CHAPTER 1

HUMAN RESOURCES

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CHAPTER 1

HUMAN RESOURCES

101. General Statement. It is the policy of the Board of Supervisors to adhere to State and federal laws, and the provisions of the Civil Service Ordinance, which place employment on a merit basis and establish equitable and uniform human resources policies and procedures. This Chapter provides implementing procedures. Provisions within Memoranda of Understanding with employee unions supersede the provisions within this Chapter for represented employees.

102. Governing Documents. The Chief Human Resources Officer shall maintain, administer, and implement the provisions of this chapter, and maintain the following other documents that also govern the human resources system administration:

a. Ordinance Code – Title 3
b. Civil Service Commission Rules
c. Departmental Positions and Salary Schedule
d. Rater's Guide for Employee Performance Reports
e. Administrative Policy and Procedures Manual
f. Memoranda of Understanding

103. Other Policies. In addition to the policies and procedures contained in this Chapter, the following policies, most of which are appended to this Chapter, are in effect:

a. Alcohol and Drug Abuse Policy (Exhibit C)
b. Bilingual Pay Policy (Exhibit H)
c. Equal Employment Opportunity (Request from Human Resources Division)
d. Retirement Incentive Program (Exhibit F)
e. Grievance Procedure (Exhibit A)
f. Health Plan Eligibility Policy (Request from Health Benefits Division of the County Administrative Office)
g. Hostile Work Environment Policy (Exhibit J)
h. Extended Leave Holding Unit Policy (Exhibit M)
i. Nepotism Policy (Exhibit E)
j. Non-Smoking Policy (Exhibit L)
k. Retired/Rehired Employee Acknowledgment of Employment Conditions (Exhibit I)
l. Return to Work Program (Exhibit D)
m. Sexual Harassment Policy (Exhibit B)
n. Telework Policy and Procedure (Exhibit K)
o. Workplace Violence Policy (Exhibit G)

104. Definitions. The following are definitions of terms used in this Chapter:

.1 *Anniversary Date*. An employee's anniversary date is the date following one year of continuous service at a particular salary step level in a classified position. Whenever any anniversary date is a factor in the computation of any compensation, or any element of compensation including vacation, and the anniversary date falls within a biweekly payroll period, for the purpose of such computation the anniversary date shall be the first day of the biweekly payroll period.

.2 *Appointing Authority*. The appointing authority is the department, division, or agency head. If this authority is delegated, the Human Resources Division and the Auditor-Controller-County Clerk must be notified in writing.

.3 *Compensatory Time Off (CTO)*. Time off without loss of pay during a regular workweek that is granted to an employee as compensation for authorized overtime.

.4 *Continuous Service*. Continuous service means uninterrupted service in a classified position, except as otherwise provided in this Chapter.

.5 *Full-time Employee*. An employee working in a permanent position requiring at least 80 regular working hours per biweekly payroll period is a full-time employee.

.6 *Holiday.* A holiday is one, eight-hour workday.

.7 *Normal Work Schedule*. Five, eight-hour days per workweek is a normal schedule.

.8 *Part-time Employee*. An employee working in a permanent position requiring less than 80 regular working hours per biweekly payroll period is a part-time employee.

.9 *Permanent Employment Status*. The employment status of an employee in a classified and budgeted position that has completed the probationary period for the position.

.10 *Regularly Employed/Regular Employee*. Employment in a position that is not temporary in nature.

.11 *Salary Range*. The numerical compensation range (such as Range 40.4) approved by the Board of Supervisors for a position.

.12 *Paid Sick Leave*. A paid leave of absence taken by an employee using accrued paid sick leave hours due to illness, accidental injury, or pregnancy and related complications.

.13 *Base Cost of Living Adjustment Step Level*. One of ten numerical compensation levels within a salary range.

.14 *Base Cost of Living Adjustment*. An increase in compensation within a position's salary range of one step level to another step level the first full pay period following July 1.

.15 *Vacation Leave*. A paid leave of absence taken by an employee using accrued vacation leave hours.

.16 *Workday*. A workday begins at 12:01 a.m. and ends at midnight the same day.

.17 *Workweek—General*. A workweek is the time beginning at 12:01 a.m. on Saturday and ending at 12 midnight the following Friday.

.18 *Workweek—9/80 Schedule*. The workweek for employees on a 9/80 schedule begins four hours after the standard start time of their shift on the eight-hour workday and ends 168 hours later.

.19 *Volunteer.* A Volunteer is an individual over the age of 18 who voluntarily offers himself or herself for a service or undertaking to Kern County without pay.

105. Position Classification and Compensation. Government Code section 25300 authorizes the Board of Supervisors to prescribe the compensation of all county officer and provide for the number, compensation, tenure, appointment, and conditions of employment of county employees.

.1 *Position Classification Criteria*. The Board of Supervisors classifies each position based upon the character of the work required, and the duties and responsibilities. They assign each position a separate item number, position title, and salary range by resolution, published in the Departmental Positions and Salary Schedule.

.2 *New Classifications*. The Chief Human Resources Officer recommends the position title and salary range for all new classifications to the Board of Supervisors.

.3 *Job Specifications*. The specifications for each position filed with the Human Resources Division prescribe the title, definition, essential functions, and employment standards for each classification. The Civil Service Commission approves all specifications with the following exceptions:

a. *At Will Positions*. The job specifications for "at will" positions (i.e., those positions exempt from the Civil Service System) shall be approved by the Chief Human Resources Officer.

b. *State Prescribed Qualifications*. All qualifications prescribed by State constitution or statute will be stated in the job specification.

106. Position Reclassification. Position reclassifications occur if an employee is performing work that is outside the essential functions prescribed in the employee's job specification. The Chief Human Resources Officer, appointing authority, or an incumbent employee may request a reclassification study.

A request for a reclassification study to the Human Resources Division shall include:

a. A letter with the rationale supporting the request and an explanation of the cost impact and funding source. If a State or federal law, rule, or regulation change is the basis for the request, attach a copy of the document, and an analysis of the requirements.

b. A Classification Questionnaire prepared by the employee occupying the position.

c. An organizational chart showing the changes the request will have on other positions in the department.

.1 *Human Resources Division Review.* The Chief Human Resources Officer or his/her designee shall determine whether to conduct a reclassification study. If a study is completed, the report shall determine whether a reclassification of the affected position is recommended.

.2 *Board of Supervisors Action.* The Chief Human Resources Officer prepares a report to the Board of Supervisors with his/her recommendation, including an explanation and justification of the proposed reclassification actions, an estimate of annual salary and benefit cost increases/decreases, and a funding proposal for each recommended change.

.3 *Title Change Only.* The Chief Human Resources Officer may approve reclassification requests that only result in a title change.

.4 *Approval of Reclassification.* Approval of a reclassification request shall not cause a decrease in an employee's base salary and shall not modify an employee's current anniversary date. If a reclassification to a lower salary classification is approved, all incumbent employees shall be Y-rated within the new classification.

107. Assignment of Duties Outside of Classification (Working Out-of-Class). An appointing authority may temporarily assign a regular employee to perform duties normally assigned to a higher or lower salary classification for up to 30 consecutive calendar days without changing the employee's position classification or salary.

All extended out-of-class assignments beyond the 30-day period must have prior approval of the Chief Human Resources Officer. All extended out-of-class assignments must be in the best interest of the County. The appointing authority may request an extended out-of-class assignment when the incumbent is incapacitated or when a permanent employee is temporarily not available for appointment. Requests should include a statement of justification and the estimated dates for the extended out-of-class assignment. Departments shall not use extended out-of-class assignments in lieu of filling vacant positions through the normal appointment process. This section does not apply to vacation relief assignments.

.1 *Duration*. All extended out-of-class assignments and any related compensation will automatically terminate at six months from the original date of assignment, unless prior approval from the Chief Human Resources Officer for an extension beyond the six-month period is given. The appointing authority may terminate extended out-

of-class assignments at any time prior to the six-month termination date and must notify the Chief Human Resources Officer.

.2 *Extended Out-of-class Compensation.* Extended out-of-class compensation is the new temporary base salary for an extended out-of-class assignment in a position with a higher salary. The compensation shall be at least one step level increment higher than the employee's current base salary. If the out-of-class assignment is in a position with a lower base salary, the employee continues to receive his/her regular pay. The employee returns to his/her permanent position and salary range when the temporary assignment ends.

.3 *Employee Status.* Civil Service status and classification title for employees receiving special salary compensation for the extended out-of-class assignment are unchanged. An employee's anniversary date remains the same as if the extended out-of-class assignment had not occurred.

108. Employees Working in Two Classifications. Board of Supervisors' approval is required if an employee is employed to work in two classifications when the employment will result in the employee working more than a total of 40 working hours in any one workweek, authorized overtime excepted.

109. Salary Range and Base Cost of Living Adjustment Step Levels.

.1 *Salary Range and Step Levels*. The salary range for each position includes ten numerical Base Cost of Living Adjustment (COLA) step levels, denoted as Steps 1-10, with 2% incremental growth between each COLA step.

.2 *Step Y*. This is the rate of compensation for an employee reclassified to a position with a lower salary range in which Step 10 provides a rate of compensation lower than the rate then earned by the employee. Step Y is the employee's rate of compensation immediately prior to the reclassification. The employee continues in Step Y until the salary range in the reclassified position exceeds Step Y, or the employee transfers to a position that provides a rate of compensation greater than Step Y.

.3 *Step Level at Hiring*. The appointing authority determines the new employee's step level upon appointment.

.4 *Step Level at Promotion*. The appointing authority determines the promoted employee's step level upon promotion, which shall be at least an increase of 5% above the employee's current salary, unless the new position's step 10 is less than 5% higher than the employee's current salary.

.5 *Termination and Reemployment—Step Level*. An employee who terminates employment for any reason and rehired within 30 days of termination into the same classification, retains the step level obtained at termination. The period of absence does not count as continuous service and the employee's anniversary date extends accordingly. If the break in employment is over 30 days, the appointing authority determines the new step level upon reappointment.

.6 *Salary Range Adjustment—Step Level*. If the Board of Supervisors adjusts the salary range for a position, the department head may determine that there is cause to deny the compensation increase and may place the employee at a step level within the new salary range which most closely corresponds to, but is not less than, the compensation that the employee was receiving prior to the salary range adjustment.

110. Base Cost of Living Adjustments. Annual Base Cost of Living Adjustments are effective on the first day of the payroll period following July 1. Advancement between steps is not based on employee performance.

111. High-Performance Step Adjustments. Notwithstanding section 110, a Department Head may recommend and request a High-Performance Step Adjustment for an employee on the salary range to recognize and reward high performance. It is the intent of this section to provide Department Heads the ability to reward extraordinary performance by an employee. The request can be made once per fiscal year for up to three steps (6%) for Outstanding performance by any individual employee.

High-Performance Step Adjustments can be requested throughout the fiscal year except for the pay period in which the annual Base COLA adjustments are made. Each request must be made in writing to the Chief Human Resources

Officer and accompanied with documentation supporting the employee's exemplary performance. The Chief Human Resources Officer shall review and approve or deny the request within 14 calendar days of receipt. Requests may be denied if deemed inconsistent with the intent of this section, if they do not meet the required justification, or due to concerns over the fiscal impact. All requests must be accommodated within the requesting departments existing budget. If approved, the step adjustment will be effective the first full pay period following approval and shall not be retroactive. (Rev. 11/22)

112. Kern$Flex Pay. Managers, mid-managers, and confidential employees qualify for Kern$Flex, a flexible benefits plan. The County's contribution is the greater of a set percentage of the employee's base salary or the minimum bi-weekly contribution. In the event a qualified employee works out-of-class, Kern$Flex will also apply to out-of-class pay earned. (Rev. 09/09) The minimum bi-weekly contributions are as follows:

Confidential	$46.15
Mid-managers	$57.69
Managers	$69.23
Assistant Department Heads	$80.77
Department Heads/Elected Officials	$92.31

113. Fees, Commissions, Other Compensation. All fees, commissions, or other compensation of any nature received by an officer or employee in their official County capacity that is in addition to the compensation paid by the County will be turned into the employee's department and paid into the County treasury unless otherwise specifically provided by any provision of this Manual or the County Ordinance Code.

114. Other Pay Allowances. Refer to the applicable MOU.

115. Deputies. Every County officer, except members of the Board of Supervisors, may name as their deputies in the manner prescribed by law such persons herein classified and employed within their office as such officers in their discretion shall determine. If an officer appoints a non-county employee as a deputy, this deputy serves without compensation or benefits. However, if requested in advance, the Board of Supervisors may approve that these deputies receive actual and necessary traveling expenses incurred in performing duties requested by the appointing County officer at the same rate as a County employee.

116. Work Schedules.

.1 *Maximum Working Hours*. No regularly scheduled full-time or part-time employee will be employed to work for more than a total of 40 working hours in any one workweek, authorized overtime excepted.

.2 *9/80 Work Schedule*. Employees on a 9/80 work schedule work eight nine-hour workdays and one eight-hour workday each pay period. The eight-hour workday and the day off shall occur on the same day of the week in consecutive weeks.

.3 *4/10 Work Schedule*. Employees assigned to work a 10-hour workday on a four day per week regular work schedule.

.4 *12-hour Work Schedule*. Employees assigned to work a 12-hour workday on a three or four day per week regular work schedule.

.5 *Flexible Schedules*. Upon mutual written agreement of the appointing authority and an employee, the employee may be permitted to work a flexible schedule for a specified term that allows the employee to arrive or depart at other than normal work schedule times, provided that each workweek does not exceed 40 hours.

.6 *Special Work Schedules.* Departments with operational cycles that require scheduling employees on other than their normal five, eight-hour days per week schedule must post, in advance, a written schedule of the complete operational cycle for each employee that provides for no more than 40 hours per employee workweek. The schedule must be posted in a place accessible to the employees.

.7 *Variable, Project-Based Schedule*. Departments requiring employee assignment on a project basis involving variable time periods must designate the employee in writing. The department head should establish the employee's estimated work schedule as far in advance as possible, and the schedule will be based on 40 hours in a workweek.

.8 *Reduced Work Schedule.* A reduced work schedule permits an employee temporarily to work a regular work schedule of less than a typical amount per pay period. A reduced work schedule cannot be less than 40 hours biweekly for a full-time employee or 20 hours biweekly for a part-time employee. A request to start, change, or cancel a reduced work schedule may be initiated by either an employee or the employer, and must be submitted two weeks in advance of the effective date. The mutually agreed upon reduced work schedule must be documented by a written letter of agreement, signed by the appointing authority and the employee, and submitted to the Human Resources Division and placed in the employee's personnel file. The agreement cannot exceed one year in duration. The agreement must include as a minimum the following information:

a. Name and classification of employee;
b. Beginning and ending date of period of reduced work schedule;
c. Description of existing and reduced work schedule; and
d. Statement that there is an understanding that a request for a change or a cancellation of the agreed upon reduced work schedule must be submitted two weeks in advance of the requested change/cancellation.

.9 *Voluntary Furlough Program.* A work furlough permits an employee to periodically take time off without compensation. The number of hours of furlough cannot exceed 40 hours biweekly for a full-time employee or 20 hours biweekly for a part-time employee. An employee may request uncompensated time off as a furlough by submitting a written request showing the dates and hours requested as furlough for department head approval.

.10 *Payroll Considerations*. Payroll considerations for alternate work schedules compensated at less than 40 hours per week, including voluntary furloughs, are as follows:

a. In the case of voluntary furloughs, include furlough hours on the Attendance Report using the furlough code. In the case of reduced work schedules, report the actual time worked on the Attendance Report. In the comments section, include the number of hours without pay due to reduced work schedule.

b. The County considers time off without pay under a reduced work schedule or furlough time worked for the following purposes: computing seniority, probationary period completion, promotions, step level increments, and longevity pay.

c. Paid sick leave and vacation will accrue pro-rata based upon hours paid. Holiday pay is governed in the same manner as for part-time employees. Health Plan eligibility is based on the number of hours paid.

d. All retirement service credit and contributions for part-time employees who are members of the Kern County Employees' Retirement Association will be paid on actual hours worked for eligible employees who work 20 hours per week or more.

e. Time off without pay as a furlough or under a reduced work schedule is not considered hours worked for overtime compensation purposes except in the event an employee is called back to work.

f. Longevity and shift differential pay paid as a premium percentage based on hours worked.

g. Those employees classified as exempt may not reduce their workweek or otherwise voluntarily furlough in increments of less than one day. Exempt employees may request alternate work schedules.

117. Overtime. The provisions of this Chapter concerning overtime shall be supplemental to, governed by, and construed consistently with Chapter 3.24 of Title 3 of the Ordinance Code.

.1 *Authorization*. Only a department head or designee authorized in writing by the department head may authorize overtime work. Overtime costs are requested and approved as a part of the annual budget process.

.2 *Authorized Overtime Defined*. Authorized overtime is defined as follows:

a. *Normal Work Schedule*. Time worked in excess of 40 hours in a workweek for employees on a normal work schedule.

b. *9/80 Schedule*. Time worked in excess of nine hours in a workday or 40 hours in a workweek for employees assigned to work a 9/80 schedule. (see Section 104.18 for 9/80 workweek definition.)

c. *4/10 Work Schedule*. Time worked in excess of 40 hours in a workweek for employees assigned to work a ten-hour workday for four days per week as their regular schedule.

d. *12-hour Workday*. Time worked in excess of 40 hours in a workweek for employees assigned to work a 12-hour workday three or four days per week as their regular work schedule.

e. *Special Work Schedules*. For work schedules established under subdivision H of Ordinance Code section 3.24.020, time worked in excess of the work schedule established by the department head for employees on other than the normal work schedule or time worked in excess of 40 hours per week.

f. *Project Based Variable Work Schedule*. Time worked in excess of eight hours in a workday or 40 hours in a workweek.

g. *Flexible Schedule.* Employees working a flexible schedule during any week with the permission of the department head shall be paid overtime only for hours worked in excess of 40 hours during any such week.

h. *Memoranda of Understanding – Employee contract*. As otherwise provided for in an MOU or a contract with a contract employee. The terms and conditions of the contract or MOU supersede any contrary provisions of the Ordinance Code or this Chapter.

i. *Unrepresented Employees*. Non-productive paid hours such as vacation, sick leave, compensatory time-off, etc. shall not count as actual hours worked under this section. Work time spent on jury duty or paid holiday time off shall be considered hours worked under this section.

.3 *Extra Help Employees*. Extra help employees will receive overtime compensation for all hours worked in excess of 40 hours in a workweek. Notwithstanding any other provision of this Chapter, in no event shall an extra help employee receive overtime compensation in excess of what a regular employee in the same classification, working the same hours, would receive. At the County's option, this overtime may be paid as compensatory time off.

.4 *Exempt Employees—General.* Those employees classified as management and mid-management, attorneys in County Counsel's or Public Defender's Office, Board of Supervisors' staff and others exempted from Chapter 3.24 of the Ordinance Code by the Board of Supervisors are exempt from overtime provisions of Chapter 3.24.

a. When, due to extraordinary circumstances, substantial additional work has been performed beyond reasonable job requirements of these exempt employees, the department head may grant limited paid time off to the employee.

b. At the request of a department head, the Board of Supervisors may by resolution designate specified management and mid-management personnel as eligible to receive overtime.

.5 *Exempt Employees During an Emergency.* During an emergency requiring the activation of either the County Emergency Operations Center and/or a departmental emergency operation center, the County Administrative Officer may approve additional pay for employees exempt from the provisions of this chapter if the emergency is of sufficient duration and degree to warrant such pay. The affected employees must be sheriff, fire, or other safety personnel defined under the Fair Labor Standards Act or, if non-safety personnel, the employees must be primarily engaged in extraordinary work above and beyond their usual duties.

Exempt employees are eligible for this additional pay for all hours worked over and above eight (8) hours in a single day. Exempt employees shall be paid, at their regular hourly rate, for each additional hour worked between the hours of 5:00 p.m. and 8:00 a.m. Monday through Friday morning, and any hours worked from 5:00 p.m. Friday until 8:00 a.m. Monday morning. Employees shall be paid cash in lieu of compensatory time.

If there is any reimbursement from Federal or State agencies, all departments whose exempt employees have received such additional pay shall submit the additional pay as "overtime" or "additional pay" for Federal and State reporting purposes.

Within one month after the cessation of the emergency, the County Administrative Office shall present a report to the Board of Supervisors detailing the additional amounts paid, as well as any reimbursement anticipated or received.

.6 *Employees Working in Two Departments*. An employee who works in two or more departments in any combination of full-time, part-time, or as extra help is entitled to compensatory time off or paid overtime pursuant to section 116.2 only for the overtime worked in one department, except as required by law. All other hours worked in any other department shall be compensated at the employee's regular rate of pay for the position involved. Such employee may only be authorized to work overtime in a single department during any workweek, unless authorized by the Board of Supervisors.

.7 *Shift Changes*. Routine shift changes in workday schedules that cause working hours in excess of a regular workweek will not entitle an employee to any overtime compensation, nor will an employee be penalized by loss of pay if such shift change causes working hours of less than the regular working week.

.8 *Public Emergency.* A public emergency is a declaration by the Board of Supervisors based on either a public calamity due to fire, flood, earthquake, riot, insurrection, pestilence or other catastrophe adversely affecting the public peace, health, safety or general welfare.

a. The Board of Supervisors, after receiving request from the department head and recommendation from the administrative officer, may approve cash compensation for authorized overtime worked by non-exempt employees in emergency situations or when due to unusual circumstances it would create an extreme hardship for the office, department, or institution involved to conform to the provisions relating to compensatory time off. Such compensation will be at the rate of one and one-half (1 ½) times the non-exempt employee's regular rate of compensation.

.9 *Call-back Overtime and Stand-by Pay.* Refer to the applicable MOU for represented employees. Otherwise eligible unrepresented employees are entitled to call back overtime, standby pay and court standby pay as provided for in the MOU covering represented employees working in the same classification, on the same shift and for the same number of hours as the unrepresented employee. When such is not the case, reference Ordinance Code sections 3.24.010(B) and 3.24.090 for call back overtime and Ordinance Code sections 3.24.010 subdivisions (G) and (H), 3.24.100, 3.24.110 and 3.24.120 for standby pay.

.10 *Computation of Overtime*. Overtime shall be calculated in accordance with section 3.24.160 of the Ordinance Code.

.11 *Regularly Scheduled Overtime*. Notwithstanding any other provision of this Chapter, in the event that authorized overtime is regularly scheduled and is included in an employee's "compensation earnable," as defined in Government Code section 31461, the overtime must be approved by the Board of Supervisors.

118. Compensatory Time Off (CTO). A regular employee is entitled to receive CTO in lieu of paid overtime at the rate of one and one-half hour for each hour of overtime worked. Compensatory time off shall be included in any computation of time used as a measure of any employee benefit or salary schedule.

.1 *Approval*. Department heads must approve the time when an employee will take CTO.

.2 *Maximum Hours*. Employees cannot accumulate more than 120 hours of CTO credit, unless recommended by the County Administrative Officer and approved by the Board of Supervisors. Additional hours will only be allowed for those employees involved in seasonal work requiring significant overtime, and where predictable slack work periods will permit reduction of CTO balances to no more than 120 hours of credit. To request additional hours the department should submit a letter to the County Administrative Officer, including the names of the employees involved, requested maximum hours accumulation, justification for the additional hours, and anticipated time of year when the CTO balance will be reduced.

.3 *Departmental Training Meetings*. If an employee is required by the department head to attend a special departmental training meeting during off-duty hours, the employee is entitled to CTO at the rate of one and one-half hour for each hour of attendance at the meeting.

.4 *Cash Payment in Lieu of CTO*. The Board of Supervisors, after receiving request from the department head and recommendation from the County Administrative Officer, may approve cash compensation for authorized overtime worked in emergency situations or when due to unusual circumstances it would create an extreme hardship for the office, department, or institution involved to conform to the provisions relating to compensatory time off.

.5 *Payment Upon Separation*. Employees are entitled to a cash payment of CTO balances upon separation. When an employee is leaving employment, the employee should be encouraged to take CTO so that the employee's CTO balance is zero upon separation. For employees transferring from one department to another, the department head should arrange work schedules so that the CTO balance is reduced as much as possible prior to transfer. The CTO balance may be carried over to the receiving department; however, the receiving department should be notified of the balance. Otherwise, the employee should receive payment for the CTO balance from the department that they are leaving.

119. Paid Sick Leave.
Only probationary, temporary, provisional, elected/appointed, and permanent employees are eligible to accrue sick leave.
Eligible employees commence accruing paid sick leave on the first date of employment. Paid sick leave may be taken as it is accrued.

.1 *Accrual Rate and Maximum Accrual*. The maximum paid sick leave accrual and the accrual rate for represented employees are as specified in the applicable MOU. The maximum paid sick leave accrual and the accrual rate for part-time employees shall be proportionate to the maximum accrual and accrual rate of full-time employees based on the number of regular hours worked per pay period by the part time employee.

Non-elected management, mid-management, and confidential employees accrue paid sick leave as follows:

TYPE OF HOURS WORKED	YEARS OF CONTINUOUS SERVICE	BIWEEKLY ACCRUAL	ANNUAL ACCRUAL	MAXIMUM ACCRUAL
Regular Biweekly	0 through 5	2.66667 hrs.	8.67 Days	
Regular Biweekly	6 or more	3.69231 hrs.	12 Days	1152 max hours

Hourly rate and elected employees accrue paid sick leave as follows:

TYPE OF HOURS WORKED	BIWEEKLY ACCRUAL	MAXIMUM ACCRUAL

Regular Biweekly	2.66667 hrs.	48 hrs.

.2 *Use of Paid Sick Leave.* Upon an oral or written request, an employee shall be permitted to use sick leave for the purposes required by Labor Code section 246.5, including the:

a. For the diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's family member. Use of paid sick leave for an employee's family member is limited to a maximum of 80 hours per calendar year, or up to 6 on duty days per year for 56-hour employees working for the Fire Department
b. For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in Labor Code section 230.2 (c).
c. For the purposes of this section, "family member" is generally defined by Labor Code section 245.5 (c), and shall include an employee's child (biological, adopted, foster child, stepchild, legal ward, or child to whom the employee stands in loco parentis), parent (biological, adopted, foster parent, stepparent, legal guardian, or person who stood in loco parentis when the employee was a minor child), spouse, registered domestic partner, grandparent, grandchild, sibling, parent-in-law, grandparent-in-law, sibling-in-law, or designated person identified by the employee at the time of the leave.
d. A "designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. An employee is limited to one designated person per 12-month period.
e. Departments shall not deny an employee the right to use paid sick leave, or discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using paid sick leave, or attempting to exercise the right to use paid sick leave.

.3 *Doctor's Certificate.* Use of accrued sick leave is permitted for illness which prevents you from performing your normal job functions. The County also encourages employees to refrain from reporting for duty when ill. In order to promote a healthy and productive, work environment employees may utilize accrued sick leave, vacation, alternate days off or compensatory time for the purposes prescribed by Labor Code section 246.5; which includes the diagnosis, care or treatment of an existing health condition or preventative care for an employee or an employee's family member. Employees seeking a leave of absence under FMLA, CFRA, or PDL are directed to comply with the requirements of the applicable leave program.

All employees are expected to comply with the policies of their department when requesting use of accrued vacation, alternate days off or compensatory time. The County expects employees will refrain from claiming illness to circumvent the applicable policies for requesting the use of accrued vacation, alternate days off or compensatory time.

An employee using accrued vacation, alternate days off or compensatory time for the purposes prescribed by Labor Code section 246.5 in lieu of accrued sick leave may be required to submit a doctor's certificate upon the request of the department head or the County Administrative Officer when the employee intends to use accrued leave time, other than accrued sick leave hours, to cover absences of three consecutive days, or three days in one month. An employee may be subject to discipline, (up to and including termination) for the knowing misrepresentation regarding the nature of paid time off with the intention of circumventing departmental leave policies.

.4 *Bonus Pay for Unused Paid Sick Leave.* The annual cash bonus for unused paid sick leave is provided within the applicable MOU. Management, mid-management and confidential employees are eligible to receive an annual cash bonus equal to 24 hours at their regular rate of pay if on the last day of the last payroll period to be paid in the calendar year they have accrued the maximum amount of paid sick leave and have used 10 hours of paid sick leave or less during the previous 26 payroll periods. The bonus is automatically paid.

.5 *Effect of Leave of Absence—Accrual Rate*. An authorized leave of absence without pay or qualifying military leave does not constitute a break in service for the purpose of determining the employee's paid sick leave accrual rate, but paid sick leave credit is not earned during the leave period.

.6 *Disposition Upon Termination*. If an employee terminates his or her employment and is rehired by the employer within one year from the date of termination, previously accrued and unused paid sick leave shall be reinstated. The employee shall be entitled to use previously accrued and unused paid sick leave upon rehiring.

.7 *Payment Upon Retirement or Death*. The percentage payment of sick leave balances when a represented employee retires, or dies is provided for in the applicable MOU. The following applies to non-elected management, mid-management, and confidential employees. Extra help, hourly rate and elected employees are not eligible for payment of unused sick leave balance.

When an employee retires (excepting deferred and disability retirement), or if an employee dies, the following percentages will be paid to the employee or the employee's estate:

Less than 20 years of continuous service: 50%
More than 20 years and less than 25 years of continuous service: 75%
25 or more years of continuous service: 100%

.8 *Fire Department—Conversion of Balances.* If an employee's basis of service is changed to or from a 56-hour work schedule, any sick leave balance at the time of the change will be converted to an equivalent balance under the employee's new basis of employment.

120. Bereavement Leave. This Section shall apply to all employees, as defined below, unless covered by a Memorandum of Understanding, which includes bereavement leave equivalent to or greater than that provided in subsection 2.

.1 *Definitions.*

a. "Employee" means a person employed with Kern County for at least 30 days prior to the commencement of the leave provided by this Section.
b. "Family member" means a spouse or a child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law as defined in Government Code section 12945.2.
c. "Documentation" includes a death certificate, a published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency.

.2 *Bereavement Leave.* Employees shall be entitled to take up to five days of paid leave upon the death of a family member. Such leave need not be consecutive but must be taken within three months of the date of death.

.3 *Documentation.* Within 30 days of the first day of the leave taken pursuant to this Section, the employee shall provide their department with documentation of the death of the family member. Such documentation shall be maintained as confidential and shall not be disclosed except to internal personnel or counsel, as necessary, or as required by law.

121. Vacation Leave. Only probationary, temporary, provisional, and permanent employees are eligible to accrue vacation leave. (See section 121 for excluded employees.) Vacation leave is accrued each payroll period. Each employee's vacation balance is increased by the vacation time earned (accrued) and decreased by vacation time taken. Employees will only be credited with the amount of vacation time actually earned at the rate and the time of accrual, irrespective of the total amount of vacation time that an employee may earn in any one-year period of employment. Employees may use their accrued vacation leave at any time, subject to department head approval and provided that the amount taken at one time does not exceed twice the amount the employee currently earns for one year. Any employee becoming ill while on vacation leave may substitute sick leave for vacation leave only while hospitalized.

.1 *Authorization*. Department heads are responsible for approving vacation leave requests. A department head may refuse a request for good cause, defined as substantial detriment to the proper and efficient operation of the

department. The employee may appeal a department head's refusal in writing to the Board of Supervisors, which may overturn the department head only if it is found that the department head acted in an arbitrary manner or without good and sufficient cause.

.2 *Accrual Rate.* The vacation leave accrual rate is as provided with the applicable MOU. Part-time employees will earn vacation leave at a rate proportionate to full-time employees based on the number of regular hours worked by the part-time employee per pay period in relation to 80 hours.

The accrual rate for management, mid-management, and confidential employees is as follows:

Length of Service	**Biweekly Accrual Rate**	**Annual Accrual**	**Maximum Accrual**
0 (Start of first year) through 4 years	3.69231	96 hrs.	312 hrs.
5 (Start of fifth year) through 9 years	5.23077	136 hrs.	432 hrs.
10 (Start of tenth year) through 14 years	6.76923	176 hrs.	552 hrs.
15 years (Start of fifteenth year and after)	8.30769	216 hrs.	672 hrs.

.3 *Maximum Accrual.* An employee's vacation time balance (accrual) may not exceed the stated maximum amounts. If the maximum amounts are reached, the employee will not earn (accrue) vacation leave until the vacation leave balance is reduced below the maximum.

.4 *New Employees.* New employees will accrue vacation leave after the first day of regular and continuous employment. They may use all accrued vacation leave in accordance with this policy or the applicable MOU.

.5 *Effect of Other Leaves—Accrual Rate.* An authorized leave of absence without pay or qualifying military leave does not constitute a break in service for the purpose of determining the employee's vacation accrual rate, but vacation credit is not earned during these leave periods.

.6 *In-lieu Compensation.* Wages will not be paid in lieu of taking vacation leave.

.7 *Disposition Upon Separation.* Employees separating from County service, for any reason, will receive payment for their vacation leave balance as of the termination date calculated at the employee's current compensation rate.

.8 *Terminal Vacation.* Only employees leaving County service by retirement are allowed to take terminal vacation immediately prior to separation. Retiring employees, including those receiving a disability retirement, may elect to take paid vacation leave immediately prior to their retirement date in the amount of their vacation leave balance, or may receive a cash payment for their vacation leave balance.

a. *Effect on Employee's Position.* If an employee elects to take terminal vacation, the employee's position is deemed vacant on the date the terminal vacation (retirement) begins and the department may take action to fill the position.

b. *Employee's Status.* During terminal vacation, the employee is in a special employment status in that the employee remains a County employee only for the purpose of receiving compensation, but has no other status or powers associated with the position vacated, and upon commencement of the terminal vacation shall have no right to return to the position vacated without the authorization of the appointing authority, whose decision shall be final.

.9 *Reemployment or Transfer to Extra Help*. When a terminated employee is reemployed in a regular classified and budgeted position within 30 days of the date of termination, the employee's seniority is restored for the purpose of determining the employee's vacation leave accrual rate and maximum accrual. When an employee transfers from a regular classified and budgeted position to extra help employment and is retransferred to a regular classified and budgeted position within 30 days of the original transfer, seniority for purposes vacation accrual rates and maximum accruals shall be restored.

.10 *Transfer to Extra Help Without Retransfer*. Employees electing to transfer to an extra help position with an accrued vacation leave balance must deplete their vacation leave balance within nine months of the date of transfer or the vacation leave balance will lapse, and the employee will be paid for the vacation leave balance at the employee's then present compensation rate**.**

.11 *Transfer to Part-Time Position*. If an employee's transfer from a full-time to a part-time position causes the employee to exceed the maximum vacation leave accrual for the part-time position, the employee will be paid for that amount of the vacation leave balance over the maximum allowed.

.12 *Fire Department—Conversion of Balances.* If an employee's basis of service is changed to or from a 56-hour work schedule, any vacation leave balance at the time of the change will be converted to an equivalent balance under the employee's new basis of employment.

.13 *Cash Payment of Accrued Vacation Balance—Financial Hardship.* If an employee incurs a serious financial hardship because of family illness or death, the employee may request in writing, with supporting justifications, to cash out any vacation leave balance. If approved by the department head, a Claim for Payment will be submitted to the Auditor-Controller-County Clerk. Disputes arising from the department head's decision will be resolved by the Employee Grievance Procedure (Exhibit A).

122. Vacation and Sick Leave Benefits—Exclusions. Extra help employees, employees whose compensation is fixed at a flat hourly rate, elective officers, and members of appointed boards or commissions do not receive vacation leave benefits. Members of appointed boards or commissions and extra help employees do not receive sick leave benefits.

123. Vacation and Sick Leave Benefits—Disposition Upon Assuming Elective Office.

.1 *Elected Officer*. An elected County officer that has accrued during employment with the County sick and/or vacation leave balances may at the time of assuming office either: 1) cash in the entire vacation balance and the percentage of the sick leave provided for his/her position and seniority under section 118 of this Chapter at the compensation level of the officer's prior county employment; or 2) retain the sick and vacation leave balances while serving as an elected officer; or 3) if reemployed as a County employee with 30 days of leaving the elected office, retain such balances in accordance with the policies governing sick and vacation leave generally.

.2 *Employees Appointed by the Board of Supervisors to Elective Office*. Section 122.1 shall not apply to an employee appointed by the Board of Supervisors to serve in an elective office because of a vacancy created by death, retirement, resignation, or removal, provided the employee serves in the office for less than six months and, unless prevented by circumstances beyond the control of the employee, returns to a regular classified position within 30 days after leaving said office. If these requirements are satisfied, the employee will continue to accrue vacation and sick leave benefits during the appointment period at the same rate that the employee would have been entitled to if not appointed. The value of the employee's sick leave and vacation balances shall at all times be in accordance with the employee's classified position.

124. Catastrophic Leave Pay. All unrepresented permanent full-time employees are eligible for catastrophic leave pay in the manner described below. The purpose of catastrophic leave pay is to provide a portion or all of an employee's pay during the time the employee would otherwise be on an approved leave of absence under the California Family Rights Act ("CFRA"), the Family and Medical Leave Act ("FMLA"), or Pregnancy Disability Leave ("PDL") pursuant to state and federal law. Catastrophic leave pay is contingent on the receipt of donated paid time off in the manner described below.

.1 Catastrophic leave pay does not increase or limit an employee's rights to a leave of absence under County policy, except that, the employee will continue in a paid status during that leave.

.2 *Eligibility*. An employee is eligible for catastrophic leave pay with certification of the need for a leave of absence pursuant to CFRA, FMLA, and/or PDL, and after the employee has exhausted all accrued paid time off. Employees may only donate accrued paid time off to another employee who becomes eligible for catastrophic leave pay.

.3 *Procedure*. To begin receiving catastrophic leave donations, employees must submit a written request to the Human Resources Division with sufficient information to enable the Chief Human Resources Officer or his/her designee to determine whether they are eligible. Accrued paid time off may be pledged for possible donation to employees who are eligible for catastrophic leave donations. Pledged paid time off hours will be noted on a list in the order received by the Human Resources Division. Pledged paid time off will be deducted as donated catastrophic leave in the order received and only as actually used by the requesting employee.

.4 *Donation Provisions.* Employees requesting catastrophic leave pay or supportive co-workers are responsible for canvassing other employees for catastrophic leave donations. Pledges and donations must be made voluntarily and not through coercion. Pledges and donations must be made on the County-approved authorization form. Pledged paid time off that is not used by the requesting employee will not be deducted from the pledging employee's accrued paid time off. All donations are irrevocable. Donations are taxable on the part of the recipient, in accordance with IRS regulations, and are subject to withholding as required by law. Donations must be a minimum of eight hours. The County will convert the donations to a dollar equivalent amount using the recipient's hourly wages. Only the dollar equivalent amount will be deducted as donated catastrophic leave.

.5 *Health Insurance Coverage and Retirement Contributions*. Health insurance coverage and retirement contributions will continue in the same manner as if the recipient employee was on paid sick leave. The recipient employee will not accrue additional paid time off while receiving catastrophic leave pay.

.6 *Termination of Catastrophic Leave*. Catastrophic leave terminates upon one or more of the following:

a. The employee has returned to duty from an eligible CFRA, FMLA, or PDL leave of absence; or

b. All donations are exhausted.

125. Holidays. Applicable MOUs provide the holiday schedule for represented employees. The holiday schedule for unrepresented employees is as follows:

July 4th	Christmas Day
Labor Day	New Year's Eve
Veterans Day	New Year's Day
Thanksgiving Day	Martin Luther King's Birthday
Day after Thanksgiving Day	Presidents' Day
Christmas Eve	Memorial Day

.1 *Days Observed*. Holidays that fall on Saturdays are observed on the preceding Fridays. Holidays that fall on Sundays are observed on the following Mondays. In a year in which Christmas and New Year's Day fall on a Saturday, the holidays are observed on Friday, and the Christmas Eve and New Year's Eve holiday are observed on the preceding Thursday. In a year in which Christmas Eve and New Year's Eve fall on a Saturday or Sunday, the holidays are observed on the preceding Friday.

.2 *Eligibility—Exception*. An employee who does not receive any pay the workday preceding a holiday is not entitled to receive pay for that holiday.

.3 *Effect of Leaves, Days Off*. If a holiday falls on a day that an employee is absent on paid sick or vacation leave, the holiday will not be charged against the employee's leave balance. If a holiday falls on an employee's scheduled day off, the employee must be granted an alternate day off. Employees on a leave of absence without pay will not be compensated for holidays.

.4 *Work on a Holiday.* When a department head requires a confidential, management, or mid-management employee to work on a County holiday, the employee receives double their regular rate of pay for the holiday.

.5 *Part-time Employees.* This section only applies those part-time employees assigned a regular and definite schedule to work at least two calendar days per week.

A part-time employee regularly scheduled to work on a holiday, but who is not required to work, receives time off with pay for the number of hours for which he/she is regularly scheduled.

A part-time employee regularly scheduled and required to work on a holiday receives double their regular rate of pay for all scheduled and worked hours, and their regular rate of pay for any hours scheduled, but not worked.

Any part-time employee who is required to work on a holiday that does not fall within the regularly designated work schedule receives compensation according to the applicable overtime policies for that position.

126. Other Leaves and Time Off.

.1 *Rest Periods.* A department head may authorize rest periods not to exceed 15 minutes during each four-hour work period. An employee's failure to take a rest period is not a basis for ending a workday early or for earning overtime pay. Per Labor Code section 1030, departments must provide a reasonable amount of break time to accommodate an employee desiring to express breast milk, unless doing so would seriously disrupt operations. The break time should coincide with the employee's paid break time. If not, the break time is unpaid. Departments must also make a reasonable effort to provide lactating employees with the use of an appropriate facility for milk expression, such as a vacant office. This statute specifically notes that a toilet stall is not an appropriate facility.

.2 *Voting Time.* An employee who does not have sufficient time outside of working hours to vote at a Statewide election may take off enough working time such that, with available non-working time, the employee will be able to vote. No more than two hours of this time will be paid time and must be taken at the beginning or end of the regular working shift, whichever allows the employee to vote with the least time off, unless otherwise mutually agreed. Employees are to give at least two working days' notice of the need for time off to vote, or as soon as known. At least 10 days before every Statewide election, department heads will conspicuously post these procedures regarding time off for voting.

.3 *Jury Duty and Court Witness*. All regular full and part time and extra help employees shall be entitled to time off without loss of pay when legally required pursuant to a duly served subpoena or other legal process to serve on a jury or to appear as a witness in a criminal action or proceeding involving an event or transaction perceived or investigated in the course of the employee's official duties or to appear as a witness in civil action or proceeding, including an administrative proceeding, involving an event or transaction perceived or investigated in the course of the employee's official duties. Such time off shall include any actual and necessary travel time from the regular place of employment to the court or hearing place designated in the jury summons, subpoena or other legal process.

Employees receiving their regular compensation while on jury duty are ineligible to receive juror fees. Employees are to advise jury services' staff of their status as a County employee and that they are receiving their regular compensation. Any fees or sums collected by employees for serving a court on their own time, such as vacation or on an unscheduled workday, are retained by the employee, as is mileage reimbursement.

.4 *Civil Service Examination.* Employees are entitled to time off with pay, including travel time from and returning to the employee's regular work location, to take a civil service examination that is scheduled during the employee's normal working hours. The employee is to provide the department head with 48 hours' notice. The department head may request a certification from the Chief Human Resources Officer documenting the employee's presence at the examination and the duration of the exam.

.5 *Department Head Absences.* A department head must notify each member of the Board of Supervisors and the County Administrative Officer via memorandum if he/she is to be absent for more than one week. Board of Supervisors' approval is required if a department head is absent from the State for more than 30 days (Gov. Code section 1063).

.6 *Paid Leave Time—Exempt Employees.* Any officer or employee deemed "exempt" or "non-covered" under the provisions of the Fair Labor Standards Act and who is subject to the "executive," "administrative," or "professional" exemptions from overtime compensation under that Act, will not have his/her regular biweekly pay or paid leave allowances subject to reduction on account of an absence from duty of less than a day. Upon a written request to establish a catastrophic leave bank, an exempt employee may use less than eight (8) hours of paid leave allowances for the purpose of catastrophic leave eligibility. "Paid leave allowances" include accrued vacation leave credit, sick leave credit, administrative time-off credit, accumulated CTO, and any other entitlement to a paid leave of absence.

.7 *Pregnancy Related Leave.* Accumulated sick leave may be used for pregnancy-related illness and disability, childbirth, and postnatal recovery, subject to established procedures and limitations governing sick leave usage. An employee shall be allowed to work through the pregnancy until physically or emotionally unable to meet normal job demands.

At that time of "temporary disability", the employee is to submit a request to the department head for use of accumulated sick leave to cover the pregnancy-related disability period through childbirth and reasonable postnatal recovery along with a physician's statement specifying the probable date of delivery and probable date of return to work. Use of sick leave for postnatal recovery is allowed only for the time the employee is actually unable to work, with a maximum of fifteen working days following delivery allowable without further physician verification. Disability that continues beyond the maximum duration will require verification by a physician and an additional request for sick leave usage. Beyond the recovery point mentioned above, additional leave for childcare cannot be charged to accumulated sick leave, but may be requested in the form of vacation, compensatory time off, or leave without pay (personal). Refer to Chapter 2 for disability related provisions.

.8 *Leave of Absence Without Pay.* Submit a Change in Employee Status (CES) form and a Form 395-5230, Request For Leave of Absence, along with a doctor's note, to the Human Resources Division detailing the circumstances and conditions of the leave. See Civil Service Rule 1202.00 for specific guidelines for leaves of absence.

.9 *Leave of Absence—Health and Dental Plan Premium Payments.*

a. *Job-Connected Illness or Disability.* The County will continue to pay medical and dental premiums for the employee and dependents for up to one year. At the end of this time, the employee has the option of continuing the health and dental plan at the employee's personal expense.

b. *Mandatory Leaves-of-Absence.* In cases of non-job-related illness or disability, Family Care Leave (maternity), and Intermittent and Military Leave, the County will continue to pay medical and dental premiums for the employee and dependents for six full payroll periods plus the payroll period in which the employee was first placed in a leave without pay status, providing the employee continues to qualify for leave without pay. Following this time, continuation of the health and dental plans is at the employee's option as provided below.

c. *Discretionary Leave-of-Absence Without Pay.* In cases of personal necessity leave, military leave other than as specified in Civil Service Rules 1202.00, or Educational/Personal Enrichment Leave without pay, the County will not continue to pay the health and dental premiums while the employee is on leave without pay status except as provided below.

d. *Continuation of Health and Dental Plans While on Leave.* To continue the health and dental plan while on "leave without pay status," after the allowable time period, the employee will pay in advance the full amount of the premiums. Contact the Human Resources Division of the County Administrative Office for instructions. When an employee returns to work, providing the employee otherwise qualified for coverage, the employee will be covered by the health and dental plan without a health statement.

If an employee does not arrange to continue medical and dental insurance premium payments during the leave of absence, insurance coverage will be terminated after the period of County obligation.

.10 *Rights Under California Family Rights Act (CFRA).*

a. It is unlawful to refuse to hire, or to discharge, fine, suspend, expel, or discriminate against, any individual, because the individual exercised the right to take a leave under the CFRA.
b. At the conclusion of a leave taken pursuant to CFRA, the employee must be reinstated to the same or an equivalent job.

127. Industrial Accidents. The County has a wage continuation plan for employees who are sickened or injured by an industrial accident. Labor Code section 4850 provides for up to fifty-two weeks leave of absence without loss of pay for safety members who are sick or injured as a result of an industrial accident.

An injured employee is entitled to receive full pay without using accumulated sick leave during the first three days of absence due to incapacity to work from industrial sickness or injury determined by the State workers' compensation law. However, the employee must deposit any compensation received during this period under the workers' compensation law in the County treasury**.** The date of injury is counted as the first day.

After the three-day period, the employee has two options:

a. To take a leave of absence without loss of pay, for a maximum of the total workdays equal to the employee's accumulated sick leave balance. The employee's sick leave balance is charged during the leave of absence. Sick leave used during the absence is restored to the employee's accumulated balance on the basis of three days restored for each full week of disability (partial week disabilities will be prorated accordingly). Any workers' compensation payments received by the employee, however, must be deposited into the County treasury.

b. To take a leave of absence without pay and receive workers' compensation at the rate of two thirds (2/3) of the employee's biweekly rate, not to exceed the maximum weekly rate of $490.

The employee must choose one option; the two options cannot be combined.

Workers' compensation payments are nontaxable for federal and State income tax and Social Security. The County's Return to Work Program information is contained in Exhibit D.

.1 *Fire and Safety Personnel – 4850.* Under Labor Code Section 4850, employees covered under Section 31469.3 and 31676.1 of the Public Employees Retirement Act of 1937, commonly referred to as safety members, are entitled to a leave of absence with full pay for a maximum period of fifty-two aggregate weeks without using sick leave or vacation balances for a work-related injury.

A Request for Payment of 4850 Time is submitted to Risk Management who then forwards the request to the Auditor-Controller-County Clerk. A monthly report of workers' compensation claims for each department is prepared by Risk Management and forwarded to the Auditor-Controller-County Clerk. When a disability under Section 4850 is expected to exceed three months, the employee may request changes to his/her federal and State exemptions.

.2 *General Employees.* Risk Management will determine if the claim is a valid Workers' Compensation Claim and, if so, commence paying benefits. Risk Management will notify the department of sick leave adjustments to be made to the employee's sick leave balance. A Change in Employee Status (CES) form is prepared to restore the sick leave balance. The Auditor-Controller-County Clerk will cancel, or deposit Workers' Compensation checks returned to the County by the employee.

128. Break in Service/Employment—Exceptions and Effect Upon Return to Service/Reemployment.

.1 *Non-job Connected Illness*. Leaves of absence for any illness unconnected with employment with the County which do not exceed 30 days at any one time shall not constitute a break in service and upon return to service the employee shall return at the same step level for his position at which he left without credit for the period of his absence on leave in determining his right to advance to a higher step level, and his anniversary date shall be extended accordingly.

.2 Leaves of absence in excess of 30 days granted for any reason except as provided in subsections .3, .4, and .5 of this section shall constitute a break in continuity of service, but not a break in employment.

.3 *Job Connected Illness or Injury*. Leaves of absence without pay and without limitation as to time granted for injuries or illness suffered by an employee during the course and scope of his employment with the County and during the period that such employee is drawing temporary disability insurance for such injury or illness under the workers' compensation laws of the State of California shall not constitute a break in service so far as vacation accrual rates are concerned and the employee's seniority with respect to vacation accrual rates shall be deemed restored upon return to active service.

.4 *Disability Retirement—Reemployment*. Any employee who is granted a service-connected disability retirement who is later determined by the retirement board to be no longer incapacitated and who is then reemployed by the County is deemed to have been on an approved leave of absence without pay for the period of time the employee received disability retirement. When reemployed, the employee is considered a new employee for the purposes of sick leave credit or accrual rates, but so far as vacation accrual rates are concerned, the employee's seniority with respect to vacation accrual rates shall be deemed restored.

.5 *Military Leave—Reemployment*. A leave of absence to enter and entry into the Armed Forces of the United States pursuant to and which specifically fulfills the requirements of section 389 et seq. of the Military and Veterans Code and other applicable provisions of law which require the County to provide continuous service credit and associated benefits as described for persons employed by the County who temporally leave employment for military service provided the affected employee applies for reemployment with the County within 90 days, or within such other time frame as may be specified by law, after discharge from the Armed Forces, where the discharge is under conditions other than dishonorable.

129. Filling a Vacant Position. Departments seeking to fill a vacant position must submit the request to fill through the Position Authorization program and receive County Administrative Office approval.

.1 *CAO Approval*. The County Administrative Office frequently reviews requests to fill vacancies. Requests to fill should include anticipated date to hire. Only approved requests result in the opening of recruitment or certification of names from an established eligible list.

.2 *Recruitment and Certification.* The Human Resources Division will begin recruitment to fill all CAO-approved requisitions, unless there is an established eligible list for the classification. The hiring department will receive the list of certified names allowable upon establishment of an eligible list. The Human Resources Division instructs all referred candidates to contact the department within five days to arrange a hiring interview.

.3 *Interview and Selection.* The hiring department interviews all referred candidates and selects one of the eligible candidates. The hiring department arranges a hire date with the appointee and completes the forms necessary for placing the employee on the payroll. The hiring department also notifies those referred candidates that were not selected.

.4 *Post-offer Physical Examinations*. The Human Resources Division maintains a list of classifications requiring post-offer physical examinations. The Human Resources Division arranges for any required post-offer physical examination with the service provider and notifies the department when it receives physical examination clearance.

130. Employee Transfers. An employee may transfer from one department as permitted by Rule 1000 of the Civil Service Commission.

131. Retired Employee Hiring. *Exhibit I* establishes the policy for hiring retired employees with the Kern County Employees' Retirement Association system who desire to maintain their retired status. All other rehired retired employees must go through the process of reinstatement to the retirement system.

132. Extra Help Appointments. Extra help employment is to be limited to instances of unusual and seasonal department needs, such as special projects, staffing for absences in fixed-post positions, or in peak period workloads.

Extra help employment cannot exceed two years after which there must be at least a 90-day break in service before further extra help employment in any department may be authorized for that individual.

1 <u>*Definitions*.</u>

a. *Full-time Extra Help*. Extra help employment that is reasonably expected upon appointment to exceed 59 hours worked per pay period or determined to have exceeded an average of 130 hours worked per month during a respective *look-back measurement period* for existing extra help employees.

b. *Part-time Extra Help*. Extra help employment that is reasonably expected upon appointment to be 59 hours worked or less per pay period or determined to have been to have been less than an average of 130 hours worked per month during a respective *look-back measurement period* for existing extra help employees.

c. *Variable Hour Extra Help.* Extra help employment that upon appointment, the appointing department cannot adequately determine will exceed or be less than 59 hours worked per pay period.

d. *Look-back Measurement Period.* The time period from October 15 of the prior year through October 14 of current year.

e. *Administrative Period*. The time period from October 15 through December 31 of each year.

f. *Stability Period.* The time period from January 1 through December 31 of each year.

.2 *Designation of Appointment Type.* Each department must request approval of the County Administrative Office through Position Control to solicit and accept applications for extra help employment. In each request, the department must designate whether the appointment is for *full-time extra help, part-time extra help*, or *variable hour extra help* employment.

.3 *Employment Applications.* Each department may solicit and accept applications and select an applicant for extra help employment. Extra help applications are also submitted online and may be accessed by departments via CountyNet upon approval of the Human Resources Division. Upon appointment, the department must attach the approved appointment request and the application to the Notice of Employment (NOE).

.4 *Determination of Ongoing Employee Status.* Ongoing extra help employees will continue to have their status measured annually by the appointing department based upon their average hours worked per month during the annual *look-back measurement period.* If an ongoing extra help employee works an average of 130 hours or more per month during the *look-back measurement period*, he or she shall be a *full-time extra help* employee for the following *stability period*. If an ongoing extra help employee works an average of less than 130 hours per month during the *look-back measurement period*, he or she shall be a *part-time extra help* employee for the following *stability period*. The County Administrative Office shall complete this determination and offer *full-time extra help* employees health benefits coverage pursuant to the terms of the County health benefits eligibility policy within the associated *administrative period*.

.5 *Minimum Qualifications.* Extra help employees must meet the minimum qualifications as regular positions in the same classification. The NOE will not be processed until the Chief Human Resources Officer concurs that the prospective employee meets the minimum qualifications.

.6 *Positions.* Extra help employees may be hired into any classification, whether or not the classification is allocated as a budgeted position in the department.

.7 *Offer of Health Benefits Coverage.* Within 90 days of appointment, *full-time extra help* employees, if deemed eligible, shall be offered coverage pursuant to the terms of the County health benefits eligibility policy. Departments will be responsible to pay a flat biweekly charge for each *full-time extra help* employee, to cover administrative and benefits funding costs.

.8 *Penalties for violation of maximum hours*. Should any extra help employee, including *full-time extra help*, work actual hours of 30 hours a week or more or an average of 130 hours a month or more, the employing department will be responsible to pay any penalties associated to that individual that are assessed to the County under the Affordable Care Act. Allocation of penalties related to benefits eligibility under the Affordable Care Act will be determined by and will be at the discretion of the County Administrative Office.

133. Position Revision Requests Outside of Budget Process. To request a new position or the concurrent addition and deletion of positions outside the budget process, prepare a letter of justification that includes the purpose, cost, and funding sources. Submit the package to the County Administrative Office and Human Resources Division 30 days prior to the anticipated Board of Supervisors meeting date.

If the County Administrative Office denies the request, the department will receive a written justification. If the request is supported, the department will be authorized to prepare a letter to the Board of Supervisors. The Board letter must contain a statement that the County Administrative Office either does or does not concur with the request. The recommended Board action must include the effective date and referral to the Human Resources Division to amend the Departmental Position and Salary Schedule. (Rev. 09/09) For example:

> Therefore, IT IS RECOMMENDED that your Board approve the addition of one Account Clerk III position and the concurrent deletion of one Typist Clerk III position, effective October 15, 20XX, and refer amendment of the Departmental Position and Salary Schedule to the Human Resources Division.

134. Department Reorganizations. The Chief Operations Officer and Chief Human Resources Officer review and approve all requests for organizational restructuring that change position assignments, reporting relationships, service delivery, operation costs, etc. They total organizational structure and work assignment relationships will be reviewed. A review of other functions, such as management procedures, assignment necessity, workflow, work standards, work assignments, staffing levels, operational policies, cost analyses, and financing methods may also be conducted.

135. Employee Training and Development. Department heads are responsible for identifying department specific training needs, establishing training programs to meet those needs, and creating an environment conducive to employee development. The Chief Human Resources Officer coordinates countywide training, learning, and development programs. Employee training and development programs are to facilitate the improvement of the quality of service rendered to the public through a planned continuum of learning opportunities which prepare employees to meet and adapt to changes in job requirements, increase the effectiveness of supervision and management, and improve employee-management relations through increased understanding of organization objectives. Continuing education programs are subject to the provisions in Chapter 3.

136. New Employee Orientation. All employees shall attend the countywide new employee orientation within the first 90 days of their employment with the County. The Human Resources Division will hold the countywide new employee orientation on a quarterly basis to ensure that all employees can meet this requirement.

137. Performance Evaluations. Employee performance evaluation reports are submitted to the Human Resources Division at the three- and six-month probationary dates, and annually on the hiring anniversary date. For those employees subject to a twelve-month probationary period, evaluation reports are filed at three-, six-, nine- and twelve-month intervals from date of hiring, and thereafter annually on the employee's anniversary date. The evaluation form, which specifies the due date, will be sent to each department head approximately two pay periods in advance.

.1 *Process.* The mechanics of the performance evaluation are explained in the Rater's Guide for Employee Performance Reports. Department heads are to ensure the employees are counseled on their performance. The employee's signature is required on the report. An employee who disagrees with the rating may file a written statement of reasons within 30 days after the date the evaluation is prepared. This statement must be signed by the employee and department head and attached to each copy of the rating form.

.2 *Record Maintenance.* The Chief Human Resources Officer maintains records of evaluation ratings for use in promotional examinations, determining order of layoff and reinstatement, and for recommendations relating to transfer, demotion, and removal. The department retains a copy for the employee's file. The original is placed in the employee's official personnel file.

.3 *Termination.* A performance evaluation report must be completed when employment is terminated, including retirement. These reports may be used if reinstatement or reemployment is considered.

.4 Evaluation ratings shall be confidential except that employees may, upon application at the County Human Resources office, ascertain their own rating.

138. Special Performance Evaluations. A special performance evaluation should be completed when a change of raters occurs within an annual cycle and at any time for commendation or disciplinary action.

139. Service Recognition.

.1 *Board of Supervisors' Resolution*. Employees retiring with 25 or more years of service may receive a Board of Supervisors Resolution. A request for Resolution should be placed on the departmental sub-agenda. Public presentation of the Resolution is at the option of the employee.

.2 *Retiring Reserve Deputy Sheriffs*. A reserve deputy sheriff retiring after 15 or more years of service will receive a retirement badge or other suitable item in recognition of the deputy's meritorious service. The design, engraving, and type and manner of presenting of the badge is at the discretion of the Sheriff, except that the badge must clearly show that the bearer is not a County employee or a reserve deputy sheriff.

140. Disciplinary Actions. Any employee may be dismissed, suspended, reduced in rank and/or compensation, reprimanded or otherwise disciplined for any action or conduct which in the judgment of the appointing authority provides good cause for discipline under the Civil Service Rules or other laws, regulations, or policies. Civil Service Rule 1700 et. seq. specifies the procedures for dismissal, suspension or reduction in rank or compensation for employees in the classified service.

.1 *County Counsel Review of Proposed Disciplinary Action.* The department head must consult with County Counsel prior to any suspension without pay, demotion, compensation reduction, or termination. County Counsel will evaluate the merits of, and evidence to support, the disciplinary action and make a recommendation. County Counsel, as a rule, will not represent a department before the Civil Service Commission unless that office has been afforded an opportunity to make a thorough assessment of the discipline case before the disciplinary action is commenced by the issuance of a notice of proposed action letter (i.e., Skelly letter) by the department. If County Counsel determines that the proposed disciplinary action is warranted, it may represent the department in disciplinary actions before the Civil Service Commission.

.2 *Reprimand.* Reprimands may be verbal and/or written, and in cases where the reprimand does not require any action of dismissal, suspension, or compensation or rank reduction for employees in the classified service, the department head is not compelled to follow the Civil Service Rule 1700 procedures.

A performance evaluation report, or formal written memorandum or letter should be used in cases of reprimands to provide a permanent record of the cause of the disciplinary action, discussion with the employee, time limits for correction of the problem, suggestions for improving performance, and any other related items. The completed report, memorandum, or letter should be forwarded to the Human Resources Division and a copy placed in the departmental file. The employee may file a written response within 30 calendar days of the date of reprimand.

.3 *Administrative Leave with Pay.* An appointing authority or the Chief Human Resources Officer may place an employee on administrative leave with pay if he or she determines that the employee is engaged in conduct posing a danger to County property, the public or other employees, or the continued presence of the employee at the work site will hinder an investigation of the employee's alleged misconduct or will severely disrupt the business of the department.

During the administrative leave, the employee shall be ordered to remain at home and available by telephone during the normally assigned workday. A department head may, if necessary, adjust the employee's work schedule to provide availability during normal business hours, Monday through Friday, 8:00 AM to 5:00 PM. An appointing authority may not order administrative leave with pay for a period in excess of five assigned workdays within a single pay period without the written authorization of the Chief Human Resources Officer. Changes in duty status following the issuance of a notice of proposed action are as provided in Civil Service Rule 1715 et. seq., not this section.

141. Hearings and Appeals.

.1 *Suspension, Demotion, Compensation Reduction, or Termination.* A permanent employee is entitled to appeal a suspension, compensation reduction, demotion, or termination as a disciplinary action to the Civil Service Commission.

.2 *Step Level Increment Denials.* Any employee who has not received a step level advancement as provided in section 110 because of the refusal or failure of the employee's department head to recommend such advancement or because of the refusal or failure of the Chief Human Resources Officer to approve such advancement, may appeal to the Civil Service Commission for a hearing on the question of the right of the employee to receive such step increase by filing a written appeal with the Chief Human Resources Officer.

The Commission shall set and conduct a hearing on the matter in due course in accordance with its rules, policies and practices. Within 10 days of the conclusion of the hearing the Civil Service Commission shall determine whether or not the appellant has capably and conscientiously performed the duties of his position for the period of one year immediately preceding the employee's anniversary date, and whether or not the failure or the refusal of the department head or the Chief Human Resources Officer to approve the step level increase was arbitrary or unreasonable. The decision of the Commission shall be final for all purposes.

.3 *Salary Range Adjustment Denial*. Whenever the salary range for a classification is adjusted, and the department head determines under section 109.6 that there is cause not to grant the compensation increase, the department head may deny the raise to the employee and may place the employee at a step level within the salary range for the position which most closely corresponds to but is not less than the compensation that the employee was receiving prior to the salary range adjustment for the position. The employee may appeal the department head's decision to the Civil Service Commission, which shall here the matter in accordance with the procedures and rules for reductions in compensation generally.

.4 *Performance Evaluation Reports.* Performance evaluation reports represent the judgment and opinion of the department head with respect to an individual's performance on the job and are not subject to a formal appeal and hearing.

142. Physical Examinations. An employee may be required at any time to take a medical, physical, and/or psychological examination to determine whether the employee meets the medical and physical standards prescribed for the position. The department head may request an examination upon approval of the Chief Human Resources Officer.

143. Conflict of Interest. Ordinance Code Chapter 2.02 establishes the policy and procedures relating to activities of officers and employees that are inconsistent, incompatible, or conflicting with the duties of public office or employment. Department heads are responsible for developing "regulations determining and prescribing employments, activities, and enterprises which are prohibited as being inconsistent, incompatible or in conflict with their duties as employees." Each employee must sign and date a statement that he/she has read, understood, and is compliant with the Ordinance Code and the departmental regulation relating to conflict of interest. The department maintains an internal file of its employees' statements.

144. Overpayment/Underpayment of Wages or Benefits—Correction. If an administrative error results in an employee receiving payment for wages or benefits in excess of that legally due, the employee will reimburse the County. Corrections are initiated by completion of a Request for Correction of Payroll form signed by the department head and the employee which the department shall forward to the Human Resources Division for review and approval. The Human Resources Division shall forward the form to the Auditor-Controller-County Clerk for approval and processing. The correction will be by one or more of the following methods as deemed appropriate for the circumstances by the Auditor-Controller-County Clerk:

1. Repayment in cash, net of taxes, in full or by a fixed installment plan agreed to by the employee and the Auditor-Controller-County Clerk;

2. Repayment in full, deducted from the next payroll warrant issued to the employee;

3. Repayment by the reduction of accumulated vacation hours and/or compensatory time off hours by the number of hours calculated to produce a dollar amount, net of taxes, to repay the County;

4. Repayment by fixed installment deductions from sequential payroll warrants, with the number and amount of installments to be determined by the Auditor-Controller-County Clerk, with due consideration of the amount of the overpayment and the amount of disposable earnings available to the employee; or

5. Any combination of the above, as mutually agreeable to the employee and the Auditor-Controller-County Clerk.

If, as a result of an administrative error, any employee of the County receives payment of monies or benefits less than that legally due, the County will reimburse the employee by one or more of the following methods:

1. An employee who is underpaid on a payroll warrant will receive a corrected payment in the next available payroll cycle; or

2. In the event an employee is underpaid a substantial portion of monies or benefits legally due, on a payroll warrant, the Auditor-Controller-County Clerk may issue a salary advance as provided in Chapter 2.

Administrative corrections for the underpayment of wages or benefits may be made only upon written certification of the Chief Human Resources Officer to the Auditor-Controller-County Clerk within one year of the date of the error. Corrections past this one-year limitation must be approved by the Board of Supervisors. (Rev. 11/09)

145. Salary Advance to Purchase Eligible Prior Service. Employees who have given written notice of their intent to retire are eligible to receive a salary advance of their eligible sick leave payoff and/or vacation balance up to the verified amount needed to purchase their eligible prior public service. The Auditor determines and withholds the employee's tax liability amount from the salary advance total. The employee must submit the necessary forms to the Retirement Administration at least 90 days prior to the retirement date. The County deducts any salary advance made to an employee from any final salary and/or accumulated leave payments made to the employee upon his or her retirement.

146. Sexual Harassment Training Requirements. Government Code section 12950.1 requires that, every two years, employees in a supervisory position attend a two-hour training session on identifying and preventing sexual harassment, and the appropriate way to respond to allegations of sexual harassment. It is the policy of the Board of Supervisors that employees hired or promoted into a supervisory position attend a sexual harassment training session within 60 days of assuming the position. Contact County Counsel for training session scheduling

147. Contract Employees. Departments that have identified a need for specialized services for a limited duration may contract for those services with an individual, subject to the following provisions:

a. Contract employees shall not be used to circumvent the Civil Service selection and appointment process.

b. Contract employees shall not be used when the work to be performed can be performed by a regular Civil Service position.

c. Contract employees shall not be used when the work to be performed is expected to last for more than two years.

d. Contract employees shall not be paid more than the compensation for an equivalent Civil Service position.

.1 *Contract Terms.*

a. *FICA 1 and FICA 2*. The County will only pay the employment taxes related to Medicare (FICA 2), and the contract employee must participate in the County's Part-time, Seasonal, and Temporary

program (PTST), which is a recognized "meaningful retirement program" for "temporary" employees. Contract employees must pay 7.5% of their salary into a fund and are also responsible for paying the "employee" share of FICA 2. Contract employees' participation in PTST allows the County to avoid paying Social Security taxes (FICA 1).

b. *Duration*. A contract employee's term of employment shall be limited to two years. Under IRS regulations, in order to be considered part-time, seasonal, or temporary, the term of the contract cannot exceed two years. If the need for specialized services is for longer than two years, the position must be converted to a permanent County position, subject to Board of Supervisors' approval.

c. *Benefits*. Contract employees shall not earn vacation or sick leave, nor paid holidays. Health benefits are negotiable and may be included in the employment contract subject to County Administrative Office approval. Kern$Flex, deferred compensation, and the County's retirement plan are not available to contract employees due to their participation in the PTST program.

.2 *Approvals Required*. The department must consult with the Human Resources Division to determine the appropriateness of using a contract employee. If the Human Resources Division agrees that a contract employee is appropriate, the department must recommend a compensation level to the Human Resources Division and the County Administrative Office for their approval. The contract must be approved by the Chief Human Resources Officer as to content and by County Counsel as to form.

.3 *Contract Employee vs. Independent Contractor*. This policy does not apply to independent contractors. An independent contractor's status is measured by three categories of evidence: behavioral control, financial control, and relation of the parties. Independent contractor status is normally upheld if the contractor has an economic existence apart from the contract with the County. Independent contractors are responsible for paying their employment taxes. If a contractor is treated as an independent contractor and the IRS determines that the individual is an employee, the County will be required to pay the employment taxes owed for both the County and the employee, plus interest and penalties. County Counsel will assist departments in determining the employment status of a contractor.

148. Temporary Out-of-County Duty Assignments. Board of Supervisors' approval is required to station an employee in a temporary duty assignment out-of-County if the assignment duration is one year or more. In seeking approval, the department must fully explain the financial ramifications on the County, including the impact on the County's retirement system and the arrangements that are made to accommodate housing and other expenses.

149. Post-Employment Restrictions. Pursuant to Ordinance Code Chapter 2.02, the following post-employment restrictions apply to elected officials, and employees classified as management, mid-management, and confidential:

.1 *Definitions*. Refer to Ordinance Code Chapter 2.02.

.2 *Acting as an Agent or Attorney*. The above enumerated employees cannot act as an agent or attorney or otherwise represent, for compensation, a private company or individual, for a period of one year following employment with the County for the purpose of influencing administrative or legislative actions of the County or influencing any action or proceeding involving the issuance, amendment, awarding or revocation of a permit, license, grant, or contract, or the sale or purchase of goods or property. Expressly prohibited are making a formal or informal appearance or making any oral or providing any written communication to the Board of Supervisors or an individual member of the Board, or a County officer, employee, or department, unless the individual is, at the time of the appearance or communication, a board member, officer, or employee of a local government agency or an employee or representative of any other public agency and is appearing or communicating on behalf of that entity.

3. *Providing Aid, Advice, or Counsel*. The above enumerated employees also cannot aid, advise, counsel, consult or assist any other person regarding an appearance or communication which the official or employee would be prohibited from under section 151.2 above.

150. Volunteers. The County of Kern supports and encourages the use of volunteers when and where it is feasible and appropriate. The Volunteer Program encourages citizens to volunteer their time and talents as well as Department

Heads to support and promote voluntarism in their departments to enhance productivity. The use of volunteers to replace a County employee is prohibited. Volunteers augment paid staff and are not to be used to displace paid staff.

Volunteers shall be recruited and placed without regard to any individual's sex, race, color, religion, national origin, pregnancy, age, marital status, medical condition, disability, or any other basis prohibited by local, state or federal law. Additionally, the County will provide reasonable accommodation to qualified, disabled volunteers.

.1 *Establishment of Volunteer Programs*. Volunteer programs in the County of Kern are department-based and managed. County Department/Agency Directors may establish a Department Volunteer Program upon determining that volunteers could make an effective contribution toward meeting the needs of the department/agency, that the use of volunteers is appropriate to the mission and tasks of the organization, and that resources will be dedicated to establishing and maintaining a volunteer program.

Upon the determination to establish a volunteer program, the department should designate a coordinator. It is the departmental coordinator's role to serve as a point of contact for the department's volunteer activities and to assist the department in organizing, implementing and overseeing the volunteer program, including the establishment of goals, objectives and appropriate department-level volunteer policies.

Elements essential to the establishment of a volunteer program include:

a. Application – A Volunteer Application serves to ensure that volunteers are registered and that their status as volunteers is documented. Volunteer Applications are submitted through the Kern County Human Resources Division website and provided to departments.

b. Registration Form - Contains applicant information which may include interests, contact with law enforcement (applicants may request volunteer hours to comply with a court requirement, however, may be precluded from performing certain assignments), emergency contacts, and an agreement to adhere to the policies of the County, department and program (such as Drug and Alcohol, Violence and Threats in the Workplace, Sexual Harassment, Liability Waiver, etc.).

    - Any volunteer who will drive on County business shall possess valid driver's license and be enrolled in the DMV – Pull Notice Program.
    - County volunteers may be subject to a criminal background check.

c. Volunteer Status Agreement - The form must be signed by each applicant acknowledging that they understand their work is NOT for payment.

d. Job Description - The department shall ensure that a written volunteer job description and a record of having communicated the job description with the volunteer, is placed in the volunteer's personnel file.

.2 *Management of Volunteer Programs*. Elements essential to the successful management of a volunteer program include:

a. Readiness - Before beginning an assignment, volunteers should receive an orientation to the volunteer program, the department, the responsibilities and duties of their position and a review of applicable County and department policies.

b. Goal Setting - Volunteers shall be treated as unpaid staff subject to performance evaluations, termination and other personnel management techniques. Volunteers should be provided with appropriate initial training and ongoing supervision by the department to which they are assigned. The composition and extent of training may vary with the assignment and the completion of any training should be documented within the volunteer's performance evaluation. Goals should be established for each volunteer program and for volunteers within the program.

c. Recognition - The recognition of volunteer efforts is the responsibility of the department to which a volunteer contributes. Departments are encouraged to recognize volunteers in as many ways as possible, both formally and informally.

d. Record Keeping - Volunteer records will be compiled and maintained for reference, recognition, and required statistical reports. Records for all volunteers shall be updated when necessary to reflect performance evaluations, the completion of any training, changes in emergency information, changes in job description, etc. The total number of hours each volunteer works should be maintained in the department's personnel file (and/or within a computerized tracking system).

e. Review - Departments are encouraged to conduct a periodic review of their volunteer program to evaluate its effectiveness and identify areas for improvement and/or expansion.

.3 *Responsibilities of the County Administrative Office.* Through cooperation with the departmental coordinators, the County Administrative Office, in partnership with the Human Resources Division, will assist County departments with their volunteer programs to ensure that the following functions and/or roles are filled:

a. Communication - The County Administrative Office shall disseminate information relevant to the County's volunteer program participants during periodic scheduled meetings with department coordinators.

b. Recognition - The County Administrative Office shall execute a regular volunteer recognition program and an annual volunteer event for the Board of Supervisors as means of formally recognizing and thanking volunteers for their contribution to the community.

c. Referral - The County Administrative Office shall refer potential volunteers to suitable work locations within the County.

d. Tracking – The County Administrative Office shall compile the total number of hours as reported by the departmental volunteer coordinators on an annual basis, for the period covering July 1 through June 30.

EXHIBIT A

GRIEVANCE PROCEDURE

Grievance procedures for represented employees are governed by the applicable MOU. Employees who are not in the classified service must use the process as is afforded them within their department. For all other employees, the following applies.

.1 *Application.* The following procedure applies to employee complaints relating to working conditions or policies governing personnel practices. A grievance may be filed when the employee believes an injustice has been done because of an unfair application or deviation from a departmental policy. This grievance procedure does not apply to employee disciplinary matters, which are subject to Civil Service Commission appeal. Also exempted from this grievance procedure are disciplinary reassignments, written reprimands, employee performance evaluations, and work assignments.

.2 *General Objective.* The purpose of this grievance procedure is to:

a. informally settle disagreements at the employee-supervisor level;

b. provide an orderly procedure to handle the grievance through each level of supervision;

c. correct, if possible, the cause of the grievance to prevent future complaints;

d. promote harmonious relations among employees, their supervisors, and departmental administrators;

e. assure fair and equitable treatment of all employees; and

f. resolve grievances at the departmental level before appeal to higher levels.

.3 *Definitions.*

a. *Employee:* Any employee in the classified service of the county, regardless of status.

b. *Immediate Supervisor:* The person who assigns, reviews, or directs the work of an employee.

c. *Superior:* The person to whom an immediate supervisor reports.

d. *Representative:* A person who appears on behalf of the employee.

e. *Department Head/Appointing Authority:* The officer or employee having charge of the administration of a department.

.4 *Time Limits.* Time limits are established to settle grievances quickly. Time limits may be extended by agreement of the parties. If the grievant is not satisfied with the decision rendered, it is the grievant's responsibility to initiate the action which submits the grievance to the next level of review within the time limits specified. Failure of the employee to submit the grievance within the time limits imposed terminates the grievance process, and the matter shall be considered resolved. Failure of the County to respond within the time limits specified will allow the grievant to submit the grievance to the next higher step of the grievance procedure.

.5 *Informal Grievance Disposition.* Within 20 days from the occurrence of the issue that gave rise to the complaint, or within 20 days from the employee's knowledge of the occurrence (but no later than one year from the date of occurrence), an employee will promptly and informally meet to discuss the complaint with his/her immediate supervisor. In those circumstances where the nature of the complaint involves the immediate supervisor, the employee

may informally discuss the complaint with the next higher level of supervision, provided prior notification is given the immediate supervisor by the employee.

If the employee is not satisfied with the result of the informal meeting with his/her immediate supervisor or the next level of supervision in the instance of a complaint involving the immediate supervisor, the employee may use the formal grievance procedure. Grievance forms are available in the department.

.6 *Formal Grievance Procedure.*

Step 1. The grievance form and any supporting documents shall be delivered to the supervisor with whom the informal meeting was held, no later than five days from receipt of the supervisor's informal response or within ten days from the close of the informal meeting if no decision is rendered. The formal grievance procedure shall be initiated by the employee, stating the nature of the grievance, the alleged violation by section or number, if any, and the desired solution, in writing on the grievance form, together with any supporting documents attached to the grievance form.

The supervisor shall hold a formal meeting with the employee within five days of the receipt of the formal grievance to review the facts, gather all supporting documents, discuss the complaint and desired solution, and discuss the proper appeal procedure.

Step. 2. If the employee feels the immediate supervisor has not resolved the grievance, the employee may appeal to the next higher level of supervision and department head jointly. At this time, all supporting documents and evidence relative to the grievance shall be included with the appeal and made known to both parties. The person occupying the next higher level of supervision (identified by the department), together with the department head, shall hold a formal meeting with the employee and his/her representative, if requested, within ten days from the date of the appeal receipt, and attempt to settle the grievance.

A decision shall be made, in writing, on the original grievance form to the employee by the department head within ten days from the close of the formal meeting.

Step 3. If the employee is not satisfied with the decision of the department, he/she may appeal the decision to the County Administrative Officer within five days from receipt of the department head's decision. In his/her appeal to the County Administrative Officer, all supporting documents must be attached to the grievance form, together with the grievant's reason for appeal and stated remedy requested.

The County Administrative Officer or designee will review the original grievance, all supporting documents, the department head's response, and the remedy requested, and issue a written decision within ten days of the receipt of the grievance. Such decision shall be final.

In the event that the County Administrative Officer was involved in the decision that gave rise to the grievance, the County Administrative Officer shall not hear the appeal or designate any employee in the County Administrative Office to hear the appeal.

Such appeals shall be heard by an arbitrator who shall issue a written decision within ten days of the receipt of the grievance. Such decision shall be final.

COUNTY OF KERN GRIEVANCE FORM

Department:_____

Date:_____

Employee:_____

Classification:_____

Division:_____

Section:_____

Nature of Grievance:

Settlement Desired:

Signature:_____

1st Step (Immediate Supervisor) ***Date Received:_____***

Date Discussed Informally_____

Summary of Facts:

Decision:

Date:_____ ***Signature:_____***

Title:_____

2nd Step (Next Higher Supervisor and Department Head) Head Jointly) ***Date Received:_____***

Additional facts adduced:

Decision:

Date:_____ ***Signature:_____***

Title:_____

3rd Step (County Administrative Officer) ***Date Received:_____***

Additional facts adduced:

Decision:

Date:_____ ***Signature:_____***

Title:_____

Print **Clear Form**

EXHIBIT B

SEXUAL HARASSMENT POLICY

It is the policy of the County to provide employees a workplace free from any form of sexual harassment. Sexual harassment in any manner or form is expressly prohibited. All employees and applicants for employment are to be treated with respect and dignity. Violations of this policy shall result in disciplinary actions.

.1 Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors and other verbal or physical contact of a sexual nature when:

a. Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, or

b. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or

c. Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment.

.2 Individuals who believe that they have been victims of sexual harassment shall inform their immediate supervisor, another supervisory employee in the individual's department or, as an alternative, the Equal Employment Opportunity Division of the Personnel Department in accordance with Civil Service Rules 1800 et seq. No individual will be retaliated against for making a complaint or bringing inappropriate conduct to the County's attention. A supervisor receiving a complaint shall immediately report it to the department head, assistant department head or the Equal Employment Opportunity Division of the Personnel Department. A prompt and thorough investigation shall ensue and the department head or appointing authority shall take prompt remedial action, including disciplinary action, when it is warranted.

.3 Department heads shall be responsible for ensuring that all new employees in their department receive a copy of this policy and sign an acknowledgment which shall be retained in the employee's personnel file. In addition, department heads shall ensure that, on an annual basis, each employee in their department receives a copy of this policy and that an acknowledgment of receipt is contained in each employee's personnel file.

.4 Department heads may establish departmental policies and internal complaint procedures regarding sexual harassment provided that those policies and procedures are consistent with this policy.

ACKNOWLEDGEMENT OF SEXUAL HARASSMENT POLICY

NOTICE TO EMPLOYEES

I, the undersigned County employee, hereby acknowledge receipt of a copy of the County's Sexual Harassment Policy, Exhibit B to Chapter 1 of the County Administrative Policy and Procedures Manual, on the date appearing next to my signature below.

Dated: _____

Signature: _____

Print Name: _____

ALCOHOL AND DRUG ABUSE POLICY

I. PURPOSE

It is the intention of this policy to end substance abuse and its effects in the Kern County workplace. The County of Kern has no intention of intruding into the private lives of its employees. However, involvement with drugs[1] and alcohol on and off the job can lower job performance and impact employee safety. Our goal is for all employees to be in a condition to perform their duties safely and efficiently, in the interest of the public and co-workers. The presence of drugs and alcohol on the job and the influence of these substances on employees are inconsistent with this goal.

This policy provides guidelines for the detection and deterrence of alcohol and drug abuse as it impacts the workplace. It also outlines the responsibilities of all County employees. The County will act to end the abuse, by any County employee, of any substance, which increases the potential for accidents, absenteeism, substandard performance, poor employee morale or otherwise adversely impacts the County workplace. All employees should be aware that violations of this policy may result in discipline, up to and including dismissal.

In recognition of the public service responsibilities entrusted to the employees of the County of Kern, and because drug and alcohol usage can hinder a person's ability to perform duties safely and effectively, the Kern County Board of Supervisors adopts this policy.

II. POLICY

It is the County's policy that employees shall not be under the influence of drugs or alcohol, and shall not possess alcohol or drugs or manufacture illegal drugs while on County property, at County work locations, or while on duty or on stand-by. Employees shall not sell or provide drugs or alcohol to any person while the employee is on duty or standby.

Use of medically prescribed medications and drugs is not by itself a violation of this policy. However, an employee who is taking medication, which could foreseeably interfere with the safe and effective performance of duties or the operation of County equipment, must inform his/her supervisor before beginning work. It is the employee's responsibility to know the impairing effects of a prescribed medication. Failure to inform one's supervisor of a potential impairment relating to the employee's use of prescription medication can result in discipline, up to and including dismissal. If there is a question about an employee's ability to safely and effectively perform duties while using medications, the County may require clearance from a qualified physician.

[1] For the purposes of this policy, the term "drug" means "controlled substances" as identified in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812), and as further defined at 21 C.F.R. Part 1308. The term may, depending on context, include prescription medications, heroin, cocaine, morphine and its derivatives, P.C.P., methadone, barbiturates, amphetamines, marijuana and other cannabinoids.

Except as provided for in Government Code Section 3309, and because employees have no privacy interest in County worksite areas or in any property which the County owns or maintains exclusive control, the County reserves the right to search, when reasonably suspicious of a violation of this policy, all worksite areas and property which the County owns or maintains exclusive control. The County of Kern may also notify the appropriate law enforcement agency regarding suspected criminal activity related to drugs and alcohol. The foregoing shall not be interpreted to permit the County to search any personal belongings of the employee.

Refusal to submit immediately to an alcohol or drug analysis when requested by County management, when management is reasonably suspicious of a violation of this policy, may be considered an insubordinate act. Insubordination is just cause for discipline up to and including dismissal (Civil Service Commission Rule 1705.07).

The County commends those employees who voluntarily seek treatment for a drug or alcohol problem, and provides a voluntary Employee Assistance Program (EAP) to help those employees who voluntarily seek help for alcohol or drug problems. The County urges employees who believe they have an alcohol or drug abuse problem to seek confidential help from the EAP. Employee should contact their supervisors or the EAP Provider for additional information. Such voluntary treatment does not excuse violations of this policy.

The County will train its supervisors and managers to recognize substance abuse in the workplace and to effectively implement this policy. The County will not tolerate job related alcohol or drug abuse. The County will take personnel action as necessary to achieve this goal, including disciplinary action up to and including dismissal, as provided for in Kern County Civil Service Commission Rule 1700.

III. APPLICATION

This policy applies to alcohol and other substances, which could impair an employee's ability to effectively and safely perform the functions of the job. The policy applies to all employees of the County of Kern. In addition to this policy, the Sheriff's Department maintains its own policies with respect to Drug and Alcohol testing. Because Sheriff's Department employees are covered by their departmental policies, the County policy only applies to the extent Sheriff's Department employees are subject to Schedules B-2, C, or D of this policy.

In addition, as mandated by 49 C.F.R. § 382.101 et seq., all County of Kern employees regularly or occasionally assigned to duties as DMV Class "A" or Class "B" licensed drivers of commercial motor vehicles which weigh in excess of 26,001 pounds or which are required to display a hazardous materials placard or which transport 16 or more passengers ("commercial motor vehicle drivers") are subject to alcohol and drug testing standards in addition to those set forth herein. This "commercial motor vehicle drivers" drug and alcohol policy is attached herewith as Schedule C, and shall only apply to those employees and applicants described in Schedule C.

In addition, as mandated by 49 C.F.R. Parts 653 and 654, all County of Kern employees performing transit system duties which are related to the operation of mass transit service ("safety sensitive transit duty employees") are subject to drug and alcohol standards in addition to those set forth herein. This "safety sensitive transit duty employees" drug and

alcohol policy is attached herewith as Schedule D, and shall only apply to those employees and applicants described in Schedule D.

Because prescription drugs and controlled substances are more readily available for employees in classifications whose duties are directly related to patient care, applicant and pre-promotional/transfer drug screens for such classifications shall be more extensive and shall include the substances listed in Schedule A, Section II, Testing Protocol, items A 1(b) and C 1(b) in addition to those substances listed in Schedule A, Section II, Testing Protocol, items A 1(a) and C 1(a). Pre-promotional drug testing will not be conducted on KMC employees who have previously passed the KMC drug screening described above.

All applicants offered conditional employment at Kern Medical Center are subject to pre-employment drug screening as set forth in this policy.

All operating departments of the County of Kern receiving federal grant monies are specifically required to comply with the Drug Free Workplace Act of 1988[2], all applicable provisions of which are incorporated herein. The Drug Free Workplace Act defines a "drug-free workplace" as any site for the performance of work done in connection with a specific grant at which employees of the grantee are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance.

IV. EMPLOYEE RESPONSIBILITIES

A. Employees shall not report to work or be on standby when on or off duty alcohol or drug use has impaired his/her ability to perform job duties.

B. Employees shall not possess or use alcohol, illegal drugs or prescription drugs without a valid prescription during working hours or while on official standby, on breaks, or at anytime while on County property.

C. Employees shall inform their supervisor, before beginning work, when taking any medications, prescription or non-prescription, which may interfere with the safe and effective performance of job duties or operation of County equipment or vehicles.

D. Employees shall not directly or indirectly sell or provide drugs or alcohol to any person, while on duty. An employee shall not sell or provide drugs or alcohol to any on-duty County employee, regardless of their own duty status.

E. Employees shall submit immediately to an alcohol and/or drug test when requested to do so by a manager or supervisor from the employee's department or other authorized manager or supervisor.

F. Employees shall provide, within 24 hours of request, proof of a current prescription for any drug or medication identified when a drug screen/test is positive, or written documentation that a sample drug was provided by a physician, if the employee is taking the identified drug under orders of a physician. The prescription must be in the employee's name.

[2] 41 USC section 701 et seq..

G. Any employee who is convicted of violations of a criminal drug statute as a result of activity, occurrences, or events, which are also in violation of the terms of this policy, SHALL report the conviction to their department head within five (5) days following said conviction. Failure to provide such notification may result in disciplinary action pursuant to Rule 1700 of the Civil Service Commission Rules.

V. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

A. Managers and supervisors are responsible for the enforcement of this policy.

B. Managers and supervisors may request that an employee submit to a drug or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is under the influence of drugs or alcohol while on the job or on stand-by. (Refer to Schedule A, Section I (B.) for testing procedure.)

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a supervisor or manager to suspect that an employee is under the influence of drugs or alcohol such that the employee's ability to perform the functions of the job is impaired or the employee's ability to perform his/her job safely is reduced.

FOR EXAMPLE, any of the following, alone or in combination, **MAY** create reasonable suspicion:

1. Slurred or incoherent speech;
2. The odor of an alcoholic beverage on the breath;
3. Unsteady walking and movement;
4. An accident involving County property;
5. Unusual appearance (e.g. glassy or bloodshot eyes);
6. Unusual or irrational behavior;
7. Possession of alcohol or drugs;
8. Information received from a reliable person with personal knowledge[3].

C. Any manager or supervisor requesting an employee to submit to a drug or alcohol test **SHALL** document in writing, the facts which caused their reasonable suspicion that the employee in question was intoxicated or under the influence of drugs. Said documentation shall be maintained by the manager/supervisor's department for use if disciplinary or legal action becomes necessary.

D. Any manager or supervisor encountering an employee who refuses an order to submit to a drug or alcohol analysis upon request shall remind the employee of the potential consequences of his/her refusal. When there is a reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor must order the employee to leave County property and instruct the employee not to drive a motor vehicle. The employee should be considered to be on leave with pay the balance of the day's normal shift, and returned to regular duty at the Department Head's discretion.

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[3] A reliable person with personal knowledge may be any employee or private citizen who directly witnesses an act in violation of this policy, absent some circumstance that would cast doubt upon the credibility of their information.

The manager or supervisor should offer to transport the employee to his/her residence. If the employee declines the offer of transportation, a reasonable attempt should be made to get the employee to wait until someone of the employee's choice can safely transport the employee home. While reasonable attempts should be made to discourage the employee from leaving unassisted, **under no circumstance** will a manager or supervisor try to hold the employee against the employee's will. If all other attempts to provide safe transportation fail, the manager or supervisor should seek assistance from the appropriate law enforcement agency.

E. Managers and supervisors shall notify their department head or designee when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession in an area fully or partially controlled by the County. If the department head or designee agrees there is a reasonable suspicion of illegal drug possession, the department head shall contact the appropriate law enforcement agency.

F. Department heads, managers, and supervisors of those County departments determined to be subject to the compliance provisions of the federal Drug Free Workplace Act (those performing work under federal grants) are specifically required to provide employees this policy statement, to provide employees a drug awareness program, and to notify the grantor agency of any employee convicted of any workplace drug conviction within ten (10) days. Further, the Act requires, if any employee is so convicted, appropriate personnel action be taken against the employee within thirty (30) days.

VI. TEST PROCEDURE

The County may test for the presence of drugs or alcohol, which could impair an employee's ability to effectively and safely perform the functions of his/her job. Schedule "A" describes the method by which the County will conduct the testing for alcohol and drugs.

VII. APPLICANT AND PREPROMOTIONAL DRUG TESTING

A. Applicants (i.e. individuals not presently employed by the County) for the classifications listed in Schedule B-1 are subject to pre-employment drug testing and promotional employees (i.e. individuals presently employed by the County applying for other jobs within the County) seeking a classification listed in Schedule B-2 are subject to pre-promotional drug testing. Notwithstanding the foregoing, except for employees seeking positions involving direct patient care at Kern Medical Center, and employees seeking positions subject to the Sheriff's Department pre-employment drug policy, pre-promotional drug test will not be conducted on County employees who have previously passed a County pre-employment drug test.

B. Applicants and County employees who seek positions with assignments, and County employees assigned as "commercial motor vehicle drivers", as defined by 49 C.F.R. § 382.107, and who are required to maintain DMV Class "A" or Class "B" operator's licenses as a condition of employment shall be subject to drug and alcohol testing procedures set out in C.F.R. § 382.101 et seq., and the special testing procedures set out in Schedule C. The applicants and County employees who are subject to these procedures are set forth in Schedule "C".

In addition, the drug and alcohol drug testing procedures set forth in 49 CFR section 382.101 et seq., and the special testing procedures set forth in Schedule C shall apply to any County employee in any other job classification, which requires the assignment of the employee to operate a "commercial motor vehicle" as defined by 49 C.F.R. § 382.107 as part of his/her duties.

Applicants and County employees who seek positions with assignments, and County employees assigned as "safety sensitive transit system employees", as defined by 49 C.F.R. Parts 653 and 654, shall be subject to drug and alcohol testing procedures set out in 49 C.F.R. Part 40, and the special testing procedures set out in Schedule D when they are performing safety sensitive functions. The applicants and County employees who are subject to those procedures are set forth in Schedule D.

VIII. RESULTS OF DRUG AND/OR ALCOHOL ANALYSIS

A. Pre-employment Tests

1. A positive result from a drug analysis may result in the applicant's rejection when the applicant's use of drugs could affect necessary job standards, duties or responsibilities.

2. If a drug screen is positive at the pre-employment test, the applicant must provide, within 24 hours of request (excluding holidays and weekends), proof of a current prescription for the drug identified in the drug screen, or written documentation that a sample drug was provided by a physician. If the prescription is not in the applicant's name or the applicant does not provide acceptable proof, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the County may reject the applicant.

3. An applicant rejected for failure to successfully pass the drug screen will be removed from all eligibility lists for County employment per Civil Service Rule 307.10.03.

4. An applicant rejected for failure to successfully pass the drug screen will be barred from all County employment for not less than 180 days from the date of the original detection/rejection.

B. Pre-promotional Drug Tests

1. An employee rejected for failure to successfully pass the drug screen will be removed from the promotional examination list, and will be barred from all County employment testing for not less than 180 days from the date of the original detection/rejection. The employee is also subject to disciplinary action, up to and including dismissal, for any other violation of this Policy.

2. If a drug screen is positive at the pre-promotional test, the employee must provide, within 24 hours of request (excluding holidays and weekends), proof of a current prescription for the drug identified in the drug screen, or written documentation that a sample drug was provided by a physician. If the prescription is not in the employee's name or the employee does not provide

acceptable proof, or if the drug is one that is likely to impair the employee's ability to perform the job duties of the promotional position, the County may reject the employee as described above.

C. Reasonable Suspicion Alcohol/Drug Tests

1. A positive result from a drug or alcohol analysis **WILL** result in appropriate personnel action which may include disciplinary action, up to and including dismissal. A positive result from a drug or alcohol analysis for an extra-help or other "at will" employee will result in the employee being dismissed and barred from all County employment for not less than 180 days from the date of the original detection. Additionally, a positive result from a drug or alcohol analysis conducted under Schedule C or Schedule D will result, at a minimum, in the employee being removed from their safety sensitive duties and evaluated by the Substance Abuse Professional in accordance with Section 6 of Schedule C or Schedule D.

2. If a drug screen is positive, the employee must provide, within 24 hours of request, proof of a current prescription for the drug identified in the drug screen. The prescription must be in the employee's name. If the employee does not provide acceptable proof of a prescription, or if the prescription is not in the employee's name, or if the employee has not previously told his or her supervisor of potential impairment due to use of medication, the employee will be subject to disciplinary action, in conformance with Kern County Civil Service Commission Rule 1700.

3. If an alcohol or drug test is positive, the County shall conduct an investigation into the matter. Any disciplinary action will be carried out in conformance with Kern County Civil Service Commission Rule 1700.

IX. CONFIDENTIALITY

Laboratory reports or test results shall not appear in an employee's general personnel file. The Personnel Director will keep under his/her control information of this nature in a separate confidential medical folder. The Personnel Director shall provide reports or test results to County management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without the employee's consent, may also occur when: (1) judicial or administrative process compels by law the release of the information; (2) a formal dispute between the employer and employee places the information at issue; (3) the information is to be used in administering an employee benefit plan; (4) medical personnel need the information for the diagnosis or treatment of a patient who is unable to authorize disclosure; and (5) as required by law.

X. AMENDMENT OF POLICY

Until the Board of Supervisors amends this policy, the list of classifications contained in the attached Schedules shall remain unchanged except classifications may be added to or deleted from the Schedules with the concurrence of the Director of Personnel, the County Administrative Officer and County Counsel. All other changes or amendments to this policy require the approval of the Board of Supervisors.

SCHEDULE A

PROCEDURE FOR DRUG/ALCOHOL TESTING

I. PROCEDURE

A. Pre-employment and Pre-promotional Screens

1. Upon an applicant's or employee's certification for appointment to one of the specified classifications, the appointing authority will make an appointment for the applicant or employee with the contracted laboratory. The contracted laboratory will schedule pre-employment or pre-promotional testing samples at least twice monthly. An applicant or employee shall not be appointed until a negative result has been confirmed.

2. The collected sample will be screened by the contracted laboratory in accordance with the protocols described in Section II or Section III, below.

3. The contracted laboratory will notify the Director of Personnel and the appointing authority in writing of the results of the screen.

4. The Director of Personnel will notify the applicant or employee of the screen results.

5. If an applicant's or employee's sample screens positive for the presence of drugs:

(a) The applicant will be notified, in writing, of the type of substance and amount of substance identified, and told of their right to have a portion of the sample tested by a licensed laboratory of their choice and at their own expense.

(b) In compliance with section VIII, A, above, the applicant or employee may provide, within 24 hours (excluding holidays and weekends) of notification, proof of a current prescription for the drug identified in the drug screen, or written documentation that a sample drug was provided by a physician.

B. Reasonable Suspicion Screen – Drugs and Alcohol

1. Upon determination that reasonable suspicion exists to believe an employee is under the influence of alcohol and/or drugs, in violation of this policy, the suspect employee's department head, or designee, or other authorized manager, may order the employee to provide a urine sample for testing.

2. The employee will be warned that refusal to provide a urine sample will be considered an insubordinate act, and may subject the employee to disciplinary action up to and including dismissal pursuant to the Civil Service Rules (e.g,, Rules 1705.07, 1705.11). Additionally, "safety sensitive employees" tested in accordance with Schedule C or Schedule D shall be warned that their refusal to submit to testing will be considered a positive test.

3. The employee will also be told of their option to have blood drawn and analyzed in addition to the urine sample testing. Additionally, for tests of employees covered under Schedule C or Schedule D, the employee will also be told of their right to request testing of the split sample.

4. Departments will utilize the procedure as set forth below unless otherwise approved by County Counsel. Said procedures will include the following minimum standards:

   a. If the event occurs in the immediate Bakersfield area, and if contracted laboratory personnel are available, the department may elect to transport a willing employee to the contracted laboratory for sample collection.

   b. Transporting employees from distant work-sites is not recommended. Departments with offices outside the immediate Bakersfield area should be prepared to accomplish sample collection as provided below.

      i. One manager or supervisor of each sex should be designated to supervise the sample collection.

      ii. The collection point (restroom) should be, if possible, one not normally available to the public. A cursory inspection of the collection point should be made prior to use to insure reasonable security.

      iii. Employees should **NOT** be searched, but should not be allowed to carry articles (i.e. handbags, backpacks, packages, etc.) into the collection point.

      iv. The designated manager/supervisor **WILL** allow the employee privacy within a bathroom stall, but to protect against sample contamination or dilution, the manager/supervisor should place dye in the toilet bowl to be used, and remain inside the bathroom until the sample has been obtained.

      v. Once the designated manager/supervisor has obtained the urine sample from the employee, the container label should be marked with **ONLY** the employee's identification number (name will be excluded), and their own name or initials.

      vi. The designated manager/supervisor will personally transport the sample to the contracted laboratory. Maintenance of the chain of evidence will be the responsibility of the designated manager/supervisor and the contracted laboratory in conformance with standards utilized in the handling of criminal evidence.

   c. For employees covered by Schedule C or Schedule D, sample collection should be done only by laboratories designated as collection sites for post-accident testing.

d. The contracted laboratory will screen the sample to determine the presence or absence of alcohol or drugs. Test results will be forwarded to the Director of Personnel and maintained in accordance with Article IX, above.

e. If either of the body fluid tests result in a positive determination of the presence of drugs, the Director of Personnel will notify the employee in writing of the employee's right to produce, within 24 hours (excluding weekends and holidays), proof of a prescription for the drug, or written documentation that a sample drug was provided by a physician. The employee will be further notified of her/his right to obtain a portion of the fluid for testing by a licensed laboratory of their choice and at their own expense.

5. If the employee elects to have blood drawn and analyzed, the department head or designee will contact the Senior Administrator on-duty or on-call at the Kern Medical Center (KMC) (661) 326-2000, and arrange an appointment with the hospital for the employee. Said appointment must occur within 2-1/2 hours of the time when the manager/supervisor notifies the employee of his/her reasonable suspicion. The employee must arrange his/her own transportation to and from KMC and must be willing and able to identify themselves to KMC laboratory personnel with a California Drivers License or I.D. card.

(a) Blood samples (if elected) will be forwarded to the contracted laboratory and screened to determine the blood alcohol/drug level. Test results will be forwarded to the Director of Personnel, the submitting employee and the head of the employee's department and maintained in accordance with Article IX, above.

II. TESTING PROTOCOL

A. First Screen

1a. The specific gravity of the sample must be 1.002 or greater. If the individual is unable to provide an acceptable sample, the individual may elect, with Director of Personnel approval, to have blood drawn in lieu of a urine sample. Urine samples will be screened by Enzyme Immunoassay (EIA), for the following drugs, at the listed positive "cut-off" levels:

Drug	Initial Test Levels (ng/ml)	Confirmatory Test Levels (ng/ml)
Amphetamine	300	260
Methamphetamine	300	260
MDMA/MDA (ecstasy)	1000	260
Barbiturates (e.g., amobarbital, butalbarbital, butalbital, pentobarbital, phenobarbital, secobarbital)	300	100
Opiates (e.g., heroin, codeine, morphine, hydromorphone,	300	150

Drug	Initial Test Levels (ng/ml)	Confirmatory Test Levels (ng/ml)
hydrocodone)		
Cocaine (benzoyl, ecgonine)	300	150
Phencyclidine (PCP)	25	25
Methadone	300	100
Marijuana (THC)	20	10
Oxycodone	100	100
Propoxyphene	300	300
Benzodiazehpines (e.g., valium, librium, oxazepam serax, dalmane, ativan)	300	100
Metaqualone	300	300

1b. The initial test shall be performed using a Gas Chromatography/Mass Spectrometry test for the following drugs, at the listed positive "cut-off" levels:

Drug	Initial Test Levels (ng/ml)
Fentanyl	1
Ketamine	25
Meperidine	500

2. The screen results of any sample containing levels of drugs below those listed above will be reported as negative ONLY.

3. Other drugs will be done by specific request.

4. Alcohol will be screened only in reasonable suspicion situations, at a level of 0.02%

B. Confirmatory Screen

If the EIA urine screen for one of the substances (except alcohol), listed above is positive, the laboratory will then perform a Gas Chromatography/Mass Spectrometry test for confirmation.

C. Reasonable Suspicion Screen

1a. The initial test shall use an immunoassay, which meets the requirements of the Food and Drug Administration for Commercial distribution. The following initial cutoff levels shall be used when screening specimens to determine whether they are negative for these five drugs or classes of drugs:

Drug	Initial Test Levels (ng/ml)
Marijuana metabolites	20
Cocaine metabolites	300
Opiate metabolites	300
Phencyclidine	25
Amphetamines	300

1b. The initial test shall be performed using a Gas Chromatography/Mass Spectrometry test for the following drugs, at the listed positive "cut-off" levels:

Drug	Initial Test Levels (ng/ml)
Fentanyl	1
Ketamine	25
Meperidine	500

D. Confirmatory Test

All specimens identified as positive on the initial test shall be confirmed using gas chromatography/mass spectrometry techniques. All confirmations shall be by quantitative analysis.

Concentrations, which exceed the linear region of the standard curve, shall be documented in the laboratory record as "greater than highest standard curve value."

Confirmatory lest levels are listed under section A, item 1a above.

III. TESTING PROTOCOL FOR CLASSIFICATIONS LISTED IN SCHEDULE C OR SCHEDULE D

This testing is mandated by and shall be conducted in accordance with applicable federal regulations. The test will be considered positive if the amounts present are above the minimum thresholds established by federal regulation.

IV. COST

The cost of tests ordered by the County will be paid by the County department for whom the employee works or with whom the prospective employee has applied for a position. Costs of administration of the testing under Schedule C and Schedule D will be divided among the County departments with covered employees, pro-rated to each department based on the number of covered employees in the department versus the number of total covered employees. The cost of split sample testing under Schedule C and Schedule D will be paid by the County department for whom the employee works.

V. EVIDENCE

A. Samples

1. The contracted laboratory will maintain all samples in a secure place according to the following schedule:

   a. Negative samples – three months.
   b. Positive samples – six months.
   c. Confirmed positive – three years.

SCHEDULE B-1

CLASSIFICATION SUBJECT TO PRE-EMPLOYMENT SCREENING

1. Fiscal Support Technician
2. Ag Biologist/W&M Inspector Trainee I/II/III/IV
3. Air Conditioning Mechanic
4. Airports Analysis and Marketing Manager
5. Airports Maintenance Supervisor
6. Airports Maintenance & Operations Mgr.
7. Appraiser I/II/III/IV
8. Assistant Director of Disease Control
9. Assistant Program Director
10. Assistant Program Director – District Offices
11. Assistant Director of Human Services
12. Assistant Director of PH Nursing
13. Assistant Public Health Officer
14. Auditor-Appraiser I/II/III
15. Automotive Mechanic I/II/Senior
16. Automotive Service Worker I/II
17. Building Services Manager
18. Building Services Worker I/II/III
19. Chief Deputy-Fire
20. Chief District Attorney Investigator
21. Clinical Pharmacist
22. Clinical Psychologist I/II
23. Communications Information Specialist
24. Communications Manager
25. Communications Technician I/II/III
26. Control Coordinator
27. Coroner Division Chief
28. Coroner's Investigator
29. District Attorney's Investigator I/II/III
30. District Attorney's Lieutenant
31. Deputy Conservator
32. Deputy Director of Mental Health
33. Deputy Fire Chief
34. Deputy Public Health Officer
35. Deputy Probation Officer I/II/III
36. Deputy Public Administrator
37. Director of Airports
38. Director of Human Services
39. Director of Mental Health Services
40. Director of Public Health Nursing
41. Director of Public Health Services
42. Eligibility Worker
43. Emergency Medical Services Coordinator
44. Employment Counselor I/II/III
45. Equipment Operator
46. Facilities Attendant

SCHEDULE B-1

CLASSIFICATION SUBJECT TO PRE-EMPLOYMENT SCREENING

47. Facilities Manager
48. Family Advocate
49. Fire Battalion Chief
50. Fire Captain
51. Fire Chief
52. Fire Crew Worker
53. Fire Dispatcher I/II
54. Fire Engineer
55. Fire Equipment Mechanic
56. Fire Equipment Service Worker
57. Fire Equipment Technician
58. Fire Fighter
59. Fire Fighter Apprentice
60. Fire Haz Mat Program Specialist
61. Fire Heavy Equipment Operator
62. Fire Helicopter Pilot
63. Fire Prevention Specialist
64. Garage Shift Supervisor
65. Group Counselor Facility Maintenance Worker – Probation
66. Group Counselor Maintenance Worker – Probation
67. Group Counselor Custodian – Probation
68. Group Counselor Cook – Probation
69. Group Counselor Senior Cook – Probation
70. Group Counselor I/II/III – Probation
71. Group Counselor I/II/III-Probation-Extra-Help
72. Group Counselor Support Services – Probation
73. Group Counselor Institution Supervisor – Probation
74. Group Counselor DHS-Extra Help
75. Group Counselor I/II/III - DHS
76. Groundskeeper I/II/III
77. Health Education Assistant I/II
78. Health Educator
79. Heavy Equipment Service Worker
80. Heavy Equipment Mechanic
81. Heavy Equipment Mechanic Helper
82. HIV Services Supervisor
83. Hospital Staff Nurse I/II
84. Human Services Personnel Manager
85. Human Services Program Director
86. Human Services Aide
87. Human Services Tech I/II/III
88. Investigative Aide
89. Junior Public Health Nurse
90. Mail Clerk I/II
91. Maintenance Carpenter
92. Maintenance Electrician
93. Maintenance Painter

SCHEDULE B-1

CLASSIFICATION SUBJECT TO PRE-EMPLOYMENT SCREENING

94. Maintenance Plumber
95. Maintenance Supervisor
96. Maintenance Worker I/II/III/IV
97. Marketing and Promotions Associate
98. Medical Investigator
99. Mental Health Housing Administrator
100. Mental Health Medical Director
101. Mental Health Nurse I/II
102. Mental Health Physician
103. Mental Health Recovery Specialist Aide
104. Mental Health Recovery Specialist I/II/III
105. Mental Health Technician I/II
106. Mental Health Unit Supervisor I
107. Nurse Practitioner
108. Nursing Attendant
109. Occupational Therapist
110. Occupational Therapy Technician
111. Outreach Worker
112. Park Ranger I/II/III
113. Park Ranger Supervisor
114. Park Ranger Trainee
115. Parks Security Officer
116. Parks and Aquatics Specialist
117. Patient's Rights Advocate
118. Pharmacist
119. Physical Therapist
120. Physician's Assistant
121. Pre-licensed Vocational Nurse
122. Property Control Officer
123. Psychiatrist I/II-Mental Health
124. Psychiatrist III-Mental Health
125. Psychologist Intern
126. Public Health Aide I/II
127. Public Health Chemist
128. Public Health Laboratory Director
129. Public Health Nurse I/II/III
130. Public Health Nutritionist
131. Road Maintenance Worker I/II
132. Road Maintenance Worker III
133. Senior Building Services Worker
134. Senior EMS Coordinator
135. Social Service Supervisor I/II
136. Social Service Worker I/II/III/IV/V
137. Staff Nurse
138. Stock Clerk
139. Storekeeper I/II
140. Substance Abuse Program Monitor

SCHEDULE B-1

CLASSIFICATION SUBJECT TO PRE-EMPLOYMENT SCREENING

141. Substance Abuse Specialist I/II
142. Supervising Building Services Worker
143. Supervising Communications Tech
144. Supervising Facilities Manager
145. Supervising Fire Dispatcher
146. Supervising Heavy Equipment Mechanic
147. Supervising Mental Health Clinician
148. Supervising Road Maintenance Worker I/II
149. Supervising Therapist
150. Telecommunications Engineer
151. Vocational Nurse I/II

SCHEDULE B-2

CLASSIFICATIONS SUBJECT TO PRE-PROMOTIONAL/TRANSER SCREENING

1. Fiscal Support Technician
2. Airports Analysis and Marketing Manager
3. Airports Maintenance Supervisor
4. Airports Maintenance and Operations Manager
5. Clinical Pharmacist
6. Communications Information Specialist
7. Communications Manger
8. Communications Technician I/II/III
9. Deputy Probation Officer I/II/III
10. Director of Airports
11. Group Counselor I/II/III – DHS
12. Group Counselor I/II/III – Probation
13. Heavy Equipment Service Worker
14. Heavy Equipment Mechanic
15. Hospital Staff Nurse I/II
16. Junior Public Health Nurse
17. Nurse Practitioner
18. Occupational Therapy Technician
19. Park Ranger I/II/III
20. Park Ranger Supervisor
21. Pharmacist
22. Physical Therapist
23. Physician Assistant
24. Public Health Aide I/II/III
25. Public Health Chemist
26. Public Health Clinician
27. Public Health Nurse I/II/III
28. Public Health Nutritionist
29. Road Maintenance Worker I/II
30. Road Maintenance Worker III
31. Staff Nurse
32. Supervising Communications Technician
33. Supervising Therapist

SCHEDULE C

ADDENDUM TO COUNTY OF KERN ALCOHOL AND DRUG ABUSE POLICY SPECIAL ALCOHOL AND DRUG ABUSE PROVISIONS APPLICABLE TO COUNTY EMPLOYEES OPERATING LARGE COMMERCIAL MOTOR VEHICLES AND BUSES SUBJECT TO 49 CFR 382.107

1. PURPOSE

A. This addendum has been adopted as a supplement to the County of Kern's general policies and procedures to end substance abuse in the workplace and to assure the public safety adopted as the "County of Kern Alcohol and Drug Abuse Policy."

B. This special addendum applies to non-exempt County employees assigned to operate (1) County motor vehicles having a combined gross weight in excess of 26,001 pounds, or (2) vehicles required to display a hazardous materials placard, or (3) passenger vehicles transporting 16 or more individuals on the public highways. The standards set in this special addendum policy are in addition to the general policies and procedures applicable to all County employees. This addendum is a mandated federal program made applicable to the County of Kern by 49 U.S.C. app. 2717, § 12020(e)(l) of the Omnibus Transportation Employee Testing Act of 1991 and 49 CFR § 382.101 et seq.

2. APPLICATION

A. This applies to applicants for employment and County employees who are assigned or who seek to be assigned to duties as drivers of commercial motor vehicles as those terms are defined by 49 CFR § 382.107. For purposes of this policy, "commercial motor vehicles" are vehicles which require a Class "A" or Class "B" license to operate and which (1) weigh in excess of 26,001 pounds, (2) are legally required to display a hazardous materials placard, or (3) which carry 16 or more passengers.

B. This policy is not applicable to California Restricted Class "C" Kern County Fire Department employee and volunteer operators of fire fighting and emergency equipment who operate vehicles weighing in excess of 26,001 pounds under licensing provisions of Vehicle Code § 15250.5-12250.6. Such individuals remain subject to the regular provisions of the "County of Kern Alcohol and Drug Abuse Policy."

C. The job classifications of the County employees to which this policy applies are as follows:

Fire Department employees assigned to drive "commercial motor vehicles" including but not limited to, certain employees in the following classifications:

- Fire Equipment Mechanic
- Fire Equipment Service Worker
- Auto Mechanic I/II/Senior

Sheriff's employees assigned to drive "commercial motor vehicles" including, but not limited to, certain employees in the following classifications:

- Deputy Sheriff Trainee/I/II/Senior
- Sheriff's Detention Officer

Parks Department employees assigned to drive "commercial motor vehicles" including, but not limited to, certain employees in the following classifications:

- Equipment Operator
- Maintenance Worker I/II/III/IV
- Supervising Auto Mechanic
- Park Supervisor I/II
- Tree Trimmer I/II/III
- Groundskeeper I/II/III
- Park Caretaker

Roads Department employees assigned to drive "commercial motor vehicles" including, but not limited to, certain employees in the following classifications:

- Maintenance Painter
- Highway Paint Equipment Superintendent
- Road Maintenance Worker I/II
- Road Maintenance Worker III
- Supervising Road Maintenance Worker I/II
- Heavy Equipment Mechanic
- Heavy Equipment Service Worker

Agricultural Commission/Sealer employees assigned to drive "commercial motor vehicles" including, but not limited to, certain employees in the following classifications:

- Assistant Director
- Agricultural Biologist/W&M Inspector Trainee/I/II/III/IV

Waste Management Department employees assigned to drive "commercial motor vehicles" including, but not limited to, certain employees in the following classifications:

- Wastewater Treatment Plant Operator Trainee/I/II/III
- Waste Management Specialist I/II/III

Airports Department employees assigned to drive "commercial motor vehicles" including, but not limited to, certain employees in the following classifications:

- Maintenance Worker I/II/III/IV

General Services Department employees assigned to drive "commercial motor vehicles" including, but not limited to, certain employees in the following classifications:

- Automotive Service Worker I/II
- Automotive Mechanic I/II/Senior
- Garage Shift Supervisor

Library employees assigned to drive "commercial motor vehicles" including, but not limited to, certain employees in the following classifications:

- Office Services Assistant
- Office Services Technician
- Office Services Specialist
- Senior Office Services Specialist
- Library Associate
- Light Vehicle Driver

Public Transportation employees assigned to drive "commercial motor vehicles" including, but not limited to, certain employees in the following classifications:

- Planner I/II/II/Analyst
  Heavy Equipment Mechanic

These standards apply to any County employee in any other job classification, which requires the assignment of the employee to operate a "commercial motor vehicle" as defined by 49 CFR § 382.107 as part of his/her duties.

D. All applicants for employment in these designated positions and employees performing duties in positions subject to this addendum are hereafter referred to as "covered applicants" or "covered employees."

E. The provisions of this Addendum are more restrictive and in addition to the standards of conduct, drug and alcohol testing procedures and record keeping requirements applicable to all County employees. In case of any conflict between the provisions of this Addendum and the general County Alcohol and Drug Testing Policy, the more stringent testing standard shall be applicable.

F. Each covered applicant or employee shall be provided with a copy of the "County Alcohol and Drug Abuse Policy" as well as this Schedule and execute a written acknowledgment of receipt of the same. Such covered applicants and employees shall also be required to execute written consents to submit to the pre-employment, periodic, random, reasonable cause and post-accident drug and alcohol tests described in this addendum as a condition of employment. The failure or refusal to submit to testing upon the direction of the County provides sufficient grounds for refusal to employ or for discipline of the employee under Kern County Civil Service Commission Rule 1705.03 (conduct unbecoming) and Rule 1705.11 (violation of any lawful order).

3. EMPLOYEE RESPONSIBILITIES

A. Employees must not report to work or be on official standby when on or off duty alcohol or drug use has impaired his/her ability to perform job duties. Employees shall not operate any County motor vehicle or any other vehicle in the course of their job duties within four (4) hours of consuming any alcohol. Employees shall not operate such vehicles with a blood alcohol level in excess of 0.02% grams of body weight. Employees shall not operate such vehicles with any measurable amount of a controlled substance in their bodies (whether legal, illegal, prescribed or non-prescribed), which impairs or may impair safe vehicle operation.

B. Employees must not possess or use alcohol or impairing drugs (illegal drugs and prescription drugs without a prescription) during working hours or while on official standby, on breaks, or at anytime while on County property.

C. Employees must inform their supervisor, before beginning work, when taking any medications, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of County equipment.

D. Employees must not directly or indirectly sell or provide drugs or alcohol to any person, while on duty. An employee must not sell or provide drugs or alcohol to any on-duty County employee, regardless of their own duty status.

E. Employees must submit immediately to an alcohol and/or drug test when requested to do so by a responsible manager or supervisor from the employee's department.

F. Employees must provide, within 24 hours of request, proof of a current prescription for any drug or medication identified when a drug screen/test is positive, if the employee is taking the identified drug under the orders of a physician. The prescription must be in the employee's name.

G. Any employee who is convicted of violations of a criminal drug statute as a result of activity, occurrences, or events which are also in violation of the terms of this policy MUST report the conviction to their department Head within five (5) days following said conviction. Failure to perform such notification may result in disciplinary action pursuant to Rule 1700 of the Civil Service Commission Rules.

4. MANAGEMENT RESPONSIBILITIES AND GUIDELINES

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

B. Managers and supervisors may request that an employee submit to a drug or alcohol test when a manager or supervisor has a reasonable suspicion that an employee is under the influence of drugs or alcohol while on the job or on stand-by. (Refer to Schedule A, Section I, B. for testing procedure.)

"Reasonable suspicion" is a belief based on objective facts sufficient to lead a supervisor to suspect that an employee is under the influence of drugs or alcohol such that the employee's ability to perform the functions of the job is impaired or the employee's ability to perform his/her job safely is reduced.

FOR EXAMPLE, any of the following, alone or in combination, MAY create reasonable suspicion:

- Slurred or incoherent speech;
- The odor of an alcoholic beverage on the breath;
- Unsteady walking and movement;
- An accident involving County property;
- Unusual appearance (e.g. glassy or bloodshot eyes);
- Unusual or irrational behavior;
- Possession of alcohol or drugs;
- Information received from a reliable person[1].

C. Any manager or supervisor requesting an employee to submit to a drug or alcohol test WILL document in writing the facts which caused their reasonable suspicion that the employee in question was intoxicated or under the influence of drugs. Said documentation will be maintained by the manager/supervisor's department for use if disciplinary or legal action becomes necessary. A copy will be forwarded to the Director of Personnel.

D. Any manager or supervisor encountering an employee who refuses an order to submit to a drug or alcohol analysis upon request shall remind the employee of the potential results of his/her refusal. When there is a reasonable suspicion that the employee is under the influence of alcohol or drugs, the manager or supervisor must order the employee to leave County property. The employee should be considered to be on leave with pay the balance of that day's normal shift. The employee shall not be returned to safety sensitive duties until successfully completing Return-to-Duty testing and Follow-Up care as outlined in Section 8 below.

The manager or supervisor should offer to transport the employee to his/her residence. If the employee declines the offer of transportation, a reasonable attempt should be made to get the employee to wait until someone of the employee's choice can safely transport the employee home. While reasonable attempts should be made to discourage the employee from leaving unassisted, under no circumstance will a manager or supervisor try to hold the employee against the employee's will. If all other attempts to provide safe transportation fail, the manager or supervisor should seek assistance from the appropriate law enforcement agency.

E. Managers and supervisors shall notify their department head when they have reasonable suspicion to believe that an employee may have illegal drugs in his or her possession in an area not fully controlled by the County. If the department head or designee agrees there is reasonable suspicion of illegal drug possession, the department head shall contact the appropriate law enforcement agency.

F. Department heads will designate persons responsible for determining whether reasonable suspicion exists for testing. Designated employees must participate in at least 60 minutes of training on alcohol misuse and 60 minutes of training on substance abuse. The training must cover physical/ behavioral, speech and performance indicators of probable alcohol misuse and use of controlled substances.

G. Management will educate employees on procedures required following a motor vehicle accident.

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[1] A reliable person with personal knowledge may be any employee or private citizen who directly witnesses an act in violation of this policy, absent some circumstance that would cast doubt upon the credibility of their information.

H. Management will distribute the drug and alcohol policy, which will contain the name of a person, designated to answer employee questions regarding the policy and will obtain a signed receipt from the employee stating that they have been given a copy of the policy.

I. Department heads, managers and supervisors of those County Departments determined to be subject to the compliance provisions of the federal Drug Free Workplace Act (those performing work under federal grants) are specifically required to provide employees this policy statement, to provide employees a drug awareness program and to notify the grantor agency of any employee convicted of any workplace drug conviction within ten (10) days. Further, the Act requires, if any employee is so convicted, appropriate personnel action be taken against the employee within thirty (30) days.

5. PRE-EMPLOYMENT AND PRE-ASSIGNMENT TESTING

A. Covered applicants shall be required to submit to drug testing as a condition of employment. All present employees promoted or transferred to duties in a covered job classification or position shall be required to submit to alcohol and drug testing. Such testing shall be conducted under the supervision of the Personnel Department under the procedures and standards established by Part VII, Section A, and Schedule A of the County Alcohol and Drug Abuse Policy and in accordance with the minimum standards set by 49 CFR Part 40. This testing is mandated by and shall be conducted in accordance with 49 CFR § 382.301.

B. Persons rejected for failure to successfully pass the drug or alcohol screen will be disqualified from accepting employment in a County position involving driving County commercial motor vehicles for 180 days.

C. If the covered applicant or employee has, within the previous two years, been employed in any private or public employment in which drug screen or alcohol screen testing was required, this fact shall be disclosed and written consent shall be given by the covered applicant or employee for the disclosure of the results of any testing performed.

6. PERIODIC RANDOM AND REASONABLE SUSPICION TESTING

A. Periodic Random Testing: As a condition of continued employment, not less than 50% of all covered employees will be required by the Personnel Department to submit to unannounced drug and alcohol abuse screening tests in each calendar year[2]. These unannounced tests will be conducted during the tested employee's normal work hours and at locations designated by the Personnel Department. Covered employees will be selected for testing on a random basis. Such testing shall be conducted under the supervision of the Personnel Department under the procedures and standards established by Part VII, section A, and Schedule A of the County Alcohol and Drug Abuse Policy. This testing is mandated by and shall be conducted in accordance with 49 CFR § 382.305.

B. Reasonable Suspicion Testing: Covered employees are subject to drug and alcohol screening under the conditions, standards and procedures established by Part V, Section B of the County

[2] 49 CFR § 382.305 requires that a minimum of 25% of all covered employees be tested for alcohol and a minimum of 50% of these employees be tested for drugs. Because drug testing will also detect alcohol usage in excess of 0.02%, the two types of tests have been combined.

Alcohol and Drug Abuse Policy. Additional grounds for such testing are established by 49 CFR § 382.307.

C. Employees found to have a blood alcohol content of 0.02% grams or more or who test positive for measurable amounts of a controlled substance shall be immediately relieved from the performance of safety sensitive activities. Upon confirmation of the test results, the employee shall be referred by the department head and Personnel to the Substance Abuse Professional (Employee Assistance Program). The department head may initiate such disciplinary action, including suspension without pay and discharge, as appears appropriate under the totality of circumstances.

D. An employee determined to have a blood alcohol content of 0.02% grams or more in his/her system or who tests positive for measurable amounts of any controlled substance shall not be returned to safety sensitive duties until successfully completing a return to duty testing process as outlined in Section 8 below. This testing is mandated by and shall be conducted in accordance with 49 CFR §382.307.

7. TESTING FOLLOWING MOTOR VEHICLE ACCIDENT.

A. Employees shall submit to blood alcohol content testing (by breath test) and controlled substance testing (by urine test) following any motor vehicle accident in a County vehicle or in the course of County business if:

(1) The accident results in one or more vehicles incurring disabling damage that requires towing from the site, or
(2) The accident results in a fatality; or
(3) The accident results in serious physical injury to any person, which requires immediate medical care and treatment.

B. The employee shall immediately notify the department head (or his or her designated delegate) of any accident requiring testing under this section. Notice shall be made as soon as practicable after receiving any immediately necessary emergency medical care. Test samples of urine may be drawn, or a breath test administered, with the consent of the employee, by the qualified medical professionals rendering the emergency medical treatment.

C. Upon receipt of notice of an employee involved accident requiring testing under this section, the Department Head shall notify the Personnel Department of the accident and arrange for the conduct of an employee breath alcohol and drug test according to the procedure set forth in Schedule A. Breath alcohol tests shall be administered within two (2) hours of the accident and drug tests shall be administered within thirty-two (32) hours of the accident. Tests may be conducted by local, state or federal authorities as part an investigation of the accident if copies of the lab reports of the administration of the tests and portions of the sample for purposes of retesting are available to the Personnel Department. No test for the purposes of determining the presence of alcohol shall be taken more than eight (8) hours after the accident. No sample shall be taken for purposes of determining the presence of a controlled substance more than thirty-two (32) hours after the accident.

D. If no breath alcohol test is taken by the employee within eight (8) hours of the accident or if no sample of urine is taken from the employee within thirty-two (32) hours of the accident, the reason for this failure shall be documented by the department head and provided to the Director of Personnel.

E. An employee involved in any motor vehicle accident requiring testing under this section may not consume any alcohol after the accident (1) for a period of eight (8) hours, or (2) until the blood alcohol/drug tests are performed; whichever occurs first.

This post-accident testing is mandated by and shall be conducted in accordance with the provisions of 49 CFR § 382.303 and 49 CFR § 390.5.

8. RETURN-TO-DUTY DRUG AND ALCOHOL TESTING/FOLLOW-UP CARE

If a covered employee fails to successfully pass a periodic, random, reasonable cause or post-accident drug or alcohol test as described herein, that employee will not be assigned to or permitted to perform safety sensitive duties involving the operation or maintenance of commercial motor vehicles until that employee has taken and passed a blood alcohol and drug screen test. In order to pass such a test, the employee must have a blood alcohol content or 0.02% grams or less and a verified negative result for controlled substance use. Each covered employee identified through evaluation by Substance Abuse Professional (EAP) as needing assistance in resolving problems associated with alcohol use or controlled substance use shall be subject to a program of rehabilitation and follow-up on the job testing for the following six (6) to twelve (12) months as required by 49 CFR §382.605.

9. SYSTEM CONTACT

Any person with questions regarding this policy should contact the following representative(s):

Civil Service Records Technician OR
Asst Director of Personnel
Kern County Personnel Department
1115 Truxtun Avenue 1st floor
Bakersfield, CA 93301
(661) 868-3480

10. TESTING RECORDS, SUMMARIES AND CONFIDENTIALITY

All records concerning testing under this policy shall be maintained pursuant to the requirements of 49 CFR § 382.401. The records shall be maintained under the supervision of the Personnel Department in a secure location with controlled access. Records shall be retained for the following minimum periods:

A. Five Years:

(1) Test results indicating a blood alcohol concentration of 0.02% grams or more and all positive controlled substance tests;
(2) Documentation of all refusals to test;
(3) Calibration documentation; and
(4) Copy of each annual calendar year summary required by 49 CFR § 382.403.

B. Two Years:

Records related to the alcohol and controlled substances collection process required to be maintained by 49 CFR § 382.401(c).

C. One Year:

Records of negative and canceled controlled substances tests and blood alcohol test results of less than 0.02% grams.

The records shall be made available upon written demand or lawful disclosure order to the Federal Highway Administration or any other public safety or regulatory agency.

A particular employee's records shall be made available to the employee on written request. A particular employee's records shall not be disclosed to any other third party except with the employee's written consent. Records may be disclosed to nongovernmental third parties only upon lawful subpoena, issued with proof of notice to the employee under Code of Civil Procedure § 1985.4-1985.6 or upon order of a court of competent jurisdiction after application for disclosure by noticed motion under Evidence Code § 1040-1043.

ADDENDUM TO COUNTY OF KERN DRUG AND ALCOHOL POLICY
SPECIAL ALCOHOL AND DRUG ABUSE PROVISIONS
APPLICABLE TO COUNTY EMPLOYEES PROVIDING TRANSIT SERVICES
Adopted as of July 28, 2026

1. PURPOSE

1) The County of Kern provides public transit and paratransit services for the residents of Kern County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, the County declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.

2) Additionally, the purpose of this addendum is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. Covered employees shall abide by the terms of this policy addendum statement as a condition of employment. This addendum is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates drug and alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of specimens for drug and alcohol testing.

3) Any provisions set forth in this addendum that are included under the sole authority of the County and <u>are not</u> provided under the authority of the above named Federal regulations are underlined. Tests conducted under the sole authority of County of Kern will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

2. APPLICABILITY

This Drug and Alcohol Testing Policy Addendum applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry firearms, persons controlling the dispatch or movement of revenue service vehicles and any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL, or receive remuneration for service in excess of actual expense.

3. DEFINITIONS

Accident: An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

a. An individual dies;
b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Adulterated specimen: A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

Alcohol: The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

Alcohol Concentration: Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

Aliquot: A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

Alternate specimen: An authorized specimen, other than the type of specimen previously collected or attempted to be collected.

Canceled Test: A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

Collection Site: A place selected by the employer where employees present themselves for the purpose of providing a specimen for a drug test.

Confirmatory Drug Test: A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify a specific drug or drug metabolite.

Confirmatory Validity Test: A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

Covered Employee Under FTA Authority: An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

Cutoff: The analytical value (e.g., drug or drug metabolite concentration) used as the decision point to determine a result (e.g., negative, positive, adulterated, invalid, or substituted) or the need for further testing.

Designated Employer Representative (DER): An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

DOT, The Department, DOT Agency: These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

Dilute specimen: A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

Disabling damage: Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

Employee: Any person who is designated in a DOT agency regulation as subject to drug testing and/or alcohol testing. The term includes individuals currently performing safety-sensitive functions designated in DOT agency regulations and applicants for employment subject to pre-employment testing. For purposes of drug testing under 49 CFR Part 40, the term employee has the same meaning as the term "donor" as found on CCF and related guidance materials produced by the Department of Health and Human Services.

Evidential Breath Testing Device (EBT): A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

Initial Drug Test: The first test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

Initial Specimen Validity Test: The first test used to determine if a specimen is adulterated, diluted, substituted, or invalid

Invalid Result: The result reported by an DHHS-certified laboratory in accordance with the criteria established by the DHHS when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

Laboratory: Any U.S. laboratory certified by DHHS under the National Laboratory Certification Program as meeting the minimum standards of DHHS; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under 49 CFR Part 40.

Limit of Detection (LOD): The lowest concentration at which the analyte (e.g., drug or drug metabolite) can be identified.

Limit of Quantification (LOQ): For quantitative assays, the lowest concentration at which the identity and concentration of the analyte (e.g., drug or drug metabolite) can be accurately established.

Medical Review Officer (MRO): A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

Negative Dilute: A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

Negative result: The result reported by an DHHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

Non-negative specimen: A specimen that is reported as adulterated, substituted, positive (for drug(s) or drug metabolite(s)), or invalid.

Oral Fluid Specimen: A specimen that is collected from an employee's oral cavity and is a combination of physiological fluids produced primarily by the salivary glands. An oral fluid specimen is considered to be a direct observation collection for all purposes of 49 CFR Part 40, as amended.

Performing (a safety-sensitive function): A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

Positive result: The result reported by an DHHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

Primary specimen: In drug testing, the specimen bottle that is opened and tested by a first laboratory to determine whether the employee has a drug or drug metabolite in his or her system; and for the purpose of specimen validity testing. The primary specimen is the portion of the donor's subdivided specimen designated as the primary (''A'') specimen by the collector to distinguish it from the split (''B'') specimen, as defined in 49 CFR Part 40, as amended.

Prohibited drug: Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine as specified in 49 CFR Part 40, as amended.

Reconfirmed: The result reported for a split (Bottle B) specimen when the second DHHS-certified laboratory corroborates the original result reported for the primary (Bottle A) specimen.

Rejected for Testing: The result reported by an DHHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

Revenue Service Vehicles: All transit vehicles that are used for passenger transportation service.

Safety-sensitive functions: Employee duties identified as:

(1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
(2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
(3) Maintaining a revenue service vehicle or equipment used in revenue service.
(4) Controlling dispatch or movement of a revenue service vehicle and
(5) Carrying a firearm for security purposes.

Specimen: Fluid, breath, or other material collected from an employee at the collection site for the purpose of a drug or alcohol test.

Specimen Bottle: The bottle that, after being sealed and labeled according to the procedures in 49 CFR Part 40, is used to hold a primary ("A") or split ("B") specimen during the transportation to the laboratory. In the context of oral fluid testing, it may be referred to as a "vial," "tube," or "bottle."

Split Specimen: In drug testing, the specimen that is sent to a first laboratory and stored with its original seal intact, and which is transported to a second laboratory for retesting at the employee's request following MRO verification of the primary specimen as positive, adulterated or substituted.

Split specimen collection: A collection in which the single specimen collected is divided into two separate specimen bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

Substance Abuse Professional (SAP): A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist,

or drug and alcohol counselor (certified by an organization listed at https://www.transportation.gov/odapc/sap) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

Substituted specimen: An employee's specimen not consistent with a normal human specimen, as determined by DHHS (e.g., a urine specimen, with creatinine and specific gravity values that are so diminished, or so divergent that they are not consistent with normal human urine).

Test Refusal: The following are considered a refusal to test if the employee:

(1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the eCounty, after being directed to do so by the County.
(2) Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
(3) Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
(4) In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
(5) Fail to provide a sufficient quantity of specimen without a valid medical explanation.
(6) Fail or decline to take an additional test as directed by the collector or the County for drug testing.
(7) Fail to undergo a medical evaluation as required by the MRO as part of the verification process, or as directed by the Designated Employer Representative (DER).
(8) Fail to cooperate with any part of the testing process.
(9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection .
(10) Possess or wear a prosthetic or other device used to tamper with the collection process.
(11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
(12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
(13) Fail to remain readily available following an accident.
(14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

Undiluted (neat) oral fluid: An oral fluid specimen to which no other solid or liquid has been added. For example: A collection device that uses a diluent (or other component, process, or method that modifies the volume of the testable specimen) must collect at least 1 mL of undiluted (neat) oral fluid.

Urine specimen: Urine collected from an employee at the collection site for the purpose of a drug test.

Vehicle: A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

Verified negative test: A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (DHHS).

Verified positive test: A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

Validity testing: The evaluation of the specimen to determine if it is consistent with normal human urine or oral fluid. Specimen validity testing will be conducted on all specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the specimen, if the specimen was diluted, or if the specimen was altered.

4. EDUCATION AND TRAINING

1) Every covered employee will receive a copy of this policy addendum and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

2) All supervisory personnel or County officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

5. PROHIBITED SUBSTANCES

1) Prohibited substances addressed by this policy addendum include the following.

a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy addendum and a violation of the USDOT regulation 49 CFR Part 40, as amended.

   Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy addendum. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. <u>However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a County supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.</u>

c. Alcohol: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy addendum is prohibited.

6. <u>PROHIBITED CONDUCT</u>

1) Illegal use of the drugs listed in this policy addendum and as defined in 49 CFR Part 40, as amended is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in 49 CFR Part 40, as amended.

2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.

3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol

4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.

    a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
        i. The employee's alcohol concentration measures less than 0.02; or
        ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.

5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.

7) County of Kern, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.

8) Consistent with the Drug-free Workplace Act of 1988, all County of Kern employees are prohibited from engaging in the unlawful manufacture,

distribution, dispensing, possession, or use of prohibited substances in the work place including transit system premises and transit vehicles.

7. DRUG STATUTE CONVICTION

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the County of Kern management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action, up to and including termination.

8. TESTING REQUIREMENTS

1) Drug testing and alcohol testing will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in this policy addendum, and return to duty/follow-up.

2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under County of Kern authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

All covered employees will be subject to drug testing and alcohol testing as a condition of ongoing employment with County of Kern. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in this policy addendum.

9. DRUG TESTING PROCEDURES

1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (DHHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is

checked using picture identification, a urine and/or oral fluid specimen will be collected as described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a DHHS certified laboratory. An initial drug screen and validity test will be conducted on the primary specimen. For those specimens that are not negative, a confirmatory test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the confirmatory test are at or above the minimum thresholds established in 49 CFR Part 40, as amended.

3) The test results from the DHHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to County of Kern. If a legitimate explanation is found, the MRO will report the test result as negative.

4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.

5) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second DHHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. County of Kern will ensure that the cost for the split specimen analysis is covered in order for a

timely analysis of the sample, however Kern County will seek reimbursement for the split sample test from the employee.

6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.

7) Observed collections

   a. Consistent with 49 CFR Part 40, as amended, collection under direct observation with no advance notice will occur if:

      i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Kern County that there was not an adequate medical explanation for the result;

      ii. The MRO reports to Kern County that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;

      iii. The laboratory reported to the MRO that the urine specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the urine specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).

      iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;

      v. The temperature on the original urine specimen was out of range (See §40.65(b)(5));

      vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with (See §40.65(c)(1)).

      vii. All follow-up-tests; or

      viii. All return-to-duty tests

Urine collections that are required to be directly observed will be conducted as required by 49 CFR Part 40.67.

10. ALCOHOL TESTING PROCEDURES

1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.

2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy addendum. The consequences of a positive alcohol test are described in this policy addendum. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours <u>or for the duration of the work day whichever is longer</u> and will be subject to the consequences described in this policy addendum. An alcohol concentration of less than 0.02 will be considered a negative test.

3) <u>County of Kern</u> affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

11. PRE-EMPLOYMENT TESTING

1) All applicants for covered transit positions shall undergo drug testing prior to performance of a safety-sensitive function.

    a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.

    b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or County authority until the employee takes a drug test with verified negative results.

    c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.

    d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or County authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with this policy addendum.

    e. If a pre-employment test is canceled, Kern County will require the applicant to take and pass another pre-employment drug test.

    f. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment

drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.

g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

h. Applicants are required (even if ultimately not hired) to provide County of Kern with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. County of Kern is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide County of Kern proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

12. REASONABLE SUSPICION TESTING

1) All County of Kern FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under County of Kern authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

2) [County of Kern shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in this policy addendum. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in this policy addendum.

3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the County of Kern

4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with this policy addendum. County of Kern shall place the employee on administrative leave in accordance with the provisions set forth under this policy addendum. Testing in this circumstance would be performed under the direct authority of theemployee's department. **Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy** addendum **or a positive test result under Federal authority.** However, self-referral does not exempt the covered employee from testing under Federal authority as specified in this policy addendum or the associated consequences.

13. POST-ACCIDENT TESTING

1) FATAL ACCIDENTS – A covered employee will be required to undergo drug and alcohol testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.

2) NON-FATAL ACCIDENTS – A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:

a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy addendum, the supervisor investigating the accident will notify the employee operating the vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that County of Kern is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Kern County may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test.

The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

14. RANDOM TESTING

1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Individuals who may be covered under County policy will be selected from a pool of non-DOT-covered individuals.

2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.

3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at https://www.transportation.gov/odapc/random-testing-rates.

4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.

5) Covered employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under County of Kern authority.

6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under County of Kern authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.

7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

15. RETURN-TO-DUTY TESTING

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

16. FOLLOW-UP TESTING

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under County policy and will be performed using non-DOT testing forms.

17. RESULT OF DRUG/ALCOHOL TEST

1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be immediately removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer.

2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.

3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:
    a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
    b. Fail to remain at the collection site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
    c. Fail to attempt to provide a specimen. An employee who does not provide a specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
    d. In the case of a directly-observed or monitored urine collection in a drug test, fail to permit monitoring or observation of your provision of a specimen.
    e. Fail to provide a sufficient quantity of specimen without a valid medical explanation.
    f. Fail or decline to take an additional test as directed by the collector or the employer for drug testing.
    g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
    h. Fail to cooperate with any part of the testing process.
    i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed urine collection.
    j. Possess or wear a prosthetic or other device used to tamper with the collection process.
    k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
    l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
    m. Fail to remain readily available following an accident.
    n. As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

4) For the first instance of a verified positive test from a sample submitted as the result of a random drug/alcohol test, disciplinary action against the employee shall include:

a. Mandatory referral to Substance Abuse Professional for assessment, formulation of a treatment plan, and execution of a return to duty agreement;
b. Failure to execute, or remain compliant with the return-to-duty agreement shall result in termination from County of Kern employment.
    i. Compliance with the return-to-duty agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgment of the SAP the employee is cooperating with his/her SAP recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as defined in this policy addendum.
c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.
d. A periodic unannounced follow-up drug/alcohol test which results in a verified positive shall result in termination from County of Kern employment.

5) The first instance of a verified positive post-accident or reasonable suspicion drug and/or alcohol test shall result in termination.

6) The second instance of a verified positive drug or alcohol test result for any category of testing shall result in termination from County of Kern employment.

7) An alcohol test result of ≥0.02 to ≤ 0.039 BAC shall result in the removal of the employee from duty for eight hours or the remainder or the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NON-DOT alcohol test with a result of less than 0.02 BAC.

8) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:

    a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return-to-work agreement;
    b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from County of Kern employment.
        i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the

employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in this policy; however, all follow-up testing performed as part of a return-to-work agreement required under this policy addendum is under the sole authority of Kern County and will be performed using non-DOT testing forms.

c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. **All tests conducted as part of the return-to-work agreement will be conducted under County policy and will be performed using non-DOT testing forms.**
d. **A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in this policy** addendum.
e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in this policy addendum.
f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with County of Kern.
g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.

9) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

18. GRIEVANCE AND APPEAL

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

19. PROPER APPLICATION OF THE POLICY ADDENDUM

County of Kern is dedicated to assuring fair and equitable application of this substance abuse policy addendum. Therefore, supervisors/managers are required to use and apply all aspects of this policy addendum in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy addendum, or who is found to deliberately misuse the

policy addendum in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

20. INFORMATION DISCLOSURE

1) Drug/alcohol testing records shall be maintained by the County of Kern Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.

3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other management personnel on a need-to-know basis.

4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.

5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.

6) Records will be released to the National Transportation Safety Board during an accident investigation.

7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.

8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.

9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over the County of Kern or the employee.

10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken

11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy addendum was adopted by the County of Kern on July 28, 2026.

Attachment A

Job Title	Job Duties	Testing Authority
Public Works:		
Heavy Equipment Mechanic - vehicle maintenance & repair		FTA & DoT
Supervising Heavy Equipment Mechanic – vehicle maintenance & repair		FTA & DoT
Equipment Maintenance Superintendent – supervise vehicle maintenance & repair		FTA & DoT
Fleet Services:		
Automotive Service Worker		
Automotive Mechanic I/II		
Fleet Services Supervisor		
General Services:		
Tree Trimmer/Senior Tree Trimmer		
Equipment Operator		
Groundskeeper/Senior Groundskeeper		
Park Supervisor		
Park Caretaker		
Maintenance Worker/Senior Maintenance Worker		
Sheriff:		
Sheriff's employees assigned to drive "commercial motor vehicles" including, but not limited to, certain employees in the following classifications:		
Deputy Sheriff Trainee/I/II/Senior/Sergeant		DoT
Sheriff's Detentions Deputy		DoT
Fire:		
Fire Equipment Mechanic - Maintenance and repairs on Fire equipment/vehicles		DOT & FMSCA
Fire Equipment Service Worker – Service light and heavy Fire Equipment/vehicles		DOT & FMSCA
Supervisor Heavy Equipment Mechanic – Supervise maintenance and repairs on Fire Eq./vehicles		DOT & FMSCA
Equipment Maintenance Superintendent – Plans, organizes, and supervise maintenance on Fire Eq/vehicles		DOT & FMSCA
Equipment Operator – Operates/Maintains/Services Fire fuel trucks		DOT
Ag Weights & Measures:		
Weights & Measures Inspectors		

Attachment B Contacts

Any questions regarding this policy addendum or any other aspect of the substance abuse policy should be directed to the following individual(s).

County of Kern Drug and Alcohol Program Manager
Name:
Title:
Address:
Telephone Number:

Medical Review Officer
Name:
Title:
Address:
Telephone Number:

Substance Abuse Professional #1
Name:
Title:
Address:
Telephone Number:

Substance Abuse Professional #2
Name:
Title:
Address:
Telephone Number:

SCHEDULE E

ADDENDUM TO COUNTY OF KERN ALCOHOL AND DRUG ABUSE POLICY SPECIAL ALCOHOL AND DRUG ABUSE PROVISIONS APPLICABLE TO THE UNITED STATES DEPARTMENT OF TRANSPORTATION'S DRUG AND ALCOHOL TESTING REGULATION (49 CFR PART 40)

PURPOSE

The United States Department of Transportation (USDOT) – Office of Drug and Alcohol Policy and Compliance (ODAPC) has issued an update to USDOT's drug and alcohol testing regulation (49 CFR Part 40). The new regulation has been revised and the changes (summarized below) became effective on January 1, 2018, and the transit agencies with the County of Kern's drug and alcohol testing policy is amended as follows:

1. CHANGES TO THE DRUG TESTING PANEL

   A. Four new opioids added to the drug testing panel –
      (1) The USDOT drug test remains a "5-panel" drug test; however, the list of opioids for which are tested will expand from three to seven opioids.
      (2) The "opioid" category will continue to test for codeine, morphine, and heroin; however, the "opioid" testing panel will now be expanded to include four (4) new semi-synthetic opioids:
         i. (1) Hydrocodone, (2) Hydromorphone, (3) Oxycodone, and (4) Oxymorphone.
         ii. Common brand names for these semi-synthetic opioids include, but may not be limited to: OxyContin®, Percodan®, Percocet®, Vicodin ®, Lortab®, Norco®, Dilaudid®, Exalgo®.
   B. 'MDA' will be tested as an initial test analyte
   C. 'MDEA' will no longer be tested for under the "amphetamines" category.

2. BLIND SPECIMEN TESTING

   A. The USDOT no longer requires blind specimens to be submitted to laboratories.

3. ADDITIONS TO THE LIST OF "FATAL FLAWS"

   A. The following three circumstances have been added to the list of "fatal flaws":
      (1) No CCF received by the laboratory with the urine specimen.
      (2) In cases where a specimen has been collected, there was no specimen submitted with the CCF to the laboratory.
      (3) Two separate collections are performed using one CCF.

4. MRO VERIFICATION OF PRESCRIPTIONS

A. When a tested employee is taking a prescribed medication, after verifying the prescription and immediately notifying the employer of a verified negative result, the MRO must then (after notifying the employee) wait five (5) business days to be contacted by the employee's prescribing physician before notifying the employer of a medical qualification issue or significant safety risk.
   (1) Specifically, in cases where an MRO verifies a prescription is consistent with the Controlled Substances Act, but that the MRO has still made a determination that the prescription may disqualify the employee under other USDOT medical qualification requirements, or that the prescription poses a significant safety-risk, the MRO must advise the employee that they will have five (5) business days from the date the MRO reports the verified negative result to the employer for the employee to have their prescribing physician contact the MRO. The prescribing physician will need to contact the MRO to assist the MRO in determining if the medication can be changed to one that does not make the employee medically unqualified or does not pose a significant safety risk. If in the MRO's reasonable medical judgment, a medical qualification issue or a significant safety risk still remains after the MRO communicates with the employee's prescribing physician, or after five (5) business days, whichever is shorter, the MRO must communicate this issue to the employer consistent with 49 CFR Part 40.327.

5. DEFINITIONS

A. The term "***DOT, the Department, DOT Agency***"
   (1) Modified to encompass all DOT agencies, including, but not limited to, FAA, FRA, FMCSA, FTA, PHMSA, NHTSA, Office of the Secretary (OST), and any designee of a DOT agency.
   (2) For the purposes of testing under 49 CFR Part 40, the USCG (in the Department of Homeland Security) is considered to be a DOT agency for drug testing purposes.

B. The term "***Opiate***" is replaced with the term "***Opioid***" in all points of reference.

C. The definition of "***Alcohol Screening Device*** (ASD)" is modified to include reference to the list of approved devices as listed on ODAPC's website.

D. The definition of "***Evidential Breath Testing Device*** (EBT)" is modified to include reference to the list of approved devices as listed on ODAPC's website.

E. The definition of "***Substance Abuse Professional*** (SAP)" will be modified to include reference to ODAPC's website. The fully revised definition includes:
   (1) A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at https://www.transportation.gov/odapc/sap) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

NOTE: The revisions listed in this addendum include only those revisions to 49 CFR Part 40 which may be referenced in our drug & alcohol testing policy. A list of all the revisions made to 49 CFR Part 40 can be found at https://www.transportation.gov/odapc.

EXHIBIT D

RETURN TO WORK, INTERACTIVE PROCESS, AND DISABILITY MANAGEMENT PROGRAM

Statement of Policy

It is the policy of the County of Kern to provide employees who have suffered illnesses or injuries that temporarily limit their ability to perform normal job duties with temporary limited duty assignments, regardless of whether the injury or illness is industrially related.

It is also the policy of the County of Kern to provide reasonable accommodation to employees who are permanently incapacitated for the performance of their job duties with modified or available alternate work that is within their medical restrictions and for which they are qualified. If an employee is unable to return to work, it is the policy of the County to separate the employee from employment without unreasonable delay while minimizing, if possible, hardship to an employee permanently incapacitated for the performance of job duties.

This policy shall be implemented with the leadership and support of a Disability Management Team (as defined herein) and in cooperation and collaboration with affected County departments through an interactive process with disabled employees.

1. Objectives of the Return to Work Program.

    1.1. Safely return injured or disabled employees to work as soon as possible.

    1.2 Minimize financial hardship and promote positive reinforcement and emotional support for disabled employees by providing an opportunity for continued productive employment.

    1.3 Assist permanently disabled employees to return to work in a position providing similar status and salary if available within their medical restrictions and for which they are qualified.

    1.4 Retain qualified and experienced County employees, while respecting the staffing needs and constraints of the County departments that are the appointing authorities.

    1.5 Comply with the County's legal obligations under the Americans with Disabilities Act and the California Fair Employment and Housing Act.

    1.6 When appropriate, reduce the cost of disability retirement benefits borne by the County and the Kern County Employees' Retirement Association.

    1.7 Encourage proper use of the Workers' Compensation system.

    1.8 Separate from employment those employees whose injuries or illnesses preclude performance of the usual and customary job duties, and there is no reasonable and available accommodation that permits either permanent modification to the employee's position to accommodate medical restrictions or alternate employment within the County.

2. Definitions.

2.1 *Adjuster*. An employee or independent contractor of the County Counsel/Risk Management Division that handles Workers' Compensation claims.

2.2 *Accepted Medical Provider*. Any person, other than a relative of the injured/ill employee, who is properly licensed and recognized by the law of the state in which treatment is received, is qualified to treat the disabling illness or injury, and is providing treatment and care that is necessary to resolve the disability. Accepted Medical Provider may also include physicians selected by County Counsel/Risk Management (Workers' Compensation) or the Personnel Department when conducting a Fitness for Duty exam; provided, however, an employee referred for a Fitness for Duty exam shall in no case be referred to a physician currently treating the employee for a Worker's Compensation injury.

2.3 *Alternate Work*. A permanent change in classification of an employee who is medically precluded from doing his or her regular job duties and whose position cannot be permanently modified to accommodate medical restrictions

2.4 *Disability Management Team*. A committee consisting of the County Counsel/Risk Management, County Administrative Officer and Director of Personnel, or their designees, with the responsibility of overseeing the County's Return to Work and Disability Management Program. The County's Disability Coordinator shall facilitate the activities of the Team.

2.5 *Disability Coordinator*. An employee or independent contractor of the County who is trained and experienced in providing disability case management services, including evaluation, training and placement.

2.6 *Employee*. Any employee of the County of Kern temporarily or permanently disabled from the full performance of job duties by reason of injury or illness; provided that only an employee with permanent status (as defined in Civil Service Rule 100) will be placed in an alternate work position within the classified service.

2.7 *Medical restrictions*. Any restrictions placed on the activities of the employee imposed by an accepted medical provider due to the employee's illness or injury.

2.8 *Modified Work*. A permanent change in job duties and/or environment as a reasonable accommodation to a county employee. Modified work may also include transferring the employee to another department when there is a vacancy within the same classification and the job duties in the receiving department may be performed within the employee's medical restrictions.

2.9 *Reasonable Accommodation*. The accommodation necessary to permit a disabled employee to perform the essential functions of his or her job. As a last resort, reasonable accommodation includes appointment to a vacant position (i.e., alternate work) if the employee is otherwise qualified to perform the job duties of the vacant position.

2.10 *Limited Duty*. Modified and/or part-time duties assigned when an employee has temporary medical restrictions precluding full performance of job duties, and such restrictions extend beyond a

ten (10) day period, but whose accepted medical provider indicates the employee is expected to return to full or permanently modified duty and is released to limited work for a minimum of four (4) hours per day.

3. Responsibilities of County Departments.

Each department head or his or her designee shall be responsible for implementing the programs encompassed in the Return to Work Policy, including the Limited Duty program, the Modified Work program, and the Alternate Work program, as follows:

3.1 Report of Disability. Provide a quarterly report to the Disability Coordinator, listing employees in the department who either have been off work due to injury or illness or have been on limited duty for a consecutive thirty (30) calendar day period.

3.2 Collaborate with the Disability Management Team to provide limited duty assignments as set forth in section 6 to temporarily injured employees and to those employees who are eligible for placement in alternate work positions.

3.3 Cooperate in good faith with the Disability Management Team to meet the County's obligations to its injured employees.

3.4 With the assistance of the Disability Management Team, consider permanent job modifications to accommodate employees permanently disabled for the full performance of their job duties.

3.5 With the assistance of the Disability Management Team, consider permanently placing an employee who is permanently incapacitated for the duties of the position for which he/she was hired, when there is available a suitable vacancy within the department.

3.6 When it has been determined that permanent modified work is unavailable, file an application for disability retirement on behalf of the employee.

4. Functions of County Disability Management Team.

State and federal law imposes obligations on an employer to provide reasonable accommodation to disabled employees. The Labor Code additionally provides incentives for making timely offers of permanent modified or alternate work. In order to ensure prompt compliance with law and to meet the objectives of this program, the Disability Management Team is comprised of representatives of departments with specialized knowledge and expertise and is charged with the responsibility to:

4.1 Develop administrative procedures to aid in the administration of this program for recommendation to the Board of Supervisors. Such administrative procedures shall incorporate necessary processes to comply with applicable federal, state, and local laws, regulations, and policies regarding confidentiality of medical information and privacy rights of employees.

4.2 Educate, communicate and consult with employees, affected departments, adjusters, Accepted Medical Providers, and others as deemed appropriate and necessary for program implementation.

4.3 After soliciting and considering the preferences and constraints of affected departments and employees, identify appropriate modified or alternate work for permanently disabled employees and prepare placement plans that meet the needs of the affected department and employee. Such placement plans shall be based on the ability of the employee to perform the essential functions of the assignment within his/her medical restrictions.

4.4 Collect, maintain, and organize data to demonstrate the program's effectiveness in meeting its stated goals.

4.5 Recommend distribution of funds from the Workers' Compensation Budget Unit 8990 as necessary and appropriate to reimburse departments for disability costs.

4.6 Annually, or more often as appropriate or requested, report program results to the Board of Supervisors.

5. Responsibilities of the Employee.

An employee shall:

5.1 Promptly and timely report to his or her supervisor any reduced ability or inability to perform his or her full job duties due to an injury or illness, whether or not medical care is anticipated. An employee is expected to make such a report in order to facilitate provision of reasonable accommodation and to ensure that the supervisor can arrange for coverage in the event of the employee's absence.

5.2 Provide the supervisor or the designated department contact person with specific and job-related information from an Agreed Medical Provider such as the employee's functional abilities, limitations, and prognosis for full return to duty. Such information shall be provided within one (1) business day of the employee's receipt of such reports or, if a report is requested by the employer, the employee shall make reasonable and diligent efforts to provide such a report within five (5) business days of the request. If released to return to work with temporary medical restrictions, employee shall agree that a limited duty assignment typically will not exceed six (6) months' duration.

5.3 Contact the supervisor or the designated department contact person no less than monthly if the injury requires absence from work to provide the department with an update on the employee's prognosis for returning to limited or full duty.

5.4 Comply with personnel rules and policies as directed by the supervisor or designated department contact person and ensure that leaves of absence forms are submitted on a timely basis.

5.5 Report any changes in address or phone number immediately to his or her supervisor or designated department contact.

5.6 Comply with all safety regulations imposed by the department.

5.7 Comply with all medical restrictions imposed by medical treatment providers.

5.8 Cooperate fully with the County's Disability Coordinator, Personnel Department, the

appointing department, and the Disability Management Team, including reporting at times and places specified for vocational assessments, medical evaluations, and limited duty assignments.

Failure by an employee to comply with the employee requirements of this Policy may be grounds for disciplinary action, up to and including dismissal.

6. Limited Duty.

Limited Duty assignments shall be provided by the appointing department when medical prognosis indicates that the employee is expected to return to full or permanent modified duty but has temporary medical restrictions that preclude full performance of regular job duties, unless the appointing department cannot timely identify a Limited Duty assignment. Accordingly, Limited Duty assignments typically will not exceed six (6) months' duration unless an extension is approved by the Disability Coordinator. Employees in a Limited Duty capacity working full-time will continue to receive the salary and benefits of their regular job classification. Except as otherwise required for exempt employees and employees entitled to wage loss replacement pursuant to the Labor Code, employees in a Limited Duty capacity working part-time who are otherwise employed on a full-time basis shall be paid only for hours worked and shall be considered as being on work furlough as specified in Kern County Administrative Procedures Manual section 138.2 for purposes of determining the effect of the temporary part-time work schedule on the employee's other employment benefits and/or status. Employees eligible for benefits pursuant to Labor Code section 4850 shall be entitled to full pay and benefits while working a temporary part-time schedule.

The Disability Management Team will review information provided by an Accepted Medical Provider regarding when the employee can return to work and the medical restrictions applicable. The Disability Coordinator shall assist the department when necessary to develop an appropriate Limited Duty assignment. It shall be the responsibility of the employee and the supervisor(s) to ensure compliance with the medical restrictions.

If the appointing department is unable to timely identify a Limited Duty position for the temporarily injured employee, the Disability Coordinator shall determine whether there are other departments which have Limited Duty positions available within the employee's medical restrictions. If the employee is assigned to another department, the appointing department shall remain the employer and be responsible for payment of salary and benefits while the employee is on Limited Duty with the receiving department. The receiving department shall provide supervision and complete Employee Performance Evaluation Reports and other forms as may be required under the County's Civil Service Rules and personnel policies.

Appointing departments may also provide Limited Duty assignments to employees pending disability retirement or permanent placement through the Modified or Alternate Work Program.

7. Interactive Process Meeting.

The employee and appointing department shall meet with the Disability Coordinator to discuss permanent modified and alternate work assignments. The Disability Coordinator shall prepare a written report documenting the County's efforts to provide reasonable accommodation through modification of job duties or environment and, if modification of the position is not possible, through offer of alternate work. The report shall be submitted to the Personnel Department for placement in the employee's permanent record.

8. Modified and Alternate Work Program.

A County department or adjuster receiving permanent medical restrictions on any employee shall provide that information immediately to the employee's appointing authority and the Disability Coordinator. The Disability Coordinator will consult with the department and the employee and (when necessary) obtain additional clarification or information regarding an employee's medical restrictions in order to determine whether a permanently modified duty assignment is appropriate. An employee shall not be eligible for a permanent modified duty assignment if the employee is medically precluded from performing the essential functions of the position with reasonable accommodations.

Outside specialists in determining appropriate job modifications or alternate job placements may be retained by the Disability Coordinator and the costs shall be paid by the appointing department. In the event the appointing department offers a permanent modified job, it may be reimbursed for such costs pursuant to section 10 herein.

When possible, permanent modifications of an employee's regular position shall be a preferred result to placement in an alternate position. However, if it is determined that the employee's job cannot be modified, the Personnel Department shall seek suitable alternate work positions within the County by reviewing and identifying funded positions for which the employee is qualified and medically able to perform that are or become vacant within the County during the thirty (30) day period following a determination that permanent modified work is not available. Alternate work positions which result in an increase in salary shall not be offered through the Return to Work and Disability Management Policy although any employee is entitled to pursue a promotion through the established competitive process.

Written offers of alternate work may be made contingent on receipt of medical approval by the employee's treating physician or other accepted medical provider.

If the appointing department determines that permanent modifications can be made to the employee's job and/or job environment or, if modification is not possible, that a vacant position within the department is available for which the employee is qualified, the Disability Coordinator shall assist the appointing department in preparing an offer and description of the modified or alternate work assignment for signature by the employee.

9. Alternate Work Placement.

The Disability Management Team, based upon the level of transferable skills, knowledge and abilities of the employee, shall determine an appropriate training period in the alternate work placement, which shall not be less than one month. The Disability Management Team shall consult with the original appointing department and the receiving department in establishing the length of the training period. The receiving department shall establish reasonable criteria for the employee's successful completion of the training period. Pending completion of the training period, the employee shall remain on the payroll of the original appointing department in the position for which the employee is incapacitated. If the training period is successfully completed, the appropriate personnel transaction, as designated in the offer of alternate work, shall be completed. In the event the employee fails to successfully complete the training period in the alternate work placement, the employee shall return to his or her original position.

The original appointing department shall remain responsible for Workers' Compensation costs associated with any aggravation of the injury incurred while employed in that department, as determined by the Disability Management Team.

It is the desire of the County of Kern that employees eligible for alternate work placement pursuant to this policy be placed in a position as near as possible to the salary and status as that from which the employee is incapacitated.

10. Department Costs for Disability Management.

Certain costs incurred in providing limited, modified, or alternate work pursuant to this Policy for industrially injured or ill workers shall be reimbursed to departments from the Workers' Compensation Budget Unit 8990. The Disability Management Team may make recommendations to the County Administrative Office to establishing criteria for reimbursement of funds. Costs which may be reimbursed include, but are not limited to, acquisition of equipment for use by a disabled employee, making modifications to a work environment, and ergonomic assessments. Costs incurred in providing limited, modified, or alternate work pursuant to this Policy for non-industrially injured or ill workers shall be borne by the appointing department.

11. Separation from Service Due to Disability.

With the advice and assistance of County Counsel, the appointing department shall file an application for disability retirement on behalf of an employee who is eligible for such a benefit if, after thoroughly examining whether permanent modified work can be provided to an injured employee, it is determined that the employee's medical restrictions cannot be accommodated. Prior to filing an application, the appointing department shall document efforts at accommodation and why those efforts were deemed unsuccessful and shall provide that information to the Board of Retirement of the Kern County Employees' Retirement Association.

Revised by CAO November 21, 2006
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Revised draft completed September 18, 2006
Revised draft completed September 6, 2006
Revised Draft Completed September 1, 2005
Revised again November 9, 2005
Revised (Version 4), May 24, 2006
Revised *(Version 1) August 15, 2007*

#127547 v7
#145823 v1

Kern County

NEPOTISM POLICY

Purpose: To establish policy for the employment of immediate relatives in order to assure employment fairness consistent with the Civil Service Ordinance.

Policy: It is the County's policy not to discriminate in its employment and personnel actions with respect to its employees and applicants on the basis of marital, familial, or residential cohabitation status. Notwithstanding this policy, the County will not appoint a person to a position in the same department, division or facility where:

1. A relative and/or person cohabitating with an employee would have the direct authority to hire, supervise, transfer, suspend, layoff, recall, promote, discharge, assign, reward, discipline, or evaluate the performance of another relative or cohabitating employee.
2. One relative or cohabitating employee would be responsible for auditing the work of the other.
3. Other circumstances exist which place the relatives or cohabitating employees in a situation of conflict between the County's interest and their own.
4. This policy would apply only to the employee's permanent or regular assignment and not to any temporary or incidental assignment of the employee.

Definitions: *Relatives* means individuals who are related by blood, marriage or adoption including the following relationships: spouse, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, parent-in-law, daughter-in-law, son-in-law, brother-in-law, sister-in-law, and first cousin.

Cohabitating Employees means a County employee sharing a residence with another County employee or other County employees.

Application: All full- and part-time appointments to positions in the County service and appointments of extra-help employees and contract employees when the expected duration of the appointment is in excess of 80 hours in a fiscal year are subject to this policy. This policy also applies to persons related by blood or marriage residing in an employee's home.

Existing Employees: When two existing employees marry or begin cohabitating, and a determination has been made that the relationship is subject to this policy, if reasonable accommodation cannot be made to reassign one of the employees, then one of the two employees must separate from County service within 120 days of the marriage or the onset of cohabitating living arrangements. The choice of who shall separate from County service is the employees'. In the event the employees do not agree with respect to which one shall resign, the employee with the least seniority, as defined in Civil Service Rules, shall be terminated.

In the event existing employees are working in capacities that are subject to this policy on the date of its effect, the department head shall notify the County Administrative Officer of names of the employees, and describe the employees' relationship and current work situation. The department head is responsible for achieving compliance with this policy at the earliest possible opportunity through reassignment of one employee to another work unit or facility, or other reasonable means. The department head shall annually submit a status report showing progress towards achieving compliance with this policy.

EXHIBIT F

RETIREMENT INCENTIVE PROGRAM

Department heads must receive the County Administrative Officer's approval prior to offering additional retirement service credit and placing the matter on the Board of Supervisors' agenda for its consideration. The provisions of the Retirement Incentive Program (Golden Handshake) for represented employees are contained within the applicable MOU. The following applies to management, mid-management, and confidential employees; Section .3, *Department Responsibility*, also applies to represented employees.

.1 *Eligibility–County Fiscal Necessity*. When budget restraints are such that a department is required to lay off employees, the Board of Supervisors may, by adopting a resolution, grant two years of additional service credit to specified eligible employees who retire during times specified in the resolution.

.2 *Criteria*. The threshold criterion for offering additional service credit is the deletion of a filled position causing the layoff of a permanent County employee and is subject to the following.

a. An offer can be made only to eligible members holding positions within the departments specified by Board Resolution, and whose retirement would logically prevent the layoff of a less senior employee. In no instance is the County required to make the offering if it would foreseeably result in an operational detriment.

b. The number of employees offered the additional service credit within a department and classification, or classification series or logical progression of classifications, is limited to the number of position deletions necessary to achieve the financial objectives of the specified departments. The number of retirements cannot exceed the number of positions deleted. If there are more employees wanting to receive additional service credit than the number of positions to be deleted, the eligible employees will be offered the retirements in descending order of County seniority. The deleted classification or equivalent classification cannot be filled for two years. (Rev. 07/09)

c. The department head or appointing authority determines the classifications and number of eligible employees to whom an offer will be made, subject to the criteria of avoiding the layoff of a permanent employee.

.3 *Department Responsibility*. Departments are responsible for the full cost of the additional service credit, including the cost of the payout of eligible sick leave and vacation accruals. The Kern County Employees' Retirement Association (KCERA) will provide information on the cost of the additional service credit for each employee. The cost of the additional service credit must be paid either in full in the first month of the fiscal year following the fiscal year the enhancement was adopted, or according to a five-year amortization period, with the first payment due in the first month of the fiscal year following the fiscal year adopted. If the latter option is chosen, KCERA will set up an accounts receivable to bill the cost of the additional service credit. (Rev. 07/09)

.4 *Paid Leave Balances.* Earned sick leave and vacation payoffs will be deferred and paid as follows: one-half of the qualified payoff amount will become payable upon retirement, and one-half of the qualified payoff amount will become payable 12 months following retirement. No interest shall be earned or paid on the deferred eligible payoff amounts. If an employee elects to use a salary advance to purchase prior service credits, any remaining balance of accumulated sick leave or vacation credit balance will be paid in the same equal installments.

.5 *Disputes.* The County Administrative Officer, whose decision is final, will resolve disputes regarding the application of this section.

County of Kern
Workplace Violence Prevention Program

BACKGROUND

The County of Kern's Workplace Violence Prevention Plan (WVPP) addresses the hazards known to be associated with the four types of workplace violence as defined by Labor Code (LC) section 6401.9. Pursuant to SB553, all employers are required to establish, implement, and maintain an effective Workplace Violence Prevention Program effective January 1, 2025.

IMPLENTENTED: July 1, 2024
DATE OF LAST REVISION(S): August 25, 2025

DEFINITIONS:

Emergency - Unanticipated circumstances that can be life threatening or pose a risk of significant injuries to employees or other persons.

Engineering controls - An aspect of the built space or a device that removes a hazard from the workplace or creates a barrier between the employee and the hazard.

Log - The violent incident log required by LC section 6401.9.

Plan - The workplace violence prevention plan required by LC section 6401.9.

Serious injury or illness - Any injury or illness occurring in a place of employment or in connection with any employment that requires inpatient hospitalization for other than medical observation or diagnostic testing, or in which an employee suffers an amputation, the loss of an eye, or any serious degree of permanent disfigurement, but does not include any injury or illness or death caused by an accident on a public street or highway, unless the accident occurred in a construction zone.

Threat of violence - Any verbal or written statement, including but not limited to: texts, electronic messages, social media messages, or other online posts; or any behavioral or physical conduct that conveys an intent or that is reasonably perceived to convey an intent, to cause physical harm or to place someone in fear of physical harm and that serves no legitimate purpose.

Workplace violence - Any act of violence or threat of violence that occurs in a place of employment.

Workplace violence includes, but is not limited to, the following:

- The threat or use of physical force against an employee which results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.

- An incident involving a threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury.

- The following four workplace violence types:

  Type 1 violence - Workplace violence committed by a person who has no legitimate business at the worksite and includes violent acts by anyone who enters the workplace or approaches employees with the intent to commit a crime.

  Type 2 violence - Workplace violence directed at employees by customers; clients; patients; students; inmates; or visitors.

  Type 3 violence - Workplace violence against an employee by a present or former employee; supervisor; or manager.

  Type 4 violence - Workplace violence committed in the workplace by a person who does not work there but has or is known to have had a personal relationship with an employee.

Workplace Violence- Does not include lawful acts of self-defense or defense of others.

Workplace practice controls- Procedures and rules which are used to effectively reduce workplace violence hazards.

RESPONSIBILITY:

The WVPP administrator, Kern County's Chief Human Resources Officer, has the authority and responsibility for implementing the provisions of this plan. Below is a chart that identifies the people tasked with specific assignments to ensure complete implementation of the WVPP and specifies their individual area of responsibility. This chart is updated periodically if changes in responsibilities have changed.

Responsible Persons	Job Title/Position	WVPP Responsibility(ies)	Phone #	Email
Tracey A. Eldridge	Chief Human Resources Officer	Approves changes to Workplace Violence Policy as necessary.	(661) 868-3163	eldridget@kerncounty.com
Sarah Harrington	Director of Diversity, Equity, and Inclusion	Handles any reports, or investigation related to workplace violence.	(661) 868-3919	harringtons@kerncounty.com

		Coordinates emergency response procedures.		
Mercedes Perez	Human Resources Analyst	Handles any reports, or investigation related to workplace violence. Ensures that trainings related to Workplace Violence are kept up to date and relevant. Assists in coordinating emergency response procedures.	(661) 868-3915	perezmer@kerncounty.com
Pablo Muro	Loss Prevention Specialist	Ensures that Safety Officers are up to date on any changes in policy. Ensures that identified hazards are addressed, and that quarterly safety inspections are being completed.	(661) 868-3880	muropab@kerncounty.com
Bryan Alba	Chief Deputy County Counsel	Counsel for Workplace Prevention Program Team	(661) 868-3842	balba@kerncounty.com
Kate Zimmermann	Deputy County Counsel	Counsel for Workplace Prevention Program Team	(661) 868-3841	kzimmermann1@kerncounty.com
David Kessler	Chief Deputy Sheriff	Responsible for emergency response (Sheriff)	(661) 391-7535	KESSLERD@kernsheriff.org
Robin Taylor	Specialty Clinical Services Administrator	Responsible for emergency response (Kern Behavioral Health & Recovery Services)	(661) 868-7362	rctaylor@kernbhrs.org

All managers, supervisors and safety officers/safety representatives are responsible for implementing and maintaining the WVPP in their work areas and for answering employee questions regarding the WVPP, or directing employees to Kern County Human Resources for more information.

EMPLOYEE ACTIVE INVOLVMENT:

Kern County will encourage the active involvement of employees and authorized employee representatives in developing and implementing the WVPP plan through the following policies and procedures:

- Management will work with and allow employees, together with authorized employee representatives, to participate in identifying and evaluating preventative measures to prevent Workplace Violence.

Example: County Departments will have quarterly safety meetings with employees to discuss identification of workplace violence concerns/hazards, evaluate those hazards and/or concerns, and how to correct them.

- Designing and implementing trainings:
  - Employees are encouraged to complete the annual Workplace Violence Prevention Program survey to suggest new ideas to the WVPP team to incorporate feedback in future trainings if applicable.

- Reporting and investigating in the workplace:
  - Employees will complete the Workplace Violence Report Form and submit it to their supervisor. The supervisor is responsible for emailing the completed form to the departmental human resources team (or designee) and Kern County Human Resources at DEI@Kerncounty.com. If the employee would like to submit the form to Kern County Human Resources at DEI@Kerncounty.com on their own behalf, they are permitted do so.

  - After the report has been received by Kern County Human Resources, assigned Kern County Human Resources staff will complete an investigation of the incident. In collaboration with the Loss Prevention Specialist assigned to Kern County Risk Management, assigned Kern County Human Resources staff will inspect the reported area identified on the Workplace Violence Report Form and interview witnesses as necessary.

- Departments will ensure that all workplace violence policies and procedures within this written plan are clearly communicated and understood by all employees. Managers and supervisors will enforce this policy fairly and uniformly.

- All employees will follow all workplace violence prevention plan directives, policies and procedures, and assist in maintaining a safe work environment by:

  - Prohibiting employee retaliation.
  - Accepting and responding to reports of workplace violence.
  - Employee workplace violence training communication.
  - Emergency response.
  - Workplace violence hazard assessments.

- The plan shall be in effect at all times and in all work areas. The plan must be specific to the hazards and corrective measures for each work area and operation.

EMPLOYEE COMPLIANCE:

In order to ensure that all employees comply with these rules and work practices, which are designed to make the workplace more secure, and do not engage in threats or physical actions which create a security hazard for others in the workplace, all employees will receive training regarding the County's expectations and the consequences for failure to comply. At a minimum, Kern County's system will include:

- Training and retraining employees, supervisors, and managers on the provisions of Kern County WVPP.

- Effective procedures to ensure that supervisory and nonsupervisory employees comply with the WVPP will include:
  - Tracking training attendance.
  - Having an open line of communication to answer any questions from employees. Employees can submit questions to DEI@kerncounty.com.

- Taking disciplinary action against employees who fail to comply with safe and healthful work practices, following Kern County's existing discipline process; and, taking other applicable action against third parties who do not adhere to safe workplace practices.

COMMUNICATION WITH EMPLOYEES:

It is recognized that open, interactive communication about workplace violence issues between our management team, staff, and other employers is essential to a safe and productive workplace. The following communication system is designed to facilitate a continuous flow of workplace violence prevention information between management and staff in a form that is readily understandable by all employees, and consists of one or more of the following:

- New employee orientation introduces workplace prevention policies and procedures.

- Ongoing workplace violence prevention training programs.

- Regularly scheduled meetings that address potential workplace violence and security issues.

- Effective communication between employees and supervisors about workplace violence prevention and violence concerns. Supervisor preparation for this interactive communication will be accomplished through Supervisor Academy training. Areas to be addressed during Supervisor training include:
  - Raising sensitivity regarding the need for employees to participate in their primary language to ensure effective communication.
  - The importance of posted or distributed workplace violence prevention information.

- The mechanisms for employee reporting of a violent incident, threat, or other workplace violence concerns to the employer or law enforcement.
- Communicating the policy of non-retaliation when an employee reports a violent incident, threat, or other workplace violence concern to the employer or law enforcement.
    - Employees can report a violent incident, threat, or other violence concerns themselves through the DEI@kerncounty.com email.
    - Employees are protected from retaliation by California state laws and by Kern County policies.

- Kern County will ensure effective communication with employees by:
    - Updating employees on the status of their investigation.
    - Answering any questions or concerns sent to the DEI@kerncounty.com email.
    - Providing employees a direct contact option by calling (661) 868-3480 and choosing option three (3).

COORDINATION WITH OTHER EMPLOYERS:

Kern County will implement the following effective procedures to coordinate implementation of its plan with other employers to ensure that those employers and employees understand their respective roles, as provided in the plan.

- All employees will be trained on workplace violence prevention initially and annually thereafter.

- A Workplace violence incident involving any employee is reported, investigated, and recorded.

- At a multiemployer worksite, Kern County will ensure that if its employees experience any workplace violence incident, Kern County will record the information in a Violent Incident Log and shall also provide a copy of that log to the controlling employer.

WORKPLACE VIOLENCE INCIDENT REPORTING PROCEDURE:

Kern County will implement appropriate procedures to ensure that:

- All threats or acts of workplace violence are reported to an employee's supervisor or manager, who will inform the WVPP administrator. This will be accomplished by the Workplace Violence Report form being filled out and then sent to the DEI@Kerncounty.com email address. If that is not possible, employees will report incidents directly to the WVPP administrator, Sarah Gutierrez, Director of Diversity, Equity, and Inclusion.

- An employee can also report hazards, threats, incidents, and workplace violence concerns to their supervisor or manager.

- An employee can also report an incident directly to Kern County Human Resources by calling (661) 868-3480 and choosing option three (3), or by emailing the DEI@Kerncounty.com email directly.
- The reporting form can be found at Workplace Violence Prevention | Kern County, CA , Workplace Violence Prevention | Kern County, CA, Home: CountyNet (kern.ca.us), or by scanning this QR code:

The County has a policy forbidding retaliation. Acts of retaliation may result in disciplinary action, up to, and including termination.

EMERGENCY RESPONSE PROCEDURES:

Kern County has in place the following specific measures to manage actual or potential workplace violence emergencies:

- Effective means to alert employees of the presence, location, and nature of potential workplace violence emergencies by the following:
  - Fire alarm systems.
  - PA systems throughout the building or via phone speaker.

- Kern County will distribute evacuation or sheltering plans to each Department. Each worksite has an identified safety representative who is equipped to provide the evacuation routes, locations of emergency exit, and instructions for sheltering in place in the event of a workplace violence incident.

- How to obtain help from staff, security personnel, or law enforcement.

  In the event of an emergency, including a Workplace Violence Emergency, contact the following:

  - Immediate emergency dial 9 and then 911.
  - Non-Emergency dial (661) 327-7111

WORKPLACE VIOLENCE HAZARD INDENTIFICATION AND EVALUATION:

The following policies and procedures are established and required to be conducted by Kern County to ensure that workplace violence hazards are identified and evaluated.

- Inspections shall be conducted when the plan is first established, after each worksite violence incident, and whenever the employer is made aware of a new or previously unrecognized hazard.

- Daily review of all submitted/reported concerns of potential hazards, online form for reporting workplace violence hazards, and voicemail/email inboxes shall be conducted.

- Periodic inspections shall be conducted by the worksite's safety representative. Please note inspections can be conducted on an optional monthly basis, but are mandatory on a quarterly basis.

Periodic Inspections:

Periodic inspections of workplace violence hazards will identify unsafe conditions and work practices. This may require assessment for more than one type of workplace violence.

Inspections for workplace violence mitigation includes:

- The need for violence surveillance measures, such as mirrors and cameras.

- Procedures for reporting suspicious persons or activities.

- Effective location and functioning of emergency buttons and alarms.

- Posting of emergency telephone numbers for law enforcement, fire, and medical services.

- Whether employees have access to a telephone with an outside line.

- Whether employees have effective and accessible escape routes from the workplace.

- Whether employees have a designated safe area where they can go to in an emergency. Specifically, evacuation meeting points and shelter in place locations that are posted at the employees' worksite.

- Adequacy of workplace security systems, such as door locks, entry codes or badge readers, security windows, physical barriers, and restraint systems.

- Frequency and severity of threatening or hostile situations which may lead to violent acts by persons who receive services at County of Kern worksites.

- The use of work practices such as the "buddy" system for specified emergency events.

- How well our establishment's management and employees communicate with each other.

- Any prior violent acts, threats of physical violence, verbal abuse, property damage or other signs of strain or pressure in the workplace.

- Always require employees to wear visible identification while on site. Such as county issued employee badge with colored photo.

WORKPLACE VIOLENCE HAZARD CORRECTION:

Kern County will correct workplace violence hazards in a timely manner when they are observed or discovered, and according to the following procedures:

- When an imminent workplace hazard exists that cannot be immediately abated without endangering employee(s) and/or property, Kern County will remove all employees from the area, except those necessary to correct the existing condition.

- All corrective actions taken will be documented and dated on the appropriate forms, including Workplace Violent Incident Log and Workplace Violent Incident Investigation Report forms.

- Corrective measures for workplace violence hazards will be specific to a given work area.

PROCEDURES FOR POST INCIDENT RESPONSE AND INVESTIGATION:

After a workplace incident, the WVPP administrator or their designee will implement the following post-incident procedures:

- Visit the scene of an incident as soon as safe and practicable.

- Interview involved parties, such as employees, witnesses, law enforcement, and/or security personnel.

- Review security footage of existing security cameras, if applicable.

- Examine the workplace for security risk factors associated with the incident, including any previous reports of inappropriate behavior by the perpetrator.

- Determine the cause of the incident.

- Take corrective action to prevent similar incidents from occurring.

- Record the findings and ensure corrective actions are taken, including filing a restraining order against the perpetrator, if deemed necessary and appropriate.

- Obtain any reports completed by law enforcement.

- All incidents of workplace violence will be recorded in the violent incident log and will include information, such as:

    - The date, time, and location of the incident.

    - The workplace violence type or types involved in the incident.

- A detailed description of the incident.
- The classification of perpetrator(s) who committed the act(s) of violence, including whether the perpetrator(s) was/were a client or customer, family or friend of a client or customer, stranger with criminal intent, coworker, supervisor or manager, partner or spouse, parent or relative, or had another relationship to the affected employee(s) or worksite.
- The classification related to the circumstances at the time of the incident, including, but not limited to, whether the employee was completing usual job duties, working in poorly lit areas, rushed, working during a period of low staffing, isolated or alone, unable to get help or assistance, working in a community setting, or working in an unfamiliar or new location.
- The classification of the location of the incident, such as in the workplace, parking lot, or other area outside the workplace, or other area.
- The type of incident, including, but not limited to, whether it involved any of the following:
  - Physical attack without a weapon, including, but not limited to, biting, choking, grabbing, hair pulling, kicking, punching, slapping, pushing, pulling, scratching, or spitting.
  - Attack with a weapon or object, including, but not limited to, a firearm, knife, or other object.
  - Threat of physical force or threat of the use of a weapon or other object.
  - Sexual assault or threat, including, but not limited to, rape, attempted rape, physical display, or unwanted verbal or physical sexual contact.
  - Animal attack.
  - Other.
- Information related to the consequences and aftermath of the incident, including, but not limited to: Whether security or law enforcement was contacted and their response.
- Actions taken to protect employees from a continuing threat or from any other hazards identified as a result of the incident.
- Information about the person completing the log, including their name, job title, and the date completed.

- Reviewing all previous incidents.

In documenting the incident, no personal identifying information is to be recorded or documented in the written investigation report. This includes information which would reveal identification of

any person involved in a violent incident, such as the person's name, address, electronic mail address, telephone number, social security number, or other information that, alone or in combination with other publicly available information, reveals the person's identity.

TRAINING AND INSTRUCTION:

All employees, including managers and supervisors, will have training and instruction on general and job-specific workplace violence practices. These sessions could involve presentations, discussions, and practical exercises. Training and instruction will be provided as follows:

- When the WVPP is first established.
- Annually to ensure all employees understand and comply with the plan.
- Whenever a new or previously unrecognized workplace violence hazard has been identified or when changes are made to the plan. The additional training may be limited in scope or confined to designated department personnel. Kern County will provide its employees with training and instruction on the definitions found on page 1 of this plan and the requirements listed below:
    - The employer's WVPP, how to obtain a copy of the employer's plan at no cost, and how to participate in the development and implementation of the employer's plan.
    - How to report workplace violence incidents or concerns to the employer or law enforcement without fear of reprisal.
    - Workplace violence hazards specific to the employees' jobs, the corrective measures Kern County has implemented, how to seek assistance to prevent or respond to violence, and strategies to avoid physical harm.
    - The violent incident log and how to obtain copies of records pertaining to hazard identification, evaluation and correction, training records, and violent incident logs.
    - Opportunities Kern County has for interactive questions and answers with a person knowledgeable about the Kern County WVPP.

EMPLOYEE ACCESS TO THE WRITTEN WVPP:

Kern County ensures that the WVPP plan shall be in writing and shall be readily available and accessible to employees, authorized employee representatives, and representatives of Cal/OSHA at all times. This will be accomplished by:

- Providing written copies of the WVPP upon request of any employee or designated representative. Electronic copies will be furnished upon specific request of the employee or their designated representative.
- Providing unobstructed access through a company server or website, which allows an employee to review, print, and email the current version of the written WVPP.

Unobstructed access means that the employee, as part of their regular work duties, predictably and routinely uses the electronic means to communicate with management or co-employees.

RECORDKEEPING:

Kern County will:

- Create and maintain records of workplace violence hazard identification, evaluation, and correction, for a minimum of five (5) years.

- Create and maintain training records for a minimum of one (1) year which include the following:
  - Training dates.
  - Contents or a summary of the training sessions.
  - Names and qualifications of persons conducting the training.
  - Names and job titles of all persons attending the training sessions.

- Maintain violent incident logs for minimum of five (5) years.

EMPLOYER REPORTING RESPONSIBILITIES:

As required by California Code of Regulations (CCR), Title 8, Section 342(a). Reporting Work-Connected Fatalities and Serious Injuries, Kern County will immediately report to Cal/OSHA any serious injury or illness (as defined by CCR, Title 8, Section 330(h)), or death (including any due to Workplace Violence) of an employee occurring in a place of employment or in connection with any employment.

_____
Chairman Board of Supervisors

_____
Tracey A. Eldridge
Chief Human Resources Officer

EXHIBIT H

BILINGUAL PAY POLICY

Full- or part-time, regular, temporary, extra help, probationary and provisional employees are eligible to receive bilingual pay, subject to the following provisions. For the purpose of this policy, English is considered to be the primary language, and any other language used under this program will be considered as the second language.

.1 *Non-Designated Employees*. Employees that are known to possess bilingual skills but who are not receiving bilingual pay will not normally be called upon to use their skill, except when circumstances prevent the use of a designated bilingual employee. If a non-designated employee is frequently called upon to provide bilingual service, the department head will consider designating the position as bilingual.

.2 *Department Responsibility*. Departments are responsible for identifying the need to provide services in a second language and coordinating with the County Administrative Office for appropriating bilingual compensation. The Personnel Department will assist departments in recruiting bilingual candidates and will administer the bilingual proficiency exam.

.3 *Position Criteria.* The position must be in a work setting with a demonstrated flow of clients, phone calls, or correspondence where bilingual skills are regularly needed to meet the needs of the public, such as a direct public contact position, hospital or institutional setting dealing with patients or inmates, or a position needed to perform interpretation, translation or specialized activities for the department and its clients. Those positions for which the use of a second language is inherent to the position are ineligible for bilingual pay, for example, Court Interpreter.

.4 *Testing.* Testing requests, which must be include the following information, are submitted to the Personnel Department, with a copy to the County Administrative Office.

a. Name and classification of each employee;

b. A description of the bilingual duties to be performed in sufficient detail so as to indicate a specific bilingual skill, purpose and frequency of use;

c. Location of work assignment; and

d. Duration of bilingual assignment.

A candidate may take a proficiency test once for each eligible list. The scoring will be pass/fail, and that score will remain in place for the same duration as the eligibility list. An incumbent employee in a bilingual position who fails a bilingual examination must wait a period of six months before repeating the test. Bilingual certificates are obtained at the employee's expense.

.5 *Compensation.* Bilingual premium pay is at the rate specified in the applicable MOU. The premium pay is effective the first day of the payroll period following certification that the employee is eligible and qualified to receive the premium pay. Retroactive bilingual pay will not be authorized.

The bilingual premium pay will cease when the employee is transferred, promoted, or demoted to a position that is not designated as a bilingual position or the department head has determined that the position should not longer be designated as a bilingual position.

EXHIBIT I

COUNTY OF KERN
POST-RETIREMENT EMPLOYMENT POLICY

Re-employment of Retirees:

The Kern County Employees' Retirement Association (KCERA) is responsible for ensuring the proper payment of benefits to retirees who have earned and are legally entitled to those benefits, and for ensuring that the benefits its pays are limited to those to which the recipients are legally entitled. Under applicable law, including the County Employees' Retirement Act of 1937 and the Public Employees' Pension Reform Act of 2012, persons receiving retirement allowances from KCERA may work for the Kern County under limited circumstances. It is necessary for KCERA to monitor the KCERA retirees who return to work for Kern County, in order to ensure that benefits are paid to such re-employed retirees when, and only when, such payments comply with the law. KCERA must also ensure that when re-employment violates applicable limits, proper action is taken under the law, including but not limited to reinstatement of the re-employed retiree to active membership under section 31680.7. Finally, KCERA must ensure that implementation of these provisions remains consistent with its fiduciary duties.

Re-employment Eligibility:

When Kern County employs or proposes to employ a KCERA retiree, whether as an employee or through a contract directly with Kern County, but does not intend to restore that retiree to active membership, the following shall apply:

1. Prior to placing the retiree on payroll, the department shall submit a completed Certification of Post-Retirement Employment with Kern County to KCERA for acceptance. Both the department designee and the retiree shall sign the Certification.

2. Limited Duration – Re-employment will be presumed to comply with the requirement that it be of limited duration if the duration of the re-employment is two years or less. Retirees who have returned to work prior to the effective date of this policy shall be treated as if their return to work commenced on the effective date of this policy, and documentation regarding such employees shall be submitted to KCERA as soon as practicable after the effective date of this policy. If there is no specified ending date for the re-employment, or if the specified ending date is more than two years from commencement of re-employment, the employer shall submit to KCERA a statement explaining the limit on the duration of re-employment. Such re-employment shall be considered of limited duration if, despite having no stated ending date, it is limited to the completion of a discrete quantity of genuinely limited work that one would expect to be completed at a foreseeable time. Such re-employment shall not be considered to be of limited duration if the re-employment is the functional equivalent of a permanent part-time position, or if the stated limited on the duration is such that the re-employment is effectively unlimited.

3. KCERA staff shall monitor compliance with this policy through methods determined by the Executive Director or his/her designee, which may include:
    a. Requiring departments to report to KCERA when any re-employed retiree has worked at least 700 hours in any fiscal year, or to provide KCERA with access to the department's payroll in a manner that permits KCERA staff to directly access such information;
    b. Requirement departments to report when a re-employed retiree has less than six months' duration remaining on a period of re-employment that was commenced with a stated end date, and any instance in which such an employee continues to work beyond the originally stated end date, or in which the employer extends the originally stated end date with an explanation of such extension;
    c. Requiring documentation of compliance with any of the requirements of section 7522.56.

4. If genuine documentation regarding the re-employment of a retiree is submitted as required by this policy and accepted as adequate at the time of the re-employment, this shall be considered as conclusive evidence that the re-employment was commenced in compliance with applicable law. The Executive Director or his/her designee

shall notify the Kern County Human Resources Division in writing of the acceptance of the documentation required by this policy.

5. If the Executive Director or his/her designee becomes aware that any retiree's re-employment is in violation of applicable law, the matter shall be presented to the Board of Retirement for a determination as to whether to suspend the re-employed retiree's retirement allowance and restore the member to active membership, the effective date of such action, the recovery of any improperly paid benefits, the collection of any contributions that may be owed, and any other appropriate action. The re-employed retiree shall be provided with a copy of all documents that form the basis of the recommendation no later than seven days prior to the Board of Retirement meeting at which said action is to be taken. Action by the Board of Retirement under this paragraph shall be reviewable as a final administrative action, pursuant to section 1094.6 of the California Code of Civil Procedure.

Approval Process:

Upon receipt of the Executive Director's acceptance and approval of the Certification of Post-Retirement Employment, the Chief Human Resources Officer or his/her designee will review and approve the request for post-retirement employment. If approved, the Human Resources Division shall place the request on the agenda for the next available meeting of Board of Supervisors.

If the request is for re-employment of a retiree before 180 days have passed since the employee retired, it will be placed off consent and the Board of Supervisors must find that the re-employment is necessary to fill a critically needed position.

Upon final approval by the Board of Supervisors, the re-employed retiree may be placed on payroll and commence their re-employment.

The Certification of Post-Retirement Employment form is located on the KCERA website under the Other Resources sub-heading: http://www.kcera.org/about-kcera/plan-sponsors/

HOSTILE WORK ENVIRONMENT POLICY

It is the policy of the County of Kern to provide for its employees a work environment free from hostile and offensive conduct. For this reason, the County is committed to promoting and maintaining a pleasant and productive workplace for all its employees and, as such, each and every person conducting business for or with the County should be treated with dignity and respect. Therefore, any and all forms of conduct which enable or create a hostile work environment are expressly prohibited. Violations of this policy shall result in disciplinary action up to and including termination.

Conduct considered inappropriate for the workplace includes any unsolicited or unwelcome behavior which is intimidating, hostile, or offensive in such a way or to such a degree that it unreasonably interferes with or otherwise overburdens and prevents a fellow employee from effectively performing his or her work.

Extreme or continuous behavior which is disrespectful, denigrating, or disruptive shall be considered a violation of this policy. Such conduct may include, but is not limited to:

1. Discriminatory conduct based on a person's race, national origin, sex, age, physical or mental disability, medical condition, marital status, ancestry, religious affiliation, union affiliation, political affiliation, or sexual orientation.

2. Verbal conduct such as disparaging remarks, slurs, jokes, innuendos, epithets, threatening, screaming, cursing, taunting, heckling, spreading rumors, and unwanted sexual advances, comments, or propositioning.

3. Physical conduct such as gestures, leering, unwelcome contact, pinching, patting, grabbing, blocking or impeding movement, assault, or any action which physically interferes with or unnecessarily impinges upon an individual's person, work, privacy, or movement.

4. Visual conduct such as derogatory, sexually oriented, prejudicial, or otherwise generally offensive photographs, posters, objects, cartoons, drawings, graffiti, email, letters, or other writing.

Individuals who believe that they have been subjected to a hostile work environment shall inform their immediate supervisor, another supervisory employee in the individual's department or, as an alternative, the Equal Employment Opportunity Division of the Personnel Department in accordance with Civil Service Rules 1800 et seq. No individual will be retaliated against for making a complaint or bringing inappropriate conduct to the County's attention. A supervisor receiving a complaint shall immediately report it to the department head, assistant department head or the Equal Employment Opportunity Division of the Personnel Department. A prompt and thorough investigation shall ensue and the department head or appointing authority shall take prompt remedial action, including disciplinary action, when it is warranted.

Department heads shall be responsible for ensuring that all new employees in their department receive a copy of this policy and sign an acknowledgment which shall be retained in the employee's personnel file. In addition, department heads shall ensure that, on an annual basis, each employee in their department receives a copy of this policy and that an acknowledgment of receipt is contained in each employee's personnel file.

Department heads may establish departmental policies and internal complaint procedures regarding a hostile work environment provided that those policies and procedures are consistent with this policy.

The purpose of this policy is not to unduly censor or otherwise seek to prohibit the free expression of County employees, but rather is promulgated with the intent of promoting a productive workplace free from disrespectful and denigrating behavior. Implementation of this policy shall always take into consideration the guaranteed rights of the First Amendment, in a manner consistent with state and federal law and according to the stated intent of this policy.

Exhibit K

TELEWORK POLICY AND PROCEDURE

1. Purpose

The purpose of this document is to implement the County's telework policies. Telework is defined as "a work arrangement in which employees perform officially assigned duties at home or at other worksites geographically convenient to the employees." This arrangement may be used on a regular basis, for a limited term, or on a contingency basis.

2. Benefits

The benefits of telework are:

- Enhancing recruiting and retention efforts, particularly for newer workers who have high expectations of a technologically forward-thinking workplace and workers who value work/life balance.
- Helping employees manage long commutes and other work/life issues that, if not addressed, can have a negative impact on their effectiveness or result in employees leaving County employment.
- Reducing traffic congestion, emissions, and infrastructure impacts, thereby improving the environment.
- Ensuring continuity of essential government functions in the event of national or local emergencies, including a pandemic.

3. Department Roles

Department policies cannot supersede the County-wide policy. Department managers will be subject to County policies and must make balanced decisions when determining who may telework, and under what conditions. The determination of whether to permit teleworking vests solely with the department head. A department recommending a telework program must address teleworking criteria and document them on the form included as **Appendix A**. These criteria will be used to determine employee eligibility and to ensure that managerial, logistical, organizational, or other barriers to full implementation and successful functioning of the policy are considered. Each department must provide for adequate administrative, technical, and logistical support to effectively carry out the program if implemented.

In addition, all departments must address issues on information systems and technology security, to ensure their equipment decisions and telework agreements comply with this policy. Information security includes protection of sensitive "hard-copy" files and documents, as well as accounting for inventory of County-owned equipment. Equipment owned by the County may be considered taxable income and require certification of usage, similar to cell phones. Accounting for time worked will also require special consideration by departments with teleworking employees.

Under some circumstances teleworking will not be practicable because of:

- Limitations on the bandwidth available to the County;
- Lack of a countywide imaging system to handle large volumes of paper documents;

- Security for confidential information, such as payroll, financial management system, and other accounting programs;
- Unavailability of County-owned equipment, to avoid confidential information from being improperly misused, downloaded, or transferred;
- The County firewall requirement that all computers have current patches; or
- The department head, in his or her sole discretion, determines that employees in the department are not permitted to telework, either in entirety or on a case-by-case basis.

4. Eligibility

Many employees are considered eligible for telework, except in the following circumstances:

- Employees whose positions require direct handling of secure or confidential materials nearly every work day;
- On-site activity that cannot be handled remotely or at an alternative worksite, such as face-to-face personal contact with the public in medical, counseling, or similar services;
- When work requires hands-on contact with machinery, equipment, vehicles, etc.;
- Other physical presence- or site-dependent activity, such as gate attendant or park ranger;
- Employees whose last performance rating was below standard or whose conduct resulted in disciplinary action within the last year; or
- Employees whose department head does not approve a proposed telework arrangement.
- Employees who are not approved for a proposed telework arrangement by the Chief Human Resources Officer (if they are requesting telework outside of Kern County).

5. Telework outside of Kern County

Telework request for employees living and working outside of California or a location 100 miles outside the Kern County border, will require justification, evaluation, and approval from the Department Head and the Chief Human Resources Officer. Justification for approvals should identify extenuating circumstances that support a meaningful department need. This justification must be approved by the Department Head and Chief Human Resources Officer before the employee begins teleworking (**Appendix E**). Telework justifications will be reviewed by the department head and Chief Human Resources Officer annually to determine any changes in the telework environment.

Approved telework justifications for employees living outside of California will be submitted to the Auditor-Controller's office for tax reporting and to ensure proper documentation is maintained by the County. Risk Management also will be notified prior to the employee commencing work to provide for Worker's Compensation Insurance coverage.

The following items need to be provided to determine the justification for remote telework:

- A detailed justification that includes work assignments deemed suitable for remote work and the justification for why the department is unable to fill position with someone living and working locally and on-site
- An explanation of how work duties can be effectively carried out

- An explanation for how the employee and the employee's worksite will be adequately supervised

For employees working out of the County and outside California, the following matters need to be evaluated and considered in the approval process:

- Tax implications for the state the employee is residing and working from
- Health Benefits coverage
- A plan to address the Workers Compensation Insurance Coverage for the state of work and residence
- How operational and safety matters can be addressed if they arise
- Potential Disaster Service worker duties
- Ensuring the employee has access to current, up to date County and department policies and procedures and required postings (including California and Federal Labor Law annual posters, Workers Compensation notices, Cal/OSHA summaries and notices, and Labor postings if relevant). Please include how the department will ensure a regular update of materials. Departments employing staff living and working outside of California will need to have additional material required specific to the state they are residing within.

Employees teleworking outside of California are responsible for the tax liabilities specific to the state they are residing within.

Teleworking employees are responsible for their own travel costs when required to report to a work location.

6. Written Agreement

The teleworker and his/her department head or the department head's designee must enter into a written agreement (**Appendix C**) for every type of telework, whether the employee teleworks regularly or for a defined period of time or circumstances. The agreement must be signed and dated by the employee and his/her supervisor, and maintained on file at the department as long as the telework arrangement is in effect. The agreement will be updated and reviewed annually by the department.

It is strongly recommended that any individuals who will be expected to telework in the case of a Continuity of Operations event or a pandemic health crisis have telework agreements on file in advance that provide for such an occurrence.

7. Request Denial

Teleworking is not an employee right. Employee telework requests may be denied and telework agreements may be terminated, at the sole discretion of the employee's department head, even if the employee is considered "eligible" by the County's and department's policies. Employee telework requests may be denied and telework agreements may be terminated at the discretion of the employee's department head or the Chief Human Resources Officer if the employee is living and working outside of California or outside of Kern County. Denial of a telework request is not grievable and shall be considered a work assignment for purposes of the employee's grievance procedure.

8. Work Schedules

Work schedules will conform to standards specified in Section 115 of the Policy and Procedures Manual. Alternate work schedules are permissible with prior approval. In no event shall an employee be scheduled to regularly work more than forty hours during any work week. If overtime is a necessity for non-exempt employees, it must be authorized by a department head in advance. However, departments are strongly discouraged from authorizing overtime.

Employees living and working outside of California and working outside of the Pacific Standard Time zone will not be eligible for shift differential pay due to the time zone difference, unless working outside of standard operating hours.

9. Performance Management Practices

Performance standards for off-site employees are the same as performance standards for on-site employees. Management expectations of a teleworker's performance should be clearly addressed in the telework agreement. As with on-site employees, teleworkers will be held accountable for the results they produce. The telework agreement provides a framework for the discussion that must take place between the supervisor and the employee about expectations before teleworking begins. Departments retain the right to inspect telework sites on less than 24 hours' notice if evidence must be obtained for suspected disciplinary matters or in potentially hazardous situations.

10. Equipment

Equipping of a teleworker is at the department head's sole discretion. Factors to consider include, but are not limited to, technology needs based on the work of the employee, security requirements, and budget constraints. Cost of maintenance and repair of equipment that belongs to teleworking employees is employees' responsibility.

11. Safeguarding Information and Data

Employees must take responsibility for the security of the data and other information they handle while teleworking. Employees must comply with their departments' information security policies, and maintain security of any relevant materials, including files, correspondence, and equipment, in addition to following technologic security protocols for remote connectivity. Depending on the sensitivity of the information being handled, the home office may need to include security measures such as locked file cabinets and anti-virus software.

The Federal Information Security Management Act of 2002 defines information security as protecting information and information systems from unauthorized access, use, disclosure, disruption, modification, or destruction in order to provide:

> (A) Integrity, which means guarding against improper information modification or destruction and includes ensuring information non-repudiation and authenticity;
>
> (B) Confidentiality, which means preserving authorized restrictions on access and disclosure, including means for protecting personal privacy and proprietary information; and
>
> (C) Availability, which means ensuring timely and reliable access to and use of information.

As in the office, security measures should cover not only information systems and technology, but all aspects of the information systems used by the employee, including paper or other media files, storage devices, and telecommunications equipment (e.g., laptops, PDAs, and cell phones).

12. Safety

Teleworkers must address issues of their own personal safety to be effective while teleworking from a home office. Employees suffering work-related injuries at the alternative worksite (home or other location) are covered by workers' compensation to the extent required by law. However, workers' compensation claims must be well-documented to guard against false claims in the absence of co-workers to verify allegations. Questionable claims will be investigated, and any that are found to be fraudulent will result in termination of teleworking privileges, discipline, up to and including termination, and may subject the employee to criminal prosecution. Teleworkers must complete and sign an Employee Self-Certification Safety Checklist (**Appendix D**). Departments should include in their telework agreements the right of the County to inspect the telework premises without advance notice to the teleworker if hazardous working conditions are suspected.

13. Security

County employees and their supervisors are responsible for the security of County property, regardless of their work location. If County-owned equipment is stolen, the employee must file a police report and submit it to his or her supervisor. Damage to equipment owned by the County may necessitate recompense by the employee. Department security policies will be enforced the same when employees telework as when they are in the office.

14. Telework under Continuity of Operations Planning

Telework should be part of all departments' emergency planning. Federal Emergency Management Agency's Federal Preparedness Circular 65 defines Continuity of Operations Planning (COOP) as "an effort to ensure that the capability exists to continue essential government functions across a wide range of hazard emergencies." COOP capability, including teleworking, is intended to be short-term; it must be functional within 12 hours and may last up to 30 days or until the emergency is over.

Exhibit K

TELEWORK POLICY OVERVIEW

- Telework is normally a voluntary work arrangement in which an employee performs officially assigned duties at home or at another geographically convenient worksite.
- Each department must develop its own telework policies, including defining and specifying the use of telework, if any, that best fits its business needs.
- Telework should be integrated in departments' Continuity of Operations Plans, including during a pandemic health crisis.
- The choice of how to equip teleworkers is at the department's discretion. Security concerns should be considered in making equipment choices.
- Information security must be developed and all County technology policies must be strictly followed.
- All teleworkers must have signed agreements to provide structure and accountability. Such agreements should include: schedule; communication expectations with supervisors, work group, and customers; equipment; tasks; and information security and equipment security obligations.
- Department heads may deny an employee's request to telework
- Department heads and/or the Chief Human Resources Officer may deny an employee's request to telework if the employee is requesting to live and work outside of California or 100 miles outside the Kern County border.
- Teleworkers must maintain appropriate workspaces and must certify they are free from hazards to the best of their knowledge.
- Employees suffering work related injuries at alternate worksites are covered by workers' compensation to the extent required by law. Suspicious claims will be investigated and handled as appropriate by law.
- Employees who use computers and other information technology while teleworking need effective technical support. Remote access presents unique issues and departments may take them into account when considering whether to authorize telework requests.
- Telework is not an employee right and is not grievable.

Exhibit K
Appendix A

DEPARTMENT JUSTIFICATION FOR IMPLEMENTING TELEWORK

1. List positions eligible for telework assignments, including specific descriptive information necessary to distinguish between more than one work assignment in the same job classification. Add more pages if necessary.

Position	Assignment	Eligible Incumbent	Equipment Needed	Equipment Supplied and Maintained By Whom?	Necessary Equipment Security Measures	Necessary Data or Information Security Measures
a.						
b.						
c.						
d.						
e.						
f.						
g.						
h.						
i.						
j.						
k.						

2. Of positions listed above, are there other concerns that would preclude any of the positions or incumbents from teleworking?

Implementation Recommended by Department Head: _____ Date:_____

Exhibit K
Appendix B-1

TELEWORK Q&As

1. How would an employee make a request to telework?
   An employee would make a request in writing to his or her supervisor, stating the reasons for requesting approval to telework.

2. Who is responsible for approving an employee's request to telework?
   Each department establishes its own approval process, but ultimately, the department head is responsible for approving or disapproving a specific employee's request if the employee lives and works in Kern County. If the employee is requesting to live and work outside of California or 100 miles outside the Kern County border, then the request must be approved by the department head and the Chief Human Resources Officer or designee.

3. Does an employee have a right to telework?
   No.

4. Will teleworking employees continue during emergency facility closures?
   Employees teleworking from home or from an alternative workplace may be an invaluable resource during a time of emergency. Therefore, departments may wish to modify their current policies concerning emergency situations to require telework employees to continue to work at their alternative worksites when the department's facility is closed. Teleworkers can be required to work during emergency closures even if that day is not a regular telework day or a day with specific approval for situational/episodic telework. If a department chooses to require an employee to telework during emergency closures either on his or her regular telework day, or on any day when the department is closed by an emergency, the department should include this requirement as part of the employee's written telework agreement.

5. If the teleworking employee needs to take off time during scheduled work hours, does he or she have to submit a time off slip for prior approval?
   Yes; usual office procedures are to be followed in this case.

6. Won't the employee's work suffer without direct, on-site supervision?
   The opposite should be the case, partly because the employee working at home has fewer interruptions and distractions, and partly because the individual has a strong incentive to demonstrate the value of working at home.

   The department head is required to ensure appropriate supervision and management for the employee working remotely. If the employee requires or requests direct, on-site supervision, then this needs to be addressed in review of telework capacity.

7. How can the supervisor monitor work performance when the employee is not physically present?
   Supervisors can measure what the employee produces by examining the product or results of the employee's efforts. It is also helpful to use project schedules, key milestones, regular status reports, and team reviews. Supervisors may call employees who are working at home.

8. Can teleworkers follow an alternative work schedule?
   Yes. In fact, telework schedules should be sufficiently flexible to permit periodic work schedule adjustments. Work hours must be documented, and alternate schedules must be submitted to the supervisor in advance of a schedule change. Initial teleworking schedules may require trial and error adjustments to determine the optimal schedule that meets the needs of the employee and the organization. All telework schedules must conform to County policy. In no event shall an employee be scheduled to work more than forty hours during any work week.

9. What about the impact on the office when some employees are working at an alternative worksite?
   Certain guidelines must be established to minimize any adverse impact on other staff members before employees begin to work at alternative worksites. The overall interests of the office must take priority over working at alternative sites. With advance notice, a supervisor may require an employee to work at the main worksite on a day scheduled for an alternative worksite if the needs of the office so require. Telework should not put a burden on staff remaining in the office. An equitable distribution of workload should be maintained, and methods should be instituted to ensure that main office employees are not unduly burdened by a co-worker who teleworks.

10. What equipment will the employee need at the home-based worksite and who will provide it?
    The employee and his or her department head or designee should negotiate about needed equipment (e.g., laptops, second phone lines, etc.), and who will provide it will vary by situation. Each department must establish its own policies on the provision, installation, tracking, and maintenance of equipment.

11. Do all teleworkers work with high-tech equipment?
    While technology can be very helpful to most teleworkers, a telephone may suffice for some.

12. Who is responsible for maintaining and servicing County or privately owned equipment used at the alternative worksite?
    Generally, the County will be responsible for the service and maintenance of County-owned equipment. Teleworkers who use their own equipment are responsible for its service and maintenance.

13. Who pays for any increase in home utility expenses incurred by employees as a result of teleworking?
    The employee must pay all utility expenses. Work-at-home arrangements may increase an employee's home utility costs. Balanced against these increases are potential savings to the employee.

14. Are business phone calls made from the home reimbursable?
    In accordance with County and departmental policies, an employee may be reimbursed for verifiable business-related long distance phone calls made on his or her personal phone, with appropriate documentation.

15. If a teleworker chooses to work hours in addition to his/her regular workday, can he/she get paid overtime for the additional hours?
    County ordinance and policy addresses overtime, which requires non-exempt employees to obtain prior permission from their supervisor to work overtime. Due to the difficulty in monitoring overtime, departments are strongly discouraged from authorizing overtime.

16. Who is liable for work-related injuries and/or damages at the alternative worksite?
    County employees suffering work-related injuries and/or damages at the alternative worksite are covered under workers' compensation to the extent required by law.

Exhibit K
Appendix C-1

KERN COUNTY
TELEWORK AGREEMENT

The following constitutes an agreement between (Department) _____ and (Employee) _____ , on the terms and conditions below.

1. The employee is willing to participate in the telework program and adhere to the applicable guidelines and policies.

2. The department concurs with employee participation and agrees to adhere to the applicable guidelines and policies.

3. The employee agrees to participate in telework beginning (date)_____.

4. The employee's work hours will be: _____ to _____, including an unpaid meal break of _____ minutes, on (days of the week) _____ _____.

5. The employee's work location will be (physical address including city and state): _____ _____.

6. The employee will report to the office as required by the supervisor with sufficient advanced notice. The teleworking employee understands that required travel to the on-site location is not reimbursable by the County.

7. The employee will provide their supervisor with a copy of the employee's telework schedule and document time and attendance according to normal departmental procedure.

8. The employee must be available by telephone during telework hours.

9. The employee must obtain advance supervisory approval before taking vacation or sick leave in accordance with departmental procedures. By signing this form, the employee agrees to follow established procedures for requesting and obtaining approval of leave.

10. The employee will be compensated for all overtime the employee works that has been ordered and approved in advance in accordance with County policies and applicable laws. The County prohibits an employee working unapproved overtime. By signing this agreement, the employee agrees that failing to obtain proper advance approval for overtime work may result in their termination from the telework program and discipline up to and including termination of employment.

11. Employees authorized to use County equipment will protect and safeguard the equipment. The County will service and maintain its own equipment. The employee will service and maintain their own equipment.

12. If management has reasonable cause to believe that hazardous working conditions exist, the department may conduct an inspection of the employee's home worksite during the employee's normal working hours, without advance notice.

13. The County will not be liable for damages to an employee's personal or real property except as required by law.

14. The County will not be responsible for operating costs, home maintenance, or any other incidental costs whatsoever, (e.g., utilities), associated with the use of the employee's residence.

15. To the extent required by the California Workers' Compensation law, an employee injured in the course of actually performing official duties at the approved telework site may receive required benefits.

16. The employee will meet with the supervisor, virtually or in person, to receive assignments and to review completed work as necessary or appropriate.

17. The employee will apply approved safeguards to protect County/department records or confidential information from unauthorized disclosure or damage.

18. The employee may terminate participation in the telework program at any time by providing sufficient advanced notice; however, employees may be expected to continue working at home offices or for a reasonable period to allow management time to arrange a workstation. If the employee lives and works outside of California or 100 miles outside the Kern County border, management and/or the Chief Human Resources Officer can remove the employee from the telework program at any time.

19. The County shall compensate only overtime to nonexempt employees who work more than 40 hours in any workweek to the extent required by the Fair Labor Standards Act. The employee must obtain in advance the permission of the employee's supervisor in order to work overtime.

20. Work schedules will comply with County policy. Performance standards will be the same as for on-site employees, with clear expectations from the teleworker's supervisor about the nature, scope, and timeframe for completing assignments.

21. The employee agrees to follow any additional restrictions imposed upon teleworking employees by federal or state laws or regulations.

Employee (Sign)	Date
Employee (Print)	Employee ID Number
Supervisor - (Sign)	Date
Supervisor - (Print)	

_____ _____

Department Head (Sign) Date

_____

Department Head (Print)

Exhibit K
Appendix D-1

COUNTY OF KERN TELEWORK PROGRAM
EMPLOYEE SELF-CERTIFICATION SAFETY CHECKLIST

NAME:_____**DEPARTMENT:**_____

BUSINESS TELEPHONE:_____**SUPERVISOR:**_____

TELEWORK SITE ADDRESS:_____

CITY/STATE:_____

TELEWORK TELEPHONE NUMBER:_____

The following checklist is designed to assess the overall safety of the telework site. Participating employees shall complete the self-certification safety checklist. Then the checklist will be signed and dated by the employee and immediate supervisor. The supervisor will retain a copy of this checklist with the telework agreement. If the department determines the telework site is inadequate in terms of safety or health, the telework agreement will be terminated. Departments reserve the right to inspect telework premises without prior notification.

A.	**WORKPLACE ENVIRONMENT**				
1.	Are all stairs with four or more steps equipped with handrails?		Yes [ ]		No [ ]
2.	Are all circuit breakers and/or fuses in the electrical panel labeled as to intended service?		Yes [ ]		No [ ]
3.	Do circuit breakers clearly indicate if they are in the open or closed position?		Yes [ ]		No [ ]
4.	Is all electrical equipment free of recognized hazards that would cause physical harm, e.g. frayed wires, bare conductors, loose wires, flexible wires running through walls, exposed wires to the ceiling?		Yes [ ]		No [ ]
5.	Will the building's electrical system permit the grounding of electrical equipment?		Yes [ ]		No [ ]
6.	Are aisles, doorways, and corners free of obstructions to permit visibility and movement?		Yes [ ]		No [ ]
7.	Are file cabinets and storage closets arranged so drawers and doors do not open into walkways?		Yes [ ]		No [ ]
8.	Do chairs have any loose casters (wheels) and are the rungs and legs of the chairs sturdy?		Yes [ ]		No [ ]
9.	Are the phone lines, electrical cords, and extension wires secured under a desk or alongside a baseboard?		Yes [ ]		No [ ]
10.	Is the office space neat, clean, and free of excessive amounts of combustible materials?		Yes [ ]		No [ ]
11.	Are floor surfaces clean, dry, level, and free of worn or frayed seams?		Yes [ ]		No [ ]
12.	Are carpets well secured to the floor and free of frayed or worn seams?		Yes [ ]		No [ ]
13.	Is there enough light for reading?		Yes [ ]		No [ ]

B.	**COMPUTER WORKSTATION (IF APPLICABLE)**		Yes [ ]		No [ ]
14.	Is your chair adjustable?		Yes [ ]		No [ ]
15.	Do you know how to adjust your chair?		Yes [ ]		No [ ]
16.	Is your back adequately supported by a backrest?		Yes [ ]		No [ ]
17.	Are your feet on the floor or fully supported by a footrest?		Yes [ ]		No [ ]
18.	Are you satisfied with the placement of your computer monitor and keyboard?		Yes [ ]		No [ ]
19.	Is it easy to read the text on your screen?		Yes [ ]		No [ ]
20.	Do you need a document holder?		Yes [ ]		No [ ]
21.	Do you have enough leg room at your desk?		Yes [ ]		No [ ]
22.	Is the monitor free from noticeable glare?		Yes [ ]		No [ ]
23.	Is the top of the monitor screen eye level?		Yes [ ]		No [ ]
24.	Is there space to rest the arms while not keying?		Yes [ ]		No [ ]
25.	When keying, are your forearms close to parallel with the floor?		Yes [ ]		No [ ]

Employee Signature _____ Date _____

Supervisor's Signature _____ Date_____

Approved [ ] Disapproved [ ]

Exhibit K
Appendix E-1

COUNTY OF KERN TELEWORK PROGRAM
OUT OF COUNTY OR STATE TELEWORK JUSTIFICATION

Employee Name:	Classification:
Department:	Department Head:
Address for Telework site:	
City:	State:
Time Zone: ☐ Pacific ☐ Mountain ☐ Central ☐ Eastern	
Working hours within the residing time zone: PST Working Hours (if applicable):	
Equipment needed for remote telework:	

For Auditor-Controller: Will this employee be working outside of California for more than 50% of their assigned work time?	☐ Yes ☐ No

1. Provide justification for the necessity of this employee working remotely in this classification. Provide information regarding expertise, skills, or circumstances that necessitate the remote telework for this employee over another who can work within Kern County and/or onsite.

2. Is this employee able to perform all job duties as described in the job classification filled while working remotely through telework? If not, please explain below.

3. How will the following matters be addressed for this employee:
   a. Supervision and management of duties

   b. Operational or potential safety matters being reviewed and addressed

   c. Disaster Service Worker Duties

4. Does this work include managing sensitive and confidential information? How will these items or matters be protected by the department and this employee?

5. How will the department provide coverage for Worker's Compensation Liability insurance? Has this plan been reviewed and approved by County Counsel and Risk Management? Has the budget request been reviewed with the CAO analyst?

6. Please describe how the employee will have access to County and department policies and procedures, and required postings (including California and Federal Labor Law annual posters, Workers Compensation notices, Cal/OSHA summaries and notices, and Labor postings if relevant). Please include how the department will ensure a regular update of materials. Departments employing staff living and working outside of California will need to obtain claim kits from Risk Management specific to the state the employee is working within and include this in the accessible material.

7. Other relevant information for the department head/CAO to have to justify this request.

For Risk Manager/Workers Compensation Insurance:

- Please include / attach the job description for the employee's classification.
- What is the employee's estimated annual salary?
- Will travel outside of the state of residence be required to complete job duties? ☐ No ☐ Yes
  If yes, please provide additional information below:

Supervisor Name:	
Supervisor Signature:	Date:

Department Head Name:	☐ Approve ☐ Not Approved
Department Head Signature:	Date:

Chief Human Resources Officer Name:	☐ Approve ☐ Not Approved
Chief Human Resources Officer Signature:	Date:

Submitted copy to:		
Auditor-controller	☐ Yes (date: _____)	☐ No
Risk management	☐ Yes (date: _____)	☐ No

KERN COUNTY
NON-SMOKING POLICY

It is the policy of the County of Kern to prohibit smoking, including the use of electronic or vapor cigarettes, in all County owned, leased, occupied, operated or maintained buildings serving as a place of employment of any person or which is open to the general public for the conduct of public business, as well as all County owned or leased vehicles. In order to serve public health, safety and welfare, this policy is intended to protect non-smokers to the maximum extent possible from the dangers of second hand smoke and the unknown risks associated with electronic nicotine delivery systems.

It is the responsibility of the department head and departmental supervisors to enforce the non-smoking policy of the County.

The Kern County Public Health Services Department offers information on tobacco education to assist employees in their efforts to quit tobacco use. Free phone-based cessation counseling is also available through the California Smokers' Helpline at 1-800-NO-BUTTS

Employees who continue to smoke or use electronic or vapor cigarettes in non-designated areas may be subject to appropriate disciplinary action.

EXTENDED LEAVE HOLDING UNIT POLICY

Purpose

The County of Kern has a very generous leave policy. Periodically, a County employee may have exhausted all available leave entitlements and still be unable to return to duty because of injury or illness. Further, County employees who are members of the reserve component of the United States Armed Forces which includes, but is not limited to the Army Reserve, Navy Reserve, Air Force Reserve, Coast Guard Reserve, Army National Guard, Air National Guard, or the Naval Militia may be called to active duty service for a period of over 190 days but less than 5 years when their unit is activated. When an employee has exhausted all forms of leave but cannot return to duty or is absent resulting from active military service and exhausted all forms of paid leave, their operating department may not be able to function in an effective or efficient manner without the ability to replace the absent employee on a permanent basis. Since a member of the reserve corps, injured or ill employee retains their position with the County until formal separation from County employment by resignation or retirement, the current structure requires the operating department to either reassign the absent employee's job duties to other existing employees or hire a temporary replacement, typically utilizing extra help positions. The purpose of the Extended Leave Holding Unit Policy is to allow, in very limited circumstances and with very careful oversight, injured or ill employees who will most probably never return to work to be transferred to a Extended Leave Holding budget unit so that the operating department that directly employed them can move forward to backfill the position with a permanent employee. Likewise, County employees who are members of the reserve corps will be accommodated in the Extended Leave Holding budget unit so the operating department can backfill the position with a permanent employee. Any costs associated with the employee while in the Extended Leave Holding budget unit (i.e. County contribution for health benefits) shall be the sole responsibility of the operating department from which the employee was transferred.

Policy/Procedures for Medical Conditions

A budget unit will be established to accept employees on long-term, unpaid medical leaves of absence. "Long term" means an employee has exhausted all sick leave, vacation and compensatory time accruals, all leave entitlements per Civil Service Rule 1201.20 (Non-Job Related Medical Leave), Rule 1201.30 (Mandated Family and Medical Leaves), Rule 1201.60 (Leave for Compensable Disability) and Rule 1202.20 (Personal Necessity Leave). It is anticipated that an employee will typically be absent for approximately 12 months prior to being transferred to the Extended Leave Holding Unit. All leave entitlements available to the employee must be exhausted prior to an employee transitioning to the Extended Leave Holding Unit. At the discretion of the Employee Relations Officer, employees may be transferred to the Extended Leave Holding Unit without exhausting all sick leave, vacation and compensatory time accruals, but in no instance may an employee use their accruals while placed in the Extended Leave Holding Unit. Employees receiving compensation under California Labor Code 4850 are not eligible for placement into the Extended Leave Holding Unit.

Eligible employees may be transferred to the Extended Leave Holding Unit only upon the request of the employing department. The decision to apply for a transfer is wholly within the discretion of the operating department, as some departments have better ability to maintain the employee's placement in-house. While the affected employee will be advised of the request and parameters of this program, the employee has no right to object to placement in the Extended Leave Holding Unit. The Extended Leave Holding Unit will be managed by the County Administrative Office. The Board of Supervisors delegates to the County Administrative Officer, or his or her designee, the authority to add and delete positions to the Extended Leave Holding Unit as needed. An operating department that has an eligible employee shall make a written request to the County Administrative Officer that the employee be transferred to the Extended Leave Holding Unit. Upon verification of eligibility, the County Administrative Officer: (1) will authorize the addition of a position to the Extended Leave Holding Unit in the same classification as the employee's classification with the same classification number plus the letter "D" to more easily differentiate these authorized positions, (2) will make contact with the employee and explain the process of the Extended Leave Holding Unit, and (3) will then authorize the transfer of the employee from their employing department to the Extended Leave Holding Unit.

Once the transfer to the Extended Leave Holding Unit is complete, the operating department may move forward to backfill their now-vacant position on a permanent basis. If under restricted hiring procedures, the operating department will also be required to request permission to fill the position from the County Administrative Office. Then, the operating department may request an eligible list from Human Resources. The newly hired or promoted (replacement) employee will be subject to all employment requirements as other newly hired or newly promoted employees before they obtain permanent status in that position. However, should the employee transferred to the Medical Holding Unit be released and is able to return to duty, the replacement employee's status will not be impacted.

If an employee assigned to the Extended Leave Holding Unit is released to work and presents a certification from a medical doctor that the employee is capable of returning to work with or without restrictions which the employing department is able to reasonably accommodate, the employee will be transferred back to the original operating department. The County Administrative Officer will be responsible for notifying the original operating department that the employee is returning to work, and will also be responsible for deleting the now vacant position from the Extended Leave Holding Unit. The employee returning to work will be reassigned to a position in the same classification and in the same department that he/she occupied at the time of transfer at their previous department. If the employee is released to work with restrictions, suitable accommodation will be sought through the interactive process. The interactive process will be the responsibility of the operating department. The operating department shall contact the Disability Management Coordinator to assist with the interactive process. As with all employees seeking accommodation, the employee will need to be able to perform the essential functions of the job, with or without accommodation and all such accommodations must be reasonable and not create an undue hardship for the employing department. In accordance with Civil Service Rule 1201.20.50, upon expiration of the approved leave and prior to returning to duty, the employee may be required to obtain and present certification from a medical doctor that the employee is able to resume work. The employee may also be required to pass a physical, medical, and/or psychological examination designated by the County at its expense.

If there is no vacant position in the employee's classification in the operating department, the County Administrative Officer will authorize an additional position. The County Administrative Officer will seek immediate approval to add a position to the department so that the returning employee may return to duty. This may result in the operating department having two positions which are both filled and therefore must also be funded. After transferring the employee back to their prior operating department, it will be the responsibility of the County Administrative Office to delete this extra authorized position during the normal County budget process once the department has a vacancy in the particular classification.

If an application for a service or non-service disability retirement allowance is denied, or not pursued, and the operating department needs to move forward with administrative disciplinary action to separate the employee from County service, the County Administrative Officer will transfer the employee back to their previous department prior to the commencement of any action to separate them from service.

Policy/Procedures for Military Leave

The Extended Leave Holding Budget Unit shall be used to accept employees on long-term, unpaid military leaves of absence. "Long term" is defined as an employee serving on active duty for a period of more than 190 days but less than 5 years, and has exhausted all vacation and compensatory time accruals, all leave entitlements per Civil Service Rule 1201.45 (Other Military Leave and Rule 1201.30.100 (Concurrent Leaves).

Eligible employees may be transferred to the Extended Leave Holding Budget Unit only upon the request of the employing department and with the submission of military orders for the affected employee. The decision to apply for a transfer is wholly within the discretion of the operating department, as some departments have better ability to maintain the employee's placement in-house. While the affected employee will be advised of the request and parameters of this program, the employee has no right to object to placement in the Extended Leave Holding Budget Unit.

The Extended Leave Holding Budget Unit will be managed by the County Administrative Office. The Board of Supervisors delegates to the County Administrative Officer, or his or her designee, the authority to add and delete positions to the Extended Leave Holding Unit as needed. An operating department that has an eligible employee

shall make a written request to the County Administrative Officer that the employee be transferred to the Extended Leave Holding Unit. Upon verification of eligibility, the County Administrative Officer: (1) will authorize the addition of a position to the Extended Leave Holding Unit in the same classification as the employee's classification with the same classification number plus the letter "D" to more easily differentiate these authorized positions,(2) will make contact with the employee and explain the process of the Extended Leave Holding Unit, and (3) will then authorize the transfer of the employee from their employing department to the Extended Leave Holding Unit.

Once the transfer to the Extended Leave Holding Unit is complete, the operating department may move forward to backfill their now-vacant position on a permanent basis in accordance with Civil Service Rule 1201.45.10 (Other Military Leave). If under restricted hiring procedures, the operating department will also be required to request permission to fill the position from the County Administrative Office. Then, the operating department may request an eligible list from Human Resources. The newly hired or promoted (replacement) employee will be subject to all employment requirements as other newly hired or newly promoted employees before they obtain permanent status in that position. However, should the employee transferred to the Extended Leave Holding Unit be released and is able to return to duty, the replacement employee's status will not be impacted.

If an employee assigned to the Extended Leave Holding Unit is released to from active duty service and presents a set of orders that the employee is to return to their original duty station, the employee will be transferred back to the original operating department. The County Administrative Officer will be responsible for notifying the original operating department that the employee is returning to work, and will also be responsible for deleting the now vacant position from the Extended Leave Holding Unit. The employee returning to work will be reassigned to a position in the same classification and in the same department that he/she occupied at the time of transfer at their previous department. In accordance with Civil Service Rule 1201.20.60, upon expiration of the approved leave and prior to returning to duty, the employee may be required to provide a copy of military orders or other permitted documentation.

If there is no vacant position in the employee's classification in the operating department, the County Administrative Officer will authorize an additional position. The County Administrative Officer will seek immediate approval to add a position to the department so that the returning employee may return to duty. This may result in the operating department having two positions which are both filled and therefore must also be funded. After transferring the employee back to their prior operating department, it will be the responsibility of the County Administrative Office to delete this extra authorized position during the normal County budget process once the department has a vacancy in the particular classification.

The County Administrative Officer or designee will provide management of the Extended Leave Holding budget unit and review transfer of funds or appropriations from the operating department, as necessary, to ensure there are no costs associated with the Extended Leave Holding budget unit. This will involve evaluating and approving requests from operating departments that would like to transfer an employee to the Extended Leave Holding Unit, initiating and maintaining contact with employees assigned to the Extended Leave Holding Unit, as well as monitoring the status of possible applications for disability retirement allowances and to serve as the coordinator to assist those employees ultimately released for duty and desiring to return to work.

COUNTY WORKPLACE SECURITY CAMERA USE POLICY

Issued: August 11, 2026

Purpose

The Purpose of this policy is to promote the safety and security of county employees, visitors, facilities, and property through the responsible use of video surveillance. Security cameras serve as a tool to deter and investigate theft, vandalism, workplace violence, and other security incidents, while respecting individuals' right to privacy.

Scope

This policy applies to all stationary and mobile video cameras owned, operated, or contracted by the county that record or transmit visual images of county property, work areas, or individuals on County premises. It does not apply to cameras used for law enforcement investigations, public meetings, or audiovisual recording unrelated to security.

Scope Limitation Clause

This policy governs the use of countywide camera systems only and does not supersede, replace, or otherwise modify any existing departmental policies, procedures, or regulations related to other electronic surveillance systems or body-worn cameras. Departments shall continue to follow their established policies for such systems unless expressly stated otherwise.

Policy

The county may install and operate security cameras in public and semi-public areas of county facilities for legitimate security purposes. Surveillance will be conducted in a professional, ethical, and legal manner consistent with applicable federal, state, and local privacy laws.

Authorized Use

Security cameras may be used to:

- Protect the safety of employees, residents, and visitors
- Safeguard county property and equipment
- Deter criminal activity and misconduct
- Assist in the investigation of incidents, complaints, or policy violations
- Monitor access to county facilities outside normal business hours
- Provide evidence in employee disciplinary investigations

Cameras shall not be used for:

- Routine employee performance monitoring
- Recording areas where individuals have a reasonable expectation of privacy (e.g., restrooms, lockers rooms, lactation rooms)
- Listening to or recording audio without authorization under applicable law

Administration and Access

- The county is responsible for the installation, maintenance and management of security cameras and related equipment
- Access to live or recorded video footage is restricted to authorized personnel only and shall be granted on a need-to-know basis for legitimate security or investigative purposes
- Requests for video access by outside agencies or individuals must be approved by County Counsel

Data Retention and Storage

- Video recordings will be maintained for a minimum of 90 days unless required for an ongoing investigation, legal proceeding, or disciplinary action
- All recorded data will be stored securely, protected from unauthorized access, and disposed of in accordance with county record retention policies and applicable law

Notification

Where practical, signage will be displayed in areas under surveillance to inform employees and the public that video monitoring may occur.

Compliance

Unauthorized use, tampering, or misuse of security cameras or recorded footage is strictly prohibited and may result in disciplinary action, up to and including termination of employment and legal prosecution.

Policy Review

This policy will be reviewed annually to ensure compliance with laws, technology standards and organizational needs.