

MEMORANDUM OF UNDERSTANDING



**Between
The County of Yuba**

And

**Yuba County Deputy District Attorney
Association (DDAA)**

August 1, 2018 through

June 30, 2020

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PREAMBLE

In accordance with the provisions of Government Code Section 3505, et seq., representatives of the Board of Supervisors of Yuba County (the County) and representatives of the Deputy District Attorney's Bargaining Unit, have met and conferred with regard to wages, hours and other terms and conditions of employment for said Unit.

Agreement has been reached by representatives of the County and the Unit, and both desire jointly to enter into this written Memorandum of Understanding. The specifications of this Memorandum will be effective on the date the provisions of this Memorandum are adopted into law by the Board of Supervisors, or on dates as otherwise indicated herein.

The following are the terms of this agreement:

Article 1 TERM OF CONTRACT

The terms of this contract shall be from August 1, 2018 through June 30, 2020, for employees represented by the Yuba County Deputy District Attorneys' Association, (DDAA).

Article 2 SALARY

2.1 Salary Adjustments

Salary increases for the employees represented by DDAA will be:

Effective August 1, 2018, all DDAA represented employees will receive a Cost of Living Adjustment (COLA) equal to 2% of base salary.

Effective July 1, 2109, all DDAA represented employees will receive a Cost of Living Adjustment (COLA) equal to 2% of base salary.

2.2 Equity Adjustments

Effective August 1, 2018, all classes represented by DDAA will receive an equity adjustment equal to 3% of base salary.

Article 3 PUBLIC EMPLOYEES RETIREMENT SYSTEM

3.1 Retirement Formula and PERS Employee Contribution

PERS Local Miscellaneous Retirement Formula:

The Local Miscellaneous (MISC) Retirement Formula will be determined in accordance with Public Employment Retirement Law (PERL), the Public Employees' Pension Reform Act of 2013 (PEPRA) and the terms of the contract in effect between the County and the Public Employees' Retirement System (PERS). The retirement benefit formulas are as follows:

Employees identified by CalPERS as Local **Miscellaneous (MISC) Classic Members:**

- The **2% @ 55 PERS** Formula shall be provided for Local MISC Retirement category employees.

Employees identified by CalPERS as Local **Miscellaneous (MISC) PEPRA New Members:**

- The **2% @ 62 PERS** Formula shall be provided for Local MISC Retirement category employees.

A. PERS Local Miscellaneous Retirement Contributions:

Classic Members Employee Retirement Contribution:

Employees identified by CalPERS as Local MISC Classic Members currently have an employee contribution rate of **7%** plus a percentage of the Employer's pension cost for a total employee contribution as identified in this Section below under "Employee Sharing Additional Cost".

PEPRA NEW Members Employee Retirement Contribution:

Employees identified by CalPERS as PEPRA New Members will have an employee contribution rate of at least 50 percent of the normal cost rate for their defined benefit plan, rounded to the near ¼ percent; adjusted periodically as determined by PERS.

The employee contribution currently in effect is **6.25%** for Local MISC New Members.

Employee Sharing Additional Cost (Classic Members):

Pursuant to Government Code section 20516(a), the County of Yuba and DDAA have agreed to an amendment to their CalPERS contract effective July 1, 2016, which includes Classic employees paying an additional portion of the employer's share of pension cost as follows:

- DDAA MISC Classic Members pay an additional 1% toward the Employer Contribution, with the DDAA MISC Classic Members total employee contribution of 8%.

Effective July 1, 2019, following the amendment of the CalPERS retirement contract pursuant to Government Code section 20516(a), the CalPERS Employer Pension Contribution will be as follows:

- DDAA MISC Classic Members agree to pay an additional 1% for a total of 2% toward the Employer Contribution, with the DDAA MISC Classic Members total employee contribution of 9%.

If the required CalPERS ballot initiative for the contract amendment does not pass, DDAA agrees to pay the additional 1% toward the Employer Contribution pursuant to Government Code Section 20516(f) effective July 1, 2019 until such time that the CalPERS retirement contract can be amended to provide for DDAA members to pay the additional 1% toward the Employer Contribution pursuant to Government Code section 20516(a).

3.2 Credit for Unused Sick Leave

The County contracted with the California Public Employees Retirement System (CalPERS) to provide Section 20965 Credit for Unused Sick Leave Benefit for employees in the Miscellaneous Retirement group. This benefit provides that unused accumulated sick leave at time of retirement may be converted to additional service credit at the rate of 0.004 year of service credit for each day of unused sick leave in accordance with the PERS formula.

3.3 Pre-Retirement Optional Settlement 2 Death Benefit

The County contracted with CalPERS to provide Section 21548 Pre-Retirement Option 2W Death Benefit for the Miscellaneous Retirement Plan members. This benefit provides that the spouse or domestic partner of a deceased member, who was eligible to retire for service at the time of death, may elect to receive the Pre-Retirement Option 2W Death Benefit which is the highest monthly allowance a member can leave a spouse or domestic partner in lieu of the lump sum Basic Death Benefit.

Article 4 HEALTH, DENTAL, VISION, and LIFE INSURANCE

4.1 Health, Dental, Vision Insurance

The County will maintain health insurance through the CalPERS Health Insurance Program and make available all plans for which employees are otherwise eligible to participate in as employees of the County of Yuba.

- a) The basic plan for determining the County's contributions shall be the CalPERS Choice PPO plan.
- b) The County will pay 100% of the basic plan premium for Dental/Vision for the employee only, and 90% of the basic plan premiums for Health.
- c) The County will pay 80% of the basic plan premium for Dental/Vision for the employee plus one dependent or the employee plus more than one dependent, and 70% of the basic plan premiums for Health for the employee plus one dependent or the employee plus more than one dependent.

The County of Yuba agrees to continue the current level of coverage for the Health, Dental, and Vision Insurance for the term of the contract. However, due to the continued rising cost of healthcare, the County must explore alternatives to our current plans and funding. Both parties agree to proactively review alternative options by continuing to be active in the health care committee.

4.2 In Lieu of Compensation

The County of Yuba agrees to increase the in lieu of health, dental, and vision insurance compensation to two hundred dollars (\$200.00) per month.

4.3 Life Insurance

The classifications of Attorney I/II/III and Deputy District Attorney I/II/III to receive the same life insurance policy provided to management employees.

4.4 Dependent Health Insurance

The county agrees to continue health insurance benefits for a surviving spouse and dependents (to the extent eligible) should the employee be killed on-the-job.

4.5 Affordable Care Act

At such times as regulations are issued implementing the Affordable Care Act, the County and DDAA will meet and confer to review the impact of such regulations on the benefits plans then in force. If modifications to the benefits, eligibility for coverage, employer or employee contribution to the cost of insurance or any other provisions of the benefits plans covered by this Agreement will be modified or impacted by the Affordable Care Act during the term of this Agreement, it is agreed that the County and DDAA will reopen the contract to meet and confer and determine how such mandated changes will be implemented.

Article 5 PROFESSIONAL FEES

The County of Yuba agrees to pay for the annual bar dues required by the State of California to practice law. The Attorneys in this unit will submit completed bar dues statements to their supervisor no later than January 1st of each year. Any penalties that result from submitting bar dues statements after January 1st will be paid by the employees.

Article 6 SICK LEAVE WITH PAY

6.1 General Policy

Sick leave with pay shall be earned and accrued by regular employees based on the equivalent actual time worked, including authorized absence with pay. .

6.2 Definition

Sick leave means the necessary absence from duty of an employee because of:

- A. The employee's illness or injury;
- B. The employee's exposure to a contagious disease;
- C. Any medical treatment, or recovery from such treatment, prescribed by a licensed practitioner.
- D. Bereavement. In the case of the death of a person in the employee's immediate family, the employee may use up to five (5) days of sick leave, and any accumulated vacation leave, for each occurrence.
- E. Family Sick Leave. An employee may use Family Sick Leave for the illness of a member of the employee's immediate family (parent, parent-in-law, child, spouse, registered domestic partner, grandparent, grandchild, or sibling) who requires the care and assistance of the employee. Up to eighty (80) hours per calendar year of the employee's accumulated unused sick leave may be used for this purpose.

6.3 Time Sick Leave Begins to Accrue

An employee shall not accrue sick leave with pay until the first day of the month following the month in which such employee begins work. However, if that employee begins work within the first three working days of the month, then s/he shall accrue sick leave for that month.

6.4 Rate of Accrual

- A. Sick leave shall be earned and accrued without a maximum limit.
- B. Sick leave shall be earned as follows:
 - 1. Each regular full-time employee shall accrue sick leave with pay at the rate of 8 hours per month.
 - 2. A regular part-time employee shall accrue sick leave with pay in the proportion that directly relates to regularly scheduled hours of service compared to regular full-time service.
 - 3. **Leave of Absence Without Pay.** A regular full-time employee who is granted a leave of absence without pay in excess of 15 calendar days shall not accrue any annual vacation or sick leave benefits during the period of such leave. Exception: Each regular full-time employee who is granted a leave of absence without pay in excess of 15 calendar days and physically works at least 30 hours in a month shall accrue sick leave with pay at the rate of 4 hours for that month.
 - 4. A regular full time employee who separates for any reason during the month shall earn sick leave accruals with pay at the rate of 4 hours for that month if on a paid status

and physically worked at least 30 hours; or shall earn sick leave accruals with pay at the rate of 8 hours if on a paid status for more than half the working month.

6.5 Usage

- A. Sick leave accruals may be used in accordance with the provisions of this Agreement once they are earned. Sick leave accruals are earned at the end of the month and are available for use the 1st day of the following month.
- B. In any instance involving use of a fraction of a day's sick leave, the minimum charge shall be one-quarter (1/4) hour, while additional actual absence over one-quarter (1/4) hour shall be charged to the nearest quarter hour.
- C. Sick leave usage and ability of an employee to return to work shall be determined by County rules, regulations, and procedures regardless of determinations made by the State of California under the SDI or the Workers Compensation (WC) program.
- D. An employee is to return to work as soon as s/he recovers from an illness or injury including the return to a shift or work day in progress.
- E. Employees who are too ill or injured to work are required to contact their department manager or supervisor before the beginning of their work shift if feasible but no later than within the first hour of work. Department Heads shall have the option of instructing employees to either leave a message for the supervisor or the department designated contact person. If a message is left for the department, it shall include a call-back number for any follow-up information.
- F. An employee that has been directed by a medical professional to remain off work for more than one day shall not be required to report their absence each day, if acceptable documentation has been provided to the department verifying the attending physician's directions.
- G. Employees shall only be required to provide general information about the nature of the illness or injury that necessitated their absence from work. The information requested shall be solely for the purpose of determining the legitimate use of sick leave.
- H. **Recovery of Short Term Disability (STD), State Disability Insurance (SDI) or Workers Compensation (WC) Overpayment. Sick Leave Usage in Conjunction with STD/SDI/WC.** For employees covered under the State Disability Insurance (SDI) program or Worker's Compensation Program (WC) or the County Short Term Disability (STD) program, sick leave may be used to supplement these benefit payments. In no instance, however, shall the combination of Disability Insurance SDI, WC, sick leave, or other County benefit payments exceed one hundred (100) percent of the employee's monthly salary calculated on an hourly, weekly, bi-weekly, or monthly basis.

Employees are required to notify the Auditor's office within 5 business days upon receipt of benefits, so that the benefits can be integrated. In some cases due to delays in receiving checks under W/C SDI, or STD, employees may be overpaid. When this occurs, employees must make arrangements to pay back the overpayment within 5 business days unless the employee's condition prevents this. Failure to make arrangements to pay back the overpayment violates county rules. Accordingly this may result in the County taking progressive disciplinary action up to and including termination from employment.

If an employee voluntarily makes arrangements for repayment prior to notification of disciplinary action, the Auditor may limit their repayment to 10% of their gross pay each month, or a more substantial amount agreed upon, until the total amount is repaid. If the employee has made no

repayment arrangements within two months of first receiving duplicate benefits, the Auditor's office will begin deducting 10% of the employee's gross pay each month until the total amount is repaid.

6.6 Exclusions

No employee shall be entitled to sick leave while absent from duty on account of any of the following cases to the extent permitted by law:

- A. Sickness or injury sustained while on leave of absence without pay.
- B. Sickness or injury purposely self-inflicted or caused by willful misconduct.
- C. Subsequent to a determination by the Public Employees' Retirement System that a sickness or injury qualifies an employee for disability retirement.

6.7 Proof Required

The Department Head shall approve sick leave only after having ascertained that the absence was for an authorized reason. The Department Head may require the employee to submit substantiating evidence including but not limited to a physician's certificate in accordance with Federal and State law. The request for substantiating evidence must be made either on or before the time the employee informs the department of his/her absence or prior to the employee's return to work. If the Department Head does not consider the evidence adequate, the employee's request for the use of sick leave shall not be approved.

6.8 Records

Sick leave balances shall be maintained by the Auditor through payroll records.

6.9 Loss of Sick Leave.

- A. Any employee whose continuity of employment is broken for any reason shall lose his entitlement to any sick leave which has accrued but not used, unless reemployed with the County within 12 months of separation date.
- B. When an employee is re-employed from a re-employment list after a break in service resulting from lay-off, such employee shall be credited with any unpaid sick leave which s/he had accumulated prior to such break in service. In addition, the prior service of such employee shall also be counted for purposes of vacation entitlement.

6.10 Sick Leave Payout and/or Conversion of Sick Leave for CalPERS Service Credit Upon Retirement

- A. **Sick Leave Payout.** After ten (10) continuous years of permanent employment with the County upon separation of employment by death or retirement in accordance with provisions of the Public Employees Retirement Law, as amended; or by resignation in good standing or layoff, an employee shall be paid a sum equal to twenty-five percent (25%) of his/her earned sick leave computed on the basis of the hourly equivalent to such employee's monthly salary as of the time of death, retirement, layoff or resignation in good standing.
- B. **Conversion of Sick Leave for CalPERS Service Credit.** The County contracts with CalPERS to provide Section 20965 Unused Sick Leave conversion for the Miscellaneous Retirement Plan members. In accordance with provisions of the Public Employees Retirement Law, as amended, employees retiring may elect to:

Convert all of their unused sick leave to service credit; **OR**

If the retiring employee has ten (10) continuous years of permanent employment with the County, upon retirement may elect to receive up to 25% of his/her unused sick leave as pay at the regular rate of pay in accordance with Section A above and convert the remaining balance of unused sick leave to service credit.

Article 7 GRIEVANCE PROCEDURES

7.1 Purpose

The grievance procedures are intended to provide employees a means to have their grievance heard in a fair, clear, and expedient manner. At the same time supervisors and managers must be given an opportunity to address the specific grievance at the lowest possible level.

7.2 Definition

A grievance may be filed by an employee if a management interpretation or application of a law, ordinance, resolution, regulation, rule, or MOU adversely affects the employee's wage, hours, or conditions of employment. Excluded from the grievance procedure are disciplinary matters, performance evaluation ratings, and actions of the Board of Supervisors.

This does not preclude an employee or their representative from addressing the Board of Supervisors on a matter that is not covered under any other existing appeal or grievance process.

7.3 General Provisions

- A. Employees are entitled to representation at any level of the grievance process.
- B. Employees are entitled to reasonable release time at any level of the grievance process.
- C. Timeliness: If the employee or recipient of the grievance is absent from their normal work site for longer than a week, the grievance may be held in abeyance until the absent party returns. This doesn't preclude the parties from mutually agreeing in writing to waive or extend the timelines at any step. Keeping in mind that timely processing of the grievance is in all parties' best interest.
- D. If the response deadline falls on a weekend or holiday, the response is due before the close of business the following work day.

7.4 General Procedures

Step 1: All grievances must be initially filed in writing on the form designated by the Human Resources Director with the immediate supervisor within 15 calendar days of the situation used as the basis of the grievance, or, from the date the employee should have reasonably been aware of the situation used as a basis for the grievance. The employee must clearly state the date, time, and all other circumstances surrounding the situation being grieved; as well as any requested remedy. The supervisor will also be required to give the employee a written response within 15 calendar days of receipt of their grievance. The supervisor will state his/her position regarding the issues presented in the grievance, and whether the requested remedy is being granted, an alternative remedy offered, or the remedy is being denied. If the supervisor fails to provide a response within 15 calendar days of receipt of the grievance, it will automatically be elevated to a Step 2 grievance.

Step 2: If the grievance is not resolved at Step 1, it may be submitted to the Department Head for consideration within 15 calendar days of the immediate supervisor's decision. The Department Head will then review the original written grievance and response by the supervisor and give the employee a written response within 15 calendar days of receipt of the employee's Second Level grievance request. Based on the submitted documents or other facts related to the original grievance, the Department Head will state his/her position regarding the issues presented in the grievance, and whether the requested remedy is being granted, an alternative remedy offered, or the remedy is being denied. If the Department Head fails to provide a

response within 15 calendar days of receipt of the Step 2 grievance, it will automatically be elevated to a Step 3 grievance.

Step 3: If the grievance is not resolved at Step 2, it may be submitted to the Human Resources Director for consideration within 15 calendar days of the Department Head's decision. The Human Resources Director will review the original written grievance and responses by the supervisor and Department Head and shall either schedule a meeting with the employee to discuss the grievance or give the employee a written response within 15 calendar days of receipt of the employee's Third Level grievance request. Based on the submitted documents the Human Resources Director will state Human Resources' position regarding the issues presented in the grievance, and whether the requested remedy is being granted, an alternative remedy offered, or the remedy is being denied. If the Human Resources Director fails to provide a response within 15 calendar days of receipt of the Step 3 grievance or the meeting, whichever is later, it will automatically be elevated to a Step 4 grievance.

Step 4:

- A. If the grievance is not resolved at Step 3, either party may within fifteen (15) calendar days request advisory arbitration. A request to proceed to advisory arbitration shall be filed with the Human Resources Director, who will act promptly to request a list of seven (7) arbitrators from the American Arbitration Association (AAA). The Human Resources Director will instruct the AAA to issue a copy of the list to both the County and Union. Once the parties have received the lists, representatives of the parties will meet within five (5) working days to determine if they can mutually agree upon using one of the arbitrators listed. Should the parties not be able to reach agreement, the parties shall alternately strike one name from the list until only one name remains. That person shall be the arbiter. The right to strike the first name shall be determined by lot.
- B. Where practicable, the date for a hearing shall not be less than ten (10) days, or more than thirty (30) days, from the date of the selection of the Arbiter. The parties may stipulate to a longer period of time for commencing with the grievance hearing.
- C. The Human Resources Director shall duly notify the interested parties of the time and place of the hearing as soon as possible but no later than seven (7) calendar days prior to the grievance hearing.
- D. All grievance hearings shall be closed to the public except when the parties stipulate otherwise. The hearing shall be conducted in accordance with Section 11513 of the Government Code. The provisions of Section 11507.6 of the Government Code shall apply to any hearing conducted pursuant to this section, and shall provide the exclusive right to and method of discovery except that time limitations will be those established by the arbiter as the case may be. Subpoenas and subpoenas duces tecum shall be authorized as provided by Government Code Section 11450.05 et seq.
- E. The Arbiter shall render judgment as soon after the conclusion of the hearing as possible but in no event later than thirty (30) days after the close of the grievance hearing, unless mutually agreed to otherwise by the parties. The Arbiter's decision shall set forth which alleged violations, if any, are sustained and the reasons therefore. The Arbiter's decision shall set forth findings of fact and conclusions of law. The Arbiter may sustain or reject any or all of the charges filed in the grievance. The Arbiter's opinion shall be advisory only.
- F. Written findings and recommendations shall be forwarded by the Arbiter to the Clerk of the Board of Supervisors, Human Resources Director, the affected Department Head, and employee and her/his representative. These findings and recommendations must be agendaized for presentation to the Board of Supervisors in accordance with standard agendaizing procedures at its first regular meeting after they have been received. If within thirty

(30) days of receipt by the parties of the Arbiter's decision, either party to the action files a written appeal with the Board of Supervisors, a copy of such appeal will be served concurrently upon the opposing party. The Board of Supervisors may review the record of the proceedings, and will take the findings and recommendations of the Arbiter under advisement. The Board will render a decision within twenty (20) days after the presentation of said finding and recommendations to the Board. The Board, in its sole discretion, may:

Follow the recommendation of the Arbitrator; or Order any action which it deems appropriate based upon the totality of the circumstances.

- G. If neither party files such appeal within the above thirty (30) day period, the decision of the arbiter shall be deemed adopted by the Board of Supervisors. The decision of the Board shall be final and conclusive.
- H. Each party shall bear equally the cost of facilities, fees, and expenses of the Arbiter and court reporter, including transcripts. Each party shall bear its own witness and attorney fees.
- I. The Human Resources Director shall execute the decision of the Board within ten (10) working days of the decision.

Article 8 DISCIPLINE PROCEDURES

DISMISSAL, SUSPENSION, REPRIMAND, DEMOTION AND RIGHT OF APPEAL

8.1 Disciplinary Guidelines

- A. The purpose of discipline is to administer equitable and consistent discipline for unsatisfactory conduct in the workplace. The County's own best interest lies in ensuring fair treatment of all employees and in making certain that disciplinary actions are prompt, uniform, and impartial. The major purpose of any disciplinary action is to correct the problem, prevent recurrence, and prepare the employee for satisfactory service in the future.
- B. Disciplinary action may call for any of five (5) steps depending on the severity of the problem and the number of occurrences: Letter of Reprimand; Suspension without pay; Reduction in Pay (defined as base rate multiplied by index), Demotion; or Termination from employment. There may be circumstances when one or more steps are bypassed.
- C. Progressive discipline means that, with respect to most disciplinary problems, the following steps will normally be followed: a first offense may call for a letter of reprimand; a next offense may lead to suspension without pay; and still another offense may then lead to termination of employment. While it is impossible to list every type of behavior that may be deemed a serious offense, some examples include theft, assault, falsification of records or documents, etc.; we recognize there are certain types of employee problems that are serious enough to justify either a suspension, or, in extreme situations, termination of employment, without going through the usual progressive discipline steps.
- D. The County's use of progressive discipline is intended to correct most employee problems at an early stage, benefiting both the employee and the County of Yuba.

8.2 Regular Employees - Disciplinary Action and Notice

Any regular employee may be reprimanded, suspended, reduced in pay, demoted or dismissed by the appropriate Department Head. The procedures outlined below shall be adhered to in all instances where said action(s) is/are contemplated.

- A. **Formal Written Reprimand.** When an employee receives a formal written reprimand from a Department Head, the employee has ten (10) work days after receipt of the letter to file a written or oral response to the letter. The Department Head may then modify, amend, or revoke any part of the formal written reprimand. The employee's response will be considered by the Department Head. If it is demonstrated that any part of the formal written reprimand is inaccurate or not factually supported it will be modified, amended, or revoked. Unless revoked completely, the formal written reprimand as amended or modified by the Department Head along with any written response shall be placed in the employee's personal history file in the Human Resources Department. The written reprimand and response shall remain in the employee's personal history file for a period not to exceed two (2) years from the date the final reprimand was issued.
- B. **Suspension, Reduction in Pay, Demotion or Dismissal.** Before taking more serious disciplinary action or initiating a formal investigation, the Department Head should contact and discuss such action with the Human Resources Director and/or the County Counsel or their designees.
- C. **Notice to Employee.** After the discussion in Paragraph (B), a Department Head who concludes that suspension, demotion or dismissal is justified, shall notify the affected employee in writing of the proposed action; the reasons therefore with a copy of charges

and material on which it is based and the right to respond to the Department Head or designee. Said notice must be served on the employee at least five work days before the intended action.

- D. **Management Rights.** Prior to the written notice and until a final decision is made regarding the employee's job status, management reserves the right to immediately remove an employee from the workplace for irrational or improper behavior, and place an employee on paid or unpaid administrative leave. Unpaid leave is appropriate when the employee and/or her/his representative are unreasonably unavailable during the disciplinary process. The reviews and notices required shall be served on the employee as soon as possible after the employee is placed on such leave.
- E. **Written Notification.** All written orders shall be served on the employee and a copy sent to the Human Resources Department. If personal service upon the employee is impossible, a copy of the order shall be sent by registered mail to the employee at his or her last known address.
- F. **Employee Right to Respond.** The employee shall be entitled to a meeting with the Department Head or designee within five (5) working days of notice of the proposed action to answer the charges or to present an answer in writing to the charges during the same period of time. Subsequent to meeting with the employee and/or reviewing the written material provided by the employee, the Department Head may:
 - 1. carry out the disciplinary action by written order;
 - 2. rescind the proposed action;
 - 3. impose a lesser disciplinary action; **or**
 - 4. withdraw and amend the proposed action and serve another notice of proposed action, if further areas for discipline were discovered prior to the disciplinary action being imposed.

8.3 Causes for Discipline

Each of the following constitutes cause for suspension, reduction in pay, demotion or dismissal of an employee or person whose name appears on any employment list.

- A. Fraud in securing appointment, including but not limited to falsification of application in securing appointment, and false information concerning professional licenses, College/University diplomas, advanced degrees, or certifications.
- B. Incompetency.
- C. Inefficiency.
- D. Inexcusable neglect of duty.
- E. Insubordination.
- F. Dishonesty.
- G. In possession of, trafficking in, or under the influence of alcoholic beverages or illegal drugs while at work or on County property.
- H. Intemperance.
- I. Inexcusable absence without leave.

- J. Conviction of a felony or conviction of a misdemeanor involving moral turpitude.
- K. Discourteous treatment of the public or other employees.
- L. Political activity which is in violation of federal, state or local laws and regulations.
- M. Use of County property in violation of law or Board order.
- N. Violation of this Article.
- O. Any other failure of good behavior or acts either during or outside of duty hours which are incompatible with or inimical to the public service
- P. Refusal to take and subscribe to any oath or affirmation which is required by law in connection with employment.
- Q. Violation of any of the provisions entitled Prohibited Activities.
- R. Violation of the employment of a relative rule set forth in Yuba County Merit Resolution Article 3 Subsection 10.
- S. Violation of written County or departmental policies including those relating to safety issues.
- T. Conduct or behavior that constitutes sexual harassment or creates a hostile work environment.
- U. Negligent or willful damage to public property or waste of public supplies or equipment.
- V. Failure or refusal to cooperate in an investigation being conducted by the County.
- W. Knowingly making false accusation or knowingly providing inaccurate information about an employee that could lead to disciplinary action of the employee if the information or accusation were true.

8.4 Right of Appeal

- A. Any regular employee, except a probationary employee, who is suspended, demoted or dismissed, may appeal such order or decision under filing notice of appeal with the Human Resources Director within five (5) work days after service on such employee of the order as herein above provided. Probationary employees shall have no right of appeal. Within fifteen (15) days from the date of service of said order upon the employee, such employee shall file with the Human Resources Director an answer in writing to the charges set forth in the order of disciplinary action. The Human Resources Director shall review said order, notice of appeal, and answer, and shall then discuss the disciplinary action and appeal with the employee and/or his or her representative and the Department Head in order to determine if a hearing is necessary.
- B. In the event an agreement regarding disposition of the matter cannot be reached within fifteen (15) days after filing of the answer to the charges, and upon the request of the employee, the Human Resources Director will contact the State of California Office of Administrative Hearings to request the assignment of a Hearing Officer to hear the appeal. In the event the Office of Administrative Hearings cannot provide an Administrative Law Judge to preside over the hearing within thirty (30) days from the date of the appeal, the parties may directly select a neutral third party to hear the matter and render a decision. The employee and/or his or her representative must agree within ten (10) days to a hearing

date after contact by the Human Resources Director or the appeal will be considered to have been abandoned by the employee and will not be scheduled. Said Hearing Officer will commence hearing the matter as soon as possible.

- C. If any employee alleges that the suspension, demotion, or dismissal resulted from discrimination based on race, color, religion, sex, disability, medical condition, marital status, age, ancestry or national origin, an appeal will be heard on this issue only if the employee's allegation is supported by a written statement of grounds or reasons which are deemed by the Hearing Officer to be sufficiently clear and concrete to permit a hearing. The written statement of grounds must be served on County Counsel at least fifteen 15 calendar days prior to the hearing. The County Counsel must then serve the employee with a response to the allegation(s) at least five (5) calendar days prior to the hearing. The burden of proof shall be on the complainant to show by a preponderance of evidence that an unlawful discriminatory action occurred.

8.5 Hearing

The following rules shall apply to any Hearing conducted under the provisions of this Section:

- A. The Hearing shall be public except that, if the employee requests that the matter be heard privately, it shall be so heard.
- B. Subpoenas and Subpoenas Duces Tecum may be issued in accordance with [Section 11450.05 et seq. of the Government Code](#).
- C. The Hearing shall be conducted in accordance with [Section 11513 of the Government Code](#).
- D. The provisions of [Section 11507.6 of the Government Code](#) shall apply to any hearing conducted pursuant to this section and shall provide the exclusive right to and method of discovery except that time limitations will be those established by the Hearing Officer. In those cases where the Board reheard the matter as provided by Section 8.6, the Board shall establish such time limitations.
- E. All costs related to the hearing directed to be incurred by the Hearing Officer and all fees of the Hearing Officer will be shared equally by the parties, except that,
 - 1. in the event the employee is fully reinstated, **or**
 - 2. the employee is in a position funded in whole or in part by the federal or state government which comes under [Section 19800 of the Government Code of the State of California](#), such costs and fees will be borne by the County department imposing the discipline.

8.6 Decision

- A. The Hearing Officer shall within thirty (30) calendar days after said hearing make a finding as to whether or not the employee was suspended, demoted, or dismissed for the reasonable cause set forth in the notice of disciplinary action and shall also make a recommendation as to the appropriate disposition of the case.

Written findings and recommendations shall be forwarded by the Hearing Officer to the Clerk of the Board of Supervisors, Human Resources Director, the affected Department Head, and employee. These findings and recommendations must be agendized for presentation to the Board of Supervisors in accordance with standard agendizing procedures at its first regular meeting after they have been received.

The Board will take the findings and recommendations of the Hearing Officer under advisement and will render a decision within twenty (20) calendar days after the presentation of said findings and recommendations to the Board. The Board may:

1. Follow the recommendation of the Hearing Officer; **or**
2. Reinstatement the employee; **or**
3. Order any disciplinary action which it judges to be appropriate based on the evidence; **or**
4. Rehear the matter under the provisions of Section 8.5 of this Article.
5. In these cases, the Board's decision shall be final and binding on all parties.

B. The procedures in this Subsection shall be followed except as outlined below;

1. In cases where discrimination in suspension, demotion, or dismissal based on race, religion, color, sex, marital status, disability, medical condition, age, ancestry, or national origin is alleged and proven, the Hearing Officer shall have the authority to reinstate the employee without prejudice where such decision is supported by the written findings of the Hearing Officer.
2. For employees in positions funded in whole or in part by the federal or state government which come under [Section 19800 of the Government Code of the State of California](#), the decision of the Hearing Officer in matters of demotion or dismissal, is final and binding upon all parties within the limits and the authority of Hearing Officers as may be found in relevant sections of this Agreement.
3. The Hearing Officer shall have no power to alter, amend, change, add to or subtract from this Agreement or any ordinance, resolution, rule or regulation approved by the Board of Supervisors.
4. The Hearing Officer shall have no power to award punitive damages.
5. The Hearing Officer's findings and award shall be based solely on the evidence presented at the hearing.
6. The decision of the Hearing Officer, as outlined in Section 8.6 B 1 and 2 above, shall not be subject to modifications by the Board of Supervisors and shall be implemented by Board order.

Article 9 VACATION LEAVE WITH PAY

9.1 General Policy

Vacation leave with pay shall be earned and accrued by regular employees based on the equivalent actual time worked, including authorized absence with pay.

9.2 Time Vacation Leave Begins to Accrue

An employee shall not accrue vacation leave with pay until the first day of the month following the month in which such employee begins work. However, if that employee begins work within the first three working days of the month, then s/he shall accrue vacation leave for that month.

9.3 Leave Accrual

Vacation leave credit shall accrue on the first day of the month following the month when vacation leave credit is earned. No vacation leave shall be earned when an employee is on leave without pay for half of a working month or more. No credit shall be earned for less than a full final month's service when an employee terminates for any reason.

9.4 Part-Time Employee

A part-time employee shall accrue vacation leave in the proportion that his/her regularly scheduled hours of service compares to regular full-time service.

9.5 Rates of Accrual

Each regular full-time employee shall accrue and receive vacation leave based on the following as computed from their Hire Date:

	<u>Length of Service</u>	<u>Number of Hours Per Month</u>
1)	Through completion of 5 years	8.00 hours
2)	More than 5 through completion of 10 years	10.75 hours
3)	More than 10 through completion of 15 years	12.00 hours
4)	More than 15 through completion of 20 years	13.50 hours
5)	More than 20 years completed	16.00 hours

9.6 Maximum Accrual

Vacation leave shall be accumulated to a maximum limit of 384 hours.

Any employee who has accumulated vacation leave in excess of the maximum accrual will no longer accrue vacation leave until such time the vacation leave is below the maximum limit.

The Department Head and employee shall, while considering the needs of the department, schedule sufficient vacation to avoid the employee reaching the maximum accrual. Should the employee fail to request time off, the Department Head may schedule the vacation to the extent necessary to ensure the employee does not reach the maximum accrual.

9.7 Use of Vacation Leave

1. The Department Head shall determine the period when accrued vacation time may be taken by each employee consistent with the requirements of the department.
2. Denial of an employee's request for use of vacation leave or compensated time off must be based on business necessity.

3. Last Day of Work: Employees who are terminating their employment for reasons other than County retirement (with no other employment) shall not use vacation or comp time as their termination date (e.g. requesting vacation or comp time to begin March 7 while actual termination date is March 13, etc.).

9.8 Minimum Charge

In any use of vacation, the minimum charge to the employee's vacation account shall be one quarter (1/4) hour, while additional actual absence over one quarter (1/4) hour shall be charged to the nearest quarter (1/4) hour and shall not exceed the employee's accrued vacation hours.

9.9 Cash Compensation upon Termination

An employee whose employment is terminated for any reason shall be paid a sum equal to their accrued vacation leave. Such sum shall be computed on the basis of the hourly equivalent of such employee's monthly salary as of the date employment is terminated.

9.10 Conversion to Deferred Compensation

The parties agree to delete Article 9 Section 9.11 Conversion of Deferred Compensation and that the provision in the Rules Governing and Compensation, Benefits and Working Conditions of Employees of the County of Yuba Article 9 Section 9.11 Conversion to Deferred Compensation does not apply to the DDAA with the following one-time exception:

DDAA employees with accrued vacation balances of at least 300 hours may elect to convert up to 40 hours of vacation in December 2019, subject to the maximum allowed under the 457 Deferred Compensation program for that year, under the following terms:

1. Employee must notify his/her department head by **December 18, 2018**, in writing of his/her intent to convert vacation to deferred compensation the following year.
2. Employee's vacation balance is at least 300 hours at the time of request.
3. Conversion will be made at the rate of pay the employee is receiving at the time of conversion.

Article 10 DELETED JULY 2015

The article formerly referenced as "Performance Evaluation" was deleted from the MOU per mutual agreement.

Article 11 – MERIT PROCEDURES FOR MERIT/LONGEVITY STEP INDEX

For employees hired on or before 06/30/13 (employees hired after 6/30/13 see section 11.14-11.20)

11.1 Salary based upon Merit/Longevity

A regular employee's salary will be determined based upon successful job performance and years of loyal service to the County. Index Rates between 1.0000 and 1.2160 are defined as Merit. Longevity begins upon completion of the fifth year of service.

11.2 Salary Determination or Adjustments

Unless specifically stated otherwise, employees hired prior to **July 1, 2013** will have their salaries determined or adjusted by multiplying the Base Rate for their classifications, as specified on the Classification System - Basic Salary Schedule, by the Index Rate on the table below as determined by their Service Computation Dates (SCD), consistent with the applicable sections of this Article.

MERIT STEP INDEX RATES:	
Number of Years of Service	Index Rate
Less than 1	1.0000
at least 1	1.0500
" 2	1.1030
" 3	1.1580
" 4	1.2160
5	1.2160

LONGEVITY STEP INDEX RATES:	
Number of Years of Service	Index Rate
6	1.2300
7	1.2450
8	1.2600
9	1.2750
10	1.2900
11	1.3050
12	1.3200
13	1.3350
14	1.3500
15	1.3650
16	1.3800
17	1.3950
18	1.4100
19	1.4250
20	1.4400
21	1.4550
22	1.4700
23	1.4850
24	1.5000
25	1.5150
26	1.5300
27	1.5450
28	1.5600
29	1.5750
30	1.5900

11.3 To Determine an Employee's Monthly Salary

- A. Determine the number of years of service an employee has completed based on the employee's Service Computation Date (SCD).
- B. Refer to the "Number of Years of Service" column. Go to the number of years of service the employee has completed and locate the "Index Rate" immediately to the right.
- C. Refer to the Classification System – Basic Salary Schedule and find the current title of the employee's position. Multiply the corresponding Index Rate by the Base Rate for the employee's classification.
- D. Round up to the nearest whole dollar.

11.4 To Determine an Employee's Hourly Rate

- A. Determine the Monthly Salary from above.
- B. Take the Monthly Salary and multiply it by twelve months.
- C. Divide the total by 2,080 average work hours in a year.
- D. Use standard rounding to the nearest whole penny.

11.5 Service Computation Date (SCD) and Index Rate Determination

A regular employee's Service Computation Date (SCD) determines his/her Index rate. The SCD is computed by adjusting the employee's current hire date for any prior service with the County as a regular employee, and for any Leave Without Pay (LWOP).

The employee's SCD does not affect or determine his/her probationary period or when s/he receives performance evaluations.

11.6 Salary Anniversary Date (SAD) For Merit/Longevity Index Rate Adjustments

The employee's Salary Anniversary Date (SAD) will be the first (1st) day of the month following his/her SCD (instead of position date or hire date). However, if the SCD is within the first (1st) three (3) calendar days of the month, the SAD will be the first (1st) day of that month in which the employee is hired.

Merit Step Index increases will occur automatically on the employee's SAD, unless the Human Resources Department is notified at least thirty (30) days in advance that the employee has received an evaluation that is less than Meets Standards and is on a Performance Improvement Plan (PIP). If an increase is withheld due to a PIP, any further increase will not be approved until the Department notifies the Human Resources Department that the employee's performance at least meets standards.

Longevity Step Index increases will occur automatically on the employee's SAD.

11.7 Prior Service

Prior service refers to the number of calendar days between a current employee or applicant's previous hire date and his/her previous termination date with the County of Yuba as a regular employee. If, when applying the employee's prior service credit on a calendar day basis, it results in a date which falls within the first three (3) calendar days of the month, the employee

will be given credit for that entire month. Should the application of prior service on a calendar day basis result in a date other than the first three (3) calendar days, the employee's adjusted SCD will be the first (1st) day of the following month.

11.8 Leave With Out Pay (LWOP)

LWOP will be computed in either one of two ways.

- A. Each accumulated eight hour increment of LWOP from work (i.e. excluding nonscheduled work days such as weekends) will reduce an employee's SCD by one day (i.e. move the SCD forward one day) or,
- A. **Prior to January 1, 2004**, the granting of any leave of absence without pay exceeding fifteen (15) calendar days shall cause the regular employee's salary anniversary date to be postponed (moved forward) a number of months equal to the nearest whole number of months for which the leave was taken. All such calculations shall be based on the number of calendar days of such leave.

11.9 Advanced Index Rate Hires (external recruitments only)

When it is necessary to attract the best qualified applicants to a critical position or when an applicant's prior experience justifies, the Department Head is authorized to hire a new employee at an Index Rate equivalent to completion of up to two years of service (Index Rate 1.1030). At the request of the Department Head, the Board of Supervisors may approve the appointment of a new employee at an Index Rate equivalent to completion of up to four years of service (Index Rate 1.2160).

A regular employee who is granted an Advanced Index Rate will continue to receive annual Index Rate increases until the employee's Index Rate equals 1.2160 (equivalent to four years of service). At that point, the employee will not receive any Index Rate increases and the employee's salary Index Rate will be 'frozen' until the employee has completed six years of County service based upon the actual SCD.

11.10 Promotions

When an employee is promoted to a classification with a higher Base Rate, the employee will have his/her salary adjusted by multiplying the Base Rate for the new classification as specified on the Classification System - Basic Salary Schedule by the Index Rate as determined by the Service Computation Date (SCD). However, if an employee was hired at an Advanced Index Rate and received a Temporary SCD, s/he will continue to receive annual Index Rate increases until the Temporary SCD equals completion of the equivalent of at least four years of service or an Index Rate of 1.2160. At that point, the employee will not receive any Index Rate increases and the employee's Index Rate will be 'frozen' until s/he is eligible to advance on the Merit/Longevity Step Index based upon actual SCD.

11.11 "Y-rated" Salary

If a management directed action results in a regular employee being downgraded to a classification with a lower Base Rate, the employee's salary will be "Y-rated" (frozen). The employee's salary will continue to be "Y-rated" until the salary, as defined in this Article is equal to or greater than the "Y-rated" salary. If an employee does not successfully pass a probationary period and is eligible to return to his/her former position, his/her salary will be computed as normally defined in this Article.

The term "management directed action" shall not include by definition or apply to layoffs or ADA accommodations.

11.12 Salary upon Transfer

When an employee transfers from one position to another within the County, his/her salary shall be determined by multiplying the base salary of the classification to which s/he has transferred by the appropriate index rate consistent with the employee's SCD and other applicable sections of this Agreement.

11.13 Salary upon Reclassification

- A. **No Change:** When a reclassification results in no change to the base rate of the classification, there will be no change to the employee's salary.
- B. **Higher Class:** If a reclassification results in an employee's position being assigned to a classification having a higher base rate of pay, the employee's salary shall be determined consistent with Section 11.10.
- B. **Lower Class:** If a reclassification results in an employee's position being assigned a lower classification having a lower base rate of pay, the employee's salary shall be determined consistent with Section 11.11.

Procedures for Longevity/Merit Increases for Employees Hired On or After 7/1/2013

11.14 Salary based upon Merit

A regular employee's salary will be determined based upon successful job performance and years of loyal service to the County. Salary will be determined or adjusted by multiplying the Base Rate for the classification, as specified on the Classification System - Basic Salary Schedule, by the Index Rate on the table below as determined by their Service Computation Date (SCD), consistent with the applicable sections of this Article.

Step	<u>Number of Years of Service</u>	Index Rate
1	Base	1.00
2	At least 1	1.05
3	At least 2	1.10
4	At least 3	1.15
5	At least 4	1.20
6	At least 5	1.25
7	At least 6	1.30
L	At least 15	1.35

Index Rates between 1.00 and 1.30 are defined as Merit.

11.15 Service Computation Date (SCD) and Index Rate Determination

A regular employee's Service Computation Date (SCD) determines his/her Index rate, unless specifically stated otherwise. The SCD is computed by adjusting the employee's current hire date by any Leave Without Pay (LWOP).

11.16 Salary Anniversary Date (SAD) For Merit Index Rate Adjustments

The employee's Salary Anniversary Date (SAD) will be the first (1st) day of the month

following his/her SCD, unless specifically stated otherwise. However, if the SCD is within the first (1st) three (3) calendar days of the month, the SAD will be the first (1st) day of that month in which the employee is hired. Merit Step Index increases will occur on the employee's SAD, only when the Human Resources Department has received an evaluation that shows that the employee at least "meets standards" within the last 3 months from an employee's SAD.

If the employee does not receive a satisfactory performance evaluation, the employee will be given a Performance Improvement Plan (PIP) detailing what is required for the employee to achieve at least satisfactory performance levels. Merit increases will be automatically withheld until such time the employee receives at least a "Meets Standards" performance evaluation. In this instance, the employee's Salary Anniversary Date (SAD) will be the first (1st) day of the month following said successful performance evaluation. However, if the successful performance evaluation is given on the first (1st) day of the month then the merit increase will be given in that same month.

11.17 Leave With Out Pay (LWOP)

LWOP will be computed as follows: each accumulated eight (8) hour increment of LWOP from work (i.e. excluding nonscheduled work days such as weekends) will reduce an employee's SCD by one (1) day (i.e. move the SCD forward one (1) day).

11.18 Performance Based Merit Delay

Salary Anniversary Date (SAD) delays for receiving a less than a "meets standard" performance evaluation will be computed as follows: each month beyond the current SAD the employee does not have at least a "meets standards" performance evaluation will permanently reduce an employee's SAD by one (1) month (i.e. move the SAD forward one (1) month).

11.19 Advanced Index Rate Hires (external recruitments only)

When it is necessary to attract the best qualified applicants to a critical position or when an applicant's prior experience justifies, the Department Head is authorized to hire a new employee at an Index Rate equivalent to the third (3rd) step (Index Rate 1.10). At the request of the Department Head, the Board of Supervisors may approve the appointment of a new employee at an Index Rate equivalent to the seventh (7th) step (Index Rate 1.30).

11.20 Longevity Increase

Upon an employee's fifteenth (15th) anniversary of employment with the County, as computed through the SAD process above, the employee will receive a longevity step increase to 1.35% of base salary.

Article 12 OTHER PROVISIONS

The sections in this article include negotiated language that may be different than existing language in a related Article included in the Yuba County Merit Resolution (Resolution 2002-21, rev. 05/05/2005), Rules Governing Coverage and Compensation, Benefits and Working Conditions of Employees of the County of Yuba (Resolution 2005-113, rev. 2006-59 05/16/06), and/or County Policy. The Merit Resolution, Rules Governing, and/or County Policy as referenced above, include additional rules or policies that shall be considered when applying the language included in the sections of this Article.

12.1 Layoff

Layoff List Computation: When it becomes necessary to reduce the work force in the department, the Human Resources Director shall establish a layoff list by department and class. Said layoff list shall be based upon seniority as follows:

Seniority Defined: For each regular employee seniority will be measured from such employee's initial appointment to permanent County service. Seniority shall not be calculated nor included for any period during which the employee did not receive compensation, or for any time the employee was off work as result of a disciplinary action which was appealable and either not appealed or was sustained or modified upon appeal. For any employee who is re-employed after permanent separation, seniority shall be measured from the date of his/her most recent appointment.

12.2 Probationary Periods

All probationary periods shall run from the first (1st) day of the month following the date of employment or position effective date. In the event the date of employment or position effective date is within the first three (3) calendar days of the month, then the probationary period will run from the first of that month.

12.3 Voluntary Time off (VTO) / Voluntary Work Furlough

The parties agree to continue to provide the ability of DDAA members' to participate in the Voluntary Time Off Program as per Article 27 of the Rules Governing Coverage and Compensation, Benefits and Working Conditions of the Employees of the County of Yuba. Participation will be under the same conditions as outlined in the prior contract and pursuant to the County's Voluntary Work Furlough Policy Number PRM-1.07, through the successor contract and until its successor negotiations are completed.

12.4 Holidays

In addition to the holidays with pay provided under Section 11.02 of the Rules Governing Coverage and Compensation, Benefits and Working Conditions of Employees of the County of Yuba (Resolution 2005-113, rev. 2006-59 05/16/06), employees in this bargaining unit will also receive December 31st (New Year's Eve) as a holiday with pay.

Article 13 MISCELLANEOUS

During the term of this Agreement, neither the Association nor its agents or any employee, for any reason, will authorize, institute, aid, condone or engage in a slowdown, work stoppage, strike, or any other interference with the work and statutory functions or obligations of the County. During the term of this Agreement, neither the County nor its agents for any reason shall authorize, institute, aid or promote any lockout of employees covered by this Agreement. The Association agrees to notify all local officers and representatives of their obligation and responsibility for maintaining compliance with this Article, including their responsibility to remain

at work during any interruption which may be caused or initiated by others and to encourage employees violating this section to return to work.

The County may discharge or discipline any employee who violates this section and any employee who fails to carry out his responsibilities under this section. Nothing contained herein shall preclude the County from obtaining judicial restraint and damages in the event of a violation of this Article.

All economic benefits and work practices which are not set forth in this Agreement and are currently in effect shall continue and remain in effect for the term of this Agreement.

Neither party shall be obligated to meet and confer with respect to any subject or matter not specifically referenced in this Memorandum of Understanding, even though such subjects may not have been with the knowledge or contemplation of either or both parties at the time they signed this Memorandum of Understanding, unless required by state or federal law. Nothing herein shall preclude the parties from meeting or conferring by mutual consent.

If there should be a conflict between language in County of Yuba Resolution 2002-21, 2005-113, or subsequently adopted revisions, and this MOU, this MOU shall prevail. It is our sincere hope that this contract will provide the incentives for our highly trained and dedicated Human Resources to continue to serve the citizens of Yuba County for years to come. Therefore, County representatives, and the designated representatives of the Yuba County Deputy District Attorney's Association, acting on behalf of its members, hereby confirm understanding on the above matters. This Agreement shall become effective immediately when adopted into law by the Board of Supervisors and ratification by the Yuba County Deputy District Attorney's Association membership and shall remain in full force and effect to and including June 30, 2020.

Signed and agreed upon on August 14, 2018 by the following parties:
(DATE)

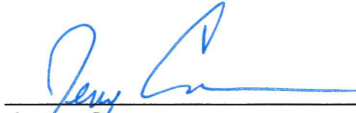
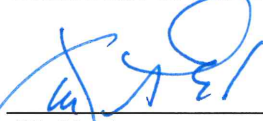
COUNTY OF YUBA

YUBA COUNTY DEPUTY DISTRICT ATTORNEY'S ASSOCIATION



Vice Mike Leahy
Chairman of the Board

Michael Byrne
DDAA President



Jill Abel
Human Resources Director

Jerry Camous
Labor Consultant & DDAA Representative