

# MEMORANDUM OF AGREEMENT

Between the  
County of Ventura



and the  
Criminal Justice Attorneys'  
Association of Ventura County  
(CJAAVC)

2021-2023

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## ARTICLE 1 TERM

This Memorandum of Agreement (MOA) between the Criminal Justice Attorneys' Association of Ventura County (CJAAVC) and the County of Ventura (County) shall become effective December 14, 2021 and shall expire @ 11:59 p.m. on October 20, 2023.

All of the terms and conditions of the previous MOA between the parties for the period ending October 19, 2021, shall be deemed to have been extended and in full force and effect for the period between October 20, 2021 and the effective date of this MOA as specified immediately above.

In the event either party desires to negotiate a successor MOA, it shall, no more than one-hundred and twenty (120) days and no less than ninety (90) days prior to the expiration date of this 2021-2023 MOA, serve on the other its written request to commence negotiations as well as its written proposals for such successor MOA.

Negotiations shall commence not later than ninety (90) days prior to the expiration date of this MOA unless otherwise agreed to by the parties. Sections of this 2021-2023 MOA not addressed by either party in their proposals shall remain in full force and effect when a successor agreement is implemented.

## ARTICLE 2 IMPLEMENTATION

This MOA constitutes a mutual recommendation to be jointly submitted to the Ventura County Board of Supervisors and CJAAVC. It is agreed that this MOA shall not be binding upon the parties - either in whole or in part unless and until it is approved by the membership of CJAAVC and the Board of Supervisors.

### ARTICLE 3 RECOGNITION

The County recognizes CJAAVC as the official bargaining representative for regular employees employed in the below classifications within the Criminal Attorney and Criminal Attorney Supervising Units:

- Sec. 301     Attorney I (0217)  
                 Attorney II (0218)  
                 Attorney III (0219)  
                 and, Attorneys designated as Senior Attorneys (1658) in accordance with  
                 the Ventura County Personnel Rules and Regulations 2102
- Sec. 302     The term “employee” or “employees” as used in this MOA shall refer only  
                 to individuals employed in said classifications and bargaining units. The  
                 term “he” or “his” as used in this MOA shall refer to all employees  
                 regardless of gender.

## ARTICLE 4 COMPENSATION PLAN

### Sec. 401 INCREASES:

#### A. General Salary Increases:

Effective October 31, 2021, the base pay/salary range of each classification covered by this MOA and the base pay/salary of each individual employed in any such classification will be increased by two and one-half percent (2.50%).

Effective October 30, 2022, the base pay/salary range of each classification covered by this MOA and the base pay/salary of each individual employed in any such classification will be increased by two percent (2.0%).

#### B. Market Adjustments:

Effective November 14, 2021, the base pay/salary range of each classification covered by this MOA and the base pay/salary of each individual employed in any such classification will be increased by one and a half percent (1.50%). Said increase shall be in recognition of the classifications' market position with other comparable jurisdictions.

Effective November 13, 2022, the base pay/salary range of each classification covered by this MOA and the base pay/salary of each individual employed in any such classification will be increased by one and a half percent (1.50%). Said increase shall be in recognition of the classifications' market position with other comparable jurisdictions.

### Sec. 402 MINIMUM QUALIFICATIONS:

The Attorney I classification requires a minimum of zero to twenty-three months of legal experience.

The Attorney II classification requires a minimum of two years of legal experience.

The Attorney III classification requires a minimum of four or more years of legal experience.

When an Attorney whose performance is satisfactory meets the minimum eligibility requirements for the classifications of Attorney II or III he shall be elevated to the applicable classification.

Sec. 403 SENIOR ATTORNEY STATUS: If the “at will” Sr. Attorney designation is revoked, then the compensation for the subject employee shall be the top of the Attorney III pay range and may, at the sole discretion of the Appointing Authority, be supplemented for a period of 13 bi-weeks by an amount equivalent to one-half the difference between the rate s/he last received as a Sr. Attorney and the top of the Attorney III range. The parties disagree as to the applicability of the decision in *Markov v Lipson, et al*, to retention of this Section 403 in this MOA. Both parties reserve the right to argue their respective positions in any dispute arising from any future application of this Section.

Sec. 404 COMPENSATION SCHEDULE: Except as otherwise provided herein, employees shall receive the Base Salary of the salary range assigned to the classification of the position in which they are employed, benefits and retirement in accordance with the pertinent conditions of employment enumerated in this MOA. Salaried employees shall be compensated under the provisions of "Biweekly Salary".

- A. Base Salary for all except "Y" rated employees is defined as the biweekly compensation within the salary range or flat rate of for the employees' "job code". "Base Salary" for "Y" rated employees is that described in Section 410.
- B. There shall be an additional step of the salary range which shall be 105% of the normally assigned range, which is reserved for those classifications, designated “Difficult to Recruit.” Advancements up to this step shall not be automatic. They shall, instead, be granted based upon a determination by the Director – Human Resources, subject to approval by the County Executive Officer, that a serious recruiting and/or retention problem exists for a classification(s), or that increases granted to subordinate "difficult to recruit" classifications has created serious compaction problems, and that any percentage increase up to and including five percent (5%) can be granted under this Section if it would assist the County in recruiting or retaining employees in that classification(s). Upon such determination and approval, any percent up to and including the approximate five percent (5%) increase(s) granted pursuant to the provisions of this Section shall be implemented as follows:
  - 1. Upon prior authorization by the Director – Human Resources, the initial salary placement for newly hired employees may be at any point within the salary range for the classification.

2. All present, regular, full time or part time employees assigned to positions in the affected classification(s), who have successfully completed one year or more of service at the top of the salary range for that classification(s) shall receive a salary increase in accordance with the provisions of Section 417 of this MOA.
3. All other regular, full time and part time employees assigned to positions in the affected classification(s), who have successfully completed less than one year of service at the top of the salary range for that classification may, upon recommendation of their department/agency head and approval by the Director – Human Resources, have their salary adjusted to an amount no less than the lowest salary received by a qualified candidate hired from an eligible list created as the result of an open competitive examination to fill a vacancy in that classification.
4. Subsequent merit increases for employees not compensated at the top of the salary range(s) for classifications affected by the provisions of this Section may be granted pursuant to Sections 417 through 420 of this MOA.

In the event the Director – Human Resources determines the circumstances that created the recruiting or retention problems for any or all classifications no longer exist, he shall advise the County Executive Officer of his findings. If the County Executive Officer concurs, he shall declare the provisions described above inoperative for such classification(s). At that time, the salary for any employee compensated at a rate above that to which he would otherwise have been entitled shall be "Y" rated and shall not be increased until the new salary for his classification exceeds the rate established for him pursuant to the provisions described above.

Sec. 405 REGULAR PAYDAY: Whenever compensation is fixed for any position, such compensation is the biweekly compensation to be paid to the person holding such position unless otherwise stated. Such biweekly compensation shall be paid to employees, as determined by the Auditor-Controller, on or about the Friday following the end of the biweekly payroll period.

Sec. 406 PAY ON TERMINATION: Upon certification of the Director – Human Resources that the employment of any employee is terminated as a probationary or disciplinary dismissal prior to the expiration of the biweekly

pay period, the compensation of such persons shall become due and shall be paid within five (5) working days of notification.

Upon certification of the Director-Human Resources that the employment of any employee is terminated, other than listed above, prior to the expiration of the biweekly pay period, the compensation of such persons shall become due and shall be paid on the pay day which falls within the next pay period.

Sec. 407 PAY FOR LESS THAN FULL-TIME SERVICES OF REGULAR EXEMPT EMPLOYEES: Employees who are exempt from the overtime provision of the FLSA are to be compensated on a salary basis only. In County service, an employee's FLSA status, and thus his method of compensation, is predetermined based on the job code in which the employee serves. The actual compensation for a less than full-time exempt employee is determined by the ratio of the agreed upon standard hours for the less than full-time function to the standard hours of 80 which are required for full-time employment. For example, a less than full-time exempt employee with standard hours established at 40 would be paid 50 percent of the salary of an equivalent full-time employee in the same job code. Once determined by the assigned standard hours, this is the salary the less than full-time exempt employee will be paid every bi-week regardless of hours worked or reported. Premium pay will also be paid to regular less than full-time employees on the same basis as full-time employees except that when premium pay is paid on a biweekly or monthly rate, that rate will be paid to less than full-time employees on a pro rata basis.

Care must be used when assigning the standard hours of a less than full-time exempt employee. The standard hours of an exempt employee, not the actual hours worked, determines not only compensation but also impacts benefits, leave accruals, service hours, and retirement credits. Changes to the standard hours of an exempt employee shall be made no more frequently than once every three months and then only with the prior approval of the Director-Human Resources. More frequent changes would be viewed as an attempt to compensate an exempt employee on an hourly basis in violation of the FLSA.

Sec. 408 PAYMENT FOR SERVICES RENDERED ON AN ANNUAL BASIS: Whenever the salary for any position is established as an annual rate, the employee appointed to that position will be paid on a biweekly basis a salary equal to one twenty-sixth of the annual salary.

Sec. 409 SALARY RANGE CHANGES: Whenever a higher salary range is assigned to a classification, an employee holding a position in such

classification shall have his salary increased by the percentage increase in the classification's salary range. The employee's probation hours needed and/or merit increase hours needed shall not change in such an adjustment. Whenever an additional step is added to the top of an assigned salary range, individuals at the top of the existing range for at least one year shall be assigned to the new step.

Whenever a salary range is assigned to a classification which previously was compensated on a flat rate, an employee shall either retain his salary immediately prior to the establishing of such salary range or receive the minimum of the salary range established for the classification, whichever is greater. Whenever the County Executive Officer furnishes reasonable proof that an employee, whose classification was previously compensated on a flat range, is deserving of a higher placement in the newly established salary range than the minimum of such range, the Board may authorize an adjustment to any point in the salary range assigned to the classification. The employee's probation hours needed and/or merit increase hours needed shall not be affected by such an adjustment.

Whenever a lower salary range is assigned to a classification, an employee holding a position in that class shall receive the same salary he was receiving on the day preceding the effective date of the new range, if such salary placement is within the newly established salary range. In all other instances, whenever a lower salary range is assigned to a classification, an employee holding a position in the class whose salary immediately preceding the effective date of the new range was in excess of the maximum of the new range, then such employee shall receive the maximum of the new range. The probation hours needed and/or merit increase hours needed of an employee affected by the establishment of lower salary ranges for his classification shall not be affected by such an adjustment.

Sec. 410     SALARY ON "Y" RATING: When an employee is "Y" rated, his Base Salary, immediately prior to the date of downward reclassification, is frozen and may not be increased until the maximum of the Base Salary range assigned his new classification exceeds the Base Salary he was earning immediately prior to establishment of the "Y" rate. The employee shall then be placed at the point in the range most closely representing approximately five percent (5%) increase in Base Salary and shall retain his probation hours needed and/or merit increase hours needed that were in effect immediately prior to the establishment of the "Y" rate.

Sec. 411     SALARY RATE ON TRANSFER: Whenever an employee is transferred or assigned to a position in a different classification having the same salary

range as his former position, he shall retain his salary rate and probation hours needed and/or merit increase hours needed.

The employee shall then be placed at the point in the range most closely representing approximately five percent (5%) increase in Base Salary and shall retain his probation hours needed and/or merit increase hours needed immediately prior to the establishment of the "Y" rate. Flexible benefit allowances shall be provided in accordance with the provisions of Section 418.

Sec. 412

ADDITIONAL COMPENSATION TO SUPERVISORS: A person, occupying a supervisory position, may have the Base Salary increased to a rate of five percent (5%) above the base salary rate (plus supervisory differential of the subordinate, if applicable) of any one of his subordinates provided that:

- A. Both his appointing authority and the County Executive Officer find he is exercising substantial supervision over the subject subordinate and that he is satisfactorily performing the full supervisory duties of the position; and,
- B. The organization is a permanent one approved by the County Executive Officer; and,
- C. Both the supervisor and the subordinate have been regularly appointed to full-time positions; and,
- D. The classifications of both the supervisor and subordinate's positions are appropriate to the organization and their duties.

Such increased compensation shall be effective on the first (1st) day of the pay period during which the finding called for in Subparagraph "A" above is made. This addition to Base Salary shall be effective only for the period necessary to maintain the Base Salary of the supervisor at a rate of five percent (5%) above that received by the subordinate.

When the conditions authorizing this increase cease to exist, then the Base Salary of the supervisor shall be adjusted to the Base Salary he would have attained notwithstanding the provisions of this Section. The effective date of said adjustment shall be the first (1st) day of the pay period following the action creating the changed condition.

Where the subordinate is receiving a "Y" rate, or is for any other reason paid more than the maximum of the salary range set for his classification, the supervisor's compensation shall be computed on the actual Base

Salary paid the subordinate. A change in the salary or status of the supervisor shall invoke the Merit Increase Section of this Agreement and said Sections shall only be applied to the base rate of the supervisor's salary.

Policies and procedures relating to probation hours needed and/or merit increase hours needed are not affected by the provisions of this Section.

Notwithstanding Section 1802 of the Ventura County Personnel Rules and Regulations (PR&Rs), Attorneys designated as "Senior" may serve as supervisors and be eligible for the compensation set forth in this section. Depending on assignment, and consistent with all other provisions of this Section, any attorney employed in any classification covered by this MoA may be eligible for the benefit provided by this Section. Further, for purposes of this section, the number of attorneys assigned/designated to perform supervisory duties (and thereby eligible for the benefit of this section) may be no greater than nine (9) in the office of the District Attorney, and two (2) in the office of the Public Defender. This section shall also supersede the limits set forth by Section 1803 of the PR&Rs.

Sec. 413 PRIORITY OF INCREASES: Whenever a general increase, a merit salary increase, a higher salary range or salary range placement, a promotional salary increase, or any combination thereof are effective on the same date, the salary to which an employee is entitled shall be fixed as follows: to the salary received by the employee on the preceding day shall first be added any general salary increase, then any higher salary range or salary range placement, then any merit increase, and then any promotional increase.

Sec. 414 SALARY ON DEMOTION OF A PROMOTIONAL PROBATIONARY EMPLOYEE: A promotional probationary employee demoted to the class he formerly occupied in good standing shall have the salary status, probation hours needed and/or merit increase hours needed he would have achieved if he had remained in the lower class throughout the period of his service in the higher class.

Sec. 415 SALARY ON PROBATIONARY DEMOTION: When an employee takes a probationary demotion to a lower class in which a probationary period has not previously been served, such employee shall be demoted to the entry level salary in the lower class and shall be required to serve a new probationary period.

Sec. 416 SALARY ON DEMOTION:

- A. Whenever an employee who has completed his probationary period in a higher class is then demoted to a position in a lower class for reasons other than unsatisfactory performance, or for functional disability, he shall receive the highest salary on the new range that does not exceed his rate of pay immediately prior to demotion and shall retain his merit increase hours needed.
- B. When an employee who has completed his probationary period in a higher class is then demoted, for disciplinary reasons, to a position in the lower class in which he did not previously hold status, he shall receive a salary five percent (5%) less than his salary immediately prior to demotion, or the highest salary on the new range, whichever produces the lower salary. An employee so demoted shall be required to serve a new probationary period.

Sec. 417 MERIT INCREASES WITHIN THE SALARY RANGE: Merit increases within a range shall not be automatic. They shall be based on merit and shall require the written approval of the appointing authority, containing the effective date therefore. A merit increase shall consist of an increase of approximately five percent (5%) within a range for the class unless the employee is less than five percent (5%) from the top of the range and in such a case, the increase shall be to the top of the salary range. Advancement from one classification to the next is done by way of satisfactory performance and meeting the qualifications for the next higher-level classification.

Sec. 418 CHANGE IN FLEXIBLE BENEFIT CATEGORY: Employees affected adversely by involuntary assignment or reclassification to a lower flexible benefit category for reasons other than unsatisfactory performance, shall have their credits frozen until such time as assigned credits exceed the frozen amount.

Sec. 419 TIME FOR MERIT ADVANCEMENTS: An Attorney newly appointed, reemployed or promoted to a classification specified in Section 402 or Senior Attorney position may qualify for:

- A. An initial merit advancement within the salary range upon completing 1,040 hours of compensable service in that class.
- B. Succeeding merit increases within the salary range upon completion of each additional 2,080 hours of compensable service in that class.

The period of service required to qualify for merit increases by regular less than full-time employees shall be the same as for regular full-time employees. Merit increases are not available for classifications assigned a flat salary rate.

- Sec. 420 MERIT REVIEW: At least one (1) pay period prior to an employee qualifying for a merit increase, the appointing authority shall notify the Director – Human Resources and the employee in writing of his decisions regarding approval or denial of a merit increase. In all cases, the recommendation of the appointing authority shall be based on the employee's performance.
- Sec. 421 DENIAL OF MERIT INCREASE: If, in the appointing authority's judgment, the employee's performance does not warrant a merit salary increase upon meeting the time requirements of Section 419, the department/agency head may deny the increase and must complete the County Performance Evaluation Rating Form. Any time prior to the employee's next scheduled merit increase, the employee may request a review of his merit increase by the appointing authority, or the appointing authority by his own initiative, may review the matter. If the appointing authority concurs with the requested review, or if the appointing authority independently initiates his own review, then the appointing authority shall reopen the matter by submitting another performance rating and recommendation. If an employee's merit increase is granted prior to completing 2,080 hours of compensable service after it was denied, that employee's next merit increase shall not be due until the employee has completed an additional 2,080 hours of compensable service from the (1st) first day of the period on which the increase was finally granted.
- Sec. 422 CORRECTING ERROR IN OVERLOOKING MERIT INCREASE: Upon discovery that an employee who would otherwise have been recommended for a merit increase failed to receive such increase as the result of an oversight or system error, the Auditor-Controller shall compensate the employee for the additional salary he should have received, dating from the first day of the pay period in which he would have satisfied the merit increase hours needed. The employee's current merit increase hours needed will be adjusted as necessary.
- Sec. 423 SALARY ON PROMOTION: Except as provided below, a regular employee who is promoted to a position in a class having a higher salary rate shall receive the entry level salary for the higher class or such higher amount as would constitute a salary increase of approximately five percent (5%), on the range over the salary received prior to promotion, whichever is greater.

A. Notwithstanding the provisions described above, a regular employee, who is promoted to a position in a class having a higher salary rate, may, upon recommendation of the appointing authority, have his initial salary established at any point of the salary range. Such rate must, however, be at least the entry rate for the higher class or such higher amount as would constitute a salary increase of approximately five percent (5%) on the range over the salary received prior to promotion, whichever is greater. A salary established as a result of this provision is subject to the following approvals:

1. Up to midpoint of the salary range - approval by the Director – Human Resources.
2. From the midpoint to the top of the salary range - approval by the County Executive Officer.

The advanced salary placement may be made when:

1. No qualified person can be recruited to fill a position at a minimum rate; or
2. The skills or experience of the regular employee warrant a higher salary placement.

Sec. 424 EFFECTIVE DATE OF PROMOTION: Whenever a person is promoted the effective date of his promotion shall always be the first (1<sup>st</sup>) Sunday of the pay period.

Sec. 425 SALARY ON TEMPORARY PROMOTION: An employee qualified for and assigned to a higher classification to fill a vacancy caused by sick leave or other approved leave of absence, or any other reasons stipulated by these articles, and who serves in said higher classification for ten (10) consecutive workdays, shall thereafter be paid according to the salary range of the class to which the employee has been temporarily promoted. The change in salary related to a promotion shall be effective the first (1<sup>st</sup>) Sunday of the pay period following such promotion. Prior approval by the Director – Human Resources is required.

Upon temporary promotion, an employee will receive either the minimum of the new salary range or an approximate increase of about five percent (5%) increase over his present salary, whichever is greater and the appropriate flexible benefit credit allowance. In no case shall such salary adjustment place the employee beyond the salary range of the position to which he has been temporarily promoted.

An employee so temporarily promoted shall receive this salary and flexible credit allowance benefits as long as he continues to serve in said higher classification and shall be entitled to receive increases within the range for the position as provided in these articles as though he had been appointed on the day he began to receive the salary designated for the position. The temporarily promoted employee shall not receive any other benefit assigned to the higher classification that he is not already receiving.

The ten (10) day waiting period shall apply each time an employee is assigned to a higher classification in this manner.

This provision excludes those classifications whose specific duties and responsibilities require supervision in the absence of an immediate

ARTICLE 5 PREMIUM PAY

Sec. 501 BILINGUAL PREMIUM PAY: Positions, which require the use of bilingual skills, shall be allocated for bilingual premium pay at the I, II, or III level. The allocation of positions among the respective levels shall be made by the Agency/Department Head, based upon criteria established by, and subject to approval by, the Director – Human Resources. The level of an employee's bilingual proficiency shall be determined by an examination administered by the Director – Human Resources. Employees assigned to such positions shall be eligible for bilingual premium pay at the level of their position or the level of their proficiency, whichever is less, subject to the conditions set forth herein.

The rates for the respective levels are:

<u>Bilingual Level</u>	<u>Premium Pay</u>
I	\$.65/hour
II	\$.80/hour
III	\$.90/hour

Employees in positions eligible to receive this premium pay shall receive the appropriate rate per hour compensated per biweekly pay period, not to exceed eight (80) compensated hours per pay period.

Such premium pay shall be in addition to their base pay. To be eligible to receive this premium pay, upon the recommendation of the Agency/Department Head and the Director – Human Resources, the County Executive Officer must designate that such payment will be made.

Sec. 502 NIGHT SHIFT DIFFERENTIAL: Except as otherwise provided herein, the night shift differential for employees of the County who are required to work a full shift between the hours of 2:00 p.m. and 9:30 a.m. shall be calculated at the rate of five percent (5%) of the Base Salary of said employee.

## ARTICLE 6 HEALTH INSURANCE

### Sec. 601 HEALTH INSURANCE:

- A. The County shall make available to employees a Cafeteria Plan qualified under Section 125 of the Internal Revenue Code, known as the Flexible Benefit Program which includes medical, vision and dental coverage.

The County shall contribute \$547.00 per biweekly pay period toward the Flexible Benefits Program for each employee, as previously approved by the Board of Supervisors. Effective October 31, 2021, the County shall contribute \$597.00 biweekly toward the Flexible Benefits Program for each employee.

No modifications or exceptions shall be made to the provisions of the Program except that pay reduction may also be allocated as specified in the Flexible Benefits Program document.

- B. **COMPENSABILITY OF COUNTY CONTRIBUTIONS:** If, as a result of the California Supreme Court's ruling in Alameda County Deputy Sheriff's Ass'n v. Alameda County Employees' Retirement Association (2020) 9 Cal. 5th 1032, the Ventura County Employees' Retirement Association (VCERA) determines that all or a part of the County's Flexible Benefits Program contributions under this Article will not be included in compensation earnable for the purposes of retirement benefit calculations for non-PEPRA VCERA members, the County and CJAAVC shall, at the request of either party, meet and confer to discuss the effects of that determination.

- Sec. 602 CONTINUATION OF HEALTH PLAN: It is the County's intent to fully comply with the provisions of both the Federal Family Medical Leave Act (FMLA) and the California Family Rights Act (CFRA). Notwithstanding the requirements of either act, should an employee exhaust sick leave and annual leave and go on leave of absence without pay, the County agrees to continue to make its contribution to the health insurance plans for up to ninety (90) days provided, however, that any such biweekly period covered pursuant to this provision shall be credited toward, and not considered to be in addition to, any requirement of the FMLA or CFRA. County contributions toward reimbursement accounts or cash options in the Flexible Benefit Program will not continue during such leave of absence. The number of hours of compensation upon which payment of this premium is based shall be the number of hours compensated in the biweekly pay period immediately preceding the placement of the employee on leave of absence without pay.

Sec. 603     RETIREE HEALTH INSURANCE: Employees retired from County service, subsequent to January 1, 1995, shall be eligible to purchase County provided health insurance at the same rates as active employees until the retiree is eligible for Medicare.

Sec. 604     AFFORDABLE CARE ACT (ACA) IMPLEMENTATION: During the term of this 2017-20 MOA, either party shall have the option to compel the other to meet with it to discuss the impact of the ACA on the provisions of Article 6; provided, however, that no change to the provisions of Article 6 shall occur without mutual agreement.

ARTICLE 7 OTHER COMPENSATION

Sec. 701 MILEAGE REIMBURSEMENT: Employees who are required to use their personal vehicle for County business shall be reimbursed at a rate equivalent to the standard mileage rate established by proclamation of the Internal Revenue Service.

Sec. 702 EXPENSE REIMBURSEMENT: See Administrative Manual.

Sec. 703 MEDICAL MAINTENANCE EXAMINATION: A medical examination program shall be provided for all CJAAVC represented employees and may be performed by Employee Health Services or by their personal physician, at the employee's option.

A. Medical maintenance examination, basic physical and medically necessary laboratory tests performed by Employee Health Services shall be covered. The content of the examination shall be determined by the Director of Human Resources in consultation with appropriate medical experts.

B. Costs of additional tests and/or treatment recommended or required as a result of symptoms identified during the examination shall be the responsibility of the employee. These additional costs however, may be covered under the employee's medical insurance plan.

C. Employees are eligible for an examination according to the schedule below:

Under 40 years	Once every 36 months
40-44 years	Once every 24 months
45 years and older	Once every 12 months.

D. When an employee has the examination provided by his or her personal physician, incurred expenses in excess of those covered by the employees medical plan, not to exceed \$350, shall be eligible for reimbursement.

Sec. 704 LIFE INSURANCE: The County shall provide a fully paid life insurance policy to all employees covered by this MOA in the amount of fifty thousand dollars (\$50,000). Additional group term life insurance may be purchased. The above-described life insurance is only in effect as long as County employment continues.

Sec. 705 PROFESSIONAL MEMBERSHIPS: Attorneys are entitled to County

payment of their California State Bar Association dues and to payment of up to a maximum of three hundred dollars (\$300) per fiscal year for membership fees to a job-related professional organization. Organizations eligible are in addition to those required by the agency/department head.

Sec. 706 EDUCATIONAL INCENTIVE PAY:

A. Employees shall receive an additional percentage of their base salary for educational attainments not specifically required by the position pursuant to the official class specification maintained by the Human Resources Department, as follows:

Associate's Degree or equivalent License or Certificate	+ 2.5%
Bachelor's Degree or equivalent License or Certificate	+ 3.5%
Graduate Degree or equivalent License or Certificate	+ 5.0%

B. Incentives shall be granted pursuant to this section only after submission of appropriate documentation to, and approval by, the Director-Human Resources.

Sec. 707 LONG-TERM DISABILITY PLAN: All full-time employees shall be provided long-term disability with the following basic provisions:

A. The long-term disability plan shall have a waiting period of thirty (30) calendar days before the benefits shall be extended to an employee. The benefits shall continue to a maximum of two (2) years for illness or five (5) years for injury. The maximum allowable benefit shall be sixty-six and two-thirds percent (66-2/3%) of monthly salary to an eight thousand dollars (\$8,000) monthly maximum benefit, subject to the terms and conditions of the long-term disability plan.

B. Employees shall use any remaining sick leave accruals in excess of three hundred and sixty (360) hours before becoming eligible for disability income protection benefits. However, sick leave and annual leave used during the waiting period are considered part of the thirty (30) days waiting period.

Sec. 708 GROSS-UP PROVISIONS: Any of the following benefits which subsequently become subject to taxation will be paid at 133% of the benefit income received by the employee as determined by the IRS.

This provision applies to the following benefits:

- Flexible Benefit Plan
- Textbook & Tuition Reimbursement Plan
- Medical Maintenance Examination Reimbursement Program
- Professional Memberships
- Retirement Pickup (consistent with Section 1901)
- 401(k) Deferred Compensation Program

Sec 709      SUPPLEMENTAL COMPENSATION: At the sole discretion of the Appointing Authority, an attorney may be designated to receive supplemental compensation at the rate of five percent (5%) of the employee's Base Salary in recognition of extraordinary effort, time commitment or performance. Such compensation is "at will", meaning it may be discontinued at any time without cause and without any pre-deprivation process at the sole discretion of the Appointing Authority. The supplemental compensation will automatically expire at the end of each calendar year, unless renewed in writing at the sole discretion of the Appointing Authority. Renewal or multiple renewals of the supplemental compensation does not, under any circumstances confer entitlement to continued renewal. Nothing in this section entitles any employee to a particular work assignment, and the supplemental compensation may be discontinued or not renewed whether or not an employee's work assignments, work hours or performance changes. The number of attorneys who may receive supplemental compensation at any given time may not exceed ten percent (10%) of the funded attorney allocations in the applicable office/department. In the event there are less than ten (10) such allocations, the office/department shall be allowed to pay the supplemental compensation to one attorney.

## ARTICLE 8 TEXTBOOK AND TUITION REIMBURSEMENT

- Sec. 801 PURPOSE: To provide a program whereby regular and probationary employees of the County are reimbursed for the costs of textbooks, tuition, registration, examination fees, and laboratory fees for occupationally related school courses, workshops, and seminars satisfactorily completed on the employee's own time.
- Sec. 802 ELIGIBLE EMPLOYEES: Regular, probationary, full-time and less than full-time employees (on a pro rata basis) are eligible to participate in this program.
- Sec. 803 COURSES ELIGIBLE: The following criteria will be used in determining eligibility for reimbursement.
- A. Courses must have a reasonable potential for resulting in more effective County service.
  - B. Job-related graduate course work is eligible for reimbursement.
  - C. Courses must be satisfactorily completed. At least a grade of "C" or its equivalent is required for reimbursement.
  - D. Job related seminars and workshops shall be eligible for reimbursement. The Departments shall have the authority to approve seminars and workshops for the use of Textbook and Tuition Reimbursement. Travel lodging and per diem will be eligible for reimbursement.
  - E. Courses must be offered by a school recognized by the State of California, the Department of Health, Education and Welfare, or the Veteran's Administration, unless otherwise provided in this Article.
  - F. Seminars and workshops directly job related are eligible if offered in conjunction with a recognized college, educational institution, professional organization (e.g. California District Attorneys Association [CDAA]), or County training facility. The course work must be recommended and approved by the department/agency head.
  - G. Self-study courses or those that prepare for licensure and are job related may be covered if approved by the Agency/Department Head and the Director – Human Resources.

- H. Job related examination fees when approved by the Agency/ Department Head.

Sec. 804 COURSES NOT ELIGIBLE FOR REIMBURSEMENT:

- A. Those, which duplicate in-service training.
- B. Those which duplicate training the employee has already received.

Sec. 805 TEXTBOOK AND TUITION REIMBURSEMENT:

- A. Tuition Reimbursement - The County shall, subject to reasonable budgetary control, and unless otherwise designated in this MOA, provide for one hundred percent (100%) reimbursement of tuition and/or those expenses allowed as per subsection 803-D for off-duty, job-related, recognized courses up to a maximum of two thousand dollars (\$2,000) per fiscal year in accordance with the provisions of this Article. Employees who incur covered expenses that exceed two thousand dollars (\$2,000) per fiscal year may submit a request for reimbursement of the remaining covered expenses for an additional two fiscal years in accordance with the limitations described herein. In no event shall expenses be reimbursed that are more than three years old. Reimbursement shall not exceed two thousand dollars (\$2,000) per fiscal year. Note: This carryover provision applies to degree-related college or university classes, not professional seminars and training.
- B. Advanced Reimbursement - Reimbursement may be made to employees prior to the beginning of the course. New employees, however, will not be reimbursed until they have completed six (6) months of County employment. If the course is not satisfactorily completed, the employee shall reimburse the County for all monies received. If an employee terminates prior to completion of the course, the monies must be reimbursed to the County.

Sec. 806 COSTS NOT COVERED: In terms of both time and money, the following costs are not covered by this program:

- A. Courses must generally be taken on the employee's own time, on compensatory time, vacation time, or administrative leave approved in advance by the department/agency head. Department heads are encouraged to adjust schedules whenever possible to allow employees to attend classes and make up any time lost. The intent of this section is to not provide for time off with pay.

- B. Neither transportation nor mileage reimbursement are provided for by this program.
- C. Parking fees, meals, and other costs not specifically covered in this program will not be paid by the County.
- D. Costs for which reimbursement is received from other sources.
- E. Except as provided in Section 803 D above, conventions and conferences not qualifying as a course are not covered by this reimbursement program.

Sec. 807 TEXTBOOK AND TUITION PROGRAM ADMINISTRATION: The department/agency head is responsible for the administration of this program. Applications for reimbursement should be received by the department/agency head prior to the first class session. An official record of grades, certificate of satisfactory completion, and receipts must be received by the department/agency head within ninety (90) days after the last class session. New employees will not be reimbursed until they have completed 1,040 hours of compensable service with the County. The Director – Human Resources may develop such forms and additional procedures, which he deems necessary to accomplish the intent of this textbook and tuition program. Applications for department/agency heads shall be submitted to the County Executive Officer for approval.

Sec. 808 PROFESSIONAL DEVELOPMENT REIMBURSEMENT: The County shall provide upon approval of the Agency Head to each attorney represented by CJAAVC an annual reimbursement not to exceed one thousand dollars (\$1,000) for the purpose of enabling him to purchase materials that will assist in the performance of job duties. Materials may include but are not limited to, Codes, Jury Instructions, Reference Works, related software and other professional publications.

## ARTICLE 9 HOURS OF WORK

- Sec. 901 NORMAL 80 HOUR BIWEEKLY WORK PERIOD: Except as may be otherwise provided, the official biweekly work period of the County of Ventura shall be ten (10) working days of eight (8) hours each. It is the duty of each department/agency head to arrange the work of his department or agency so that each regular employee therein shall work no more than ten (10) days in each biweekly period, except that a department/agency head may require any employee in his department to temporarily perform service in excess of ten (10) days per biweekly period, when public necessity or convenience so requires. The provisions of this Article are intended to define the normal work period and do not guarantee a minimum number of hours of work. The County retains its right to relieve employees from duty because of lack of work or for other legitimate reasons.
- Sec. 902 OTHER ALLOWABLE WORK PERIODS: A department/agency head may, following approval of the County Executive Officer, assign an employee(s) of his department or agency to any other schedule which aids the Agency's ability to serve the public if such schedule is not a violation of State or Federal Law or Regulation. In the alternative, a department/agency head may, with the employee's consent, assign an employee or employees to any other schedule which aids its ability to serve the public if such schedule is not a violation of State or Federal Law or Regulation.

## ARTICLE 10 ADMINISTRATIVE LEAVE

- Sec. 1001 PURPOSE: To provide for granting time off with pay for employees who are not eligible to be compensated for overtime.
- Sec. 1002 ELIGIBLE EMPLOYEES: Any employee whose position is exempted by the Fair Labor Standards Act (FLSA) from accruing and being compensated for overtime is eligible for administrative leave.
- Sec. 1003 GRANTING OF ADMINISTRATIVE LEAVE: Employees shall be granted paid administrative leave upon approval of their supervisor.
- Sec. 1004 PAYMENT FOR OVERTIME WORKED: Nothing herein shall prevent the payment of straight time compensation to employees eligible for administrative leave in times of stress or unusual workload situations. Such compensation shall require the authorization of the Board of Supervisors.
- Sec. 1005 USE, ACCRUALS, AND RECORD KEEPING: Employees exempt from overtime shall not accrue or record hours worked beyond the regular workday or biweekly work period. Employees exempt from overtime shall be eligible to receive administrative leave for personal business in addition to vacation, sick leave, annual leave, and holidays. Administrative leave is not an accrual and has no cash value. It is not earned, but is allowed exempt employees, subject to supervisory scheduling.

## ARTICLE 11 HOLIDAYS

Sec. 1101 HOLIDAY POLICY: Paid holidays shall be authorized only for regular full-time and less than full-time, provisional employees, and enrollees in training and work programs. To be entitled to pay for such paid holidays, an employee must be entitled to compensation for his regularly scheduled shift, both the day before and after such paid holiday.

Sec. 1102 PAID ASSIGNED HOLIDAYS:

1. New Year's Day, January 1;
2. Martin Luther King Day, the third Monday in January;
3. President's Day, the third Monday in February;
4. Memorial Day, the last Monday in May;
5. Independence Day, July 4;
6. Labor Day, the first Monday in September;
7. Veterans' Day, November 11<sup>th</sup>
8. Thanksgiving Day, the fourth Thursday in November;
9. Day After Thanksgiving,
10. Christmas Day, December 25;
11. And every day appointed by the President of the United States or Governor of the State for public fast, thanksgiving, or holiday, which specifically authorized by the Board of Supervisors.

Sec. 1103 OBSERVANCE: If a paid, assigned holiday falls on a Saturday, the preceding Friday shall be the holiday in lieu of the day observed. If a paid, assigned holiday falls on a Sunday, the following Monday shall be the holiday in lieu of the day observed. For those employees regularly scheduled to work Saturday and/or Sunday, the paid assigned holiday shall be the day on which the holiday actually occurs.

Sec. 1104 FLOATING HOLIDAY:

- A. In addition to the holidays listed in Section 1102, effective January 1, 2005 and January 1st of each year thereafter, each regular, full time employee covered under the terms of this MOA shall be granted floating holiday leave hours equivalent to twice the employee's standard daily work schedule. For employees on a 9/80 work schedule, such holiday leave shall be equivalent to the work schedule for the day of the holiday. If an employee works a variable schedule, then hours shall be granted based on an average daily work schedule. Hours granted under this section shall in no case exceed 24 hours. Such leave with pay may be taken, subject to management approval, no later than March 1 of the year following the year in which it was granted. Leave granted pursuant to this provision shall have no cash value beyond that

provided herein and shall be lost without benefit of compensation if not taken by March 1 as described above.

For historical purposes only, the leave described above was granted in lieu of the four (4) hours of leave previously granted on Christmas or New Year's Eve.

- B. Regular, less than full-time employees shall be granted the leave provided under (A) above on a pro rata basis.
- C. The purpose of granting annual floating holiday leave hours is to provide employees with two days off with pay. Therefore, an employee's annual floating holiday leave hours shall be utilized in their entirety to cover two single days of absences. In no instance will an employee be allowed to split his annual allowance of floating holiday leave hours over multiple days.

Sec. 1105 HOLIDAY PAY: If a holiday falls within a biweekly pay period in which an employee is compensated, then such employee shall be given leave with pay for each holiday occurring within that biweekly pay period. Such pay shall be equivalent to that paid for the hours in the employees standard daily work schedule. For employees on a 9/80 work schedule, such holiday pay shall be equivalent to the work schedule for the day of the holiday. If an employee works a variable schedule, then hours shall be granted based on an average daily work schedule. Hours granted under this section shall in no case exceed 12 hours.

Sec. 1106 WORK ON HOLIDAYS: Any regular, full-time or less than full-time employee assigned an eighty (80) hour biweekly work period who is required to work on a paid assigned holiday shall receive credit for the time actually worked. Any such employee whose regularly scheduled day off falls on a paid, assigned holiday, shall be credited with annual leave hours equivalent to the number of hours usually scheduled for on that day but credit shall in no case exceed 12 hours.

ARTICLE 12 PAID LEAVE

Sec. 1201 PURPOSE: To provide a leave policy, which prescribes the manner in which leave is accrued and utilized. Leave is authorized for only regular fulltime, provisional, and less than full-time employees.

Sec. 1202 ANNUAL LEAVE ACCRUAL: Annual leave is earned on a biweekly basis commencing with the employee's hire date of his/her current period of County employment according to the following schedule. Accruals are based on a full-time (80-hour) schedule. An employee who's Standard Hours is less than 80 will have his pay period leave accrual credit reduced on a pro-rata basis. Full time employees covered by this MOA earn annual leave as follows:

Less than 10,400 hours of service	8.00 hours
More than 10,400 hours of service	11.08 hours

Sec. 1203 ANNUAL USAGE: During the first twenty-six (26) pay periods of employment, employees shall use no less than forty (40) hours of annual leave; and thereafter employees shall use no less than eighty (80) hours of annual leave in each succeeding twenty-six (26) pay periods of employment. Under no circumstances shall any annual leave benefits be forfeited. Nor shall any employee be ordered to use earned annual leave benefits at a time not desired by him. While on annual leave or sick leave an employee shall be compensated and receive benefits at the same rate as if he were on the job. In the event of an extreme workload, which severely decreases the employee's ability to meet these requirements, this section may be modified, based on Department Head approval, by reducing the amount of annual leave required to be used.

Sec. 1204 MAXIMUM ACCRUAL: Effective July 2, 2006, the maximum number of hours that an employee can accumulate shall be 880 hours. Notwithstanding the above, any employee with more than 880 hours of accumulated leave as of the effective date of this Agreement may maintain up to 1040 hours of accumulated annual leave until July 1, 2007, at which time the 880 hour cap shall apply. An employee shall not be entitled to earn and accrue any annual leave hours in excess of the maximum limitations described above, except when within six months prior to reaching the cap a reasonable request to use annual leave benefits has been denied, in which case the employee's leave accrual may exceed the cap, by the number of hours denied for a period of eighteen (18) months.

Sec. 1205 ANNUAL LEAVE REDEMPTION:

- A. Employees hired and covered by this Agreement before May 22, 2005: Upon using a minimum of eighty (80) hours of annual leave during the past twelve (12) months, an employee may request to receive pay in lieu of up to one hundred sixty (160) hours, two hundred (200) hours for those with 10,400 hours of continuous County service, per calendar year of annual leave accrual at total compensation as prescribed in Section 1211 of this Agreement. A request for redemption shall not be made more than twice per calendar year and the total amount redeemed in a calendar year shall not in total exceed the aforementioned maximums respectively.
- B. Employees hired on or after May 22, 2005: Upon using a minimum of eighty (80) hours of annual leave during the past twelve (12) months, an employee may request to receive pay in lieu of up to one hundred sixty (160) hours per calendar year of annual leave accrual at the level of compensation prescribed in Section 1210 of this Agreement. A request for redemption shall not be made more than twice per calendar year and the total amount redeemed in a calendar year shall not in total exceed the aforementioned maximum.
- C. Employees hired on or after commencement of this 2014-2017 MOA: Upon using a minimum of eighty (80) hours of annual leave in the prior twelve (12) months, an employee may request to receive pay in lieu of up to one hundred (100) hours of annual leave accrual at the current base rate of pay. A request for redemption shall not be made more than twice per twelve (12) month period immediately preceding the request. The total of annual leave accrual amount redeemed in a twelve (12) month period shall not, in total, exceed the aforementioned maximum. This pay is to be calculated on only the bi-weekly base, "regular" salary of the employee, exclusive of any additional/extra bonus, premium, incentive, or other element of compensation/remuneration.

Sec. 1206 ADVANCED ANNUAL LEAVE CREDIT: New regular, full time employees shall receive advanced annual leave credits equaling seven (7) biweekly pay periods of annual leave accrual as of their date of hire. Because of this advance, these employees will not earn or accrue annual leave benefits during the first seven (7) biweekly pay periods of employment. If an employee to whom annual leave credits have been advanced should separate from employment prior to having completed seven (7) biweekly pay periods of service, those annual leave benefits then credited to his

account which exceed what would have been earned during the employee's actual service but for the advance shall not be subject to the payment pursuant to Section 1209; and the employee's final pay check shall be reduced by the value of any hours previously used that exceeded those that would have been earned but for the advance.

Sec. 1207 PRIOR SICK LEAVE ACCRUALS:

- A. Current sick leave balances shall be frozen as of August 7, 1977. Sick leave may be used until the sick leave balance is exhausted. Payment for unused sick leave will be made.

Upon retirement or termination, except for cause, after  
20,800 hours of continuous County service - 25%

- B. Employees requesting time off for illness or injury may use accumulated sick leave prior to using annual leave.
- C. Remaining sick leave credits shall be allowed to an employee for absence from duty because of serious illness or injury of members of his immediate family.
- D. Payments made under the provisions of this Section shall be calculated at the salary rate in effect at the time the payment is made according to the provisions of Section 1210.

Sec. 1208 ANNUAL LEAVE USAGE: Annual leave may be utilized to restore pay otherwise lost due to absence from work for personal reasons or illness.

- A. Each department/agency head shall be responsible for scheduling the annual leave periods of his employees in such a manner as to achieve the most efficient functioning of the department/agency and of the County service. The appointing authority shall determine when annual leave will be taken.
- B. In addition, when unscheduled usage of annual leave occurs, verification of reason for absence may be required from the employee. Any person absent from work shall notify his department/agency head on the first (1st) day of such leave and as often thereafter as directed by this agency/department head.
- C. Any employee absent for a period of five (5) consecutive workdays due to illness or accident may, at the discretion of his appointing authority or the Director – Human Resources, be required to take a physical examination before returning to active duty. Such physical

examination shall be performed by a physician designated by the Director – Human Resources and shall be at County expense.

D. Section 1208(B) and 1208(C) shall also apply to use of existing sick leave accruals.

Sec. 1209 PAYOFF UPON SEPARATION: Any regular employee who terminates or is terminated shall be paid at the same rate as the last day worked or last day of approved leave with pay, according to the provisions of Section 1210.

Sec. 1210 RATE OF PAY FOR ANNUAL LEAVE REDEMPTION: Annual leave redemption shall be calculated at the rate of compensation an employee would have received if they had been on the job. In addition to Base Salary this includes:

Article 5 - Section 501

Article 6 - Section 601

Article 7 - Section 706

Article 12 - Section 1202

Article 19 - Sections 1901(1) and (2), and 1902

Sec. 1211 ANNUAL LEAVE ACCRUAL WHILE ON TEMPORARY DISABILITY: An employee who is entitled to temporary disability indemnity under Division 4 or Division 4.5 of the Labor Code shall accrue annual leave during the period he receives temporary disability indemnity.

Sec. 1212 RETENTION OF EXCESS ACCRUALS:

A. Employees covered by this MOA who, as the result of a change in classification, are included in a bargaining unit represented by a recognized employee organization pursuant to Article 20 of the Ventura County Personnel Rules and Regulations, and who have accrued annual leave hours in excess of the annual leave/vacation accrual maximums provided under the appropriate collective bargaining agreement, shall be permitted to maintain the number of hours equal to those at the time of the change in status for a maximum period of five (5) years from the date on which the change occurred. If the employee's new class is eligible for vacation and sick leave, his annual leave accrued hours shall become vacation accrued hours and the employee shall accrue additional vacation hours at the rate specified for years of service in the collective bargaining agreement. Sick leave shall accrue from a zero balance, or shall be added to any existing prior sick leave balance.

- B. Employees who, as the result of administrative error, have incorrect annual leave or vacation accrual rates which are subsequently adjusted and whose maximum accrued hours are then in excess of those provided under the applicable Memorandum or Board of Supervisors' Resolution, shall be entitled to maintain such accruals pursuant to the provisions of (A), above.

## ARTICLE 13 INDUSTRIAL LEAVE

Sec. 1301 PURPOSE: To provide for a means of compensating employees while on industrial leave.

Sec. 1302 APPLICATION FOR INDUSTRIAL LEAVE: Any employee absent from work due to illness or injury arising out of and in the course of employment may receive full compensation up to the first twenty-four (24) working hours of such absence provided that formal application for such leave with pay is made through the employee's appointing authority and approved by the CEO – Risk Management.

Sec. 1303 BASIS FOR GRANTING INDUSTRIAL LEAVE: Paid industrial leave shall be approved if:

- A. The accident or illness was not due to the employee's negligence; and,
- B. The absence from work is substantiated by a licensed physician's statement certifying that the nature of the illness or injury is sufficiently severe to require the employee to be absent from his duties during a rehabilitation period.

If the above conditions are met, such individual shall be paid for twenty-four (24) working hours following such accident or illness. Payment under this provision shall not be cumulative with any benefit, which said employee may receive under the Labor Code of the State of California awarded as the result of the same injury.

Sec. 1304 FULL PAYMENT FOR FIRST WEEK OF DISABILITY – HOSPITALIZATION: If hospitalization of the employee is required from the first (1st) day of the accident or illness, paid industrial leave may be approved in the amount required to supplement the temporary disability compensation so that the employee receives an amount equal to his full, regular salary for the first (1st) week of disability if the conditions in Section 1303 are met.

Sec. 1305 SUPPLEMENT PAID INDUSTRIAL LEAVE: If the employee becomes eligible for payment under the Labor Code of the State of California, either through hospitalization or length of disability, for benefits as described above, paid industrial leave may be approved in the amount required to supplement the temporary disability compensation so that the employee receives an amount equal to his full, regular salary for the first twenty-four (24) working hours of disability if the conditions in Section 1303 are met. In no event shall benefits under this Section be combined with benefits

under the Labor Code of the State of California so as to provide payments in excess of an employee's base salary.

- Sec. 1306 USE OF OTHER LEAVE: If the request for paid industrial leave is denied, the employee may elect to use accumulated annual leave to receive full compensation for the initial twenty-four (24) working hours following the accident or illness.
- Sec. 1307 FULL SALARY: Upon receipt of temporary disability indemnity under Division 4 or Division 4.5 of the Labor Code, the employee may elect to take as much of his accumulated sick leave/annual leave or accumulated vacation so as when added to his temporary disability indemnity, it will result in payment to him of his full salary.
- Sec. 1308 EMPLOYMENT STATUS WHILE RECEIVING TEMPORARY DISABILITY INDEMNITY: An employee who has exhausted his industrial leave with pay as provided in Section 1303 and who is entitled to receive temporary disability under Division 4 or Division 4.5 of the Labor Code shall be deemed to be on temporary disability leave of absence without pay. This temporary disability leave of absence shall terminate when such employee returns to work or when such employee is no longer entitled to receive temporary disability indemnity under Division 4 or Division 4.5 of the Labor Code.
- Sec. 1309 ANNUAL LEAVE ACCRUAL WHILE ON TEMPORARY DISABILITY: An employee who is on temporary disability leave of absence as provided in Section 1308 shall be entitled to accrue the same annual leave credits he would have normally accrued had he not been placed on temporary disability leave of absence without pay.
- Sec. 1310 HOLIDAY ACCRUAL WHILE DISABLED: An employee who is on temporary disability leave of absence as provided in Section 1308 shall be entitled to accrue the same holiday credits he would have normally accrued had he not been placed on temporary disability leave of absence without pay.
- Sec. 1311 HEALTH PLAN CONTRIBUTION: For employees on temporary disability leave of absence without pay as provided in Section 1308, the County shall continue to make its contribution to the health plan premium as long as said employee remains on temporary disability leave of absence without pay.
- Sec. 1312 BENEFITS WHILE ON TEMPORARY DISABILITY LEAVE OF ABSENCE WITHOUT PAY: Except as expressly provided in this Article or in the Labor Code of the State of California, employees on temporary disability

leave of absence without pay shall not accrue or be eligible for any compensation or benefits while on such leave of absence.

Sec. 1313 RELATIONSHIP TO LABOR CODE: Payment of salary during injury as set forth in this Section shall be subject to the provisions of the Labor Code.

## ARTICLE 14 LEAVES OF ABSENCE

- Sec. 1401 LEAVES OF ABSENCE - GENERAL POLICY: Leaves of absence from regular duties without pay for such purposes as recovery from illness or injury or to restore health, maternity, travel, education, training, assisting other public jurisdictions, or occupying a position in the exempt service, may be granted by the appointing authority not to exceed one (1) year, when such leave is in the best interests of the County. Additional leave for the same purposes may be granted by the County Executive Officer with the concurrence of the appointing authority. This Section shall not limit military leave of absence rights as provided in the California Military and Veterans Code or as provided in other statutes.
- Sec. 1402 NO LOSS OF RIGHTS OR BREAKS IN SERVICE: Employees on authorized leaves of absence shall not lose any rights accrued at the time the leave is granted and such authorized leave of absence shall not be deemed a break in County service.
- Sec. 1403 EARLY RETURN FROM LEAVES OF ABSENCE: An employee absent on authorized leave may return to work prior to expiration of the period of authorized leave upon receiving permission thereto from the appointing authority.
- Sec. 1404 BEREAVEMENT LEAVE: Any regular employee may be allowed to be absent from duty for up to three (3) working days without loss of pay because of the death of a member of his immediate family. When travel to distant locations or other circumstances requires absence in excess of three (3) consecutive working days, the appointing authority may allow the use of accrued annual leave, or up to two (2) days of accrued sick leave to supplement the three (3) working days provided in this Section. For the purpose of this Section, "immediate family" shall mean the current husband, wife, parent, stepparent, brother, stepbrother, sister, stepsister, child, stepchild, grandchild, grandparent, mother-in-law, father-in-law, brother-in-law, or sister-in-law of an employee.
- Sec. 1405 MATERNITY LEAVE: An employee may work the entire time of her pregnancy provided she is able to meet the demands of her position. This determination may be made by the employee and the employee's physician, or, if the appointing authority requests, the determination may be made by the County's physician in consultation with the employee's physician and the employee. The determination as to when an employee is to begin maternity leave shall be made on the basis of the following:

- A. The employee's physician, in consultation with the employee, certifies that she should discontinue working because of pregnancy; or
- B. The County physician, in consultation with the employee's physician and employee, determines the continued employment causes unreasonable risks of liability to the County; or,
- C. The employee is unable to satisfactorily perform her job duties.

Sec. 1406 LENGTH OF MATERNITY LEAVE: A maternity leave of absence without pay may be granted by the appointing authority in accordance with the minimum provided under the law. Additional leave, up to a total combined maximum of one year, may be granted by the appointing authority.

Sec. 1407 PARENTHOOD LEAVE: Upon approval by the department/ agency head, an employee may be granted a Parenthood Leave without pay of up to six (6) months in connection with the legal adoption of a child provided the employee meets the following conditions:

- A. The requested leave is within six (6) months after the expected date of placement of the adopted child.
- B. Sufficient documentation of adoption is submitted with the request for leave.
- C. All accrued annual leave time has been applied toward the absence.

## ARTICLE 15 LESS THAN FULL TIME EMPLOYEES

Sec. 1501 Benefits for employees designated as less than full time who regularly work less than eighty (80) hours per biweekly pay period and who work less than one thousand six hundred and sixty-four (1,664) hours per calendar year shall be limited to those specifically provided in this MOA. Such benefits shall accrue on a pro rata basis but shall, in no case, accrue based upon hours worked in excess of eighty (80) in a biweekly pay period. This section shall not apply to employees involuntarily placed on a less than full time schedule.

## ARTICLE 16 PROBATIONARY PERIOD

### Sec. 1601 LENGTH OF PROBATIONARY PERIOD:

- A. The probationary period for employees serving their initial County service probationary period in an Attorney series classification, as defined under section 301 of this agreement, shall be two thousand and eighty (2,080) compensable hours exclusive of overtime. If Federal, State, or local law requires a longer probationary period, such law shall prevail.
- B. The probationary period for anyone promoted or reinstated to an Attorney series classification, as defined under section 301 of this agreement, shall be one thousand and forty (1,040) compensable hours exclusive of overtime. If Federal, State or local law requires a longer probationary period, such law shall prevail.

### Sec. 1602 EMPLOYEES WHO MUST SERVE PROBATIONARY PERIODS: The following employees shall serve probationary periods:

- 1. Newly hired employees.
- 2. Employees who are promoted.
- 3. Persons appointed from reemployment or classification reinstatement eligible lists. However, persons reemployed following layoff or reinstated to a formerly held classification following a reduction in force who are so reemployed or reinstated within ninety (90) calendar days of such layoff or demotion and who are reemployed or reinstated with the agency/department in which they were employed immediately prior to demotion or layoff shall not serve a new probationary period.
- 4. Persons appointed from County service reinstatement eligible lists.
- 5. Interdepartmental transfers who are on probation (Section 2004).

Prior service in an extra help or provisional status shall not be considered part of the probationary period. Prior service in an intermittent status shall be considered part of the probationary period.

Prior service in a training/work program shall be considered part of the probationary period only if such service was performed within the same classification and within the same department/agency in which such employee is employed.

- Sec. 1603 EXTENSION OF PROBATION PERIOD: Employees serving a probationary period may request and the agency/department head may authorize, or the agency/department head of his own initiative may authorize, an extension of the probationary period of up to 1,040 hours of compensable service in 80-hour increments where insufficient training, marginal performance, and other related factors warrant such extension. The Department head shall notify the Director – Human Resources and the employee of any extension and the reasons therefore.
- Sec. 1604 PROBATIONARY PERIOD REVIEW: Prior to the conclusion of a probationary period, the appointing authority has the responsibility of reviewing the conduct, performance, responsibility, and integrity of each employee and determining whether the employee is fully qualified for regular status. Performance evaluation reports for probationary employees shall be submitted to the Director – Human Resources three (3) months from the date of appointment and at least ten (10) days before the end of the probationary period. The Director – Human Resources shall notify the appointing authority immediately in writing of any misrepresentation of fact or false statement made by a probationary employee relating to that employee's obtaining employment with the County.
- Sec. 1605 RETURN TO PREVIOUS POSITION: A promoted employee who is dismissed during his probationary period or an employee promoted to a position exempt from Civil Service who is dismissed, shall return to the position in which he held regular status, if vacant, or any other vacant position in his former classification in the department/agency. If no such vacancy exists, every reasonable attempt will be made by the appointing authority to retain the employee in an underfill capacity. Only if there is no vacancy and the appointing authority is unable to make reasonable accommodation, the employee shall be placed on a leave of absence without pay not to exceed one (1) year and shall be granted the first position that becomes available in his former classification. The above provisions shall not apply if the cause for dismissal warrants dismissal from County service, the employee may request that CJAAVC submit the matter to arbitration pursuant to the provisions of Article 28.

ARTICLE 17 PERFORMANCE REVIEWS

Sec. 1701 ADMINISTRATION OF EVALUATION PROGRAM: Performance evaluation reports shall be prepared, discussed with each employee, and submitted to the Director – Human Resources according to the following schedule. Performance ratings and evaluations for appointive department/agency heads shall be made by the County Executive Officer. One (1) copy of each fully completed and signed report shall be given to the employee. The Director – Human Resources may develop such forms and additional procedures as deemed necessary to accomplish the intent of this program.

Probationary Evaluations	In accordance with the schedule detailed in Section 1604.
Annual Performance Evaluations	Upon completing 3,120 hours of service after hire or promotion, and after completing every 2,080 hours of service thereafter.

Sec. 1702 NATURE OF PERFORMANCE EVALUATIONS: Performance evaluations shall be used to objectively evaluate the performance of the employee during the last performance evaluation period. Performance evaluations shall also be utilized to establish employment goals for the next performance evaluation period and to develop criteria by which to measure the attainment of those goals. Space shall be provided on the Performance Evaluation Form for the employee to sign, signifying that he has read the supervisor's comments. Space will also be provided so that employees may give related comments relative to the performance evaluation. The opportunity to sign and comment shall be provided prior to the time that the evaluation form is forwarded to the division/department/agency head or to the Director – Human Resources. If inadequate space is available on the performance evaluation form, an attachment may be added by the employee.

The content of performance evaluations shall be limited to incidents and information that occurred during the relevant one year (2, 080 hours of service) of evaluation. Performance issues or incidents documented in prior evaluations may be referenced when relevant to similar performance issues occurring within the current evaluation period.

Sec. 1703 CONFIDENTIALITY OF PERFORMANCE EVALUATIONS: Performance evaluation reports shall be confidential and shall be made available as

required to the employee, appointing authority, Director – Human Resources, and the Civil Service Commission.

## ARTICLE 18 PERSONNEL FILE

- Sec. 1801 EMPLOYEE ACKNOWLEDGEMENT OF MATERIAL PLACED IN PERSONNEL FILE: No material relating to performance evaluation, salary action, or disciplinary action shall be placed in the personnel file of an employee without the employee first being given an opportunity to read such material. The employee shall acknowledge that he has read such material by affixing his signature on the material to be filed with the understanding that although such signature indicates acknowledgement, it does not necessarily indicate agreement. If the employee refuses to sign the material, it shall be placed in his personnel file with an appropriate notation by the person filing it.
- Sec. 1802 FULL RIGHT OF INSPECTION OF EMPLOYEE PERSONNEL FILE: With the exception of confidential items such as reference letters and oral examination rating sheets, an employee shall have the right to inspect the contents of his personnel file.

ARTICLE 19 ADDITIONAL EMPLOYEE BENEFITS

Sec. 1901 1. EMPLOYER PAID PORTION OF EMPLOYEE MANDATED RETIREMENT CONTRIBUTIONS:

- A. Represented employees shall contribute as retirement contributions an amount equal to one-half of the actuarially-determined normal cost of the applicable retirement formula. Any required amounts in excess of the required member contribution shall be contributed consistent with the cost-sharing provisions set forth in Government Code 31631.5. Future increases or decreases in actuarially-determined normal retirement costs will be split equally between the employee and the County.
- B. Pursuant to Section 414(h)(2) of the Internal Revenue Code, the County shall declare that it is “picking up” the entire required member contribution so as to cause the taxable income of each represented employee to be reduced by the amount of the “pick up.” Therefore, for taxation purposes, this “pick up” shall not be regarded as ordinary income in accordance with Section 414(h) of the United States Internal Revenue Code.

2. DEFERRED COMPENSATION: For employees who participate in the County sponsored 401(k) deferred compensation plan, the County will match a part of employee’s contribution, on a pay period basis, according to the following schedule:

<u>Employee Contribution</u>	<u>County Match</u>
1%	1.00%
2%	1.50%
3%	1.75%
4%	2.00%
5%	2.50%
6% or more	3.00%

Only employees appropriately enrolled in a County sponsored plan shall be entitled to benefits under this Section, subject to the following conditions:

- (a) The employee’s individual contributions, and the total combined employer-employee contributions, shall not exceed legally established limits.

- (b) Should an employee reach his individual contribution limit before the end of the calendar year, the County shall nonetheless continue to contribute a 3% "County Match" to the employee's account for the remainder of the calendar year, provided that the employee remains employed by the County.
- (c) Should entitlement to County Match contributions be precluded by operation of the limit on total combined employer-employee contributions, the amount of the County Match lost shall be paid to the employee in cash in addition to Base Salary.
- (d) County contribution to the deferred compensation plans provided for in Section 1901(3) shall not qualify as any part of the employee's contribution specified in this Section.

This Section, as amended, is intended to clarify the County's existing 401(k) program.

- 3. In determining the amount of contribution to the 401(k) plan under this Section, the following shall be considered in addition to Base Salary:

Article 5, Section 501  
 Article 7, Section 706  
 Article 19, Section 1901(1) including the employer contribution (subject to Section 1901-1-GA)

- 4. Any employee covered by this Agreement with twelve (12) or fewer years of service with the County has the option to receive the amount set forth below as reimbursement for the payment of student loans in lieu of participation in the County of Ventura's Deferred Compensation Program, as described above. This alternative requires proof of payment by the employee to his/her Student Loan Lender within the 12 months preceding the request for reimbursement. The student loan payment reimbursement is taxable. This reimbursement shall be paid on a quarterly basis. The procedures applicable to this program will be developed by June 2007 for implementation in July 2007.

The quarterly reimbursement amount shall be as follows:

Attorney I	\$605.00
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Attorney II	\$785.00
Attorney III	\$990.00
Sr. Attorney	\$1230.00

The applicable amount shall be based upon the classification occupied by the employee during the majority of the applicable quarter.

- Sec. 1902 SERVING AS WITNESS: No deductions shall be made from the salary of an employee for an absence from work when subpoenaed to appear in court as a witness, other than as a litigant. Mileage and other actual expense reimbursement received as a result of service as a witness may be retained by the employee. Any fee or compensation for the service itself must be returned to the County for any days of absence for which the employee receives salary as for a day worked, except that if such service occurred during the employee's vacation or other authorized leave of absence, then the employee may retain the fee or compensation paid for such service.
  
- Sec. 1903 JURY SERVICE: No deduction shall be made from the salary of an employee absent from work when required to appear in court as a juror; nor is it necessary to return the daily compensation and issued to County employees for serving as a juror. When possible to do so, employees shall provide advance notification of any anticipated absence to their immediate supervisor.
  
- Sec. 1904 DRUG AND ALCOHOL TESTING: Employees covered by this MOA are subject to the County of Ventura's Drug and Alcohol Policy with respect to safety-sensitive employees (Exhibit A) when assigned to drive commercial motor vehicles as defined in Section C of said Policy.
  
- Sec. 1905 DISTRICT ATTORNEY PROFESSIONAL "ON-CALL" FLEX TIME: Should Management of the District Attorney's Office assign an Attorney to be "on-call," such assignment shall be for one (1) week (seven [7] consecutive days). The "on-call" period shall include the period(s) from 5:00 p.m. to 8:00 a.m. and all weekend hours between 5:00 p.m. Friday and 8:00 a.m. Monday. The weekly premium for such "on-call" assignment shall be 16 hours of Professional On-Call Flex Time. Any employee who is "on call" on a scheduled County holiday shall receive an additional 4 hours of Professional On-Call Flex Time.

The District Attorney's Office refers to the two "on-call" assignments to which this Section applies as MDIC/Search Warrant and Homicide on call. The referential titles do not limit the responsibilities of those who are "on-call."

Employees required to respond to call-out scenes are entitled to travel cost reimbursement in accordance with County travel policy.

Professional On-Call Flex Time has no cash value. It cannot be redeemed to receive pay in lieu of Professional On-Call Flex Time. No payment will be made for unused Professional On-Call Flex Time upon separation from County employment.

Sec. 1906 SEARCH WARRANTS: The review of search warrants is within the course and scope of employment for Deputy District Attorneys. Pursuant to Government Code Section 825, the County shall defend any employee in the bargaining unit against whom a claim is made, or a lawsuit is filed, arising out of their review of search warrants as part of their employment with the County.

Where the County provides a defense under this section and a subsequent judicial determination is made that at the time of the act giving rise to the liability the employee failed to act in good faith, or acted with actual malice, the County may seek reimbursement for defense fees.

## ARTICLE 20 TRANSFERS

- Sec. 2001 DEFINITIONS: A transfer is a change from one (1) department or agency to another in the same or similar classification, or a change from one (1) class to a similar class within a County department or agency.
- Sec. 2002 MINIMUM QUALIFICATIONS: A person must meet the minimum qualifications of the classification to which he is to be transferred.
- Sec. 2003 SALARY RATE AND MERIT INCREASE HOURS NEEDED ON TRANSFER: If the transfer occurs within the County Service, there shall be no change in salary rate. Any regular employee may be transferred from one position to another in either the same classification or to one, which has the same salary range. An employee so transferred shall not have his merit increase hours needed to be reset.
- Sec. 2004 PROBATION PERIOD ON TRANSFER: If a transfer occurs within the County Service, the employee shall not be required to serve another probationary period except that a person so transferred who has not completed his probationary period must serve a new probationary period.
- Sec. 2005 APPROVAL OF TRANSFER: All transfers must have the written approval of the appointing authorities concerned and the Director – Human Resources.
- Sec. 2006 SALARY RATE AND MERIT INCREASE HOURS NEEDED ON INVOLUNTARY TRANSFER: Whenever an employee is involuntarily transferred to a position in a different classification having the same salary range as his former position, he shall retain his salary rate and merit increase hours needed will not be reset.
- Sec. 2007 WRITTEN REQUEST FOR TRANSFER: Any person wanting to transfer to another department/agency shall submit a request in writing to the Director – Human Resources indicating his desire to transfer, his present classification, and any other special consideration or limitation regarding a possible transfer.
- Sec. 2008 CONSIDERATION FOR APPOINTMENT OF PERSON REQUESTING TRANSFER: Whenever the Director – Human Resources receives a request for certification of eligibles to an appointing authority, all persons who, within one (1) year from the date of the certification request have requested a transfer, shall have their names submitted to the appointing authority for consideration for appointment and shall be so notified. Such consideration shall be made in accordance with the provisions of the Ventura County Personnel Rules and Regulations.

Sec. 2009 DURATION OF TRANSFER REQUEST: A transfer request shall not be honored for more than one (1) year. In addition, a transfer request may not be honored and may be invalidated for any of the following reasons:

- A. The person has accepted a transfer, which resulted from the specific transfer request.
- B. The person no longer has status in the County service as a regular employee.
- C. The person requests that his name be removed from consideration.
- D. The person refuses an offer of appointment.
- E. The person is refused appointment by three (3) appointing authorities.
- F. The person fails to appear for a selection interview once he has been notified of his eligibility for consideration.

ARTICLE 21 REDUCTIONS IN FORCE

Sec. 2101 PURPOSE: To provide a means by which employees covered by this Agreement are to be demoted or laid off when a reduction in force occurs.

Sec. 2102 ORDER OF LAYOFF: Employees shall be laid off in the following order:

- A. Extra help employees
- B. Provisional employees
- C. Temporarily promoted employees
- D. Probationary employees
- E. Regular employees

Sec. 2103 SENIORITY: Seniority shall be determined by each employee's continuous County service. All uninterrupted employment with the County, including all compensated hours exclusive of overtime as a provisional, probationary manpower working/training program, fixed-term, or regular full-time or less than full-time employee, shall be counted as continuous County service seniority. A separation from the County service shall be the only cause for interrupting employment with the County. A separation of three (3) or fewer days shall not be considered a break in service. All authorized leaves of absence shall not constitute a break in service, but uncompensated hours spent on a leave of absence shall not count toward seniority.

Sec. 2104 DETERMINATION OF LAYOFF: The determination of which employee(s) shall be laid off shall be made within each department/agency on a classification-by-classification basis. The County shall designate the classification(s) to be affected.

The order of layoff shall be in reverse order of the employee's seniority. If two (2) or more employees have identical seniority status, then such employee(s) shall be laid off in the order determined by the appointing authority.

Whenever a Department/Agency Head believes that the best interest of the County requires the retention of an employee with special qualifications, skills, abilities or fitness for his position, the Department/Agency Head may prepare a written request to the Director – Human Resources to grant an exception to the order of layoff. Subsequent to conducting a review of the request, Director – Human Resources shall forward the request, together with his recommendation, to the County Executive Officer for final action.

- Sec. 2105 TRANSFER IN LIEU OF DEMOTION: A regular employee, including employees on probation as a result of a promotion, who is to be laid off shall have the right to transfer and/or voluntarily demote and transfer to any vacant position in the employee's department/agency for which he is qualified. If the employee has not previously held regular status in the classification to which he demotes and transfers, then the employee must serve a regular probationary period in the new classification. If there are two (2) or more employees to be laid off and they opt to exercise this right and request to transfer and/or demote and transfer to the same vacant position, then the employee with the greatest seniority shall have the right to fill such vacancy. If the seniority status of these employees is equal, the appointing authority shall have the right to fill such vacancy.
- Sec. 2106 DEMOTION IN LIEU OF LAYOFF: If there are no vacant positions to which a regular employee, including employees on probation as a result of a promotion, who is to be laid off can transfer and/or demote and transfer, then such employee shall have the right to demote to any class within his department/agency in which that employee previously held regular status. Bumping shall not be restricted to classes within the management and confidential classifications. Should an employee bump into a class represented by an employee organization, then the layoff procedures applicable to that bargaining unit shall be controlling. There does not need to be a vacant position within the classification for an employee to exercise this right. If, as a result of the exercise of this right, layoffs must occur in the classification to which that employee demoted, then such layoff shall be made in accordance with the provisions of the agreement which is controlling for the classification.
- Sec. 2107 REEMPLOYMENT: All persons who have been laid off as a result of a reduction in work force shall have their names placed on a Reemployment Eligible List for the classification in which they were employed immediately prior to being laid off. There shall be two (2) Reemployment Eligible Lists: one (1) which includes only the names of the laid off employees within a department or agency, and the other which has the names of all other County employees who were laid off. The Department/Agency Reemployment List shall have priority over the County-wide Reemployment List. Eligibles on the Reemployment List shall be ranked in reverse order of the order of layoff. Each person's name shall remain in reverse order of the order of layoff. Each person's name shall remain on such list for a period of two (2) years following the date that their name was placed on such eligible list, or until they have been reemployed with the County or until their name has been removed from the eligible list in accordance with the provisions of the Ventura County Personnel Rules and Regulations, whichever comes first.

Sec. 2108 CLASSIFICATION REINSTATEMENT: All persons who have demoted to a lower classification as a result of a reduction in work force shall have their names placed on a Classification Reinstatement List for the classification from which they were demoted. There shall be two (2) Classification Reinstatement Lists: one which includes only the names of the demoted employee within a department or agency, and the other which has the names of all other County employees who were demoted from the specific classification. The Department/Agency Classification Reinstatement List shall have priority over the County-wide Classification Reinstatement List. Eligibles on the Classification Reinstatement List shall be ranked in reverse order of the order of their demotions. Each person's name may remain on such list for a period of two (2) years following the date that their name was placed on such eligible list, or until they have been reinstated to the classification from which they were demoted, or until their name has been removed from the eligible list in accordance with the provisions of the Ventura County Personnel Rules and Regulations, whichever occurs first. To remain on a Classification Reinstatement List, a person must maintain status as a County employee.

Sec. 2109 RESTORATION OF BENEFITS:

- A. Sick Leave: Sick leave accruals for employees in lay off status, shall remain on the books and be reinstated if such employees are reappointed. Whenever a person becomes ineligible for reemployment with the County per the Ventura County Personnel Rules and Regulations, then, if at the point of layoff such person was eligible to receive a sick leave accrual payoff, such person shall be paid for existing sick leave accruals in accordance with Section 1208 of this Agreement.
- B. Seniority: Employees who are reemployed while in layoff status shall have their seniority status held immediately prior to layoff reinstated.
- C. Salary: Employees who are reemployed while in layoff status or demoted employees who are reinstated to the class demoted from shall receive a salary equivalent to that which they were receiving immediately prior to layoff or demotion. In no case shall an employee receive a salary, which exceeds the established salary range for the classification.
- D. Annual Leave Accrual Rates: Employees who are reemployed while in layoff status shall have the annual leave accrual rate they held immediately prior to layoff restored.

E. Merit Increase Hours Needed: An employee who is re-employed while in layoff status shall retain the merit increase hours needed as of the time of the layoff.

Sec. 2110 OBLIGATION TO SERVE PROBATIONARY PERIOD: A person appointed from a reemployment list or classification reinstatement list must serve a new probationary period in order to attain regular status. Except that persons reemployed or reinstated to a regularly held classification within ninety (90) calendar days following a reduction in force shall not be required to serve a new probationary period.

Sec. 2111 RETIREMENT CONTRIBUTION: If a person has less than five (5) years of service time that is applicable toward retirement, upon layoff all employee retirement contributions will be paid to the employee. If the employee has more than five (5) years of service that is applicable toward retirement, the employee may elect either to withdraw his share of the retirement contribution or leave the money in the retirement system. Upon reemployment, laid off employees shall not be required to redeposit retirement contributions withdrawn at the time of layoff or subsequently; provided; however, that the employee may elect to redeposit said funds to the retirement system.

Sec. 2112 NON-DISCRIMINATION IN REDUCTION IN FORCE: Layoffs and demotions which result from a reduction in force shall be made without regard to an employee's race, color, national origin, religion, sex, age, disability, citizenship, or functional limitation.

## ARTICLE 22 GRIEVANCE PROCEDURE

- Sec. 2201 PURPOSE: To provide a means for processing grievances and for obtaining fair and proper answers and decisions.
- Sec. 2202 POLICY: The County recognizes the importance of effective communication between employees and supervisors and encourages the interchange of ideas and concerns on a continuous basis. On those occasions when informal discussions do not result in satisfactory solutions to disputes arising out of this agreement, the grievance procedure described herein shall be the sole method of review. Any employee utilizing the grievance procedure shall be guaranteed freedom from reprisal.
- Sec. 2203 DEFINITION: A grievance is a claim by an employee or group of employees of a violation, misinterpretation, or inequitable application by the County of the provisions of this Agreement that are applicable to the employee.
- Sec. 2204 MATTERS EXCLUDED FROM THE GRIEVANCE PROCEDURE:
- A. Disciplinary appeals;
  - B. Those matters not specifically provided for under Section 2203 above; and,
  - C. Disputes involving performance reviews arising from the application of the provisions of Article 17.
- Sec. 2205 REPRESENTATION: At any step of the grievance procedure, the employee may represent himself, may be represented by a fellow employee, or any other person he may choose.
- Sec. 2206 TIME LIMITATIONS: The time limitations are designed to quickly settle a grievance. Time limitations may be extended by agreement of the parties. If at any stage of the grievance procedure the employee is dissatisfied with the decision rendered, it shall be the grievant's responsibility to submit the grievance to the next designated level of review within the time limits specified. Failure to submit the grievance within the time limits imposed shall terminate the grievance process and the grievance shall be considered resolved. The grievant shall promptly proceed to the next step if the department head fails to respond within the time limits specified. By written agreement, the parties may return a grievance to the first (1<sup>st</sup>) step for adjustment.
- Sec. 2207 STEP NO. 1 - REVIEW BY DEPARTMENT/AGENCY: The grievance shall first be discussed on an informal basis by the aggrieved with his immediate supervisor within twenty-one (21) calendar days from the date of the action

causing the grievance. The immediate supervisor shall respond within seven (7) calendar days. Every effort shall be made to resolve the grievance at this level and may include conferences among supervisory or administrative personnel. In the event the employee believes the grievance has not been satisfactorily resolved, the employee shall submit the grievance in writing to the department head within seven (7) calendar days after receipt of the immediate supervisor's response. Such written grievance shall:

1. Fully describe the violation and how the employee was adversely affected;
2. Set forth the section(s) of the Agreement violated;
3. Indicate the date of the action(s) grieved;
4. Specify the remedy sought by the employee.

Sec. 2208 STEP NO. 2 - REVIEW BY DEPARTMENT/AGENCY HEAD: Within five (5) calendar days after receiving the completed grievance form, the department/agency head or his representative shall meet with the employee and they shall thoroughly discuss the grievance. The department/agency head shall give his written decision within ten (10) working days after the discussion.

Sec. 2209 STEP NO. 3 - REVIEW BY COUNTY EXECUTIVE OFFICER (CEO): If the grievance has not been resolved to the satisfaction of the employee by the department/agency head, the employee shall submit the grievance, in writing, to the CEO within seven (7) calendar days of the step 2 response due date.

The CEO or his representative may meet and discuss the grievance with the employee. After careful review of the facts the CEO will render a decision in writing within fourteen (14) calendar days after receipt of the grievance. The CEO's decision is final and binding on the parties.

## ARTICLE 23 COUNTY RIGHTS

It is the exclusive right of the County to direct its employees, to take disciplinary action for proper cause, to relieve its employees from duty because of lack of work or for other legitimate reason, to classify and reclassify positions, and to determine the methods, means, and personnel by which the County's operations are to be conducted, provided that such action shall be accomplished in accordance with the County's Personnel Rules and Regulations and other negotiated procedures.

Nothing contained in this provision shall be deemed to supersede the provisions of existing State law and the ordinances and rules of the County, which established the Civil Service System.

ARTICLE 24 CJAAVC RIGHTS

Sec. 2401 CJAAVC BUSINESS AND PAID WORK TIME: CJAAVC representatives shall be provided reasonable time during work hours to conduct CJAAVC business, including processing employee complaints and grievances.

In addition, CJAAVC representatives shall be provided time during work hours, not to exceed ten and one-half (10.5) hours per negotiations session, to prepare for the negotiations process. The ten and one-half (10.5) hours shall be divided amongst the negotiating team members, with a five (5) hour cap for any one team member, at the sole discretion of CJAAVC.

CJAAVC representatives must obtain approval prior to leaving their work area for the purpose of conducting CJAAVC business. The County shall not unreasonably withhold approval and CJAAVC will safeguard against excessive time.

The following designated representatives of CJAAVC shall be allowed to participate in the following activities during working hours without loss of compensation on matters affecting employees in the units represented by CJAAVC.

<u>NUMBER</u>	<u>ACTIVITY</u>
7	Negotiations with County negotiating team.
2	Board of Supervisors meetings when there are items scheduled to be, or being, addressed that specifically pertain to CJAAVC.
2	Civil Service Commission meetings, when there are items scheduled to be, or being, addressed that specifically pertain to CJAAVC.
2	Retirement Board meetings, when there are items scheduled to be, or being, addressed that specifically pertain to CJAAVC.
2	Meetings of labor/management committees.
1	Participation in any County sponsored new employee orientation meeting or department/agency orientation session pursuant to section 2408(B) of this MOA.

In addition to the above paid leave, a maximum aggregate total of up to eighty (80) hours per year leave with full pay shall be made available to CJAAVC Board Members for the purpose of attending CJAAVC Board of Directors and membership meetings and Employee Relations Conferences. Use of such leave shall be conditioned upon prior notification of and approval by the employee's supervisor.

Sec. 2402 AUTHORIZED PAYROLL DEDUCTIONS: In the event CJAAVC wishes to utilize a payroll deduction code for employees it represents to authorize the County Auditor-Controller to transmit those payroll withholdings to CJAAVC, it shall so request the County Auditor-Controller in writing. The County Auditor-Controller shall accomplish this action immediately following the payment by CJAAVC of the sum of nine hundred-fifty dollars (\$950).

Remittance of the aggregate amount of all dues withheld from the salaries of employees shall be accomplished within fifteen (15) working days after the deductions are made. Within ten (10) working days following the deductions, the County shall provide CJAAVC with two (2) lists identifying the employees from whom deductions were withheld and the amount withheld from each such employee.

The County and CJAAVC agree that both parties shall be saved, indemnified, and held harmless from liability due to errors and omissions arising out of the other party's use of CJAAVC sponsored deductions codes.

Sec. 2403 INTERDEPARTMENTAL MESSENGER SERVICE (BROWN MAIL): County's interdepartmental messenger service (brown mail) may be used for individual business-oriented communication between employees who are represented by CJAAVC and between the members of the Board of directors of CJAAVC and individual members, provided that all mass communications intended for broad departmental distribution shall be approved in advance by the County Executive Officer or his designated representative.

Sec. 2404 MEETING SPACE: Upon written request of CJAAVC, the County shall provide meeting space outside of working hours, provided such place is available and CJAAVC complies with all departmental rules and policies of the Board of Supervisors.

Sec. 2405 BULLETIN BOARDS: The County will designate a bulletin board or a portion of an existing bulletin board in related departments for the exclusive use of CJAAVC. A copy of all material to be displayed upon the bulletin board shall be provided to the Department Head or his designated representatives. If the Department Head objects to the contents of such material, he shall immediately notify CJAAVC staff or its representative.

Such material shall be removed from the board, based upon the Department Head's objections and if an agreement cannot be reached between CJAAVC and the Department Head, the matter shall be immediately referred to the Director – Human Resources for resolution. CJAAVC is responsible for posting material upon the designated bulletin board and for neat and orderly maintenance thereof.

Sec. 2406 DISPLAY AND DISTRIBUTION OF MATERIALS: During non-working hours, CJAAVC shall have the right to distribute CJAAVC literature to work stations (i.e., desks and in-baskets) of the employees it represents. Such material distributed to work stations is subject to the procedure for obtaining prior approval of departmental management set forth in Section 2405.

Sec. 2407 NEW EMPLOYEES AND EMPLOYEE LISTS: The County shall provide CJAAVC with a listing of bargaining unit employees and their classifications on a bi-weekly basis. The County shall advise all new employees hired into the classifications represented by CJAAVC who attend the County-sponsored New Employee Orientation that CJAAVC is the employee organization formally recognized by the County to represent them.

Sec. 2408 TRAINING SESSIONS/EMPLOYEE ORIENTATION:

A. Training Sessions: When invited to do so by the head of a County agency, or the head of a County department not part of an agency, staff or employee representatives of CJAAVC may participate in training sessions for employees in that department or agency.

B. Employee Orientation: The County shall provide CJAAVC with a minimum of 10 calendar days' notice in advance of a new County-wide, or department/agency, new employee orientation via email to the President and Vice President of CJAAVC absent exigent circumstances. Notice to CJAAVC shall be to the email address designated in writing by the President of CJAAVC. Said designation may be updated as needed.

A CJAAVC representative will be permitted to meet with all newly hired employees in classifications represented by CJAAVC for one (1) hour during the County sponsored new employee orientation meetings and for thirty (30) minutes during department/agency orientation sessions.

The County will provide an appropriate area for the CJAAVC representative to meet with the new bargaining unit members in both instances. If the CJAAVC representative participating in the new employee orientation is an employee of the County and attends the new employee orientation session during their normal working hours, the employee shall be released from work for the time needed to travel to

and from the meeting location and to meet with employees, provided the representative gives his/her supervisor reasonable advanced notice.

During its new employee orientation presentations, CJAAVC may present written materials to attendees. No less than two business days before the new employee orientation session, will provide County Labor Relations with a copy of its complete presentation along with a detailed meeting agenda, to include all written materials to be distributed by CJAAVC during its portion of the new employee orientation session. The purpose of sharing the written materials with the County is as a courtesy and not for approval.

Sec. 2409 UNION SECURITY:

- A. All unit employees who on the effective date of this MOA are members of CJAAVC and all unit employees who thereafter voluntarily become members of CJAAVC shall continue to have such deduction made by the County during the term of this MOA subject to revocation pursuant to the terms of the employee's dues authorization card or other lawful basis for revocation of deductions. The County shall provide CJAAVC with a list of unit employees who are currently having their dues deducted as of the effective date of the MOA.
- B. Any unit employee who is not a member of CJAAVC as of the effective date of this MOA and who chooses to become a member of CJAAVC shall be required to complete a dues authorization card in which the employee clearly and affirmatively indicates that the employee is electing to join CJAAVC and have dues deducted from the employee's paychecks. CJAAVC shall submit certification to the County Auditor-Controller's Office for processing by email that it has received such dues authorization card and identify the employee by name and identification number.
- C. Pursuant to Government Code Section 1157.12, if a member desires to revoke, cancel, or change prior dues deduction authorization, such requests shall be directed to CJAAVC. Any employee wishing to revoke the employee's dues authorization must submit such a request directly to CJAAVC, pursuant to the terms of the employee's dues authorization card or other lawful methods of revocation of deductions.
- D. CJAAVC shall advise the Auditor-Controller via email of any revocations submitted by members within ten (10) business days after receipt from the employee of the revocation request, if practicable. Such updates shall identify the employee(s) by name and County identification number. The County shall certify via email receipt of the

request and certify that dues deductions will cease within the bi-weekly period.

- E. CJAAVC agrees to hold harmless the County and its officers, employees and agents from any liability that may result from making, canceling, or changing deductions for which CJAAVC was responsible for providing written notice to the County under this section. This is not intended to limit or waive any other remedies the County may have under law.

## ARTICLE 25 FULL UNDERSTANDING, MODIFICATION WAIVER

- A. This MOA sets forth the full and entire agreement of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreement by the parties, whether formal or informal, regarding any such matters are hereby superseded or terminated in their entirety.
- B. Except as specifically provided herein, during the term of the MOA each party voluntarily and unqualifiedly waives its right to propose or implement changes, and to compel the other party to negotiate regarding proposed changes, with respect to any subject or matter covered herein or with respect to any other matter within the scope of negotiations unless mutually agreed upon.
- C. Any alteration, variation, waiver or modification of any of the terms or provisions contained herein shall not be binding upon the parties hereto unless made and executed in writing by all parties hereto and, if required, approved and implemented by the County's Board of Supervisors.
- D. The waiver of any term or condition, or of any breach of a term or condition, of this MOA by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

## ARTICLE 26 AUTHORIZED AGENTS

For the purpose of administering the terms and provisions of the Memorandum of Agreement:

- A. Management's principal authorized agent shall be the Assistant County Executive Officer – Human Resources or her/his duly authorized representative.
- B. CJAAVC's principal authorized agent shall be the President or her/his duly authorized representative.

## ARTICLE 27 NON-DISCRIMINATION

The provision of this Agreement shall be applied equally to all employees without unlawful discrimination as to age, sex, race, color, creed, national origin, or functional disability.

The County of Ventura's Equal Employment Opportunity Plan will be fully supported by CJAAVC.

## ARTICLE 28 DISCIPLINARY ARBITRATION

Sec. 2801 PURPOSE: To provide an equitable and uniform procedure for administration and arbitration of discipline.

For acts or omissions occurring on or after December 14, 2021, the provisions of this Article supersede those of Article 21 of the Ventura County Personnel Rules and Regulations unless otherwise incorporated herein.

This article is intended to change the forum for disciplinary appeals from the Civil Service Commission to binding and final arbitration but does not otherwise alter any substantive or procedural rights that the parties may have had under Article 21 of the Personnel Rules and Regulations.

Sec. 2802 WRITTEN ORDER FOR DEMOTION, SUSPENSION, REDUCTION IN PAY, DISMISSAL: The continuing employment of every regular employee shall be contingent upon good behavior. Any such employee may be dismissed, demoted, suspended, reduced in pay, or demoted and suspended for cause as specified in Section 2803 by the appointing authority in the following manner:

- A. The appointing authority shall serve upon the employee a Notice of Proposed Disciplinary Action (also known as "Skelly Letter") stating the nature of the proposed action and its effective date. Such Notice shall also set forth in writing the reasons for the proposed disciplinary action, a statement of the charges upon which the action is to be based, a copy of all materials objectively relevant to the discipline or being used against them and a statement advising the employee that they have a right to respond to the charges. A duplicate of that Notice must be filed with the Director- Human Resources and CJAAVC.
- B. Within ten (10) calendar days (excluding paid assigned holidays, as set forth in section 1102 of this MOA) from receipt of the Notice of Proposed Disciplinary Action, unless additional time is otherwise specified by the appointing authority or their designee in said Notice of Proposed Disciplinary Action, the employee may respond to the proposed action. Such response may be presented orally or in writing. The employee may have a CJAAVC representative or a representative or attorney of their choice if they so choose.
- C. After the completion of the period provided in "B" above, the appointing authority shall review the employee's response, if any, and make a determination whether to cancel, amend, or sustain the proposed action. If the appointing authority decides to amend or sustain the proposed action, the employee will be served with a Notice of Disciplinary Action

again setting forth in writing the reasons for disciplinary action and offering a statement of the charges upon which the action is based.

The Notice of Disciplinary Action shall also advise the employee that the action being taken is final and apprise them of their right to request that CJAAVC submit the matter to arbitration within thirty (30) calendar days. A duplicate of that Notice must be filed with the Director-Human Resources and CJAAVC.

Nothing in this Section shall be considered to restrict the right of the County to take immediate disciplinary action when it is deemed appropriate.

- Sec. 2803 CAUSES FOR DEMOTION, SUSPENSION, REDUCTION IN PAY, DISMISSAL: In accordance with Section 1345.1.4.13.1 of the Ventura County Ordinance Code, causes for disciplinary action shall be as set forth under section 2105 of the County of Ventura Personnel Rules & Regulations.
- Sec. 2804 DISCIPLINARY REDUCTION IN PAY: In accordance with the necessity for taking disciplinary action, the pay of a CJAAVC represented employee may be reduced by either two and one-half percent (2 1/2%) or five percent (5%) for a period of time not to exceed thirteen (13) pay periods for any one (1) offense.
- Sec. 2805 SUSPENSION WITHOUT PAY: Suspension without pay may be imposed not to exceed thirty (30) calendar days. Whenever an employee is suspended without pay, no compensation shall be paid the suspended employee for the duration of their suspension and such suspension shall be treated as an authorized leave of absence without pay for purposes of annual leave and sick leave accruals.
- Sec. 2806 DEMOTION: The employee may be demoted to a classification which has a lower pay range than the position currently occupied. In cases of disciplinary demotion, the compensation of the employee shall be adjusted to a point in the range of the position to which they have been demoted which is approximately five percent (5%) lower than the rate of pay they were receiving in the higher class. If the top step of the pay range of the position to which they have been demoted is more than five percent (5%) lower than the rate of pay they were receiving in the higher class, the employee shall receive the top step of the pay range of the position to which he has been demoted. An employee so demoted shall not have their merit increase hours needed reset nor shall they serve another probationary period unless required by law.

Sec. 2807 DISCIPLINARY ACTION IMPOSED DURING PROBATIONARY PERIOD:  
The appointing authority may dismiss, demote, suspend, demote and suspend, reduce the pay of, or impose any other disciplinary action on any probationary employee during the probationary period. Neither a probationary employee nor CJAAVC may request arbitration of any disciplinary action taken against an employee during their probationary period. Nothing in this section shall deprive a probationary employee of their right to a hearing pursuant to section 2326 of the County of Ventura Personnel Rules & Regulations.

A promoted employee who is dismissed during their probationary period shall return to the position in which they held permanent status or to their former classification in the agency. If no such vacancy exists, every reasonable attempt will be made by the appointing authority to retain the employee in an underfill capacity. Only if there is no vacancy and the appointing authority is unable to make reasonable accommodation, the employee shall be placed on a leave of absence without pay not to exceed one year and shall be granted the first position that becomes available in their former classification. The above provisions shall not apply if the cause of the dismissal warrants dismissal from County service. If the cause for dismissal warrants dismissal from County service, the employee may request that CJAAVC submit the matter to arbitration.

Sec. 2808 NON-DISCRIMINATION: Disciplinary actions shall be taken without regard to race, color, national origin, religion, sex, age, or functional limitation.

Sec. 2809 REQUEST FOR ARBITRATION: If an employee wishes to appeal a disciplinary action, they shall ask that the matter be submitted to arbitration by CJAAVC. If CJAAVC concurs, it shall submit to the Director-Human Resources, in writing, within thirty (30) calendar days of the employee's receipt of the Notice of Disciplinary Action, a request that the matter be submitted to arbitration. Once the request for arbitration has been submitted, the County shall communicate directly with the individual employee or their designated representative or attorney. Upon receipt of CJAAVC's request, the Director-Human Resources shall, within fourteen (14) days, request a panel of nine (9) names from the State Mediation and Conciliation Service or some other mutually agreeable list. Within seven (7) calendar days of the receipt of that list, the parties shall jointly select an arbitrator. In the event the parties are unable to select an arbitrator, they shall alternately strike names from the list with the last name being the arbitrator selected. The party striking the first name shall be determined by lot.

Sec. 2810 ARBITRATION COSTS: CJAAVC shall be responsible for paying either \$2,500 or 50% of the cost of the arbitrator, whichever is less, for arbitrations

lasting three business days or fewer. For arbitrations lasting more than three business days, CJAAVC shall be responsible for either 50% of the cost of the arbitrator or \$5,000, whichever is less. In all instances, the County shall pay the remainder of the arbitrator's cost. CJAAVC shall directly pay the above-mentioned costs on behalf of the employee. The employee and the appointing authority shall each bear their own costs for legal representation and the presentation of the case.

Costs of the court reporter, if any, shall be paid by the party who requested the presence of the reporter; however, nothing shall preclude the parties from agreeing to share equally in the costs of the reporter. If a cancellation fee is imposed on the parties by the arbitrator, it shall be paid by the party whose actions were responsible for the imposition of said fee.

Sec. 2811 SCOPE OF ARBITRATOR'S AUTHORITY: The Arbitrator shall have no power to alter, amend, add to or subtract from the provisions of this Article or any other terms of this Agreement. If the Arbitrator finds that none of the charges contained in the Notice of Disciplinary Action are true, then he shall set aside the action taken by the appointing authority. The Arbitrator shall determine the relevancy, weight, and credibility of testimony and evidence and base their findings on the preponderance of the evidence. The arbitrator may sustain or reject any or all of the charges filed against the employee related to the discipline. The arbitrator may sustain, reject or modify the disciplinary action invoked against the employee. However, their authority to modify the appointing authority's action is limited to those disciplinary actions described in Section 2802. The Arbitrator shall have no authority to increase the discipline imposed by the appointing authority.

Notwithstanding the provisions of Section 2805, nothing shall preclude the Arbitrator from ordering the reinstatement of an employee with or without back pay. The decision of the Arbitrator shall be final and binding, subject to judicial review pursuant to Title 9 of Part 3 of the Code of Civil Procedure of the State of California, upon the employee, the County, and if applicable, CJAAVC.

Sec. 2812 GOVERNING PROVISIONS: All arbitration proceedings arising under this Article shall be governed by the provisions of Title 9 of Part 3 of the Code of Civil Procedure of the State of California. However, Code of Civil Procedure Section 1283.05, relating to discovery, shall not be a part of this Agreement. Section 2316 of the County of Ventura Personnel Rules & Regulations pertaining to the deposition testimony of unavailable witnesses shall apply. Further, subpoenas duces tecum may be issued by the attorney or other representative of a party as well as by the arbitrator. All other provisions relating to subpoenas found in Chapter 3 of Title 9 of the Code of Civil procedure shall apply.

Sec. 2813 ARBITRABILITY: If either the County or the employee's representative shall claim before the Arbitrator that a particular request for arbitration fails to meet time limits, or is in some other manner defective, and thereby, fails to meet the tests of arbitrability, the Arbitrator shall proceed to decide such issue before hearing the case upon its merits. The Arbitrator shall have the authority to determine whether he will hear the case on its merits at the same hearing in which the jurisdictional question is presented. In any case, where the Arbitrator determines that such appeal fails to meet said test of arbitrability, they shall refer the case back to the parties without a decision or recommendation on its merits.

Sec. 2814 REPORT OF HEARING: The Arbitrator shall render their report to the parties in writing, including reasons for any decision, within thirty (30) calendar days of the completion of the hearing.

Sec. 2815 VACATION OF ORDER: A decision of the Arbitrator may be modified or vacated, in whole or in part, and a new or further hearing granted on all or part of the issues on the application of a party to the arbitration for any of the following causes, materially affecting the substantial rights of the parties:

- A. Irregularity in the arbitration proceedings, or any order of the Arbitrator or abuse of discretion by which either party was prevented from having a fair hearing.
- B. Accident or surprise, which ordinary prudence could not have guarded against;
- C. Newly discovered evidence which could not, with reasonable diligence, have been discovered and produced at the hearing and which is material to the questions that was before the Arbitrator;
- D. Error in law, occurring at the arbitration and excepted to at the arbitration by the party making the application or motion.

Sec. 2816 APPLICATION FOR VACATION OF ORDER: The application or motion to the Arbitrator shall be made either before the signing of the order of the Arbitrator or within fourteen (14) calendar days of the Arbitrator mailing notice of his order and shall designate the grounds upon which vacation is requested.

Should the Arbitrator grant a hearing on the application or motion, the Arbitrator shall, after review of the application or motion, specify the ground or grounds on which it is granted and their reason or reasons for granting the application or motion. At the hearing, the evidence introduced shall be

limited to the ground or grounds upon which the hearing was granted. At the conclusion of the hearing, the Arbitrator shall either confirm their prior findings and decision or issue a new finding and decision.

The filing of an application under this Section shall not be necessary to exhaust administrative remedies and the application or motion shall not operate to stay the effectiveness of the Arbitrator's order except by discretion of the Arbitrator upon a showing by affidavit of emergency or hardship should the order not be stayed.

Sec. 2817 SENIOR ATTORNEY DESIGNATION: It is CJAAVC's position that the *Markov v Lipson, et al* decision is binding on the County and requires procedural due process and good cause for the revocation of the Senior Attorney designation with or without a reduction in pay. Therefore, it is CJAAVC's position that revocation of the Senior Attorney designation is a disciplinary action subject to arbitration under this Article. It is the County's position that the revocation of the Senior Attorney designation is at the discretion of the Appointing Authority and the pay impact as a result of the designation revocation is addressed in section 403 of this agreement and, thus, revocation is not subject to arbitration under this Article. The parties recognize that in changing from the Civil Service Commission to binding arbitration, they are switching to a new forum for disciplinary appeals. The two sides disagree about the import of or how to interpret *Markov v. Lipson* and agree that the switch to binding arbitration is not intended to waive any rights, relinquish any arguments, or amount to a concession by either party that the other party's position related to the pre-disciplinary and post-disciplinary process, or legal implications of revocation of the Senior Attorney Designation, with or without pay, is correct.

If an employee's Sr. Attorney designation and/or pay is revoked or reduced, no less than fourteen (14) days prior to the revocation, the Appointing Authority shall notify the employee and CJAAVC in writing of the date of revocation and any pay impact. In the event an employee's Senior Attorney designation is revoked and their pay is impacted as a result, nothing within this section shall preclude CJAAVC from filing a disciplinary arbitration request under this Article. The procedures for requesting an arbitrator and arbitration costs set forth in 2809-2810 shall apply. Upon submission of a timely request for arbitration, the arbitration proceeding may be stayed at the member's request pending any litigation regarding pre-disciplinary due process rights

In the event such a request is filed, the Arbitrator shall first hear and decide whether the revocation of the Sr. Attorney designation is within the County's discretion, with the corresponding reduction in pay being governed by section 403, or is subject to arbitration as a disciplinary matter, as described

under section 2813. Only if the Arbitrator determines the matter is subject to arbitration as a disciplinary matter shall the Arbitrator hold, as a separate case, a hearing over whether good cause was established to revoke the Senior Attorney designation and, correspondingly, reduce the employee's pay.

In the event the arbitrator does find the issue is subject to arbitration as a disciplinary matter and holds a separate hearing, the provisions of sections 2810 through 2816 of this agreement shall apply.

Agreed to this 30<sup>th</sup> day of November, 2021, by:

COUNTY OF VENTURA

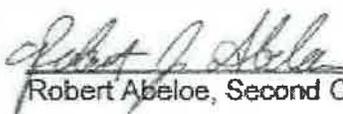
CRIMINAL JUSTICE ATTORNEY'S  
ASSOCIATION OF VENTURA  
COUNTY



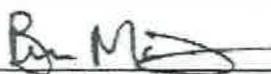
Mike Cumow, Chief Negotiator



Mickye Coyle, President



Robert Abeloe, Second Chair

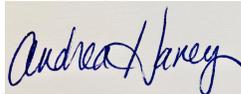


Ben Maserang, Vice President

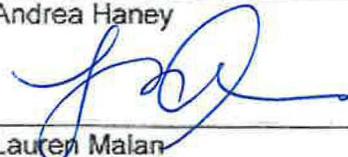
Elizabeth Tourgeman, Attorney



John Barrick



Andrea Haney



Lauren Malan



Michael Marcelo

via PDF

**COUNTY OF VENTURA  
DRUG AND ALCOHOL POLICY  
  
FOR  
  
SAFETY-SENSITIVE EMPLOYEES**

## **COUNTY OF VENTURA DRUG AND ALCOHOL POLICY FOR SAFETY SENSITIVE EMPLOYEES**

Effective January 1, 1995, the County of Ventura must comply with the United States Department of Transportation regulations implementing the federal Omnibus Transportation Employee Testing Act of 1991. Specifically, the County must comply with the regulations of the Federal Highway Administration (FHWA). The Federal Aviation Administration (FAA) and the United States Coast Guard (USCG) have also issued drug and alcohol testing regulations. Where applicable to the County, the requirements of those regulations are reflected in this Policy. Adoption of this Policy is one of the County's obligations under the regulations. This Policy sets forth the rights and obligations of covered employees. If you are an employee covered by these new requirements, you need to familiarize yourself with the provisions of this Policy **BECAUSE COMPLIANCE WITH THIS POLICY IS A CONDITION OF YOUR EMPLOYMENT.**

### **A. EMPLOYEE QUESTIONS**

The regulations require that employers designate a person to answer employee questions about drug and alcohol testing. Employees shall refer any questions regarding his or her rights and obligations under the new regulations to the Personnel Officer or designee for each department.

### **B. COVERED EMPLOYEES**

Overall, the regulations cover drivers of commercial motor vehicles as defined in Section C below. A driver is any person who operates a commercial motor vehicle on a full-time, casual, intermittent, extra help or occasional basis. The County employees listed in a separate addendum to this Policy may be required to drive commercial motor vehicles, at least on an occasional basis. Therefore, each employee listed in the addendum (and applicants for such positions) is considered a "covered employee" subject to the provisions of this Policy. For purposes of pre-employment testing, the term "driver" includes persons applying for employment in a position requiring the driving of a commercial motor vehicle on at least an occasional basis.

The Director-Human Resources (or her designee) may add or delete names from the list of covered employees based upon his/her determination that an employee's job duties mandate coverage under this Policy. Supervisors and/or the personnel officer from each of the covered departments shall report additions and/or deletions of staff covered by these rules to the Director-Human Resources. New employees or employees transferring, promoting or demoting into a safety sensitive function will be tested prior to performing any safety sensitive functions. The Director-Human Resources or her designee shall promptly notify any affected employee in writing that his or her name will be added to the list of covered employees. The determination of the Director-Human Resources shall be final and binding.

## C. COVERED COMMERCIAL VEHICLES

The regulations cover drivers of the following commercial motor vehicles:

1. A vehicle with a gross combination weight of at least 26,001 pounds inclusive of a towed unit with a gross vehicle weight rating of more than 10,000 pounds;
2. A vehicle with a gross vehicle weight of at least 26,001 pounds;
3. A vehicle designed to transport 16 or more passengers, including the driver; or
4. A vehicle used to transport those hazardous materials found in the Hazardous Materials Transportation Act.

## D. SAFETY-SENSITIVE FUNCTIONS

The performance of any of the following on-duty functions by a covered employee in connection with that employee's operation, or scheduled operation, of a commercial motor vehicle is considered to be a safety-sensitive function:

1. All time at a carrier or shipper plant, terminal, facility, or other property, or on any public property, waiting to be dispatched, unless the driver has been relieved from duty;
2. All time inspecting equipment such as brakes, steering mechanism, lights, tires, horn, windshield wipers, mirrors or coupling devices or otherwise inspecting, servicing, or conditioning any commercial motor vehicle;
3. All driving time;
4. All time, other than driving time, in or upon any commercial motor vehicle except time spent resting in a sleeper berth;
5. All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded;
6. All time spent performing driver requirements relating to accidents; or
7. All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

## E. CONTROLLED SUBSTANCES

For purposes of the federal regulations and this Policy, controlled substance means marijuana, cocaine, opiates, amphetamines and phencyclidine. Covered employees are required to inform their supervisor of any therapeutic drug use prohibited by this policy (includes both prescribed and over the counter medications for treating specific ailments which contain alcohol or any of the controlled substances.) Covered employees are responsible for obtaining information from their physician for any prescribed medication they are taking that may impact their ability to drive and report such use to their supervisor.

#### F. PROHIBITED CONDUCT

Covered employees may not be under the influence or in possession of controlled substances or alcohol during any work hours. Further, the regulations specifically prohibit certain conduct while performing and prior to performing safety-sensitive functions. Covered employees are prohibited from:

1. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration level of 0.04 percent or greater;
2. Performing a safety-sensitive function within four hours after using alcohol;
3. Being on duty or operating a vehicle described in Section C, above, while possessing alcohol or controlled substances;
4. Using alcohol or controlled substances while performing a safety-sensitive function;
5. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions when the employee used any controlled substances, except if the use is pursuant to the instructions of a physician who has advised the employee that the substance does not adversely affect the employee's ability to safely operate a vehicle;
6. Reporting for duty or remaining on duty requiring the performance of safety-sensitive functions if the employee tests positive for controlled substances; or
7. Refusing to submit to any alcohol or controlled substances test required by this Policy. A covered employee who refuses to submit to a required drug/alcohol test will be treated in the same manner as an employee who tested 0.04 percent or greater on an alcohol test or tested positively on a controlled substance test.

In addition to the above prohibitions, employees are reminded of their obligations under the Federal Drug Free Workplace Act of 1988. All employees covered by

this Policy have previously been provided with a copy of the County's Drug Free Workplace Statement, and have signed an acknowledgment that they have read the Statement and agreed to comply with it.

**G. CIRCUMSTANCES UNDER WHICH DRUG AND ALCOHOL TESTING WILL BE IMPOSED ON COVERED EMPLOYEES**

**1. Pre-Employment Testing:**

All applicants (whether by initial application or in connection with a transfer, promotion or demotion) for positions involving the performance of safety-sensitive functions will be required to submit to pre-employment/pre-duty drug testing prior to any job offer. Applicants will not be hired for or transferred, promoted or demoted to a safety-sensitive position if they do not pass the test. A pre-employment alcohol test is not required by this policy.

**2. Post-Accident Testing:**

Post-accident drug and alcohol testing will be conducted on employees following an accident where the employee's performance cannot be discounted as a contributing factor.

The decision whether or not to test the employee will be left to a supervisory or management employee. The presumption is for testing. The only reason an employee will not be tested following an accident is if a determination is made that the employee's performance could not have been a contributing factor. If a fatality occurs, the employee must be tested irrespective of whether his/her involvement may be discounted.

Post-accident alcohol tests shall be administered within two hours following an accident, and no test may be administered after eight hours. A post-accident drug test shall be conducted within 32 hours following the accident. Documentation on the need for testing will be completed by the supervisor identifying the reason for the test with a copy provided to the employee. Tests not completed within the prescribed time frame will need to have documentation citing the reason for the failure to test. According to the regulations and this Policy, an accident occurs when, as a result of an occurrence involving the vehicle an individual dies or sustains an injury requiring medical attention; a state or local law enforcement authority issues a citation to the covered employee for a moving violation arising from the accident; or when a vehicle is towed from the scene as a result of damage from the accident.

**3. Random Testing:**

Covered employees will be subject to random alcohol and drug testing as follows:

A random alcohol test will be administered just prior to the employee performing a safety-sensitive function (i.e., driving), while the employee is performing a safety-sensitive function, or just after the employee has stopped performing a safety-sensitive function. The County will subject at least 25 percent of the total number of covered employees to random alcohol testing per year.

A random drug test will be administered to at least 50 percent of the total number of covered employees per year. A covered employee may be subjected to drug/alcohol testing even on a day in which the employee is not expected to perform a safety-sensitive function. Some employees may be tested more than once in a year, while others are not tested at all, depending on the random selection.

On the date an employee is selected for random drug/alcohol testing, his/her supervisor will ensure his/her duties are covered for the test period. The employee will receive a written notice at some point during his/her shift indicating the time he/she is to report to the test site.

4. Reasonable Suspicion Testing:

Covered employees are also required to submit to an alcohol or drug test when a supervisor, trained in accordance to the regulations at 49CFR 382 has reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances. The observation must be based on short-term indicators, such as blurry eyes, slurring, or alcohol on the breath. The supervisor may not rely solely on long-term signs, such as absenteeism or tardiness, to support the need for a reasonable suspicion test.

The reasonable suspicion alcohol test will be administered within two hours of the observation. If not, the employer must provide written documentation as to why the test was not promptly conducted. No test may be administered after eight hours following the observation.

To ensure that supervisors are trained to make reasonable suspicion determinations, supervisors vested with the authority to demand a reasonable suspicion drug and alcohol test will attend at least one hour of training on alcohol misuse and at least one hour of training on controlled substances use. The training will cover the physical, behavioral, speech, and performance indicators of probable alcohol misuse and use of controlled substances.

The need for the reasonable suspicion test will be documented by the supervisor with a copy provided to the employee. The supervisor shall advise the employee of his or her right to have a Union representative present prior to the testing, if a representative is available within a reasonable time (within one hour).

5. Return to Duty/Follow-up Testing:

A covered employee who has violated any of the prohibitions of this Policy (see Section F) must submit to a return to duty test before he/she may be returned to a position requiring the performance of safety-sensitive functions. The test result must indicate an alcohol concentration of less than 0.02 percent or a verified negative result on a controlled substances test. In addition, because studies have shown that the relapse rate is highest during the first year of recovery, the employee **will** be subject to follow-up testing which is separate from the random testing obligation. The employee will be subject to at least six unannounced drug/alcohol tests during the first year back to the safety-sensitive position following the violation.

H. PROCEDURES TO BE USED FOR DETECTION OF DRUGS AND ALCOHOL

1. Alcohol Testing:

Alcohol testing will be conducted by using an evidential breath-testing device (EBT) approved by the National Highway Traffic Safety Administration.

A screening test will be conducted first. This initial screening may be accomplished using a saliva test kit. If the result is an alcohol concentration level of less than 0.02 percent, the test is considered a negative test. If the alcohol concentration level is 0.02 percent or more, a second confirmation test using the EBT will be conducted. The procedures that will be utilized by the lab for collection and testing of the specimen are attached hereto as Appendix A.

2. Drug Testing:

Drug testing will be conducted pursuant to the procedures set forth in Appendix A.

I. REFUSAL TO SUBMIT TO AN ALCOHOL AND/OR DRUG TEST

As set forth in Section F.7 above, a covered employee who refuses to submit to any required drug/alcohol testing will be treated in the same manner as an employee who tested positive.

A refusal to submit to an alcohol or controlled substances test required by this Policy includes, but is not limited to, the following:

1. A refusal to provide a urine sample for a drug test;
2. An inability to provide a urine sample without a valid medical explanation;
3. A refusal to complete and sign the breath alcohol testing form, or otherwise to cooperate with the testing process in a way that prevents the completion of the test;
4. An inability to provide breath or to provide an adequate amount of breath without a valid medical explanation;
5. Tampering with or attempting to adulterate the urine specimen or collection procedure;
6. Not reporting to the collection site in the time allotted by the supervisor or manager who directs the employee to be tested;
7. Leaving the scene of an accident without authorization from a supervisor or manager (who shall make a determination whether to send the employee for a post-accident drug and/or alcohol test), unless the employee has a valid reason for not obtaining such authorization; or
8. Consuming alcohol during the eight hours immediately following an accident, unless the employee has been informed that his/her actions have been discounted as a contributing factor, or if the employee has been tested.

J. CONSEQUENCES FOR EMPLOYEES FOUND TO HAVE ALCOHOL CONCENTRATION LEVELS OF 0.02 PERCENT OR GREATER BUT LESS THAN 0.04 PERCENT

An employee whose alcohol test indicates an alcohol concentration level between 0.02 percent and 0.039 percent will be removed from his or her safety sensitive position for at least twenty-four hours. Such an employee may be subject to discipline up to and including termination. The County will then retest the employee. Before the employee may be returned to his/her safety sensitive position, the employee's alcohol concentration must indicate a concentration below 0.02 percent.

K. CONSEQUENCES OF FAILING AN ALCOHOL AND/OR DRUG TEST

A positive result from a drug or alcohol test may result in disciplinary action, up to and including termination, in accordance with the County's existing disciplinary rules and procedures.

If a covered employee is not terminated, the employee:

1. Must be removed from performing any safety-sensitive function;
2. Must submit to an examination by a substance abuse professional (SAP). Upon a determination by the substance abuse professional, the employee may be required to undergo treatment to cure his/her alcohol or drug abuse. The County is not required to pay for this treatment;
3. May not be returned to his/her former safety-sensitive position until released by the SAP and the employee submits to a return-to-duty controlled substance and/or alcohol test (depending on which test the employee failed), which indicates an alcohol concentration level of less than 0.02 percent or a negative result on a controlled substance test;
4. Will be required to submit to unannounced follow-up testing after he/she has been returned to his/her safety-sensitive position. See Section G.5, above.

L. INFORMATION CONCERNING THE EFFECTS OF ALCOHOL AND CONTROLLED SUBSTANCES AND AVAILABLE METHODS OF INTERVENTION

Information on the effects of alcohol and the various controlled substances, which are tested for under this Policy, are available from the County Employee Assistance Program (EAP). The EAP is also available to help employees who need assistance with alcohol and controlled substance abuse. For information concerning the County's Employee Assistance Program, please contact their office at 654-5138.

M. CONFIDENTIALITY PROCEDURES FOR INTERNAL CONTROL

Laboratory reports or test results shall not appear in an employee's general personnel file. The Personnel Department will keep under their control information of this nature in a separate, secured confidential medical file, access to which will be limited to those individuals with a "need to know" as defined by Federal regulation. Supervisors, managers and other staff with such knowledge are not to discuss or disclose the results of any employee's drug/alcohol tests with other employees, except under approved reasons as delineated by County policy.

The Director-Human Resources may disclose reports or test results to County Management on a strictly need-to-know basis, any DOT or State agency with regulatory authority over the County or its drivers, the National Transportation Safety Board when investigating an accident, the "decision maker" in legal

proceeding and to the tested employee upon request. Disclosures, without employee consent may also occur in accordance with federal regulations.

Employee's confidentiality is also protected in regards to disclosure by supervisors of any over the counter or prescribed medications, when the employee has notified the supervisor of such use as mandated by this policy. Supervisors, managers and other staff who violate this confidentiality policy may be subjected to disciplinary action up to and including termination.

January 4, 1996

## APPENDIX "A"

### ALCOHOL TESTING PROCEDURES

All testing will be coordinated by a qualified vendor certified to conduct alcohol and drug tests in accordance with guidelines as required by 49 CFR, 40 using the following procedures. Specimen collection and analysis will be conducted at the employee's worksite, a secured county facility or at various certified labs throughout the County. Initial alcohol tests may be done using a saliva-screening test.

- A. The employee arrives at the testing site.
- B. If the employee does not arrive at the designated time for testing, the Supervisor or designee will be contacted for instructions.
- C. The I.D. of the employee to be tested is verified by examining a photo ID. If the I.D. cannot be established, the Breath Alcohol Technician (BAT) will attempt to notify the employee's supervisor to establish a positive ID. If this is not possible, the process stops.
- D. If the employee being tested requests it, the Breath Alcohol Technician (BAT) should present his/her ID.
- E. Once the employee's I.D. is established, Step 1 of the U.S. Department of Transportation Breath Alcohol Testing Form (DOT) will be completed.
- F. The employee will complete Step 2 on the DOT form, signing the certification. If the employee refuses to sign, it is regarded as a refusal to take the test.
- G. The employee may be tested for alcohol using a saliva test kit, initially. The saliva test may be administered by a trained County staff supervisor. If test results are negative on this screening test, a copy of the DOT form will be completed, noting the results and a copy provided to the employee. One will be forwarded to the supervisor and one will be retained by the BAT. If saliva tests are not conducted initially, the BAT will follow the below described procedures using an EBT device for the initial test. If the saliva test indicated an alcohol level greater than 0.02, an EBT test is required as follows:
- H. The BAT will explain that a confirmation test will be conducted.
- I. The employee must stay in the room observed for a 15 minute waiting period. During this period, the employee may not eat, drink or put any object or substance into his/her mouth.
- J. The confirmation test will be conducted no less than 15 minutes after the initial test but within 20 minutes of the completion of the initial test.

- K. The employee and BAT shall read the sequential test number displayed on the Evidential Breath Testing (EBT) device for the test.
- L. The employee will open an individually sealed mouthpiece in view of the BAT and attach it to the EBT according to instructions.
- M. The employee will blow forcefully into the mouthpiece for at least six seconds or until the EBT indicated that an adequate amount of breath has been obtained.
- N. The BAT completes Step 3 of the DOT testing form.
- O. The employee will sign Step 4 of the DOT Test form stating that the information on the form is accurate and that the employee must not perform safety sensitive duties or operate heavy equipment if the results are 0.02 or greater.
- P. If the test results are less than 0.02 on this test, a copy of the form will be provided to the employee. The test process is complete and a copy will be forwarded to the supervisor and one will be retained by the BAT.
- Q. If the result of the confirmation test is different from the EBT screening test, the confirmation test will be considered the accurate results.
- R. If the results are still greater than or equal to 0.02 on the confirmation test, the BAT will contact the employee's supervisor for further instructions before releasing the employee from the test site.
- S. Employees with a reading of 0.02 or more are not to drive or engage in any safety sensitive operations until further notice from their supervisor and in accordance with this policy.
- T. All results will be transmitted in conformity to confidentiality procedures outlined above.

## DRUG TESTING PROCEDURES

- A. The urine specimen will be split into two bottles labeled as “primary” and “split” specimen. Both bottles will be sent to the lab:
- B. If the urinalysis of the primary specimen tests positive for the presence of illegal, controlled substances, the employee has 72 hours to request that the split specimen be analyzed by a different certified lab;
- C. The urine sample will be tested for the following: marijuana, cocaine, opiates, amphetamines, and phencyclidine;
- D. If the test is positive for one or more of the drugs, a confirmation test will be performed using gas chromatography/mass spectrometry analysis;
- E. All drug test results will be reviewed and interpreted by a physician before they are reported to the employee and then to the County; and
- F. With all positive drug tests, the physician (a.k.a. medical review officer – MRO) will first contact the employee to determine if there is an alternative medical explanation for the positive test result. If documentation is provided and the MRO determines that there was a legitimate medical use for the prohibited drug, the test result may be reported to the County as “negative”.