

**MEMORANDUM OF UNDERSTANDING  
BETWEEN  
COUNTY OF MENDOCINO**



**AND**

**TEAMSTERS LOCAL 856  
(Mendocino County Public Attorneys Unit)**



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**July 1, 2022 through June 30, 2023**

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## **Preamble**

This Agreement, hereinafter referred to as the Agreement, entered into by the County of Mendocino, hereinafter referred to as the County, and Teamsters Local 856, hereinafter referred to as the Union, has as its purpose of harmonious labor relations between the County and the Union; establishment of an equitable and peaceful procedure for the resolution of differences; and the establishment of rates of pay, hours of work, benefits and other conditions of employment.

The term "Agreement" as used herein means the written agreement provided under Section 3505.1 of the Government Code.

## **Section 1 – Recognition**

- A.** The County recognizes the Union as the recognized employee organization for employees in the following unit: Mendocino County Public Attorneys.
- B.** The County of Mendocino acknowledges Teamsters Union Local 856 as the sole recognized employee organization for matters within the scope of representation as defined in the Mendocino County Employer Employee Relations Policy for employees in all classifications listed in Appendix "A" (Bargaining Unit Classifications).

## **Section 2 – No Discrimination**

The parties mutually agree that they will not discriminate against any employee because of race, color, religious creed, national origin, sex, age, sexual orientation or physical or mental impairment, or with respect to any employee's membership or non-membership in any employee organization or with respect to any lawful activity associated therewith which is within the scope of representation. There shall be no discrimination against employees because of protected Union activities.

## **Section 3 – Union Rights**

### **A. Release Time**

Authorized representatives of the Union who are County employees may utilize time during normal working hours without loss of pay or benefits, for meeting and conferring with County management on matters within the scope of representation. Subject to advanced scheduling with the appropriate department head, the number of County employees released for such meetings shall not exceed three (3) persons, except by mutual agreement between the Director of Human Resources and Department Head and the Union prior to the meeting. The use of official time for this purpose shall be reasonable in amount and shall not interfere with the performance of County services.

### **B. Notice of Union Representatives**

The Union shall provide annually to the Human Resources Director a list of the Union officers and authorized representatives and shall update as changes occur.

### **C. Work Access**

The authorized representatives of the Union shall have access to employee work locations during working hours for the purpose of assisting Union members in areas that fall under the

scope of representation. Said representatives shall request prior authorization for the time and location for such visit by contacting the Department Head or his/her designee. In the event immediate access cannot be authorized, the department representative shall inform the Union representative as to the time when access can be granted. Non-County employed authorized representatives of the Union shall not be allowed in areas designated as secure or confidential unless attended by a County employed Union member.

#### **D. Use of County Facilities**

The Union may be granted the use of County facilities for meetings composed of Union members provided such meetings are held outside regularly scheduled working hours for the employees and provided space can be made available without interfering with County needs. The Union shall obtain the permission from the Human Resources Director before using such facilities. Meeting places shall be left in an orderly manner upon completion of the meeting.

#### **E. Bulletin Boards**

Bulletin boards will be made available for the use of the Union. No material, other than notices of meetings, social events, elections, appointments, and other official Union business and information, shall be posted on a bulletin board unless and until approved for posting by the Human Resources Director. All material shall be dated and signed by an authorized Union representative responsible for its issuance. Posted material shall bear the identity of the Union, not be misleading or in violation of any law, neatly displayed, and removed when no longer timely. The County, through the Director of Human Resources, reserves the right to remove objectionable materials after notice to the Union.

#### **F. New Employee Information**

Up to two (2) Union representatives may attend the County new hire orientation for the purpose of informing new attorney hires about the Union. The Union may provide materials for the County to distribute to new attorney hires at the County's New Hire orientations held in the Human Resources Department. The Union may provide materials for the County to distribute to new Attorney hires.

### **Section 4 – Union Security**

#### **A. Agency Shop**

The parties to this Memorandum of Understanding mutually understand and agree all employees subject to this agreement have the right to join or not join the Union. However, as a condition of continuing employment, employees must either join the Union or pay to the Union a service fee in lieu thereof. Such service fee shall be established by the Union and shall not exceed the standard initiation fee, periodic dues and general assessment of the Union for the duration of this Memorandum of Understanding.

#### **B. Union Dues/Service Fees**

Any employee hired by the County subject to this Memorandum of Understanding on or after the date of implementation of this agreement shall be provided, through the Human Resources department, with an authorization notice advising the employee that the County has entered into an Agency Shop agreement with the Union and that all employees subject

to the Memorandum of Understanding must either join the Union, pay a service fee to the Union, or execute a written declaration claiming a religious exemption from this requirement. Such notice shall include a form for the employee's signature authorizing payroll deduction of Union dues or a service fee, or a charitable contribution equal to the service fee. Said employee shall have fifteen (15) working days following the initial date of employment to fully execute the authorization form of his/her choice and return said form to the Auditor's Office, Payroll Division.

1. If the form is not completed properly and returned within fifteen (15) calendar days, the County Auditor shall commence and continue a payroll deduction of service fees from the regular biweekly pay warrants of such employee. The effective date of union dues, service fee, or a charitable contribution shall begin no later than the first full pay period after receipt of the authorization form.
2. The employee's earnings must be sufficient after the other legal and required deductions are made to cover the amount of the dues or fees authorized. When an employee is in a non-pay status for an entire pay period, no withholding will be made to cover the pay period from future earnings. In the case of an employee who is in non-pay status during only part of the pay period, and the salary is not sufficient to cover the full withholding, no deduction shall be made. In this connection, all other legal and required deductions (including health care deductions) have priority over union dues and service fees.

### **C. Religious Exemption**

Any employee of the County subject to this Memorandum of Understanding who is a member of a bona fide religion, body or sect which has historically held conscientious objections to joining or financially supporting a public employee organization and which is recognized as such by the National Labor Relations Board, shall, upon presentation of verification of active membership in such religion, body or sect be permitted to make a charitable contribution equal to the service fee in lieu of Union membership or service fee payment. Declaration of or applications for religious exemption and any other supporting documentation shall be forwarded to the appropriate local Union within fifteen (15) days of receipt by the County. The Union shall have fifteen (15) days after receipt of a request for religious exemption to challenge an exemption granted by the Director of Human Resources or his/her designee. If challenged, the deduction to the charity of the employee's choice shall commence but shall be held in escrow pending resolution of the challenge. Charitable contributions shall be by regular payroll deduction only.

### **D. Financial Reports**

Teamsters Local 856 shall submit copies of the financial report required pursuant to the Labor-Management Disclosure Act of 1959 to the County Administrator once annually.

1. Copies of such reports shall be available to employees subject to the Agency Shop requirements of this agreement at the Office of the Union.
2. Failure to file such a report within 100 days of the close of the Union's fiscal year shall result in the termination of all agency fee deductions, without jeopardy to the employee, until said report is filed.

#### **E. Payroll Deductions and Pay Over**

The County shall deduct Union dues or service fees from employee's pay in conformity with State and County regulations. The County shall also quarterly provide the Union with a list of all persons making charitable deductions pursuant to the religious exemption granted herein.

The County will also provide the Union with copies of signed dues deduction authorization forms and dues deduction authorization forms and dues deduction withdrawal requests.

1. Dues deduction shall not be retroactive.
2. The County will not deduct any Union's fines or penalties from the pay of any employee.

#### **F. Hold Harmless**

The Union shall indemnify, defend, and hold harmless the County, its officers, employees, and agents acting on its behalf from and against any and all losses, damages, costs, expenses, claims, demands, actions, suits, judgments and other forms of liability arising out of the application or enforcement of this Section. In no event shall the County be required to pay from its own funds Union dues, service fees or charitable contributions, which the employee was obligated to pay, but failed to pay, regardless of the reasons.

#### **G. Waiver of Election for Newly Represented Employees and New Representation Units**

The accretion of classification and/or employees to representation units set forth in this Memorandum of Understanding shall not require an election for the application of this Agency Shop provision to such classifications and/or employee. The recognition of newly established bargaining units and the inclusion of same within this Memorandum of Understanding shall also not require an election for the application of this Agency Shop to such units.

#### **H. Programming Fee**

The Union shall reimburse the County for actual, reasonable and necessary costs, if any occur, of programming in order to maintain this agreement. Such costs shall not exceed the Union's prorated share of such costs, to be determined by dividing the total number of each Union's represented employees subject to Agency Shop by the total number of County employees subject to Agency Shop and by multiplying this quotient times the total cost.

#### **I. Unit Membership List**

Management shall provide to the Union, within thirty (30) calendar days from the effective date of this Memorandum of Understanding and each quarter thereafter, an alphabetized list of employees subject to this Memorandum Understanding.

### **Section 5 – Management Rights**

Subject to applicable laws, it is the exclusive right of the County to determine the purpose or mission of each of its constituent departments, boards, and commissions; set standards of service to be offered to the public; and exercise control and discretion over its organization and operations. It is also the right of the County to direct its employees; take disciplinary action for just cause; relieve its employees from duty because of lack of work or for other

legitimate reasons; determine whether goods or services shall be made, purchased, or contracted for; and determine the methods, means, and personnel by which the County's operations are to be conducted. The County has the right to take all necessary actions to maintain uninterrupted service to the community, provided that the exercise of these rights does not preclude employees or their representatives from meeting and conferring with the County on the impact of County actions on matters within the scope of representation pursuant to Government Code § 3500 et. seq. and applicable law.

## **Section 6 – Probation Period**

### **A. New or Re-employed Employees**

All new or re-employed employees in full-time regular positions shall serve a probationary period of twenty-six (26) full pay periods (12 months) from the date of appointment ending with the last day of the twenty-sixth (26<sup>th</sup>) full pay period.

### **B. Transferred or Promotion Employees**

All full-time employees who transfer from one department to another shall serve a probationary period of twenty-six (26) full pay periods, (12 months) from the date of transfer. In addition, all full-time employees who are promoted shall serve a probationary period of twenty-six (26) full pay periods from the date of promotion ending with the last day of the twenty-six (26) pay period.

#### **1. Bumping Rights for Transferred or Promoted Employees**

- a. All full-time unit members who transfer from one department to another may within six (6) months of their date of transfer, elect to bump back to his/her former department and position if the previously-held position is vacant.
- b. In lieu of termination, all full-time unit members who are rejected during a promotional probationary period may elect to return (“bump back”) to their previous position or position level if the position or position level is vacant.

### **C. Part Time Employees**

All part time employees shall serve an extended probation period beyond twenty-six (26) pay periods in proportion to the relationship their basic workweek bears to forty (40) hours.

### **D. Separation During Probation**

A probationary employee may be separated from employment at any time during the probation period without right of appeal or hearing unless the employee alleges that such separation constituted discrimination of the probationary employee as a member of a legally protected class.

### **E. Extension of Probation**

The 12-month probationary period can be extended up to an additional twelve (12) months at the request of the Department Head upon approval of the Human Resources Director.

## **Section 7 – Salary and Other Compensation**

### **A. Wages**

Effective the first full pay period following Board ratification, all bargaining unit members shall receive a 2% COLA.

### **B. FLSA Exempt Status**

Attorneys are employees that are exempt under the Fair Labor Standards Act and are therefore not entitled to overtime pay or compensatory time off. Attorneys are expected to work a minimum of forty (40) hours per week. Their salary is full compensation for the time it takes to do their jobs.

### **C. Salary Ranges**

The Salary table for classifications represented by the Union is listed in Appendix “B” of this MOU and is incorporated herein.

### **D. Merit Increase Progression**

Progression from one step in the salary range to the next step in the salary range shall be as follows:

1. The numbers 1, 2, 3, 4, and 5, respectively, denote the various steps in the pay range. Each step represents approximately five percent (5%) increase in salary above the previous step.
2. Step “1” shall be paid upon initial employment except when a higher step has been previously recommended by the Department Head and prior authorization received from the County CEO.
3. Step “2” shall be authorized upon receiving an overall rating equivalent to satisfactory, or above, after completion of twenty-six (26) pay periods of employment at Step “1”.
4. Step “3” shall be authorized upon receiving an overall rating equivalent to satisfactory, or above, after completion of twenty-six (26) pay periods of employment at Step “2”.
5. Step “4” shall be authorized upon receiving an overall rating equivalent to satisfactory, or above, after completion of twenty-six (26) pay periods of employment at Step “3”.
6. Step “5” shall be authorized upon receiving an overall rating equivalent to satisfactory, or above, after completion of twenty-six (26) pay periods of employment at Step “4”.

### **E. Merit Increase Evaluation**

A Merit increase shall be granted upon completion of the periods of service outlined herein only upon receipt of a qualifying evaluation and the written approval of the appointing authority. A qualifying evaluation is rated overall satisfactory or above. Written approval, plus a current evaluation, must be submitted to the Human Resources Department at least two (2) pay periods prior to the proposed effective date. If the written approval and qualifying evaluation are submitted after the due date the merit increase will be applied retroactively to the merit date.

### **F. Part-time Merit Increase**

An employee in a regular part-time position shall be treated identically to the employee in the regular full-time position; except, that he/she shall be granted salary increases beyond

twenty-six (26) pay periods in proportion to the relationship their basic workweek bears to forty (40) hours.

#### **G. Step Increase Upon Promotion**

In the case of the promotion of any employee to a position in a class with a higher pay range, such employee shall be entitled to receive the first step of the new range or a step in the new range that is equal to one step higher than the salary the employee was receiving prior to promotion or reclassification, whichever is greater. If the amount equal to a one-step increase in the employee's pay range prior to promotion or reclassification does not appear in the new range, then the employee will receive the step in the new range next above what would normally be a one-step increase in the employee's former range. If an increase equal to one step should exceed the last step of the new range, the employee shall be promoted to the last step of the new range.

#### **H. Promotions Within Series**

After completion of no less than six (6) months of service and having met the minimum qualifications for the position, a Union member may be promoted to the next classification in the series at the discretion of the department head.

#### **I. Bilingual Pay Premiums**

The Appointing Authority may designate any position within the bargaining unit to receive bilingual pay.

An employee, to qualify for bilingual pay, must demonstrate a language proficiency of job related terminology, acceptable to the Appointing Authority and the Human Resources Director.

Employees who are certified by the Department and Human Resources as having met Basic Communications proficiency exam will receive three percent (3%) premium pay. Employees who are currently or who become certified as fully proficient will receive five percent (5%) premium pay.

#### **J. Longevity Pay**

- After completion of 7 years of continuous County employment a 2.5% wage increase
  - After completion of 10 years of continuous County employment a 2.5% wage increase
  - After completion of 15 years of continuous County employment a 2.5% wage increase
- For a total wage increase of 7.5%

#### **K. Coast Assignment Premium**

Any Mendocino County employee whose regular assignment is in the coastal region including Fort Bragg, Mendocino, or in Point Arena, shall receive a 5% assignment premium. This premium shall also apply to employees temporarily assigned to these locations for one full pay period or a longer period of time. Employees temporarily assigned to these locations shall receive this premium only during temporary assignment of one full pay period or more.

## L. Attorney Classification and Compensation Review

No later than three (3) months from the date of ratification, the County will cause a classification and compensation study to be completed for all four (4) attorney classifications. In making compensation recommendations, Human Resources will use the average compensation of its historical comparators. At the conclusion of the study by Human Resources, the parties will meet and confer to discuss the findings of the study with possible changes to the job classifications and/or series. It is understood that after completion of the meet and confer, classification changes are subject to approval by the Civil Service Commission and that compensation adjustments shall be presented the Board for their approval with Human Resources' recommendation.

## Section 8 – Leaves and Authorized Time Off

### A. Vacation

#### 1. Accrual Rate for Full Time Employees

Every employee in a full-time regular or limited-term position shall receive vacation benefits for each pay period of continuous service according to the following schedule:

Years of Service	Accrual Per Pay Period	Annual Hours	Annual Days	Maximum Weeks	Maximum Hours	Maximum Days	Maximum Weeks
0 to 3	3.079	80	10	2	240	30	6
>3 to 8	4.616	120	15	3	320	40	8
>8 to 15	6.157	160	20	4	320	40	8
>15	7.694	200	25	5	400	50	10

#### 2. Commencement of Vacation Accrual

Vacation accrual shall date from the first of the pay period following the pay period in which the employee commenced such continuous service. If such commencement date was the first working day of the pay period, vacation accrual shall start from that date.

#### 3. Eligibility

Employees do not become eligible to take their earned vacation until they have completed thirteen (13) pay periods of continuous service. After completion of thirteen (13) pay periods of continuous service, employees then become eligible to take vacation as it is earned. Once an employee becomes eligible to take earned vacation, he/she may use this vacation as an extension of sick leave.

#### 4. Scheduling

Each department head shall be responsible for scheduling the vacations of his/her employees in such a manner as to achieve the most efficient functioning of the department and of the County service. No person shall be permitted to work for compensation for the County in any capacity during the time of his/her paid vacation from County service.

#### 5. Vacation Cash Out

Once each fiscal year, an employee may cash out up to sixty (60) hours of vacation provided that the employee is left with an accrued balance of at least forty (40) hours. For clarification purposes, the fiscal year begins in the pay period with all July work dates and runs through the last pay period with all June work dates, normally pay period 15 through pay period 13 the following year.

6. Pay upon Separation from County Service

Any person separating from County service who has not taken his/her earned vacation, if any, shall receive the hourly equivalent of his/her salary for each hour of earned vacation, up to the end of the last full pay period worked, based on the pay rate in effect for each person on the last day actually worked. Employees terminating from the County service prior to becoming eligible to take earned vacation shall be paid for earned (accrued) vacation. For purposes of this section, when separation is caused by death of an employee, payment shall be made to the beneficiary, if designated, or to the estate of such employee, or in applicable cases, as provided for by State statute.

7. Pay in-lieu of Unused Vacation

A person receiving pay in lieu of unused vacation may not be re-employed by the County of Mendocino in any capacity until a number of working days equal to the number of days paid vacation has elapsed following the effective date of the separation.

8. Accrual for Part-Time Employees

Every permanent, part-time employee who is employed a minimum of twenty (20) hours per week shall receive a portion of the vacation benefits in direct relation to the fixed percentage of full-time work to which their basic workweek bears to forty (40) hours.

**B. Sick Leave Benefit**

Benefits provided for in this Section are conferred as a privilege and not as a right of the employee. In no case shall cash settlement be made in lieu of accumulated sick leave, nor shall any such leave be granted except during the applicant's employment with the County.

1. Sick Leave Accrual

a. Full Time Employees

Each permanent full-time employee of the County of Mendocino shall be entitled to earn and accrue credit for future use 4.616 hours of paid sick leave per pay period.

b. Accrual for Permanent Part-Time

Every permanent, part-time employee who is employed a minimum of twenty (20) hours per week shall receive a portion of sick leave benefits in direct proportion to the relationship their basic workweek bears to forty (40) hours work to which the position is budgeted and allocated.

c. Sick Leave Accrual Limit

Sick leave hours may be accrued without limit.

2. Calculation of Sick Leave

a. Sick leave shall be calculated from the first day of the pay period following the day on which the employee commenced County service. If the employee started work on the

first working day of the pay period, sick leave shall be calculated from the actual first day of the employee's County service.

- b. Paid vacation leave, paid military leave, or other forms of leave with pay, including Voluntary Time Off (VTO) shall be counted in biweekly pay periods of service. Any employee absent from his duties without pay for more than two (2) working days in a pay period shall not accrue sick leave for that pay period.
3. Application for use of Sick Leave
    - a. The employee must notify their direct supervisor that he/she is ill at the first reasonable opportunity.
    - b. Employees absent from work for a period of three (3) days or more because of illness, injury, or quarantine or for non-emergency medical, dental, or optical care shall be paid only upon furnishing their direct supervisor with satisfactory proof as may be required by the supervisor, that absence was due to such cause. Such request by the supervisor shall be made within three (3) days of the employee's return to work and shall be supplied by employee within one (1) week of request.
    - c. If the supervisor has a concern over the legitimacy of the employee's request to use sick leave, the supervisor may request satisfactory proof at any time for the purpose of authorizing the legitimate use of sick leave.
    - d. If a Doctor's statement is required, and the employee does not submit it to the supervisor within one (1) week after being requested to do so, the employee shall not receive pay for the period in question.
  4. Sick Leave use for Wellness Programs

The parties agree that up to eight (8) hours of sick leave per calendar year may be used by an employee for the purpose of attending an approved County Wellness Program.

    - a. To use sick leave the employee must have a balance of forty (40) hours of sick leave accrued at the time the leave is requested to attend the Wellness program.
    - b. The employee must have the prior approval of the employee's department head or his/ her designee to attend the program.
    - c. The parties agree that a department head may not capriciously, arbitrarily, or consistently deny the use of said leave.
  5. Alternative Use Other Than Sick Leave

At the option of the employee, absence from work due to medical, vision, or dental appointments may be charged to vacation or CTO, subject to prior approval of the department head.
  6. Denial of Sick Leave

If an application for sick leave is denied, the subject absence shall be deemed to be leave without pay.

7. **Accrued Sick Leave Upon Lay off**  
An employee who is laid off because a position is abolished or because of a lack of work or lack of funds, shall not accrue sick leave during the period of layoff. All accumulated sick leave shall be held for the employee's credit should they return to work during the period provided for restoration or layoff re-employment.
8. **Sick Leave Credit at Retirement**  
Eligible employees represented by the Union shall have, when applying for retirement from County service immediately after separation from employment, all accrued sick leave applied toward calculating length of service for the determination of retirement benefits. Accrued sick leave will not count towards retirement eligibility requirements.

### **C. Family, Medical and Sick Leave Use**

Union members shall be allowed to use accumulated sick leave for the purpose of providing care due to illness or injury of an employee's family member. It is the policy of Mendocino County to provide family and medical leave in accordance with federal, state, and applicable statutes and County policies. Some leave provisions overlap, and employees should contact the Human Resources Department and refer to the County's Family and Medical Leave policies for specifics regarding eligibility and applicability. In general, the major family leave provisions are as follows:

1. **Family and Medical Leave**  
Qualifying employees are allowed up to twelve (12) weeks of leave on a concurrent with other applicable leave, rolling twelve-month period to use for the employee or a family member.
  - a. "Family Member" Defined  
For the purpose of this section "family member" is defined as an employee's child, spouse, domestic partner, parent, grandchild, or grandparent.
    - i. "Child" means a biological, foster, or adopted child, a stepchild, a legal ward, or a child of a person standing in loco parentis.
    - ii. "Parent" means a biological, foster, or adoptive parent, a stepparent, or a legal guardian.
2. **Pregnancy Disability Leave**  
A qualifying employee is entitled to up to four (4) months leave.
3. **"Kin" Care**  
Each calendar year, an employee may use up to one-half (½) of the sick leave the employee would accrue during that year to attend to an illness of a family member or of the employee – for example, a full-time regular employee accruing one hundred twenty (120) hours of sick leave per year could use up to sixty hours per calendar year to care for a family member.

4. For the purpose of this section, "family member" shall mean spouse, domestic partner, child or parent.
5. Verification  
The same procedures and verification standards used for "regular" sick leave shall be used for family sick leave.

**D. Extended Disability Leave**

Union members who are absent from work due to illness or injury and have exhausted all of their sick leave and vacation benefits shall be eligible to receive one hundred percent (100%) salary for the first two (2) months after the paid leave has been exhausted; if still unable to work, the employee shall then receive seventy five percent (75%) if full salary for a two (2) month period and then if still disabled, shall receive fifty percent (50%) of salary for another two (2) month period. The employee shall be required to present to the County Human Resources Director a certificate from a County-designated physician indicating an opinion that the employee can reasonably be expected to recover sufficiently to return to work. The physician's certificate may be obtained through a medical examination at County expense or through consultation between a County-designated physician and the employee's personal physician.

**E. Catastrophic Leave**

Employees are eligible to take catastrophic leave in accordance with the County-wide Catastrophic Leave Policy and Leave Bank provisions found in Attachment 1 and incorporated herein.

**F. Bereavement Leave**

Employees who experience a death in their immediate family may be allowed to be absent with pay for up to twenty-four (24) non-consecutive work hours to be used within thirty (30) calendar days for each family member who dies. Part-time employees who receive benefits may be eligible for bereavement leave. The number of hours available shall be based on the percentage of the allocated position to full-time (i.e., .5 allocation times 24 = 12.0 hours available leave). Such time shall be considered additional paid leave.

1. Additional Days

Employees may use an additional sixteen (16.0) hours of accrued leave. Accrued leave for this purpose may be personal leave, vacation time, or sick leave. Should the employee not have any such accrued leave, this absence may be considered leave without pay.

2. Immediate Family Defined

For the purpose of this Section, "Immediate Family" is defined as the employee's spouse, domestic partner, child, stepchild, grandchild, parent/step-parent, brother, sister, grandparent or spouse's, child, stepchild, grandchild, parent/step-parent, brother, sister or grandparent.

3. Non-Immediate Family

Employees may use vacation, personal leave days, or leave without pay to attend memorial services for non-"immediate family." While approval of such leave is at the discretion of the appointing authority, requests shall not be unreasonably denied.

## **G. Leave Without Pay**

1. Authorization
  - a. Department heads may grant leaves without pay, not to exceed five (5) working days, to employees of their department.
  - b. Department heads may grant leaves without pay for periods in excess of five (5) working days and not to exceed three (3) months, at the request of the employee concerned, to employees of their departments because of illness, disability, or pregnancy; or for other reasons, when approved by the County Human Resources Director.
  - c. Requests for leaves without pay for periods in excess of three (3) months shall be submitted to the Civil Commission for approval or disapproval.
  - d. Requests for leaves without pay for periods in excess of one (1) year for reasons other than military service shall be further submitted, together with recommendations by the Health Officer in cases involving illness or disability, to the Board of Supervisors for approval or disapproval.
2. Accruals During Leave Without Pay

A permanent full time employee who is granted a leave without pay, who is absent without leave, or who is suspended without pay more than sixteen (16) hours in a pay period shall accrue paid vacation, sick leave, service credits, and other benefits during any pay period of such leave, absence, or suspension only for those hours in pay status. This provision shall be applied pro rata for permanent part time employees.

## **H. Military Leave of Absence**

In accordance with County Policy #42 an employee under military orders to commence active duty shall be entitled to continuance of wages and benefits.

1. Health Plan Coverage

Health Plan coverage will continue for up to sixty (60) days starting on the date that the employee leaves for active duty. The employee is responsible for their share of the premium cost of the health benefit.
2. Continuation of Wages

The County will continue to pay the employee in an amount equal to the difference between the employee's base salary rate with Mendocino County and the amount earned from the military, including all special pay for incentives for up to one year from the date the employee enters active duty.

**I. Jury Duty Leave/Court Duty**

County employees summoned for jury duty or subpoenaed for court appearances shall be compensated as follows:

1. **Compensated Leave**

Any employee summoned for duty shall be entitled to a Jury Duty Absence with full pay for such period of time as may be required to attend court in response to such summons. The employee may retain such payments as may be allowed for travel, lodging and meal expenses; but as a condition for entitlement to court leave, said employee shall not be entitled to any and all fees as payment for services as a juror or witness. Any such payment(s) shall be made payable to the County of Mendocino.

2. **Alternative Leave**

As an option, an employee, when summoned for duty, may choose to use accrued vacation, personal leave, or leave of absence without pay. In these cases, the employee will be entitled to retain all fees received as payment for jury and witness duty, including allowances paid for travel, meals, and lodging.

3. **Court Appearance Regarding County Duty**

Whenever a permanent employee is subpoenaed to appear in court for any reason pertaining to their regular County duties, they shall receive their regular County salary for such court appearance. Such court appearance shall be counted as hours worked by them and as part of their regular workweek. Such employee shall make payable to the County any fee, which they receive, for serving as a witness.

4. **Court Appearance for Non-County Reasons**

Whenever a permanent employee is subpoenaed to appear in court for a matter or reason not pertaining to their regular County duties, such appearance shall not be considered a part of their regular work week, and such employee shall not receive County pay unless the employee chooses to use CTO, vacation, or personal leave for such appearance. Additionally, such employee shall be entitled to retain any fee paid for service as a witness, together with all allowances paid for travel, meals, and lodging.

**J. Personal Leave/Attorney Time Off**

1. **Personal Leave**

a. **Full Time Employees**

All full-time permanent unit members are entitled to six (6) days (48 hours) of personal leave. This leave is used upon the request of the employee and approval of the appointing authority. Personal Leave hours may be used in increments not less than one (1) hour. Personal Leave hours may not be cashed out and must be used no later than the last pay period of the calendar year that does not include January 1 or be forfeited.

b. **Part-time Employees**

Every permanent, part-time employee who is employed a minimum of twenty (20) hours per week shall receive a portion of the Personal Leave Attorney Time Off in direct relation to the fixed percentage of full-time work to which their basic workweek bears to forty (40) hours.

2. Attorney Time Off

a. Flexible Work Schedule

Attorneys represented by this bargaining unit are exempt under the Fair Labor Standards Act and are therefore not entitled to overtime pay or compensatory time off in lieu of overtime. The Deputy Public Defenders, Alternate Public Defenders and Child Support Attorneys are expected to be available after hours to fulfill job responsibilities including significant time spent on trial preparation. In recognition of this, these attorneys may earn flexible time off (FTO), computed at a direct rate of one times the hours worked beyond the regular forty (40) hours per week by Exempt service employees. FTO may be accumulated to a maximum of forty-eight (48) hours. Accumulated FTO hours may be taken by an employee as time off with pay upon request of the employee and approval of the appointing authority. Accumulated FTO hours may not be cashed out and must be used by the end of the last full pay period of each fiscal year or be forfeited. The choice of using Flexible Time Off, Vacation Leave, or Personal Leave for an approved absence from work is at the election of the employee.

b. Search Warrant On-Call Status

Attorneys represented by this bargaining unit are exempt under the Fair Labor Standards Act and are therefore not entitled to overtime pay or compensatory time off in lieu of overtime. Deputy District Attorneys are expected to be available after hours for Search Warrant Review, Ride Alongs, and at the request of law enforcement be available by phone or in person for legal opinions. In recognition of this, Deputy District Attorneys shall be credited with forty-eight (48) hours of ATO under this section on July 1<sup>st</sup> of each fiscal year. When a member is first employed, they will start their first pay period with the full 48 hours of ATO accrual regardless of the start date. This credit shall be the total of any earned hours due to these job requirements in excess of the normal 40-hour work week and shall replace the 218 hours maximum Deputy District Attorneys were able to accrue under the previous MOU. ATO hours may not be cashed out and must be used by the end of the last full pay period of each fiscal year or be forfeited.

c. Ride-Along Participation

Upon advance approval by the Department Head, an employee who participates in the ride-along program during off duty hours shall earn four (4) hours of leave each time the employee participates. Leave time under this provision may only be accumulated to a maximum of eight (8) hours annually.

**K. Holidays**

1. Paid Holidays

January 1 <sup>st</sup>	New Year's Day
3 <sup>rd</sup> Monday In January	Martin Luther King Jr.'s Birthday
3 <sup>rd</sup> Monday in February	Washington's Birthday (President's Day)
Last Monday in May	Memorial Day

July 4th	Independence Day
1st Monday in September	Labor Day
2nd Monday in October	Indigenous Peoples' Day
November 11th	Veteran's Day
4th Thursday in November	Thanksgiving Day
4th Friday in November	Day following Thanksgiving Day
December 25th	Christmas Day

2. Additional Holidays

Any additional days designated by the President or the Governor of the State of California and formally recognized by the Board of Supervisors as a holiday, day of thanksgiving, or of public mourning.

3. Saturday/Sunday Holidays

When a paid holiday falls on a Saturday, the preceding Friday is a paid holiday. When a paid holiday falls on a Sunday, the Monday following is a paid holiday.

4. Eligibility

Only permanent, probationary and limited-term employees shall be eligible for paid holidays.

- a. A new employee, whose first working day is the day after a paid holiday, shall not be paid for that holiday.
- b. An employee who is terminated from his/her employment for reasons other than paid County retirement and whose last day as a paid employee is the day before a holiday shall not be paid for that holiday.
- c. An employee who is terminating his/her employment for reasons other than paid County retirement may not use annual leave, sick leave or comp time on the day after a holiday if the employee's last actual working day falls before the holiday. A holiday or floating holiday shall not be used as the date of termination (e.g., January 1<sup>st</sup>) in order to be paid for that day.
- d. An employee who is on leave of absence without pay in such a way that he or she is not authorized any pay for both the regularly scheduled working day before the holiday and the regularly scheduled working day after the holiday shall not be paid for that holiday.
- e. A part-time employee shall receive those paid holidays on the same basis as his or her hours worked related to forty (40) hours, regardless of work schedule.

**Section 9 – Benefits**

**A. Health Insurance**

3. Plan Description

Medical, dental, vision, life and Accidental Death and Dismemberment (AD&D) insurance plans will be provided by the County of Mendocino.

4. Benefit Level

The benefit levels of dental, vision, life and AD&D plans as they exist are presently described in the pertinent Plan Documents and are incorporated into this Memorandum by reference.

5. Premium Schedule

The current health insurance premium schedule is described in Attachment 2 and incorporated into this Memorandum by reference. The County may increase the contributions to health insurance premiums in an amount not to exceed 16% on an annual basis. The parties agree to meet and confer on any premium increase in excess of sixteen (16%) prior to the approval of the parties to the excess of the increase of more than sixteen (16%).

This paragraph does not change the language of the current contract on healthcare and a return to status quo shall mean a return to the status quo contract language.

a. Health Care Premium

The County agrees to maintain the existing cost of health care premiums to employees from July 1, 2022 through June 30, 2023.

6. Plan Cost Ratio

The County will pay approximately seventy five percent (75%) of both the employee and dependent coverage, and collectively employees in the bargaining unit represented by the Union, will pay approximately twenty five percent (25%) of the costs associated with providing health benefits insurance including medical, vision, and dental to the members of the bargaining unit as a whole.

7. Open Enrollment

The County shall provide a one-month open enrollment period at least once per year for the purpose of changing plan coverage. The Human Resources Department will announce the Regular Open Enrollment period for any calendar year to all employees at least one month prior to the beginning of that Regular Open Enrollment.

8. Emergency Health Premium and Benefit Re-Opener

- a. The County may call for emergency negotiations if the financial condition of the health trust deteriorates, or is impacted or altered to an extent that the financial stability of the trust and/or the trust's ability to pay for medical care of covered employees and dependents is jeopardized.
- b. The negotiating parties agree to complete each Meet & Confer regarding benefit changes and premium increases within thirty (30) calendar days.
- c. The parties agree that impasse, as becomes necessary, shall be completed within the same thirty (30) calendar day period.
- d. Both parties agree that the above-shortened time frame in and of itself shall not constitute an unfair labor practice.

9. **OPT Out Provision**  
Employees may opt out of the County health insurance by providing proof of another insurance and completion of the "opt out" form. Employees who opt out are not entitled to any of the County health plan benefits including life and AD&D insurance coverage.
10. **Domestic Partner Health Benefits** the County of Mendocino agrees to offer medical, dental and vision coverage for domestic partners in accordance with state law.
  - a. **Eligibility**  
To be eligible, an employee must comply with the following conditions:
    1. Employees and their Domestic Partner must register with and be certified by the State of California, and
    2. The employee must complete and submit the County's Health Plan Enrollment Form and provide a copy of the State Certification of Domestic Partner Registration at time of application to the Human Resources Department

## **B. Other Insurance**

1. **Life Insurance**  
The County plan provides Fifty Thousand Dollars (\$50,000) life insurance coverage for Union Members.
2. **Accidental Death**  
The County plan provides Accidental Death & Dismemberment (AD&D) coverage of Five Thousand Dollars (\$5,000).
3. **Additional Life Insurance**  
Employees may purchase additional voluntary term life insurance at a discount through the County's additional Life Insurance and AD&D coverage.

## **C. Pre-tax Benefit Payments**

The County provides two (2) pre-tax benefit payment plans that are governed by Internal Revenue Code Sections 125 and 129. The County pays all administrative costs.

1. The Section 125 plan is available to redirect employee's salary to pay employee insurance premiums with "pretax" instead of "after tax" dollars.
2. Internal Revenue Code, Section 129 allows employees to pay dependent-care expenses with pre-tax dollars.

## **D. Deferred Compensation Match**

1. The County shall match a Union member's contribution to deferred compensation up to a maximum of three percent (3%) of the employee's base salary.
2. This match shall be made on a biweekly basis and shall be consistent with the current laws and regulation governing deferred comp contributions.

## **E. Education Training and Health Flex Benefit Program**

### **1. Health Benefit Allocation**

Union members receive up to Eight Hundred Dollars (\$800) per fiscal year in flexible training/health benefits. Of this Eight Hundred Dollars (\$800), up to Three Hundred Dollars (\$300) per year can be used for improving the health of the employee such as a Health Club membership. Providing for “improvements to health” does not automatically equate to the ability to use Program funds to purchase recreational equipment.

### **2. Training and Education Allocation**

The Education and Training Allocation can be used for training and education and/or professional materials including Smartphones, I-Pads or laptops, at the option of the employee. Services such as connection services, phone services etc., do not qualify for this reimbursement. An employee shall not be required to purchase necessary workplace equipment using these funds. The County shall not be responsible for maintaining any items purchased under this section. The Eight Hundred Dollars (\$800) can carry over for one fiscal year allowing the employee to maintain up to Sixteen Hundred Dollars (\$1600) in any given fiscal year for training, education, and health benefits. Employees may opt to use all funds for training, education, and/or professional materials.

## **Section 10 – Workers’ Compensation**

In accordance with the California Labor Code, the County provides all statutory workers’ compensation benefits for County employees who sustain work-related injuries or illnesses.

- A. An employee who is entitled to any temporary disability indemnity due to an injury or illness arising out of, and in the course of employment, and such injury is covered under the Worker’s Compensation provisions of the Labor Code, may use as much accumulated sick leave as, when added to the disability indemnity, will result in a payment of their full salary.
- B. An employee on leave without pay due to on-the-job injuries will not suffer a break in seniority, but shall have their merit salary anniversary date delayed by as many pay periods, as the leave without pay shall last. The County will continue to pay the employee’s group insurance premium (employee only) for the duration of the leave without pay, but not to exceed a period of six (6) months for any single injury.
- C. The waiting period for employees disabled out of or in the course of employment before an injured employee may begin collecting temporary disability payments shall be three (3) days in accordance with Worker’s Compensation provisions of the Labor Code. Such days shall be charged against sick leave or other applicable accrued leave time unless the employee is hospitalized as a result of the disability, or the disability lasts for more than fourteen (14) days.
- D. All injured workers’ returning to work requiring Modified or Alternative work duties or schedules are required to participate in the Mendocino County Return to Work Program as described Attachment 3 and incorporated herein.

## **Section 11 – Employee Assistance Program**

### **A. Employee Assistance Program (EAP)**

1. All Union members and any family member who is on the County health plan are eligible for participation in the County's Employee Assistance Program
2. The Employee Assistance Program is available for any eligible candidate as explained above who may be experiencing problems in the workplace, or family crisis, chemical dependency, or other personal problems.
3. Primary care physician referral is not necessary to access the EAP.
4. The first ten (10) visits to the EAP in a calendar year are at no charge to the employee.

### **B. EAP Confidentiality Provisions**

1. Participants in the EAP program shall be guaranteed confidentiality.
2. No employee will be required to waive his or her confidentiality as a condition of participation in the EAP program.
3. To the extent permitted by law, the County shall insure the confidentiality of any and all records regarding employees who use the Program. To the extent permitted by law, no disclosures of information obtained, other than to EAP staff, may be made without the written consent of the employee.

## **Section 12 – Americans with Disabilities Act (ADA)**

The County will comply with all the relevant and applicable provisions of the American with Disabilities Act (ADA) and AB 2222 under the Fair Employment and Housing Act. (FEHA).

## **Section 13 – Retirement**

### **A. General Retirement Benefits**

1. Effective October 2003, the County implemented the formula in Government Code Section 31676.12 (2% at 57 retirement formula) for all non-safety classifications represented by the Mendocino County Attorneys Association (MCPAA) that are not defined as "new members" under the Public Employees' Pension Reform Act of 2013 (PEPRA).
2. The County will pay for future service at the same ratio (percentage) as previously established prior to the adoption of the formula in Government Code section 31676.12. In this regard, and as the retirement benefit has increased the employee retirement cost will increase to reflect the benefits enumerated under Government Code, section 31676.12, of the retirement formula. However, this formula shall not apply to persons who are defined as "new members" under PEPRA.

3. Employees who are defined as “new members” under PEPRA will constitute a new tier. “New members” will be subject to all applicable PEPRA provisions, which includes the 2% at 62 formula.
4. Service Buy-back  
Employees may be eligible to receive credited service in the Retirement Association for certain qualifying services upon payment of the required contributions as permitted by, and as specified in, the County Employees Retirement Law, including: service prior to membership (§31641.5), credit for uncompensated leave of absence for illness (§31646), Military service in compliance with USERRA (§31649), or redeposit of amounts withdrawn (§31652).
  - a) The Retirement Board has the right and authority to establish contribution rates, procedures and time limits to exercise such options.
  - b) Retirement contributions made by the employee shall be credited and accrue to the employee's account and become a vested interest of the employee.

## **B. New Retirement Tier**

MCPAA agrees the County has the right to implement a new, lower tier retirement formula for employees hired after the effective date of the new tier. Prior to the County adopting a new lower tier retirement formula the County and MCPAA will meet and discuss what benefit level(s) the County is considering.

## **Section 14 – Discipline**

### **A. Definitions**

1. Discipline  
For the purpose of this section a "disciplinary action" includes the following: dismissal, demotion, or suspension without pay. The County shall impose discipline for cause.
2. Working Day  
For the purpose of this section a “working day” is defined as a day in which Mendocino County administrative offices are open for County business operations.

### **B. Representation**

A representative of the employee's choice may represent the employee throughout the process of discipline.

### **C. Notice of Charges**

To initiate disciplinary action against a permanent Civil Service employee, appointing authority must submit to the employee a written Notice of Intent to Take Disciplinary Action and file a copy with the Human Resources Director. The Notice must state specifically the reason(s) for the action with accompanying documentation and explain the employee's "Skelly" rights of appeal.

### **D. Rights of Access**

The employee shall be given access to copies of all materials supporting the proposed action and shall be provided with copies upon request.

**E. Request for "Skelly" Hearing**

The employee may appeal the proposed action and request a hearing by responding in writing to the appointing authority within five (5) working days of receipt of the Notice. Upon receipt of timely response, the appointing authority shall schedule and conduct a "Skelly" hearing as soon as possible.

**F. Conduct of "Skelly" Hearing**

The appointing authority or his/her designee shall be the hearing officer at the informal "Skelly" hearing. Upon consideration of all materials and discussions presented at the hearing, the appointing authority may determine to uphold, modify, or revoke the proposed disciplinary action.

**G. Order of Disciplinary Action**

If the employee does not respond to the Notice of Intent within the prescribed time limits, or if, after hearing, the appointing authority determines that disciplinary action is appropriate, the appointing authority shall submit to the employee a written Order of Disciplinary Action. The Order shall state the proposed action, the reasons for the action, and the employee's rights of appeal.

**H. Appeal of Order of Disciplinary Action**

The employee, within ten (10) working days after the Order is furnished to the employee, may appeal the Order in writing to the Civil Service Commission. Such appeal shall be submitted to the Human Resources Director who shall schedule the matter for hearing by the Civil Service Commission within twenty (20) working days of the submittal date or a specific date that is mutually agreed upon by the Appellant, the County, and the Civil Service Commission. The agreed upon date shall be confirmed in writing to all parties.

Within twenty (20) working days or to a specific date agreed to by the parties from filing an appeal, the Commission, or its referee, shall hold a hearing which may be continued from time-to-time, and at the conclusion thereof either affirm, modify, or revoke the Order. The appellant may appear personally, produce evidence, be represented by counsel, and have a public hearing if it is desired. If the Commission appoints a referee, a complete transcript shall be made and presented to the Commission.

**I. Commission Hearing Authority**

At any hearing or investigation conducted by the Mendocino County Civil Service Commission, or its referee, the Commission, or its referee, shall have the power of subpoena and may require the attendance of witnesses and the production thereby of books, records, and other documents pertinent to the hearing and/or investigation. Each commissioner, or referee, shall have the power to administer oaths to witnesses. The Commission may employ a hearing officer, or referee, to act as the presiding officer at hearings and specify the rules of evidence in force.

Any decision by the Commission shall specify a finding as to each ground, and the finding and decision shall be certified to the appointing power whose action was the subject of the hearing and be forthwith enforced and followed. If an order of suspension, dismissal, or reduction in rank or compensation served upon an employee is reversed or modified by the Commission, such employee shall be restored to their previous position with all rights and privileges pertaining thereto except as the decision may affect the employee's status. The employee who is restored to their position shall be entitled to back pay from the date of termination, less any contributions to retirement and salary earned, from other employment earned during the period of the appeal.

#### **J. Pay Decrease as a Result of Disciplinary Action**

1. The pay of an employee may be temporarily decreased to a lower step within the pay range established for the classification.
2. The temporary reduction in salary step shall in no event exceed the monetary equivalent of a two-hundred and forty (240) hour suspension without pay.

#### **K. Appeal of Pay Decrease**

An appeal concerning a pay decrease shall not follow the grievance procedure but shall follow, instead, the disciplinary provisions of this Memorandum.

### **Section 15 – Grievance Procedure**

#### **A. Purpose**

The County and the Union agree to this Grievance Procedure in order to provide an orderly procedure to promptly resolve grievances of employees covered by this Memorandum.

#### **B. Definitions**

1. **Grievance Defined**  
A grievance is a claim by an employee(s) (1) concerning or alleging that a written County-wide rule, regulation, resolution, ordinance, policy, procedure, OR (2) provision of this Memorandum, has been violated or misapplied to the disadvantage of the employee or the Union. Excluded from this definition are:
  - Any allegation or claim filed for the purpose and intent of changing a written County-wide rule, regulation, resolution, ordinance, policy, procedure, or provision of this Memorandum; or,
  - Any allegation or claim for which appeal is already provided for in the Civil Service Rules or the Mendocino County Code.
2. **Working Day Defined** For the purpose of this Article, a "working day" is defined as a day in which Mendocino County administrative offices are open are open for County business operations.

#### **C. Standing to Initiate Grievance**

An individual employee who, in good faith, has an actual grievance with the County over a grievable matter as defined in Section 15(B) may file a grievance.

At any step of the grievance procedure, the employee may represent him or herself, or may be represented by an Union representative, who may be a County employee (excluding their supervisor or manager).

#### **D. Grievance Procedure-Initiation**

The grievance must be initiated within ten (10) working days from the date of the action or occurrence-giving rise to the grievance, or within ten (10) working days of when the grievant knew of, or could have reasonably discovered, such action or occurrence.

#### **E. Time Limits**

Time limits specified in each step of the procedure shall be strictly observed and may only be extended by mutual agreement of the parties in writing. Failure of a grievant to observe a time limit shall terminate the grievance. Failure of the party to whom the grievance is submitted to observe the time limits shall give the grievant the right to move the grievance to the next level.

#### **F. Grievance Steps**

##### **1. First Step**

The grievance shall first be discussed on an informal basis by the grievant with the grievant's immediate supervisor within ten (10) working days from the date of the action causing the grievance, as provided in Section 15(D) above. The immediate supervisor shall respond within ten (10) working days. Every effort shall be made by the parties to resolve the grievance at this level and may include conferences among supervisory or administrative personnel. Such discussions will be held, whenever possible, during the grievant's work hours.

##### **2. Second Step**

In the event the employee believes the grievance was not satisfactorily resolved at Step 1, the employee shall submit the grievance in writing, with a copy to County Human Resources Director and the Union, to the next level supervisor within ten (10) working days after receipt of the immediate supervisor's response. Such written grievance shall:

- a. Fully describe the grievance and how the employee was adversely affected by the County;
- b. Set forth the written County-wide rule, regulation, resolution, ordinance, policy, procedure, or provision of this Memorandum, that has been allegedly violated;
- c. Indicate the date(s) of the incident(s) grieved; and
- d. Specify the remedy or solution to the grievance sought by the employee.

##### **3. Response to Second Step**

The written grievance shall be responded to in writing by the responsible supervisor within ten (10) working days from the time the written grievance is received, and a copy sent to County Human Resources Director and the Union. The written response shall include:

- a. A complete statement of the supervisor's position and the facts upon which it is based; and
- b. The remedy or correction, which has been offered, if any.
- c. If the grievant is not satisfied with the response at Step Two, the grievant may appeal the decision to the Department Head, with a copy to County Human Resources Director and the Union within ten (10) working days of receipt of the written response at Step Two.

4. Third Step

Within ten (10) working days after receiving the completed grievance form, the Department Head, or his/her designee, shall meet with the employee and shall discuss the grievance. The Department Head shall give his/her decision within ten (10) working days after the discussion and send a copy of the decision to the Human Resources Director and the Union.

If the grievant is not satisfied with the response at Step Three, the grievant may appeal the decision of the Department Head to Step 4, Mediation. Such appeal must be made within ten (10) working days of receipt of the written decision of the Department Head.

5. Fourth Step (Mediation)

If the grievant is not satisfied with the response at Step Three, the parties shall request the assistance of a mediator from the State Conciliation & Mediation Service in an attempt to resolve the grievance. The mediator shall have no authority to resolve the grievance. If the grievance is not resolved, discussions during mediation shall not be admissible in any subsequent hearing.

6. Fifth Step (Binding Arbitration)

If both parties do not settle the grievance at the Fourth Step following a good faith effort in mediation, the Union may request binding arbitration. The request for binding arbitration must be submitted to the Human Resources Director, in writing, within ten (10) days of receipt of the response from Step Four.

a. Individual Obligation for Non-Union Approved Arbitration

If the grievance has not been sanctioned by the Union, the grievant will incur all expenses of arbitration and the Union and the County shall be held harmless.

b. Selection of an Arbitrator

An arbitrator may be selected by mutual agreement of the County and the Union. Should the parties fail to agree on an arbitrator, they shall make a joint request to the State Conciliation & Mediation Service for a list of five (5) qualified arbitrators. The arbitrator shall be selected from the list by the parties alternately striking names, with the opportunity to strike determined by chance.

c. Arbitration Process

All supporting the parties' positions shall be filed at least ten (10) days before the hearing with the arbitrator.

- d. **Arbitration Decision**  
The arbitrator shall not have power to alter, amend, change, add to, or subtract from any of the terms of this Memorandum of Understanding. The decision of the arbitrator shall be based solely upon the evidence and arguments presented to the arbitrator by the respective parties. The decision of the arbitrator shall be final and binding upon the parties.
  - e. **Arbitration Costs**  
The cost of employing the arbitrator shall be borne equally by the parties.
  - f. All other costs such as, but not limited to, attorney's fees, witness fees, Court Reporter/Transcript Fees, and transcript copies shall be borne only by the party incurring that cost.
  - g. **Arbitration Award Limit**  
The arbitrator's award shall be binding upon the Union. To the extent that the award of the arbitrator is not in excess of Twenty Five Hundred Dollars (\$2500) per individual grievant, it is advisory. If within sixty (60) days of receiving notice of decision and award requiring an expenditure in excess of Twenty Five Hundred Dollars (\$2500) per individual grievant, final action is not taken by the County to implement it, then the arbitrator's decision and award shall have no force or effect whatsoever as to the amount in excess of Twenty Five Hundred Dollars (\$2500) per individual grievant. The Union may then resort to a court of competent jurisdiction to pursue other available legal remedies.
- 7. **Non-Retaliation**  
Employees who file a grievance or who participate in a grievance procedure shall be free from harassment or retaliation as a result of filing or participating in a grievance.
  - 8. **Maintenance of Performance Standards by Grievant**  
Employees who file a grievance are in no manner excused or exempt from performance standards of the job. Job performance standards will be maintained throughout and following any action undertaken as a result of this grievance procedure.

## **Section 16 – Performance Evaluations**

Each employee shall receive an annual performance evaluation on approximately his/her anniversary date.

## **Section 17 – Inspection of Personnel Files**

### **A. Inspection of Personnel Files**

- 1. **Maintenance of Files**  
The County and the Union agree that the official personnel records are not subject to public inspection, except in accordance with law. Except as restricted by law or provided below, employees shall have the right to inspect and review their official personnel records (relating to their performance as an employee, which is kept or maintained by the County). Information records and materials kept separately by the employee's

supervisor are not part of the official personnel file and have no official standing by themselves in disciplinary actions. Supervisory notes and informal correspondence are not to be entered into the employee's official personnel file unless they have been seen and signed by the employee or witnessed that the employee has been given a copy for review.

2. Employee Response to Personnel File Information

The County shall provide an opportunity for the employee to respond in writing to any information placed in their official personnel record about which the employee disagrees. The response shall become a permanent part of the employee's official personnel record. The response shall fully describe the circumstances surrounding the issue(s) with which the employee disagrees, and it shall include a statement of facts, supportive documentation, and/or witnesses. An employee wishing to respond shall be responsible for providing the written response within thirty (30) calendar days, to be included as part of the employee's permanent personnel record.

3. Employee Inspection of Files

The contents of employee personnel records shall be made available to the employee for inspection and review at reasonable intervals during the regular business hours of the County.

4. Medical Records

Pre-employment physical records and other medical records are not considered as part of an employee's personnel file.

**B. Records That Cannot Be Reviewed**

Notwithstanding any other provisions of this Section, the County and the Union agree that an employee is not entitled to inspect, review, or copy such documents as reference letters, background investigations, and records pertaining to investigation of a possible criminal offense, or other legally privileged records.

**C. Consent for Association Representatives to Review Records**

Should an employee wish to have a Union representative review the employee's own personal records, the employee will provide the Union representative with a signed, dated letter indicating the employee's consent to have the employee's records reviewed. The Union representative shall present said consent letter to the employee's appointing authority, or designated representative, prior to reviewing the employee's records. Authorization shall be valid for sixty (60) calendar days from the date of signature.

**D. Official Personnel Records**

The County Human Resources Department shall keep the official personnel records of all employees.

**E. Right to Review Adverse Comments**

No employee shall have any comment adverse to the employee's interest entered in the employee's official personnel records file which may be used for disciplinary action, without the employee having first read and signed or initialed the document containing the adverse comment; except that such entry may be made if, after reading the document, the employee

refuses to sign or initial it. Should an employee refuse to sign or initial the document, that fact shall be noted on the document and signed or initialed by the supervisor. In the event an employee is not available due to resignation, termination, or leave of absence longer than thirty (30) days to read and sign or initial the document, a copy of the document with a notation stating, "cc Personnel file" will be mailed to the employee's last known address. For purposes of this Section, "Adverse" shall refer to comments critical of any aspect of the employee's performance of job duties.

#### **F. Copies of Personnel Files**

All personnel records are, and remain, the property of the County. At the employee's request, the employee shall be provided one copy of any document placed in the employee's file, except for employment applications. An employee must specify the documents, which are requested for copying and shall pay the standard County copying fee.

#### **G. Confidentiality of Personnel Records**

All employee files containing personal or personnel materials shall be secured and not accessible to anyone other than the supervisor, Department Head or the Human Resources Department.

### **Section 18 – Transfers/Relocation**

#### **A. Assignment of Job Duties**

Assignment of job duties is a management right. It is the sole discretion of a department head to assign employees to job duties within the scope of their classifications or as conditions require, in a manner to effectively carry out the functions of the department and service to the public.

#### **B. Change in Job Location**

The County and the Union recognize that changes in job locations may occur in the fulfillment of these functions. The County will adhere to the following process in the event an employee's relocation and/or transfer:

1. Temporary Involuntary Transfer
  - a. A temporary involuntary transfer shall not exceed six (6) months in duration;
  - b. The Department Head shall first request volunteers for the assignment prior to directing the transfer of the affected employee;
  - c. In the event no one volunteers to take the assignment, the Department Head shall determine the employee subject to transfer based on the operational needs of the Department, seniority notwithstanding.
  - d. The affected employee shall be informed in writing of:
    - i. Reason for the transfer and
    - ii. Expected duration of the transfer

If an employee is transferred to a new work location requiring travel time and distance in excess of fifty (50) miles and one-way one hour time commute from the former work location, the employee shall receive mileage reimbursement for the duration of the transferred assignment.

2. Permanent Involuntary Transfer

- a. In the event operational needs require a permanent transfer of staff, the Department Head shall first request volunteers for the assignment prior to directing the transfer of the affected employee;
- b. In the event no one volunteers to take the assignment, the Department Head shall determine the employee subject to transfer based on the operational needs of the Department, seniority notwithstanding.
- c. The affected employee shall be provided no less than thirty (30) days' notice of the intended transfer and new work location;
- d. If an employee is transferred to a new work location requiring travel time and distance in excess of fifty (50) miles and one-way one hour time commute from the former work location, the employee shall receive mileage reimbursement for the initial thirty (30) days of the assignment.

## **Section 19 – Miscellaneous Provisions**

### **A. Reimbursements**

1. Meal Reimbursement  
Will be In accordance with County Travel and Meal Reimbursement Policy # 18
2. Meal Reimbursement Outside Mendocino County  
In accordance with County Travel Reimbursements Policy #4, the Auditor-Controller may approve meal reimbursements up to the amount allowed by the IRS in designated higher rate cities. Receipts may be required as justifications for these claims.
3. Mileage Reimbursement In accordance with County Travel Reimbursements Policy #4, the prevailing IRS rate per mile shall be applied to the reimbursement for use of a personal vehicle on County business.

### **B. Professional License Fee**

The County will pay the State Bar of California Licensing fees necessary for Union members to practice law in the State of California.

## **Section 20 – Conflict of Interest**

Union members agree that issues involving conflict of interest shall be handled in accordance with the Rules for Professional Conduct for Attorneys contained within the Business and Professions Code.

## **Section 21 – No Strike/No Lockout**

The Union, its members, and representatives, agree not to engage in, authorize, or sanction any strike, slowdown, stoppage of work, concerted refusal of overtime work, or refuse to perform customary duties during the term of this Memorandum of Understanding.

The County agrees not to engage in any lockout during the term of this Memorandum of Understanding. It shall not be a violation of this MOU and it shall not be a cause for discharge or disciplinary action if any employee refuses to enter upon any property involved in a lawful labor dispute, or refuses to go through or work behind any lawful picket line, including lawful picket lines at the employer's place of business. The North Bay Labor Council and/or Teamsters Joint Council 7 shall sanction such lawful picket lines.

## **Section 22 – Renewal of Agreement**

At any time within ninety (90) days immediately prior to the termination of this Memorandum of Understanding, either party may give written notice of its intent to negotiate for a new agreement. All terms and conditions of this Memorandum of Understanding shall remain in effect following the expiration of the Agreement while negotiations for a new agreement continue.

## **Section 23 – Full Understanding**

Except as otherwise specifically provided herein, this Memorandum of Understanding fully and completely incorporates the understanding of the parties hereto and constitutes the sole and entire agreement between the parties in any and all matters subject to meet and confer. Neither party shall, during the term of this Memorandum of Understanding demand any changes herein, provided that nothing herein shall prohibit the parties from changing the terms of this Memorandum of Understanding by mutual agreement.

## **Section 24 – Severability**

If any Section, part or provision of this Memorandum of Understanding is held to be invalid or unenforceable by operation of law or the judgment of an administrative board, tribunal or court of competent jurisdiction, said Section part or provision shall be suspended by such applicable laws, regulations or orders and the remainder of this Memorandum of Understanding shall not be affected thereby.

## **Section 25 – Term of Agreement**

Therefore, Mendocino County representatives and the Teamsters hereby confirm understanding on the above matters for the period commencing July 1, 2022, and terminating June 30, 2023. This agreement shall become effective only upon ratification by the Union membership and approval by the Board of Supervisors and shall remain in full force and effect to and including June 30, 2023.

**COUNTY OF MENDOCINO**

**TEAMSTER'S LOCAL 856**

By:   
DARCIE ANTLE, Chief Executive Officer

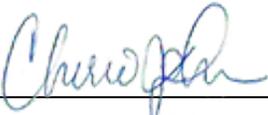
By: \_\_\_\_\_  
MATTHEW FINNEGAN, Staff Attorney, Teamsters Local 856

By: \_\_\_\_\_  
JONATHAN V. HOLTZMAN, Chief Labor Negotiator, RENNE PUBLIC LAW GROUP

By: \_\_\_\_\_  
PETER FINN, Secretary-Treasurer, Teamsters Local 856 Principal Officer

By:  01/24/2023  
GLENN MCGOURTY, Chair, Board of Supervisors

By: \_\_\_\_\_  
ROBERT MADDOCK, Staff Attorney, Teamsters Local 856

By:  01/24/2023  
CHERIE JOHNSON, Deputy Chief Executive Officer

By: \_\_\_\_\_  
FRANK MCGOWAN, MCPAA Negotiation Team Member

By: \_\_\_\_\_  
IVAN ABRAMS. MCPAA Negotiation Team Member

ATTEST: DARCIE ANTLE  
Clerk of the Board

  
Deputy 01/24/2023

I hereby certify that according to the provisions of Government Code sections 25103, delivery of this document has been made.

DARCIE ANTLE, Clerk of the Board

By:   
Deputy

**COUNTY OF MENDOCINO**

**TEAMSTER'S LOCAL 856**

By: \_\_\_\_\_  
DARCIE ANTLE, Chief Executive Officer

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MATTHEW FINNEGAN, Staff Attorney, Teamsters Local 856

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JONATHAN V. HOLTZMAN, Chief Labor Negotiator, RENNE PUBLIC LAW GROUP

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GLENN MCGOURTY, Chair, Board of Supervisors

By:   
FRANK MCGOWAN, MCPAA Negotiation Team Member

By: \_\_\_\_\_  
IVAN ABRAMS, MCPAA Negotiation Team Member

ATTEST: DARCIE ANTLE  
Clerk of the Board

\_\_\_\_\_  
Deputy

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By: \_\_\_\_\_  
Deputy

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Deputy

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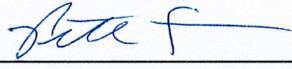
By: \_\_\_\_\_  
GLENN MCGOURTY, Chair, Board of Supervisors

ATTEST: DARCIE ANTLE  
Clerk of the Board

\_\_\_\_\_  
Deputy

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By: \_\_\_\_\_  
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DARCIE ANTLE, Clerk of the Board

By: \_\_\_\_\_  
Deputy

**COUNTY OF MENDOCINO**

**TEAMSTER'S LOCAL 856**

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By: \_\_\_\_\_  
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By: \_\_\_\_\_  
ROBERT MADDOCK, Staff Attorney, Teamsters Local 856

By: \_\_\_\_\_  
GLENN MCGOURTY, Chair, Board of Supervisors

By: \_\_\_\_\_  
FRANK MCGOWAN, MCPAA Negotiation Team Member

ATTEST: DARCIE ANTLE  
Clerk of the Board

By: \_\_\_\_\_  
IVAN ABRAMS. MCPAA Negotiation Team Member

\_\_\_\_\_  
Deputy

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DARCIE ANTLE, Clerk of the Board

By: \_\_\_\_\_  
Deputy

## **Appendix A**

### **Bargaining Unit Classifications/Positions**

**The following classifications are covered in this bargaining unit:**

Deputy District Attorney I  
Deputy District Attorney II  
Deputy District Attorney III  
Deputy District Attorney IV  
Chief Deputy District Attorney

Deputy Public Defender I  
Deputy Public Defender II  
Deputy Public Defender III  
Deputy Public Defender IV  
Chief Deputy Public Defender (Chief Trial Deputy)

Child Support Attorney I  
Child Support Attorney II  
Child Support Attorney III  
Child Support Attorney IV  
Chief Child Support Attorney

Deputy Public Defender I (In Alternate Defender Office)  
Deputy Public Defender II (In Alternate Defender Office)  
Deputy Public Defender III (In Alternate Defender Office)  
Deputy Public Defender IV (In Alternate Defender Office)

All member classifications as listed above are Civil Service classifications as defined in 3.16.100 of the Mendocino County Code.

## ATTACHMENT 1

### Mendocino County Catastrophic Leave Policy

Pursuant to the following attachment, any changes during the term of the MOU shall be subject to Meet & Confer between the parties.

*A policy providing a means for a county employee to donate hours of leave to a fellow employee who is facing a catastrophic illness or injury and who has exhausted his/her own leaves.*

#### **1. Catastrophic Leave and Establishment of a Catastrophic Leave Bank**

- a. Catastrophic Leave is a paid leave of absence due to verifiable, long-term catastrophic illness or injury such as, but not limited to cancer and heart attack which clearly disables the employee, the employee's spouse, parent, or child.
- b. The County shall establish a Catastrophic Leave Bank with hours donated by County employees.

#### **2. Eligibility for Catastrophic Leave**

All permanent employees of the County of Mendocino shall be eligible to receive Catastrophic Leave under the terms and conditions of this policy that have:

- a. successfully completed twenty-six (26) pay periods in paid status; and
- b. donated a minimum of one (1) hour to the general Catastrophic Leave Bank in the preceding twelve (12) months, but not less than one (1) month before the qualifying event and
- c. exhausted all accrued sick leave, vacation leave, and compensatory time before qualifying for catastrophic leave.

#### **3. Donation of Hours**

- a. Catastrophic Leave is paid leave available to eligible County employees from hours donated by other County employees.
  - (1) Vacation, designated holiday leave bank hours, compensatory leave, or other leave banks, which would normally be "cashed out" to the employee upon separation, may be donated.
  - (2) Sick Leave and Personal Leave are specifically excluded.
  - (3) Donated time shall be credited on an hour for hour basis, regardless of wage of either donator or recipient.
- b. Employees donating vacation or compensatory leave must donate in increments of whole hours.
  - (1) The donating employee must have a vacation leave balance of at least forty hours remaining after such donation.
  - (2) Employees may donate all of their accrued compensatory time or holiday leave bank hours.
- c. Donations by employees may be designated for the general Catastrophic Leave Bank or for an individual employee. If donated to the account of an individual employee, there is no requirement for that individual employee to have first donated one (1) hour to the general Catastrophic Leave Bank, but the individual would only be eligible for the hours donated

directly to them. See section 2b for eligibility for general Catastrophic Leave Bank.

- d. There is no cap on the number of hours that may be directly donated to an individual employee. All donations to individual employees that are not used by the employee will automatically transfer to the general Catastrophic Leave Bank fund.

#### **4. Approval Process for Use of Catastrophic Leave Bank**

- a. A request for use of the Catastrophic Leave Bank must be approved by the Human Resources Director.
  - (1) The request must be submitted in writing using the form developed by Human Resources and must be accompanied by a medical certification that includes:
    - A brief description and appropriate verification of the illness or injury;
    - Name and relationship of the person with illness or injury, if applicable;
    - An estimate of the total time needed, including start and end date.
- b. Catastrophic leave may initially be approved up to a maximum of two hundred and forty (240) donated hours.
  - (1) If the catastrophic illness or injury continues, additional leave up to two hundred and forty (240) donated hours may be approved.
- c. The Human Resources Director shall account for the donation and disbursement of catastrophic leave hours.
- d. Individual use of catastrophic leave from the general Catastrophic Leave Bank is limited to a maximum of four hundred and eighty (480) hours during any twelve (12) month period.
- e. Individual use of the catastrophic leave may exceed four hundred and eighty (480) hours in the event hours are directly donated to the employee. An employee eligible for catastrophic leave may use additional hours that are directly donated to them, with no cap on the number of hours directly donated to the employee, subject to section 6.
- f. The decision of the Human Resources Director to deny the use of Catastrophic Leave may be appealed to the Civil Service Commission within ten (10) days of the decision.
  - (1) The decision by the Civil Service Commission shall be final.

#### **5. Usage of Donated Hours**

- a. While an employee is on Catastrophic Leave using donated hours, the employee will be treated as in pay status except that he/she shall not accrue any vacation or sick leave.
- b. An employee may not use Catastrophic Leave to supplement earnings while participating in the Mendocino County Return-to-Work Program or to augment pay while on limited duty.
- c. Catastrophic Leave is an irrevocable donation; any leave not used by the recipient employee will be returned to the general Catastrophic Leave Bank.

#### **6. Job Protected Leave**

- a. Catastrophic leave does not reduce or expand protected leave available to an employee, including Family Medical Leave Act (FMLA), California Family Rights Act (CFRA), and

through the Americans with Disabilities Act of 1990.

- b. Employees who request Catastrophic Leave for a period of time that is beyond their FMLA/CFRA entitlements, must first apply for and receive approval for an extended Leave of Absence.

**7. State Disability Integration**

- a. An employee may use Catastrophic Leave to augment State Disability benefits, if eligible, not to exceed their base rate salary.

**ATTACHMENT 2**

**HEALTH PLAN PREMIUM SCHEDULE**

HEALTH PLAN BENEFIT COSTS & DEDUCTIBLES

– REFER TO HR WEBSITE –

## ATTACHMENT 3

### County of Mendocino Return to Work Program

Pursuant to the following attachment, any changes during the term of the MOU shall be subject to Meet & Confer between the parties.

It is the policy of Mendocino County to provide a return-to-work program as the means to return employees to meaningful, productive employment following injury or illness. In order to provide the highest level of quality service to the citizens of Mendocino County, it is necessary for every employee of Mendocino County to be available for work, ready, and capable of performing the duties and responsibilities for which the employee was hired.

The return-to-work program provides opportunities for any employee of Mendocino County who sustains a compensable injury during the course and scope of employment to return to work at full duty. If the employee is not physically capable of returning to full duty, the return-to-work program provides opportunities when available for the employee to perform a temporary modified or alternate duty assignment in which the employee's regular position is modified to accommodate the employee's physical capacities, or to perform an alternate duty position.

Specific procedures shall be provided to guide all employees regarding the return-to-work program. All employees, departments, divisions, and facilities of Mendocino County are expected to support and fully comply with this program and the procedures provided to implement this program.

**Definitions** - The following definitions apply to this procedure:

- *Full Duty* - Performance of all duties and tasks of the position for which the employee is employed. Full duty entails performing all essential and non-essential functions of the employee's regular job.
- *Temporary Assignment* - Performance of a temporary job assignment that is intended to return an injured employee to work at less than his or her full duties when a compensable injury prevents the employee from working full duty. Two types of temporary assignments are modified duty and alternate duty.
- *Temporary Modified Duty* - Performance of all of the essential functions, but only a portion of the non-essential functions and tasks of the regular job duties for which the employee is employed. Modified duty allows the employee to return to current employment in his or her regular job, and perform those duties and tasks that are within the capabilities of the employee, given the restrictions to duty imposed by the treating physician. Modified duty is a temporary arrangement to last a maximum of ninety (90) calendar days or until the injured employee can resume full duty, whichever comes first.
- *Temporary Alternate Duty* - Performance of the essential functions of a job or position other than the position for which the employee is employed. Alternate duty allows the employee to temporarily perform other duties and tasks that are within the restrictions to duty imposed by the treating physician. Such alternate duty may be physically located in the same facility or in some other facility. Alternate duty is a temporary arrangement to last a maximum of ninety (90) calendar days or until the injured employee can resume full activities of his/her regular job, whichever comes first.
- *Permanent Accommodation* – See Qualified Injured Worker Placement Procedure.

- *Classification Descriptions of All Positions* - All department heads and/or designee(s) are responsible for identifying, documenting, and maintaining the essential and non-essential functions in a classification description for all positions for which they are responsible. The physical requirements of the position should be included in all classification descriptions as either an essential or a non-essential function.
- *Designated Return-to-Work Coordinator* - A return-to-work coordinator shall be appointed in the Human Resources Department. The return-to-work coordinator shall be responsible for coordinating all activities associated with the return-to-work program, unless specific duties are otherwise assigned to another person or position.
- *Substitution of Paid Leave for Unpaid Leave* - If a compensable work-related injury or illness is involved, the employee is not required to use all accrued annual or sick leave. The employee may elect to use, but may not be required to use, accrued sick leave before receiving workers' compensation temporary income benefits.
- *Periodic Status Reports* - If an employee is certified by a health care provider to be off work, the employee is required to submit periodic status reports to his/her supervisor to report the employee's status and intention to return to work. Such status reports are required at the time of each scheduled visit with the treating physician and are due immediately following the visit. The status report should be provided to the supervisor within 24 hours of the scheduled visit, or if a weekend or holiday is involved, before close of business on the next scheduled workday. The supervisor then sends copies over to the Risk Management Division of the Executive Office.

## **TRAINING**

Training will be implemented in the following manner:

**Department Heads - Managers - Supervisors - Payroll Clerks:** This group will receive training on why the program was developed and how the program will be implemented

**Employees:** The primary focus will be on the benefits to the injured or ill employees being able to return to work in a temporary modified or alternate duty capacity. Emphasis will also be given that if the condition becomes permanent there is the possibility of being able to accommodate the employee in a permanent modified or alternate position, as long as the employee is able to perform the essential functions of the job with reasonable accommodations.

Training for employees will be conducted on multiple levels, beginning with payroll staffers announcing the program and training schedules followed up with quarterly newsletters, etc. A binder will be prepared for each department, said binder will include an overview of the workers' compensation system, the Return to Work Program, all necessary claim forms, and frequently asked questions. New Employee Orientation will include an overview of the Return to Work Program.

**Medical Community:** Training for the medical community will include a written protocol of the County's return to work philosophy along with sample medical reports outlining the type of reports required by the County. These reports will list treatment plans, anticipated permanent and stationary dates, specific modified return to work abilities, e.g.: can type for 30 minutes at a time and then take a 10 minute task break and then continue, etc. The medical community will be offered an opportunity to meet with the return to work coordinator to discuss the program at any time.

**Employee Participation in the Return to Work Program** – In order for an employee of Mendocino County to be eligible to participate in this return-to-work program, the employee must have:

1. Sustained a compensable injury as defined in the California Workers' Compensation Act that results in lost time away from work.

**An employee who meets the above criteria is mandated to participate in the program.**

**Non-Industrial Related Injuries:**

All aspects of this program will apply to all employees who are in the program, whether they have an industrial or non-industrial injury.

**PROGRAM CRITERIA**

A temporary modified or alternate duty assignment shall be offered when the following conditions are met:

1. There is work, part time, or full time, to be performed, as determined by the injured employee's department head or designee or another department can provide a suitable alternate duty assignment.
2. The work can be performed within the medical limitations and restrictions identified by the employee's treating physician.

**Notification of Injury or Illness** - An employee who sustains an injury or illness on the job is required to notify his/or her supervisor, or a person in a management position, that an injury exists. Such notification should occur within 24 hours of when the injury first manifests itself. Upon notification, the supervisor shall complete an "Accident Report" form and give the employee, within 24 hours, an "Employee Claim for Workers' Compensation Benefits" form. The supervisor is responsible for sending copies of any documentation pertaining to the injury to the Risk Management Division of the Executive Office immediately. For further information regarding Injury and Illness Notification, please refer to the County's Injury and Illness Prevention Policy.

**Communications with the Employee** - At the time of first communication with the employee, the return-to-work coordinator shall provide information to the employee that contains the following, as appropriate:

- Mendocino County's return to work program and appropriate forms.
- Notification that the State of California requires workers' compensation benefits to employees who sustain compensable job-related injuries and/or occupational diseases.
- The name, location and telephone number of the California Workers' Compensation Appeal's Board; and
- The rights available to the employee under the California Workers' Compensation Act.

**THE RETURN-TO-WORK COORDINATOR IS RESPONSIBLE FOR MAINTAINING REGULAR, WEEKLY COMMUNICATIONS WITH THE EMPLOYEE. THE PURPOSES OF THESE COMMUNICATIONS ARE TO: ENCOURAGE THE EMPLOYEE DURING RECUPERATION FROM THE INJURY; COMMUNICATES THE VALUE OF THE EMPLOYEE TO THE MENDOCINO COUNTY; ENCOURAGE RETURN TO WORK AT THE**

**EARLIEST POSSIBLE DATE; AND IF THE EMPLOYEE IS ON LOST TIME FOR A WORKERS' COMPENSATION CLAIM, OFFER ASSISTANCE TO THE EMPLOYEE IF NEEDED TO ATTEND HEALTH CARE PROVIDER VISITS.**

**Communications with Risk Management** - The employee's supervisor is responsible for timely submission to Risk Management all required reports and other important documents in the department's possession regarding a workers' compensation claim, including the "Physicians Report of Work Capacity" form, a completed "Claim for Workers' Compensation" form, and the County's "Accident Report" form. Timely submission of reports and forms are necessary in order to promptly initiate workers' compensation benefits, or cease payment of benefits when the employee returns to work. All reports and forms shall be submitted in a timely manner in accordance with the requirements of the California Workers' Compensation Code of Regulations. The return to work coordinator will forward all information received from the Employee and Employer to Mendocino County's Third Party Administrator.

### **PROGRAM DURATION**

Temporary Modified or Alternate Duty, limited or restricted work is intended to be a temporary job placement during recovery from a temporary disability due to an injury or illness. The Return to Work Program involves temporary work assignments that will be identified and arranged by the department head(s) or designee(s). Modified or Alternate duty will be discontinued upon the employee being released by their treating physician to return to regular full duty, or upon completion of a maximum 90-calendar days from the time the employee returns to work in the modified or alternate duty assignment, whichever occurs first. The department head or designee shall review all cases where the employee has not been released to full duty within the 90-calendar day period and determine if an extension of the modified or alternate duty assignment is possible. If it is, determined that the employee is unable to be released to full duty within the subsequent 90-calendar days, the department head or designee reserves the right to extend modified or alternate duty as appropriate.

### **PROGRAM INCENTIVES**

1. An employee will be returned to full-unrestricted duty to his or her regular position upon receipt of a written release from the treating physician.
2. An employee will be paid the same hourly rate of pay during a modified or alternate duty assignment as paid in his or her regular classification at that time of the injury or illness. It is not the County's intent to assign an employee the full range of duties of a higher classification.
3. Sick leave, vacation leave and other benefits will continue to accrue while on modified or alternate duty assignment, and consistent with existing policy or MOU provisions.
4. The employee's home department will be responsible for the employee's payroll during any Temporary modified or alternate assignment. The department to which the employee is assigned will be responsible home for providing supervision and maintaining time sheets during the modified or alternate duty assignment. Time sheets will be submitted to the employee's department for verification and payroll processing.

### **PROGRAM COORDINATION**

1. An employee must provide the department head or designee with written work restrictions including prognosis from their treating physician.
2. The Return to Work Coordinator will provide the treating physician with a Physician Work Capacity Report form and written job description. The treating physician will complete and

return the Physician Work Capacity Report form listing any work preclusion's the employee is to follow during the employee's convalescence or rehabilitation. The Return to Work Coordinator will submit the Physician Work Capacity Report form to the department head or designee along with a Medical Work Restriction Agreement. In the event the Modified or Alternate Duty Evaluation and Medical Work Restriction Agreement are not received, no modified or alternate work is to be authorized. The Return to Work Coordinator will continuously evaluate all modified and alternate duty assignments.

3. The department head or designee in consultation with the Return to Work Coordinator must grant approval for an employee to return to work in any modified or alternate duty assignment.
4. Such approvals shall be based on the ability of the employee to perform the essential function of the assignment within the restrictions imposed by the treating physician and without aggravating the existing injury or illness or cause an exacerbation of the injury or illness based on the treating physician's evaluation.
5. A modified or alternate duty assignment should fulfill, to the extent possible, the tasks, and duties of the employee's regular duty assignment and/ or enable other employees to perform other duties.
6. Based on the treating physician's written opinion, employees may be offered modified or alternate return to work positions, as identified through this program, to any work, which accommodates their restrictions. Failure to accept modified or alternate duty assignments may result in the loss of temporary workers' compensation benefits. As an alternative in such circumstances, the employee may request the use of sick leave, vacation or an unpaid leave of absence, and Family Medical Leave subject to the department head's approval.

### **PROGRAM MONITORING**

The Return to Work Coordinator will be responsible for monitoring both the individual case and the overall program result. Program results will be brought to the Safety Council on a quarterly basis and annually to the Board of Supervisors.

### **CONFIDENTIALITY**

Confidentiality shall be assured for all files handled. Medical release forms will be maintained in each file for all non-industrial injuries. Workers' Compensation claims are considered public record but the sharing of information is on a need to know basis. The following will be considered before disclosure of information:

- The type of information to be shared, with whom, and for what purpose;
- Potential risks and benefits of sharing the information;
- Whether the worker is able and willing to give consent to the release of the information;
- Assurance that the information shared will be done in a responsible manner;
- Whether disclosure of the information would violate any laws, established policies or ethical standards; and
- Whether disclosure would set any undesirable precedents regarding confidentiality.

### **MENDOCINO COUNTY QUALIFIED INJURED WORKER PLACEMENT PROCEDURE**

THE BOARD OF SUPERVISORS HAS CONFIRMED THAT THE EMPLOYEES OF MENDOCINO COUNTY ARE ITS MOST VALUABLE ASSETS. THE BOARD'S GOAL IS TO RETURN EMPLOYEES, WHO ARE OFF WORK BECAUSE OF INJURY OR ILLNESS, TO PRODUCTIVE AND REWARDING JOBS AT THE EARLIEST APPROPRIATE TIME. THE BOARD ALSO REALIZES THAT ACCESS TO PROPER MEDICAL CARE IS AN ESSENTIAL COMPONENT TO THIS PROCESS. MEDICAL CARE IS PROVIDED TO ALL EMPLOYEES INJURED ON THE JOB THROUGH THE WORKERS' COMPENSATION SYSTEM.

ALL EFFORTS WILL BE MADE TO ACCOMMODATE AN EMPLOYEE WITH PERMANENT WORK PRECLUSION'S IN THEIR CURRENT JOB ASSIGNMENT. IF PERMANENT ACCOMMODATION IS NOT POSSIBLE IN THE CURRENT ASSIGNMENT, MENDOCINO COUNTY WILL MAKE EVERY EFFORT TO ASSIST THE EMPLOYEE IN TRANSFERRING TO A PERMANENT ALTERNATE POSITION. IN ORDER FOR A PERMANENT ACCOMMODATION TO BE MADE THE FOLLOWING CRITERIA MUST BE MET:

1. The employee must meet the minimum qualifications of the position.
2. The employee must be able to meet the physical demands of the job with reasonable accommodation.
3. There must be a vacant position available for the employee to fill.

The County of Mendocino will not create a position, or bump another employee from a position in order to accommodate the injured or ill employee.

The Return to Work policy applies to all employees with appropriate documentation of injury or illness from their treating physician. If necessary, Risk Management will determine the most appropriate form of permanent alternate work.

The Risk Management will establish an accommodation team as needed to insure all employees requiring accommodation receive fair and equitable treatment. The Accommodation Team may include the Risk Manager, Return to Work Coordinator, Human Resources Director, the medical provider, a supervisor, a representative from County Counsel, the Union representative and any other appropriate personnel with input from the employee, whenever possible and appropriate.

This regulation applies to all employees in all departments. The home department will accommodate whenever possible. If the home department is not able to accommodate the injured or ill employee, the Return to Work Coordinator, with the assistance of the Human Resources Department will ascertain if a permanent accommodation is available in another department. The Accommodation Team will review all cases in which permanent modified duty cannot be found or the Return to Work Coordinator needs assistance in determining permanent modified duty.

The County's obligation under the American with Disabilities Act is to return qualified individuals with disabilities to employment whenever they are qualified and able to perform the essential functions of their current position or a vacant alternate position within the County.

When the injured employee is determined to be a Qualified Injured Worker (QIW), unable to perform the essential functions of his or her job, the supervisor must first determine if a modification of the injured employee's duties, or the way their duties are performed, would enable the employee to perform the essential functions. This can sometimes be accomplished

by sharing tasks with a co-worker. If the job cannot be modified, the supervisor together with other department personnel must look within their department. Following are criteria, which must be established:

1. Determine if there is an alternate position for which the injured employee is qualified;
2. Determine the availability of an alternate position;
3. Determine if the job is physically appropriate; and
4. Determine if the employee is qualified for the position.

The employee will be given the opportunity to transfer into the vacant alternate position. If the department does not have an alternate position available, the Return to Work Coordinator will work with Human Resources to determine if other departments have an open position for which the injured worker is qualified. In some instances, the injured employee may be eligible for on-the-job training. Each affected employee must be evaluated on a case-by-case basis.

When an injured employee is qualified for an alternate position the following procedure will be followed:

1. Human Resources will administer testing when applicable and/or the receiving department will interview the affected employee to determine if he/she possesses all skills required for the vacant position.
2. Once the determination has been made that the injured employee is qualified, the receiving department will provide the Return to Work Coordinator with a written description of the essential functions of the job.
3. The Return to Work Coordinator will request that the injured worker's treating physician review the essential functions and if the treating physician believes the employee can safely perform the functions of the job, the job offer will be extended to the affected employee.

If two or more job possibilities are available, the injured worker will be asked to interview for each position. The Return to Work Coordinator will consider the employee's preference and will then make the final determination of which job offer will be extended to the injured worker, based on the above criteria. The injured employee has the option to have this decision referred to The Accommodation Team for final consideration and decision.