



Board of Supervisors Memorandum

May 13, 2014

Revisions to Merit System Rules

Attached are proposed revisions to the Merit System Rules. Elected Officials, department directors, employee groups and the Merit System Commission (Commission) recommend these changes as presented for approval by the Board of Supervisors.

Explanations for these proposed changes are noted below.

1. Merit System Rule 1 - DEFINITIONS

- MSR 1.05 removes the word "detail" from the definition of "applicant" to conform to the revision to MSR 8.6 – Detail.
- MSR 1.07 clarifies that the effective date for initial appointment to County service is the first actual day of work.
- MSR 1.38 adds "inability to perform the essential functions of the employee's position with or without reasonable accommodation" as a reason for layoff to align with language in MSR 11.4.
- MSR 1.45 adds definition of "pay period" in anticipation of implementation of new payroll system.
Subsequent definitions are re-numbered.
- MSR 1.73 adds clarifying language to the definition of "work week" in anticipation of implementation of new payroll system.

2. Merit System Rule 4 – SELECTION, RECRUITMENT, ANNOUNCEMENTS AND APPLICATIONS

- MSR 4.1 A. "assure" change to "ensure" for grammatical correctness
- MSR 4.1 A.2 "assure" changed to "ensure" for grammatical correctness

3. Merit System Rule 8 – PROMOTION, DEMOTION, REAPPOINTMENT, OPEN RANGE REAPPOINTMENT, REASSIGNMENT AND DETAIL

- MSR 8.6 DETAIL is revised to permit an Appointing Authority to non-competitively place an employee into a temporary assignment for up to

six (6) months. Also, an Appointing Authority may renew a detail assignment for up to an additional six (6) months with the approval of the Human Resources Director. This revision eliminates the long-term detail assignment which required a competitive process and permits a one-time renewal of a detail assignment.

4. Merit System Rule 12 – DISCIPLINARY AND OTHER PERSONNEL ACTIONS

MSR 12.1 C.7 clarifies and further defines the unlawful controlled substances that an employee shall not possess, dispense, or be under the influence of while on duty. Adds a meaning for “under the influence of alcohol” as either obvious impairment or a test reflecting a blood alcohol content of 0.04 or greater.

MSR 12.6 clarifies right to representation language to conform to current practice.

5. Merit System Rule 13 – GRIEVANCE SYSTEM

MSR 13.2 E.5 “assuring” is changed to “ensuring” for grammatical correctness.

MSR 13.4 adds the word “willing” to clarify that a representative must be a willing participant in grievance meetings.

Recommendation

I recommend the Board of Supervisors approve the Merit System Rule modifications outlined above to become effective on May 13, 2014.

Respectfully submitted,



C.H. Huckelberry
County Administrator

CHH/mjk – April 30, 2014

Attachments

c: Allyn Bulzomi, Director, Human Resources

The following words and terms as used in the Merit System Rules and Personnel Policies shall have the meanings set forth below unless the context requires otherwise:

- 1.01 ADMINISTRATIVE SUSPENSION: A non-disciplinary suspension without pay or with reduced pay in the best interest of the County imposed upon an employee who is under investigatory or judicial proceedings.
- 1.02 ALLOCATION: The assignment of a classification to a position on the basis of the duties and responsibilities assigned to the position.
- 1.03 APPEAL: A request for the Merit System Commission to hear a complaint alleging improper suspension, demotion for disciplinary reasons, reduction in pay for disciplinary reasons, dismissal, or termination under Rule 11.5 B. through D.
- 1.04 APPELLANT: A permanent employee who files an appeal with the Merit System Commission.
- 1.05 APPLICANT: A person seeking County employment or an employee seeking reappointment, ~~detail~~, promotion, or demotion within County employment, who has completed and returned, on a timely basis, an official Pima County Application form according to instructions.
- 1.06 APPOINTING AUTHORITY: For the purpose of these Rules, Appointing Authorities include the Sheriff, Recorder, Treasurer, Superintendent of Schools, County Attorney, Assessor and others designated by the County Administrator, who have authority to take official personnel actions in accordance with these Rules.
- 1.07 APPOINTMENT: The official offer of employment and acceptance by an applicant in accordance with these Rules. **THE EFFECTIVE DATE FOR INITIAL APPOINTMENTS SHALL BE THE FIRST ACTUAL DAY OF WORK.**
- 1.08 ARS: Arizona Revised Statutes.
- 1.09 ASSIGNMENT PAY: Any additional compensation above the base salary assigned by an Appointing Authority for specific circumstances to include special assignment pay authorized by the Board of Supervisors pursuant to Personnel Policy 8-102.H. Assignment pay may only be applied while the special circumstances are in effect.
- 1.10 AUDIT: A review of the duties and responsibilities of a position in order to determine proper allocation.
- 1.11 BOARD: The Pima County Board of Supervisors.

- 1.12 BUSINESS DAYS: Monday through Friday, 8:00 a.m. to 5:00 p.m., excluding holidays, as provided by law.
- 1.13 CERTIFICATE OF ELIGIBLE APPLICANTS: An official list of the most qualified applicants for a particular position.
- 1.14 CLASS SPECIFICATION: The official document defining the type and level of duties and responsibilities and the minimum qualifications of positions assigned to a particular classification.
- 1.15 CLASSIFICATION: A title and code assigned to a grouping of similar positions as described in the appropriate class specification.
- 1.16 CLASSIFICATION SYSTEM: The orderly arrangement of positions under separate and distinct classifications on the basis of current duties and responsibilities.
- 1.17 CLASSIFIED SERVICE: County positions included in the Merit System and not exempt from the Merit System as provided in Pima County Code, Chapter 2.24.
- 1.18 COMMISSION: The Pima County Merit System Commission.
- 1.19 COMMISSIONER: A member of the Pima County Merit System Commission.
- 1.20 COMPENSATION: The salary, wage, allowances and all other forms of valuable consideration earned by or paid to an employee, except reimbursement for necessary expenses which have been authorized and incurred.
- 1.21 COUNTY: Pima County Government.
- 1.22 COUNTY ADMINISTRATOR: Highest ranking administrator for the Board of Supervisors.
- 1.23 COUNTY EMPLOYEE: A person appointed to and currently filling a paid position within the County.
- 1.24 COUNTY-FUNDED POSITION: A position funded by legally established recurring revenue to the County.
- 1.25 COUNTY-WIDE ANNOUNCEMENT: The official notice to County employees of employment opportunity in the County.
- 1.26 DEMOTION: A change in the assignment of an employee from a position in one classification to a position in another classification having a lower starting salary.

- 1.27 DEPARTMENT: A County governmental unit which has a separate operating budget approved by the Board.
- 1.28 DETAIL: The assignment of an employee to temporary duty which exceeds fifteen (15) work days to a position other than the position to which regularly assigned.
- 1.29 DISCIPLINARY ACTION: An action taken only for cause to correct inappropriate performance or other work-related behavior.
- 1.30 DISMISSAL: The involuntary termination of a person from County employment for a disciplinary reason. For the purposes of employee appeals pursuant to these Rules, a resignation in lieu of dismissal shall be deemed to be a dismissal.
- 1.31 ELIGIBLE APPLICANT: An applicant who meets the minimum qualifications for a specific classification and whose application has been placed in the relevant application file.
- 1.32 EXEMPT EMPLOYEE: An employee who is not required to receive overtime compensation under the Fair Labor Standards Act and who is not eligible for overtime compensation pursuant to Personnel Policy 8-102.
- 1.33 FULL-TIME POSITION: A position which provides employment for eighty (80) hours per pay period.
- 1.34 GRIEVANCE: A complaint alleging misinterpretation, misapplication, or unequal enforcement of Personnel Policies, Merit System Rules, or Administrative Procedures, or alleging unlawful discrimination under County Personnel Policies, Merit System Rules, or Administrative Procedures.
- 1.35 INTERMITTENT EMPLOYEE: A person who has been hired into a non-exempt classification for seasonal, on-call, or as-needed employment that does not exceed one thousand forty (1040) paid hours per fiscal year. Intermittent employees include Adult Work Experience Program workers, law clerks, youth workers and employees with the employment type of intermittent.
- 1.36 INTERNAL APPLICATION FILE: The official file containing applications for a specific classification from current employees or employees who have been laid off for less than two (2) years.
- 1.37 INTRADEPARTMENTAL ANNOUNCEMENT: The official notice to employees of a specific department of employment opportunity in that department.

- 1.38 LAYOFF: The conditional termination of a permanent employee due to lack of funds, reduced demand for services, functions or programs, elimination of position, **FOR INABILITY TO PERFORM THE ESSENTIAL FUNCTIONS OF THE EMPLOYEE'S POSITION WITH OR WITHOUT REASONABLE ACCOMMODATION**, or failure to successfully complete promotion, demotion or reappointment probation.
- 1.39 MERIT SYSTEM: The uniform and equitable system of personnel administration under federal guidelines and rules.
- 1.40 NON-EXEMPT EMPLOYEE: An employee who is eligible for overtime compensation under the Fair Labor Standards Act and Personnel Policy 8-102.
- 1.41 OPEN RANGE REAPPOINTMENT: A competitive or non-competitive change in the assignment of an employee from or to a position in a discrete grade to or from a position with an open salary range.
- 1.42 OPEN RANGE CLASSIFICATION: A classification which is not assigned a salary grade but is designated by the Board of Supervisors as having an open salary range. The level of compensation is determined by a Salary Administration Plan approved by the County Administrator.
- 1.43 OPEN SALARY RANGE: A specified salary range.
- 1.44 PART-TIME POSITION: A position which provides employment for less than eighty (80) hours per pay period.
- 1.45 PAY PERIOD: **A TWO (2) WEEK PERIOD ESTABLISHED BY THE FINANCE AND RISK MANAGEMENT DEPARTMENT THAT SHALL BEGIN AT 12:01 AM SUNDAY AND END AT 12:00 MIDNIGHT THE SECOND (2ND) SATURDAY THEREAFTER.**
- 1.456 PERMANENT EMPLOYEE: A regular employee who has successfully completed initial probation.
- 1.467 PRE-LAYOFF REAPPOINTMENT: The appointment of a County employee who has been notified of layoff, prior to the effective date of layoff, to a classification of the same or lower salary.
- 1.478 PROBATION: A specified period of employment following initial appointment, reemployment, reinstatement, reappointment, promotion, or demotion, which is the final step in the examining process during which an employee is evaluated.
- 1.489 PROBATIONARY EMPLOYEE: A regular employee serving initial probation who may be terminated without cause and with no right of appeal.

- 1.4950 PROMOTION: A change in the assignment of an employee from one classification to another classification having a higher starting salary.
- 1.501 PUBLIC ANNOUNCEMENT: The official notice to the public of employment opportunity with the County.
- 1.542 PUBLIC APPLICATION FILE: The official file containing applications of eligible applicants for a specific classification.
- 1.523 REALLOCATION: A change in the classification assigned to an existing position.
- 1.534 REAPPOINTMENT: A competitive or non-competitive change in the assignment of an employee from one position to another of any classification having the same or lower starting salary.
- 1.545 REASSIGNMENT: A competitive or non-competitive change in the assignment of an employee from one position to another of the same classification and salary within the employee's department.
- 1.556 RECLASSIFICATION: A change in the classification of an employee when his/her position has been reallocated.
- 1.567 REEMPLOYMENT: The appointment of a laid-off employee to a classification, other than the classification from which laid off, in any department, or to the same classification in a department other than the department from which laid off, or an appointment following Uniformed Service leave under Personnel Policy 8-103.
- 1.578 REGULAR EMPLOYEE: An employee who is employed full-time, part-time, or variable-time on a continuous and continuing basis.
- 1.589 REINSTATEMENT: The appointment of a laid-off employee to a position of the same classification in the same department from which laid off, or the returning of an employee as ordered by the Merit System Commission.
- 1.5960 RESIGNATION IN LIEU OF DISMISSAL: An employee has been officially dismissed from the County via a formal and final notice of dismissal and the employee requests in writing and is approved to resign instead of being dismissed.
- 1.601 RESPONDENT: The department or individuals named by the Appellant, whose interests are adverse to those of the Appellant, who will be directly affected by the Commission's decision in an appeal.

- 1.642 SELECTIVE CRITERIA: Key position-specific factors within a classification, such as specialized knowledge and/or experience, or special background or qualifications, or particular geographic area, used to develop a Certificate of Eligible Applicants.
- 1.623 SENIORITY: The number of hours of continuous employment with the County.
- 1.634 SUSPENSION: An involuntarily imposed leave without pay or with reduced pay.
- 1.645 TEMPORARY EMPLOYEE: An employee who has been appointed on a full-time, part-time, or variable-time basis for a limited period not exceeding eighteen (18) months.
- 1.656 TERMINATION: Separation of an employee from County employment.
- 1.667 TRAINEE: A new hire or regular employee serving in a trainee program pre-approved by Human Resources for such length of time necessary to meet the minimum qualifications or selective criteria for the training classification within six to twenty-four months from the commencement of the program. Employees who fail to successfully complete an approved trainee program have no right of appeal.
- 1.678 VACANT POSITION: A position currently under recruitment or available to be filled as determined by an Appointing Authority.
- 1.689 VARIABLE-TIME POSITION: A position which provides employment for an as-needed number of hours per work week.
- 1.6970 WORK DAY: Any designated hours within a twenty-four (24) hour period during which an employee is scheduled to work at a prescribed work place or on duty. Holidays are not work days unless the employee is scheduled to work.
- 1.701 WORK PERIOD: Any established and regularly recurring period of work which cannot be less than seven (7) consecutive days nor more than twenty-eight (28) consecutive days.
- 1.742 WORK RELEASE TIME: Time off work with pay.
- 1.723 WORK WEEK: All time within a seven (7) day period during which an employee is required to be on the employer's premises for the performance of prescribed duties, at a prescribed work place, or on duty. **WORK WEEKS SHALL BEGIN AT 12:01 A.M. SUNDAY AND END AT 12:00 MIDNIGHT THE FOLLOWING SATURDAY.**

4.1 RECRUITMENT AND ANNOUNCEMENTS

A. Recruitment

Recruitment efforts shall be planned and carried out in a manner that ~~assures~~**ENSURES** open competition. Development and implementation of recruitment plans shall be a cooperative venture between departments and Human Resources and shall be based on projected workforce needs and labor market conditions, as well as the need for recruitment of minorities, women, and other groups where there is under-representation in the County's workforce.

1. Public recruitment: Unless otherwise allowed under these Rules, the County shall use public announcements to recruit for all vacancies.
2. Internal recruitment: If a vacancy exists in a classification less than grade 32, an internal promotional process shall be used. Any other County policy, resolution, other Board action or County program relevant to recruitment shall be included in this internal recruitment process. Positions identified by Human Resources as entry level and hard to fill positions are exempt from this internal recruitment process. For all other vacancies, departments are encouraged to recruit internally when there is a sufficient number of qualified applicants to ~~assure~~**ENSURE** competition in the classification, as determined by Human Resources.
 - a. County-wide: Recruitment is limited to County employees.
 - b. Intradepartmental: Recruitment is limited to the department having the vacancy.

B. Announcements

1. All announcements shall specify the official classification title, classification code number, salary grade or open salary range, description of work to be performed or where this information may be obtained, the minimum qualifications and any selective criteria, the final date for receipt of applications or statement of continuous recruitment, the nature of the selection process and how to apply.
2. Public announcements shall be by public notice for a minimum of five (5) business days. Continuous announcements shall be open for a minimum of five (5) business days before a Certificate of Eligible Applicants is completed. Copies of public announcements shall be distributed to County departments and such other

individuals and organizations as Human Resources deems appropriate.

3. An internal announcement shall be open for a minimum of five (5) business days and distributed to County departments or the department with the vacancy, as appropriate.

4.2 APPLICATIONS

A. Official Forms

All applications shall be on forms provided by Human Resources.

B. Filing Applications

1. County employees may submit applications for any classification at any time, except for classifications that are initially evaluated using a scheduled test.
2. Applications for other than continuous recruitment classifications must be complete and received at Human Resources or as designated in the announcement on or before the final filing date/time specified. Applications for continuous recruitment classifications may be filed at any time.
3. Applicants shall submit such documents or supplemental information as required by Human Resources to verify and evaluate the applicant's qualifications and background.
4. Acceptance and/or issuance of an application form shall not be construed as incurring an obligation by the County.

C. Disqualification of Applicants

Human Resources may refuse to examine an applicant, or, after the selection process, may disqualify an applicant, remove an application, or refuse to certify an applicant if it is found that the applicant:

1. Does not meet the minimum qualifications established for the classification;
2. Has made a false statement of material fact in the application process;

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- 4.2 C.
3. Has used, or attempted to use, political pressure or bribery to secure an advantage in the examination process or in the appointment to a position in County employment;
 4. Has directly or indirectly obtained information regarding any examination to which the applicant is not entitled;
 5. Has failed to submit the completed application correctly or within the prescribed time limits;
 6. Has taken part in the compilation, administration, or any part of the selection process in which he/she is competing;
 7. Has previously been dismissed for a disciplinary reason from a position in County employment;
 8. Has a record of conviction of a crime, the nature of which would affect the applicant's suitability for employment;
 9. Has failed to appear for a scheduled examination or interview;
 10. Has failed any phase of the selection process;
 11. Has been determined by Human Resources to be unsuitable for employment for any job-related reason;
 12. Or otherwise has violated the provisions of the Arizona Revised Statutes (ARS), these Rules, or Pima County Personnel Policies.

4.3 ADMINISTRATIVE REVIEW

- A. At any step in the selection process, within ten (10) business days of receipt of a notice of disqualification, or receipt of notice of selection results, an applicant may request an administrative review. A written request must be submitted to Human Resources, who shall provide a written response within ten (10) business days of receipt of request.
- B. Human Resources may conduct further investigation and provide further response to the applicant as Human Resources deems appropriate.

4.4 ERRORS IN PROCESSING

Human Resources may correct clerical errors and errors arising from oversight or omission at any time in order to adjust the status of an applicant. Such adjustment shall not, however, invalidate any certification or appointment action already taken.

8.1 PROMOTION

- A. Departments are encouraged to fill all vacancies by promotion.
- B. Promotions shall be competitive and the selection made from a Certificate of Eligible Applicants.
- C. Failure of promotion probation may result in layoff.

8.2 DEMOTION

A. Involuntary

- 1. An employee who fails to successfully complete promotion probation may be involuntarily demoted to a position with the same classification and to the same salary previously held. The demoted employee shall be placed into his/her previous position if the position is vacant. If the previous position has been filled on a permanent basis, the employee shall be placed into a vacant position in the current department with the same classification and salary previously held. If such a placement action cannot be made, the employee shall be laid off from the classification to which demoted and within the present department. An employee demoted under this section shall have no right of appeal.
- 2. An employee may be involuntarily demoted for a disciplinary reason in accordance with Rule 12.

B. Voluntary

- 1. If an employee makes a written request for a voluntary demotion within his/her current department, the Appointing Authority may make the demotion non-competitively if the employee meets the minimum qualifications. An employee demoted under this section shall have no right of appeal.
- 2. An employee may voluntarily demote through the competitive process. The employee shall have no right of appeal.
- 3. If an employee sustains a job-related injury or illness which precludes working in the current classification, the Appointing Authority may, upon written request of the employee, grant the employee a demotion non-competitively if the employee meets the minimum qualifications. An employee demoted under this section shall have no right of appeal.

8.3 REAPPOINTMENT

- A. An employee may be offered reappointment competitively within the same department to a position of another classification with the same starting salary as the classification currently held; or to a position in another department of any classification with the same starting salary as the classification currently held.
- B. An employee may be offered reappointment non-competitively within the County system at the discretion of the County Administrator.
- C. At the discretion of the County Administrator, in consultation with Risk Management, an employee may be offered reappointment non-competitively within the County system to a position of the same classification, or another classification with the same or lower starting salary, if the employee has sustained a work-related injury precluding the employee from working in the current assignment. The employee must satisfactorily meet the minimum qualifications and physical requirements, with or without reasonable accommodation, for the reappointment.
- D. The County Administrator may offer an employee a reappointment non-competitively within the County system if Human Resources determines that the employee is a qualified individual with a disability, who is seeking reappointment to a position for which he/she is qualified, as an accommodation for his/her disability.

8.4 OPEN RANGE REAPPOINTMENT

- A. An employee may be offered an open range reappointment competitively from or to a position with a discrete grade to or from a position with an open salary range.
- B. An employee may be offered an open range reappointment non-competitively within the County system at the discretion of the County Administrator.
- C. At the discretion of the County Administrator, in consultation with Risk Management, an employee may be offered an open range reappointment non-competitively within the County system to a position of the same classification, or another classification with the same or lower starting salary, if the employee has sustained a work-related injury precluding the employee from working in the current assignment. The employee must satisfactorily meet the minimum qualifications and physical requirements, with or without reasonable accommodation, for the open range reappointment.

- 8.4 D. The County Administrator may offer an employee an open range reappointment non-competitively within the County system if Human Resources determines that the employee is a qualified individual with a disability, who is seeking open range reappointment to a position for which he/she is qualified, as an accommodation for his/her disability.

8.5 REASSIGNMENT

- A. An Appointing Authority has the authority to make competitive or non-competitive reassignments within the department.
- B. The County Administrator may offer an employee a reassignment non-competitively if Human Resources determines that the employee is a qualified individual with a disability, who is seeking reassignment to a position for which he/she is qualified, as an accommodation for his/her disability.

8.6 DETAIL

- A. When the services of an employee are needed temporarily for more than fifteen (15) work days in a position other than the position to which regularly assigned, the employee may be **NON-COMPETITIVELY** detailed to that position for a period **OF** up to **SIX (6) MONTHS**. ~~one (1) year and may not be extended.~~ An Appointing Authority may **RENEW A DETAIL ASSIGNMENT FOR UP TO AN ADDITIONAL SIX (6) MONTHS WITH THE APPROVAL OF THE HUMAN RESOURCES DIRECTOR.** ~~use a non-competitive process to fill any detail forty five (45) work days or less at which time the detail ends and may not be extended. A competitive process, in compliance with Merit System Rules 4, 5, 6 and 7, shall be used to fill any detail which exceeds forty five (45) work days.~~
- B. An employee is eligible for detail into a non-tested classification only if that employee meets the minimum qualifications of the classification upon detailing or upon completion of the detail assignment. An employee is eligible for detail into a tested classification only if he/she meets the minimum test scores prior to beginning the detail assignment. Temporary and intermittent employees and employees in trainee status are not eligible to serve detail assignments.
- C. A detail assignment may be ended by the Appointing Authority at any time, at which point the employee will be returned to his/her regularly assigned position and salary. An employee whose detail assignment has ended shall have no right of appeal.

8.7 EFFECTIVE DATE

The effective date for actions defined in Rule 8 shall be the first day of the pay period following the County Administrator's approval, unless otherwise addressed in policy or by Board of Supervisors directive. The effective date for actions defined in Rule 8 not requiring County Administrator approval shall be the first day of a pay period.

12.1 GENERAL PROVISIONS

A. Disciplinary Action

A disciplinary action is an action taken only for cause to correct inappropriate performance or other work-related behavior. The degree of disciplinary action shall relate to the gravity of the improper performance or conduct and the past performance and conduct of the employee. Progressive discipline, including counseling and other supervisory actions to improve conduct and performance, should be used whenever possible before taking formal disciplinary action.

B. Pre-action Meetings

Before a permanent employee is suspended, demoted for disciplinary reasons, reduced in pay for disciplinary reasons, dismissed, placed on administrative suspension without pay or with reduced pay, or involuntarily terminated under Rule 11.5 B. through D., a pre-action meeting shall be held. The affected employee shall receive written notice of the charges, an explanation of the department's evidence and an opportunity to address a department representative concerning the charges.

1. The pre-action meeting shall be held at a time when the employee is reasonably able to attend, with due notice, and prior to the effective date of the action.
2. Any relevant information presented by the employee regarding the proposed action shall be considered. The department representative will make a recommendation to the Appointing Authority to support, modify, or revoke the proposed action. If the recommendation and final action are adverse to the employee, the employee may appeal the action using the appeals procedure specified in Merit System Rule 14.
3. When a department determines that an employee should be out of the workplace while a pre-action investigation is conducted, the employee may be placed on administrative leave with pay pursuant to Personnel Policy 8-107.

C. Any of the Following Constitute Cause for Discipline:

1. Fraud in securing appointment or securing or attempting to secure workers' compensation benefits;
2. Incompetence;
3. Inefficiency;

4. Neglect of duty;
5. Insubordination, including, but not limited to, conduct which is unruly;
6. Dishonesty;
7. Possessing, dispensing, or being under the influence of alcohol, **OR ANY UNLAWFUL CONTROLLED SUBSTANCE SUCH AS** a narcotic, barbiturate, marijuana, **METHAMPHETAMINE**, or a tranquilizing or hallucinogenic drug, while on duty, except in accordance with medical authorization, or in the lawful performance of the employee's regular assigned duties. **UNDER THE INFLUENCE OF ALCOHOL MEANS EITHER OBVIOUS IMPAIRMENT DUE TO ALCOHOL OR A TEST RESULT REFLECTING A BLOOD ALCOHOL CONTENT OF .04 OR GREATER.;**
8. Absence without leave without reasonable cause;
9. Commission or conviction of a felony or of a misdemeanor involving moral turpitude, either of which would affect the employee's suitability for continued employment;
10. Discourteous treatment of the public;
11. Willful disobedience, i.e. a specific violation of a command or prohibition;
12. Engaging in prohibited political activity;
13. Misuse of County computers, County internet access, County email systems, or any other County electronic communication devices;
14. Misuse of any County property and/or systems;
15. Seeking to obtain financial, sexual, or political benefit from another employee with or without his/her consent, induced by wrongful use of force or fear, or under color of official right;
16. Violation of the Rules of Conduct, Personnel Policy 8-119;
17. Failure to satisfactorily perform job duties and responsibilities;

18. Failure to maintain minimum qualifications for the position;
19. Any other improper conduct or performance, which constitutes cause for disciplinary action.

12.2 TYPES OF DISCIPLINARY ACTIONS

A. Informal Discipline

1. Verbal Counseling

A supervisor may engage in verbal counseling with a permanent employee at any time for problem resolution. If the verbal counseling is documented, a copy of the documentation, with the employee's acknowledgment of receipt and any written response, shall be placed in the employee's department personnel file and shall be automatically purged one (1) year from the date of the verbal counseling, unless an earlier removal is authorized by the Appointing Authority. Verbal counseling is neither grievable nor appealable.

2. Letter of Counseling

An Appointing Authority or designee may issue a Letter of Counseling to a permanent employee at any time to correct or improve improper performance or conduct. The letter shall contain the specifics of the improper performance or conduct and shall be identified as a Letter of Counseling. A copy of the Letter of Counseling, with the employee's acknowledgment of receipt and any written response, shall be placed in the employee's department personnel file and shall be automatically purged one (1) year from the date of issuance, unless an earlier removal is authorized by the Appointing Authority. A Letter of Counseling is neither grievable nor appealable.

B. Formal Discipline

1. Letter of Reprimand

An Appointing Authority or designee may issue a Letter of Reprimand to a permanent employee to admonish the employee for serious or repetitive improper performance or conduct. The letter shall contain the specifics of the improper performance or conduct and shall be identified as a Letter of Reprimand. The Letter of Reprimand shall advise the permanent employee of the right to grieve the disciplinary action within ten (10) business days of receipt. Copies of the Letter of Reprimand, with the employee's

acknowledgement of receipt, shall be placed in the employee's department personnel file and filed with Human Resources once the grievance process is completed or the time frame for filing a grievance has expired.

2. Suspension

- a. Suspension is considered to be a significant disciplinary action and may be used for more serious incidents or repetitions of improper performance or conduct. An Appointing Authority or designee may suspend without pay a permanent employee for a disciplinary reason. Permanent employees may be suspended for any appropriate length of time in full day increments.
- b. The Notice of Suspension shall contain the specific reason(s) for the suspension in sufficient detail to inform the employee of the reason(s) for the action and shall advise the employee of the right to appeal the suspension to the Merit System Commission within ten (10) calendar days of receipt of notice.
- c. The Notice of Suspension must be delivered to the employee prior to or no later than the effective date of the suspension. The date of receipt must be documented. Copies of the Notice of Suspension shall be filed with Human Resources and the Clerk of the Board once the merit system appeal process is completed or the time frame for filing a merit system appeal has expired.

3. Demotion

- a. Demotion for a disciplinary reason is considered to be a significant disciplinary action and may be used for more serious incidents or repetitions of improper performance or conduct. An Appointing Authority or designee may demote a permanent employee for a disciplinary reason provided the employee meets the minimum qualifications of the demoted classification.
- b. The Notice of Demotion shall contain the specific reason(s) for the demotion in sufficient detail to inform the employee of the reason(s) for the action and shall advise the employee of

the right to appeal the demotion to the Merit System Commission within ten (10) calendar days of receipt of notice.

- c. The Notice of Demotion must be delivered to the employee prior to or no later than the effective date of the demotion. The date of receipt must be documented. Copies of the Notice of Demotion shall be filed with Human Resources and the Clerk of the Board once the merit system appeal process is completed or the time frame for filing a merit system appeal has expired.

4. Dismissal

- a. Dismissal for a disciplinary reason is the most significant disciplinary action and may be used for the most serious incidents or repetitions of improper performance or conduct. An Appointing Authority may dismiss a permanent employee for a disciplinary reason.
- b. The Notice of Dismissal shall contain the specific reason(s) for the dismissal in sufficient detail to inform the employee of the reason(s) for the action and shall advise the employee of the right to appeal the dismissal to the Merit System Commission within ten (10) calendar days of receipt of notice.
- c. The Notice of Dismissal must be delivered to the employee prior to or no later than the effective date of the dismissal. The date of receipt must be documented. Copies of the Notice of Dismissal shall be filed with Human Resources and the Clerk of the Board once the merit system appeal process is completed or the time frame for filing a merit system appeal has expired.

12.3 ADMINISTRATIVE SUSPENSION

An Appointing Authority may impose a non-disciplinary suspension without pay or with reduced pay when a permanent employee is charged with a felony or other crime involving moral turpitude, or when it is deemed to be in the best interest of the County while an inquiry is being made into the conduct of the employee.

- A. Permanent employees may be placed on administrative suspension for any appropriate length of time in full day increments. Exempt permanent employees may be placed on administrative suspension only without pay.

- B. The Notice of Administrative Suspension shall contain the specific reason(s) for the administrative suspension in sufficient detail to inform the employee of the reason(s) for the action and shall advise the employee of the right to appeal the administrative suspension to the Merit System Commission within ten (10) calendar days of receipt of notice.
- C. The pre-action meeting shall be held upon reasonable notice to the employee and at a time when the employee is reasonably able to attend.
- D. Administrative suspensions that exceed thirty (30) business days must be approved by the County Administrator.
- E. At the conclusion of the administrative suspension, the employee shall be returned to work with or without back pay, or advised of disciplinary or other action.

12.4 SPECIAL OBSERVATION PERIOD

An Appointing Authority or designee may place a permanent employee on a Special Observation Period for the purpose of closely monitoring the employee's performance or conduct during the specified period of time. A Special Observation Period is a non-disciplinary action and may or may not be issued in conjunction with a disciplinary action. The Notice of Special Observation Period shall be separate from any accompanying disciplinary action documentation.

- A. The Notice of Special Observation Period shall be provided to the employee in writing upon the effective date, and shall specify the conduct involved, the purpose of the observation period and the length of the period. Copies of the Notice of Special Observation Period shall be placed in the employee's department personnel file and filed with Human Resources for placement in the employee's official personnel file.
- B. At the end of the Special Observation Period, the employee's supervisor shall prepare a special performance evaluation report specific to the performance issue(s) being monitored. Copies of the report shall be placed in the employee's department personnel file and filed with Human Resources.
- C. Unsatisfactory performance or conduct during the Special Observation Period may result in disciplinary action taken during the Special Observation Period. Unsuccessful completion of the Special Observation Period may result in disciplinary action taken at the end of the Special Observation Period.

12.5 EFFECTIVE DATE

The demotion, administrative suspension, suspension, or dismissal for a disciplinary reason shall be effective on the date stated in the notice. The effective date of the action shall not be altered by the employee exercising the right of appeal.

12.6 RIGHT TO REPRESENTATION

The affected employee is entitled to be assisted by a **WILLING** person of the employee's choosing in a meeting where a Letter of Reprimand is being issued to the employee and at pre-action meetings held prior to issuance of disciplinary actions. The employee's assistant may speak on behalf of the employee and participate in the discussions with the employee during such meetings. The employee shall be given at least three (3) full work days' notice of the pre-action meeting **OR A MEETING WHERE A LETTER OF REPRIMAND IS BEING ISSUED**. If the employee has not obtained an assistant within that period of time, management may proceed without further delay.

13.1 GENERAL PROVISIONS

- A. An informal resolution to a complaint or problem is the most appropriate manner of resolution. Departments shall attempt and employees are encouraged to resolve disputes through informal means, including the County mediation process, Personnel Policy 8-115.
- B. Except for grievances pertaining to Letters of Reprimand and allegations of sexual harassment or workplace harassment, prior to filing a formal grievance, an employee must attempt to use the County mediation process within ten (10) business days of the date the grievant knew or should have known of the grievable incident(s). If mediation is not successful and the dispute remains unresolved, the employee may proceed with the formal grievance process.
- C. All employees are required to cooperate in grievance proceedings and/or investigations whether as grievant, witness, or Respondent and shall maintain information obtained during grievance proceedings and/or investigations in strict confidence. Any violations of confidentiality may result in disciplinary action.
- D. Employees are to be given work release time, separate from the three (3) hour limit allowed under Personnel Policy 8-107 B.1., when called to testify in a Human Resources grievance proceeding.

13.2 GRIEVANCES NOT ALLEGING DISCRIMINATION

- A. Permanent Employees May Grieve:
 - 1. Misinterpretation, misapplication, or unequal enforcement of Merit System Rules, Personnel Policies, or Administrative Procedures;
 - 2. A Letter of Reprimand.
- B. Employees May Not Grieve:
 - 1. Compensation issues and/or any related actions;
 - 2. Classification issues and/or any related actions;
 - 3. Informal disciplinary actions;
 - 4. Performance Plans and Performance Appraisals.

13.2 C. An employee may respond in writing to informal disciplinary action, except for an undocumented verbal counseling. The response shall be placed in the employee's department personnel file. An employee may respond in writing to a performance appraisal. The response shall be attached to the performance appraisal and filed accordingly.

D. Grievance Procedure

The grievance must be filed within ten (10) business days of the date of receipt of a Letter of Reprimand, or for grievable matters other than a Letter of Reprimand, within ten (10) business days of the date the grievant knew or should have known that mediation was not successful. The grievant shall complete a Pima County Grievance Form and submit it to the Appointing Authority. The Appointing Authority shall respond to the employee in writing within ten (10) business days of receipt. The employee has the right to submit the grievance and the response to the County Administrator for further review within five (5) business days of receipt of response.

E. The County Administrator, upon receipt of the grievance, shall make a determination concerning jurisdiction and, if appropriate, direct Human Resources to conduct grievance committee proceedings in accordance with this Rule.

1. No member of the grievance committee convened under this Rule shall be:
 - a. An employee of the County Administrator's Office, Human Resources, or the County Attorney's Office;
 - b. An employee who has received formal disciplinary action within the past twelve (12) months;
 - c. A relative of the grievant; or
 - d. An employee who has a definite personal and/or professional conflict of interest with the grievant or the department, as determined by the County Administrator.
2. A grievance committee shall consist of three randomly selected County employees who act on behalf of the County Administrator, with ample investigative power.
3. Prior to grievance committee proceedings, the grievant shall be given the option of designating committee selection to be either a) three (3) randomly selected non-departmental members or b) three (3) randomly selected departmental members.

- 13.2 E. 4. For grievances with non-departmental representation, two pools of employees will be computer generated on a quarterly basis, with one group representing exempt employees and the other group representing non-exempt employees. For grievances with departmental representation, two pools of departmental employees will be computer generated at the time of committee selection, with one group representing exempt employees and the other group representing non-exempt employees.
5. For each committee, Human Resources will randomly select one member from each pool. The third member will then be randomly selected by Human Resources from the total combined pool. Human Resources shall ~~assure~~**ENSURE** that each committee is composed of at least one (1) non-management employee and one (1) management employee who has completed the first level of Mandatory Management Training offered by the County.
6. Training will be conducted by Human Resources at the time the grievance committee is convened. Training will constitute the first meeting of the committee and will be held prior to the investigation.
7. The grievance committee members shall maintain information obtained during the proceedings in the strictest confidence. Each member will be required to sign a confidentiality agreement at the time of training. Any violation of the agreement may result in disciplinary action.
8. Grievance committee meetings are conducted informally and not in an adversarial manner. Grievance committee members are required to attend all scheduled meetings.
9. The grievance investigation shall be by group process and no member may provide information obtained outside of the grievance process. The committee members are to remain objective and neutral throughout the investigation. The following individuals will be scheduled for an interview: grievant, department representative or immediate supervisor, and, if appropriate, any employee directly involved with the incident(s) cited in the grievance. The grievance committee may request Human Resources to obtain any relevant documents. If any discriminatory action is identified, the grievance committee must refer this issue to Human Resources for a separate investigation.
10. Either the grievant or the department may be accompanied by a representative when meeting with a grievance committee.

- 13.2 E. 11. Within forty-five (45) business days of the first committee meeting, the grievance committee, with assistance from Human Resources, shall draft a grievance report. The report shall contain findings of fact and recommendation(s) for action. It shall be noted in the report if consensus is not reached and the reason(s) justifying the dissenting vote shall be documented.

The committee may recommend that the County Administrator uphold or deny the grievance. Recommendations may address concerns regarding other violations of Rules/Policies, working conditions, management issues and/or departmental procedures relevant to the grievance. In addition, the committee may elect to draft a separate, confidential, report to the County Administrator concerning issues identified in the course of the investigation that are not directly related to the grievance.

- F. Within thirty (30) calendar days after receipt of the grievance committee report, the County Administrator shall accept, reject, or modify the remedy recommended by the grievance committee and issue a final decision. Should the County Administrator fail to issue a final decision within the above time frame, the majority opinion of the grievance committee will stand.

1. The County Administrator may reconvene the committee for further investigation or to provide an explanation of the issues and recommendation(s) in the report.
2. The grievance committee report shall be held confidential until it is distributed with the final decision. Human Resources shall distribute a copy of the County Administrator's decision and the grievance committee report to the grievant and the department for filing. A copy of the grievance report and the County Administrator's decision, when filed based on a Letter of Reprimand, shall also be placed in the grievant's official personnel file.
3. The grievant and/or department may report objections to the County Administrator within three (3) business days of receipt of the final determination. The County Administrator will determine what further action, if any, is warranted.

- G. All time requirements must be met unless exceptions are granted by the County Administrator. If the Appointing Authority fails to meet the time requirements, the grievant has the right to take the grievance to the next step. If the grievant fails to meet the time requirements, the grievance shall be considered withdrawn.

13.3 GRIEVANCES ALLEGING DISCRIMINATION

- A. Any employee may file a grievance alleging unlawful discrimination under County Personnel Policies, Merit System Rules, or Administrative Procedures based on race, color, religion, national origin, age, sex, disability, veteran's status, sexual orientation or results of a genetic test received by the County, when applicable. Subsequent retaliation and/or harassment based on the above are also grievable issues.
- B. The grievance must be filed within ten (10) business days of the date the grievant knew or should have known that mediation was not successful. However, grievants alleging sexual harassment or workplace harassment need not attempt mediation prior to filing a grievance. The grievant shall complete a Pima County Discrimination Grievance Form and submit it to the Appointing Authority, who shall respond to the employee in writing within ten (10) business days of receipt. The employee has the right to submit the grievance and the response to the County Administrator for further review within five (5) business days of receipt of response.
- C. The County Administrator, upon receipt of the grievance, shall make a determination concerning jurisdiction and, if appropriate, direct Human Resources to conduct an investigation in accordance with this Rule.
 1. Human Resources will schedule interviews with the following individuals: grievant, department representative or immediate supervisor, and, if appropriate, any employee directly involved with the incident(s) cited in the grievance. Human Resources may request that the Appointing Authority provide any relevant documents.
 2. Human Resources shall maintain information obtained during the grievance proceedings in the strictest confidence, to the extent possible. Any violation of this confidentiality requirement may result in disciplinary action.
 3. Within forty-five (45) business days of receipt of the grievance, Human Resources shall submit a report to the County Administrator. The report shall contain findings of fact and recommendation(s) for action.

Human Resources may recommend that the County Administrator uphold or deny the grievance. Recommendations may address concerns regarding other violations of Rules/Policies, working conditions, management issues, and/or departmental procedures relevant to the grievance. In addition, Human Resources may elect to draft a separate, confidential, report to the County Administrator concerning issues identified in the course of the investigation that are not directly related to the grievance.

- 13.3 D. Within thirty (30) calendar days after receipt of the report, the County Administrator shall accept, reject, or modify the remedy recommended by Human Resources and issue a final decision.
1. The County Administrator may require Human Resources to conduct further investigation or to provide an explanation of the issues and recommendation(s) in the report.
 2. The report shall be held confidential until it is distributed with the final decision. Human Resources shall distribute a copy of the County Administrator's decision and the report to the grievant and the department.
 3. The grievant and/or department may report objections to the County Administrator within three (3) business days of receipt of the final determination. The County Administrator will determine what further action, if any, is warranted.
- E. All time requirements must be met unless exceptions are granted by the County Administrator. If the Appointing Authority fails to meet the time requirements, the grievant has the right to take the grievance to the next step. If the grievant fails to meet the time requirements, the grievance shall be considered withdrawn.

13.4 RIGHT TO REPRESENTATION

The affected employee is entitled to be assisted by a **WILLING** person of the employee's choosing in grievance meetings when the employee who is the subject of the grievance is in attendance. The employee's assistant may participate in the discussions with the employee during such meetings. The employee must be given notice of this meeting at least three (3) full work days from the date of written notification. If the employee has not obtained an assistant within that period of time, the meeting may proceed without further delay.