

The background of the page features a large, faint, circular seal of the Superior Court of California, County of Alameda. The seal contains a central figure, likely a personification of Justice or a local deity, holding a torch and a scale. The words "SUPERIOR COURT OF CALIFORNIA" are inscribed along the top arc, and "COUNTY OF ALAMEDA" along the bottom arc. The word "EUREKA" is visible in the center of the seal.

Personnel Organization, Policies, and Rules

Adopted April 2006; Revised October 2023

SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Human Resources Division

1225 Fallon Street, Oakland, California 94612

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PERSONNEL ORGANIZATION, POLICIES and RULES of the SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

Effective April 12, 2006; revised October 2023

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PREFACE

Persons Covered by These Policies and Rules and Relationship of Policies and Rules to Memoranda of Understanding

The policies and rules contained in this manual apply to employees in represented and unrepresented court classifications except appointees to the following classifications who shall serve at the pleasure of the Court and shall have no rights, privileges or benefits under these policies and rules:

- (a) Court Commissioner or any other subordinate judicial officer
- (b) Court Executive Officer

Where these policies and rules conflict with provisions of a memorandum of understanding between the Court and a recognized employee organization, the MOU provisions will govern as to employees occupying positions in classifications covered by the MOU.

DEFINITIONS

For purposes of these policies and rules, the following definitions apply:

Superior Court of the State of California, County of Alameda (also referred to as "Court") - Employer

Court Executive Officer - A person appointed by the Court to exercise administrative powers and duties including appointment and management of the Court's staff.

Appointing Authority - Court Executive Officer

Employee - A person employed by the Court in accordance with Government Code section 71601(l) and (m) who holds a regular appointment in a permanent position with benefits in a court classification. This excludes the classifications set forth above, persons elected by popular vote or appointed to office by the Governor of California and persons serving in a per diem, pro tem, temporary or other contract or limited term status.

Represented Employee - An employee who holds a regular appointment in a permanent position with benefits in a court classification which is represented by a labor organization.

CHAPTER ONE

GENERAL DESCRIPTION

1.1 SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

The Superior Court of California, County of Alameda is a state trial court with jurisdiction over all trial court matters, criminal felonies and misdemeanors, civil and limited civil cases, juvenile delinquency and dependency, mental health, writs and hearings, family law, probate, guardianship and conservatorship, and traffic matters. The Court has an Appellate Division, which hears appeals of misdemeanor and limited civil cases. Law and motion matters are heard in different locations throughout the county. The Court has multiple locations where court business is conducted and public services provided including in the cities of Alameda, Berkeley, Oakland, Hayward, San Leandro, Fremont, and Dublin.

The Superior Court of California, County of Alameda has sixty-nine (69) judges and sixteen court commissioners. Over eight hundred (800) court employees provide service to the public and support the judicial officers as they provide case adjudication services. Court personnel rules, policies and procedures for non-judicial court personnel derive from provisions of federal and state law and California Rules of Court. Court personnel are defined in state statute.

The Superior Court of California, County of Alameda has adopted a vision and mission statement, that is consistent with ongoing Community Focused Court Planning process and the identified goals and objectives of the Court.

1.2 VISION

The Court and its employees strive to become recognized for their service excellence, dedication, integrity, impartiality, competence and diversity, as well as their commitment to ensuring equal access to court services and enhancing public confidence in the court system.

1.3 MISSION STATEMENT

The Court shall fairly and efficiently resolve disputes arising under the law and shall apply the law consistently, impartially, and independently to protect the rights and liberties guaranteed by the

Constitutions of California and the United States. The employees of the Court shall strive for service excellence and through their dedication and professionalism, implement the policies and procedures established by the judiciary and the legislature. The judges and employees are committed to ensuring equal access to court services and enhancing public confidence in the court system.

1.4 JUDICIAL BRANCH FUNDING

The Superior Court of California is part of the judicial branch of government and operations funding is provided by the State of California through the Judicial Council of California.

1.5 STATEMENT OF PURPOSE

This manual provides the policies, procedures and rules applicable to the administration and operation of the court's personnel system for non-judicial court personnel, under the authority of the Court Executive Officer.

CHAPTER TWO

COURT STRUCTURE AND ORGANIZATION

2.1 DIVISIONS OF THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF ALAMEDA

The Court Executive Officer is responsible for the provision of all non-judicial duties and services in the Court including:

- (a) Courtroom support personnel
- (b) Legal Document Processing in civil, criminal, family law, juvenile, mental health, probate, family law and traffic
- (c) Legal attorney research
- (d) Probate examinations
- (e) Court investigations in Guardianship and Conservatorships
- (f) Juvenile Court Services
- (g) Family Court Services
- (h) Traffic Services
- (i) Agency wide staff support services in human resources, finance, planning and research, administrative, judicial, information technology and community and media information and relations

2.2 ORGANIZATION STRUCTURE

Organizational units of the Court are aligned to provide court services where the Superior Court conducts court business and court sessions in the many locations throughout the County of Alameda. The Court Executive Officer is responsible for the development and administration of a personnel classification and compensation structure.

2.2.1 Organization Charts

The Court Executive Officer is responsible for the development and amendment of charts of organization that reflect the alignment of staff service units throughout the Court.

2.3 AUTHORITY TO APPOINT

The authority to appoint court personnel is set as follows:

- (a) The Court Executive Officer shall be appointed by a majority of the Executive Committee. The Executive Committee shall fix the qualifications for, duties of and compensation of a Court Executive Officer.
- (b) The Court Executive Officer shall select and appoint all other non-judicial court personnel consistent with applicable provisions of these rules.

2.4 JOB DESCRIPTIONS

2.4.1 Written job descriptions and classification system

The Court shall maintain, in written form, a specific job description for each classification and position, including that of the Court Executive Officer. The job description shall include: the job title; the appointing authority and supervisor; a list of duties and responsibilities; and minimum qualifications.

2.4.2 Copy to employee

Each new employee of the Court shall be given a copy of his/her job description and the supervisor shall review the description with the employee to ensure he/she understands job expectations and responsibilities.

2.5 COURT EXECUTIVE OFFICER

A job description shall be maintained for the position of Court Executive Officer consistent with applicable statutes, California Rules of Court and the policy of the Court.

2.5.1 Absence of the Court Executive Officer

The Court Executive Officer shall designate a staff member to serve as the Court Executive Officer in his or her absence.

CHAPTER THREE

EQUAL EMPLOYMENT OPPORTUNITY

3.1 POLICY STATEMENT

The Court is committed to ensuring equal opportunity with respect to employees and applicants for employment in all aspects of its employment practices. The Court does not discriminate against qualified employees or applicants for employment on the basis of race, color, religion, gender, gender identity, gender expression, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, or any other basis protected by law, or on the basis of a perception that an individual has any characteristic protected by law, or on the basis of a perception that an individual is associated with a person who has, or is perceived to have, any of these characteristics.

Employees who believe they have experienced denial of employment opportunity or discrimination are encouraged to report this experience immediately to the Court Executive Officer or designee, the Director of Human Resources, any court manager, the Chair of the Personnel Committee or the Presiding Judge. The Court will promptly investigate the report pursuant to Chapter Nine, Unlawful Discrimination and Harassment Policies & Procedures, of this manual.

CHAPTER FOUR

EMPLOYEE SELECTION, CLASSIFICATION AND ASSIGNMENT

4.1 POLICY STATEMENT

It is the policy of the Court to recruit, employ and promote the most qualified and potentially successful candidates available for employment and to ensure equal opportunity for all qualified applicants in accordance with Chapters Three and Nine of these policies and rules, and state and federal laws.

Recruitment, selection and promotion decisions will be made on the basis of the applicant's relative knowledge, skills and abilities.

4.2 SELECTION PROCEDURES

4.2.1 Notice of Employment Opportunity

Announcements of available positions and application procedures shall be posted in all Court facilities a minimum of fourteen (14) calendar days prior to the application deadline. In addition, announcements for open hires shall be sent to appropriate agencies included in the Alameda County affirmative action distribution list as well as newspapers including minority newspapers, journals, professional organizations, job placement offices, agencies, individuals and bar associations, as appropriate.

Unless an exception is made by the appointing authority, all employment opportunities shall be open to the public.

4.2.2 Promotional Examination

All promotional opportunities shall be competitive and shall be conducted in the same manner as open recruitments except that application for a promotional position shall be restricted to employees working for the Court who have served at least six months and who meet the published requirements for the position. The Court Executive Officer or designee shall determine whether a position will be filled on a promotional or open basis.

4.2.3 Employment Examinations

Examinations shall be job related in order to determine the ability of the applicants to perform the duties of the job classification. Job applicants may be given one or more of the following types of examinations:

- (a) Oral;
- (b) Written;
- (c) Review of application or required supplemental material

4.2.4 Filing of Applications

All applicants for employment shall prepare and file an application in the form prescribed by the Court Executive Officer or designee. Applications must be received by the date prescribed in the employment announcement, unless a late submittal is approved by the Court Executive Officer or designee.

4.2.5 Reasonable Accommodation Policy

It is the policy of the Court to assure that qualified individuals with disabilities have equal and full access to court employment. The Court will comply with all employment-related requirements of the California Fair Employment and Housing Act and the Americans with Disabilities Act.

A qualified employee may request accommodation by submitting a written request for accommodation to the Director, Human Resources Division. Requests shall include a description of the accommodation sought, along with a statement of the impairment that necessitates such accommodation.

Requests for accommodation in the testing or application process should be submitted to the Director, Human Resources Division, as far in advance of the requested accommodation's implementation date as possible, and in any event, should be made no less than five (5) business days prior to the requested implementation date.

Requests for accommodation with regard to the essential functions of a position applied for should be submitted following an offer of employment.

The Director, Human Resources Division, will submit a written recommendation to grant or deny a request for accommodation to the Court Executive Officer or designee for review and decision.

4.2.6 Additions or Corrections to Applications on File

Corrections or supplements to an application may be accepted with the permission of the Court Executive Officer or designee.

4.2.7 Disqualification

The appointing authority may refuse to consider or appoint an applicant for any one reason or a combination of the following reasons:

- (a) The applicant has been convicted of any crime (s) which is substantially related to the qualifications, functions or duties of the particular position for which application is made or to court employment generally, or any crime(s) involving moral turpitude, dishonesty or corruption;
- (b) The applicant lacks the minimum qualifications for the position;
- (c) The applicant has a history of less than satisfactory employment;
- (d) The applicant uses or attempts to use any personal or political influence to further eligibility (this does not prohibit candidates from submitting letters of support and references);
- (e) The applicant makes any material false statement and/or attempts to practice deception or fraud in connection with a court examination or application for employment;

4.2.8 Preference for Internal Candidates

In an open recruitment in which the Court determines that two or more applicants' qualifications for the position are equal, preference shall be given to the internal candidate.

4.2.9 Regular Appointment

A regular appointment is one made to a permanent court position with benefits. Regular appointments shall be made from competitive examinations. However, project designated employees may be converted to a regular position with the same classification by the Executive Officer based on the operational needs of the Court. Time spent on the job as a project designated employee shall be counted towards completion of the probationary period for the regular position.

4.2.10 Conditions of Appointment

Prior to appointment candidates must meet and agree to the conditions of employment specified for a particular position, including qualification in a medical examination and any background investigation deemed appropriate. Failure of such pre-employment tests or examinations may cause the appointing authority to disqualify the candidate for employment.

4.2.11 Probationary Period-Duration

The probationary period for regular appointments into court classifications shall be twelve (12) months. Whenever a probationary employee is absent on leave in excess of 10 working days with or without pay from his/her position, his/her period of probation shall be increased by the total time of such absence, unless he/she is on leave of absence to serve in a higher class in which case the time served satisfactorily in such class shall be counted toward the completion of the period of probation for the class from which leave was granted. Whenever a probationary employee accepts a demotion to a position in a lower class, the time served satisfactorily in the higher class shall be counted toward the completion of his/her period of probation for the class to which he/she accepts demotion. The period of probation for regular part-time positions shall be considered satisfied when such appointees have accumulated in

actual service an equivalent to the period of probation for the class, regardless of the number of calendar months over which such accumulated service extends.

Time spent on the job by a probationary employee following receipt of a written notice of termination shall not be counted toward completion of the probationary period. Whenever the remaining period of probation of a probationary employee rehired from a Superior Court reemployment list is less than three months, the period of probation shall be extended to three months.

4.2.12 Termination, Suspension, Reduction in Rank or Compensation Before Completion of a Probationary Period

The Court Executive Officer may terminate, suspend, or reduce in rank or compensation a probationer at any time with or without cause during the period of probation, but a notice of such action and the reason therefore shall be concurrently sent by the appointing authority to the probationer at the time the action is taken. A copy of this rule shall be attached to or included in the notice of termination, suspension or reduction in rank or compensation.

A probationary employee so terminated, suspended, or reduced in rank or compensation shall have no right to appeal unless he/she alleges facts in support of the position that such action was based on discrimination or harassment in violation of federal or state law (refer to Chapters Three and Nine of this manual for policy, definitions and procedures). In the latter case, the appeal shall be in writing and shall be filed within ten (10) working days of the notice of termination, suspension, reduction in rank or compensation as prescribed in Section 9.3 of these policies and rules. An investigation into the allegations shall be conducted as prescribed in Section 9.3.

4.2.13 Completion of Probationary Period

An employee who satisfactorily completes the period of probation in the Court for the class to which he/she was regularly appointed shall be considered to have tenure.

4.3 COURT CLASSIFICATION PLAN

The Human Resources Director prepares the classification plan under the authority of the Court Executive Officer. Positions within the Court are allocated to classifications according to the assigned duties and responsibilities and generally based on the Judicial Council of California and Administrative Office of the Court's Uniform Model Classification Manual.

4.3.1 Authority

Pursuant to the provisions of Section 4.3 of the Superior Court's Personnel Organization, Policies and Rules, it shall be the duty of the Court Executive Officer or designee to provide for the classification of all positions in the court and for the reclassification of any or all such positions. It also shall be the duty of the Court Executive Officer or designee to allocate and reallocate individual positions to classes. Each classification action of the Court shall be submitted to the Court Executive Officer and shall become effective upon his/her approval.

4.3.2 The Maintenance and Review of Job Classifications and Titles

The Human Resources Director or designee under the authority of the Court Executive Officer shall study the duties and responsibilities of a position and/or its class and their relationship to other classes and/or titles in the following circumstances:

- (a) When requested by a senior or executive manager as a result of significant changes in a bureau or division affecting the duties and responsibilities of any position;
- (b) When an employee requests reclassification of his or her position by submitting a completed Position Classification Questionnaire form to the employee's immediate supervisor or executive manager;
- (c) When the Court Executive Officer provides written authorization for the establishment of a new position/classification;
- (d) When conducting a review of positions/classifications and their titles; and

- (e) When the Court Executive Officer or designee identifies a need to study an existing position/classification or group of positions/classifications.

The classification plan shall be kept current by continual review of positions in the court. Such review may include a survey of a single position, a court-wide survey of all positions in a single class or class series, or a survey of positions in a bureau or division or surveys of positions in an occupational grouping. The Court Executive Officer or designee shall provide for surveys of all positions in the court.

Executive managers, supervisors and employees shall make available to the Court or Human Resources Director all pertinent information required to maintain properly the classification plan, including new information on the duties and responsibilities and minimum qualifications as needed.

4.3.3 Amending the Classification Plan

The classification plan shall be amended as needed. New classes may be added and existing classes may be divided, combined, altered or abolished.

4.3.4 New Positions

Requests from executive managers to the Court Executive Officer for the creation of new positions shall be made in accordance with established procedures. New positions shall not be filled until they are appropriately classified and allocated.

For the purpose of adjusting the allocation of positions in a division or bureau, an Executive Manager may request for the creation of positions in such division or bureau. The Executive Officer shall have the final decision regarding creation of new positions.

4.3.5 Allocation

Each position in the court shall be allocated by the Court Executive Officer or designee to an appropriate class in the classification plan. The allocation of a position to a class shall derive from and be determined by the duties and responsibilities of the position, without regard to

the special qualifications of the incumbents, and shall be based on the principle that positions shall be included in the class if:

- (a) they are sufficiently similar in respect to duties and responsibilities that the same descriptive title may be used;
- (b) substantially the same requirement as to education, experience, knowledge and abilities are demanded of incumbents;
- (c) the same schedule of compensation can be made to apply with equity.

4.3.6 Reallocation

Whenever it is determined by the Court Executive Officer or designee that a position does not properly belong in the class to which it has been allocated, such position shall be reallocated to an appropriate class in the classification plan. If the plan does not contain an appropriate class, the position shall be reclassified, a new class established and the position shall be reallocated to the new class.

4.3.7 Status of Incumbents in Reallocated Positions

When a position is reallocated to another class, the status of the incumbent in such position in the new class shall be determined in accordance with the Court's established procedures governing classification upgrading, downgrading or transfer.

4.3.8 Methods of Appointment

When a position is reallocated, the most appropriate way to appoint the incumbent to the new classification shall be determined. The different methods of appointment include the following:

- a. A recruitment and examination will be conducted and an eligible list will be established. The incumbent can apply for the position and may be appointed from the eligible list for the new class if he/she is one of the top five scoring candidates; or
- b. An incumbent may be appointed by non-competitive qualifying exam (NCQ).

To be eligible for NCQ, the following criteria are used:

- An employee must be performing the major duties and responsibilities of the higher-level position on a full-time basis for at least one year.
- An employee must be regularly appointed and tenured in the Court.
- An employee must meet the Distinguishing Features and Minimum Qualifications for the higher-level position.
- An employee must have received a satisfactory performance evaluation when performing the higher-level position.

When an employee has been appointed to the new classification, he/she will serve a one-year probationary period and a performance evaluation shall be completed.

c. An employee is not eligible for NCQ based on the following:

- If an employee received out-of-class pay for performing at the higher-level position;
- If the position was previously downgraded to accommodate an employee's qualifications;
- If the position is reclassified to a class with the same salary range, the incumbent can be appointed as a (class title), a different but comparable class and;
- When a position is downgraded, the incumbent is x-scaled and placed on the appropriate reemployment list. This results in the incumbent's salary being frozen until the salary level of the lower-level classification rises to an equivalent level.

Provisional employees are not eligible for any of the above methods of appointment. If their positions are upgraded or downgraded, they can only be reappointed provisionally provided that there is no eligible list for the new classification. The provisional employees can apply for the open, vacant new position when the recruitment and examination are expedited.

4.3.9 Classification Appeals

Any employee may appeal the allocation or reallocation of his/her position and shall be given an opportunity to be heard by the Court Executive Officer. All appeals from classification actions shall be made in accordance with the Court's established procedures for classification appeals as stated in Chapter 8.8 Procedure to Grieve Misapplication, Misinterpretation or Violation of Hiring, Promotion, Transfer and Classification Policies and Rules.

4.3.10 Changes to be Reported

Any significant job changes in the duties and responsibilities assigned to the incumbent of a position in the court service or any organizational change in a bureau or division that may affect a position in such bureau or division, shall be reported to the Court Executive Officer or designee as provided in its established classification procedures.

4.3.11 Temporary Duties Assignment

With the approval of the Court Executive Officer, an executive manager may assign to an employee the duties and responsibilities that are properly allocable to a higher or different class provided such assignment is of a temporary nature. The duration of the temporary assignment should not exceed 12 months.

4.3.12 Class Specifications

The Court Executive Officer or designee shall adopt and maintain a written class specification for each class of positions and such specifications shall constitute the official specifications of classes in the court service. Each class specification shall set forth a descriptive class title, a definition outlining the scope of duties and responsibilities of positions in the class, the distinguishing features, the minimum qualifications for the class and such other information as the Court Executive Officer or designee deems appropriate.

4.3.13 Interpretation of Class Specifications

The class specifications are descriptive, explanatory and not restrictive. They are intended to indicate the kinds of positions that should be allocated to the various classes. The use of a

particular expression or illustrations as to duties shall not be held to exclude others not mentioned that are of similar kind or quality, nor shall any specific omission necessarily mean that such factor is not included.

The language of the class specifications is not to be construed as limiting or modifying the authority of an executive manager to direct and to control the work of employees under his/her jurisdiction or to alter their duties and responsibilities, as may be necessary in the efficient conduct of the business of the Court, except that it shall be the responsibility of the executive manager to report to the Court Executive Officer or designee promptly any substantial change in the duties and responsibilities of any position under his/her jurisdiction.

In determining the class to which a position should be allocated, the specification shall be considered in its entirety. Consideration shall be given to the general duties, specific duties and responsibilities, minimum qualifications as a composite description of the kind and level of work the class is intended to include. In order to determine the level and proper grouping of the class within the plan, its relationship to other classes also must be considered; therefore, each class specification is to be read and interpreted with this relationship in mind.

4.3.14 Class Title

The text of the class specification shall determine the official meaning of the title of the class. The class title and its properly designated code number shall apply to all positions allocated to the class and shall be used in all personnel and administrative transactions involving such positions.

4.3.15 Minimum Requirements

The minimum qualifications statement in a class specification shall constitute the minimum employment standards for the class. Persons provisionally appointed shall meet the minimum employment standards for the class. A recruitment and examination may be limited to applicants who possess qualifications above the minimum for the class, provided the Court Executive Officer approves the higher qualifications and published as the examination's

minimum qualifications on the official job announcement. Any departure from the minimum qualifications established for a class shall be by order of the Court Executive Officer only.

4.3.16 General Qualifications

General qualifications commonly required of all candidates for, appointees to, and employees in the court service such as integrity, honesty, sobriety, dependability, good judgment, initiative, resourcefulness, thoroughness, accuracy, courtesy and ability to work cooperatively with others shall be deemed to be a part of the personal characteristics of the minimum qualifications of each class specification and need not be specifically set forth therein. The Court may prescribe alternative or additional qualifications for individual classes and such qualifications also shall be deemed to be a part of the specifications for such classes.

4.4 WORK ASSIGNMENTS

Individuals employed by the Court are hired into a job classification and not for specific positions. At the discretion of the Court Executive Officer or designee, employees under his/her authority may be assigned to any area or work location within the Court to meet the needs and best interests of the Court. In the event an employee is reassigned to another area or work location, reasonable notice shall be provided consistent with operational needs.

4.4.1 Voluntary Transfers

Eligible employees wishing to *voluntarily* transfer from their current assignment to a vacant position in the same classification in another division or Court location may submit an Employee Transfer Request form in accordance with the Court's voluntary transfer procedure.

4.5 VOLUNTARY DEMOTION

An appointment by voluntary demotion is the appointment of the incumbent of a position, at his/her own request, to a position in the Court in a lower class in the same class series. Each voluntary demotion shall be approved by the appointing authority. A demoted appointee who has completed the required probationary period in the position from which he/she has taken demotion is not required to serve another probationary period in the demoted position.

On the request of the employee and approval of the appointing authority, an employee who has taken a voluntary demotion may be reinstated in a vacant position in the class from which he/she was voluntarily demoted for a period up to three years from the date of voluntary demotion.

4.6 RETURN RIGHTS TO A FORMER POSITION

Subject to Court Executive Officer approval, an employee who is promoted to a higher classification from a lower classification may return to the classification from which he/she was promoted provided that the employee was tenured in the lower classification and that a vacancy in the lower classification exists.

4.7 RE-EMPLOYMENT FOLLOWING SEPARATION FROM PROMOTIONAL APPOINTMENT

An employee who, during his/her probationary period, is separated for reason of inability to perform the duties of a higher level position to which he/she has been promoted, shall, upon request to and order of the appointing authority, have his/her name placed on the re-employment list for the class from which he/she was promoted.

4.8 REHIRE FOLLOWING RESIGNATION

An employee who resigned within two (2) years following the effective date of his/her resignation may rehire in a position in the class from which he/she resigned or in a position in another class for which he/she may be eligible as determined by the appointing authority.

The employee requesting rehire must meet the following:

1. No disciplinary action that would have led up to termination on record within the last six months of resigning; and
2. Consistently meets expectations in overall performance and maintained constant performance for the last twelve months.

Appointments by rehire following resignation are subject to the probationary period established for the class.

CHAPTER FIVE

PROFESSIONAL BEHAVIOR AND CODE OF ETHICS FOR COURT EMPLOYEES

5.1 GENERAL STATEMENT OF CONDUCT

All court employees are expected to observe and demonstrate the highest standards of conduct and professionalism. As a result, the Court adopts the Judicial Council of California's Code of Ethics for the Court Employees of California, as that document may be amended from time to time.

The Code of Ethics outlines the responsibility of all court employees to engage at all times in professional behavior. It does not describe all prohibited conduct, however, and employees may be disciplined for inappropriate conduct that is not addressed in the Code of Ethics.

5.2 CODE OF ETHICS FOR THE COURT EMPLOYEES OF CALIFORNIA

(Adopted by the Judicial Council of California, April 17, 1994; Revised October 23, 2009)

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

We therefore commit ourselves to:

Tenet One Provide impartial and evenhanded treatment of all persons;

Tenet Two Demonstrate the highest standards of personal integrity and honesty in all our professional and personal dealings, avoiding the misuse of court time, equipment, supplies, or facilities for personal business;

Tenet Three Behave toward all persons with respect, courtesy, patience, and responsiveness, acting always to promote public esteem in the court system;

- Tenet Four** Safeguard confidential information, both written and oral, unless disclosure is authorized by the court, refusing ever to use such information for personal advantage, and abstain at all times from public comment about pending court proceedings, except for strictly procedural matters;
- Tenet Five** Refrain from any actual impropriety, such as:
- violating the law,
 - soliciting funds on the job,
 - receiving gifts or favors related to court employment,
 - accepting outside employment that conflicts with the employee's duties,
 - recommending private legal service providers to the public on the job, or
 - using position at court to benefit self, friends, or relatives;
- Tenet Six** Avoid any appearance of impropriety that might diminish the integrity and dignity of the court;
- Tenet Seven** Serve the public by providing accurate information about court processes that is as helpful as possible without taking one side over the other, or appearing to favor one side of a case;
- Tenet Eight** Provide responsible and accountable stewardship of public resources;
- Tenet Nine** Provide accurate information as requested in a competent, courteous, and timely manner. Improve personal work skills and performance through continuing professional education and development;
- Tenet Ten** Guard against and, when necessary, repudiate any act of discrimination or bias based on race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, or sexual orientation;
- Tenet Eleven** Renounce any use of positional or personal power to harass another person sexually or in any other way based on that person's race, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, sexual orientation, or other personal choices and characteristics; and
- Tenet Twelve** Protect the technological property of the court by preserving the integrity of electronically stored information.

5.3 COURTESY/NO DISCRIMINATION

The public and other court personnel should be treated in a professional manner. Court employees should exercise tact and courtesy when interacting with others, whether in person, on the telephone, or by electronic mail. If an employee has difficulty with anyone from the public, the employee should request assistance from his or her supervisor.

When answering questions, employees should make sure they fully understand the question being asked. If an employee does not know the answer to a question or is uncertain of the answer, the employee should inform the other person of this and offer to find the answer. Information should be provided in a timely manner.

No court employee shall discriminate against, harass, retaliate against, or engage in inappropriate workplace conduct based on another person's race, color, religion, gender, national origin, ancestry, citizenship, age, marital status, physical disability, mental disability, medical condition, sexual orientation, or any other basis included in Government Code 12940(a). Court employees must refrain from offensive conduct or comments that reflect bias or harassment on any of these bases.

5.4 PERFORMANCE OF DUTIES

All court employees shall perform their duties diligently, thoroughly, and properly.

No court employee shall alter, falsify, destroy, mutilate, or backdate any records or fail to make required entries on any records. This shall not apply to records that are ordered to be altered or expunged pursuant to a court order.

No court employee shall recommend the names of private attorney/law firms to any member of the public.

5.5 CONFIDENTIALITY

For purposes of this policy, "confidential information" includes, but is not limited to, information on pending cases that is not a matter of public record as well as information concerning the work product

of any judge, commissioner, law clerk, or other court employee (for example, notes, papers, memoranda, drafts).

No court employee shall disclose confidential information to any unauthorized person. Confidential information that must be disclosed pursuant to statute or a court order shall be provided only to the person(s) authorized to receive such information.

This policy is not to be interpreted to prohibit court employees from responding to questions about court procedures. However, a court employee may not give legal advice.

5.6 MISUSE AND ABUSE OF POSITION

No court employee shall use or attempt to use his or her position with the Court to obtain privileges or exemptions, whether for the employee or for another person or organization.

No court employee shall solicit or accept any gift, favor, or thing of value from any member of the public.

No court employee shall give preference to anyone appearing before the Court, nor shall any court employee give the impression that anyone appearing before the Court is receiving or has received preferential treatment.

5.7 CONFLICTS OF INTEREST

The Court's policy regarding conflicts of interest is addressed in Chapter Twelve.

CHAPTER SIX

EMPLOYEE DEVELOPMENT

6.1 PERFORMANCE APPRAISALS FOR EMPLOYEES

6.1.1 Policy Statement

It is the policy of the Court to regularly review employee performance according to Section 6.1.2 et. Seq. of these policies and rules, and to encourage regular communication between employees and supervisors concerning the performance of employees in the accomplishment of their assigned duties and responsibilities, the establishment of specific work-related goals and objectives, and the preparation of individual plans to further each employee's professional development.

6.1.2 Rating and Reports

Employees shall be evaluated periodically on the basis of their individual performance. The Court Executive Officer or designee shall have the responsibility for ensuring proper and timely preparation of the appraisal reports and shall develop necessary forms and procedures.

6.1.3 Probationary Status and Report Cycle

Court employees are presumed to be on probationary status for their first year of employment with the Court and when promoted or appointed to a new classification. While on probationary status, all Court employees shall be subject to an initial performance appraisal at no later than the mid-point of the first year of employment or promotion/appointment to a new classification, with a second performance appraisal no later than two weeks prior to the one-year anniversary of the employee's hire/promotion/appointment date.

There is a general presumption that employees on probationary status will transition from that status after one year on probation, a "year" in this instance being defined as 2080 hours of service for employees who work 80 hours per pay period and as 1950 hours of service for employees who work 75 hours per pay period. Employees on probationary status will not transition from that status absent the completion of both first-year evaluations and receipt of

a summary rating of “meets standards” or higher at the one-year anniversary evaluation. Per section 4.2.12 of these policies and rules, failure to transition from probationary status may result, at the discretion of the Court Executive Officer, in termination, suspension, or reduction in rank and/or compensation. If a probationary employee has not received the mandated first-year evaluations due to supervisor delay, the employee’s Director has the discretion to approve the transition from probationary to permanent status absent those evaluations.

After the first year of employment, evaluations shall be completed for all employees at least annually (calculated based on their hire/promotion/appointment date) or as soon thereafter as is reasonable.

An employee may be evaluated more frequently than annually, at the discretion of the Court Executive Officer or designee, if the employee is on a Performance Improvement Plan or makes a request for more frequent evaluations. These supplemental appraisals can arise as part of an employee’s Performance Improvement Plan to maintain a record of an employee’s work performance, or upon termination of employment.

If a conflict exists between this policy and language contained in a Memorandum of Understanding (MOU) between the Court and a recognized unit, the language in the MOU prevails.

6.1.4 Appraisal Responsibility

The immediate supervisor or manager of the employee shall have responsibility for preparing the appraisal and may consult with other supervisors, managers and judges with whom the employee has worked.

6.2 EMPLOYEE PERSONNEL RECORDS

6.2.1 Confidentiality

The Court will maintain an official personnel file for each employee. Except as provided in Section 6.2.2 below, information contained in an employee’s personnel file will be disclosed

internally only to persons with a need to know and to outside third parties pursuant to a proper legal request.

6.2.2 Employee Access to Record

An employee, upon written request to the Director, Human Resources Division may, at reasonable times and intervals, inspect his or her official personnel file that is used or has been used to determine the employee's qualifications for employment, promotion, additional compensation, or termination or other disciplinary action. An employee may inspect only his or her official personnel file.

The Court shall make the employee's official personnel file available where the employee reports to work within a reasonable period of time after the employee has made a request for his or her official personnel file or may provide reasonable paid time and travel for the employee to review the official personnel file maintained by the Human Resources Division.

6.2.3 Exclusions

Records of a court employee relating to the investigation of a possible criminal offense, letters of reference, and other matters protected by constitutional, statutory, or common law provisions shall be excluded from the provisions of Section 6.2.2 above for purposes of this policy.

6.2.4 Reference Checks

Reference checks regarding current or former employees must be directed to the Director, Human Resources Division or designee. Unless the current or former employee signs an authorization and release regarding the disclosure of specific further information, the only information that will be disclosed is the employee's current or final job title, dates of employment, and current or final rate of pay.

6.2.5 Record Retention

Each employee's official personnel file will be retained during the time of employment and for a minimum of seven (7) years from the employee's last date of employment.

6.3 JOB-RELATED TRAINING AND CONTINUING EDUCATION PROGRAM

6.3.1 General Training

The Court will periodically provide training to employees on such topics as Workplace Violence Prevention, Ethics, and Harassment Prevention and Discrimination Policies. The purpose of these training sessions is to inform and remind employees of the Court's policies on these matters.

Employees will also receive safety training as part of the Court's Injury and Illness Prevention Program.

6.3.2 Other Job-Related Training

The Court will periodically provide other in-house job-related training opportunities to employees for the purpose of performance enhancement and professional development.

Additionally, employees may request to attend training sessions on topics that are directly related to the employee's current job and that are likely to improve the employee's job knowledge and skills. Requests to attend training must be submitted to the Court Executive Officer or designee. It is within the sole discretion of the Court whether to grant a training request, but the following factors will be considered:

- (a) The training must be directly related to the employee's current job and be likely to improve the employee's job knowledge and skills;
- (b) The employee must submit a request to attend the training seminar within a reasonable time prior to the seminar to allow review of the request, approval/disapproval of the request, and rescheduling of other employees to provide sufficient coverage for the employee;
- (c) The time spent at the training seminar must not interfere with or in any way adversely affect Court operations; and
- (d) Where the training request requires the expenditure of Court funds, funding will also be considered in the determination of whether to grant the training request.

CHAPTER SEVEN

REDUCTION IN FORCE AND RE-EMPLOYMENT

7.1 REDUCTION IN FORCE/ORDER OF LAYOFF

When a reduction in force becomes necessary, the Court Executive Officer, with approval of a majority of the Personnel Committee, shall provide layoff instructions detailing the layoff procedures and policies to be used in determining the order of layoff for affected employees. Any appeals concerning actions under the instructions for layoff shall be made to the appointing authority whose decision shall be final. Layoff shall be accomplished in inverse order of total Superior Court or Superior Court and Alameda County service, except as may be provided by applicable federal or state regulations. For purposes of this rule, total Superior Court or Superior Court and Alameda County service shall be defined as the sum total of paid service without regard to whether such service was continuous, full-time, less than full-time, tenured, or probationary. All conflicts over time in service will be resolved according to criteria established by the Court Executive Officer and approved by a majority of the Personnel Committee.

7.1.1 Lateral Movement/Displacement in Lieu of Layoff

An employee in a classification affected by a reduction in force may, in lieu of layoff, elect to move to a position in an equal paying classification, where such vacancies exist, provided that such employee has held tenure in that equal paying classification. In a situation where there are no vacant positions, an employee who has held tenure in an equal paying classification may displace another employee in an equal paying classification within the same department, provided that such displacement in the equal paying classification is effected pursuant to Section 7.1 above. The employee who has held tenure in more than one equal paying classification does not have an option as to the class in which the displacement will occur, but will be permitted to move only into the class then filled by the employee with the least amount of total Superior Court or Superior Court and Alameda County service.

7.1.2 Demotion in Lieu of Layoff

An employee in a classification affected by a reduction in force may, in lieu of layoff, elect to demote to a lower paying classification, provided that such employee held tenure in the lower paying classification.

7.2 RE-EMPLOYMENT

Employees with tenure in the class from which they were laid off, including employees who elected to take a demotion in lieu of layoff, shall have re-employment rights to future vacancies in such class within the Superior Court. The names of laid off and demoted employees shall be placed, in inverse order of layoff, on a preferred re-employment list established for the class. Re-employment from such list shall be in accordance with the provisions of these rules governing appointment. Names shall remain on the list for a period of three (3) years.

7.2.1 Right to Compete for Promotion

An employee who has re-employment rights shall have the same right to compete for promotional opportunities that he/she would have had if he/she had not been laid off or had not accepted demotion in lieu of layoff.

7.2.2 Preferred Re-Employment List

Employees laid off due to a general reduction in force, may upon request, have their name placed on the preferred re-employment list for other classes in which the person previously held tenure. Names will be placed on such list(s) in order of seniority in total Superior Court or total Superior Court and Alameda County service.

7.2.3 Re-employment From Preferred Re-employment List

Whenever a vacancy occurs in a class for which there is a preferred list, the first person on such list shall be entitled to re-employment in the vacancy with full tenure rights and privileges. The first person on the list will have ten (10) working days from the mailing date of the notice of re-employment eligibility in which to contact the Court. If, at the end of ten (10) working days, the person has not contacted the Court concerning re-employment, the Court will contact the next person on the list in accordance with this Section.

CHAPTER EIGHT

DISCIPLINE AND GRIEVANCE/APPEAL

8.1 POLICY STATEMENT

Subject to the provisions of these policies and rules, the Court Executive Officer is authorized to remove, demote, suspend or reprimand an employee. Where reasonably possible, orders of discipline shall be presented to the employee in person and shall be discussed with the employee at that time.

The appointing authority's power to discipline employees is intended to ensure that court employees conduct themselves properly and perform their duties in a satisfactory manner. The use of the term "discipline" is not confined solely to those situations where some penalty is imposed for failure to meet a prescribed standard of conduct. Included are situations where the "discipline" is that of counseling the court employee to ensure the employee is aware of expectations and to assist and encourage the employee to conform to acceptable and appropriate standards of conduct.

8.2 CAUSES FOR DISCIPLINE

Discipline, up to and including termination shall be for cause. For purposes of this policy, "for cause" shall have the same meaning as that set forth in Government Code section 71651(b). Disciplinary actions will usually follow a progressive discipline cycle. Progressive discipline will normally include oral and/or written warning(s), reprimand and/or suspension before a termination is imposed. However, deviations from this procedure may occur whenever the Court Executive Officer, in his/her sole discretion, determines that circumstances warrant a suspension or termination and, therefore, one or more steps in the progressive discipline procedure may be omitted.

Each of the following may constitute a cause or reason for disciplinary action, but such action shall not be restricted to the particular causes listed below, and the disciplinary action may be based on other reasons:

- (a) Fraud or dishonesty in securing the appointment, including material omissions or misrepresentations in an employment application or other documents submitted before employment, or oral misrepresentations;
- (b) Violation of a court policy, rule or procedure or the Code of Ethics for Court Employees;

- (c) Neglect of duty;
- (d) Excessive tardiness;
- (e) Unsatisfactory job performance, inefficiency;
- (f) Reporting to work or working while impaired by drugs or alcohol or possession of illegal drugs on court property;
- (g) Insubordination, willful disobedience;
- (h) Inexcusable absence without leave, abusive and/or excessive sick leave;
- (i) Discourteous treatment of the general public or fellow employees; use of foul language
- (j) Forbidden political activity;
- (k) Willful misuse of public property or court property;
- (l) Dishonesty;
- (m) Conviction of a felony;
- (n) Failure to maintain confidentiality in court related matters;
- (o) Any failure of good behavior or acts either during or outside of office hours which are incompatible with or inimical to the public service;
- (p) Engaging in business or accepting outside employment, while an employee of the Court, which gives rise to a conflict of interest or which is inconsistent or incompatible with their position with the Court;
- (q) Failure to maintain the standards, licenses, qualifications, or training required for a specific position;
- (r) Possessing or bringing firearms, weapons or hazardous or dangerous devices onto court property;
- (s) Falsifying or making a material omission on any court document or employment record.

8.3 TYPES OF DISCIPLINARY ACTIONS

- (a) Removal: Termination of employment with the Court.
- (b) Demotion: Reduction to a lower job classification with a lower maximum pay or reduction to a lower pay step within the same class.
- (c) Suspension: A temporary involuntary absence without pay from court service.

- (d) Reprimand: Written notification that an employee's behavior or performance is unacceptable and that continuation or repetition of that performance may result in suspension, demotion or removal.

8.3.1 Removal

Employees may be removed by the Court Executive Officer. The order terminating employment shall be in writing. An employee may be placed on administrative leave with pay by the Court Executive Officer or designee pending investigation and possible removal.

8.3.2 Demotion

Employees may be demoted by the Court Executive Officer. The order to demote shall be in writing. The demoted employee may be placed on any step within the schedule of the lower classification not to exceed the step rate he/she had in the higher position, or the employee may be demoted to a lower step within the same classification.

8.3.3 Suspension

Employees may be suspended by the Court Executive Officer. The order to suspend shall be in writing.

8.3.4 Reprimand

Employees may be reprimanded by the Court Executive Officer or designee. The order of reprimand shall be in writing. Orders of Reprimand are not subject to the grievance process.

8.4 WRITTEN ORDER TO BE FILED

In every case of removal, suspension, or reduction in rank or compensation of a non-probationary court employee, a written order of the action stating specifically the reasons therefore and the period of duration shall be filed by the Court Executive Officer, and a copy thereof shall be furnished to the employee to be removed, suspended, or reduced in rank or compensation.

8.5 PRE-TERMINATION/DISCIPLINARY RIGHTS

A non-probationary court employee shall receive a written notice of intended disciplinary action at least five (5) working days before the effective date of the action when the discipline proposed is termination, suspension for longer than five (5) working days, reduction in rank, or reduction in compensation. The written notice shall state the proposed disciplinary action and the reason for such action. A copy of the charges and materials upon which the action is based shall be attached to the notice. The notice of intended disciplinary action shall also notify the employee of the right to respond, either orally or in writing, to the person proposing the action before its effective date. An employee may be temporarily suspended for five (5) working days or less without being provided this written notice of intended action, if the written notice is provided within five (5) working days of the suspension.

8.6 EMPLOYEE GRIEVANCE/APPEAL POLICY

8.6.1 Policy

It is the policy of the Court to provide employees a grievance/appeal procedure. The procedure does not apply to allegations of unlawful harassment or discrimination. The procedure for such complaints is outlined in Chapter Nine (Unlawful Discrimination and Harassment Policies and Procedures) of these policies and rules.

8.6.2 Matters Subject to Grievance/Appeal

The following matters are subject to the employee grievance/appeal procedures contained in these policies and rules:

- (a) Disciplinary action including termination of employment, suspension and demotion.
- (b) Misapplication, misinterpretation or violation of these policies and rules governing hiring, promotion, transfer and classification of an employee.
- (c) Denial of a request by an employee appointed under the authority of the Court Executive Officer for a scheduled salary step or merit increase; and
- (d) Denial of a request by an employee appointed under the authority of the Executive Officer for a leave of absence.

8.7 PROCEDURE TO GRIEVE/APPEAL FROM ORDER OF DISCIPLINE

Pursuant to Section 8.6.2(a) above regarding appeal of order of discipline, any non-probationary court employee removed, suspended, or reduced in rank or compensation may within ten (10) working days after presentation to him or her of the written order of removal, suspension, or reduction file a grievance with the Court Executive Officer. The Court Executive Officer shall have ten working days in which to respond to the grievance. If the employee is not satisfied with the Court Executive Officer's response, the employee may, within ten working days of receipt of the response, request in writing that the grievance be submitted for binding arbitration."

8.7.1 Hearing By Arbitrator

The request for binding arbitration must be in writing to the Court Executive Officer.

An Arbitrator will be selected by mutual agreement between the Court and the employee or his/her representative. If the Court and the employee or his/her representative are unable to agree on the selections of an arbitrator, they will jointly request the California State Mediation Service, the Federal Mediation and Conciliation Service or the American Arbitration Association to submit a list of five (5) arbitrators. The Court and the employee or his/her representative shall then alternately strike names from the list until only one name remains and that person shall serve as an arbitrator. The employee and his/her representative shall have the right to be present at and to participate in the arbitration hearing. The cost of employing the arbitrator shall be borne equally by the parties to the arbitration. All other costs such as, but not limited to, attorneys' fees and witness fees shall be borne only by the party incurring that cost.

The decision of the arbitrator is final. If requested by either party, the decision shall be accompanied by findings of fact or conclusions of law.

The arbitrator shall have no power to alter, amend, change, add to, or subtract from any of the terms of the Court's Personnel Organization, Policies, and Rules, or any of the terms of any Memorandum of Understanding between the Court and one of its labor unions.

8.8 PROCEDURE TO GRIEVE MISAPPLICATION, MISINTERPRETATION OR VIOLATION OF HIRING, PROMOTION, TRANSFER AND CLASSIFICATION POLICIES AND RULES

Matters grievable by employees pursuant to Section 8.6.2 (b) above regarding misapplication, misinterpretation or violation of the hiring, promotion, transfer and classification policies and rules contained herein shall be subject to the following procedure:

- (a) The grievance shall first be filed, in writing, with the Court Executive Officer within ten (10) working days of the date the employee knew or should have known of the alleged misapplication, misinterpretation or violation of the policies and rules contained herein governing hiring, promotion, transfer and classification. The Court Executive Officer shall have ten (10) working days in which to respond in writing to the grievance.
- (b) If the employee is not satisfied with the Court's response, the employee may, within ten (10) working days of receipt of the response, request in writing that the matter be submitted to binding arbitration, subject to subparts (c) and (d).
- (c) An arbitrator from the State or Federal Mediation and Conciliation Service or as otherwise mutually agreed upon by the parties shall issue a binding decision. The arbitrator's authority and jurisdiction is limited to the issue of whether the Court misapplied, misinterpreted or violated hiring, promotion, transfer and classification policies and rules in the manner set forth in the grievance. The arbitrator shall have no authority to reclassify, add to, detract from, alter, amend or modify any of the Court's policies, rules or procedures.
- (d) In the event the arbitrator finds a misapplication, misinterpretation or violation of the hiring, promotion, transfer and classification policies and rules the remedy shall be to remand the matter to the Court for reevaluation in compliance with the arbitrator's ruling.

The Court Executive Officer shall have thirty (30) working days after receipt of the arbitrator's findings and recommendation to review and respond to the arbitrator's decision. The time limits at this step may be extended by mutual agreement of the Court Executive Officer or designee and the employee or his/her representative.

8.9 PROCEDURE TO GRIEVE DENIAL OF SCHEDULED SALARY STEP OR LEAVE OF ABSENCE

Other matters subject to grievance as provided for in Section 8.6.2 I and (d) above concerning denial of a scheduled salary step or merit increase or a leave of absence filed by employees under the authority of the Court Executive Officer shall be subject to the following procedure:

- (a) The grievance shall first be filed, in writing, with the employee's direct supervisor within ten (10) working days of the date the employee knew or should have known of the denial of salary step, merit increase or leave of absence. The supervisor shall have ten (10) working days in which to respond in writing to the grievance.
- (b) If the employee is not satisfied with the response, the employee may, within ten (10) working days of receipt of the response, file with the next highest authority in the chain of command.
- (c) Until such time as the grievance is resolved, an employee may continue to file the grievance in accordance with the above time lines up through the chain of command, up to and including the Court Executive Officer. The decision of the Court Executive Officer shall be final.

CHAPTER NINE

UNLAWFUL DISCRIMINATION AND HARASSMENT POLICIES AND PROCEDURES

9.0: Policy Statement

9.1: Definitions

9.1.1 Protected Characteristic/Classification

9.1.2 Discrimination

9.1.3 Harassment

9.1.4 Sexual Harassment

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9.2: Notice of Policy

9.3: Reporting Procedures

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9.3.5: Disciplinary Action

9.3.6: Allegations Against Judges

9.3.7: Allegations Against Subordinate Judicial Officers

9.3.8: Allegations Against the Court Executive Officer

9.3.9: Additional Enforcement Information

9.4: No Retaliation

9.0 POLICY STATEMENT

The law prohibits harassment and discrimination based on a protected classification of an employee by supervisors, managers, coworkers or any third parties in the workplace, and similarly prohibits any retaliation against an employee for reporting such conduct or participating in an investigation of such complaints. The purpose of this policy is to help effectuate the Court's commitment to providing a workplace free of discrimination, harassment, retaliation, and inappropriate workplace conduct based on a protected classification.

Accordingly, it is the policy of the Court to provide training and information to all staff in an effort to eliminate this conduct from the workplace, and to respond to all complaints of such conduct expeditiously and in accordance with the procedures set forth in these policies and rules.

Consistent with the above, the Court will not tolerate the following conduct in its workplace or in any work-related situation:

- Discrimination, harassment, retaliation, and inappropriate workplace conduct based on an individual's protected characteristic;
- Discrimination, harassment, retaliation, and inappropriate workplace conduct based on a perception that an individual has one or more protected characteristics; and
- Discrimination, harassment, retaliation, and inappropriate workplace conduct based on a perception that an individual is associated with a person who has, or is perceived to have, any protected characteristics.

9.1 DEFINITIONS

9.1.1 Protected Characteristic/Classification

A protected characteristic is a trait that is not allowed to be the basis of an employment decision. These characteristics include: race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), gender, gender identity, gender expression, national origin, ancestry, age, marital status, physical disability, mental disability, medical condition, sexual orientation, genetic information, family care status, veteran status, and any other basis included in Government Code 129409(a).

9.1.2 Discrimination

Discrimination is differential treatment in the provision of employment opportunities, benefits, or privileges on the basis of a protected classification. Examples of discrimination include making hiring, termination, promotion, demotion, assignment, or pay decisions, or any other decisions directly impacting the terms and conditions of employment, on the basis of a protected classification.

9.1.3 Harassment

Harassment is any verbal, visual, or physical conduct that targets a person on the basis of a protected classification that is designed to threaten, intimidate, or coerce any court user or person working for or on behalf of the court. It includes conduct of all court staff as well as

conduct of persons with whom the court contracts to do business, such as independent contractors, when the conduct is directed at, or involves, a court employee or contractor.

Harassment may take many forms, including:

- Verbal conduct such as epithets, derogatory or degrading jokes or comments, slurs, or repeated innuendoes on the basis of a protected classification;
- Visual conduct such as derogatory pictures, posters, photography, cartoons, drawings, emails, or gestures on the basis of a protected classification;
- Physical conduct such as assault, unwanted touching, leering, blocking of normal movement, or interference with work or physical movement on the basis of a protected classification; and
- Threats that an employee's job, advancement, compensation, assignment, or other benefit is dependent on toleration of harassment.

9.1.4 Sexual Harassment

Sexual harassment is a particular type of harassment defined as unwelcome and inappropriate sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature in the workplace when the behavior is directed at or committed by any court user or person working for or on behalf of the court, such as when:

- Submission to such conduct is either explicitly or implicitly made a term or condition of an individual's employment; or
- Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting that individual; or
- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance; creating an intimidating, hostile, or offensive working environment; or adversely affecting the individual's performance, evaluation, assigned duties, or any other condition of employment or career development.

Sexual harassment may take different forms including:

- Verbal sexual harassment such as innuendoes, suggestive comments, jokes of a sexual nature, sexual propositions, lewd remarks and threats; requests for any type of sexual favor; and repeated, unwelcome requests for dates;
- Nonverbal sexual harassment such as the distribution or display of any written or graphic material, including calendars, posters and cartoons that are sexually suggestive or show hostility toward an individual or group because of sex; suggestive or insulting sounds, leering, or whistling; obscene gestures, emails, photos, text messages, and social media posts; or other forms of communication that are sexual in nature and offensive; and
- Physical sexual harassment such as unwelcome, unwanted physical touching, tickling, pinching, patting, brushing up against, hugging, cornering, kissing, fondling, and forced sexual contact or assault.

Courteous, mutually respectful, noncoercive interactions that are appropriate in the workplace and acceptable to and welcomed by both parties are not considered to be harassment, including sexual harassment.

9.1.5 Retaliation

Retaliation is taking an adverse employment action against an employee because the employee participated in a protected activity such as making a complaint of harassment or discrimination or participated in the investigation process.

9.1.6 Inappropriate Workplace Conduct Based on a Protected Classification

Inappropriate workplace conduct is conduct that is based on a protected classification and is inconsistent with the standards of acceptable behavior for the workplace but may not rise to the level of unlawful harassment, discrimination, or retaliation.

This category of conduct is intended to cover conduct based on a protected classification that does not otherwise fall within the definitions of discrimination, harassment, or retaliation above. Inappropriate workplace conduct is often based on the same types of conduct that are

listed under the definitions of discrimination, harassment, or retaliation, but varies in degree and circumstances. Thus, the examples of conduct listed under the definitions of discrimination, harassment, or retaliation would likely meet the definition of inappropriate workplace conduct if the conduct is of a lesser degree or frequency.

For purposes of this policy, inappropriate workplace conduct is limited to conduct that is based on a protected classification. Similar conduct that is not based on a protected classification is not covered by this policy.

9.2 NOTICE OF POLICY

The Court's policy statement regarding unlawful discrimination, harassment, retaliation, and inappropriate workplace conduct based on a protected classification and its directives for handling such allegations shall be distributed to all staff and shall be posted on the Court's intranet. Any court employee who violates this policy may be subject to disciplinary action up to and including removal from employment.

9.3 REPORTING PROCEDURES

9.3.1 Open Door Policy

It is the policy of the Court Executive Officer to maintain an open door policy and to invite any inquiries or complaints of discrimination, harassment, retaliation, and inappropriate workplace conduct based on a protected classification at any time from any employee.

9.3.2 Notice to Supervisor

An employee who believes that he or she has been subjected to discrimination, harassment, retaliation, or inappropriate workplace conduct based on a protected classification shall give verbal or written notice to his/her supervisor. If the complainant is in any way uncomfortable or reluctant to notify their direct supervisor, the complainant may report the

incident/problem to the next highest supervisor; Division Director¹; Human Resources; the Assistant Executive Officer; the Court Executive Officer; or the Presiding Judge. Complaints other than those pertaining to unlawful discrimination, harassment, retaliation, and inappropriate workplace conduct based on a protected classification will follow the complaint procedure set forth in Chapter 14.

9.3.3 Duties of Person to Whom Complaint is Made

The supervisor or other person to whom the allegation is reported shall report the alleged incident to the Director of Human Resources, who will appoint an investigator to ascertain the facts of the allegation, determine whether there are witnesses to the alleged incident or behavior, notify the alleged perpetrator of the complaint and solicit a response to the allegation, and submit a report to the Court Executive Officer.

Regardless of whether a complaint has been made, a supervisor who has knowledge of prohibited conduct described in this chapter shall report it to the Director of Human Resources.

9.3.4 Time to Complete Investigation

A prompt and, to the extent possible, discreet investigation will be conducted. The investigation will provide all parties an opportunity to respond and the Court will reach reasonable conclusions based on the evidence collected. Disclosure will be limited to the extent consistent with conducting a fair and thorough investigation. The complainant and any subject of the complaint shall be advised when the investigation has concluded.

9.3.5 Disciplinary Action

If the Court Executive Officer determines that wrongful conduct was committed, disciplinary action including, but not limited to counseling, reprimand, demotion, suspension, or termination of employment may be imposed upon the subject of the complaint.

¹ The term "Division Director" includes the Administrator of the Executive Office of Projects and Programs.

9.3.6 Allegations Against Judges

If the allegation of discrimination, harassment, retaliation, or inappropriate workplace conduct based on a protected classification is made against a judge, the Court Executive Officer shall report the allegation to the Presiding Judge, who shall act on the complaint as appropriate. If the Presiding Judge is the subject of the complaint, the Court Executive Officer shall report the allegation to the Assistant Presiding Judge, who shall act on the complaint as appropriate. The complainant and any subject of the complaint shall be advised when the investigation has concluded.

9.3.7 Allegations Against Subordinate Judicial Officers

If the allegation of discrimination, harassment, retaliation, or inappropriate workplace conduct based on a protected classification is made against a subordinate judicial officer, it shall be submitted in writing to the Presiding Judge in accordance with the Court's Subordinate Judicial Officer Complaint Procedures.

9.3.8 Allegations Against the Court Executive Officer

If the allegation of discrimination, harassment, retaliation, or inappropriate workplace conduct based on a protected classification is made against the Court Executive Officer, the person receiving the complaint shall report the allegation to the Presiding Judge or the Chair of the Personnel Committee. If the complaint is made to the Court Executive Officer, he or she shall name a designee, who shall report the allegation to the Presiding Judge or the Chair of the Personnel Committee.

Upon receiving the complaint, the Presiding Judge or Chair of the Personnel Committee shall consult with the complainant and thereafter appoint a member of the Personnel Committee or other impartial investigator to conduct an investigation to 1) ascertain the facts of the allegation; 2) determine whether there are witnesses to the alleged incident or behavior; 3) notify the Court Executive Officer of the complaint and solicit a response to the allegation; and 4) submit a report to the Personnel Committee. The Personnel Committee shall submit a final report to the Presiding Judge, including recommendations for appropriate action.

The complainant and the Court Executive Officer shall be advised when the investigation has concluded.

9.3.9 Additional Enforcement Information

At any time before, during, or after using the procedures provided in this policy, court employees who believe they have been or are being unlawfully discriminated against, harassed, or retaliated against may file a complaint with the following agencies that investigate and prosecute complaints of illegal discrimination, harassment, and retaliation in employment:

- U.S. Equal Employment Opportunity Commission, www.eeoc.gov
- California Civil Rights Department, <https://calcivilright.ca.gov>

Complaints about judicial misconduct may also be reported to:

- California Commission on Judicial Performance, <https://cjp.ca.gov>

Because complaints made only to outside agencies may prevent the court from taking prompt and appropriate action to remedy any situation, the court requests, but does not require, that employees who make complaints to outside agencies also make a complaint to the court.

9.4 NO RETALIATION

The Court prohibits retaliation against anyone who, in good faith, complains of, reports, or participates in any investigation of alleged discrimination. Harassment, retaliation, or inappropriate workplace conduct based on a protected classification, regardless of whether it is ultimately determined that such conduct occurred.

Any employee experiencing or witnessing retaliatory conduct should immediately report that conduct consistent with the procedures outlined in this policy. Any person engaging in retaliatory conduct will be subject to discipline, up to and including immediate termination.

CHAPTER TEN

BUSINESS HOURS, WORK SCHEDULES, TIMEKEEPING & ATTENDANCE

10.0 APPLICABILITY

This chapter applies to employees who are not represented by one of the organizations designated by the Court as an Exclusively Recognized Employee Organization as defined in Chapter 13.

10.1 BUSINESS HOURS

The Court's official business hours are 8:00 a.m. to 6:00 p.m. Monday through Friday.

10.2 TIME-KEEPING

All employees shall be at work, ready to work, promptly at their assigned start time and immediately at the end of their assigned break times unless they have received other instructions from their supervisor.

All employees are required to submit a time sheet at the conclusion of each bi-weekly pay period that accurately reflects the employee's hours worked. To ensure proper pay, time sheets must be legible, correct and complete and must be signed both by the employee and the supervisor. Payroll records will be handled and retained by the Payroll Unit of the Finance Division in accordance with court policy and applicable state and federal law.

10.3 PAYROLL

Payday is generally every other Friday. When a regular payday falls on a holiday, paychecks typically will be available on the last workday preceding the holiday.

10.4 REQUIRED WORK HOURS

Full-time management "M" designated employees are FLSA exempt. "M" designated employees and employees in certain represented and unrepresented non-management classifications are required to work forty (40) hours per week, not including a lunch hour. In general, regular work hours for these employees are 8:00 a.m. to 6:00 p.m. with a one-hour lunch break. The remaining employees in full-time non-management classifications are required to work thirty-seven and one-half (37.5) hours per

week, not including a lunch hour. Regular work hours for these employees, excluding courtroom clerks, are 8:30 a.m. to 6:00 p.m. with a one-hour lunch break.

10.5 WORK BREAKS

Full-time employees are entitled to two fifteen-minute breaks, one in the morning and one in the afternoon. Such rest periods for courtroom personnel shall be scheduled at the discretion of the judicial officer. Break periods for non-courtroom employees may not be attached to the beginning or end of the day or to an employee's lunch break.

10.6 FLEX TIME

Employees may request flextime, a schedule which varies from the work hours listed in Section 10.4 above. Flex time for employees under the authority of the Court Executive Officer may be approved by the Court Executive Officer or designee if it is determined that the requested schedule is not inconsistent with the business needs of the Court. An employee who is interested in flextime shall submit a proposed schedule to their immediate supervisor for approval. Upon approval by the immediate supervisor and Director, the proposed flextime schedule shall be submitted to the Court Executive Officer or designee for approval. Once approved, flex time may be examined at the Court Executive Officer's discretion and modified as necessary. The decision of the Court Executive Officer shall be final.

10.7 OVERTIME COMPENSATION

10.7.1 Overtime Work Defined

Overtime is all work performed in a work week in excess of the normal full-time hours worked in that work week for the job classification. Holidays worked and holidays that fall on an employee's regularly scheduled workday shall count toward the accumulation of the workweek for purposes of overtime compensation.

10.7.2 Eligibility and Authorization for Overtime Compensation

Employees occupying classifications which are non-exempt under the Fair Labor Standards Act are eligible for premium (time and one-half) overtime compensation either in pay or

compensating time off. An employee must receive authorization to work overtime in writing in advance of the time worked from their supervisor. In cases of unanticipated emergency, overtime be approved by the Court Executive Officer after the emergency work is performed.

10.7.3 Overtime Payment

Employees shall be compensated for overtime work either in cash or in compensatory time at the option of the Court Executive Officer. Compensation for overtime work shall be paid not later than the completion of the pay period next succeeding the pay period in which such overtime was earned.

10.7.4 When Compensating Time Off May Be Taken or Paid

Compensating time off may be accrued to a maximum of 150 hours, and any employee who has accumulated 150 hours of compensatory time off shall be paid in cash for all subsequent overtime worked until such time as the employee's compensating time off balance is reduced below 150 hours. Notwithstanding the foregoing, an employee may exceed the 150-hour maximum when an emergency or other unusual circumstances exist and approval has been obtained from the Court Executive Officer to grant compensating time off in excess of 150 hours.

Scheduling of compensating time off shall be by mutual agreement of the employee and the Court Executive Officer. The Court may require that an employee adjust their work week in order to avoid overtime penalties.

An employee covered by the overtime provisions of the FLSA who has accrued compensating time off in accordance with this subsection shall upon separation from Court service be paid for unused compensating time off at a rate of compensation not less than the average regular rate, as defined above, received by such employee during the last 3 years of employment or the final regular rate received by such employee, whichever is higher.

10.7.5 Management Classifications

Employees occupying management designated classifications are not entitled to overtime. Effective January 1, 2014, all M-designated employees will receive a guaranteed seven (7) days of Management Paid Leave (MPL) at the beginning of each calendar year.

10.8 JOB ABANDONMENT

Any employee who fails to report to work for three consecutive business days without notifying their supervisor/manager of the absence and/or following the established call-in procedure will be considered as having voluntarily resigned due to job abandonment unless, at the sole discretion of the Court Executive Officer, there are exigent circumstances justifying the failure to report and notify. Before the resignation becomes effective, the Court Executive Officer or designee shall notify the affected employee when that employee is deemed to have abandoned their job.

10.9 ATTENDANCE – NON-MANAGEMENT

10.9.1 Purpose

To ensure adequate staffing, positive employee morale, and productivity throughout the Court, employees will be held accountable for adhering to their assigned work schedule. This section of the POPR sets forth uniform guidelines to ensure clarity and consistency in resolving attendance issues. Nothing in this section is intended to, nor does it, change the definitions of any type of leave that may be set forth elsewhere in these policies and rules.

10.9.2 Policy

All employees shall be at work in their assigned work unit, ready to work, promptly at their assigned start time and immediately at the end of their assigned break times unless they have received other instructions from their supervisor (POPR Chapter 10, Section 10.2), or they are absent on approved leave. Excessive unscheduled absences, which includes being late to work (tardy), or those unscheduled absences that have a significant impact on the business needs of the Court may subject an employee to discipline, up to and including termination of employment.

10.9.3 Definitions

- A. Absence:** Any time an employee is not at work during their scheduled work hours, regardless of the reason.
- B. Unscheduled Absence:** An absence for which an employee did not obtain prior oral or written approval from their supervisor to be absent from work and which does not meet the definition of authorized sick leave.
- C. No Call/No Show:** Failure to report an absence the day it occurs, unless an employee's supervisor has approved otherwise.
- D. Supervisor:** A manager directly responsible for the performance, assignment of duties, and work product of an employee.
- E. Tardy:** Any time an employee is not present and ready to begin working in their assigned work unit at the start of the scheduled workday and upon returning from lunch and breaks.
- F. Leave Without Pay:** Approved by Director and/or CEO pursuant to POPR Chapter 11, Section 11.6.
- G. Unauthorized Leave Without Pay:** Not approved by Director and/or CEO pursuant to POPR Chapter 11, Section 11.6.
- H. Protected Leave:** Leave which has been approved by the Court pursuant to Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA), or leave that has been approved by the Court as pregnancy disability leave (PDL) or workers' compensation medical leave.
- I. Authorized Sick Leave:** Use of accrued sick leave by an employee pursuant to section 10.9.5, below.

10.9.4 Scheduled Absences

Employees must obtain approval from their direct Supervisor in advance of any schedule changes. This requirement applies to requests to use any type of leave as well as late arrivals to, or early departures from, work.

A. Leave Requests

When possible, employees should schedule all absences (including late arrivals and early departures) in advance with their supervisor. Preapproved use of sick and other types of leave shall not be counted as an unscheduled absence.

All employees must submit requests for scheduled absences in writing, in the format prescribed by their respective unit/division (e.g., email, the Court's time-keeping system, etc.), even if the absence has already been approved orally. If an absence is approved orally and the employee is not present at work, the employee must submit a written request for leave immediately upon their return to work.

Requests for leave are not considered approved until the supervisor has specifically stated that the request is approved either orally or in writing. Leave taken without this distinct approval may be considered an unscheduled absence and/or unauthorized leave, and may be subject to discipline.

If a supervisor has not provided a timely response to a leave request, the employee may escalate the request to the next level of manager in their chain of command.

B. Cancellation of Leave Request

Employees may cancel a leave request prior to its approval. An employee may request to cancel an approved leave request, but the cancellation must also be approved either orally or in writing, and if orally, followed up in writing. In addition, the cancellation must be made prior to the scheduled leave and as far in advance as possible. Supervisors have discretion to deny a request to cancel previously approved leave where permitting the cancellation would have a significant negative impact on the business of the Court, including, but not limited to, when alternative coverage has already been secured in reliance upon the preapproved absence and cannot be cancelled without incurring a financial penalty.

C. Vacation, Floating Holiday, and Compensatory Time Use

In accordance with POPR Sections 11.5.3 and 11.5.4, employees shall request vacation leave and use of compensatory time as far in advance as possible. Approval is subject to Court operational needs.

10.9.5 Authorized Sick Leave

Authorized sick leave is leave that meets the requirements of this section with respect to (a) proper notice, and (b) compliance with sick leave review, where applicable, as detailed below.

A. Notice

If an employee has not received prior approval to use sick leave, they must follow the established call-in procedures for their section, giving the Court as much notice as possible. If an employee fails to comply with this requirement, the Court may treat the absence as an unscheduled absence rather than as authorized sick leave.

B. Medical Evidence of Sickness or Injury

In addition to the notice detailed in section 10.9.5(A) above, an employee who is on sick leave review pursuant to section 10.9.7 below must also provide the required medical evidence of sickness or injury. If an employee fails to comply with this requirement, the Court may treat the absence as an unscheduled absence rather than as authorized sick leave, in addition to any other consequences to which the employee may be subject for their failure to comply with the provisions of section 10.9.7.

In order for employees to use their accrued sick leave without the occurrence being counted as an unscheduled absence, they must comply with the following procedures:

- If employees call in sick on a day for which an advance leave request was previously denied, the Court may require medical verification for their absence.
- If employees call in sick on a day contiguous to a holiday weekend (for example, the Friday or Tuesday adjacent to the Martin Luther King Jr. Day weekend), the Court may require medical verification for their absence.

If an employee's use of sick leave does not comply with this section, the Court may treat it as an unscheduled absence.

C. Reporting Authorized Sick Leave for Payroll Purposes

If an employee requests to use sick leave in advance of the day it is used, the request may be made for any amount of time in fifteen (15) minute increments. If an employee notifies the Court of using sick leave on the same day it is used, sick leave must be used in half-day or full-day increments, based on the length of that employee's workday. If an employee becomes ill during the workday and is approved to leave work, the Court will charge the remainder of the workday to the employee's sick leave balance, rounded to the nearest quarter hour (15 minutes).

10.9.6 Unscheduled Absences and Tardiness

The Court recognizes that some absences cannot be scheduled in advance. If it is not possible to preschedule an absence (including a late arrival or early departure), employees must:

- Notify their supervisor as soon as they become aware that they will be absent or tardy;
- Give the reason for the absence, including whether the absence is for Protected Leave;
- Give an estimate of how long the absence will be;
- If the absence is continuous or lengthy, employees should notify their immediate supervisor or another manager in their chain of command on a daily basis, unless otherwise noticed by their supervisor or Human Resources.

A. Notification of Unscheduled Absence or Tardiness

If an employee is unable to report to work as scheduled, the employee is expected to use the normal call-in procedure established for their unit (e.g., leave a message on the call-in line for their respective unit/division). A person other than the employee may not call on behalf of the employee, except in an emergency. Failure to provide this notification may cause the absence to be recorded as Unauthorized Leave Without Pay, and could lead to disciplinary action.

Employees who do not follow the proper attendance notification procedure to notify the Court that they will be absent or tardy will be considered a “no call, no show” and their timecard will reflect Unauthorized Leave Without Pay. Progressive discipline may be initiated for repeat offenses. Repeat “no call, no shows” may result in the employee being deemed to have abandoned their job, pursuant to section 10.8 of the POPR.

B. Reporting Unscheduled Absences for Payroll Purposes

In appropriate circumstances, and consistent with the definitions and policies set forth in the POPR, employees may be permitted to use accrued leave balances to be paid for unscheduled absences. In no event, however, will an employee be permitted to use sick leave for an unscheduled absence that does not meet the definition of sick leave as set forth in section 11.5.5.

Employees whose unscheduled absences are the result of protected leave will be paid in accord with the policies applicable to the appropriate leave type, assuming they have sufficient leave of that type available.

C. Reporting Tardiness for Payroll Purposes

When employees report to work late, they shall notify their supervisor as required in Section 10.9.6(A). The tardiness will be treated as Unauthorized Leave Without Pay unless under the definitions and policies in the POPR it would be permissible for the employee to use an appropriate accrued leave balance to account for the time. Employees whose tardiness is the result of Protected Leave will be paid in accord with the policies applicable to the appropriate leave type, assuming they have sufficient leave of that type available.

However it is coded, tardiness will be charged in one quarter (1/4) hour increments rounded to the nearest one quarter (1/4) hour. Tardiness of seven (7) minutes or less will not be charged to an employee's leave balance nor treated as Unauthorized Leave Without Pay, but may still subject an employee to discipline as described in section D below.

Tardiness may not be made up by working through rest periods or after the regular shift time. Exceptions:

- (1) If the business needs of the Court allow, an employee may, at the discretion of their supervisor, add time to the end of their shift to make up for their tardiness.
- (2) In some instances, an employee may, at the discretion of their supervisor, be permitted to reduce a 1-hour lunch period by a corresponding amount to account for their late time. However, this may not always be possible given the business needs of the Court, and it should be an exception, not a standing practice.

If employees fail to notify their supervisor as required, their pay will be reduced in one quarter (1/4) hour increments rounded to the nearest one quarter (1/4) hour and charged as Unauthorized Leave Without Pay.

Notwithstanding the above, if the tardiness is in 1-hour increments, and if the employee has available Personal Leave, then the employee may charge the tardiness to Personal Leave rather than Unauthorized Leave Without Pay.

D. Disciplinary Action as Result of Unscheduled Absences or Tardiness

This section does not apply to unscheduled absences or tardiness that occur as a result of Protected Leave or authorized sick leave.

Notwithstanding the foregoing sections 5(B) and 5(C), an employee may be subject to discipline for excessive unscheduled absences or tardiness or unscheduled absences or tardiness that significantly affect the business of the Court, even if the employee is permitted to use an accrued leave balance to account for the time out of the office. The fact of payment for an unscheduled absence or tardiness does not excuse the unscheduled absence or tardiness.

Supervisors, Managers, Division Chiefs, Directors, and Human Resources will monitor unscheduled absences and tardiness. In determining whether to administer discipline, the business needs of the Court shall be the primary consideration. Other considerations include, but are not limited to:

- The employee's prior history within the past twelve (12) months of unscheduled absences and tardiness, including number, length, and patterns;
- The length of the tardiness; and
- Whether the employee had requested leave and was denied during the same period of the unscheduled absence or tardiness.

Regardless of any other factors, any employee who has more than ten (10) instances of tardiness in a six-month period shall be subject to discipline.

10.9.7 Medical Evidence of Sickness or Injury/Sick Leave Review

This section does not apply to unscheduled absences or tardiness that occur as a result of Protected Leave or to authorized sick leave as herein defined.

The Court Executive Officer or appointing authority, as a condition of permitting an employee to use accrued sick leave balances to receive pay for an unscheduled absence or tardiness that meets the definition of "sick leave" set forth in sections 10.9.3 and 11.5.5 of the POPR, may require medical evidence of sickness or injury, which may include a statement from a medical provider and/or medical clearance to return to work.

The Court Executive Officer's authority to require medical evidence of sickness or injury is subject to the following conditions:

- Except upon the conditions listed in this section and in section 10.9.5 above, the Court Executive Officer may require medical verification of sickness or injury for use of sick leave with prior notice to the employee and for good cause.
- If an employee has any of the following due to sick leave in a 6-month period, they may be placed on "sick leave review":
 - Two (2) unscheduled absences;
 - Five (5) instances of tardiness of 30 minutes or more;
 - Seven (7) instances of tardiness of fewer than 30 minutes; or
 - One (1) unscheduled absence and three (3) instances of tardiness, regardless of length.
- Notwithstanding any other provision of the POPR, the Court may place on sick leave review any employee who has more than five (5) instances of authorized sick leave in a three (3) month period.

Employees must be noticed that they are being placed on sick leave review. Under the terms of sick leave review, the CEO may require medical evidence for any unscheduled absence or tardiness due to sick leave, or as otherwise detailed in this section. Once an employee on sick leave review records no unscheduled absences or tardiness due to sick leave in a six (6) month period, they shall be removed from sick leave review. Otherwise, at its discretion, the Court may remove an employee from sick leave review if it appears the attendance issue has been resolved.

If an employee does not provide the medical evidence upon request, the absence will be charged as Unauthorized Leave Without Pay and the employee may be subject to discipline for failure to comply with this section.

10.10 ATTENDANCE - MANAGEMENT

10.10.1 Purpose

To ensure adequate staffing, positive employee morale, and productivity throughout the Court, employees will be held accountable for adhering to their assigned work schedule. This policy sets forth uniform guidelines to ensure clarity and consistency in resolving attendance issues.

10.10.2 Policy

All employees shall be at work, ready to work, promptly at their assigned start time and immediately at the end of their assigned break times unless they have received other instructions from their supervisor (POPR Chapter 10, Section 10.2), or they are absent on approved leave.

10.10.3 Definitions

- A. Absence:** Any time an employee is not at work during their scheduled work hours, regardless of the reason.
- B. Unscheduled Absence:** An absence for which an employee did not obtain oral or written approval from their supervisor to be absent from work by the close of business on the employee's last regularly scheduled workday prior to the absence.
- C. No Call/No Show:** Failure to report an absence the day it occurs, unless an employee's supervisor has approved otherwise.
- D. Supervisor:** A manager directly responsible for the performance, assignment of duties, and work product of an employee.
- E. Leave Without Pay:** Approved by Director and/or CEO pursuant to POPR Chapter 11, Section 11.6.
- F. Unauthorized Leave Without Pay:** Not approved by Director and/or CEO pursuant to POPR Chapter 11, Section 11.6.

10.10.4 Procedures

A. Scheduled Absences (i.e., Approved Time Off)

Employees must obtain approval from their direct Supervisor in advance of any schedule changes. This requirement applies to requests to use any type of leave as well as late arrivals to, or early departures from, work.

1. Leave Requests

All employees must submit requests for leave in writing, in the format prescribed by the Court even if the absence has already been approved orally. If an absence is approved orally and the employee is not present at work, the employee must submit a written request for leave immediately upon their return to work.

Requests for leave are not considered approved until the supervisor has specifically stated that the request is approved either orally or in writing. If a supervisor does not provide a timely response to a leave request, the employee may escalate the request to the next level of manager in their chain of command.

2. Cancellation of Leave Request

Employees may cancel a leave request, but the cancellation must also be approved either orally or in writing, and if orally, followed up in writing. In addition, the cancellation must be made prior to the scheduled leave and as far in advance as possible.

3. Vacation, Floating Holiday, and Compensatory Time Use

In accordance with POPR Sections 11.5.3 and 11.5.4, employees shall request vacation leave and use of compensatory time as far in advance as possible. Approval is subject to Court operational needs.

4. Scheduling Absences

When possible, employees should schedule all absences (including late arrivals and early departures) in advance with their supervisor. Pre-scheduled and pre-approved use of sick and other types of leave shall not be counted as an unscheduled absence.

B. Unscheduled Absences

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

- Notify the supervisor as soon as he/she becomes aware that he/she will be absent;
- Give the reason for the absence;
- Give an estimate of how long the absence will be;
- If the absence is continuous or lengthy, employees should notify their immediate supervisor or another manager in their chain of command on a daily basis, unless otherwise noticed by their supervisor or Human Resources.

If an employee is unable to report to work as scheduled, the employee is expected to use the normal call-in procedure established for their unit (e.g., leave a message on the call-in line for their respective unit/division). A person other than the employee should not call on behalf of the employee, except in an emergency or unless the employee is unavailable. Failure to provide this notification may cause the absence to be recorded as Unauthorized Leave Without Pay.

Employees who do not follow the proper attendance notification procedure to notify the Court that they will be absent will be considered a “no call, no show” and their timecard will reflect Unauthorized Leave Without Pay.

10.10.5 Excessive Unscheduled Absences

Supervisors, Managers, Division Chiefs, Directors, and Human Resources will monitor unscheduled absences. The Court will determine the action to be taken upon the accumulation of a certain number of unscheduled absences within a given time period, taking into consideration the following:

- (1) The number of days taken;
- (2) The number of absences;
- (3) The pattern of absences;
- (4) The employee’s past attendance record;
- (5) The reasons for the absences; and
- (6) Impact on the business of the Court.

Although the specific action taken in each instance will be determined by the Court in its discretion, the Court's actions will be dictated by the progressive discipline policy in Chapter 8 of the Court's POPR.

10.11 MANAGEMENT HOURS OF WORK

10.11.1 The Court's official business hours shall be 8:00 a.m. to 6:00 p.m., and while employees are expected to work the majority of their day during that time period, employees may adopt alternate schedules with the approval of their supervisor.

10.11.2 In recognition of the additional management benefits afforded them as "managers", all M-designated employees are expected to work an average of 80 hours in a bi-weekly pay period, and may be required to work additional hours beyond that as dictated by the business needs of the Court.

10.11.3 Notwithstanding any other past policies or practice, M-designated employees will track their time and be paid according to the following schedule:

In a given work day, if an employee works...	Then, to be compensated for the full day, the employee shall:
Less than 15 minutes	use sick leave, management leave, or vacation time (as appropriate, and as defined in the applicable section(s) of the POPR) to account for all regularly scheduled work hours. If an employee does not have appropriate available leave, the time out of office shall be treated as Leave Without Pay.
Between 16 minutes and 4 hours	be paid for actual time worked and must use sick leave, management leave, or vacation time (as appropriate, and as defined in the applicable section(s) of the POPR) to cover all regularly scheduled work hours not worked. If an employee does not have appropriate available leave, the time out of office shall be treated as Leave Without Pay.
Between 4 hours, 1 minute and 6 hours	be paid for 6 hours and must use sick leave, management leave, or vacation time (as appropriate, and as defined in the applicable section(s) of the POPR) to cover all regularly scheduled work hours not worked. If an employee does not have appropriate available leave, the time out of office shall be treated as Leave Without Pay.
6 hours, 1 minute or more	be paid for all regularly scheduled work hours.

10.11.4 Notwithstanding the payment provisions of section 10.11.3, employees shall note all time in and out of the office in the Court's current electronic time system, regardless of the hours actually worked and/or paid in a given day. The employees shall also note the total amount of time worked beyond 40 hours in a week in this same electronic time system. Exempt employees are not required to get approval to work in excess of 8 hours in any given day or beyond 40 hours in a week, however they must report the amount of time worked in excess of their regular hours and provide a summary of the work completed.

10.11.5 Section 10.11.3 addresses only how an M-designated employee may use accrued leave balances to get paid for time out of the office. Section 10.11.3 is not intended to, nor does it, create an expectation or entitlement that employees may regularly work less than 80 hours in a bi-weekly pay period, and/or less than their regularly scheduled work hours.

10.11.6 This section (10.11) does not apply to employees designated by the Court Executive Officer as "on call."

10.12 "ON CALL EMPLOYEES"

10.12.1 Designation of Certain Employee Classifications as "On Call"

The Court Executive Officer may, in their discretion, designate certain M-designated classifications as being "on call." This designation shall be made in consideration of the duties and responsibilities of those classifications, and the business needs of the Court.

10.12.2 Hours of Work and Attendance Policy for Employees in "On Call" Classifications

Like all M-designated employees, there is a general expectation that employees in "on-call" classifications will work a minimum of 40 hours per pay period. However, given the unique nature of their "on call" status, these hours may or may not occur during the Court's normal business hours. Employees in "on call" classifications may be called upon to work evenings and weekends, as the business needs of the Court dictate. As a result, Section 10.11 does not apply to on call classifications.

10.13 TELEWORK PROGRAM

1. Purpose of Telework Program. When consistent with business needs and the employee's job functions, the Court may provide employees with a telework option. Employees participate in the telework program when, on a regular or periodic basis, during their scheduled work hours, they perform their usual job duties remotely. This policy is not intended to alter or supplant past practice on partial-day absences for M-designated employees. This policy does not cover employees working remotely due to work-related travel.
2. Eligibility. Employees may be permitted to telework while in their new hire probation period at the discretion of the Court.
3. Types of Telework. There are two types of telework: Scheduled and Ad Hoc. Scheduled Telework is described in more detail below. An employee may be approved for Ad Hoc Telework (i.e., telework that does not recur on a regular basis), as a result of a special project, a demand for expedited work product, or other business or personal needs. An employee may not engage in Ad Hoc Telework unless the request to do so has been approved in advance by the employee's Director or the Director's designee. For purposes of this policy, "Director" includes the General Counsel. Ad Hoc Telework is not subject to the "Request and Approval" process set forth in section 4 below. All other requirements in this policy apply to both Scheduled and Ad Hoc Telework.
4. Request and Approval Process for Scheduled Telework. An employee may initiate a request for a Scheduled Telework agreement by submitting a completed telework self-assessment and telework application to the employee's direct supervisor. The supervisor will review the request and make a recommendation to the employee's Director to approve or decline the request. The Director shall, in turn, make a recommendation to the Court Executive Officer or designee.

Approval of a telework arrangement is at the discretion of the Court Executive Officer or designee, and the Court Executive Officer and/or their designee agrees that they will fairly and impartially evaluate each Telework request.

In making the determination whether to recommend or approve telework for an employee, the Court will consider work-related criteria, including but not limited to:

- The employee's job functions and feasibility of performing work away from the office;
- The degree of supervision required;
- The performance of the employee; and
- The business needs of the Court, including the work demands of the employee's unit (which may include a limit on the number of employees in that unit who can be approved for telework on a given day) and the preferences of the judicial officer to whom the employee is assigned (as applicable).

A request for a Scheduled Telework agreement may be approved only when the Court Executive Officer or designee determines that, while working remotely, the employee can perform all the duties and responsibilities of the position in a productive, efficient, and satisfactory manner that is consistent with the needs of the Court. An employee whose official personnel file contains a letter of reprimand, letter of suspension, or letter of demotion may not be approved for a telework arrangement.

An employee approved for Scheduled Telework must sign a teleworker's agreement and remote work checklist (which sets forth applicable health and safety requirements), before Scheduled Telework begins.

The Court Executive Officer, or designee, shall respond to requests for telework in writing and if denied, state the reason(s). Further, such denials shall be without prejudice to resubmission and reconsideration if and when the business needs giving rise to the denial change.

5. Telework Schedules. An employee's Scheduled Telework agreement shall be approved by the Court before telework begins. Unless otherwise specified by an approved telework schedule, teleworkers must be available via email and telephone during their regularly scheduled workday, Monday through Friday.

The Court agrees that no particular day of the workweek shall be arbitrarily excluded from Telework eligibility. However, the Court Executive Officer, or designee may deny Telework

on certain days where doing so is in the best business interests of the Court. In such instances, said business needs will be articulated in writing as the basis for denial. Further, such denials shall be without prejudice to resubmission and reconsideration if and when the business needs giving rise to the denial change.

If an employee's Scheduled Telework day falls on a Court holiday, the employee does not get to take a "replacement day" as a telework day that week. For example, if the employee teleworks Monday, Wednesday, Friday and Monday is a holiday, the employee would only be eligible to telework Wednesday and Friday that week. Teleworkers may request approval for time off on teleworkdays in the same manner as if not working remotely.

With prior approval, teleworkers may attend medical, dental, and business appointments during regular business hours on telework days as if they were working from their regular work assignment location. If an employee is needed in the office on a regularly scheduled telework day, and notified in writing by the Court of such need in advance of the telework day, the employee must forgo the telework day that week.

6. The Home Office

- a. Work Environment. Teleworkers are responsible for maintaining a safe and productive telework environment. Except where expressly pre-approved by the Court, (1) dependent care must not interfere with work; and (2) personal disruptions during business hours must be limited to the same extent as when working in the employee's primary work location.
- b. Office Equipment. The Court is not under any obligation to provide equipment sufficient to enable an employee to telework. Any employee who is approved for telework is responsible for the provision, maintenance, repair, and replacement of personal equipment sufficient to allow the employee to telework as if the employee were in the office. If an employee is issued Court equipment, and expressly authorized to utilize that equipment remotely, the Court shall be responsible for the maintenance, repair, or replacement. The Court is not required to reimburse expenses

for purchases, supplies, and repairs to personal equipment. Teleworkers are responsible for providing appropriate internet connectivity in order to perform work duties.

- c. Information Security. Teleworkers must maintain the security, privacy, and confidentiality of Court information when teleworking or transporting data to and from work sites, including but not limited to:
 - Teleworkers must follow all organizational data retention, backup and security procedures.
 - Teleworkers must restrict access to confidential and personal information from family members and other persons who are not authorized to access such information.
7. Other Employee Rights and Responsibilities. Teleworkers maintain the same rights and responsibilities they would have if they were not teleworking. In addition to any applicable Court requirements on time reporting, teleworkers may be required to create and submit logs of time spent and work performed while teleworking, at the discretion of the Court.
8. Termination and Renewal of Remote Work Assignment. Either the employee or the Court may terminate participation in the telework program at any time. If participation is terminated by the Court, the Court's basis for termination shall be consistent with the factors set forth in section 4 above. Failure to comply with the provisions of this Telework Policy may result in immediate termination of an employee's Telework agreement.

The Court may review each individual Scheduled Telework agreement periodically, including without limitation whenever a teleworker receives a new assignment, returns from an extended leave of absence, or upon the occurrence of any other business change that impacts the application of the factors set forth in section 4, above.

CHAPTER ELEVEN

SALARY, BENEFITS AND LEAVES OF ABSENCE

11.1 SALARY-SETTING PROCEDURE

In setting and revising salary ranges for court classifications, the Court Executive Officer or designee shall gather and consider necessary data including, but not limited to, salary ranges and market conditions in the 10 largest California Courts, local market conditions and other local compensation-related issues such as difficulty of recruitment or retention.

In setting and revising salary ranges, and to the extent that funds are made available for such purposes, the Court Executive Officer or designee shall use the following salary-setting guidelines:

- (a) Consider what salary ranges will enable the Court to recruit successfully and to retain employees;
- (b) Recognize differences among classes such as knowledge, skills and abilities required, difficulty of duties, and levels of responsibility;
- (c) Consider the cost of living and local market conditions;
- (d) Consider recommendations of executive managers; and
- (e) Consider other relevant factors.

Every salary range shall have a minimum and maximum salary figure. New employees will generally be hired at the minimum rate established for the position. Regular employees will generally be eligible to advance to higher salary rates within the range if they have received a satisfactory or better performance evaluation for the preceding year and year and are recommended for salary advancement by their executive manager.

11.1.1 STEP ADVANCEMENTS FOR NON-PROBATIONARY EMPLOYEES

Effective January 1, 2023, non-probationary employees who have received a satisfactory or better overall rating in a comprehensive performance evaluation for the previous twelve (12) months, shall advance to the next step in their salary range on their anniversary date, which is calculated based

upon hours in paid status. For employees who have not received a satisfactory or better performance evaluation within twelve (12) months, the Court may, consistent with its policies and procedures, withhold advancement to the next step.

The denial of a step or merit increase may be appealed to the Court Executive Officer. The CEO's decision is final and cannot be grieved under the terms of any labor agreement or MOU.

11.2 OTHER COMPENSATION

11.2.1 Fluency in Language(s) Other than English

Based on Court need, positions may be designated as requiring fluency in one or more languages other than English. Employees fluent in one or more languages other than English who are designated by the Court to provide assistance to non-English speaking customers are eligible to receive additional compensation each pay period.

11.2.2 Special Performance Pay

Employees temporarily assigned by the Court Executive Officer to perform the full range of duties of a higher level position are eligible for additional pay provided such assignment

- 1) exceeds 10 work days in any 12-month period for employees occupying positions in non-management classifications, or
- 2) exceeds 60 consecutive work days for employees occupying positions in management designated classifications unless the Court Executive Officer, at his/her sole discretion, waives or reduces the 60-day requirement for good cause. (See Chapter Ten, Employee Hours and Work Schedules, for overtime compensation eligibility.)

11.3 EMPLOYEE BENEFITS

The Court provides a variety of benefit plans and programs in which employees may participate:

- (a) Health and Dental plan for employee and dependents
- (b) 1937 Retirement Act plan - Alameda County Employees Retirement Association (ACERA)
- (c) Life Insurance

- (d) Deferred Compensation Plan
- (e) Employee Assistance Program
- (f) Management Benefits Plan for employees occupying positions in management designated classifications

Information about eligibility and enrollment is available through the Human Resources Division. The Court reserves the right to eliminate and/or change benefit plans and programs consistent with the law.

11.4 LEAVES OF ABSENCE

11.4.1 General

Court policy provides leaves of absence to eligible employees in a variety of circumstances. In all cases, the Court will comply with applicable federal and state laws where leaves granted by statute exceed those provided pursuant to court policy. Additional information about leave eligibility, rules and conditions under the Family Medical Leave Act, California Pregnancy Disability Leave, State Disability Insurance and Worker's Compensation, is available through the supervisor or by contacting the Benefits Unit in the Human Resources Division.

There are different eligibility rules and approval criteria for various types of leave. For example,

- (a) Employees may be eligible for an unpaid leave of absence for work-related illness or injury or pregnancy disability no matter how long they have been employed by the Court.
- (b) Employees may be eligible for medical and family leave subject to rules and conditions as provided by law.
- (c) Employees may also be eligible for leaves of absence for personal reasons other than those provided for by law. Approval of such leaves will be based on such factors as reason for request, court need, employee's performance and length of service with the Court and level of responsibility.

As soon as practicable upon learning of the need for a leave of absence, the employee should submit a written request for leave to his/her supervisor. A leave request must specify the

purpose and duration of the leave being requested. If approved, the leave must be used for that purpose. If an employee is absent for a reason that he/she believes qualifies for pregnancy disability leave or family medical care leave, the employee must notify the Court within two business days of returning to work. If timely notice is not given, the employee may not later assert that the absence was for a protected reason.

11.5 PAID LEAVE

11.5.1 Vacation

11.5.1.1 Vacation - Non-Management Employees

(a) Accrual (Effective January 1, 2023)

Employees who have worked for Superior Court and/or Alameda County shall accrue vacation hours each pay period based on assigned work schedule up to a maximum accrual as follows:

1. For up to four full-time years of ***paid*** service, employees shall accrue at the rate of 10 workdays of vacation per year, up to a cap of 25 days. Once an employee reaches the cap, they shall cease accruing vacation until such time as their accrued balance is below the cap.
2. From four up to eleven full-time years of ***paid*** service, employees shall accrue at the rate of 15 workdays of vacation per year. up to a cap of 35 days. Once an employee reaches the cap, they shall cease accruing vacation until such time as their accrued balance is below the cap.
3. From eleven up to twenty full-time years of ***paid*** service, employees shall accrue at the rate of 20 workdays of vacation per year up to a cap of 45 days. Once an employee reaches the cap, they shall cease accruing vacation until such time as their accrued balance is below the cap.
4. After completion of twenty full-time years of ***paid*** service, employees shall accrue at the rate of 25 workdays of vacation per year up to a cap of 55 days.

Once an employee reaches the cap, they shall cease accruing vacation until such time as their accrued balance is below the cap.

5. For regularly appointed employees who are working less than full time, vacation accrual will be prorated each pay period based upon a pro-ratio of the hours worked within that pay period to the normal full-time pay period for the job classification.
 6. Hours Above the Cap. Employees shall have the primary responsibility to schedule and take sufficient vacation leave to reduce their accrued vacation leave balances to levels that permit further vacation accrual.
- (b) **Eligibility:** Employees begin accruing vacation pay at the specified rate upon their date of employment with the Court (or the County if the employee worked for the County prior to being hired by the Superior Court).
- (c) **Personal Leave (Non-Management Employees):** An employee shall be allowed two days in any 52-week period from his/her regular vacation allowance for personal leave. The Court Executive Officer or designee shall not deny a request for this leave except for reasons critical to the operation of the Court. Such personal leave shall be taken in segments of one hour or more for non-exempt employees as defined by the FLSA.
- (d) **Payment for Accrued Time upon Termination of Employment:** Employees, upon termination, are entitled to be paid for accumulated compensatory time up to the maximum accumulation of 80 hours.

Employees, upon termination, are entitled to be paid for accrued vacation time up to a maximum of their vacation cap as set forth in 11.5.1.1(a) above.

Employees, upon termination, are entitled to utilize vacation time at the end of their employment up to a maximum of one and one-half times their current rate of accrual for a period of one year, provided that the Court Executive Officer or

appointing authority determines that the use of vacation time will not adversely affect the operation of the Court or the Executive Office.

11.5.1.2 Vacation - Management Employees

(a) **Accrual (Effective January 1, 2023).** Employees who have worked for Superior Court and/or Alameda County shall accrue vacation hours each pay period based on assigned work schedule up to a maximum accrual as follows:

1. For up to four full-time years of ***paid*** service, employees shall accrue at the rate of 10 workdays of vacation per year, up to a cap of 20 days. Once an employee reaches the cap, they shall cease accruing vacation until such time as their accrued balance is below the cap.
2. From four up to eleven full-time years of ***paid*** service, employees shall accrue at the rate of 15 workdays of vacation per year, up to a cap of 30 days. Once an employee reaches the cap, they shall cease accruing vacation until such time as their accrued balance is below the cap.
3. From eleven up to twenty full-time years of ***paid*** service, employees shall accrue at the rate of 20 workdays of vacation per year up to a cap of 40 days. Once an employee reaches the cap, they shall cease accruing vacation until such time as their accrued balance is below the cap.
4. After completion of twenty full-time years of ***paid*** service, employees shall accrue at the rate of 25 workdays of vacation per year up to a cap of 50 days. Once an employee reaches the cap, they shall cease accruing vacation until such time as their accrued balance is below the cap.
5. For regularly appointed employees who are working less than full time, vacation accrual will be prorated each pay period based upon a pro-ratio of the hours worked within that pay period to the normal full-time pay period for the job classification.

6. Hours Above the Cap. Employees shall have the primary responsibility to schedule and take sufficient vacation leave to reduce their accrued vacation leave balances to levels that permit further vacation accrual.
- (b) **Eligibility:** Employees begin accruing vacation pay at the specified rate upon their date of employment with the Court (or the County if the employee worked for the County prior to being hired by the Superior Court).
- (c) **Personal Leave (Management Employees):** An employee shall be allowed three days in any 52-week period from his/her regular vacation allowance for personal leave. The Court Executive Officer or designee shall not deny a request for this leave except for reasons critical to the operation of the Court.
- (d) **Payment for Accrued Time upon Termination of Employment:** Employees, upon termination, are entitled to be paid for accrued vacation time up to a maximum of their vacation cap as set forth in 11.5.1.2(a) above.

Employees, upon termination, are entitled to utilize vacation time at the end of their employment up to a maximum of one and one-half times their current rate of accrual for a period of one year, provided that the Court Executive Officer or appointing authority determines that the use of vacation time will not adversely affect the operation of the Court or the Executive Office.

11.5.2 Floating Holidays

In addition to thirteen (13) paid holidays, full-time employees may be eligible for up to three floating holidays per fiscal year. Floating holidays may not accrue to the next fiscal year.

Effective January 1, 2022, any non-management employee who is on an unpaid, unprotected leave of absence for the first pay period paid in January will not receive the annual allotment of floating holidays unless and until they return to paid status by July 1 for three consecutive pay periods.

11.5.3 Procedures for Requesting Vacation or Floating Holiday Leave

All employees shall submit a request for vacation or leave as far in advance as possible to their immediate supervisors on the form approved by the Court.

11.5.4 Approval or Denial of Request

The appointing authority or designee may modify, limit or deny any request for vacation if the employee's absence would adversely affect the proper functioning of the Court.

If the Court requests a management employee perform work during an approved leave request, said employee shall be entitled to deduct an equivalent amount of leave time the work requested required.

11.5.5 Sick Leave

- (a) **Definition:** Sick leave means leave of absence of an employee because of any of the following: illness or injury which renders the employee incapable of performing his/her work or duties; the employee's exposure to contagious disease; and routine medical or dental appointments of the employee.
- (b) **Eligibility and Accrual:** Each employee shall accumulate sick leave with pay entitlement at the rate of one-half workday for each bi-weekly pay period on paid status up to a maximum accumulation of 150 workdays of unused sick leave with pay entitlement.
 - (i) **Conversion – Non-Management.** When an employee's sick leave accrual reaches the maximum accumulation, five days of the accrued leave shall be deducted from the sick leave balance and converted to two days of accrued vacation.
 - (ii) **Conversion – Management.** When an employee's sick leave accrual reaches the maximum accumulation, five days of the accrued leave shall be deducted from the sick leave balance and converted to one day of accrued vacation.
- (c) **Requests for Sick Leave:** The Court Executive Officer or appointing authority, as a condition of granting sick leave with pay, may require medical evidence of sickness or

injury, which may include a statement of treatment and prognosis from a medical provider and/or a medical clearance to return to work.

- (d) **Reporting Illness:** Absenteeism due to illness must be reported to the immediate supervisor prior to, or immediately following the scheduled time for work as prescribed by Chapter Ten of these policies and rules. If the immediate supervisor is not available, the employee shall notify the next highest supervisor.
- (e) **Maintaining Sick Leave Balance While on Leave Without Pay (LWOP):** An employee on a protected leave of absence (FML, CFRA, ADA accommodation) must exhaust all but 10 days (75 or 80 hours) of their sick leave accrual before using LWOP.²

11.5.6 Bereavement Leave

The Court Executive Officer may grant a leave of absence with pay to a regular Court employee if there is a death in the employee's immediate family. Such leave may be granted for a period of up to 5 days, subject to a cap of 10 calendar days per calendar year.

For purposes of this section, "immediate family" means parent, stepparent, spouse, domestic partner (upon submission of an affidavit as defined in Appendix B), child, stepchild, unborn child, grandparent, grandchild, sibling, stepsibling, foster parent, foster child, parent-in-law, sibling-in-law, child-in-law, uncle, aunt or any other person sharing the relationship of in loco parentis.

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

² An employee on disability leave (SDI) may not use LWOP if they have sick leave accruals available. Exception: an employee may use other accrued leave if the employee is on an approved protected leave.

11.5.7 Emergency Leave: Sickness in Immediate Family

Leave of absence with pay because of sickness or injury in the immediate family of an employee of the Court shall be granted by the Court Executive Officer or appointing authority for up to twelve (12) days in a calendar year to care for an immediate family member including the time reasonably necessary to arrange for care of the sick person by others, and including emergency and routine medical and dental appointments provided the employee has available accrued sick leave.

Time taken for leave of absence under the provisions of this Section shall be deducted from the sick leave accrued and available. For the purpose of this Section, "immediate family" means mother, stepmother, father, stepfather, husband, wife, domestic partner and child of domestic partner (upon submission of an affidavit form available on the Court's intranet or from the Human Resources Division), son, stepson, daughter, stepdaughter, foster parent, foster child, mother-in-law, father-in-law or any other person sharing the relationship of in loco parentis; and when living in the household of the employee, a brother, sister, brother-in-law, sister-in-law, and grandparents.

11.5.8 Catastrophic Sick Leave Program

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

Eligibility

- (a) The recipient employee, recipient employee's family, or other person designated in writing by the recipient employee must submit a request to the Director of Human Resources.
- (b) The recipient employee is not eligible so long as he/she has paid leaves available; however, the request may be initiated prior to the anticipated date leave balances will be exhausted.

- (c) A confidential medical verification including diagnosis, prognosis and estimated date of return to work must be provided by the recipient employee.
 - (d) A recipient employee is eligible to receive 180 working days of donated time per employment.
 - (e) Donations shall be made in full-day increments of 7.5/8 hours and are irrevocable. Employees may donate unlimited amounts of time.
 - (f) The donor employee may donate the following types of time:
 - Non-Management Employees: vacation, compensatory time, or in lieu holiday time.
 - Management Employees: vacation, management paid leave, or floating holidays.
- Donated time shall be converted to the recipient employee's sick leave balance and all sick leave provisions will apply. Time donated in any pay period may be used in the following pay periods. No retroactive donations will be permitted.
- (g) The donor's hourly value will be converted to the recipients' hourly value and then added to the recipient's sick leave balance on a dollar-for-dollar basis.
 - (h) The recipient employee's entitlement to personal disability leave will be reduced by the number of hours added to the recipient's sick leave balance.
 - (i) The determination of the employee's eligibility for Catastrophic Sick Leave donation shall be at the Court's sole discretion and shall be final and non-grievable.

11.5.9 Military Leave

Every employee shall be entitled to military leaves of absence as specified in Chapter 7, Part 1, Division 2 of the California Military and Veterans Code. If the employee has been employed continuously by the Court and/or the County for at least one year prior to the date such absence begins, he/she shall be entitled to receive pay for up to thirty (30) days during ordered military leave (including weekend days and travel time) during any fiscal year at the rate he/she would have received and for scheduled work and paid holidays had the employee not been on military leave. Time spent on military leave shall be included in determining eligibility to occupy a job classification based upon length of service.

(a) Employees who are spouses or registered domestic partners of members of the Armed Forces, National Guard or Reserves may be eligible for up to ten (10) days of unpaid leave while the military spouse or domestic partner is on leave from active military duty. Independent contractors are not eligible for the benefit. Active military duty includes service in a war declared by Congress or deployment to a combat theater or zone as designated by the President of the United States.

To be eligible for the unpaid leave benefit, the employee must:

- (1) be the spouse or registered domestic partner of the person on leave from active military duty.
- (2) work an average of twenty or more hours per week;
- (3) notify the Human Resources Division within two (2) business days of receiving notice that the military spouse or domestic partner will be on leave from deployment; and
- (4) provide written documentation to the Human Resources Division certifying that the military spouse or domestic partner will be on active military duty during the time the employee requests time off from work.

Employees may request to use vacation or comp time leave balances, but not sick leave, in lieu of the unpaid leave. Leave may be taken on an intermittent basis. Use of this unpaid leave benefit does not affect the employee's right to any other leave or benefit. The appointing authority will not retaliate against an employee who requests or takes time off under this policy.

11.5.10 Leave for Jury Duty or in Answer to a Subpoena

A leave of absence with pay shall be granted to court employees while going to and from court and serving on jury duty or answering a subpoena as a witness. Jury or witness fees awarded to such a person for periods of paid leave granted under this Section shall be paid to the Treasurer of the County of Alameda.

11.5.11 Leave Pending Possible Removal

The Court Executive Officer may place an employee on administrative leave pending possible removal. Such leave is at the discretion of the Court Executive Officer.

11.5.12 Authority to Grant Administrative Leave

The Court Executive Officer may grant an employee administrative leave for good reason. Such leave is at the discretion of the Court Executive Officer.

11.5.13 Workers' Compensation (Industrial Sick Leave)

(a) Leave for Medical Treatment

Injured or ill employees shall be compensated for time lost to attend an initial medical evaluation for an industrial injury, whether this occurs on the date of injury or a later date. The employee is required to complete and file a Workers' Compensation Claim Form (DWC1) with Human Resources to receive the compensation.

Employees with an approved Workers' Compensation claim who have returned to work and whose physician recommends therapy, diagnostic tests or treatment due to an industrial injury/illness shall receive Industrial Leave with pay under the following conditions for all claims:

- i. Treatments are authorized under Workers' Compensation;
- ii. The therapy, diagnostic test, or treatment falls within the employee's normal working hours;
- iii. The leave applies only to the actual treatment time and reasonable travel time to and from work. Reasonable travel time shall not exceed 30 minutes. Such leave shall be granted for up to six (6) months following the date of the injury and shall not be granted once an employee has been declared permanent and stationary. In no event shall leave under this subsection and the employee's actual work time exceed the employee's normally scheduled workday;

- iv. Employees are eligible for Leave for Medical Treatment to attend a maximum of one therapy appointment, diagnostic test, or treatment visit per week as authorized under Workers' Compensation.

Effective January 1, 2019, an employee whose injury has reached the permanent and stationary or maximal medical improvement level or whose approved Workers' Compensation claim has been settled or stipulated (with or without future medical benefits) is not eligible for Leave for Medical Treatment.

(b) When Payments Shall be Denied

The Court shall not make any Industrial Sick Leave Supplement payments to an employee:

- i. Who does not apply for or who does not receive temporary disability benefits under the Workers' Compensation Law,
- ii. Whose injury or illness has become permanent and stationary,
- iii. Whose injury or illness, although continuing to show improvement, is unlikely to improve sufficiently to permit the employee to return to work in his/her usual and customary position, and the employee has been declared a "Qualified Injured Worker" (QIW) and referred to vocational rehabilitation,
- iv. Who is retired on permanent disability and/or disability retirement pension,
- v. Who unreasonably refuses to accept other Court employment for which they are qualified and which comports with the employee's medical restrictions,
- vi. Whose injury or illness is the result of a willful failure to observe Court health or safety regulations or the commission of a criminal offense,
- vii. Whose injury or illness has been aggravated or delayed in healing by reasons of the failure of the employee to have received medical treatment or to have followed medical advice, except where such treatment or advice has not been sought or followed by reason of the religious beliefs of the employee,
- viii. Whose injury or illness, is a recurrence or re-injury of an earlier job-related injury or illness, or is contributed to by a susceptibility or predisposition to such injury or illness related to an earlier job-related injury or illness, and
- ix. Who does not participate cooperatively in the Court's Disability Management Return-to-Work Program. "Participate cooperatively" means the employee communicates with the Court promptly and on a regular basis and performs the work of any modified

assignment provided by the Court that's within the medical restrictions identified by the employee's physician.

11.6 LEAVE WITHOUT PAY

11.6.1 General

The Court Executive Officer or designee may grant a leave of absence without pay for good cause. An Assistant Executive Officer, Director, or designee may approve up to 30 business days of leave without pay. Any denial of a request for leave without pay must be approved by the Executive Officer. A leave of absence shall not be granted when the employee does not intend to or cannot reasonably be expected to return to Court service.

11.6.2 Duration

When a leave of absence without pay is granted, the Court Executive Officer or appointing authority, shall determine the beginning and ending date of such leave.

11.6.3 Parental Leave

- (a) **Definition:** Parental leave is defined as absence from the employee's class and position, without pay, granted an employee to care for his or her newborn child or newly adopted child.
- (b) **Duration and Conditions:** An employee may be granted parental leave for a maximum of four months, the dates of which are to be mutually agreed upon by the Court Executive Officer and the employee granted the leave. An employee may elect to take accrued vacation, compensatory time off or sick leave, if applicable, during the period of leave.

CHAPTER TWELVE

CONFLICTS OF INTEREST AND INCOMPATIBLE ACTIVITIES

12.1 POLICY STATEMENT

It is the policy of the Court that employees shall devote all of their time and efforts, during their assigned work hours, to their assigned duties and shall not engage in acts or activities which are inconsistent, incompatible or in conflict with or inimical to his or her duties as an employee of the Court.

No employee shall engage in any activity that would impair the employee's independent judgment in the performance of his or her duties, or which would have the appearance of so doing.

12.2 INTEREST IN A CASE

Employees shall not process, handle, or in any manner be involved with any case filed in the Court in which the employee is a party or witness.

Employees shall not process, handle, or in any manner be involved with any case filed in the Court in which a relative or friend of the employee is a party, alleged victim, or witness. For purposes of this section, the term "relative" includes the employee's spouse, children, parents, siblings, grandparents, grandchildren, first cousins, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, and daughter-in-law.

If an employee is a party to a case filed in the Court, the employee shall not use his or her work time to address any matter relating to that case. If time off is needed to attend to the employee's court case (for example, to make an appearance or to pay a fine), the employee must use the Court's usual time-off procedures.

If an employee is a party to or witness in a case filed in the Court, or has a relative or friend whose case is filed in the Court, the employee should report this to his or her supervisor, manager, or administrator.

12.3 OUTSIDE EMPLOYMENT

An employee of the Court shall not engage in outside employment, outside business activity or enterprise which is inconsistent, incompatible or in conflict with the assigned duties as a court employee. Outside employment may not fall within any of the categories described in Government Code section 1126(b), as amended from time to time. Further, an employee's work for the Court must not be adversely affected by any outside employment.

Prior to accepting any outside employment, the employee must notify the Court Executive Officer in writing on a form provided by the Court. Outside employment or business activity which is not in fact or appearance in conflict or incompatible with the duties and responsibilities of a court employee may be approved by the Court Executive Officer.

12.4 ALAMEDA COUNTY SUPERIOR COURT CONFLICT OF INTEREST CODE

12.4.1. Adoption of the Code

The Superior Court of California, County of Alameda adopts this conflict of interest code under Section 87300 of the Government Code and incorporates by reference California Administrative Code, Title 2 Section 18730 ("standard code") and any amendments to it.

12.4.2 Place of Filing Statements of Economic Interests

Pursuant to section 4(C) of the standard code, designated employees shall file statements of economic interests with the Executive Officer/Clerk of the Superior Court of California, County of Alameda.

12.4.3 Appendices to the Standard Code

The Court adopts the following appendices to the standard code:

12.4.4 Appendix A: Designated Employees

Classification	Code Disclosure Category
Administrative Services Supervisor	1, 2
Assistant Executive Officer - Administration	1, 2
Assistant Executive Officer - Office of Information Technology	1, 2
Assistant Executive Officer - Operations	1, 2
Budget Coordinator	1, 2
Bureau Chief I, II	1, 2
Consultant*	
Court Operations and Administrative Chief	1, 2
Dependency Mediation Coordinator	3
Development Manager-Architect	1, 2
Director, Information Technology	1, 2
Division Chief III	1, 2
Drug Court Services Coordinator	3
Executive Officer	1, 2
Family Court Services Counselor	3
Family Law Facilitator	3
Investigations Manager	3
Investigator	3
Juvenile Dependency Mediation Counselor	3
Legal Research Attorney	3
Network & Operations Manager	1, 2
Probate Examiner	3
Production Support Manager	1, 2
Senior Network Administrator	1, 2
Senior Systems Analyst	1, 2
Supervising Family Court Services Counselor	3
Supervising Legal Research Attorney	3
Supervising Probate Examiner	3
Trial Court Administrator I, II	1, 2
Trial Court Financial Hearing Officer	3
UNIX Administrator	1, 2

* Consultants shall be included in the list of designated employees and shall disclose pursuant to the broadest disclosure category in the code subject to the following limitation: The Court Executive Officer may determine in writing that a particular consultant, although a "designated position," is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements described above. Such written determination shall include a description of the consultant's duties and, based upon that description, a statement of the extent of disclosure requirements. The Court Executive Officer's determination is a public record and shall be retained for public inspection in the same manner and location as this conflict of interest code.

12.4.5 Appendix B: Disclosure Categories

- Category 1. Employees assigned to this disclosure category shall report interests in real property located within Alameda County or within two miles of Alameda County.
- Category 2. Employees assigned to this disclosure category shall report investments in and income from business entities engaged in the manufacture, sale, lease, or provision of supplies, materials, equipment, real property, and services of the type used by this Court.
- Category 3. Employees assigned to this disclosure category shall report all investments, sources of income, interests in real property, and positions³ in business entities as follows: If during a reporting period a designated employee in this category did not participate in a case or other assignment in which he or she had a financial interest, the employee shall sign a statement to that effect under penalty of perjury. This statement shall be filed as the statement of economic interests required by section 4(C) of the standard code.

An employee who participated in a case or assignment in which he or she had a financial interest shall disclose that case or assignment and that interest as described above and file the statement with the Executive Officer/Clerk of the Court.

³ Positions include employee, partner, officer, director, trustee, and any other management position.

CHAPTER THIRTEEN

RULES GOVERNING EMPLOYER-EMPLOYEE RELATIONS

13.1 GENERAL

13.1.1 Purpose of Chapter

It is the purpose of this Chapter to promote full communication between the Superior Court and its employees regarding wages, hours and other terms and conditions of employment. It is also the purpose of this Chapter to promote the improvement of personnel management and employer-employee relations within the Superior Court of California, County of Alameda by providing a uniform basis for recognizing the right of employees of the Court to join organizations of their own choice and be represented by such organizations in their employment relations with the Court.

13.1.2 Matters of Mutual Interest

Nothing in this Chapter shall be interpreted as precluding or discouraging the discussion of any and all matters of mutual interest, at the appropriate level, to the end that there be full understanding and cooperation among the parties and that problems be resolved expeditiously.

13.1.3 Outside Experts

Nothing in this Chapter shall be interpreted as precluding or discouraging the Court from requesting assistance or advice, whether from outside experts or otherwise, in situations deemed appropriate by the Court.

13.2 DEFINITIONS:

13.2.1 Court

COURT means the Superior Court of California, County of Alameda.

13.2.2 Confidential Employee

CONFIDENTIAL EMPLOYEE means any employee who is privy to the decision-making process of court management affecting employee relations.

13.2.3 Director

DIRECTOR means the Director of the Human Resources Division, Superior Court of California, County of Alameda and his or her senior assistant or assistants.

13.2.4 Employee

EMPLOYEE means the same as defined in Government Code section 71601 (l) and (m).

13.2.5 Employee Organization

EMPLOYEE ORGANIZATION means any organization which includes employees of the Court and which has as one of its primary purposes representing such employees in their employment relations with the Court.

13.2.6 Exclusively Recognized Employee Organization

EXCLUSIVELY RECOGNIZED EMPLOYEE ORGANIZATION means a recognized employee organization which has been designated pursuant to the provisions of Section 13.9 of this Chapter as the exclusively recognized employee organization for a designated bargaining unit.

13.2.7 Management Employee

MANAGEMENT EMPLOYEE means the Court Executive Officer, his or her chief deputy and assistants, division heads and other positions as designated by the Court.

13.2.8 Mediation

MEDIATION means effort by an impartial third party to assist in reconciling a dispute regarding wages, hours and other terms and conditions of employment between representatives of the Court and recognized employee organization(s) or, if there is an exclusively recognized

employee organization, said exclusively recognized organization, through interpretation, suggestion and advice.

13.2.9 Meet and Confer

MEET AND CONFER means that a Court or such representatives as it may designate and representatives of recognized employee organizations shall have the obligation personally to meet and confer promptly upon request of either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation.

13.2.10 Professional Employee

PROFESSIONAL EMPLOYEE means an employee engaged in work requiring specialized knowledge and skills attained through completion of a recognized course of instruction, including, but not limited to, attorneys, physicians, registered nurses, engineers, architects, teachers, and the various types of physical, chemical, and biological scientists.

13.2.11 Recognized Employee Organization

RECOGNIZED EMPLOYEE ORGANIZATION means an employee organization which has been recognized pursuant to the provisions of Section 13.5 of this Chapter as representing employees in their relations with the Court.

13.2.12 Representation Unit

REPRESENTATION UNIT means a unit of court employees established pursuant to the provisions of Section 13.8 of this Chapter.

13.2.13 Scope of Representation

SCOPE OF REPRESENTATION shall have the same meaning as that scope of representation set forth in Government Code section 71634.

13.2.14 Supervisory Employee

SUPERVISORY EMPLOYEE means an employee working in a classification in which a majority of positions: 1) require the incumbent, on a continuing basis, to assign work to and rate work performance of, a subordinate employee, and 2) authorize the incumbent to initiate or review recommendations for dismissal or other disciplinary action.

13.3 EMPLOYEE RIGHTS

13.3.1 Right to Join

Employees shall have the right to form, join, and participate in the activities of employee organizations of their own choosing for the purpose of representation on all matters within the scope of representation.

13.3.2 Right Not to Join

Employees shall have the right to refuse to join or participate in the activities of employee organizations.

13.3.3 Individual Representation

Notwithstanding Section 13.9, employees shall have the right to represent themselves individually in the event they have a complaint or grievance with the Court.

13.3.4 No Interference With Representation Rights

Neither Court nor employee organizations shall interfere with, intimidate, restrain, coerce, or discriminate against employees because of the exercise of rights under this Chapter.

13.3.5 Dues Deductions

Employees shall have the right to authorize dues deduction from their salaries for payment directly to recognized employee organizations, upon the following terms and conditions:

- (a) Applications for deduction of dues or revocation of such deduction shall be made in a form approved by the Court, executed by the employees;
- (b) The sums to be deducted shall not include initiation fees, special assessments, or fines;
- (c) Any employee may revoke his dues deduction authorization effective the next succeeding pay period;
- (d) The Court reserves the right to suspend or terminate the deduction of dues in the event that the recognized employee organization or its members engage in unlawful concerted activities; and
- (e) In the event that a recognized employee organization is designated as the exclusively recognized employee organization for a representation unit pursuant to the provisions of Section 13.9 of this Chapter, no other recognized employee organization representing employees within the unit shall have the right to request such employees to authorize dues deduction under this Section and all existing dues deduction authorizations of such employees shall terminate effective the pay period next succeeding the designation of the exclusively recognized employee organization; provided, however, that the exclusively recognized employee organization may request the Court to extend, or subsequently to revoke, the dues deduction provisions set forth in this Section to other recognized employee organizations representing employees within the representation unit, with regard to such employees, and the Court shall consider and determine each such request.

13.4 COURT RIGHTS

The Court may, without meeting and conferring, determine the nature, extent, merits, necessity, organization, and staffing of any service or activity of the Court and exercise any rights, duties, or obligations conferred by law.

13.5 RECOGNIZED EMPLOYEE ORGANIZATION RIGHTS

13.5.1 Meet and Confer

Except where there is an exclusively recognized employee organization designated pursuant to Section 13.9, recognized employee organizations shall have the right to meet and confer with the Court or, at the Court's discretion, with a designated representative of the Court, or his or her senior assistants. Recognized employee organizations shall be advised of the name and address of the Court's representative.

13.5.2 Notices from Court

Except where there is an exclusively recognized employee organization designated pursuant to Section 13.9, and except in cases of emergency as provided in Section 13.5.3 the Court shall give reasonable written notice to each recognized employee organization affected by any rule or policy directly relating to matters within the scope of representation proposed to be adopted by the Court and shall give such recognized employee organization(s) an opportunity to meet with the Court.

13.5.3 Emergency Matters

In cases of emergency when the Court determines that a rule or policy must be adopted immediately without prior notice or meeting with recognized employee organizations, the Court shall provide such notice and opportunity to meet at the earliest practicable time following the adoption of such rule or policy.

13.5.4 Notices to Employees

The Court shall post within the employee work or rest area a written notice which sets forth 1) the classifications included within each representation unit, and 2) the name and address of the exclusively recognized employee organization for each such unit, if an organization has been so designated. The Court shall also give written notice to persons newly employed in a representation unit classification of the name and address of the exclusively recognized employee organization for such unit if an organization has been so designated.

13.6 REPRESENTATION

13.6.1 Management and Confidential Employees

Management and confidential employees shall not represent any employee organization which represents other than management and confidential employees of the Court on matters within the scope of representation.

13.6.2 Professional Employees

Professional employees shall not be denied the right to be represented separately from nonprofessional employees by a professional employee organization consisting of such professional employees.

13.7 REGISTRATION PROCEDURE PRIOR TO RECOGNITION

13.7.1 Initial Period

Employee organizations shall register with the Director prior to representing their membership in their employee relations with the Court, and shall thereafter report to the Director in writing any changes in the facts submitted in the registration within thirty days of the occurrence of the change.

13.7.2 Necessity for Registration

No employee organization shall have the rights of a recognized employee organization under this Chapter unless and until it has been registered with the Director.

13.7.3 Contents of Registration

The registration shall consist of:

- (a) The name and address of the employee organization;
- (b) A list of the officers and principal representatives of the employee organization;

- (c) A statement that the employee organization includes Court employees within its membership;
- (d) A statement that the employee organization has, as one of its primary purposes, the function of representing employees in their relations with the Court;
- (e) The designation of two or more persons and their addresses to whom notice, sent by United States mail, will be deemed sufficient notice on the employee organization for any purpose; and
- (f) A statement that the employee organization has no restriction on membership based on race, color, creed, national origin, sex, age, pregnancy, disability, marital status, sexual orientation, veteran status or citizenship.

13.8 PROCEDURES FOR ESTABLISHING REPRESENTATION UNITS

13.8.1 Submission of Request

Representation units shall be established by the Court following submission of requests as hereinafter set forth and submission to the Court of recommendations by the Director.

13.8.2 Petition

Employees or recognized employee organizations may request the Court to establish a particular representation unit by listing classifications and positions to be included and submitting a petition signed by at least one-third of the full-time regular and probationary employees within the proposed representation unit, or a showing that, as of the last regular payroll, at least fifty percent of the employees within the proposed representation unit had executed dues deduction authorizations in favor of the recognized employee organization requesting the establishment of the unit.

13.8.3 Petition Signatures

The signatures contained on the petition to establish a representation unit must be dated no earlier than six months prior to the date of submission of the petition.

13.8.4 Verification of Petitions

The Director shall verify all petitions and, upon verification, shall within a reasonable time give notice to the employees within the proposed representation unit of the contents of the petition.

13.8.5 Petitions for Change in Unit

Employees within the proposed representation unit shall have ten days from the date of notification to submit petitions requesting changes in the proposed representation unit. Such petitions must be signed by at least one-third of the employees within the proposed changed representation unit.

13.8.6 Criteria and Director's Recommendation

The Director, after consultation with interested employees or representatives of a recognized employee organization, shall make a recommendation to the Court concerning the proposed representation unit, and may recommend a representation unit other than that proposed. No single classification of court employees shall be included in more than one representation unit. Management and confidential employees and classifications having a majority of supervisory employees shall not be included in a representation unit containing classifications having a majority of non-management, non-confidential, and non-supervisory employees, respectively. Criteria used in recommending representation units may include, but shall not be limited to, such factors as community of interest among employees, history of representation and the general field of work. No unit shall be established solely on the basis of the extent to which employees in the proposed unit have previously organized.

13.8.7 Action By Court

The Court shall act in a timely manner on recommendations made to it by the Director. In acting on a recommendation and establishing a representation unit, the Court will give

consideration to criteria of the same sort used by the Director in arriving at his or her recommendation as set forth in Section 13.8.6 above.

13.8.8 Further Petitions For Changes

Petitions for changes in representation units may be submitted not sooner than 12 months following designation of the representation unit by the Court, except that in the event that the end of such period shall occur during the months of April, May, or June of any year, such petitions may be submitted on or after December 1 of the preceding year. The Director shall consider the appropriateness of the change in representation unit in accordance with the criteria as set forth in Section 13.8.6 above.

13.8.9 Dispute Regarding Appropriateness of Representation Unit

In the event that the petitioner disagrees with the determination regarding the appropriateness of the bargaining unit, the petitioner may request mediation or a non-binding recommendation from the California State Mediation and Conciliation Service. Such request must be made in writing within 10 calendar days of the notification from the Court responding to the appropriateness of the bargaining unit.

13.8.10 Eligible Employees

For the purpose of this Section, only regular full-time and regular part-time and probationary employees shall be eligible to sign petitions for the establishment of representation units, and when dues deduction authorizations are submitted as the showing of employee interest, only the dues deduction authorizations of such employees will be considered.

13.9 EXCLUSIVE RECOGNITION OF A RECOGNIZED EMPLOYEE ORGANIZATION AND REVOCATION OF EXCLUSIVE RECOGNITION

13.9.1 One-Half Rule

A recognized employee organization shall be considered for certification as an exclusively recognized employee organization by the Court following the submission of a request for exclusive recognition accompanied by, or in the form of, a petition indicating that at least one-

third of the employees within the proposed or existing representation unit desire the petitioning employee organization to be their sole representative, or said request may, in the alternative, be accompanied by a showing that, as of the last regular payroll, over 50% of the employees within the representation unit have executed dues deduction authorizations in favor of the employee organization requesting recognition as the exclusively recognized employee organization for said representation unit.

13.9.2 Verification of Petitions

The Director shall verify each petition or dues deduction showing and following verification shall within a reasonable time give notice to all employees within the proposed or existing representation unit, and all recognized employee organizations, of the contents of the request.

13.9.3 Request for Exclusive Recognition

Any other recognized employee organization seeking certification as the exclusively recognized employee organization to represent the employees of a proposed or existing representation unit for which a request has been submitted and verified pursuant to Sections 13.9.1 and 13.9.2 may, within fifteen days of the date of notice given pursuant to Section 13.9.2, request the Court for exclusive recognition accompanied by, or in the form of, a petition indicating at least one-quarter of the employees within the proposed or existing representation unit desire the petitioning organization to be their sole representative, or said request may, in the alternative, be accompanied by a showing that, as of the last regular payroll, at least 50% of the employees within the representation unit have executed dues deduction authorizations in favor of the employee organization requesting exclusive recognition.

13.9.4 Request for No Exclusive Recognition

Other employees within a proposed or existing representation unit for which a request for exclusive recognition has been submitted and verified may, within fifteen days following notice that a request for exclusive recognition has been submitted and verified, submit a petition on their own indicating that at least one-quarter of the employees within such unit desire not to be represented by an exclusively recognized employee organization.

13.9.5 Action by Director

In the event that a request for exclusive recognition is accompanied or in the form of a petition executed by over 50% of the employees within the proposed or existing representation unit and no challenging petition is filed within fifteen days following the date of notice, the Director, in his or her discretion, shall either 1) cause a secret election to be conducted as provided in Section 13.9.6 hereof or 2) refer the petition to the Court for certification of the petitioning employee organization as the exclusively recognized employee organization for the proposed or existing representation unit.

13.9.6 Secret Election

Except when exclusive recognition has been extended by the Court as provided in Section 13.9.5 hereof, the Director, upon verifying all petitions or showings of dues deduction authorizations, shall cause a secret election to be conducted or supervised by an agency independent of the Court wherein the employees of the representation unit shall be given the opportunity to choose among the petitioning recognized employee organizations and no exclusively recognized organization (whether or not a petition for non-recognition has been submitted pursuant to Section 13.9.4 above). Employees within the representation unit on the payroll immediately preceding the election shall be entitled to vote.

The Court shall certify as the exclusively recognized employee organization that organization, if any, receiving a majority of ballots cast in the secret election. In the event that a majority of the ballots cast is for no exclusively recognized organization, the Court shall certify that no recognized employee organization exclusively represents the employees within the representation unit. If none of the choices on the ballot receives a majority of the ballots cast, a run-off election shall be held between the choices receiving the two highest number of votes. In the case of a run-off, the Court shall certify as the exclusively recognized employee organization for the representation unit the choice receiving the most votes in the run-off election, or, if the majority of votes is for no recognized employee organization, the Court shall certify that no recognized employee organization exclusively represents the employees within

the representation unit. For any election to be valid, at least 50% of the eligible voters must vote.

13.9.7 Requests For Change In No Exclusive Recognition

Requests for certification as an exclusively recognized employee organization may be submitted not sooner than 12 months following a certification that the representation unit shall not be represented by a recognized employee organization.

13.9.8 Requests For Revocation of Exclusive Recognition

A request for revocation of recognition as an exclusively recognized employee organization, or for the certification of another recognized employee organization as the exclusively recognized employee organization, must be accompanied by or in the form of a petition executed by at least one-third of the employees within the representation unit. The Court may also initiate a revocation proceeding where, because of substantial changes in Court functions, organizational structure, or job classifications within the representation unit, it appears that the exclusively recognized employee organization no longer retains significant support among employees within the representation unit. No revocation petition under this Section shall be filed earlier than 12 months following certification of the exclusively recognized employee organization. The provisions of Sections 13.9.2, 13.9.3 and 13.9.4 shall apply to a proceeding under this Section. The Director shall cause a secret election to be conducted or supervised by an agency independent of the Court wherein the employees within the representation unit on the payroll immediately preceding the election shall be entitled to vote. Exclusive recognition of a recognized employee organization shall be revoked or changed by the Court only if a majority of those casting valid ballots in an election vote for revocation or change.

13.9.9 Petition Signatures

The signatures contained on the petition to establish a representation unit must be dated no earlier than six months prior to the date of submission of the petition.

13.9.10 Eligible Employees

For the purposes of this Section, only regular full-time and regular part-time, and probationary, employees shall be eligible to sign representation petitions or to vote in representation elections. When dues deduction authorizations are submitted as the showing of employee interest, only the dues deduction authorizations of such employees will be considered.

13.10 MEETINGS

13.10.1 On Matters Within Scope of Representation

The designated representative of the Court shall meet and confer with representatives of recognized employee organizations or, where there is an exclusively recognized employee organization, with representatives of said organization, on matters within the scope of representation.

13.10.2 Time of Meeting on Salaries

The Court agrees to commence the meet and confer process sufficiently in advance of the date of expiration of the Memorandum of Understanding such that the process can be concluded by the date of expiration of the existing MOU.

13.10.3 Requests to Meet

Recognized employee organizations or, where there is an exclusively recognized employee organization, said organization, and the Court shall make timely requests in writing to meet with designated representatives, including therein a list of the matters to be discussed.

13.10.4 Meetings At Court Facilities

All meetings shall occur at court facilities, unless otherwise mutually agreed.

13.10.5 Joint Meetings

If the subject of a meeting affects more than one representation unit, the designated representative of the Court may require a joint meeting with some or all of the recognized employee organizations affected.

13.10.6 Memorandum of Understanding

If agreement is reached between the designated representative of the Court and a recognized employee organization, they shall jointly prepare and sign a written memorandum of such understanding, which shall not be binding. The memorandum shall then be presented to the Court for determination.

13.10.7 Employee Time Off To Meet

Unless otherwise mutually agreed between the designated representative of the Court and the recognized employee organization(s), no more than one court employee, from each bargaining unit of such recognized employee organization, shall be granted reasonable time off without loss of compensation or other benefits when formally meeting and conferring with the designated representative of the Court on matters within the scope of representation.

13.10.8 Requests For Time Off

Timely requests in writing for reasonable time off for the purpose of Section 13.10.7 shall be submitted to the Court Executive Officer or his or her designated representative. Such requests shall include:

- (a) The name of the employee;
- (b) The name of the organization represented; and
- (c) The time, place, nature and estimated duration of the meeting.

Any such request may be denied by the Court Executive Officer or designee on the basis of an operational emergency, the existence of which shall be reported by the Court Executive Officer

to the designated representative of the Court, who shall then contact the representative of the recognized employee organization(s), so that the meeting may be rescheduled, if the recognized employee organization(s) so desires.

13.10.9 Mediation

If, after meeting and conferring for a reasonable period of time, representatives of the Court and the recognized employee organization(s) or, if there is an exclusively recognized employee organization, said exclusively recognized organization, fail to reach agreement, the Court and the recognized employee organization(s) or, if there is an exclusively recognized employee organization, said exclusively recognized organization, may agree upon the appointment of a mediator mutually agreeable to the parties. Costs of mediation shall be divided one-half to the Court and one-half to the recognized employee organization(s) or, if there is an exclusively recognized employee organization, said exclusively recognized organization.

13.11 USE OF COURT FACILITIES

13.11.1 Bulletin Boards

Reasonable space shall be allowed on bulletin boards as specified by the Court Executive Officer for use by employees and recognized employee organizations to communicate with court employees. Material shall be posted upon the bulletin board space as designated and not upon walls, doors, file cabinets or any other place. Posted material shall not be obscene, defamatory or of a partisan political nature, nor shall it pertain to public issues which do not involve the Court or its relations with court employees. All posted material shall bear the identity of the sponsor, shall be neatly displayed, and shall be removed when no longer timely.

13.11.2 Court Facilities

Court facilities may be made available upon timely application for use by employees and recognized employee organizations. Such use shall not occur during regular office hours, other than the lunch period. Application for such use shall be made to the management person under whose control the facility is placed.

13.12 ACCESS TO EMPLOYEES DURING WORKING HOURS

13.12.1 Contact In Court Facilities

Any authorized representative of a recognized employee organization shall have the right to contact individual employees working within the representation unit represented by his or her employee organization in Court facilities during business hours on matters within the scope of representation providing prior arrangements have been made for each such contact with the Court Executive Officer or his or her designated representative, who shall grant permission for such contact if, in his or her judgment, it will not disrupt the business of the unit involved. When contact in Court facilities during business hours is precluded by confidentiality of records, or of work situation, health and safety of employees or the public, or by disturbance to others, the Court Executive Officer or his or her representative shall have the right to make other arrangements for a contact location removed from the work area.

13.12.2 Group Meetings

Meetings of a representative of a recognized employee organization and a group of employees shall not be permitted during working hours. The Court Executive Officer or his or her designated representative may, upon timely application, allow meetings of a representative of a recognized employee organization and a group of employees during the lunch period in Court facilities and at convenient dates.

13.12.3 Internal Business

No contacts shall be permitted during working hours with employees regarding membership, collection of monies, election of officers, or other similar internal employee organization business.

13.12.4 Court Activities

Unless otherwise agreed, employees or representatives of recognized employee organizations shall not be permitted to attend meetings or conferences called by court personnel to attend to matters arising out of the normal course of court activities.

13.13 CONSTRUCTION OF RULES

13.13.1 Preservation of Rights

Nothing in this Chapter shall be construed to deny any person, organization, or employee any rights granted by federal, state, or local law.

13.13.2 Consistent With Article 3 of the Trial Court Employment Protection and Governance Act

The provisions of this Chapter are intended to be consistent with the provisions of Government Code section 71630 – 71639 and any interpretation of these provisions should consider the relevant provisions of the Government Code.

13.13.3 Validity

If any provision of this Chapter or the application of such provision to any person, organization, employee or circumstance shall be held to be invalid, the remainder of this Chapter or the application of such provision to persons, organizations, employees, or circumstances other than those being held invalid shall not be affected thereby.

13.13.4 Amendments

It is recognized that the provisions of this Chapter may require amendments from time to time. The Court, or its representative, shall consult with recognized employee organizations, or if there is an exclusively recognized employee organization, only with said organization for the represented organization unit, prior to enacting any such amendments.

13.14 ENFORCEMENT OF VIOLATIONS OF GOVERNMENT CODE SECTIONS 71630 - 71639

13.14.1 Written Notice

Prior to commencing any enforcement writ pursuant to Government Code section 71639.1, as amended, the aggrieved party must serve written notice on the responding party, setting forth the provision(s) of the Government Code alleged to have been violated and fully setting forth

the nature of the alleged violation. Such written notice must be served within 15 days from the date the aggrieved party knew or should have known of the alleged violation. The responding party shall respond to the allegation(s) in writing within 15 days.

13.14.2 Mediation

If the aggrieved party is not satisfied with the response, it shall, within 5 days of its receipt of the response, request in writing a meeting between the parties to explore resolution of the dispute. If the matter is not resolved at this meeting, the aggrieved party shall, within 5 days of the meeting, request in writing that the matter be submitted to mediation.

The parties may either jointly agree on the appointment of a neutral third party to serve as a mediator for the dispute or request that the State Mediation and Conciliation Service appoint a mediator. The costs of the mediation, if any, shall be split evenly between the parties.

CHAPTER FOURTEEN

COMPLAINT REPORTING PROCEDURES

14.1 PURPOSE OF CHAPTER

It is the purpose of this Chapter to provide a process and procedure for submitting and routing employee complaints. Complaints of unlawful discrimination, harassment, retaliation, and inappropriate workplace conduct based on a protected classification are subject to the provisions in Chapter 9. If a conflict exists between this Chapter and language contained in a Memorandum of Understanding (MOU) between the Court and a recognized unit, the language in the MOU prevails.

14.2 SUBMISSION AND ROUTING OF COMPLAINTS

Complaints can be submitted by any Court employee either in writing or orally. The employee may report the complaint to any of the following: his or her immediate supervisor or Division Director⁴; Human Resources; Assistant Executive Officer or the Court Executive Officer. After submission, complaints will be handled as follows:

- a) Complaints regarding a Court employee will be routed to that employee's Division Director. The Division Director will send a copy of the complaint to HR.
- b) Complaints regarding judicial officers will be routed to the Executive Office.
- c) Complaints regarding Division Directors or the Assistant Executive Officer will be submitted directly to the Court Executive Officer.
- d) Complaints regarding the Court Executive Officer will be submitted directly to the Presiding Judge.

⁴ For purposes of this Complaint Reporting Procedure, the term "Division Director" includes the Administrator of the Executive Office Projects and Programs.

14.3 RESPONSIBILITY FOR INVESTIGATION

Investigations under this Chapter will proceed promptly, and will be handled as follows:

- a) If the complaint alleges facts in support of discrimination, harassment, sexual harassment, or retaliation in violation of federal or state law, or workplace violence, Human Resources will conduct an investigation pursuant to Chapter 9.
- b) If the complaint alleges facts in support of other illegal activity, the relevant Division Director and Human Resources will consult and decide who will conduct the investigation.
- c) For all other complaints including allegations of inappropriate workplace conduct, the relevant Division Director will conduct the investigation. Human Resources will be available for guidance.

If the Court Executive Officer determines that the Division Director is unable to conduct the investigation, he/she will designate a substitute.

14.4 CONDUCT OF INVESTIGATION

The provisions in this section apply to the conduct of the investigation by the person(s)/division(s) described in Section 14.3.

- a) **Administrative Leave:** Upon approval of the Court Executive Officer, the employee being investigated may be placed on paid administrative leave during an investigation or at such time as a Notice of Discipline is issued.
- b) **Investigatory Interviews:** The person conducting the investigation shall have the authority to interview relevant personnel. The investigation process is a confidential personnel matter. In order to maintain confidentiality, as well as the objectivity of the investigation, interviewed personnel shall not discuss or otherwise communicate in writing, verbally, or non-verbally with others regarding the fact of this investigation, the name(s) of any witness(es), or any factual allegations. Disclosure will be limited to the extent consistent with conducting a fair and thorough investigation.

- c) **Notice of Investigation:** Upon commencement of an investigation, written notice will be provided to all persons reasonably thought to be involved that an investigation is ongoing. Staff who receives this notice shall not discuss the subject of the investigation with any staff other than the person(s) conducting the investigation, and they shall ensure the preservation of any emails or other written materials pertaining to the subject of the investigation.
- d) **Weingarten Rights/Afford Employee Right to Representation:** Represented employees have the right to union representation at any investigatory interview. The employee must make a clear request for union representation before or during the interview. After the employee makes the request, the employer must grant the request and delay questioning until the union representative arrives.
- e) **Collection of Documents in Support of Investigation:** The person conducting the investigation shall have the authority to collect emails, notes, letters, samples of work product and/or understanding of work flow process that are pertinent and/or identified during the investigation.

14.5 CONCLUDING THE INVESTIGATION

- a) **Written Report:** At the conclusion of the investigation, the investigator will prepare a written report. At a minimum, this report will set forth the following:
 - Allegations
 - Response from Subject of the investigation and Witnesses
 - Findings
 - Conclusion
- b) **Concluding the Investigation:** If, upon the conclusion of the investigation, the investigator determines that the underlying complaint does not warrant corrective action, the investigator will relay that conclusion to the relevant Division Director to conclude the investigation. If the investigator concludes that corrective action is warranted, the relevant Division Director or designee may take any of the following corrective actions without Court Executive Officer approval:

- Establishment of a Performance Improvement Plan;
- Issuance of Counseling Memos or Letters of Counseling;
- Issuance of an Order of Reprimand; and/or
- Issuance of a Notice of Suspension of up to 5 days.

No other corrective action, including suspension over 5 days, may be taken without the approval of the Court Executive Officer.