocated Positions

A present incumbent in a position which has been reallocated shall be certified provided that he/she received a passing score in the required examination process. In such certification, the appointing authority may elect to interview only the incumbent.

8.4 Regular Appointments from Eligible Lists

Vacancies in positions in the classified service having a duration in excess of six (6) calendar months shall be filled by appointment by certification from the eligible lists except as otherwise provided in these Rules.

a. Trainee and Intern Appointments

When a Trainee and Intern list exists for a classification, that list may be referred to the appointing authority in addition to or as an alternative to those certified in accordance with Section 8.2.

b. New Acquisition Appointments

When an eligible list for a classification exists based on the acquisition of an organization, function or activity, the list may be referred to the appointing authority in addition to or as an alternative to those certified in accordance with Section 8.2. All individuals transferred to the classified service under this Section will be required to serve the probationary period stated for the class.

c. Certificate or Licensed Occupation Appointments

When a Certification/Licensed Occupation list exists for a classification, the appointing authority may ask for the entire list to be referred so that he/she may select up to twenty (20) individuals to be interviewed.

8.5 Appointment of Grant Incumbent(s) to the Classified Service

The Human Resources Director, at the written request of the appointing authority, may authorize the appointment to a vacant position in the classified service of an incumbent grant employee who meets the minimum job requirements, passes the qualifying examination and who has successfully served at least two (2) years in a related grant position as certified by the appropriate appointing authority.

8.6 Acting Appointment

An acting appointment of an employee may be made by an appointing authority following notification to the Human Resources Director for a period of forty (40) or more continuous regular hours to carry out the duties and responsibilities of a position in a different classification where the position is vacant, where the incumbent is absent or where the Department Director needs to assign such duties and responsibilities to an existing position for a limited period of time to accomplish some special project which is beyond the scope of the current classification. An acting appointment shall not exceed six (6) calendar months unless approved by the Human Resources Director and shall not exceed eighteen (18) calendar months without the approval of the Board.

8.7 Temporary Appointments

Employment in a temporary appointment is for a limited period of time in the unclassified County service. The appointee shall be subject to removal at any time and shall acquire no tenure in the classified service by virtue of such appointment. Such period of service shall not be counted as part of his/her probationary period should an individual subsequently be appointed to a regular position. When the position involved is filled by a current employee in another classification, such employee shall be compensated at the rate of pay for the appropriate temporary class, but all other benefits shall be computed on the basis of the primary class to which the employee is assigned. Seniority of a regular employee employed in a temporary appointment shall continue to accrue in the employee's primary class; no seniority shall be gained in the temporary appointment class.

a. Grant Appointment

When practical, grant appointments should be made from eligible lists, however, the Human Resources Director may authorize appointment of an individual(s) selected by the appointing authority. Duration of employment in grant positions is limited by the terms of the grant.

b. Seasonal Appointment

The Human Resources Director may authorize appointment of an individual(s) selected by the appointing authority. Employment in any twelve (12) month period is limited to nine (9) months.

c. Limited Duration Appointment

When practical, limited duration appointments shall be made from eligible lists, however, the Human Resources Director may authorize a limited duration appointment of an individual selected by the appointing authority.

8.8 Transfers

- a. With ten (10) days' notice, an employee may transfer to a position in the same class in a different organizational unit established in accordance with Section 10.2 with the approval of the new appointing authority, the Human Resources Director and the employee. Transfer of an employee from a position in one class to a position in another class of comparable level may occur only if the Human Resources Director certifies that the employee transferred possesses satisfactory qualifications and that such transfer is in the best interest of the County.

- b. The Human Resources Director may make arrangements with other employers for the purpose of transferring individuals with current status as employees or those who are eligible for rehire with that employer. In any case of transfer, the Human Resources Director shall determine that the employee transferring to the County service possesses qualifications equal to those required for the class in which the employee will be employed. The Human Resources Board shall be advised at a Board meeting of the proposed appointment and the reason(s). Such transferred employees shall be granted all the privileges of other employees in the classified service and shall be required to serve the probationary period stated for the class. Except where legislated, no benefits from employment in other jurisdictions may be transferred to the County.
- c. When an employee in the classified service accepts a position in the unclassified service, he/she shall retain tenure in the classified service in the organizational unit and in the class held prior to the appointment.

8.9 Employment of More Than One Family Member

More than one family member may be employed within a single organizational unit provided that they may not work where one family member will supervise another family member. Any exception to this Rule must be approved by the Human Resources Director.

Where one family member may significantly influence the work or working conditions of another family member, the Department Director's approval will be required to permit that working/employment relationship. Family shall mean spouse and children, siblings, parents and parents of spouse.

SECTION 9

PROBATIONARY PERIOD

9.1 Objective

The probationary period shall be regarded as an integral part of the qualifying process and shall be utilized for closely observing the employee's work for securing the most effective adjustment of a new employee to his/her position and for rejecting any employee whose performance does not meet the required work expectations such as demonstrating a positive work attitude and the ability to learn; following work rules, methods, policies, and/or procedures; and the attainment of work objectives and/or standards.

9.2 Duration of Probationary Period

Transfer and regular appointments shall be tentative and subject to a probationary period determined by the Department Director and the Human Resources Director, not to exceed twelve (12) months unless approved by the Board. Upon joint agreement by the employee, the Department Director and the Human Resources Director, an individual's probationary period may be extended by one additional period. Any interruption of service during the probationary period shall not be counted as part of the probationary period.

Former regular employees appointed from an organizational-unit layoff list or Countywide layoff list shall not be subject to a probationary period. Upon written request of the appointing authority, citing the reasons why it is in the best interests of the County, the Human Resources Director may waive the probationary period of a transfer appointment consistent with these rules and applicable law.

Time served in temporary or acting appointment positions shall not be considered as part of the probationary period.

9.3 Dismissal During Initial Probationary Period

A probationary employee may be dismissed at any time without specifying cause or granting a hearing (see Section 17.3.). Dismissal actions affecting a probationary veteran will be processed in accordance with Minnesota Statute 197.46.

9.4 Promotion During Initial Probationary Period

An employee who is promoted prior to completion of his/her probationary period to a higher position shall not attain regular status until he/she completes the probationary period for the higher position or is returned to his/her previous class and completes a new six (6) month probationary period.

9.5 Unsuccessful Performance During Promotional Probationary Period

If at any time during the probationary period of a promoted regular employee an appointing authority determines that the employee's conduct or performance does not meet work expectations, he/she may return the employee to a position in his/her former class without right of appeal except that no employee serving a probationary period following his/her promotion shall be involuntarily returned during the first thirty (30) days of the probationary period except for just cause.

9.6 Transfer During the Initial Probationary Period

An employee who transfers prior to completion of his/her initial probationary period shall be required to serve a new probationary period in the new organizational unit or a comparable job class before attaining regular status.

An employee who transferred prior to completion of his/her initial probationary period and whose conduct or job performance after transfer does not meet work expectations may be dismissed at any time. Dismissal actions affecting a probationary veteran will be processed in accordance with Minnesota Statute 197.46.

9.7 Unsuccessful Performance During the Transfer Probationary Period

If at any time during the probationary period of a transferred regular employee, an appointing authority determines that the employee's conduct or performance does not meet work expectations, the employee shall be returned to a position in the classification and organizational unit from which he/she was transferred; however, a probationary employee who has been transferred shall not be returned during the first thirty (30) calendar days of a probationary period except for just cause.

9.8 Unsuccessful Performance During the Demotion Probationary Period

A demoted regular employee whose performance does not meet the appointing authority's work or conduct expectations may be dismissed for just cause. The employee would have the right to appeal the dismissal in accordance with Human Resources Rule 17.3.

9.9 Demotion During the Initial Probationary Period

Any employee who is demoted during the initial probationary period shall be required to serve a new probationary period in the lower class. Should the employee be unsuccessful in meeting the work expectations of the lower class or his/her conduct be found unacceptable by the appointing authority, he/she shall be dismissed. The appointing authority does not need to specify cause or grant a hearing, except for veterans as provided by Minnesota Statute 197.46.

9.10 Certification After Probation

Upon written notice submitted prior to the expiration of the employee's probationary period, the appointing authority shall certify whether the probationer's work performance and conduct are worthy of appointment to regular status. The appointing authority shall provide a copy of the notice to the employee and the Human Resources Director. Should the employee not be terminated by the appointing authority prior to the expiration of the probationary period, the employee shall be granted regular status.

SECTION 10

RESIGNATION AND LAYOFF

10.1 Resignation

An employee may resign from County employment by presenting his/her resignation in writing to the appointing authority. To resign in good standing, a nonexempt employee must give the appointing authority at least fourteen (14) calendar days prior notice. In exempt classifications, to resign in good standing, an employee must give the appointing authority at least twenty-eight (28) calendar days prior notice. The appointing authority may waive the required written notice when it is deemed to be in the best interest of the County. A copy of the resignation shall be supplied by the appointing authority to the Human Resources Director. Upon approval of the appointing authority, an employee may withdraw his/her resignation at any time before the employee's final working day.

Any employee who is deemed to have resigned his/her position on the basis of absence without leave (see Section 12.4) shall be considered to have not resigned in good standing.

10.2 Organizational Unit

A Department Director may propose subdivisions of his/her organization into units for purpose of employment or layoff by submitting to the Human Resources Director a written plan for such subdivisions together with the reasons therefor. The Human Resources Director shall consider such proposal for compliance with the Rules and the Law and may authorize organizational units within the organization. The appointing authority shall post a copy of such notices or shall distribute copies to notify affected employees of the establishment of such unit.

The Human Resources Director may cancel established organizational units upon notice to the Department Director at any time such action is deemed to be in the best interest of the County service.

10.3 Seniority

- a. Seniority for purposes of layoff or recall shall be the employee's length of service with the County as determined by the most recent date of employment or rehire except as provided by Section 11.3. Seniority shall be retained and continue to accrue in case of a noncompensated absence or layoff of a regular employee.

- b. Where it is determined that two or more persons have equal seniority, seniority in such cases shall be in order of the date of acquisition of regular status in the class from which layoff is to occur or has occurred. If the tie cannot be broken by this method, seniority will be determined by lot.

10.4 Limited Interruption of Employment

Any interruption of employment, not in excess of fifteen (15) calendar days, because of adverse weather conditions, shortage of materials or equipment, energy emergency, shortage of work or funds or for other unexpected or unusual reasons, shall not be considered a layoff.

10.5 Layoff

The Department Director may lay off an employee in the County service by reason of abolition of position, shortage of work or funds, or other reasons outside the employee's control which do not reflect discredit on the service of the employee. Layoff for the inability of the employee to perform the work due to health reasons is set forth in Rule 12.13a.

The duties formerly performed by the laid off employee may be assigned to other regular County employees who hold positions in appropriate classes.

10.6 Order of Layoff

Except in the instance where senior employees are not qualified to perform remaining work duties, layoff of a regular employee shall be made by class and organizational unit in inverse order of seniority. A senior employee in the affected class and organizational unit may request in writing to be laid off before other less senior employees in the affected class and organizational unit; such requests may be granted by the appointing authority. No regular employee shall be laid off from any position while any temporary appointee is continued in a position of the same class in the organizational unit involved.

10.7 Layoff Notice

In every case of layoff of a regular employee, the appointing authority shall at least five (5) days before the date thereof, give written notice to the employee and the Human Resources Director and certify to the Human Resources Director the reasons for such layoff.

In any case where an appointing authority refuses to certify, or fails to certify before the effective date of such layoff, that the layoff was for reasons not reflecting discredit on the employee, it shall be deemed a dismissal and shall be subject to the provisions of Section 17.3.

In the case of temporary appointments, the appointing authority may indicate to the employee and the Human Resources Director at the time of appointment the approximate date of working conditions that will cause termination of employment and such notice shall be considered to meet the requirement of this Section.

10.8 Recall from Layoff

Except in those instances where senior employees are not qualified to perform remaining work duties, recall from layoff shall be in order of seniority in accordance with Sections 10.3 and 8.2. The employer shall notify the employee of recall from layoff by certified mail sent to the employee's last known address as shown by the employer's records except when the employee is present at the work site to receive notice. It is the responsibility of the employee to notify the Human Resources Department of any change in address. Failure to report for work upon recall from an organizational-unit or County-wide layoff list shall be deemed a resignation effective the date established for the employee's return to work.

10.9 Transfer in Lieu of Layoff

Any regular employee about to be laid off shall have the option within the organizational unit to replace any employee with less seniority in the next lower class or any other class in which he/she previously served. In such event, the name of the employee who transferred in lieu of layoff shall be placed on an appropriate layoff list.

10.10 Voluntary Transfer

With the consent of the affected employee and with the approval of the Human Resources Director, an appointing authority may transfer a regular employee to a lower class where the employee meets the education and experience requirements or to a class where the employee had obtained regular status. No employee so transferred shall displace a regular employee except in order of seniority as determined under this Section. An employee so transferred shall have his/her name placed on the appropriate layoff list unless the employee is voluntarily transferred prior to layoff.

The transferred employee's salary shall be established in accordance with Section 5.2c

SECTION 11

RETURN FROM LEAVE AND REHIRE

11.1 Return from Leave of Absence

In accordance with the Act and these Rules, an employee granted a leave(s) of absence of one hundred and eighty (180) calendar days in any twelve (12) month period or less must be returned to employment at the expiration of the leave(s) within the class in which the employee served at the time the leave(s) commenced. An employee who desires to return to employment before the previously agreed upon return date for the leave of absence shall notify the appointing authority and the Human Resources Director in writing; however, if no vacancy exists, the employee will be returned to employment within his/her class at the next available vacancy in his/her organizational unit or upon the expiration of the leave(s); whichever occurs first.

When a leave(s) of absence has been granted in excess of one hundred and eighty (180) calendar days in any twelve (12) month period, the position may be left vacant or filled, and the name of the employee on leave of absence shall be placed on the layoff eligible list at the termination of the leave(s); such employee shall have no right to exercise the option provided in Section 10.6 or 10.9. In the situation where the class he/she occupied has been abolished, the employee's name may be placed on appropriate alternative placement list(s).

An employee may be returned to his/her employment at any time prior to the expiration of the leave(s) by the action of the appointing authority who shall file written notice of such action with the Human Resources Director.

11.2 Rehire After Resignation

Subject to verification of previous employment by the Human Resources Director, an appointing authority may rehire a former probationary or regular employee who terminated in good standing. Rehire may be to a position in his/her former class, a lower class in the same job series, or to a class for which he/she meets the minimum qualifications. No former employee shall be rehired as provided in this Section if a layoff or alternative placement list exists for the class. Upon rehire the appointing authority may require that the employee serve a probationary period but shall notify the employee when such probationary period is required.

11.3 Restoration of Seniority

Rehired employees shall have their seniority for purposes of layoff and recall from layoff determined from the date of rehire.

11.4 Restoration of PTO Accrual

Rehired employees will receive PTO accrual rate credit for prior service in accordance with Section 12.7 of the Human Resources Rules.

11.5 Restoration of Vacation Accrual

Rehired employees will receive vacation accrual rate credit for prior service in accordance with Section 12.8 of the Human Resources Rules.

SECTION 12

HOURS OF WORK AND LEAVES OF ABSENCE

12.1 Hours of Work

Eight (8) hours of work shall constitute a normal work shift, and eighty (80) hours a normal payroll period. The appointing authority shall determine the employees' actual work schedule and lunch break consistent with the Rules and may change such schedule at any time. Employees shall normally be granted two rest periods limited to fifteen (15) minutes each in an eight (8) hour work shift.

All nonexempt employees shall be paid at an hourly rate for actual hours worked. Necessary essential services which are required beyond the normal work period shall be compensated for by premium overtime pay as allowed under Section 12.2. Special Leave Without Pay (SLWOP) and all paid leave hours except sick leave hours shall be considered time worked for the purposes of computing premium overtime pay.

12.2 Overtime

- a. Each Department Director requiring or permitting work beyond the normal work week shall prepare written regulations governing the use of overtime. These regulations shall be approved by the Human Resources Director and the County Administrator and shall include the following:
 - 1) Conditions under which cash payment for overtime is authorized.
 - 2) Conditions under which compensatory time off for exempt employees may be accrued, used or cancelled.
 - 3) For exempt employees the conditions under which neither compensatory time off nor overtime cash payment will be allowed.
 - 4) No compensatory time off or cash payment for overtime worked ordered by the appointing authority or voluntarily performed by the employee shall be allowed unless regulations are effective as provided herein.

b. General Overtime Policy

1) Nonexempt Employees

For all employees who are not exempt from the provisions of the Minnesota and Federal Fair Labor Standards Act, overtime pay shall be granted only for hours worked with prior approval of the appointing authority. Such overtime hours shall be paid at the premium rate of one and one-half

(1½) times the regular hourly rate for all time worked in excess of forty (40) hours in any work week. With the agreement or understanding of the employee, the equivalent in compensatory time (1½ hours for each overtime hour worked) can be used in lieu of overtime cash payment. Overtime shall be confined to necessary essential services.

2) Exempt Employees

All bona fide professional, administrative and executive employees who are exempt from the provisions of the Minnesota and Federal Fair Labor Standards Act shall not receive overtime or compensatory time off except where prior approval is granted by the appointing authority consistent with the department's approved overtime plan. In such cases, the exempt employee may receive overtime pay or time off in accordance with the applicable overtime plan or labor contract.

c. Public Safety

Bona fide law enforcement employees are exempt from certain provisions of the Minnesota and Federal Fair Labor Standards Act.

12.3 Holidays

a. Holidays

The following days are legal holidays for eligible employees. Work performed on a legal holiday shall be compensated at a premium rate of one and one-half (1 1/2) times the regular hourly rate for employees in nonexempt classifications and in exempt classifications as specified in the approved departmental overtime plan.

These are:

- | | | |
|-----|------------------------|---|
| 1. | New Year's Day | January 1 |
| 2. | Martin Luther King Day | The third Monday in January |
| 3. | Presidents' Day | The third Monday in February |
| 4. | Memorial Day | The last Monday in May |
| 5. | Independence Day | July 4 |
| 6. | Labor Day | The first Monday in September |
| 7. | Veterans Day | November 11 |
| 8. | Thanksgiving Day | The fourth Thursday in November |
| 9. | Thanksgiving Friday | The Friday immediately following Thanksgiving Day |
| 10. | Christmas Day | December 25 |

Employees who are required to work on one of the above mentioned days shall be granted equal time off or payment for time worked with the approval of the appointing authority.

For those employees that work a Monday through Friday schedule, when a legal holiday falls on Sunday, the following day (Monday) shall be considered the holiday day off for employees. When a legal holiday falls on Saturday, the preceding day (Friday) shall be considered the holiday day off for employees.

Only work performed on the legal holiday shall be compensated at a premium rate of one and one-half (1 1/2) times the regular hourly rate for employees in nonexempt classifications and in the exempt classifications as specified in the department overtime plan. An employee, regardless of his/her work schedule, shall receive the same number of holidays as an employee whose regular work week is Monday through Friday.

b. Additional Holiday

The last work day immediately preceding Christmas (Christmas Eve) shall be observed and considered a holiday for all eligible employees subject to the following conditions. In those offices which must remain open to the public for the performance of public business, the appointing authority shall designate a sufficient number of employees to maintain the continuity of County operations on such day. Work performed on the Christmas Eve holiday shall be compensated on a straight time basis except where payment is allowed under Section 12.2; the appointing authority shall thereafter grant compensatory time to those employees who were required to work on the Christmas Eve holiday. Where Christmas falls upon a Saturday, the Christmas Eve holiday shall be observed on the Thursday preceding the Friday designated as the Christmas Day holiday. When Christmas Day falls upon a Sunday or Monday, the Christmas Eve holiday shall be observed on the Friday preceding such Sunday or Monday.

Holidays which occur within an employee's vacation, sick leave or paid time off (PTO) period will not be chargeable to the employee's vacation, sick leave or PTO time.

Employees may observe a religious holiday on days which do not fall on Sunday or a legal holiday. Observance of such religious holiday shall be taken off without pay except where the employee has accumulated PTO, vacation, deferred holiday or compensatory time hours and in that case such religious holiday may be charged against such leave accumulations at the option of the employee.

The appointing authority will arrange to have the employee work an equivalent number of hours to the hours taken for such holiday if arrangements can be made for the employee to work another day. The employee must notify the supervisor at least ten (10) days in advance of the religious holiday of his/her intent to observe such holiday. The supervisor may waive this ten (10) day requirement if he/she determines that absence of such employee will not substantially interfere with the department's function.

- c.** Trainee, seasonal, or limited duration employees shall be entitled to all holidays and leave days with pay listed in this plan if meeting the requirements specified in Rules 12.3d. and e.

- d. For the purpose of determining eligibility for holiday, an employee must be on paid status with the County and not on a leave of absence without pay.
- e. Employees must regularly work one-half (1/2) time or more per payroll period to be eligible to be compensated for holidays or other leave days listed in this section. Employees who work at least one-half (1/2) time but less than full time will be compensated for such days based on average hours for the previous quarter.

12.4 Absence Without Leave

Any absence of an employee from duty that is not authorized by specific grant of leave of absence under the provision of these Rules shall be deemed to be absent without leave. Any such absence shall be without pay and may be grounds for disciplinary action. In the absence of such disciplinary action, any employee who is absent for three (3) consecutive days without authorized leave shall be deemed to have resigned (abandoned the position) but such absence may be covered by subsequent grant of leave without pay in accordance with Sections 12.16 and 12.18.

12.5 Absence Because of Illness or Injury for Which Compensation is Paid Through Worker's Compensation Benefits

Any employee who by reason of sickness or injury receives worker's compensation benefits may do either of the following:

- a. Keep the worker's compensation benefits and receive from the County additional differential benefits from accumulated sick leave, vacation leave or other accumulated leave time; or
- b. Keep the worker's compensation benefits only.

In no case may the total weekly rate of compensation exceed the regular wage of an employee.

12.6 General Regulations Governing Leaves of Absence With Pay

So far as practicable, approval of leave shall be made prior to the beginning of the periods of absence and no payment for any absence shall be made until the leave is properly approved.

Deduction from leave accumulations for an employee on leave with pay shall be made on a working day basis, and no charge shall be made from leave accumulations for holidays or nonwork days during a period of leave with pay.

Accrual of vacation leave, sick leave and paid time off (PTO) during the period of leave of absence with pay shall continue. If the employee is granted additional leave without pay, he/she will not be credited with vacation, sick leave or PTO accruals for the period of leave without pay.

The County shall maintain records of vacation, sick leave, PTO and overtime accrued and used by each of their employees. In case of dispute of the accuracy of the records, the decision of the Human Resources Director shall be final.

Each employee will be given a statement of vacation and sick leave or PTO at least once a year.

Trainee, seasonal, or limited duration employees shall not be considered entitled to benefits listed within these Rules except as provided in the Compensation plan.

Individuals employed and funded by a grant may also be eligible for and subject to the other provisions of this Section (12).

12.7 Paid Time Off

Paid Time Off (PTO) is a bank of flexible leave that does not distinguish reason for use.

a. PTO Schedule 1

Employees hired or reinstated on or after October 16, 2005, in departments that have adopted PTO, shall earn PTO proportionately to the compensated years and consistent with PTO Schedule 1 accrual rates:

PTO Schedule 1

<u>Time Since Most Recent Date of Hire</u>	<u>Annual PTO Accrual Rate</u>
More than zero (0) months but less than five (5) years	20 days
More than five (5) years but less than eight (8) years	23 days
More than eight (8) years but less than twelve (12) years	26 days
More than twelve (12) years but less than eighteen (18) years	28 days
Over eighteen (18) years	31 days

Unused PTO hours, which have accrued to the credit of the employee, may be accumulated to a maximum of sixty (60) days (480 hours).

b. PTO Schedule 2

Employees hired prior to October 16, 2005, in departments that have adopted PTO, may select an irrevocable option to convert to PTO and shall earn PTO proportionately to compensated years and consistent with Schedule 2 accrual rates:

PTO Schedule 2

<u>Time Since Most Recent Date of Hire</u>	<u>Annual PTO Accrual Rate</u>
More than zero (0) months but less than five (5) years	22 days
More than five (5) years but less than eight (8) years	25 days
More than eight (8) years but less than twelve (12) years	28 days
More than twelve (12) years but less than eighteen (18) years	30 days
Over eighteen (18) years	33 days

Unused PTO hours which have accrued to the credit of the employee, may be accumulated to a maximum of sixty (60) days (480 hours).

Sick leave balances shall be retained for employees who convert to PTO and may be utilized in accordance with 12.9b.

c. PTO Accrual Rate Credit

At the discretion of a Department Director, employees may receive PTO accrual rate credit for previous relevant experience with another employer. Further, at the discretion of a Department Director, additional PTO accrual rate credit may be granted for purposes of retaining a valuable employee. PTO accrual rate credits are governed by the above PTO accrual rate schedule.

d. Alternate Use of PTO

When duly authorized by the Human Resources Director, accrued PTO hours may be used to participate in another County-sponsored program.

12.8 Vacation Leave

a. General Regulations

Each person employed at least half time in a continuing position in the County service and not earning paid time off leave shall earn vacation proportionately to the time worked. Vacation leave shall not be earned by regular or probationary employees working less than half time or by those persons employed on a trainee, intern, or limited duration basis except in accordance with the provisions of a grant and the compensation plan.

If an employee is being paid for less than the full payroll period, his/her vacation accruals will be prorated in accordance with the time worked during that payroll period. Organizational units shall determine the time and establish schedules for governing the use of vacation leave.

b. Accrual Rate

Accrual of vacation shall be based upon the number of years worked by a person according to the following schedule:

<u>Time Since Most Recent Date of Hire</u>	<u>Annual Vacation Accrual Rate</u>
Less than six (6) months	8 days
More than six (6) months but less than five (5) years	12 days
More than five (5) years but less than eight (8) years	15 days
More than eight (8) years but less than twelve (12) years	18 days
More than twelve (12) years but less than eighteen (18) years	20 days
Over eighteen (18) years	23 days

c. Vacation Accrual Credit

At the discretion of a Department Director, employees may receive vacation accrual rate credit for previous relevant experience with another employer. Further, at the discretion of a Department Director, additional vacation accrual rate credit may be granted for purposes of retaining a valuable employee. Vacation accrual rate credits are governed by the above vacation accrual rate schedule.

d. Accumulation of Vacation

Vacation may be accumulated to a maximum of thirty-five (35) days (280 hours).

e. Request for Vacation

Request for vacation must be made at least 48 hours in advance of the scheduled vacation. The appointing authority may waive this 48 hour requirement. When vacation time is taken, only working days are subtracted from the vacation time which has accrued to the employee's credit.

f. Alternate Use of Vacation

When duly authorized by the Human Resources Director, accrued vacation hours may be used to participate in another County-sponsored program.

12.9 Sick Leave

a. General Sick Leave Regulations

Sick leave shall be earned by each person not earning paid time off leave who is employed on a regular full-time basis in a continuing position in the County service at the rate of pay for the class to which the employee is assigned. Each person employed on at least a half-time but less than full-time basis on a continuing position shall earn such sick leave proportionately to the time worked. Sick leave shall not be earned by regular or probationary employees working less than half time or by those persons employed on a trainee, intern or temporary basis except certain grant employees. Service shall begin on the date of County employment and time on layoff, suspension or leave without pay, except as otherwise provided by these Rules, shall not be counted in determining the amount of sick leave accumulated. If an employee is being paid for less than the full payroll period, his/her sick leave accruals will be prorated in accordance with the amount of time worked for that period.

b. Accumulation of Sick Leave

Sick leave shall be accrued at a rate of 5.333 hours per month for the first six (6) full months of service while employed in a continuing position that is half time or more. After the first six (6) full months of service, sick leave shall be accrued at a rate of one day (8 hours) per month. For every day of sick leave accumulated in excess of ninety (90) days (720 hours), the employee will be given credit for one-half (1/2) of additional vacation, and one-half (1/2) of sick leave. Sick leave is charged off only for days that would normally have been worked. In addition, sick leave accrual may be exchanged in the designated amount for optional purchase of other appropriate approved benefits.

c. Use of Sick Leave

An employee may utilize his/her allowance of sick leave on the basis of application approved by his/her appointing authority and reported to the Human Resources Director for absences necessitated by inability to perform the duties of his/her position by reason of illness or injury, including disability caused or contributed to by pregnancy, miscarriage, abortion and childbirth, by necessity for medical care or dental care, or by exposure to contagious disease under circumstances in which the health of employees with whom he/she is associated or members of the public with whom he/she deals would be endangered by his/her attendance or duty, or by illness for such periods as absence shall be necessary subject to certification by medical authority, or reasons related to sexual assault, domestic abuse or stalking. An employee may also use sick leave to care for his/her spouse, child, adult child, parent, sibling, mother-in-law, father-in-law, grandchild, grandparent, stepparent or person regularly residing in the employee's immediate household. Sick leave may also be used by an employee, for regularly scheduled hours, during the 45-calendar day period commencing with home placement of a child for the purpose of adoption or legal guardianship, or during the 45-calendar day period commencing with the birth of his/her child. The appointing authority may require a medical examination or medical certificate or proof of birth/pursuit of adoption/legal guardianship as may be deemed necessary before approving the utilization of sick leave. All sick leave that has been accumulated by the employee shall be expired upon the date of separation from the County service, except as provided in these Rules.

12.10 Armed Forces Leave

Employees who are members of any reserve component of the military forces of the United States shall be granted leave of absence with pay not to exceed fifteen (15) working days in one calendar year when ordered to active duty for such training periods as are necessary to their participation in a reserve training program.

12.11 Other Leaves of Absence With Pay

a. Court Duty

Employees subpoenaed as witnesses in cases arising from the performance of their official duties or called for jury duty shall receive their regular compensation and other benefits less the amount of jury or witness fees. Any travel reimbursement paid by the Court may be retained by the employee.

b. Attendance at Meetings or Conventions

County employees may be authorized to attend such institutes, meetings or training programs when it is in the best interest of the County. Such attendance shall not be deducted from any leave time and employees may be authorized time for travel the day prior to and the day following meeting date(s).

c. Election Days

An employee entitled to vote in a regularly scheduled state primary or general election, an election to fill a vacancy in the office of United States senator or United States representative, an election to fill a vacancy in the office of state senator or state representative, or a presidential primary (as described in M.S. 257A.01 unless it is conducted by mail), is entitled to absent himself/herself from work for the purpose of voting during such election day without penalty of deduction from his/her salary or wages on account of such absence. Where possible, the employee should provide his/her supervisor with forty-eight (48) hours prior notice of the planned absence to permit the supervisor to plan for staff coverage of the workload. Employees who are not eligible to vote or have no intention to vote shall report for work at the regularly scheduled time. Any employee making a claim for time off for voting and not casting a ballot shall be subject to disciplinary action.

d. Leave for Hazardous Duty Injury

A County employee who during the performance of his/her official duties is injured resulting from acts required by law or rule under extremely hazardous conditions, an assault or other direct action of a person not provoked by him/her or arising out of wrongful or willful or wanton neglect of duty, may be granted leave with pay for a period not exceeding ninety (90) calendar days. Such injury shall be reported to the appointing authority immediately.

Request for such leave shall be presented to the Human Resources Director together with supporting documentation and recommendations from the appointing authority.

Such leave, if granted, shall not be charged to normal sick leave or paid time off and shall be subject to the provisions of Section 12.5 of the Human Resources Rules.

e. Bereavement Leave

When necessary, leave with pay will be granted in cases of death of the following: spouse, parent, parents-in-law, step-parent, children, step-children, grandchildren, brothers and sisters, sons-in-law, daughters-in-law, brothers and sisters-in-law, aunts, uncles, nieces, nephews, grandparents, grandparents-in-law or person regarded as a member of the employee's immediate family. Such leave shall be subject to approval by the employer and limited to a maximum of twenty-four (24) working hours per occurrence not to exceed forty-eight (48) hours in any calendar year.

f. Time Off for Selection Process

Employees who have applied for a County promotional or transfer opportunity and are scheduled to participate in a selection process administered during the employee's regularly scheduled working hours will be granted time off for such purpose, if the appointing authority determines service will not be unduly affected by the employee's absence. Employees shall be compensated for up to two such processes each calendar year.

Employees granted such time off in excess of two processes each calendar year will normally be scheduled to make up the time either before or after the absence provided the makeup time shall not qualify the employee for any premium compensation. If the appointing authority determines it is not practicable to arrange for the time to be made up, the employee shall use earned leave for the absence or, if not available, take it without pay.

g. Organ Donation Leave

Benefit-earning employees who seek to undergo a medical procedure to donate an organ or partial organ to another person shall be granted paid leave, in an amount not to exceed forty (40) working hours per donation based on the employee's assigned work schedule. Such leave shall be subject to the employee's submission of confirmation by a physician of the need for the leave and length of each absence requested. Such leave shall not be charged against the employee's accrued sick leave, vacation or

paid time off (PTO) hours; however, sick leave, vacation and/or PTO may, at the employee's election, be used to supplement such leave. If there is a subsequent medical determination that the employee does not qualify as an organ donor, any of the forty (40) hours of paid leave used by the employee prior to that medical determination shall not be eligible for recovery by the County.

h. Other Leave With Pay

Leave of absence with pay other than the foregoing will not be authorized unless approved by the Department Director and the Human Resources Director.

12.12 Military Leave of Absence Without Pay

Employees in the County service shall be entitled to military leaves of absence without pay for services in the armed forces of the United States and return at the expiration of leave. Such leave shall be authorized only in cases where the employee has been officially called to active duty in the military service and shall be authorized only as long as the employee is in the service as required by the government.

12.13 Medical Leave Without Pay

Upon written request by a probationary or regular employee, a medical leave of absence without pay not to exceed one hundred and eighty (180) calendar days in any twelve (12) month period may be granted by an appointing authority upon exhaustion of paid sick leave when the employee or the spouse, child, parent or person regularly residing in the employee's immediate household is disabled. Such leave may be granted subject to certification by the attending medical authority or by a medical authority designated by the appointing authority. In the event of a failure or refusal to supply such certificate or if the certificate does not clearly show sufficient disability to preclude the employee from the performance of his/her duties, the appointing authority may cancel such medical leave and require the employee to report for duty on a specified date. Should the employee not report for duty on such specified date, it will be considered that the employee has resigned in accordance with Section 12.4.

a. Medical Layoff/Termination

If, after a medical leave(s) without pay lasting one hundred and eighty (180) calendar days in any twelve (12) month period, the employee is certified by a medical authority as being unable to return to work in the immediate future, he/she shall, at the direction of the Human Resources Director, be placed on a layoff list for medical reasons (as referenced in Section 10.5), (due to the inability of the employee to perform the duties of his/her position) or terminated from County employment if it is anticipated by the medical authority and approved by the Human Resources Director that the employee will be unable to return to work within the next three (3) years.

b. Workers' Compensation

Any regular or probationary employee who, by reason of work-related sickness or injury, receives Workers' Compensation benefits and chooses not to use accumulated sick leave, vacation leave or other accumulated leave time shall be placed on a medical leave of absence without pay upon certification, by a medical authority designated by the appointing authority or by the attending medical authority, that the employee is unable to perform the duties of his/her position. Placement on such leave shall not require the employee to exhaust his/her accumulated sick leave or paid time off. If, after one hundred and eighty (180) calendar days in any twelve (12) month period, the employee is still receiving Workers' Compensation benefits and has not returned to work, he/she shall be placed on a layoff list for medical reasons (as provided in Section 10.5).

12.14 Classified to Unclassified Service

When an employee in the classified service accepts a position in the unclassified service, he/she shall retain tenure in the classified service in the department and in the class held prior to the appointment.

12.15 Leave of Absence for Childbirth or Adoption

A period of absence of 12 weeks utilizing paid or unpaid leaves in accordance with these Rules shall be granted to an employee for childbirth or adoption, prenatal care, or incapacity due to pregnancy, childbirth or related health conditions. A department may grant a leave in excess of 12 weeks when staffing requirements permit.

12.16 Other Leaves of Absence Without Pay

- a.** Regular employees may be allowed to be absent from duty without pay for a period not exceeding a total of twelve (12) months upon written request for leave without pay approved by their respective appointing authority and the Human Resources Director under the following conditions:
 - 1. No such leave shall be granted except in the case of an employee who has shown by his/her record or other evidence to be of value to the County and whose service it is desirable to retain.
 - 2. Any such leave which in the judgment of the Human Resources Director is contrary to the best interest of the County shall be refused.
 - 3. In situations where it can be justified that an extension of the leave in excess of twelve (12) months is in the interest of the County service, the appointing authority and the Human Resources Director may grant such extensions with review each six (6) months.
 - 4. Accrued leave balances for vacation, paid time off or compensatory time including deferred holiday shall be exhausted prior to approval of leave without pay except as provided in Section 12.3b. regarding religious holidays and 12.15 regarding the six weeks unpaid leave for childbirth or adoption. Upon request of the appointing authority, the Human Resources Director may waive this requirement.
 - 5. Return from a leave of absence without pay or placement on a layoff list shall be in accordance with Section 11.1.
- b.** Probationary employees may be allowed to be absent from work without pay for a period not exceeding two (2) weeks in any twelve (12) consecutive month period upon written request for leave without pay approved by their appointing authority.

12.17 Cancellation of Leaves of Absence Without Pay

All leaves of absence shall be subject to the condition that the appointing authority may cancel the leave at any time upon prior notice to the employee and the Human Resources Director specifying a reasonable date of termination of the leave.

12.18 Special Leave Without Pay

The Human Resources Director shall have the authority to waive the affected Human Resources Rules for the purpose of interpreting, administering and implementing a Voluntary Leave Without Pay Program for County employees consistent with the County Board's approved policy on Voluntary Leave Without Pay.

SECTION 13

PERFORMANCE APPRAISAL

13.1 Requirements

A written appraisal of each employee's performance shall be completed and shall assess the employee's performance results and methods. The appraisal shall be made by the employee's immediate supervisor, reviewed by the appointing authority or his/her designee and reviewed and signed by the employee. Once the employee has signed the performance appraisal form, no deletions or additions may be made to the contents of the appraisal on past results or methods except as a result of the Human Resources Director's review. A copy of the appraisal, including a salary recommendation, shall be given to the employee at the time of signing and sent to the Human Resources Director who may review and, if necessary, take action to secure the adjustment of the appraisal to conform to the facts obtained. Departments may design a performance appraisal process to better reflect their organizational goals and performance expectations; prior to implementation, the process must be approved by the Human Resources Director.

a. Review with the Employee

The supervisor shall discuss the performance results and methods with the employee for the purpose of improving job performance, recognition of employee accomplishment (including recommended salary adjustment, if any) and certification of successful completion of probation. Where performance deficiencies are identified, the supervisor shall include a detailed statement describing the steps necessary to correct these performance deficiencies and the time period within which the deficiencies are to be corrected and set progress reviews for various times during the appraisal period.

The employee shall be given an opportunity to write a dissenting statement on any part of the appraisal with which he/she disagrees. The employee's statement shall be affixed to and become part of the appraisal.

When an appointing authority is considering an employee for appointment, he/she may review the employee's past performance appraisals.

b. Schedule for Conducting Appraisals

Performance appraisals shall be completed at the midpoint and end of the probationary period. Thereafter, performance appraisals shall be completed as indicated in the Compensation Plan. Additional performance appraisals may be completed at any time including, but not limited to, recognizing outstanding service or to identify deficient performance.

SECTION 14

EMPLOYEE DEVELOPMENT

14.1 Intern and Trainee Programs

Appointing authorities may establish intern or trainee programs subject to the approval of the Human Resources Director. Compensation for such interns or trainees shall be set by the County Board. Such appointments shall be in accordance with Human Resources Rule 8.4a.

14.2 Educational Leave

Appointing authorities may grant a leave of absence without pay for purposes of completing or pursuing a full-time educational program. Such leaves shall be granted in accordance with Human Resources Rule 12.16.

SECTION 15

NONDISCIPLINARY APPEALS, INVESTIGATIONS AND HEARINGS

15.1 Objective and Definition

This procedure is established as an orderly means of considering and resolving nondisciplinary appeals and grievances. The word "grievance" shall be defined as a dispute raised by a regular employee that a specific provision(s) of these Rules has been violated, where solution or redress is not otherwise provided therein (see Section 4.5 for allocation/reallocation of positions and Section 17 for disciplinary actions).

Matters covered by a collective bargaining agreement shall not be grievable under these Rules except as provided by law. If a grievance procedure is available to the employee under these Rules as provided by law and also pursuant to a collective bargaining agreement, the employee may choose one of the alternative procedures, but not both.

15.2 Time Limits

If a grievance is not presented within the time limits established in these Rules, the grievance shall be considered "waived." If a grievance is not appealed to the next step within the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the supervisor's, Department Director's or his/her designee's last answer. If the supervisor or Department Director or his/her designee does not answer a grievance or an appeal thereof within the specified time limits, the employee may elect to treat the grievance as denied at that step and immediately appeal the grievance to the next step. The time limit in each step may be extended by mutual written agreement of the supervisor, Department Director or his/her designee and the employee. The term working days as used herein shall mean the days Monday through Friday inclusive, exclusive of holidays.

15.3 Grievance Procedure

a. Appeal to the Immediate Supervisor

Grievances shall be presented by the employee to his/her designated immediate supervisor within ten (10) working days after the first occurrence of the event giving rise to the grievance. The employee may request that a representative assist in presenting the grievance. The supervisor shall give his/her oral or written answer within five (5) working days after such presentation, and thereafter the parties shall have five (5) working days to attempt to resolve the grievance.

b. Appeal to the Department Director

If the grievance is not satisfactorily resolved through the supervisor appeal procedure and the employee wishes to appeal the grievance to the next step in the grievance procedure, it shall be referred in writing to the Department Director or his/her designee within ten (10) working days after the designated immediate supervisor's answer.

The grievance appeal shall be initiated by means of a written grievance to be signed by the employee and his/her representative, if any, who may also assist in presentation of the grievance. The written grievance shall set forth the nature of the grievance, the basis for appeal including the Rule(s) violated, the facts on which it is based and the action/relief requested.

The Department Director shall discuss the grievance within five (5) working days with the employee and his/her representative, if any, at a time mutually agreeable to the parties. If the grievance is resolved as a result of such meeting, the settlement shall be reduced to writing and signed by the Department Director or his/her designee and the employee, including his/her representative, if any. If no settlement is reached, the Department Director or his/her designee shall give written answer to the employee and his/her representative, if any, within ten (10) working days following their meeting.

c. Appeal to the Human Resources Director

If the grievance is not resolved during the Department Director appeal procedure, the employee may appeal to the Human Resources Director within five (5) working days after the Department Director or his/her designee's answer. The appeal shall be in writing setting forth the nature of the grievance, the basis for appeal including the Rule(s) violated, the facts on which it is based and the action/relief requested.

When the Human Resources Director receives an appeal from an employee, the Human Resources Director shall consider the information presented together with any subsequent investigation or hearing he/she may deem necessary. The Human Resources Director shall complete such review within twenty-five (25) working days and notify the Department Director and the employee and his/her representative, if any, in writing of the findings and recommendations which shall also be made available to the Panel if a resolution is not reached.

Upon receipt of the Human Resources Director's findings and recommendations, the Department Director or his/her designee shall notify all parties concerned in writing within a period of five (5) working days of the course of action he/she intends to follow.

d. Appeal to the Department Director Panel

If the final course of action advanced by the Department Director or his/her designee, after consideration of the Human Resources Director's recommendations, is not satisfactory; the employee may, in writing, request a panel of three randomly selected Department Directors (from outside the employee's department) to review the grievance in the same manner as set forth in Section 15.3b. This request must be made within five (5) working days following the receipt of the Department Director's decision or the grievance will be considered settled.

If a question arises regarding the jurisdiction of the Panel to hear a grievance, the Human Resources Director may refer the matter to the County Attorney's Office for determination of whether the issue of the requested hearing is within the jurisdiction of the Panel. The Panel will hear the appeal only if there has been a preliminary showing to the County Attorney's Office that a violation of the Rules has occurred.

15.4 Investigations

The Human Resources Director shall be responsible for investigating any matter as he/she deems appropriate concerning the application, effect and enforcement of the provisions of the Act or these Rules, and report findings of irregularities to the Board. The Board shall investigate and consider matters concerned with the administration of the Act or these Rules, and as the Board may deem desirable, indicate to the Human Resources Director such remedial action as it may deem warranted.

The Board may conduct or direct the conduct of investigations on matters concerned with the administration of the Act or these Rules and take whatever remedial action it may deem appropriate consistent with the Act and these Rules.

SECTION 16

RULES OF CONDUCT

16.1 Compliance with the Act, the Rules and the Rules of Conduct

All officers and employees of the County shall conform to and aid in all proper ways in carrying into effect the provision of the Act and these Rules. The rules of conduct set forth in this section shall be deemed conditions of employment in the County service.

16.2 Violations and Penalties

Any County employee or applicant for a County position who refuses or neglects to comply with or conform to the provisions of the Act or these Rules or violates any of these provisions shall be subject to disciplinary action or disqualification unless the employee or applicant can prove to the appropriate authority the existence of significant mitigating circumstances sufficient to modify or eliminate the disciplinary action.

16.3 General Rules of Conduct

- a.** Except as otherwise authorized or provided for by the Act or these Rules, no employee of the County shall have any substantial interest, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature which is in conflict with the proper discharge of his/her duties in the public interest.
- b.** No employee of the County shall use his/her position, title or association with the County to secure special privileges or exemptions personally or for others.
- c.** No employee of the County shall directly or indirectly receive or agree to receive any compensation, gift, reward or gratuity from any source except Hennepin County, for any matter or proceeding connected with or related to the duties of such employee unless otherwise provided for by this Section. However, honoraria or expenses paid for papers, talks, demonstrations or appearances made by employees on their own time shall not be deemed a violation of this Section provided such activity is approved by the appointing authority.

- d.** No employee of the County shall act as representative for other prosecution of any claim before any court, commission or other tribunal against the County, other than in the proper discharge of his/her official duties as a County employee or his/her official duties on behalf of an exclusive representative for employees of the County nor receive any gratuity or any share or interest in any such claim. Nothing in this Section shall be construed to prevent such employee from pursuing any such claim on his/her own behalf or on behalf of other family members.
- e.** No employee of the County shall engage in any activity which might reasonably be expected, would require or induce disclosure of confidential information acquired by reason of his/her official position.
- f.** No employee of the County shall improperly disclose confidential information gained by reason of his/her official position, nor shall he/she otherwise use such information for personal gain or benefit of others.
- g.** No employee shall conduct himself/herself in any manner which shall reflect negatively on the County.

Such conduct will be considered to be misconduct (or gross misconduct) and shall be subject to disciplinary action unless the employee can prove to the appointing authority the existence of significant mitigating circumstances sufficient to modify or eliminate the disciplinary action.

Such conduct shall include, but not be limited to, the following behaviors: tardiness and/or absenteeism; sleeping during working hours; engaging in discrimination and/or harassment; verbal, written or physical threats to or actual hostile or sexual touching of another person; falsifying records; misappropriation, embezzlement or theft of County property; abuse of County property; unauthorized use of County property; insubordination; the verbal, written or physical abuse of an individual seeking service or assistance from the County; being intoxicated while at work; drinking alcoholic beverages on County premises except during authorized events/occasions; manufacturing, possessing, selling, consuming or being under the influence of a nonprescribed controlled substance at work; being at work while under the influence of a prescribed or over-the-counter drug that impairs his/her physical or mental abilities to the degree that the health and/or safety of the employee or others could be affected by the action or inaction of the employee; failing to maintain licenses,

certificates and/or registrations required to perform the job; non-County authorized possession of a weapon(s) on County premises; or proof of the commission of any illegal conduct which has a direct relationship to the employee's job and constitutes a gross misdemeanor or felony under Minnesota Statutes or felony under United States Code, regardless of whether or not the employee is ever charged or convicted of a gross misdemeanor or felony arising from that illegal conduct.

h. No County employee or applicant for a County position shall:

By himself/herself or in cooperation with one or more persons, engage in deception or fraud in the application, examination, and/or selection process by omitting information or furnishing false or fraudulent information, certificate or license; defeat, deceive or obstruct any person with respect to the right of examination or application according to the Act or these Rules; nor appoint to a position in the County service or dismiss, suspend or reduce in rank or pay any employee from any position in the County service otherwise than in compliance and in conformity with the provisions of the Act or these Rules. A violation of this Section is cause for dismissal or other disciplinary action. In addition, the individual may be disqualified for up to five (5) years from applying for employment or promotion in the classified service of the County.

i. The County shall acquire or retain any patent rights to an invention or copyrights to other materials created resulting from any work performed by an employee in the course of assigned duties. An employee shall assign to the County any rights to an invention; unless the invention was developed entirely on the employee's own time and utilized no County equipment, supplies, facilities or information of the County or except as otherwise agreed to by the County in writing.

16.4 Outside Employment

Each Department Director shall designate those positions or circumstances in which employees under his/her jurisdiction shall be required to obtain prior written departmental approval before engaging in any other employment, activity or enterprise for private gain.

It shall be the responsibility of each employee to inform his/her appointing authority about all outside employment, activity or enterprise entered for private gain which may conflict with his/her public duties.

In determining whether such outside employment or activities for private gain constitute a conflict of interest with public duties or are inconsistent or incompatible with public employment, the following such activities or employment should be considered:

- a. The use for private gain or advantage of County time, facilities, equipment and supplies or the badge, uniform, prestige or influence of County employment.
- b. Receipt or acceptance by the employee of any money or other consideration from anyone other than the County for the performance of an act which the employee would be required or expected to perform in the regular course or hours of County employment or as a part of his/her duties as an employee.
- c. The performance of an act in other than his/her capacity as an employee which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement by such employee for the department by which he/she is employed. No employee shall hold an outside position when it is determined that the outside position is incompatible with the assigned position the employee holds with the County.

16.5 Political Activity

a. Solicitation

Pursuant to Minnesota Statutes, Section 43A.32, no officer, agent, clerk or employee of Hennepin County shall during hours of employment, directly or indirectly solicit or receive funds, or at any time use his/her authority or official influence to compel any officer or employee in the classified service to apply for membership in or become a member of any organization, or to pay or promise to pay any assessment, subscription, or contribution, or to take part in any political activity. (The statute further provides that "any person who violates any provision of this section shall be guilty of a misdemeanor, and shall be punished accordingly, and if any officer or employee in the classified service is found guilty of violating any provision of this Section, he is automatically separated from the service.")

b. Candidate for Public Office

An employee may be a candidate for partisan or nonpartisan public office provided that no employee shall campaign for such office during compensable hours of work. Upon election the employee must immediately notify the Department Director in writing. If the Department Director determines that the duties of the elective office conflict with the proper discharge of County responsibilities, the employee will be required to be separated from the County service or take a leave of absence. Upon completion of the term of office, the employee may be reinstated in accordance with the Human Resources Rules.

Those employees of welfare and emergency preparedness programs and any others who may become subject to the Federal Hatch Political Activities Act by virtue of their job duties being in connection with activity/ies funded in any part by federal funds, are covered by its provisions, which prohibit such employees from running in/for any partisan election/office as defined by that Act.

16.6 Employee Records

Each employee is required to maintain a current record of address, name, home telephone number (if he/she has telephone service) and the telephone number of a person to be contacted in case of emergency, with the appointing authority.

SECTION 17

DISCIPLINE AND DISCIPLINARY APPEALS, INVESTIGATIONS AND HEARINGS

17.1 Disciplinary Appeals, Investigations and Hearings; General

This procedure is established as an orderly means of considering and resolving disciplinary appeals.

Matters covered by a collective bargaining agreement shall not be grievable under these Rules except as provided by law. If a grievance procedure is available to the employee under these Rules as provided by law and also pursuant to a collective bargaining agreement, the employee may choose one of the alternative procedures, but not both.

As an alternative to disciplinary action, the appointing authority may offer an employee the opportunity to resign without notice from County employment. Where the offer is accepted, the employee may be eligible for severance pay but is barred from future employment with the County in accordance with Section 6.3b.2. Such offer of an opportunity to resign by the appointing authority shall not be considered a violation of Section 16.3h. or Minnesota Statutes 383B.37, subdivision 1.

An employee shall be given the opportunity to respond to the charges against him/her and must be given five (5) days after receipt of the written statement of suspension, involuntary demotion or dismissal to present his/her written response and to request a hearing with the Department Director or his/her designee, other than the individual who initiated the disciplinary action.

If an appeal of disciplinary action is not presented within the time limits established in these Rules, the Appeal shall be considered "waived." If a disciplinary action is not appealed to the next step within the specified time limit or any agreed extension thereof, it shall be considered settled on the basis of the supervisor's, Department Director's or his/her designee's last answer.

17.2 Reprimand or Suspension of an Employee

a. Probationary Employee Discipline (Veteran and Nonveteran)

Employees who do not have regular status may be reprimanded or suspended without pay for disciplinary reasons for up to twenty (20) working days per occurrence at any time without right of appeal to the Board or an Administrative Law Judge (ALJ) of the Office of Administrative Hearings.

Any suspension of an initial probationary employee may be reviewed by the appointing authority, but such review does not alter the employee's at-will-employment status.

b. Regular Employee Discipline (Veteran and Nonveteran)

Oral or written reprimand of a regular employee is not appealable to the Board or ALJ.

The regular employee must be furnished a written statement setting forth the reasons for the suspension and offered the opportunity to respond and to request an administrative hearing with the Department Director.

Any regular employee who is suspended shall be notified that the disciplinary action shall be final unless the employee exercises his/her right to a Department Director Appeal within five (5) working days.

A regular employee shall only be eligible for a hearing by an ALJ of the Office of Administrative Hearings if the period(s) of suspension in any twelve (12) month period exceeds a total of five (5) working days.

c. Suspensions of Exempt Employees

With respect to employees who are classified as "exempt" under the Fair Labor Standards Act, suspensions under 17.2 a. or 17.2 b. above may be in increments less than a full work week only if they are the result of a violation of a county policy that applies to all employees. Otherwise, suspensions of employees classified as "exempt" must be in increments of the employee's full work week; except that as an alternative, if both the exempt employee and the Department Director or designee agree, the suspension may take the form of the employee not being away from work but rather a deduction from the employee's accrued vacation, paid time off, deferred holiday, and/or compensatory time balances equivalent to one day or any number of whole days. Such a deduction shall be treated as a suspension for purposes of the employee's record and progressive discipline.

17.3 Dismissal or Involuntary Demotion of an Employee

An employee who does not have regular status and is not a veteran may be dismissed or involuntarily demoted at any time without right of appeal. An employee who has regular status or is a veteran shall be dismissed or involuntarily demoted only for just cause based on incompetency/failure to meet job performance requirements, misconduct and/or gross misconduct.

a. Initial Probationary (Nonveteran) Employee

Upon demotion of an initial probationary (nonveteran) employee, such employee shall be notified that he/she has failed probation and is being involuntarily demoted. Consistent with Minnesota Statutes, 181.933, an initial probationary employee (nonveteran) who is to be dismissed shall be notified that he/she has failed probation and has fifteen (15) days to request in writing the truthful reason for the termination; however, such employee request and employer's response eliminate the employee's ability to make the employer's response the subject of any action for libel, slander or defamation.

For an initial probationary (nonveteran) employee, the Department Director may review the involuntary demotion or dismissal; however, such review does not alter the employee's at-will-employment status.

b. Regular Employee (Nonveteran)

The regular employee (nonveteran) must be furnished a written statement setting forth the reason(s) for the involuntary demotion or dismissal, must be offered the opportunity to respond and to request an appeal hearing with the Department Director or designee. The employee shall be notified that the proposed disciplinary action shall be final unless he/she exercises his/her right to a Department Director Appeal within five (5) working days.

Following the employee's receipt of the written statement, the appointing authority may suspend the employee with pay or assign the employee to another set of job duties at his/her current rate of pay pending his/her demotion or dismissal appeal to the Department Director or his/her designee. After the Department Director hearing (if requested), the appointing authority who took the initial action may immediately demote or dismiss the employee if the decision was upheld by the Department Director.

c. Probationary or Regular Veteran Employee

The probationary or regular veteran employee must be furnished a written statement setting forth the reason(s) for the involuntary demotion or dismissal and must be offered the opportunity to respond and to request an administrative hearing with the Department Director or designee. The employee shall be notified that the proposed disciplinary action shall be final unless he/she exercises his/her right to a Department Director Appeal within five (5) working days.

Following the employee's receipt of the written statement and the Appeal Hearing with the Department Director or designee, the appointing authority may suspend with the intent to dismiss (or temporarily assign the employee to a different set of job duties during this period at his/her current rate of pay) or involuntarily demote the veteran pending appeal to the Board. In either case, the veteran employee's current salary will be continued until the statutory sixty (60) day appeal period has passed following the employee's receipt of the written statement if the employee does not appeal to the Board, unless he/she is unavailable to work. If the veteran appeals the dismissal or involuntary demotion, his/her current salary shall be continued until the Board decision in the matter, unless he/she is unavailable to work.

17.4 Immediate Removal from Worksite

Any employee accused of misconduct as set forth in Section 16 or charged by formal complaint or indictment with a gross misdemeanor or felony, where there is a relationship between the charge and the employee's job, may be immediately removed from the worksite without a right to prior written notice if the supervisor determines there is an immediate need and such action would be in the best interests of the County.

Where an employee is removed from the worksite, he/she may be paid until the process of written notice, opportunity for response and hearing have taken place. The Department Director and the Human Resources Director must be promptly notified of all removals with pay (see Section 12.11g.); the Human Resources Director will approve or disapprove the continued use of leave with pay. An immediate removal from the worksite, even a removal without pay, shall not limit the appointing authority's right to investigate and take disciplinary action, including discharge, as he/she deems appropriate.

17.5 Department Director Appeal

Within fourteen (14) calendar days from the written statement of discipline, unless extended by the Human Resources Director for good cause, the Department Director or designee may sustain, amend or reverse the disciplinary action based on the written statement of disciplinary action (suspension, involuntary demotion or dismissal), employee response (if any), information obtained by investigation (if any), and information presented during the Department Director hearing (if held). The date of the Department Director's decision is the effective date of the disciplinary action. An employee who is dismissed shall not be deemed to have severed employment in good standing.

Following the decision of the Department Director, if the disciplinary action is sustained, the employee may be immediately suspended, involuntarily demoted or dismissed, except as provided in Section 17.3c.

A copy of the written statement, the employee's reply (if any), and a summary of the results of the hearing (if held) shall be filed with the Human Resources Director by the Department Director within five (5) days following his/her decision.

a. Notification of Board Appeal Rights for Regular Employees and Veterans

Following a Department Director appeal hearing where disciplinary action is sustained (or amended):

1. Suspension of a Regular Employee (Veteran and Nonveteran)

A regular employee shall only be eligible for an ALJ hearing if the period(s) of suspension in any twelve (12) month period exceeds a total of five (5) working days. A regular employee shall be notified by the Department Director or designee that the suspension (see Section 17.2) is final unless the employee exercises the right to appeal such decision to an ALJ within fourteen (14) calendar days from the effective date of the Department Director's decision.

2. Involuntary Demotion or Dismissal of a Regular Employee (Nonveteran)

A regular employee shall be notified by the Department Director or designee that the involuntary demotion or dismissal (see Section 17.3) is final unless the employee exercises the right to appeal such decision to an ALJ within fourteen (14) calendar days from the effective date of the Department Director's decision.

3. Involuntary Demotion or Dismissal of a Regular or Probationary Veteran

A regular or probationary veteran shall be notified by the Department Director or designee that the involuntary demotion or dismissal (see Section 17.3) is final unless the employee exercises the right to appeal such decision to the Board within sixty (60) calendar days following receipt of the written notice of the intent to involuntarily demote or dismiss (a veteran continues to be paid his/her regular salary until the Board's decision, unless he/she is unavailable to work).

b. Action of the Human Resources Director

The Human Resources Director shall schedule a hearing with the ALJ and shall notify the parties in writing of the time and place of the hearing.

The Human Resources Director will provide all parties with an outline of the appropriate procedure so as to allow the parties to familiarize themselves with the applicable Rules and procedures.

c. ALJ Hearing

All hearings on disciplinary dismissal, involuntary demotion or suspension actions shall be conducted by an ALJ from the Office of Administrative Hearings, whose decision is final in accordance with the Human Resources Act; except for a veteran where the ALJ shall recommend to the Board an appropriate disposition of the case. Such disposition for a veteran, shall be in writing and contain Findings of Fact, Conclusions and Recommendations; and shall be reviewed by the Board in accordance with Section 17.6. A veteran has the option to proceed directly to the Human Resources Board for a hearing on dismissal or involuntary demotion.

All costs associated with the representation by legal counsel and one-half of any transcript created shall be the responsibility of each respective party.

Failure of a party to appear at a pre-hearing conference, hearing before the ALJ or Board or failure without good cause to comply with the reasonable requests of the ALJ or Board for information or documentation shall be considered a default by that party.

A regular employee who elects to challenge a disciplinary discharge, demotion or suspension through a grievance procedure under a collective bargaining agreement may not also challenge the same action through an appeal to the Chief Administrative Law Judge of the Office of Administrative Hearings.

Within ten (10) days of receipt of the employee's written notice of appeal, the Chief Administrative Law Judge shall assign an ALJ to hear the appeal. The employee or Department Director or their attorney may, within ten (10) days after receipt of the notice of assignment, make and serve on the other party and file with the Office of Administrative Hearings a notice to remove the assigned ALJ. Upon the filing of a notice to remove, the Chief Administrative Law Judge shall assign another ALJ to hear the appeal.

The hearing shall be conducted under the contested case provisions of Chapter 14 and the procedural rules adopted by the Chief Administrative Law Judge, except that Minnesota Rules, part 1400.6700, subparts 2 and 3, do not apply and discovery is limited to the exchange of relevant documentation, witness lists and proposed exhibits which shall be exchanged at least two (2) weeks before the hearing or the appeal.

If the ALJ finds, based on the record, that the disciplinary action appealed was not taken by the Department Director for just cause, the employee shall be reinstated to the position, or an equal position within the same department, without loss of pay. If the ALJ finds that just cause exists for the disciplinary action, it shall affirm or uphold the action of the Department Director or, if the employee has asserted and the hearing record establishes extenuating circumstances, the ALJ may reinstate the employee with full, partial or no pay, or may modify the Department Director's action by substituting a lesser disciplinary action. The ALJ's order is the final decision except for involuntary demotion and dismissal of a veteran. The ALJ's order may be appealed according to Sections 14.63 to 14.68 by the employee or by the Department Director upon approval of the County Board. Settlement of the entire dispute by mutual agreement is encouraged at any stage of the proceedings. Any settlement agreement is final and binding when agreed to by all parties. If an appeal to the Office of Administrative Hearings has been made, the settlement agreement shall be submitted to the ALJ.

Except as provided in collective bargaining agreements, the operating department shall bear the costs of the ALJ for hearings provided for in this Section.

17.6 Human Resources Board Hearings on Involuntary Demotion or Dismissal of a Veteran - Conducted by an ALJ

For disciplinary matters heard by an ALJ, the Board shall review the ALJ's Findings of Fact, Conclusions of Law and Recommendations.

If no objections are filed, the Findings of Fact, Conclusions of Law and Recommendations of the ALJ shall be binding upon the Board and the parties and shall be final upon Board approval.

Any objection to the ALJ's Findings of Fact, Conclusions of Law or Recommendations shall be filed with the Human Resources Director and served upon the other party within fourteen (14) calendar days following receipt of the ALJ's Findings of Fact, Conclusions of Law and Recommendations, unless extended for good cause by the Human Resources Director. Each objection shall set forth the specific Finding, Conclusion and/or Recommendations objected to and the basis for the objection. The basis for objections shall be either that the ALJ committed an error of law or that the Findings, Conclusion or Recommendations are not supported by the evidence. The transcript of the proceeding shall be ordered through the Human Resources Director by the objecting party on or before the filing of the objection. A response to the objection may be filed with the Human Resources Director and served upon the objecting party within seven (7) calendar days following receipt of the objection.

Upon the filing of an objection and response, the Board will meet to consider the objection(s) and may hear oral arguments on the objection and/or accept additional written argument. Citations to the relevant portions of the record may be provided. Upon consideration of the objection and review of the record the Board may:

1. Accept the ALJ's Findings of Fact, Conclusions of Law and Recommendations.
2. Remand the case to the ALJ for further hearing.
3. Issue its own findings and order(s) based upon the existing record.

If the Board finds there is just cause for disciplinary action, it shall affirm the action of the appointing authority; or where the veteran has asserted extenuating circumstances which are supported by substantial evidence, it may modify the appointing authority's action by substituting a lesser disciplinary action or reinstate the employee with full, partial or no pay.

If the Board finds that the action taken by the appointing authority was not for just cause, the employee shall be reinstated without loss of pay.

The decision of the Board shall be in writing and filed with the Human Resources Director who will provide written notice of such decision to both parties within fourteen (14) days of the Board action.

17.7 Disciplinary Matters Heard Directly by the Board

In disciplinary cases of involuntary demotion or dismissal where a veteran desires that the appeal be heard directly by the Board, the procedure shall be set forth in hearing procedures established by the Board and the burden of proof shall be upon the appointing authority initiating the disciplinary action.

17.8 Appeal of Board Decision on Involuntary Demotion or Dismissal of a Veteran

The Department Director upon approval of the County Board or the employee may appeal to District Court a decision of the Board by serving written notice of the appeal upon the Human Resources Director and the adverse party within fifteen (15) calendar days following receipt of the written notice of the Board's decision. The District Court shall then determine whether the record of the hearing contains evidence upon which the Board could have reached the decision and whether the Board abused the discretion granted it under the Human Resources Act. For appeal of an ALJ decision, see Section 17.5c.

17.9 Hearing When Criminal Charges Are Pending

No employee suspended, dismissed or involuntarily demoted for having been charged with a gross misdemeanor or felony shall have a right to a hearing before the Board or ALJ until the disposition of the criminal charge(s): but if the county wishes to proceed with the hearing prior to criminal disposition, the county may choose to do so.

During the hearing, if it is established to the satisfaction of the Board or ALJ that the employee did in fact commit the "act or acts" that were the subject of the criminal allegations, and where it is established that there is a relationship between the employee's job and the "act or acts" or that such "act or acts" constitute a violation of Section 16, then the suspension and/or dismissal may be upheld or the Board or ALJ may take such other action as it deems appropriate. Should the Board's or ALJ's investigation or hearing find no basis for the action taken against the employee, then the employee shall be reinstated to his/her former position with all rights and pay restored that would have accrued had he/she not been suspended, dismissed or involuntarily demoted.

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