



Evelyn Minor-Lawrence
Director

DEPARTMENT OF HUMAN RESOURCES

PUBLIC SERVICES BUILDING
2051 Kaen Road | Oregon City, OR 97045

January 25, 2018

Board of County Commissioners
Clackamas County

Members of the Board:

Approval of the Labor Contract Between The County of Clackamas and the
Clackamas County Federation of Parole and Probation Officers (FOPPO)

Purpose/Outcomes	Settlement of labor contract
Dollar Amount and Fiscal Impact	\$728,093
Funding Source	General Fund
Duration	July 1, 2017 – June 30, 2020
Previous Board Action	January 16, 2018 - Executive Session
Strategic Plan Alignment	Build public trust through good government.
Contact Person	Eric Sarha, HR Assistant Director 503-655-8292
Contract No.	N/A

BACKGROUND:

The Department of Human Resources has concluded negotiations with the Clackamas County Federation of Parole and Probation Officers (FOPPO). The Union membership has voted to ratify the contract for July 1, 2017 through June 30, 2020. The agreement that was ratified by the Union is attached.

The significant wage and contract language changes are outlined below:

Pay

Cost of Living Adjustment (COLA)

- For fiscal year 2017-18, 2.2% effective the first day of the pay period after the ratification date. In lieu of retroactive pay, employees shall receive a lump sum payment equivalent to 2.2% from July 1, 2017 to ratification date. (Year One Fiscal Impact \$75,758)
- For fiscal year 2018-19, 2.5%, effective the first payroll period after July 1, 2018. (Year Two Fiscal Impact \$163,740)
- For fiscal year 2019-20, 2.5% effective the first payroll period after July 1, 2019. (Year Three Fiscal Impact \$253,921)

- Total COLA Fiscal Impact for the Life of Contract: \$493,419

Holiday Pay

- Holidays and Floating Holidays are earned at a rate of 10 hours per day, previously 8 hours of pay per day.
 - Year One Fiscal Impact: \$27,287
 - Year Two Fiscal Impact: \$27,969
 - Year Three Fiscal Impact: \$28,668
 - Total Fiscal Impact for the Life of Contract: \$83924

DPSST Certification Incentive Pay

- \$25.00 per pay period for an Intermediate DPPST Certificate
- \$50.00 per pay period for an Advanced DPPST Certificate
 - Year One Fiscal Impact: \$39,100
 - Year Two Fiscal Impact: \$44,200
 - Year Three Fiscal Impact: \$44,200
 - Total Fiscal Impact for the Life of Contract: \$127,500

Miscellaneous

Safety Equipment: Firearm Buyback

- Mandatory carry of department-issued firearms for all employees hired after ratification. Current employees who elect to carry, shall carry department-issued firearm; and receive a one-time reimbursement of \$500.00 for previously purchased firearms and \$250.00 for previously purchased accessory equipment.
 - One Time Buyback Fiscal Impact: \$23,250

RECOMMENDATION:

Staff recommends the Board approve the attached contract for the Clackamas County Federation of Parole and Probation Officers (FOPPO).

Respectfully submitted,

Evelyn Minor Lawrence, HR Director

CLACKAMAS COUNTY

**Federation of Parole
And
Probation Officers**



**2017 - 2020
AGREEMENT**

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2017-2020 AGREEMENT
between
CLACKAMAS COUNTY, OREGON
and
FEDERATION OF OREGON PAROLE AND PROBATION OFFICERS

PREAMBLE

This Agreement is entered into by Clackamas County, Oregon, hereinafter referred to as the County, and the Federation of Oregon Parole and Probation Officers, hereinafter referred to as the Federation.

The parties agree as follows:

ARTICLE 1 - RECOGNITION

Section 1. The County recognizes the Federation as the exclusive bargaining agent for the purpose of establishing wages, hours and other conditions of employment for all County employees classified as Probation and Parole Officer I, II, and Probation and Parole Specialist and Probation and Parole Officer, Senior; except supervisory and confidential employees, temporary employees (those hired for a period of time not to exceed six months' continuous service in any given calendar year) and employees regularly working a schedule of less than 20 hours per week.

Section 2. The Federation and Community Corrections agree to meet twice a year regarding the utilization of temporary employees by Community Corrections. The meetings will be staffed by a representative from DES. The purpose of the meetings will be to assess Community Correction's use of temporary employees, the duration of their assignments and whether or not the positions should be converted to full time positions.

ARTICLE 2 - PRESERVATION OF PUBLIC RIGHTS

The Federation recognizes that an area of responsibility must be reserved to the County if County government is to effectively serve the public. Therefore, the County shall have the full and complete right to manage and direct its business and it is recognized that the following responsibilities of management are exclusively functions to be exercised by the County and are not subject to negotiation insofar as this right does not affect the meaning, interpretation or application of any other terms of this Agreement:

1. The determination of the governmental services to be rendered to the citizens of Clackamas County.
2. The determination of the County's financial, budgetary and accounting procedures.
3. The management and direction of the work force including, but not limited to, the right to determine the methods, processes and manner of performing work; the right to hire, promote, transfer within the same pay range and retain employees; the right to discipline or discharge for just cause; the right to lay off for lack of funds;

the right to abolish positions or reorganize the departments or division; the right to determine schedules of work; the right to purchase, dispose of and assign equipment or supplies; and the right to contract or subcontract any work.

The County, in exercise of the above-mentioned functions, will not discriminate against any employee because of his membership in the Federation.

ARTICLE 3 - HOURS OF WORK

1. *Work Period.*

Both parties agree that the members of this bargaining unit are law enforcement personnel under the meaning of the Fair Labor Standards Act and are therefore subject to Section 7k of that act. Overtime will be paid to employees covered by this agreement for any hours worked exceeding the maximum number of hours permitted within the specified work period. The work period shall be determined by the county. However, the work period shall be no less than fourteen (14) days nor more than twenty-eight (28) days.

2. *Irregular Hours.*

It is recognized by both parties that employees in the bargaining unit work irregular hours in the performance of their duties.

3. *Overtime.*

The Federation acknowledges that from time to time overtime work will be required. An employee who performs authorized work for more than eighty (80) hours in a fourteen (14)-day period shall be compensated at straight time for all hours worked up to eighty-six (86) hours under the 7k work period. All hours worked in excess of eighty-six (86) hours within the fourteen (14)-day work period shall be compensated at time and one half (1.5) their regular rate for each hour worked. Compensation for such hours will be in the form of compensatory time, or may be paid in cash at the County's discretion where budgeted funds are available.

4. *Work Schedule.*

Schedules shall be arranged in accordance with current work rules (See Appendix B) and the work day shall begin no earlier than 6:30 a.m. and end no later than 10:00 p.m. In light of the requirement that Adult Parole and Probation Officers must often work irregular hours and must also be flexible in the hours they work in order to meet caseload demands, it is recognized that Parole and Probation Officers may adjust or flex their work hours within the 80-hour, 14-day period referenced in Section 3 above, provided such flexing of hours does not create an overtime liability. Examples of situations that may require flexing of schedules include: caseload demands, planned medical/dental appointments, etc. When such action results in a work schedule change, the employee must notify his/her supervisor, and when practicable, receive prior permission from their supervisor to work those hours. It is understood that evening and weekend work is a recognized part of the PPO's irregular work schedule.

5. *Hours of Operation.*

The office shall be open and staffed to give service to the public during regular business hours Monday through Friday. However, these hours may be modified to meet the needs Clackamas County and Federation of Oregon Parole and Probation Officers

of clients and the public.

ARTICLE 4 - HOLIDAYS

1. *Holidays.*

The following days shall be recognized and observed as paid holidays:

- New Year's Day (January 1st)
- Two (2) Floating Holidays
- Martin Luther King, Jr.'s Birthday (3rd Monday in Jan.)
- President's Day (Third Monday in February)
- Memorial Day (Last Monday in May)
- Independence Day (July 4th)
- Labor Day (First Monday in September)
- Veterans' Day (November 11th)
- Thanksgiving Day (Fourth Thursday in November)
- Christmas Day (December 25th)
- Every day appointed by the Board of County Commissioners as a holiday.

It is recognized by the parties that the floating holiday listed above shall be taken at the discretion of the employee and may be taken in conjunction with another holiday listed above or at any other time the employee may elect. Provided, however, that if the number of employees requesting a particular day off as a floating holiday would interfere with the need of the County to maintain sufficient staff to keep the office operating effectively that the County may require a reasonable number of employees to be available on a particular day. Time off for a floating holiday where this may occur will be allowed on the basis of seniority (that is, the most senior employees will be allowed the time off). New employees who qualify for paid holidays will be eligible for a floating holiday after ninety (90) days of employment. The floating holidays must be taken during the calendar year in which they are earned and may not be carried forward into the following calendar year.

Holiday time off and personal days are earned at the rate of 10 hours per day.

2. *Weekend Holidays.*

If any such holidays fall on Sunday, the succeeding Monday shall be deemed to be the holiday that year. If ever the holiday shall fall on a Saturday, the preceding Friday, shall be deemed to be the holiday.

3. *Holiday During Leave.*

Should an employee be on authorized leave when a holiday occurs, such holiday shall not be charged against such leave.

4. *Holiday Work.*

If an employee works on any of the holidays listed above, s/he shall, in addition to his holiday pay, receive time off at one and one-half times provided in Article III Section 3 above.

ARTICLE 5 - SICK LEAVE

1. **Accrual.**

Employees shall accrue unlimited sick leave at the rate of eight (8) hours for each month worked, to be used in the event of their illness or illness of a member of their immediate family or as permitted by applicable law.

Employees in a paid status for 88 hours (prorated for FTE status) or more in any month shall accrue sick leave for the next month on the first day of that month.

Absence due to sickness in excess of three (3) consecutive days or three (3) or more non-consecutive absences within a calendar month may be required to be verified by a health care provider's (HCP) certificate at the order of the County consistent with applicable law.

2. **Bereavement.**

Exclusive of regular sick leave, an employee shall be granted not more than three (3) work days leave of absence off with full pay in event of the death of a member of his or her immediate family, as provided in County policy and as provided below, for the purpose of making household adjustments and/or to attend the funeral. The use of bereavement leave must be used within three months of the death of the family member, unless approved otherwise by the appointing authority. A request to use bereavement leave for the death of an individual outside of the immediate family is subject to the approval by the Department Director.

Where deemed necessary after review by the Community Corrections Director, the employee may be granted up to two (2) additional days for travel time.

Consistent with the needs of the County and as approved by the Department Director, an employee shall be granted not more than three (3) hours of bereavement leave to attend the funeral or memorial services for a current Clackamas County employee or retiree.

The bereavement leave provided for herein is in addition to any bereavement leave to which an employee may otherwise be entitled.

In addition to the benefit provided in this section, employees may also use bereavement leave as provided by OFLA.

In relationships other than those set forth above, bereavement leave may be granted by the Department Director upon the request of the employee for a maximum of three (3) consecutive working days.

3. **Immediate Family.**

An employee's immediate family shall be defined as spouse, domestic partner, parents, spouse's parents, children, brother, sister, and grandparents. Stepchildren or stepparents residing with the employee shall be included in the definition of immediate family. In relationships other than those set forth above, bereavement leave of absence may be granted by the Department Director upon the request of the employee for a maximum of three (3) consecutive working days.

4. Conversion to Retirement Benefit.

Consistent with Oregon law and PERS rules, the County shall report all allowable, unused sick leave hours to PERS upon separation from County employment.

5. Hours Charged.

For employees working a standard eight (8) hour work day, for each day of sick and bereavement leave taken, eight (8) hours will be charged against accrued sick leave. For employees working a flexible schedule, each day of sick and bereavement leave shall be charged as the number of hours the employee is scheduled to work on the day reported as sick leave.

6. Maternity Leave.

The period of disability associated with pregnancy and/or childbirth shall be granted in accordance with the County's policy on Family Medical Leave as outlined in County Policy. and consistent with applicable law.

7. Parental Leave.

Parental leave will be granted in accordance with the County's policy on Parental Leave and consistent with applicable law.

8. Family Medical Leave.

Family Medical Leave will be granted in accordance with the County's policy and consistent with applicable law.

9. Communicable Disease.

Should an employee be exposed to serious communicable disease in conduct of official duties, the employee shall be provided immunization against or testing of such communicable disease without loss of wages or cost to the employee where immunization will prevent such disease from occurring. If exposure resulted from contact with client or client associates or family, employee shall be granted leave with pay for the immunization or testing.

10. Sick Leave (Over 30 days).

If an employee is on authorized sick leave for more than 30 days, the agency shall provide coverage during that time to the extent needed in the opinion of the agency. On return, the supervisor and employee shall meet to discuss completion dates for work assigned.

11. Vacation Option.

Employees who are absent on sick leave for a period in excess of their accrued sick leave shall use their accrued vacation time to cover such time off. At the option of the employee, the employee may retain up to 40 hours of vacation time prior to being placed on leave without pay.

12. Leave Donation.

Leave Donation will be granted in accordance with County Policy.

ARTICLE 6 - VACATION LEAVE

1. **Accrual.**

A. Employees having served in the County service for six (6) consecutive full-calendar months, shall be credited with 52.2 hours of vacation leave, and thereafter, vacation leave shall be accrued in accordance with the following:

1. Less than five (5) years of unbroken service, 104.4 hours per year, accrued at the rate of 8.7 hours per month.
2. Five (5) to ten (10) years, but less than ten (10) years of unbroken service, 128.4 hours per year, accrued at the rate of 10.7 hours per month.
3. Ten (10) years to fifteen (15) years, but less than fifteen (15) years of unbroken service, 152.4 hours per year, accrued at the rate of 12.7 hours per month.
4. Fifteen (15) to twenty (20) years, but less than twenty (20) years of unbroken service, 176 hours per year, accrued at the rate of 14.7 hours per month.
5. After twenty (20) years of unbroken service, 192.4 hours per year, accrued at the rate of 16.7 hours per month.
6. The maximum vacation accrual shall be 280 hours. Vacation accrual may be extended temporarily during the yearly cycle of January 1 through December 31. Effective January 1 of each calendar year, accruals exceeding the maximum shall be reduced to the maximum. Employees will not be compensated for surplus hours that are lost.

Employees in a paid status for 88 hours (prorated for FTE status) or more in any month shall accrue vacation leave for the next month on the first day of that month.

Layoffs up to two (2) years and leaves of absences are not considered breaks in service in applying this Article. Time in service for the purposes of determining eligibility for accelerated vacation accrual rates shall only accrue in calendar months in which the employee has been in a paid status, working half-time or greater, for at least eleven (11) work days.

B. Employees hired prior to July 1, 2000 may make a one-time election to enroll in the vacation sell back program by submitting a written request to Payroll no later than February 1, 2001. Once enrolled in this program, an employee may not return to his/her previous accrual schedule.

C. All employees hired on or after July 1, 2000 or employees hired prior to July 1, 2000 who have elected to enroll in the Vacation Sell Back program accrue vacation in the following manner:

1. Employees having served in the County service for six (6) consecutive full-calendar months, shall be credited with seventy-two (72) hours of vacation

leave, and thereafter, vacation leave shall be accrued at the rate of twelve (12) hours vacation leave per month regardless of years of service.

2. Employees who have used at least forty (40) hours of vacation time in a calendar year may elect to sell back forty (40) hours vacation during that same calendar year. To receive compensation in lieu of time off, the employee must submit a completed Request to Sell Vacation form to Payroll no later than December 31st of that calendar year.
3. The maximum vacation accrual shall be 280 hours. Vacation accrual may be extended temporarily during the yearly cycle of January 1 through December 31. Effective January 1 of each calendar year, accruals exceeding the maximum shall be reduced to the maximum. Employees will not be compensated for surplus hours that are lost.

2. *Vacation Times.*

Employees shall be permitted to choose either split vacation time usage or entire vacation time usage. Whenever possible, consistent with the needs of the County and requirements for a vacation relief, employees shall have the right to determine vacation times, but in any case, vacation times shall be selected on the basis of seniority; however, each employee shall be permitted to exercise his right of seniority only once in any calendar year.

3. *Termination or Death.*

After six (6) months of service, upon the termination of any employee for any reason, or in the event of the death of an employee, all accumulated vacation shall be paid either to the employee or his heirs, whichever the case may be.

4. *Hours Charged.*

For employees working a standard eight (8)-hour work day, for each full day taken as vacation, eight (8)-hours will be charged against accrued vacation leave. For employees working a flexible schedule, each day of vacation shall be charged as the number of hours the employee is scheduled to work.

5. *Retiring Employees.*

In the last year of employment prior to retirement, an employee who was hired prior to July 1, 2000, will be able to sell back up to fifty (50) hours of vacation. The employee will be responsible to notify the County of intent to retire in order to exercise this provision. This is a one-time option.

ARTICLE 7 - OTHER LEAVES

1. *Leave of Absence.*

Leaves of absence without pay for a limited period, not to exceed ninety (90) days, shall be granted for any reasonable purpose subject to the approval of the Department Director or Appointing Authority. Leaves shall be granted consistent with the needs of the County,

and may be renewed or extended for any reasonable period by the Board of County Commissioners or its designee. No leave will be granted to an employee to accept employment in any other capacity unless authorized by the Department Director in advance. Exceptions may be granted where other employment is incidental to or a necessary requisite for the purposes for which the leave was granted. After seven (7) years of employment, leaves of absence without pay for a limited period, not to exceed twelve (12) months, may be granted for any reasonable purpose, with the approval of the Department Director. Such leaves may be renewed for any reasonable period.

2. *Jury Duty.*

Employees shall be granted leave with full pay any time they are required to report for jury duty or jury service, in lieu of jury fees. Employees who are excused from jury service before the end of their work day shall immediately report their availability for assignment to their supervisor.

3. *Educational Leave.*

After completing three (3) years of service, an employee may request a leave-of-absence without pay for educational purposes subject to approval of the Department Director or Appointing Authority. Educational Leave is for enrollment at an accredited school, when it is related to his employment. The period of such leave-of-absence shall not exceed one (1) year, but it may be renewed or extended subject to approval of the Department Director or Appointing Authority, at the request of the employee. One (1) year leaves-of-absence with any requested extension, for education purposes, may not be provided more than once in any three (3) year period. Employees may also be granted leaves-of-absence with or without pay for educational purposes, for additional lengths of time, to attend conferences, seminars, briefing sessions, or other functions of a similar nature that are intended to improve or upgrade the individual skill or professional ability, provided it does not interfere with the operation of the County.

4. *Military and Peace Corps.*

Military and Peace Corps leave shall be granted to the employee in accordance with Federal Law and/or Oregon Revised Statutes.

ARTICLE 8 - HEALTH AND WELFARE

1. *County Contribution.*

The County agrees to contribute toward the monthly composite premium for each medical coverage to fulltime eligible employees and their eligible family members who elect coverage, effective on the first day of the month following the benefit-waiting period described in Section 9. The design of the medical plans and eligibility of family members shall be determined by the Benefits Review Committee as described in Section 8.

Effective January 1, 2017, the County agrees to contribute an amount equivalent to 95% of the monthly composite premium for each medical plan up to a maximum of 105% of the 2016 County contribution.

Effective January 1, 2018, the County agrees to contribute an amount equivalent to 95% of the monthly composite premium for each medical plan up to a maximum of

105% of the 2017 County contribution.

Effective January 1, 2019, the County agrees to contribute an amount equivalent to 95% of the monthly composite premium for each medical plan up to a maximum of 105% of the 2018 County contribution.

Employees will pay any remaining insurance premium cost share through payroll deduction.

Insurance Opt-Out: Employees who provide proof of other medical coverage and who opt out of coverage provided by the County will receive a monthly stipend as provided by the yearly Benefits Summary, subject to applicable withholdings. Employees may only rejoin County coverage with a qualifying condition subject to carrier rules.

The County and the Federation will make an assertive effort to support plan design changes through the Benefits Review Committee as may be needed to keep the total annual increase at or below five percent (5%) each year.

The design of the medical plan(s) shall be the authority of the Benefits Review Committee as described in Section 8.

2. *Flexible Benefits.*

The County agrees to provide the Clackamas County Flexible Benefits Program for regular eligible employees and family members.

Bargaining unit employees agree to cooperate fully with the Benefits Division regarding participation and administration of the program.

3. *Life Insurance.*

The County agrees to contribute an amount equal to the premium for a life insurance plan with a death benefit of \$50,000 to full-time employees. Effective open enrollment for 2019, the death benefit will change to \$75,000. The design of the life insurance plan shall be the authority of the Benefits Review Committee as described in Section 8. Employees will become eligible on the first day of the month following the Benefit Waiting Period described in Section 9.

4. *Dental Insurance.*

The County agrees to provide dental coverage to eligible regular employees and their eligible family members, effective the first day of the month following the benefit waiting period described in Section 9. The design of the dental plans and eligibility of family members shall be determined by the Benefits Review Committee as described in Section 8.

The County agrees to contribute 100% of a composite dental program premium, or the premium for a comparable plan as provided by the County, including orthodontic coverage in the amount of \$1,500 coverage.

5. *Long-Term Disability Insurance.*

The County agrees to provide non-duty disability insurance coverage to eligible regular employees, effective the first day of the month following the benefit waiting period

Clackamas County and Federation of Oregon Parole and Probation Officers

Collective Bargaining Agreement 2017-2020

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described in Section 9. The design of the disability plan shall be determined by the Benefits Review Committee, as described in Section 8.

The County agrees to contribute up to the full premium amount for disability insurance coverage with a benefit of 60% of up to \$3,333 in monthly salary after an elimination period of the first 30 days of each period of total disability or the exhaustion of accumulated sick leave, whichever occurs later.

6. *Less Than Full-Time Employees.*

For the purpose of eligibility for benefits, full-time employees are those regularly working thirty (30) or more hours per week. Regular part-time employees shall be entitled to County-paid medical coverage as described in Section 1, and shall be entitled to purchase dental insurance as described in Section 4.

7. *Job Share.*

A. "Job sharing position" means a full-time position that may be held by two individuals on a shared time basis whereby the individuals holding the position work less than full time.

B. Job sharing is a voluntary program. An employee who wishes to participate in job sharing may submit a written request to the Appointing Authority to be considered for job share positions. The Appointing Authority shall determine if job sharing is appropriate for a specific position. Determination of job sharing in a new position is the exclusive right of the Appointing Authority.

C. Job share employees shall accrue vacation leave and sick leave on a pro rata share of the normal accrual rate for a full-time position.

D. Job sharing employees shall be entitled to a prorated share of the full benefit package for one full-time position. The employer contribution will be a maximum of 100% for insurance benefits during the term of this agreement. Each job share employee has the right to obtain medical and dental insurance by paying the difference between their prorated share and the full premium amount through payroll deduction.

E. For purposes of layoff, individuals filling a job share position which totals a full-time equivalent, shall be considered as one full time equivalent. Service credits shall be determined by averaging the two individual scores and the two individuals treated as one.

F. If one job sharing partner is removed, dismissed, resigns or otherwise is separated from the job, the Appointing Authority has the right to determine if job sharing is still appropriate for the position. If the Appointing Authority determines that job sharing is not appropriate for the position or the Appointing Authority is unable to recruit qualified employees for the job share position, the remaining employee shall have the right to assume the position on a full-time basis.

8. *Benefits Review Committee.*

A Labor-Management Benefits Review Committee shall have the responsibility for deciding the level, scope, and design of benefit plans offered to employees for medical and vision coverage, dental coverage, and for disability and life insurance. The primary

emphasis in plan design shall be to provide a comprehensive, competitive benefit program at a reasonable cost.

The Committee shall be comprised of members from management and from County bargaining units. Each bargaining unit adopting these provisions shall be entitled to appoint one voting member to the Committee for every two hundred (200) members in their bargaining unit with a minimum of one (1) member. It is understood that bargaining units which do not adopt these provisions will be entitled to appoint one nonvoting member to the Committee. Management membership will consist of voting members in a number equal to the voting bargaining unit membership. However, a bargaining unit or the County may appoint fewer members than it is entitled to but retain the same number of votes as described above. The Committee shall meet at least quarterly, or more frequently as required. Decisions of the Committee will be made by a majority of votes.

The Committee shall make plan design decisions for medical, vision, dental, disability, and life insurance plans at least 120 days prior to the beginning of the succeeding plan year, unless the County waives such requirement.

Payment for and funding of benefit plans selected by the Committee shall be in a proportion and manner determined through collective bargaining with each separate bargaining unit.

The County shall provide administrative coordination and support for the Committee. The Committee at its request shall be provided all financial information and related reports as may be available.

The County will make decisions on the following issues after consideration of Committee recommendations: carrier selection, third party administrator selection, employee benefits consultant selection, selection of alternate funding arrangements, and other optional benefit programs.

Problems with benefit coverage will be brought up at the Benefits Review Committee meeting for resolution.

9. *Benefit Waiting Period.*

Benefits shall become effective on the first day of the calendar month following two (2) full calendar months of continuous employment. Two (2) full calendar months of continuous employment shall be defined as being in a paid status on the first working day of the month and continuously thereafter for two full calendar months, except that an employee may take an approved leave without pay not to exceed ten (10) working days, or eight (8) working days for employees on a four-day work week, or the prorated equivalent for part-time employees.

10. *Plan Changes Required by Law or Insurance Carrier.*

The County shall act to update any mandated coverage or changes caused by Federal or State laws, rules and regulations and may make changes to take advantage of any enhancements made available by the insurance carriers. The County does not guarantee

against unilateral changes in benefits initiated solely by the insurance carriers.

11. Health Reimbursement Account (HRA)

The County shall provide each employee covered by this agreement the opportunity to enroll in a Health Reimbursement Account (HRA).

The County shall pay the account fee up to \$1.50 per account per month for each active employee enrolled in a HRA/VEBA. The participating employee shall be responsible for the third party annualized investment fee.

Participating employees who have used at least forty (40) hours of vacation in the prior calendar year shall have all vacation time up to eighty (80) hours in excess of the annual cap, as referenced in Article 6, paid into their HRA/VEBA account.

Participating employees who are enrolled in the HRA/VEBA plan as of January 31, 2018 shall receive a one-time contribution of \$50 paid into their HRA/VEBA account by the second payroll period of February 2018.

ARTICLE 9 - WAGES

1. Wages and Classification Schedule.

Employees shall receive a 2.2% cost of living increase effective the first day of the pay period after ratification by the Board of Commissioners. In lieu of retroactive pay, employees shall receive a lump sum payment equivalent to 2.2% based on an employee's gross pay earnings (base pay, overtime, longevity, and incentives) from July 1, 2017 to ratification date by the Board of Commissioners.

Effective the first payroll period after July 1, 2018, employees shall be compensated with an increase of 2.5% to the Wages and Classification Schedule.

Effective the first payroll period after July 1, 2019, employees shall be compensated with an increase of 2.5% to the Wages and Classification Schedule.

An updated pay plan will be published by the County each year by July 1 and posted on the County intranet and internet.

2. Steps and Probationary Periods:

Employees hired as a Parole and Probation Officer I are eligible for a step increase upon successful evaluation after 180 days from date of hire.

A Probation Officer I who receives DPPST certification for Parole and Probation Officer will promote to Probation Officer II.

Upon promotion to Parole and Probation Officer II, a new anniversary date is established. Thereafter employees are eligible for step increases upon successful yearly evaluation up to the top of the wage scale.

Upon promotion to a Parole and Probation Senior or Specialist, the employee will serve a 180-day probationary period and a new anniversary date is established. An employee who does not successfully pass the probationary period will revert to their previous position, absent other just cause disciplinary action.

3. Travel Expense Reimbursement.

The County shall reimburse an employee at the current County Travel Policy rate for travel expenses incurred while performing the duties of his/her position when required in an employee's regular work. The County shall provide employees with use of County cars to perform work duties or will reimburse an employee for personal auto expense at the current County Travel Policy rate per mile where required in an employee's regular work. Any exception to the use of County cars or mileage reimbursement expenses must have pre-approval from the employee's supervisor or manager.

4. Retirement Contributions.

The County shall pay both employer and employee contribution to the Public Employees Retirement fund for the employee members participating in PERS or OPSRP as set by the Oregon legislature for the term of this Agreement. Eligibility for PERS/OPSRP is subject to ORS 238.015, 238A.100 & 238A.110.

In the event that during the life of this agreement, it becomes impossible for reasons of law, regulation or decisions for the County to pay the six percent (6%), employee contribution to PERS, then that sum shall be contributed on behalf of the employee to a retirement benefit, such as a transition account, state retirement account, County deferred compensation plan, or other individual retirement account. The intent of the parties is that the employees will be made whole in terms of the six percent (6%) retirement contribution made by the County.

Further, the County shall direct PERS that all members of the bargaining unit shall be entitled to Police and Fire Retirement provisions. The County shall pay Police and Fire Retirement provisions for the members of this bargaining unit retroactive to the date that the member became a qualified Police and Fire PERS member due to County employment.

5. Hourly Rate.

The computation of the base hourly rate included in the Salary Range Schedule and used to compensate part-time employees working at a particular range and step shall be computed upon the following equation:

$$\frac{\text{Yearly salary}}{2080 \text{ hours per year}} = \text{dollars per hour}$$

6. Out-of-Class Pay.

When an employee is assigned, in writing by his/her supervisor, the duties of a higher

classification for five (5) consecutive days or more, or for more than a total of ten (10) work days within a calendar year, the employee shall be compensated for such work at the minimum of the range of the higher paid classification or a 5% increase of base hourly pay, whichever is higher.

7. Deferred Compensation.

For each pay period, an amount equivalent to one percent (1%) of the employee's base hourly pay, including any out of class pay per pay period as set forth in Appendix A shall be placed into a deferred compensation plan for each employee, the plan to be administered by a provider with whom Clackamas County has contracted for deferred compensation services.

8. Longevity.

Employees covered by the bargaining unit shall be eligible for longevity pay as a percentage of gross salary for number of continuous years of regular status county service in the following amounts based upon accumulation of the established time employed in a paid status.

5 Years (after 60 mos.)	1 %
10 Years	1.5%
15 Years	2.0%
20 Years	2.5%
25 Years	3.0%
30 Years	3.5%

Continuous service for the purpose of determining eligibility for longevity accrual rates shall be service unbroken by separation from County employment that results in a new date of hire. Longevity payments based on years of service and the tiers above are not cumulative.

9. Call-Out Pay.

Whenever a Parole and Probation Officer is called to perform work duties during hours when not regularly scheduled to work (whether the work requires the employee to leave home or not) it will be considered a minimum of thirty (30)-minutes worked or the amount of time actually performing work, whichever is greater. Compensatory time will be given or may be paid at the County's discretion. Multiple calls received within a thirty (30)-minute minimum are considered part of the thirty (30)-minute minimum. Additional calls after the thirty (30) minute period will result in another thirty (30) minute minimum time

worked.

This section does not apply to voluntary changes made in a work schedule initiated by the employee and approved by the supervisor.

10. *Field Training Officer and other Training Assignments*

FTO: Employees assigned in writing by the department to Field Training Officer (FTO) duties will be paid a 5% increase of base hourly pay while performing such duties.

Other Training Assignments: Employees assigned in writing and as directed by the department management to provide firearms, CBT (Cognitive Behavioral Therapy), or defense tactics training instruction for Clackamas County will also be paid a 5% increase of base hourly pay while performing such duties. Employees acting in multiple capacities, including FTO, under this section may not receive more than a single 5% premium.

11. *Bilingual Skills Pay.*

A. When an employee is required to use a second (or more) language, including American Sign Language (ASL), as a condition for holding a particular position, the employee will receive a 5% increase of base hourly pay. "Required use" shall be documented by an approved Position Classification Questionnaire or the "Certification of Bilingual Requirement" document.

B. It is not the intent of the parties that the re-designation of a position to "bilingual required" creates a new classification.

12. *Assignment, Selection, and Termination for Temporary Probation & Parole Officer, Senior.*

Assignment and selection of employees to Probation and Parole Officer, Senior positions shall be at the sole discretion of the County. Assignments for over thirty (30) continuous days will be posted in the affected work unit for no less than five (5) work days. Employees in the work unit interested in the Probation and Parole Officer, Senior assignment shall submit a letter of interest to the unit supervisor and will be considered for the assignment. An employee assigned to the assignment for one (1) year or more shall be given ten (10) days written notice prior to the termination of such assignment. A copy of the written termination notice will be simultaneously given the Federation.

13. *On- Call Probation Officer.*

A probation officer shall be designated to take calls outside of regular business hours (8 a.m.- 5 p.m.). The on-call probation officer shall receive an additional \$150.00 per week in addition to call out pay, under Section 8 of this Article, as compensation. Effective the pay period after ratification by the Board of Commissioners, the value will increase from \$150.00 per week to \$200.00 per week. Employees will be offered the opportunity to bid one week at a time on a rotating seniority basis. Employees assigned to "On-Call" status will be readily available for work and able to promptly respond to phone calls. Hours "on-call" are not considered compensable hours worked.

14. *DPSST Certification.*

Effective the pay period after ratification by the Board of Commissioners:

Employees who obtain a DPSST Intermediate Certificate in parole and probation will be paid additional compensation in the amount of \$25 per pay period.

Employees who obtain a DPSST Advanced Certificate in parole and probation will be paid \$50 per pay period.

Certification pay will commence effective the pay period following proof of certification by DPSST to the Director.

This incentive pay is not cumulative and members are eligible for one level only.

ARTICLE 10 - DISCIPLINE AND DISCHARGE

1. *Disciplinary Measures.*

Disciplinary action for regular employees shall be for just cause. Discipline includes the following steps and shall normally be progressive as outlined below but the disciplinary process may be entered at any step and every step need not be utilized, depending upon the severity of the incident causing the disciplinary action:

- A. Verbal reprimand, which may be documented in writing;
- B. Written reprimand;
- C. Reduction in pay;
- D. Suspension without pay;
- E. Demotion;
- F. Discharge.

The County shall not impose a reduction in pay, suspension without pay, demotion or discharge of a non-probationary employee without appropriate pre-disciplinary due process procedures. Counseling is not disciplinary in nature.

Effect of Verbal Reprimand. Verbal reprimands over one (1) year old shall not be a basis for progressive disciplinary actions. Verbal reprimands are not subject to grievance beyond the Board of County Commissioners. All non-economic discipline shall be considered stale after thirty- six (36) months from the date of the discipline unless the employee has been disciplined for the same or similar misconduct, (in which case the 36 months begin after the last discipline issued). Stale discipline may not be used for the purposes of progressive discipline.

2. *Due Process.*

Pre-disciplinary "due process" means written notice, to the employee and FOPPO, of the charges and the facts upon which the charges are based, notice of the maximum range of discipline under consideration, and an opportunity to meet with the decision maker or his/her designee prior to imposition of economic discipline. Such a meeting may be recorded by any party at the meeting. The County shall provide the Federation and the

affected employee with all the documents which are relied upon. The employee and/or the Federation may submit a written rebuttal to an oral or written reprimand which shall be maintained with the record of reprimand.

3. *Avoidance of Embarrassment.*

If the Department Director or designee has reason to discipline an employee, the Department Director or designee shall make a reasonable effort to impose such discipline in a manner that will not unduly embarrass the employee before other employees or the general public.

4. *Federation Representation in Interview and Discipline Process.*

The County acknowledges the right of the employee to have a representative of the Federation present at meetings with the employee, which could lead to discipline.

5. *Probationary Employee.*

Parole and Probation Officer I positions are on probation subject to termination at the discretion of the Department. Upon promotion to Parole and Probation Officer II, employees will continue the probationary period for an additional 180 days subject to termination at the discretion of the Department.

A lateral hire with Oregon Parole and Probation DPPST certification serves a 365-day probation period.

A probationary employee and/or FOPPO shall be afforded the opportunity to grieve any alleged violation, misapplication and/or misinterpretation of the Agreement related to a probationary employee; however, this shall not include any matter involving discipline or discharge related to a probationary employee.

6. *Employee Status Definitions.*

Probation: The probationary period is a working test period during which classified employees are required to demonstrate fitness by actual performance of the duties of the position to which they are appointed.

Regular employee: Means a classified employee who has successfully completed a probationary period for a position.

ARTICLE 11 - LAYOFF AND RECALL

1. *Reason for Layoff.*

The department head may lay off an employee because the employee is medically unable to perform the job, and there is no other job the employee can perform. The department head may also lay off an employee because of shortage of funds or work or reorganization of the unit, if, in the opinion of the department head, there is no satisfactory alternative to lay off such as voluntary demotion, furlough, or reduced work week. Discussions regarding layoffs may be initiated by either the employer or the Federation. The County retains the final authority to determine whether layoffs should occur. Bumping does not apply to medical layoffs.

2. Layoff.

When a layoff occurs, Probation and Parole Officers shall be laid off according to seniority. Temporary, probationary, unallocated and/or non-regular Probation and Parole Officer positions must be eliminated before regular Probation and Parole Officers are laid off by the County, except when a layoff occurs because an employee was physically unable to perform the job.

3. Seniority.

Seniority is defined as the length of continuous service in the Parole and Probation Officer classifications.

4. Bumping.

When an employee is laid off due to a reduction in the work force, the employee shall be permitted to exercise bumping rights by displacing an employee with less seniority in the same or lower classification in the bargaining unit. If funds are increased and a higher-level position is reestablished, the bumping employee will be restored to the higher-level position.

5. Recall.

Those employees who are laid off shall be eligible before new hires for recall to their classification for a period of three (3) years without loss of seniority or benefits subject to contract limitations. Recall shall be on the basis of seniority or merit as described in #3 above.

6. Alternatives.

The parties agree that the Federation may fully raise alternatives to layoff that the County will fully consider.

ARTICLE 12 - SETTLEMENT OF DISPUTES

1. Grievance Procedure.

A. Grievances are defined as alleged violations of this Agreement and must be initiated within twenty-one (21) calendar days of their alleged occurrence. For purposes of calculating the 21 calendar days, all days that an affected employee is on leave shall not count. Grievances filed in a timely manner shall be processed according to this Article. Upon mutual written agreement by the County or their designee and the Federation or their designee, when the nature of the grievance is such that it would be perfunctory or ineffectual to proceed at a lower step, the grievance may be initiated at the lowest step where successful solution may be reasonably expected. Employees are encouraged to resolve their problems informally at the immediate supervisor level. If such a problem cannot be resolved, the following procedure shall be followed:

B. Step 1. Any employee, with notice to the Federation, or the Federation on an employee's behalf, may file a grievance in writing with the Community

Corrections Manager within twenty-one (21) calendar days from the date of the alleged breach of this Agreement. The supervisor shall respond in writing to the grievance within ten (10) calendar days to the party filing the Step 1 grievance with a copy to the Federation, if the Federation did not file the Step 1 grievance.

Step 2. If the grievance remains unresolved, the employee or the Federation shall appeal the Step 1 denied grievance to the Department Director within ten (10) calendar days after the response required by Step 1 was due. The Department Director or designated representative shall schedule a meeting with the Federation and the Grievant within ten (10) calendar days after receipt of the Step 2 grievance. The Department Director shall respond in writing within ten (10) days of the Step 2 meeting. The Step 2 response shall be provided to the Federation and the affected employee(s).

Step 3. If the grievance remains unresolved at Step 2, the Federation may appeal the grievance to the Sheriff within ten (10) calendar days after the response required by Step 2 was due. The Sheriff or his/her designee shall respond in writing to the Federation within ten (10) calendar days after receipt of the Step 3 grievance.

Step 4. If the grievance remains unresolved at Step 3, the Federation may appeal the grievance to the BCC within ten (10) calendar days after the response required by Step 3 was due. The BCC or designee shall respond in writing within ten (10) calendar days after receipt of the Step 4 grievance.

C. The intent of both parties is to process grievances at each step in as short a period of time as is practical. If a grievance is not advanced to the next step within ten (10) calendar days of a written decision, it shall be deemed waived. Employees and the Federation shall be assured freedom from reprisal for use of the grievance procedure. Employees shall have the right to process grievances with or without representation by the Federation through Step 2 of the grievance process. However, if an employee is processing a grievance without Federation representation, the County shall ensure that the Federation has received a copy of any and all information and materials related to the grievance at the same time that the County provides such information and/or materials to the employee. A Federation representative shall have the right to be present for any meetings related to grievances and/or their disposition, when the employee has not requested the Federation's representation, upon request. The County will timely inform the Federation of such meetings and collaboratively work with the Federation to ensure that a Federation representative is available for such scheduled meetings.

D. All grievances shall be reduced to writing and submitted on the form identified as *Official Statement of Grievance Form*.

E. Time limits specified in this procedure must be observed, unless either party requests a specific extension of time which, if agreed to, must be agreed to in

writing and shall become part of the grievance record. Within twenty-one (21) calendar days of an alleged violation of this Agreement, the Federation or a group of employees may file a grievance on behalf of one (1) or more employees where such employees are similarly affected by an action taken by the Agency. Such grievances shall be signed by at least one (1) of the affected employees and/or Federation representative and shall be filed at the lowest step where the person hearing the grievance has the authority to resolve it.

Any grievance, having progressed through the steps outlined in Article XII (Grievance Procedure), and remaining unresolved, may be submitted by the Federation to arbitration for settlement. To be valid, the request for arbitration must be in writing and from the Federation and received by the Employer within ten (10) calendar days after receipt of the Board of County Commissioners' response.

By mutual agreement, any grievance filed under the terms of this article may be referred to mediation at any time during the grievance process. The Federation and County agree to equally split the cost of such mediation.

2. *Arbitration Procedure.*

A. If arbitration is requested, the parties shall attempt to agree upon an arbitrator who shall act as sole arbitrator of the dispute. The parties agree that any decision of the arbitrator which is within the scope of this Agreement shall be final and binding upon them. In the event that the parties fail to agree upon the selection of an arbitrator, a list of seven (7) Oregon and Washington arbitrators shall be requested from the Employment Relations Board of the State of Oregon. The list requested shall consist of an odd number of arbitrators. After the flip of a coin has determined which party shall strike first, each party shall, in turn, strike one arbitrator at a time from the list until one name remains. The arbitrator whose name remains shall act as the arbitrator of the dispute. The arbitrator shall not have the authority to modify, add to, alter or detract from the provisions of this Agreement. The arbitrator shall exercise all powers relating to admissibility of evidence, conduct of the hearing and arbitration procedures, provided that in so doing, he shall not contravene any provisions of this Agreement. The compensation of the arbitrator and all expenses incurred by him shall be borne by the party against whom the arbitrator's decision is adverse. However, the arbitrator shall have the power to require the parties to share in the expense of the arbitration proceeding in any proportion that the arbitrator deems reasonable. The arbitrator's decision is due within thirty (30) days of the close of the hearing although the arbitrator's failure to meet the time shall not affect his jurisdiction over the dispute.

B. If the arbitrator is faced with a question of arbitrability at the arbitration hearing, then the arbitrator shall be obliged to first hear arguments and evidence and decide that question. If the arbitrator affirmatively decides the question of arbitrability in favor of arbitration, then the arbitrator may hear arguments and evidence on the merits of the grievance. If requested by either the Federation or the County, the hearings for a question of arbitrability shall be held separately from any hearing on the merits of the grievance. The decision(s) of the arbitrator shall be binding on both parties to this Agreement.

3. *Discrimination Complaints.*

An employee alleging any form of discrimination may file a complaint with the Department Director or his/her designated representative for processing according to Community Corrections Division policy governing investigation and resolution of alleged discrimination complaints. An employee may also file a written complaint with the Director of Human Resources as provided by the County's policy and may also file a grievance.

4. *Release Time.*

The Federation President, a Grievance Committee member, or a Federation Executive Board member, shall be allowed reasonable time and opportunity, without loss of pay, to assist an employee to pursue a grievance or dispute through the steps of the grievance procedure as outlined in Section 1 above.

ARTICLE 13 - WORKERS' COMPENSATION

Section 1. All COUNTY employees will be insured under the provisions of the Oregon State Workers Compensation Act for injuries that arise out of and occur in the course of employment for the County. The County is self-insured for worker's compensation claims. The County and Association acknowledge the right of employees to receive worker's compensation benefits as provided by state law and this article.

Section 2. The COUNTY will compensate the employee for injuries that arise out of and occur in the course of employment where the claim has been accepted in an amount equal to the injured employee's regular pay, including any regular additional pay, such as longevity, that the employee was receiving at the time of the injury for up to and including 180 days from the date of injury. This wage continuation provision will continue for up to and including 180 calendar days from the date of injury, and is subject to the following conditions:

- A. The day of injury shall be considered a workday, and the employee will receive his/her normal salary for that day.
- B. The waiting period as stated in ORS 656.210 will be charged to sick leave or other accrued leave if available unless total temporary disability exceeds fourteen (14) consecutive days. Then, worker's compensation covers from the first day.
- C. The employee's regular pay will be subject to all standard deductions, such as income tax and employee benefits, as required or allowed under Federal and State Law.
- D. While the employee is receiving wage continuation under this provision, he/she will continue to receive all other County health and welfare benefits he/she was enrolled in at the time of the injury unless prohibited by law, rule, and regulation or provider contract.

Section 3. After 180 calendar days from the date of injury, the Board of County Commissioners retains the discretion to continue payment and benefits beyond that

guaranteed under the statutes governing workers compensation benefits. If the injured employee requests wage continuation beyond 180 calendar days from the date of injury, the injured employee will be required to present to the Board of County Commissioners through its designee Human Resources, a physician's statement setting forth the nature of injuries, current condition, and anticipated length of absence or date of return

After 180 calendar days from the date of injury, the employee may elect to use accrued leaves to supplement the difference between worker's compensation benefits and the employee's regular pay (including any regular additional pay).

Section 4. Full medical and dental insurance coverage shall be provided for employees for a minimum of 12 months from the date of injury as long as employee remains employed during this period. Employees are responsible for any applicable insurance premium cost share as provided for in Article 11. Further coverage shall be at the discretion of the Board.

Section 5. The County may request the employee to return to modified or light duty, subject to medical release. An injured employee that refuses to return to modified or light duty may be subject to loss of reinstatement rights. (see also Article 37, Light Duty, section 3.)

ARTICLE 14 - FEDERATION SECURITY, CHECKOFF AND FAIR SHARE AGREEMENT

1. The County and the Federation agree to a "Fair Share" agreement for all employees whose classification or job title is included in Article I of this Agreement.

2. Inasmuch as it is required that the Federation represent every employee within the bargaining unit, making each employee thus a recipient of the Federation's services, it is mutually agreed and recognized by the parties that each employee who is an employee of the County and covered by the bargaining unit set forth in Article I to which the Federation serves as the bargaining agent, but who is not a member and chooses to remain not a member of the Federation, shall proportionately and fairly share in the cost of the collective bargaining process. Therefore, the cost per employee is fixed proportionately at the amount of dues uniformly required of each member of the Federation, which amount shall be deducted from each Federation member and each non-Federation member's compensation and remitted to the Treasury of the Federation.

3. Such uniform amounts as the Federation Treasurer certifies to the County as the dues approved by the members of the Federation shall remain as the reasonable amount to be deducted hereunder.

4. A like amount in lieu of dues will be automatically deducted from employees in the bargaining unit who have not signed an authorization form requesting Federation membership dues deduction. It is understood that the like amount in lieu of dues shall only be used as directed by the Constitution and Bylaws of the Federation.

Employees terminating with less than ten (10) working days in any calendar month will not be subject to dues or a like amount in lieu of dues deduction.

5. Any individual employee objecting on bona fide religious tenets or teachings of a church or religious body of which such employee is a member, will inform the County and the Federation of his/her objection. The employee will meet with the representative of the Federation and establish a mutually satisfactory arrangement for distribution of a contribution of an amount of money equivalent to regular Federation membership dues to a non-religious charity.

6. The County will not be held liable for check-off errors but will make proper adjustments with the Federation for errors as soon as is practicable if notified within ten (10) days of the error. In no case shall such an adjustment extend beyond the following pay period. In order for both parties to have adequate information on dues check-off, an updated list of eligible members of the bargaining unit will be delivered by the Federation to the County Payroll Division.

7. The County and the Federation agree that temporary employees or part time less than half time employees are paid at the same wage rate as bargaining unit members in the same classification. In recognition of the collective bargaining efforts by the Federation on behalf of those employees, temporary employees or part time less than half time employees should proportionally and fairly share in the cost of the collective bargaining process. The cost of such services for those employees is fixed at three-quarters of the amount of dues uniformly required of each member of the Federation, which amount shall be deducted each pay period from each temporary or part-time less than half time employee's wages, and remitted monthly to the Treasurer of the Federation.

ARTICLE 15 - FEDERATION RIGHTS

1. Access to Workers.

Authorized representatives of the Federation may visit the work locations of employees covered by this agreement at reasonable times, provided that such visitations will not interfere with the work of the employees.

2. Notification to County.

The Federation shall notify the County in writing of the names of all authorized representatives, Federation representatives and officers. The list will be updated as necessary.

3. Federation Negotiators.

Employees selected by the Federation to act as Federation representatives for the purpose of negotiating amendments or modifications to this agreement shall be known as the Federation of Oregon Parole and Probation Officers Negotiating Committee. The names of employees so designated shall be certified in writing to the County by the Association. The Negotiating Committee shall consist of three (3) members and a Federation President. All negotiation meetings with the Board of County Commissioners or its representatives shall be held during working hours, on the County's premises

without loss of pay.

4. No Discrimination.

The provisions of this Agreement shall be applied equally to all employees in the bargaining unit without discrimination as to age, sex, marital status, race, color, religion, national origin, disability, gender identity, sexual orientation, or political affiliation or as otherwise provided by applicable law. The Federation shall share equally with the County, the responsibility for applying this provision of the Agreement. All reference to employees in this Agreement designate both sexes, and wherever the male gender is used, it shall be construed to include male and female employees. The County agrees not to interfere with the rights of employees to become members of the Federation, and there shall be no discrimination, interference, restraint, or coercion by the County, or any County representative, against any employee because of Federation membership or because of any employee activity in an official capacity on behalf of the Federation, or for any other cause. Nothing in this section shall be construed to limit the County's right to effectively and efficiently run the County's operations.

5. Federation Business.

Elected officers and negotiators will be allowed a reasonable amount of work hours to handle labor relations matters. This will include that time necessary to attend Labor-Management meetings when scheduled by mutual agreement. The Federation representative must record any time more than fifteen (15) minutes involved in Federation business during paid County time on their department's timekeeping system with the exception of approved vacation or compensatory time (and with the exception of unpaid lunch or breaks, depending on department policy).

ARTICLE 16 – MISCELLANEOUS

1. Existing Conditions.

All future work rules and benefits that are mandatory subjects of collective bargaining shall be subject to mutual agreement before becoming effective. Changes in all existing conditions that are mandatory subjects of collective bargaining shall be negotiated with the Federation consistent with PECBA.

Whenever such conditions or changes or new conditions are finalized, they shall be provided electronically to all bargaining unit employees.

2. Contract Distribution.

The County agrees to furnish each employee in the bargaining unit with a copy of the Federation Agreement. New employees shall be provided a copy of the contract at the time of hire.

3. Clothing and Equipment Reimbursement.

The County agrees to reimburse an employee for the reasonable cost of clothing, watches, prescription glasses or equipment required to work that is damaged while the employee is on duty and engaged in work on behalf of the County and the damage was not due to employee negligence. Unless otherwise reimbursed, reimbursement for damages to prescription glasses shall be limited to no more than \$300 and

reimbursement for damages to watches shall be limited to no more than \$100.

4. Car Mileage Reimbursement.

It is the policy of the County that employees who are required by their supervisor to use their personal automobile for authorized County work shall receive mileage for such use at the current mileage allowance rate.

5. Training Policy.

The County shall manage the training program for staff through the Department Training Policy. The parties agree that any changes to the Training Policy shall be referred to the Labor/Management Committee for discussion prior to implementation.

6. Work Rules.

Work rules shall not conflict with the terms of this Agreement. Employees shall comply with County-wide work rules as outlined in the Personnel Ordinance, Section XV, "Employee Responsibilities."

7. Electronic Mail.

1. Federation representatives (those persons holding positions as officers within the Federation) may use the County email system to communicate concerning collective bargaining matters.

2. "Collective bargaining matters" means any of the following:

- A. official Federation announcements to the Federation membership (such as meeting subjects, dates and times);
- B. the meaning, interpretation or application of this Agreement;
- C. the presentation and adjustment of grievances;
- D. matters directly related to the collective bargaining relationship between the County and the Federation.

3. Federation members may use the County email system to contact Federation representatives regarding collective bargaining matters, including any of the following purposes:

- A. to arrange a date, time and location for a meeting concerning the meaning, interpretation or application of this Agreement;
- B. to ask a question regarding meaning, interpretation, or application of this Agreement;
- C. to present a grievance regarding the meaning, interpretation or application of this Agreement;

D. to request Federation representation in matters concerning the meaning, application or interpretation of this Agreement.

4. It is understood that there is no expectation of confidentiality or privacy concerning communications sent over the County email system, and that the County reserves the right to access and disclose all messages sent over the County email system for any purpose.

5. The County email system will not be used for political purposes at any time, and this limitation shall override any of the permissible uses of the email system listed above. "Political purposes" shall include matters related to support or opposition to candidates or measures in any election (County elections, Federation elections, or otherwise).

8. Surveillance Cameras.

1. Camera recordings may be accessed, reviewed and preserved as the County deems necessary. Recordings will not be used for yearly performance evaluations, unless disciplinary action has been imposed from evidence derived from a specific recording. In the event the County elects to review video as part of an investigation, the County shall notify the Federation and provide the Federation with an opportunity to view the video.

2. In the event information revealed on camera raises concerns regarding employee conduct, the County will retain the recording and agrees to provide a copy of the recording to the Federation and the employee in advance of any pre-disciplinary meetings.

3. The County understands that it has the burden of proving that "just cause" exists to support the discipline or discharge of any non-probationary employee.

ARTICLE 17 - SAFETY AND HEALTH

1. Facility Standards Maintenance.

The employer and the agency agree to abide by and maintain in its facilities and work operations standards of safety and health in accordance with the State of Oregon Safe Employment Act (ORS 654.001 to 654.295 and 654.991).

2. Safe Place of Employment.

It is the responsibility of the Agency and Employer to make every reasonable effort to provide and maintain a safe place of employment. It is the responsibility of all employees to practice safe working habits and to report any observed unsafe conditions immediately. Employee recourse to unsafe working conditions would be handled as follows:

Employees will report any personally observed unsafe practice or conditions to the immediate supervisor. If the practice or condition is not remedied in a timely manner by the immediate supervisor, the employee shall submit the matter to the Federation representative to take up with a higher authority.

3. First Aid Kits.

The Agency will provide first aid kits designed to serve at least the number of employees in each office.

4. First Aid Training.

The Agency will insure multimedia first aid training has been provided each new employee within the first year of entry into the bargaining unit.

5. Communicable Disease.

If, in the conduct of official duties, the employee is exposed to serious communicable diseases that would require immunization or testing, the employee shall be provided immunization against or testing for such communicable disease without cost to the employee where immunization will prevent such disease from occurring. The employee shall be granted leave with pay with no loss of accrued sick leave or other leave for the immunization or testing.

6. Protective Clothing.

If any employee is required to wear protective clothing, such protective clothing shall be furnished to the employee by the Agency. The cost of maintaining including cleaning, laundering, and tailoring shall be paid by the Agency.

7. Vehicles.

Each vehicle that is provided for use by Parole and Probation Officers shall be properly maintained in a safe and serviceable condition. Each vehicle will have in it a first aid kit, a fire extinguisher, two communicable disease kits. The County shall make available to the field staff no less than three (3) cage cars equipped as specified above.

8. Safety Equipment.

Body armor will be provided to all field officers upon request and replaced by the County per manufacturer's warranty (currently 5 years). Any new body armor the County purchases will consist of vest rated at Threat Level IIIA flexible (with side panels), which itself will be replaced upon expiration of the manufacturer's useful life. The County shall make available to all field officers a secure locker in which to store body armor and other safety equipment (lock to be provided by the field officer). Replacement of lost body armor or other safety equipment not secured in lockers when not in use shall be the responsibility of the field officer.

Firearms: All employees hired after the date of ratification of this agreement by the BOC will be required to carry firearms issued by the Department in the performance of their duties.

Employees employed prior to the execution of this agreement who elect to carry shall carry the firearm provided by the County and these employees will receive a one-time payment of \$500 to be paid in the last payroll in the month following ratification of this agreement, subject to applicable withholdings.

Employees will be required to qualify semi-annually.

The Department will provide a duty issued firearm including holster, handcuffs, handcuff

holder, OC spray and holder, 2 extra magazines and a magazine pouch.

All employees will receive a one-time payment of \$250 to be paid in the last payroll in the month following ratification of this agreement, subject to applicable withholdings.

9. Ammunition.

The County shall provide all ammunition for department on duty and approved firearms training for issued firearms.

10. Automobile Registration.

The County will allow employees to register their personal automobiles at the Community Corrections Division address if provided by law and provide adequate parking.

11. Traumatic Incidents.

Any employee whose actions result in the serious injury or death of another person in the performance of his or her job duties shall be given up to seventy-two (72) hours of paid administrative leave for the traumatic incident. In addition, the County will provide paid administrative leave for up to six (6) EAP visits related to the traumatic incident. The decision whether an event is traumatic for the purposes of this section shall be at the sole discretion of the County.

ARTICLE 18 - TRANSFERS

In the event a position becomes vacant within the division, eligible employees within the classification will be notified in writing and will be allowed to request transfer into said position. Selection and final approval of any transfer will rest with the division head.

ARTICLE 19 - SAVINGS CLAUSE

Should any Article, Section, or portion thereof, of this Agreement be held unlawful and unenforceable by any Court of competent jurisdiction, such decision of the Court shall apply only to the specific Article, Section or portion thereof, directly specified in the decisions; upon the issuance of such a decision, the parties agree immediately to negotiate a substitute, if possible, for the invalidated Article, Section or portion thereof.

ARTICLE 20 – LEGAL FEES

Section 1. The COUNTY agrees to reimburse bargaining unit members (employees) for the reasonable, usual, and customary legal fees and costs charged by an attorney as a direct result of criminal charges, investigation of use of deadly force, or a grand jury appearance against the employee arising out of the employee's involvement in the scope of the regular performance of his or her duty as an employee for the County. The County's obligation of reimbursement is subject to the following:

A. To receive reimbursement under this Article, the employee must select an attorney from a list of attorneys that have been mutually agreed upon by the Federation and the County Counsel. Neither party shall unreasonably oppose the inclusion of an attorney on the list. Within sixty (60) days of the execution of this

agreement, the Federation shall submit to the County Counsel, the names and professional biographies of the attorneys the Federation proposes for inclusion on the list. If the County Counsel does not object in writing to an attorney on the list within twenty (20) working days, the attorney shall be included on this list.

The names on the list shall be reviewed every six (6) months upon the request of either party. If no attorney on the list is available to represent the employee, the employee may obtain another attorney of his or her choosing; however, the County's obligation to reimburse will arise only if the County Counsel receives written notice of the selected attorney from the Federation within five (5) working days of the employee or Federation learning of the lack of availability of an attorney from the predetermined list. Following the initial meeting between the employee and the attorney, the Federation shall arrange for the attorney to provide the County at no cost to the County a preliminary estimate of the anticipated legal fees, costs, and expenses. This preliminary estimate shall be directed to the County Counsel, the Sheriff, Risk Management, and the Federation.

B. Before becoming obligated under this Article, the County shall be presented with a sworn affidavit by the attorney listing an hourly breakdown of the time spent and a brief description of the purpose of such time. If the County, in its discretion feels the charges exceed the reasonable, usual, and customary fees normally charged, the parties shall submit the matter to the Oregon State Bar Fee Arbitration program for resolution. The decision of the OSB fee arbitrator or arbitration panel shall be final and binding as the County's obligation under this Article. Under no circumstances shall the provision of this Article give rise to a claim of any sort against the County by the attorney retained or selected by the Federation member.

C. Reimbursement will not be made in those instances where:

1. The employee is convicted by verdict or plea, or pleads no contest to any criminal charges arising out of the incident; or
2. The County sustains disciplinary charges on the basis of the employee's actions, which formed the basis for the possible criminal liability, and the County's sustaining of the charges is upheld in all or part on any grievance or appeal of discipline; or
3. The employee resigns from employment following notification that criminal charges, grand jury proceedings, a disciplinary investigation or disciplinary charges are pending.

D. The County shall have no obligation to reimburse an employee, the Federation, or counsel for the Federation for legal fees or costs in any instance where the employee or the Federation elect to have counsel for the Federation represent the employee involved in the incident at any stage of the criminal proceeding, including, but not limited to, any grand jury proceeding.

E. Any reimbursement required by the County shall be made only at the conclusion of all criminal and disciplinary proceedings against the employee relating to or arising out of the incident and are subject to the following monetary maximums:

1. Legal fees relating to a grand jury investigation and/or appearance: \$5000.
2. Legal fees relating to post-grand jury indictment or other charging instrument: \$10,000.

Section 2. The County recognizes that it is not entitled to the work product of the attorneys involved in this program. The County recognizes there exists an attorney/client privilege between the attorney and the employee.

ARTICLE 21 - TERMINATION

1. A. This Agreement shall become effective upon execution, and shall remain in full force and effect until the 30th day of June, 2020, and each year thereafter, unless either party shall notify the other in writing not later than March 1 of the expiring year, that it desires to negotiate a successor agreement. This Agreement shall remain in full force and effect during the period of negotiations for a successor agreement. In the event notice to modify is given, negotiations shall begin not later than April 1.
B. The County will submit this Agreement for ratification by the Board of County Commissioners as soon as practicable following ratification of this Agreement by FOPPO.
2. This Agreement may be amended at any time by mutual agreement of the Federation and County; such amendments shall be in writing and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands this _____ day of _____, 2017.

FOR FEDERATION OF PAROLE AND
PROBATION OFFICERS:

FOR CLACKAMAS COUNTY:

Danelle Cloyes, FOPPO President

Chair, Board of County Commissioners

Meghan Delk, FOPPO Vice President

Mary Raethke, Recording Secretary

Daryl Garrettson, Chief Negotiator

Steven Schuback, Chief Negotiator –
Peck, Rubanoff, Hatfield

Gretchen Pacheco, FOPPO
Secretary

Chris Hoy, Director

Christina Thacker, County Counsel

Evelyn Minor-Lawrence, Director, HR

Eric Sarha, Assistant Director, HR

Jenna Morrison, Community
Corrections Manager

Brian Imdieke, Community Corrections
Manager

Malcolm McDonald, Community
Corrections Supervisor

Brent Taylor, Community Corrections
Supervisor

APPENDIX B

WORK RULES

1. An employee shall submit their work schedule in advance to their supervisor for approval.
2. One employee's work schedule shall not be so extraordinary as to burden another employee's work schedule.
3. To insure adequate coverage at all times, each employee must notify their supervisor weekly of any change in their approved work schedule and where practicable, must receive prior approval
4. An employee shall work no more than eighty (80) hours in a fourteen (14) day work period. Any overtime shall have prior supervisory approval when practicable.
5. Each employee must submit a time sheet to their supervisor at the end of each biweekly pay period.
6. Split shifts are allowed.
7. An employee may not schedule work in excess of ten (10) hours in a work day, without prior supervisor approval.
8. An employee shall work not more than six (6) days in a row without prior supervisory approval.
9. Employees are entitled to a half (.5) hour paid lunch, subject to being called back to duty.
10. Work scheduled on holidays shall be with prior management approval.

DRUG AND ALCOHOL POLICY

1. POLICY STATEMENT

The County is strongly committed to providing a safe and drug-free workplace. All employees are required to adhere to and comply with the requirements of this policy.

The County recognizes each individual's value and contribution to the services we provide to the public. Therefore, this Policy includes assistance to employees who wish to overcome an alcohol or drug dependency problem (see "Employee Assistance Program and Self-Referral").

The Drug and Alcohol Policy is intended to be consistent with and enhance the Clackamas County Employment Policy and Practice #5 - Drug Free Workplace Act and Policy Proclamation.

2. EDUCATION AND TRAINING

The County will distribute information to employees regarding the Drug and Alcohol Policy; the dangers of drug and alcohol abuse in the workplace; drug and/or alcohol counseling, rehabilitation, and employee assistance resources. Employees will be required to sign a form acknowledging receipt of this information.

At the time of hire, new employees will receive a copy of the Drug and Alcohol Policy, which informs them of their responsibilities with respect to compliance with this Policy.

Persons who may be required to make "reasonable suspicion" recommendations or determinations will receive training on recognition of the physical, behavioral, speech and performance indicators of probable alcohol and controlled substances use. The duration of the training will be at least sixty minutes each for 1) alcohol and 2) controlled substances use recognition, with additional follow up training to be provided, to maintain and increase proficiency.

3. EMPLOYEE ASSISTANCE PROGRAM AND SELF-REFERRAL

Any employee may voluntarily request assistance in dealing with a personal drug and/or alcohol problem through the Employee Assistance Program (EAP) or other acceptable treatment program. Utilization of the EAP is confidential and an employee's utilization of the EAP will not be made known to the Department or the County unless the employee voluntarily chooses to share that information. However, voluntary self-referral for alcohol and/or illegal drug use is not in itself a "safe haven." The guidelines listed below will apply to self-referrals.

A. Any employee not currently under personnel investigation who voluntarily requests

assistance in dealing with a personal alcohol and/or drug problem, may do so without jeopardizing his or her employment, if the alcohol and/or drug of abuse was originally prescribed to, or legally obtained by the employee, but was later abused by the employee. For the purpose of this section, a personnel investigation commences when the Department begins collecting information that leads to the employee being instructed to report for drug and/or alcohol testing.

B. Participation in the EAP or other acceptable treatment program will not, in itself, jeopardize an employee's job, and successful treatment will be viewed positively. However, participation in the EAP or treatment program will not prevent the Department from imposing discipline for conduct that occurs in conjunction with alcohol and/or drug use in violation Department Policy, and will not relieve an employee from the responsibility to perform assigned duties safely and at a satisfactory performance level.

4. DRUG EVALUATION; LEAVE OF ABSENCE

An employee may be required to undergo an evaluation by a Substance Abuse Professional (SAP) approved by the Department if he or she is involved in an alcohol and/or drug related incident on or off-duty. This evaluation will determine the extent of any alcohol and/or drug problem and the appropriate treatment. The employee may then be required to participate in, and successfully complete, an alcohol and/or drug education and treatment program as recommended by the SAP. Any cost of such an evaluation not covered by the employee's medical insurance shall be paid by the County. The cost of the substance abuse treatment will be the responsibility of the employee if not covered by the employee's insurance. Substance abuse evaluation and treatment will be in addition to any disciplinary action taken.

Absences due to alcohol and/or drug abuse evaluation or treatment may be covered by an employee's sick leave or vacation leave. If no such paid leave is available, an unpaid leave of absence may be used according to the County's regular Policy for unpaid leave of absence.

Return to duty, after an employee has been on leave required by this Policy for evaluation or treatment of an alcohol and/or drug problem, will be allowed only in compliance with the recommendations of the SAP.

5. PRESCRIPTION AND OVER-THE COUNTER MEDICATIONS

Prescription and over-the-counter medications can present a danger to employees and their co-workers due to their effects on alertness and job performance. Employees are prohibited from reporting to work, working or returning to duty impaired with medications that the employee reasonably believe affect their ability to safely perform their job duties.

Employees must report the use of medically prescribed drugs or other substances which the employee reasonably believes to impair job performance. It is the employee's responsibility to determine from their medical provider whether the prescribed drug could

reasonably be expected to impair his or her job performance, including the ability to operate a motor vehicle.

All medicines brought onto County property/premises, including vehicles must be in their original containers with the pharmacy label showing the patient's name and dosage instructions. Use of another person's prescription is a violation of federal law and of this Policy.

Failure to notify management of the use of medication that the employee should reasonably know affect the performance on the job can lead to disciplinary action, up to and including discharge.

“Medical Marijuana”

Marijuana is a Schedule I controlled substance; its possession and use is illegal under federal law. Although the State of Oregon permits the possession and use of marijuana for limited recreational use and to treat medical conditions when supported in writing by a licensed medical doctor and certain conditions have been met and for limited recreational use, this is not an acceptable explanation for a positive drug test under this Policy. The Department is a law enforcement agency and will observe the terms of federal law, which preempt state law in this regard. The Medical Review Officer (MRO) will automatically verify positive tests as being positive without regard to the existence of a medical marijuana card or recreational use that complies with state law.

In addition, possession of marijuana not in the performance of duties on County property is grounds for discipline up to and including dismissal.

6. PROHIBITIONS

The following conduct is prohibited:

- A. Buying, selling, consuming, distributing or possessing alcohol or unlawful drugs (including Marijuana under Federal Law) while working or engaged in work activities on behalf of the County, or while on County premises or in County vehicles, except as necessary in the performance of duties (under-cover operations, confiscated evidence, etc.)
- B. Reporting for work, working or returning to duty with unlawful drugs or alcohol present in the body at the levels set forth below. For the purpose of this Policy, “drugs” include all controlled substances regulated under the federal Controlled Substances Act.
- C. Failing to promptly report arrests, convictions and/or plea-bargains for an alcohol or drug-related criminal offense to the Department Head or his/her designee, irrespective of the jurisdiction where such action was taken. Refusal by an employee to submit a urine specimen and/or breath alcohol sample when required by this Policy will have the same consequences as a positive drug and/or alcohol test result

(see “Discipline” section), subject to just cause and proof of reasonable suspicion. It will warrant immediate removal of the employee from duty.

D. Failing to comply with directives regarding enforcement of this Policy, including but not limited to refusing to promptly submit to required testing; knowingly giving false, diluted or altered samples; obstructing the testing process and failing to comply with rehabilitation conditions imposed by the County or rehabilitation counselors pursuant to this Policy.

E. Positive Test Levels for Drugs and Alcohol

A positive drug test result is defined as the detection of any one or more of the substances and/or metabolites of the substance listed in the table shown below:

Urine 8 Drug Panel

Substance or Class	Screen Cut-off	Confirmation Cut-off
Amphetamines	500 ng/mL	250 ng/mL
Benzodiazepines	200 ng/mL	200 ng/mL
Cocaine	150 ng/mL	100 ng/mL
Marijuana (THC)	50 ng/mL	15 ng/mL
Methadone	300 ng/mL	200 ng/mL
Opiates <i>Codeine/Morphine</i> <i>Hydrocodone,</i> <i>Hydromorphone,</i> <i>Oxymorphone</i> <i>Fentanyl</i>	300 ng/mL	2000 ng/ML 150 ng/mL **LOQ 2 ng.mL
6 Acetylmorphine (Heroin)	10 ng/mL	10 ng/mL
PCP	25 ng/mL	25 ng/mL

** Limit of Quantitation

An employee will be in violation of prohibitions against reporting to work or working with alcohol in his/her system if his/her breath tests are at a level of .02 BAC or higher.

Employees who are taking medications, including medications containing controlled substances, should refer to the “Medications” section above for an explanation of their obligations.

Employees who engage in any prohibited conduct will be subject to discipline, including discharge.

7. CALL-BACK

It is recognized that employees may be recalled to duty during normal off duty hours. When operational need dictates the necessity to recall these employees, caution and good judgment must be exercised. Similarly, employees who have consumed alcoholic beverages within four (4) hours of a requested callback or, for any reason, believe they could be impaired by the consumption of alcohol or other substance, are required to notify the supervisor and obtain approval before responding to the callback.

8. TYPES OF DRUG AND ALCOHOL TESTING REQUIRED

The following are occasions for drug and alcohol testing under this Policy:

Reasonable Suspicion Testing

An employee may be required to submit to a drug and/or alcohol test upon reasonable suspicion that the employee has violated the prohibitions of this Policy concerning alcohol and/or controlled substances. The determination that reasonable suspicion exists to require the employee to undergo an alcohol and/or controlled substances test must be based on specific, articulable observations concerning the appearance, behavior, speech, or body odors of the employee or other articulable observations of an employee's condition or performance that indicate possible drug or alcohol use.

The "reasonable suspicion" behavior should be witnessed by at least two persons if at all feasible, but only one observation is required. A drug and/or alcohol test can be required only by a supervisor who has first consulted with higher management employee. The management employee ordering the drug and/or alcohol test may rely on the observations and recommendations of bargaining unit or non-bargaining unit personnel. Those who make a decision to test an employee will be trained in identifying appearance or conduct that indicates the possible use of unlawful controlled substances or misuse of alcohol.

Any "reasonable suspicion" incident will be documented as soon after the incident as possible and the Federation will be provided with a copy of that documentation. The employee involved will be immediately removed from the workplace and escorted by a supervisor to a urine specimen collection or alcohol testing site. The employee will NOT be allowed to proceed to the site unaccompanied. A negative dilute result is unsatisfactory on a reasonable suspicion test for drugs. The employee will be given one additional opportunity to provide a valid specimen. The result of the second test will prevail. However, employees remain subject to discipline up to and including discharge, for giving intentionally altered samples.

Employees will have access to and be notified of their right to Federation representation and the Federation will be notified at every step of the "reasonable suspicion" testing procedures, except during specimen collection. The County will inform the Federation representative of the reasonable suspicion that supports the testing requirement. A Federation representative shall be notified immediately upon the request of the employee and the representative shall be afforded two (2) hours to respond. This representation

shall not delay established collection and testing procedures. A list of qualified Federation representatives will be provided to the County.

Return to Duty and Follow-up Testing

Unless the employee is discharged, the Department shall require return to duty and follow-up testing as recommended by the SAP when an employee has engaged in prohibited drug or alcohol-related behavior or violation of the prescription medication provisions of this Policy. A negative alcohol or drug test is required prior to return to duty and at least six (6) unannounced follow-up tests are required during the twelve (12) months following return to duty. Any recommendations by the Substance Abuse Professional (SAP) shall be followed, but follow-up testing may continue for no longer than sixty months following return to duty.

Please refer to "Return to Duty Procedures" and "Disciplinary Action and Procedures" for additional information.

9. COSTS OF TESTING

The County will be responsible for payment of all reasonable suspicion return to duty and follow-up tests that are required by the County.

The employee will be responsible for payment of any requested split tests or other tests that he/she voluntarily undergoes without being required to do so by the County. The County will initially pay for the test and then collect reimbursement from the employee.

10. DRUG AND ALCOHOL TESTING PROCEDURES

Testing procedures for all employees are governed by the same standards as apply to commercial driver license holders under federal law, with the exception of forms required by the United States Department of Transportation (DOT) for CDL drivers. These standards include, but are not limited to, those governing sample acquisition, the chain of custody, laboratory selection, testing methods and procedures, and verification of test results.

Drug Testing:

- A. Urine specimen collection for drug testing will be performed by qualified individuals in conformance with current standards of practice and with respect for the privacy and dignity of the person giving the specimen. Drug test specimens will be collected to provide at least 30 mL of urine in a "primary specimen" shipping bottle and at least 15 mL of urine in a "split specimen" shipping bottle.
- B. If an employee is unable to provide an adequate volume of urine on the first attempt ("shy bladder"), he/she will have an opportunity to drink up to 40 ounces of fluids for up to three hours. At the end of this period, if no sample of adequate volume

has been provided, the employee will be referred to a physician acceptable to the Medical Review Officer(MRO) to determine whether the incident constituted a refusal to test as outlined in 49 CFR 40.193.

- C. Only laboratories certified by the Substance Abuse and Mental Health Services Administration (SAMHSA) of the U.S. Department of Health and Human Services will perform drug testing.
- D. When an initial screening test for drugs is positive, a second, confirmatory test will automatically be performed. Confirmed positive drug tests will be reported by the testing laboratory to the MRO for verification (see "Prohibited Conduct").

Alcohol Testing:

- A. Breath alcohol testing will be performed only by qualified Breath Alcohol Technicians. Testing will be conducted using evidential breath alcohol testing devices listed on the Conforming Products List of the National Highway Traffic Safety Administration.
- B. A positive breath test will be confirmed as follows:
 - 1. The individual being tested is instructed not to smoke, use mouthwash, drink, or eat for a period of 15 minutes.
 - 2. Within 30 minutes of completion of the initial screening test, a confirmatory breath test is conducted as described in 49 CFR Part 40. The result is recorded in the "Confirmation Test Results" section of the Alcohol Test Form.
- C. If the result of the confirmed breath alcohol test is positive, the Breath Alcohol Technician must immediately notify the Designated Employer Representative (DER) or his/her designated representative, who will arrange for transportation of the individual from the alcohol testing site. The Breath Alcohol Technician will then forward a copy of the Alcohol Test Form to the Designated Employer Representative.
- D. Under this Policy, an employee with a confirmed positive breath alcohol test at the levels set forth in the "Prohibited Conduct" section of this Policy shall be considered to be in violation of this Policy.

11. DRUG TEST RESULTS REVIEW

Drug test results on an employee which are reported as positive, adulterated, or substituted by the testing laboratory will be reviewed and verified by the MRO. A confirmed positive test does not automatically identify an employee as having used drugs in violation of this Policy. The MRO brings detailed knowledge of possible alternate medical explanations to his/her review of the test results. This review is performed by the MRO prior to the transmission of results to the DER.

Medical Review Officer Reporting Options and Employer Actions

- “Negative” – self-explanatory
- “Negative Dilute” – Upon receipt of a “negative dilute,” the employee shall be required to immediately provide another specimen. The collection shall be conducted with the minimum possible advance notice and the employee shall be escorted to the collection facility by the DER, Supervisor, or other designated person. In the event the second test result is “negative dilute,” no further action will be taken and the second test shall become the test of record. If the employee is directed to take a second test and the employee declines to do so, this is a “Refusal to Test”.
- “Canceled – Split specimen test could not be performed.” This will occur when the primary specimen was positive, and the donor requests an independent test, and the split specimen is not available for testing. The employer must ensure an immediate collection of another specimen, under direct observation, with no advance notice to the donor.
- “Canceled – Test Not Performed, Fatal Flaw (with flaw stated) or Uncorrected Flaw.” No further action required unless a “Negative” test result is required for reasonable suspicion, return to duty or follow up. A canceled drug test is neither positive nor negative and no consequences must be attached to it.
- “Cancelled Invalid Result.” An “invalid result” means the laboratory was unable to obtain a valid result when attempting to test the specimen. If the MRO has accepted the donor’s explanation as to why the laboratory was unable to obtain a valid result, then the MRO will advise the employer “direct observation not required.” The employer is not required to take any further action unless a “negative result is required (i.e., reasonable suspicion, return to duty or follow up). If the MRO has not accepted the donor’s explanation, then the MRO will advise the employer “a second collection must take place immediately under direct observation”.
- “Positive or Positive Dilute” – The County must comply with the requirements for a positive test as outlined in this Policy.
 - Immediately remove employee from duty; and
 - Referral to a SAP – If the employee is terminated, he/she is to be furnished with a list of SAP resources (names, addresses, and telephone numbers).
 - Return to Duty provisions must be followed.
- “Adulterated-Refusal to Test” – Follow same procedures as required on a positive test result.
- “Substituted-Refusal to Test” – Follow same procedures as required on a positive test result.

MRO Verification Without Notifying the Employee

The MRO is permitted to verify a test as positive, or as a refusal to test because of a laboratory report of a positive, adulterated, or substituted specimen without interviewing the employee under the following circumstances:

- The employee expressly declines the opportunity to discuss the test with the MRO; and

- The MRO has successfully made and documented a contact with the employee, and instructed the employee to directly contact him/her, and more than 72 hours have passed since the time the MRO contacted the employee.

NOTE: If a test is verified positive under the latter circumstances, the donor may give the MRO information documenting that serious illness, injury, or other circumstances unavoidably prevented him/her from contacting the MRO. On the basis of this information, the MRO may re-open the verification, allowing the donor to present information concerning a legitimate explanation for the positive test. If the MRO concludes that there is a legitimate explanation, the MRO shall verify the test as negative.

Upon verifying a test result as positive, the MRO will inform the donor of the option for having the “split” portion of his/her specimen tested. The donor must notify the MRO of a desire to exercise this option within 72 hours of being notified of the positive result.

The MRO will not delay reporting of a verified positive test result pending “split” specimen testing. If a donor requests testing of the “split” specimen but none is available, the MRO will cancel the entire test.

Communication of Results

The MRO or his/her designated representative will report test results ONLY to the County’s DER who shall notify either the Department Head or person appointed to fulfill the duties of Department Head. Confidentiality will be strictly maintained. If the result is positive, the MRO or his/her authorized representative will report the identity of the controlled substance and other information, as necessary for the County to determine whether the employee has violated this Policy.

Employees may obtain copies of their test results by requesting them in writing from the MRO within 60 days of being notified of the results.

This policy shall not limit either the County or the Federation from obtaining and sharing information, as they deem necessary, to respond to grievances and other legal actions or disclose information and documents, as compelled by law.

12. DISCIPLINARY ACTION

- A. Any employee suspected of being in violation of this Drug and Alcohol Policy will be removed from duty and placed on paid administrative leave pending investigation, and, if found to be in violation, is subject to discipline, up to and including discharge. Any disciplinary action will comply with the provisions of the collective bargaining agreement. Violations of this Policy may differ in terms of seriousness, the employee’s prior record of violation and/or compliance and other factors consistent with “just cause” obligations.
- B. Employees who have voluntarily requested assistance concerning drug and/or

alcohol problems and/or voluntarily entered into drug or alcohol evaluation and treatment programs shall have their actions taken into consideration as set forth in section 5.31.3.

- C. Positive Alcohol or Drug Test. Positive alcohol and drug tests, for unlawful or improper use, are considered a serious infraction and will generally subject an employee to discharge.
- D. Misuse or Other Medication Violations. An employee who has tested positive for the presence of drugs which were originally legally prescribed, but have been abused by the employee may be referred to an employee assistance program or SAP for drug counseling or treatment. As an alternative to dismissal and at the discretion of the Department Head, the employee may be subjected to discipline, including a last chance agreement as a condition of continued employment, which may include a requirement that the employee submit to unannounced drug testing if recommended by a SAP, for a period of time recommended by the SAP. The last chance agreement will also include authorization for the County to receive information necessary to assure compliance with the last chance agreement and assure future compliance with this Policy. If the employee violates the terms of treatment or rehabilitation, again tests positive or otherwise violates the last chance agreement during such period, he/she may be discharged.

If the level of discipline allows an employee to return to duty, he/she must agree to the following conditions:

- Meet all recommendations/requirements of the Substance Abuse Professional (SAP).
- In the event the SAP does not specify any follow up testing, shall undergo up to six (6) periodic, unannounced, observed alcohol and/or drug tests at the discretion of the DER within one (1) year of returning to duty.
- Any confirmed positive alcohol or verified positive drug prescription drug abuse result while the employee is undergoing required return to duty or follow-up treatment and/or testing shall result in termination.

13. RETURN TO DUTY PROCEDURES

Employees who have violated this Policy may only return to duty if the level of discipline allows it and the County has determined them eligible. The following statements reflect the return to duty and follow-up testing requirements of this Policy:

- A. Employees who have had a confirmed positive alcohol test, unlawful drug test or have abused prescription drugs must be evaluated, undergo treatment, if required, and be determined fit for return to work by the Substance Abuse Professional.
- B. Employees may be subject to periodic unannounced follow-up testing as determined by the Substance Abuse Professional who evaluated the employee. If the employee was found to need assistance in resolving his/her substance misuse

problem, a minimum of six (6) such follow-up tests must be conducted during the twelve (12) months following the employee's return to duty.

14. RECORD KEEPING PROCEDURES

- A. The County's DER will maintain alcohol/drug testing records in a secure filing system, separate from the County Personnel files, with information available only on a "need to know" basis.
- B. An employee is entitled, upon written request, to obtain copies of any records concerning his/her use of alcohol or controlled substances. Requests for such information may be directed to the DER, SAP, or to the County drug testing management service.
- C. Information regarding an individual's alcohol/drug test results or rehabilitation is considered to be personal and confidential and may be released only upon written consent of the individual, except:
 - 1. Such information may be released to any state official with specific regulatory authority over the Department when legally required.
 - 2. Such information may be disclosed in a lawsuit, grievance, or other proceeding initiated by or on behalf of the employee and arising from an alcohol test and/ or a drug test.
 - 3. When the County is compelled by a judicial determination or order that the information is not protected from disclosure.
 - 4. The information is needed by medical personnel for the diagnosis or treatment of a patient who is physically unable to authorize disclosure.
- D. The County shall release information regarding an employee's records to a subsequent employer upon receipt of a specific written request from the employee authorizing release of the records to an identified person.
- E. Record Retention.

The following schedule of record keeping will be maintained by the DER and his/her authorized agents:

Negative and canceled drug test records alcohol test results less than 0.01 g/210L (no record of ordering a test will be maintained in any other file)	1 year
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Records of supervisor training	Indefinite or 2 years beyond job responsibilities
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Records of verified positive alcohol/drug	5 years
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test results; refusals to be tested for drugs and/or alcohol; SAP evaluations and referrals; follow-up tests and schedules

15. INFORMATIONAL RESOURCES

Information on this Policy and associated procedures is available by contacting the DER as outlined on the Intranet at:

<http://web1.clackamas.us/des/drugtesting.html>

Questions may also be addressed directly to the County's drug testing management service.

ATTACHMENT A

DEFINITION OF TERMS

For the purposes of this Policy, the following definitions apply.

Abuse/Misuse of Prescription Drugs: The use of a drug not in accordance with the prescribed dosage or method of use.

Adulterated Specimen: A specimen that contains a substance that is not expected to be present in human urine, or contains a substance expected to be present but is at a concentration so high that it is not consistent with human urine.

Alcohol: Ethyl alcohol or ethanol.

Alcohol Screening Device (ASD): A breath or saliva device, other than an EBT, that is approved by the National Highway Traffic Safety Administration (NHTSA) and placed on a conforming products list (CPL) for such devices.

Breath Alcohol Technician (BAT): An individual who has been trained to proficiency in the operation of the evidential breath testing device he/she is using as required under 49 CFR Part 40.

Breath Alcohol Testing Site: A location which affords visual and aural privacy for the performance of breath alcohol testing. No unauthorized person shall be permitted access to the breath alcohol testing site when the evidential breath testing device is unsecured or at any time when testing is being conducted. In unusual circumstances, e.g. after an accident when a test must be conducted outdoors, the breath alcohol technician must provide visual and aural privacy to the greatest extent practicable.

CFR: United States Code of Federal Regulations

Chain of Custody: Procedures to account for the integrity of each urine specimen by tracking its handling and storage from point of specimen collection to final disposition of the specimen. These procedures shall require that an appropriate drug testing custody form from a Department of Health and Human Services (DHHS), Substance Abuse and Mental Health Services Administration (SAMHSA) certified laboratory be used from time of collection to receipt by the laboratory.

Collection Site: A designated clinic/facility where applicants or employees may present themselves for the purpose of providing a specimen of their urine to be analyzed for the presence of drugs.

Collector: A person who instructs and assists applicants and employees through the urine specimen collection process.

Confirmation Test: A second analytical drug testing procedure to identify the presence of a specific drug or metabolite which is independent of the initial test and which uses a different technique and chemical principle from that of the initial test in order to ensure reliability and accuracy. Gas chromatography/mass spectrometry (GC-MS) is the usual confirmation method for drug testing at this time.

Controlled Substances: Substances listed on Schedules I through V in 21 U.S.C. 802 as they may be revised from time to time (21 CFR 1308). Controlled substances include illicit drugs and drugs which may be authorized for use by a physician or dentist for certain medical uses, but which are subject to misuse or abuse.

Designated Employer Representative (DER): An employee authorized by the employer to assist supervisors in taking immediate action(s) to remove employees from safety-sensitive duties and to make decisions in the testing and evaluation processes. The DER also receives test results and other communications for the employer, consistent with the requirements of this Policy.

Dilute Specimen: – A specimen with creatinine and specific gravity values that are lower than expected for human urine.

DOT: United States Department of Transportation

Drugs: Controlled Substances.

FHWA: Federal Highway Administration

FMCSA: Federal Motor Carrier Safety Administration

Initial or Screening Test: An immunoassay screen to eliminate “negative” urine specimens from further consideration.

Medical Review Officer (MRO): A licensed doctor of medicine or osteopathy with knowledge of drug abuse disorders and drug testing who is responsible for reviewing and verifying drug testing results prior to their communication to the DER.

Negative Drug Test: A test in which initial or confirmation testing under DOT procedures did not show evidence of a prohibited drug in an employee’s or applicant’s system above established levels; OR, a test which is verified as negative by the MRO (e.g. review showed positive test was due to prescription medication or other authorized use of controlled substance).

On Duty: Under this Policy, an employee is “on duty” when he/she is at work and ready to perform employment functions.

Positive Drug Test: A urine drug test result which indicates the presence of prohibited controlled substances beyond the cut-off levels specified by this Policy.

Confirmed Positive Drug Test: A positive drug test which has undergone an initial “screening” test AND a confirmation test which validates the first result. Drug tests are confirmed by the SAMHSA certified laboratory which performs the analyses.

Verified Positive Drug Test: A confirmed positive drug test (see above) after investigation by the MRO, who has determined that no legitimate explanation exists for the presence of the controlled substance that was detected.

Prohibited Drugs: Cocaine, Opiates, Phencyclidine (PCP), Amphetamines, Benzodiazepines, Methadone, 6 Acetylmorphine (Heroin). (see Urine 8 Drug Panel) if not lawfully prescribed and or not lawfully used. Marijuana is prohibited in all cases.

Refusal to Submit: Refusal by an individual to provide a urine specimen after receiving notice of the requirement to be tested in accordance with this Policy.

Safety Sensitive Positions: All sworn law enforcement positions, all positions regularly stationed at the Jail, and medical examiners.

SAMHSA: Substance Abuse and Mental Health Services Administration, a division of the US Department of Health and Human Services (DHHS) which is responsible for certifying laboratories to perform federal workplace drug testing.

Screening or Initial Test: Immunoassay screen to eliminate “negative” urine specimens from further consideration.

Split Specimen Collection Procedure: A collection procedure in which a urine specimen is divided or “split” between two shipping bottles, both of which are transported to the testing laboratory.

Split Test: If the results of the initial screening and confirmation tests of the “primary” specimen are positive, the “split” specimen may be tested at another qualified laboratory.

Substance Abuse Professional (SAP): Under DOT regulations, individuals who may serve as substance abuse professionals include:

- licensed physicians (Medical Doctors or Doctors of Osteopathy) or
- licensed or certified psychologists, social workers, employee assistance professionals, or addiction counselors (certified by the National Federation of Alcoholism and Drug Abuse Counselors Certification Commission) with knowledge of and clinical experience in the diagnosis and treatment of alcohol-related disorders.

Under this Policy, the DER must inform employees who are found to have violated the alcohol prohibitions or who have had verified positive drug tests of qualified SAPs in the local area.

Substituted Specimen: A specimen with creatinine and specific gravity values that are so diminished that they are not consistent with human urine.

ATTACHMENT B

The Clackamas County Risk Management Department will manage the drug and alcohol testing program for the Department with the following provisions:

DRUG AND ALCOHOL TESTING MANAGEMENT SERVICE

The County will maintain an agreement with a drug and alcohol testing management service to advise the County on processes, developments, and changes concerning this Policy.

The firm chosen will be responsible for overseeing compliance of agents of the County with applicable federal regulations, including interacting with specimen collection and alcohol testing agents, designated drug testing laboratories and (MROs). It also submits blind specimens on behalf of the County, and maintains records as required by applicable federal regulations.

In the event of a need to change the provider of these services, the choice of provider will be made by the DER and communicated with the Federation.

MEDICAL REVIEW OFFICERS

MRO services will be provided by the testing management service.

DRUG TESTING LABORATORIES

The County will use drug testing laboratories which are SAMHSA-certified, as required by federal drug testing regulations. The County drug testing management service may arrange for the services of a drug testing laboratory in order to best serve the interests of the County.

SUBSTANCE ABUSE PROFESSIONALS

Under this Policy, employees who refuse testing, have confirmed positive alcohol test results, and/or have verified positive drug test results must be referred by the DER to a SAP for evaluation. The County will maintain a list of such qualified individuals in its geographic area and make this list available to employees as needed.

ATTACHMENT C

LAST CHANCE AGREEMENT -- EXAMPLE

[This attachment is an example of a last chance agreement form that may be used. The form may vary to fit the facts and circumstances of a particular situation.]

This is an agreement between [employee's name] (the Employee), the Department, and the Federation.

1. This agreement serves as notice to the Employee as to what to expect for continued employment with the Department. This agreement does not guarantee employment for any specific period
2. The Employee agrees to continue in a bona fide drug and/or alcohol outpatient rehabilitation program recommended and approved by a qualified substance abuse counselor (the Counselor). The Employee fully understands that s/he is to remain in such a program, including any required aftercare, until released in writing by the Counselor. For [period of time] from the date of this agreement, the Department Head shall have the right to conduct random breath alcohol or urinalysis testing of [employee's name] on work time at the expense of the County. The employer may also require an ETG test for alcohol testing. Should the employee refuse to cooperate with said breath alcohol or urinalysis, or test positive for alcohol/drugs or abuse prescription medication while on the job, s/he shall be subject to termination under the Federation contract. A violation of the last chance agreement shall be considered "just cause" for discharge.
3. The Employee agrees to grant permission to the Counselor to release verification to the County that the Employee is meeting and has completed the requirements of the program and any required aftercare. If the Employee unsuccessfully discontinues the program without the consent of the Counselor or is dishonorably released from the program by the counselor, s/he will be terminated from his/her employment with the County. This termination will be considered a termination for performance reasons and will not be a violation of this last chance agreement or the collective bargaining agreement between the County and the Federation.
4. The Employee agrees that this last chance agreement constitutes a final warning and that any violation or non-compliance with its terms within [x] years, shall be considered just cause for discharge and shall result in loss of employment. In the event the termination is grieved and submitted to arbitration, the arbitrator's authority will be limited to determining whether there was or was not a violation of the Last Chance Agreement. In the event the arbitrator finds there was a violation of the Agreement, that violation will automatically be considered "just cause" for termination. The parties agree to enter into a factual stipulation so limiting the scope of the issue and the arbitrator's authority.
5. Except as stated in this agreement, the terms and conditions of the Employee's work shall be the same as all other employees in the Federation bargaining unit.
6. The Federation and the employee agree that this resolution is in lieu of termination [and in addition to specified discipline] of [employee's name] and that the agreement resolves all disputes related to proposed discipline. The Employee and the Federation agree not to challenge this agreement as proper

under just cause or any other provision of the collective bargaining agreement or any other legal challenges in any forum.

7. This is the complete agreement between the parties who sign in knowingly and of their own free will, after seeking advice of counsel.
8. The contents of this agreement related to the employee's involvement in alcohol/drug treatment and testing and placement on a "last chance agreement" shall be maintained in confidence and strictly on a "need to know" basis by the parties. Such information may not be released to any state official with specific regulatory authority over the Department, unless legally required.

This agreement does not set future precedent between the Department and the Federation and shall not be used as evidence of waiver of rights by the Federation or the Department in any future disputes between the parties.

[Employee's name]

Date

Federation

Date

Clackamas County

Date

COMPLAINTS AND INVESTIGATIONS

1. PURPOSE. It is essential that public confidence be maintained in the ability of Community Corrections to investigate incidents, determine the facts, ensure accountability, and correct deficiencies. Additionally, the Director or designee has the responsibility to discipline those whose conduct discredits the department, impairs effective law enforcement, or constitutes a violation of Community Corrections policies or the county policies. The rights of employees and the public must be preserved. Investigations must be conducted in a fair and impartial manner, with truth as the primary objective.

2. POLICY. Public confidence must be maintained in the ability of Community Corrections to investigate and properly adjudicate complaints against its members. Community Corrections accepts complaints against its members and will fully investigate each. Community Corrections investigates and disciplines those whose conduct is improper, discredits Community Corrections, or impairs its effective operation.

This department has a policy to receive, acknowledge, and respond to all complaints from the public about its members. This policy is to serve a number of purposes including but not limited to;

A. To investigate allegations of misconduct in a timely, thorough and impartial manner, and to impose appropriate corrective action when such action is required or otherwise justified. Community Corrections' reputation for doing so has been, and will continue to be, to encourage the public, media, and other agencies to accept the department's ability to handle its own affairs.

B. All matters relating to the investigation of member misconduct and corrective action shall be governed by applicable provisions of Federal and State law, and if applicable, the collective bargaining agreement covering the affected member.

3. COMPLAINTS DEFINED

A. For the purposed of this Chapter, a "complaint" means an allegation made by a person against a Sheriff's Office member in which the complainant alleges:

1. A member violated a law,
2. A member violated a Community Corrections policy, directive or procedure.
3. A member violated a County policy.
4. A member exercised poor judgment in discharging his/her official duties.

B. A "complaint" shall not mean and does not include a dispute between a citizen and a member regarding the discharge of the member's official duties when there is not an allegation as described in subsection (A).

C. A “complaint” shall not mean and does not include a grievance filed by an offender if the grievance is subject to resolution under the provisions of Community Corrections offender grievance procedure. However, the supervisor of the Probation and Parole Officer to whom the offender is assigned may file a complaint against a member, based on the allegations contained in an offender grievance.

D. For the purpose of Subsection A(1) of this Section, “law” means and includes provisions of the United States Constitution and the Oregon constitution, federal and state statutes, and local ordinances.

4. RECEIVING AND REPORTING COMPLAINTS.

A. A member who receives an alleged complaint against another member shall:

1. Immediately and politely accept an alleged complaint made by any person at any time. Whenever possible the complaint shall be taken in person by an on-duty supervisor.

2. Inform the complainant that the matter shall be assessed for the purpose of further investigation, and the complainant shall be notified in writing of the complaint disposition.

3. Request the name, address, phone number of the complainant and witnesses. If the complainant refuses to provide the requested information, the alleged complaint shall be accepted and listed as anonymous.

4. Complete a citizen complaint form, to include all the information relating to the alleged complaint and the complainant.

5. Attach copies of related materials, such as a Community Corrections computer aided dispatch printout or complainant’s letter.

B. If the member who is first contacted by a complainant is performing an essential function which cannot be interrupted, the member may refer the complainant to another member, if another member is immediately available. If another member is not available, the member shall ask the complainant to wait until the member has completed the essential function.

C. If a complaint against a member of Community Corrections alleges serious misconduct, such as intoxication on duty, physical mistreatment of a person, or a law violation, the member who receives the alleged complaint shall immediately attempt to inform the accused member’s supervisor of the matter. If neither can be contacted, the member receiving the alleged complaint shall attempt to inform the Director or designee.

D. When a member receives a complaint and the citizen complaint form is completed, the member or the on-duty supervisor shall forward the completed forms to the Director or designee.

E. If a member is the complainant, the member may present his/her complaint to his/her

immediate supervisor or the member may take his/her complaint directly to the Director or designee.

5. DUTY TO REPORT MEMBER MISCONDUCT.

A. Each member of Community Corrections who has reason to believe that another member has acted in a manner contrary to the public interest or the proper operation of Community Corrections by violating a law, rule, directive or procedure shall report the alleged misconduct immediately to a supervisor or Director or designee.

B. Nothing in Subsection (1) of this Section shall be construed to prohibit a supervisor from properly admonishing a subordinate when no formal corrective action is required and the misconduct is a minor or non-serious violation.

6. COMPLAINTS ARISING FROM CRIMINAL INVESTIGATIONS

A. Except as authorized by the Director or designee, in the event a member becomes the subject of a criminal investigation, Community Corrections will hold in abeyance any administrative internal investigation directly related to the criminal allegation(s).

B. The assigned investigator will monitor the progress of the criminal investigation and will have access to all materials generated by the criminal investigation.

7. PRE-INVESTIGATION ASSESSMENT TO DETERMINE SUFFICIENCY OF COMPLAINT.

A. A member receiving a complaint will complete the citizen complaint form, ensuring the following information is obtained:

1. The name and job title of the accused member and the member's DPSST number
2. A summary of the facts alleged by the complainant.
3. The name, address and telephone number of the complainant.
4. The date, time, and location of the alleged incident.
5. The date and time the alleged complaint was first received.
6. A computer generated Internal Affairs number. (To be taken in all cases to insure proper tracking of all complaints regardless of the disposition.)

B. The assigned investigator shall review the complaint, and all supporting documents relating to the alleged complaint, interview the complainant or cause the complainant to be interviewed, and may interview other witnesses, to determine whether the complaint meets the following requirements:

1. The complainant alleges facts sufficient to constitute a complaint, as that term is defined in section 8.3,

2. The alleged complaint was reported within a reasonable time frame that would allow a thorough investigation, and

3. The complaint raises an issue which warrants further investigation.

C. If the assigned investigator determines that the complaint is not sufficient to satisfy the requirements of the complaint procedure as listed above, the assigned investigator shall, within five (5) days of the Pre-Investigative Assessment, notify the complainant in writing of his/her finding and the reason therefor.

D. If the assigned investigator determines the complainant has satisfied the requirements of the complaint procedure as listed above, the assigned investigator shall:

1. Initiate an investigation as provided under Section 8.9.

2. Notify in writing the complainant that a complaint has been filed against a member and that the matter will be investigated.

3. Notify in writing the accused member in accordance with Section 8.10.

8. REGISTRATION OF COMPLAINTS.

A. To ensure the proper recording and subsequent investigation of all complaints against members of Community Corrections, the assigned investigator shall maintain a computer log of all file numbers.

B. Each complaint shall be indexed by the name of the complainant or as an anonymous complainant. (Complaints may also be accessed by the employees last name.)

9. INVESTIGATION OF COMPLAINTS

A. After the complaint is assigned an IA number; the assigned investigator shall assign the case file for investigation. The assigned investigator has supervisory responsibility and authority over all members who are acting within the scope of an assignment to investigate complaints under this Chapter.

B. A decision to assign the case file for investigation is primarily the assigned investigators responsibility. The Director or designee may designate any person to conduct an investigation. The Director or designee may also, as he deems appropriate due to the nature of the investigation, obtain an investigator from outside Community Corrections.

C. When the case is assigned for investigation the assigned investigator will assign the file a suspension date. The assigned investigator will monitor the investigation and may request periodic status reports to ensure its timely completion. The Director or designee may assign the citizen complaint file to a supervisor for investigation.

D. In cases where the completion of the investigation is delayed beyond 30 days, the

complainant shall be notified in writing, with the assurance that the investigation is continuing. A record of the notification shall be maintained in the computer log.

10. NOTIFICATION OF COMPLAINT TO ACCUSED MEMBER.

A. When a decision is made to investigate a complaint under the provisions of Section 7, the assigned investigator shall promptly provide the accused member with reasonable written notice of the complaint setting forth:

1. A description of the allegation.
2. Applicable potential violations of laws, policies, directives or procedures.

The date by which the assigned investigator expects to complete the investigation. The assigned investigator may have additional time to complete the investigation beyond the date provided in the notice. A member shall be given a status report of the expected completion date of the investigation upon inquiry to the assigned investigator.

Exception: This notification may be delayed if doing so would jeopardize the investigation.

11. OBSTRUCTING OR HINDERING ADMINISTRATIVE INVESTIGATIONS PROHIBITED.

A. No member shall attempt to obstruct or hinder an administrative or internal investigation by:

1. Concealing or destroying, or attempting to conceal or destroy evidence relevant to an investigation or potential investigation.
2. Contacting witnesses or potential witnesses in an attempt to alter or influence their memory of events under investigation or potentially under investigation.

B. Notwithstanding the provisions of section 8.11(A), nothing in this rule prohibits an accused member, or a member acting as a representative of the accused, from contacting witnesses or gathering evidence relevant to an ongoing investigation.

12. INVESTIGATORY INTERVIEW OF MEMBER.

A. For the purpose of this Section, an “investigatory interview”: means a meeting between a member and the member’s employer in which the employer seeks facts or evidence which the member reasonably believes may lead to corrective action.

B. Except as otherwise provided by this Section, an investigatory interview of an accused member shall be conducted in accordance with the provisions of County Personnel rules, or the accused member’s collective bargaining agreement in effect at the time the complaint was filed and received, or as modified.

C. If a member is required to answer questions asked during the interview, the questions

will be specifically, directly, and reasonably related to the specific allegations. The member is required to answer all such questions truthfully.

D. A member shall be entitled to a bargaining unit representative during an investigatory interview. A member may not unreasonably delay or otherwise hinder the interview by requesting a particular representative, who is unavailable, if another representative is available.

E. An investigatory interview of an accused member shall be conducted when the member is on duty, unless waiting for the member to return to duty would unduly impede or delay an investigation, or unless otherwise provided by provisions of a collective bargaining agreement or law.

F. In the event an accused member is subject to a second investigatory interview, the employee and FOPPO representative will be provided either an audio copy or transcript of the initial interview prior to a second interview.

13. SCOPE OF REPRESENTATIVE'S ROLE DURING INVESTIGATORY INTERVIEW. The role of a bargaining unit representative during an investigatory interview shall be as follows:

A. The representative may inquire, at the outset of the interview, regarding its purpose, including inquiring about the general subject matter of the questioning to follow.

B. During the investigator's questioning of the member, the representative may participate only to the extent of seeking clarification of questions. The representative may not consult with the member on the wisdom of whether or not to answer.

C. After the investigator has completed the questioning of the member, the representative may ask the member questions designed to clarify previous answers or to elicit further relevant information.

D. Before the end of the interview, the representative may suggest to the investigator other witnesses to interview and may describe relevant practices, prior situations, or mitigating factors that could have some bearing on Community Corrections deliberations concerning corrective action.

E. In a disciplinary investigation, the FOPPO representative may not be required to disclose, or be subject to disciplinary action for refusing to disclose, statements made by the employee under investigation to the representative for purposes of the representation.

14. DISPOSITION OF INVESTIGATION; INSPECTOR'S FINDINGS.

A. The assigned investigator complaint file shall contain all of the reports directly related to the complaint. The file shall also contain all investigative reports, memos, notes, tapes, photos and other evidence pertinent to the investigation.

B. After the investigation is complete, the investigator shall prepare an Investigative

Summary Report for the investigative file. The Summary Report shall describe the investigative process, summarize statements and evidence contained in the investigatory file, and set forth any other information that may be considered as mitigating or aggravating circumstances.

C. The assigned investigator shall render a preliminary finding based on the facts included in the investigatory file, relating to each of the potential violations, consisting of one of the following:

1. **UNFOUNDED.** Unfounded means the allegations false and not factual.
2. **EXONERATED.** Exonerated means the alleged incident occurred, but was lawful and proper.
3. **NOT SUSTAINED.** – Not Sustained means there exists insufficient evidence to support a sustained finding.
4. **SUSTAINED.** – Sustained means a preponderance of the evidence exists to find:
 - a) The member violated a law as defined in this Manual.
 - b) The member violated a Community Corrections policy, oral or written Directive or procedure.
 - c) The member violated a County Policy.
 - d) The member exercised poor judgment in the discharge of his or her official duties.

15. DISPOSITION OF UNFOUNDED, EXONERATED, OR NOT SUSTAINED COMPLAINTS.

A. In the event the allegations contained in the investigative file are either Not Sustained, Exonerated, or Unfounded, the assigned investigator will complete a Summary of Findings sheet for the Director or designee signature.

B. The assigned investigator will notify the originally complaining citizen and the accused member of the investigation results (not sustained, exonerated, or unfounded), and the fact that no discipline is being recommended against the member.

C. No record of a complaint investigation finding of Not Sustained, Exonerated, or Unfounded will be placed in the member's personnel file.

16. CITIZEN COMPLAINT PETITION FOR REVIEW; GENERAL. Citizen complainants shall be afforded the opportunity to petition for additional review of complaints which the assigned investigator finds are not sustained, exonerated, or unfounded. In order to obtain such a review, complainants must allege that new or additional evidence exists which was not considered in the initial investigation, and specifically describe the alleged new or additional evidence.

17. WHO MAY PETITION FOR REVIEW. Only the originally complaining citizen may

petition for this review. For the purposes of this policy, "citizens" shall mean members of the public at large, and shall not include Community Corrections members or offenders.

18. COMMUNITY CORRECTIONS INITIAL REVIEW OF PETITION. Upon receipt, the Director or designee shall review the petition, and may accept or reject the petition. If the petition is rejected, the review process shall be deemed to be completed and closed.

19. ASSIGNMENT OF PETITION REVIEW: DUTIES.

A. If a petition for review is accepted by the Director or designee, it will be assigned to a member of the Command Staff. That member will notify the accused member that a petition alleging new or additional evidence has been filed and will be reviewed.

B. The selected member will review the citizen complaint file and the alleged new or additional evidence. The selected member may conduct or obtain such additional investigation as he determines to be necessary. The selected member may:

1. Recommend that the citizen complaint determination be maintained.
2. Recommend that the citizen complaint determination be modified.
3. Recommend that the citizen complaint determination be overruled to a sustained finding.

C. The selected member shall make a recommendation and report to the assigned investigator at the conclusion of the review. The report will become part of the citizen complaint file.

D. The assigned investigator shall prepare another Investigative Summary Report and make a finding based upon the results of the review. The assigned investigator will notify the originally complaining citizen and the accused member of the results of the petition review.

20. NOTICE OF CONTEMPLATED DISCIPLINARY ACTION.

A. In the event one or more of the allegations in the investigative file is sustained and disciplinary action is contemplated as a result of these findings, the Director or designee will provide notice of proposed disciplinary action as required by County policy and the employee's collective bargaining agreement.

21. ADMINISTRATIVE LEAVE.

A. Administrative Leave:

Employees may be placed on administrative leave, with pay, if the appointing authority believes they should be relieved of their duties or removed from the workplace pending a job-related investigation. Administrative leave, while not considered discipline, is commonly used during a discipline-related investigation prior to discipline being administered. No administrative leave shall extend beyond thirty (30) days unless approved by the Director of Human Resources.

B. When a member is on administrative leave, the member is considered to be on full pay status and shall obey the specific orders of the supervisory staff. Failure of a member to comply with any lawful order may result in the member being charged with violation of additional work rules.

C. Unless authorized otherwise by the relieved member's Director or designee, a member on administrative leave shall remain available for contact by the Community Corrections during normal working hours, except during the member's scheduled days off or other approved leave.

D. A member, who is on an unpaid leave at the time an administrative leave is enacted, shall remain on the unpaid leave until such time the member would otherwise return to work. If at that time, the member continues employment with Community Corrections and circumstances continue to dictate the member should be on administrative leave, the member's status shall be converted to administrative leave.

22. CONFIDENTIALITY OF INTERNAL AFFAIRS FILES.

A. Except as provided by this Section, all Internal Affairs complaint investigative files are confidential. Access to citizen complaint files are limited to the following persons:

1. The Sheriff and Director or designee.
2. The accused member's supervisor.
3. The assigned investigator.
4. The County Director of Human Resources or Labor and Employee Relations Manager.
5. An attorney representing the Sheriff's Office or the County.
6. The accused member.
7. The accused member's Federation representative.

B. All matters concerning the time, place and manner of reviewing or obtaining a copy of a member's Internal Affairs file shall be as provided by law, County Personnel rules, the member's collective bargaining agreement or as otherwise agreed upon by the member's collective bargaining agent and the Director or designee.

23. USE OF POLYGRAPH EXAMINATIONS PROHIBITED.

A. The use of polygraph examinations is expressly prohibited in all investigations involving complaints of member misconduct. No member shall be required to submit to a polygraph examination in any internal investigation.

B. The assigned investigator or his/her designated investigator shall not include or accept as evidence, or in any other way consider the results of, a polygraph examination offered by a complainant, accused member or witness in an internal investigation. The prohibition against the use of polygraph results shall apply even though the party offering the results voluntarily submitted to the polygraph examination.

24. The County acknowledges that changes to this policy may require notice and duty to bargain. The County will provide at least 14 calendar days' notice to the Federation of anticipated changes to this policy consistent with ORS 243.698.