

### **3.0 POLICIES RELATING TO ADMINISTRATION AND GENERAL GOVERNMENT**

#### **3.1 POLICIES GOVERNING ADVISORY BOARDS AND COMMISSIONS REGARDING LEGISLATIVE ACTIVITIES (Adopted 6-13-95; Amended 6-20-06; Amended 2-26-13; Amended 1-14-14)**

The Board adopted Resolution No. BOS-2013-26, suspending appointments to the Legislative Committee. This continues in effect until the Board directs otherwise. Legislative matters shall be referred to the other five Board Policy Committees for recommendations on support/oppose positions to the full Board, or to the full Board directly, depending on the subject matter of the legislation.

- (A) Commissions or Advisory Boards to the Board of Supervisors are authorized to recommend positions on public policy or legislative issues to the Board of Supervisors, and can advocate or take a position on local, state, national, or international public policy or legislative issues if the Board of Supervisors has authorized them to do so.
- (B) When any Commission or Advisory Board to the Board of Supervisors recommends positions on local, state, national, or international public policy or legislative issues, the Legislative Committee of the Board of Supervisors, at its regular meeting, will review the Commission or Advisory Board's proposed position and determine the appropriateness of the position.
- (C) All items for the Legislative Committee should be directed to the attention of the Deputy County Executive for Intergovernmental Relations, with a copy to members of the Legislative Committee, Board of Supervisors and the Legislative Director.
- (D) When the Legislative Committee considers a request or recommendation proposed by a Commission or Advisory Board for a position on local, state, national, or international public policy or legislative issues, the consideration and any recommendation shall be reported to the Board of Supervisors along with the regular Legislative Committee Report.
- (E) To the extent possible, Commissions or Advisory Boards to the Board of Supervisors should incorporate their legislative issues into the County's Legislative Policies and Priorities document to facilitate coordination with the legislative cycle.
- (F) If immediate action is needed, the Deputy County Executive for Intergovernmental Relations, or designee should be contacted. If the issue is within the priorities already established by the Board of Supervisors, the Deputy County Executive for Intergovernmental Relations, or designee, may seek direct approval from both

members of the Legislative Committee to support and serve notice on an official County position.

- (G) Commissions and Advisory Boards should advise the members of the Legislative Committee and the Deputy County Executive for Intergovernmental Relations of local, state, national, or international public policy or legislative issues that are under study, particularly if they are to be scheduled for referral to the Legislative Committee.

### **3.2 OFF-SITE MEETINGS OF ADVISORY BOARDS AND COMMISSIONS (Adopted 6-12-95)**

It is the policy of the Board of Supervisors that all Boards, Commissions, Authorities and Committees conduct their meetings at the County Government Center when the Board of Supervisors appoints a majority of its members.

This policy is established to facilitate tape recording requirements, alleviate travel by County support staff, and provide public accessibility at an established and public meeting site.

Pursuant to Government Code Section 54961, a legislative body may not conduct any meeting or function in any facility where racial or other discrimination is practiced, or which is inaccessible to disabled persons, or where members of the public must pay to attend the meeting. A facility is accessible if it fully satisfies the accessibility requirements of Government Code Section 4450 et seq. or Health and Safety Code Section 19955 et seq., as well as the Americans with Disabilities Act. If a meeting facility is inaccessible, the meeting must be moved to an accessible facility.

### **3.3 BUDGETS FOR COMMISSION BUSINESS (Amended 1-14-03; Amended 3-14-17)**

It is the policy of the Board of Supervisors that:

- (A) Budgets for Commission business be approved annually during budget hearings;
- (B) Miscellaneous Commission expenses for mileage, family care, and meals be reimbursed from the Clerk of the Board's budget;
- (C) Approval to expend additional funds for travel, fixed assets, and other necessary Commission business be approved in advance by the Board of Supervisors, with a funding source identified at the time the request is made; and
- (D) Incidental expenses of the Sister County Commissions, such as refreshments for visiting delegations, stationery, event and correspondence mailing - other than routine business needs such as minutes and agendas provided by the Clerk of the Board - are paid from the budget of the Office of the County Executive.

### **3.4 DISTRIBUTION OF AGENDA PACKET MATERIALS TO THE PUBLIC (Adopted 6-13-95; Amended 1-27-15)**

- (A) The Clerk of the Board of Supervisors shall prepare agenda packet materials (agenda packet) to be considered during regularly scheduled sessions of the Board of Supervisors meetings. The agenda packet shall be made electronically accessible by the public. The most current agenda packet shall be electronically accessible by posting it to the County website, by no later than noon Thursday preceding the regularly scheduled meeting of the Board of Supervisors.
- (B) The Clerk of the Board shall prepare up to fifteen packets for distribution to the Supervisors of the Board, Principal Aides to the Supervisors, the County Executive Office, and County Counsel if requested.

### **3.5 RESERVED (Section Deleted 11-1-16)**

### **3.6 OUTSIDE EMPLOYMENT POLICY (Adopted 10-28-86)**

#### SANTA CLARA COUNTY OUTSIDE EMPLOYMENT POLICY

- (A) California Government Code, Article 4.7, Sections 1125, 1126 and 1127, prohibits local agency officers and employees from engaging in activities which are incompatible, inconsistent or in conflict with their agency employment. These sections also require prior approval by the appointing authority of compatible outside employment.
- (B) County employees have the same right as other citizens to paid outside employment if they wish or if they feel the economic need. However, such employment must conform to Government Code limitations and must not interfere with the efficient performance of the employee's County duties or reflect discredit, cause scandal or cause unfavorable criticism of the employee's department or the County.
- (C) Any employee contemplating outside employment which may be incompatible with her/his position with the County shall first secure the formal approval of the appointing authority. Failure to secure this prior approval is cause for disciplinary action which may include suspension, demotion or dismissal as prescribed in Section A25-303 of the Santa Clara County Ordinance Code.
- (D) Each department shall provide employees with clearly defined conditions that would be incompatible with a particular department. Each department will have an Outside Employment form that must be completed by all employees upon initial employment with the department and at any time when the employee contemplates outside employment while working for the County. This form must then be submitted to the department head/supervisor for approval. A copy of the form will be returned to the employee indicating approval or disapproval of the request.

- (E) If disapproved, the employee will be notified in writing of the reason for the disapproval and may appeal such a decision to the appointing authority. If, after approval, outside employment is subsequently found to be incompatible with the employee's duties, or to require such time demands as to make the employee's County performance less efficient, such approval may be rescinded upon notification to the employee. New employees who have other employment found to be incompatible with their County employment will be informed when they begin employment with the County and will be given reasonable time to cease the incompatible employment.
- (F) Outside employment will be approved or disapproved based upon the following section of the Government Code:

An employee's outside activity or enterprise may be prohibited if it:

- (1) Involves the use for private gain or advantage his/her local agency time, facilities, equipment and supplies, or the badge, uniform, prestige or influence of his local agency office or employment or;
- (2) Involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than his/her local agency for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his/her local agency employment or as a part of his/her duties as a local agency officer or employee or;
- (3) Involves the performance of an act in other than his/her capacity as a local agency officer or employee which act may later be subject directly or indirectly to the control, inspection, review, audit or enforcement of any other officer or employee of the agency by which he/she is employed or;
- (4) Involves such time demands as would render performance of his/her duties as a local agency officer or employee less efficient.

### **3.7 POLICY ON WORKFORCE DIVERSITY (Adopted 1-12-93; Amended 3-14-17)**

Santa Clara County's workforce has, for some time, reflected the "quilt" that is our community. We recognize that diversity includes but is not limited to racial and ethnic diversity and that valuing diversity is important in the way we do business and how we interact with each other. Valuing diversity must be embedded into our organizational culture.

We believe that a diverse workforce provides advantages both internally, in terms of the human resources potential offered by a variety of diverse perspectives, and externally, in increasing the County's ability to respond to an equally diverse community. In order to treat people fairly and provide equal opportunity, it is not enough to treat all people the

same. The organization must respect all people and seek to accommodate and learn from the different perspectives and values they contribute.

The County will:

- (A) Consistent with Government Code Section 11139.6:
  - (1) Engage in general recruitment and outreach programs to all individuals, including persons who are economically disadvantaged.
  - (2) Engage in inclusive public sector outreach and recruitment programs that, as a component of general recruitment, may include, but not be limited to, focused outreach and recruitment of minority groups (defined by race, ethnicity, and/or sexual orientation) and women if any such group is underrepresented in entry level positions at the County or determined to be significantly underutilized at any level of position at the County. Such focused outreach and recruitment may include, but is not limited to, placement of job announcements through:
    - (a) General circulation newspapers, general circulation publications, and general market radio and television stations, including electronic media.
    - (b) Local and regional community newspapers.
    - (c) Newspapers, publications, and radio and television stations that provide information in languages other than English and whose primary audience is residents of minority and low-income communities.
    - (d) Publications, including electronic media, that are distributed to the general market and to newspapers, publications, and radio and television stations whose primary audience is comprised of minority groups or women.
    - (e) Recruitment booths at job fairs or conferences oriented to both the general market and the economically disadvantaged as well as those events drawing a significant participation by minorities or women.
- (B) Build on the foundation of equal opportunity and embrace this concept as necessary to ensure fair representation and treatment of our diverse groups. An organization cannot value diversity if this basic concept is not an integral practice of the organization.
- (C) Ensure opportunities for upward mobility of our diverse workforce at all levels of the organization in order to move individuals beyond middle-management and break any perceived barrier or “glass ceiling.”

- (D) Create an organizational culture that fosters individual understanding of and accountability for learning about and appreciating employee differences.
- (E) Make valuing diversity a core organizational value, one which is practiced and communicated at all levels of the organization.
- (F) Conduct employee training to help create an openness to the experience of others.
- (G) Hold all managers accountable for demonstrating leadership in valuing diversity.

Valuing diversity can have a synergetic effect. With this policy guiding our actions, the workforce of Santa Clara County will be greater than the sum of its parts.

### **3.8 POLICY AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION (Adopted 8-5-03)**

The Board of Supervisors for the County of Santa Clara is committed to providing equal opportunity in employment and equal access to programs, services, and contracting opportunities.

Therefore, it is the policy of the Board of Supervisors that:

- no person shall be subject to discrimination or harassment with regard to any aspect of recruitment or employment with the County; and,
- no person shall be denied, or provided unequal access to, programs, services or contracting opportunities

on the basis of race, religious belief, color, national origin, culture, ancestry, age, gender, sexual orientation, gender identity, pregnancy, marital status, disability, medical condition, political belief, organizational affiliation or association with any individual in any of these groups.

A person who speaks up about discrimination or harassment, or files a complaint or participates in the complaint process, is participating in a “protected activity.” Retaliation against any person who participates in a protected activity is prohibited.

The County does not tolerate discrimination, harassment, or retaliation in any form; therefore, any violation of this policy will generate prompt and appropriate action. Those who commit acts of discrimination, harassment, or retaliation will be subject to discipline up to and including dismissal.

The Board recognizes that continuing efforts must be taken to prevent discriminatory practices and that merely prohibiting discriminatory practices will not ensure equal opportunity. Therefore, the Board assigns responsibilities pursuant to this Policy to all County employees.

The County Executive will ensure that this Policy is made known to all County employees and that procedures necessary to ensure compliance are implemented.

Agency/department heads, managers, supervisors, and leads are responsible for preventing discrimination, harassment, and retaliation. In addition, agency/department directors, managers, supervisors, and leads are responsible for upholding this Policy by:

- Avoiding participation in any form of discrimination, harassment, or retaliation. Monitoring to ensure the elimination of non-job-related barriers to employment and promotions in accordance with Department of Justice, Office of Civil Rights, regulations and guidelines governing Equal Employment Opportunity.
- Providing employees information on procedures for submitting complaints of alleged violations of this policy.
- Reviewing practices to remove barriers to equitable access to programs, services and contracting opportunities.
- Ensuring that the workforce is trained to recognize discrimination, harassment, and retaliation.
- Addressing and correcting issues of discrimination, harassment, or retaliation in a timely manner.
- Attaining objectives in the County's Equal Employment Opportunity Plan.

The Equal Opportunity Division is responsible for accepting, investigating, and processing complaints involving potential violations of this policy. Persons who believe they have been subject to discrimination, harassment, or retaliation should contact the Equal Opportunity Division. Employees and applicants for employment may also contact a manager, supervisor, the agency or departmental Equal Opportunity Officer or advisor, a union representative, an outside enforcement agency, or a private attorney.

### **3.9 POLICY ON SEXUAL HARASSMENT (Adopted 8-20-91)**

#### BOARD OF SUPERVISORS' POLICY ON SEXUAL HARASSMENT

Santa Clara County values each employee and strives to provide a nurturing environment where there is respect and mutual support. To foster an environment of respect and mutual support, no form of discrimination, sexual harassment or harassment because of sex, age, race, color, national origin, creed, disability, political beliefs, organizational affiliation, or sexual orientation can be tolerated. To ensure this, the Santa Clara County Board of Supervisors adopted a Policy on Equal Employment Opportunity which declares that no person shall be discriminated against with regard to recruitment, selection, appointment, training, promotion, retention, discipline or other aspects of employment.

The Board also adopted a policy on Sexual Harassment which declares that sexual harassment constitutes sex discrimination which is prohibited.

The Board further reaffirms that the County will maintain a discrimination-free work environment. Part of maintaining a discrimination-free work environment includes freedom from any form of sexual harassment. Therefore, it is important for all employees to know that no form of sexual harassment will be tolerated and those who commit acts of sexual

harassment will be subject to discipline up to and including dismissal. The following describes the type of conduct which constitutes sexual harassment and is prohibited:

Unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature constitute sexual harassment when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment;
- (2) Submission to or rejection of such conduct by an individual is used or threatened to be used as the basis for employment decisions affecting such individual, or;
- (3) Such conduct has the purpose or effect of interfering with any individual's work performance or creating an intimidating, hostile, or offensive working environment.

This policy applies to actions of County employees and non-employees who conduct business with County employees.

The Board further adds that retaliation against a person who complains of sexual harassment is prohibited.

County Department Heads are accountable for prevention and correction of sexual harassment occurrences in their areas of responsibility. Managers and supervisors at all levels are responsible for taking all steps necessary to prevent sexual harassment from occurring within their organizations. These steps should encompass:

- Discussion of the subject by providing training to County employees regarding each one's responsibility in preventing sexual harassment.
- Expression of strong disapproval of sexual harassment by informing County employees of possible penalties for violations of the policy.
- Provide to employees procedures for submission of complaints of sexual harassment. These procedures will include Countywide and Departmental procedures, alternative avenues for complaints should the complainant be unsatisfied with the Departmental response, and a listing of appropriate disciplinary actions which may include termination when acts of sexual harassment occur.

Any violation of this policy will receive prompt and appropriate action. Any employee or prospective employee who experiences sexual harassment should immediately contact her/his supervisor, her/his departmental Affirmative Action Advisor, the Equal Opportunity Division, the Coordinator of Women's Programs, or a union representative.

The County Executive will ensure that the Board's policy prohibiting sexual harassment is made known to all County employees and that procedures necessary to assure compliance are implemented.

### **3.10 POLICY ON FARM WORKER EXPOSURE TO PESTICIDES (Adopted 8-10-93; Revised 11-4-03)**

It is the policy of the Board of Supervisors of the County of Santa Clara to support legislation to limit the use of pesticides that are harmful to farm workers and consumers. It is also the policy of the Board to support efforts in the County and throughout the state to help educate and train farm workers on the use of pesticides.

This policy is adopted in honor of Cesar Chavez -- a great union leader who was internationally recognized for his commitment to improving the lives of migrant farm workers. Cesar Chavez called attention to the economic and social plight of people who toil daily in our agricultural fields. During his life, he worked to educate farm workers and consumers about the dangers of food contaminated with pesticides and to protect farm workers from unsafe and substandard working conditions.

### **3.11 OUTREACH TO DIVERSE BUSINESS ENTERPRISES (Adopted 12-11-94; Revised 11-15-16)**

It is the policy of the Santa Clara County Board of Supervisors that no person on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity conducted by the County.

In this regard, it is the Board's policy pertaining to the utilization of minority-owned business enterprises (MBEs), women-owned business enterprises (WBEs), disabled veteran-owned business enterprises (DVBES), and LGBT-owned business enterprises (LBGTBEs), that focused outreach activities be taken as necessary and as permitted by law to ensure that these enterprises are provided the opportunity to compete for and participate in all contracts issued by the County for construction, services, and the purchase of supplies and equipment.

For the purposes of this policy, the following definitions shall apply:

- "Minority-owned business enterprise" or "MBE" shall mean a business that is (1) a sole proprietorship legitimately owned and controlled by an individual who is a minority person, as defined below; (2) a partnership or joint venture controlled by minority persons and in which at least 51 percent of the beneficial ownership interests are legitimately held by minority persons; or (3) a corporation or other entity controlled by minority persons and in which at least 51 percent of the beneficial ownership interests are legitimately held by minority persons.

- “Minority person” means an individual who is black, Hispanic, Asian American, Pacific Islander, or American Indian. Also, a “minority person” may include members of other groups found to be socially and economically disadvantaged by the Small Business Administration under Section 8(a) of the Small Business Act, as amended (15 U.S.C. 637 (a)).
- “Women-owned business enterprise” or “WBE” shall mean a business that is (1) a sole proprietorship legitimately owned and controlled by a woman; (2) a partnership or joint venture controlled by women and in which at least 51 percent of the beneficial ownership interests are legitimately held by women; or (3) a corporation or other entity controlled by women and in which at least 51 percent of the beneficial ownership interests are legitimately held by women.
- “Disabled veteran business enterprise” or “DVBE” shall have the same meaning as defined in Section 999 of the Military and Veterans Code.
- “LGBT business enterprise” or “LGBTBE” shall mean a business enterprise that is at least 51 percent owned by a lesbian, gay, bisexual, or transgender person or persons; or, in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more lesbian, gay, bisexual, or transgender persons; and whose management and daily business operations are controlled by one or more of those individuals.

Focused outreach shall be taken to highlight opportunities for MBEs, WBEs, DVBEs, and LGBTBEs to participate equitably in County contracting activities. These are minimum actions. In instances where more stringent requirements are established by federal or state agencies as a condition for County participation in a program, the more stringent requirements shall apply. As authorized by Government Code Section 11139.7, Administration shall engage in focused outreach activities in addition to general outreach, for purposes of increasing participation by the small business sector and increasing diversity in the County’s contracting and procurement activities. Outreach activities may include the following:

- (1) Solicitations distributed to state and local small business and trade associations and chambers of commerce, including ethnic chambers of commerce, and other business and professional associations, including professional minority, women, disabled veteran, and LGBT-owned business and professional groups and associations, as appropriate.
- (2) Advertising concerning local contracting and procurement opportunities in trade papers and other publications focusing on small business enterprises, including publications in languages other than English and those whose primary readership is minority, women, disabled veteran, or LGBT-owned businesses.
- (3) Outreach to state and local small business and trade associations and chambers of commerce, including ethnic chambers of commerce, and other business and professional associations, including professional minority, women,

disabled veteran, and LGBT- owned business and professional groups and associations, as appropriate.

Administration may collaborate with other governmental entities to streamline or effectively promote provisions of this policy.

### **3.12 POLICY ON PURCHASE OF RECYCLED PRODUCTS (Adopted 3-16-93; Deleted 10-8-13)**

### **3.13 PROCUREMENT POLICY ON “DEGRADABLE” PLASTIC PRODUCTS (Adopted 4-24-90; Deleted 10-8-13)**

### **3.14 POLICY ON WASTE REDUCTION AND RECYCLING IN COUNTY FACILITIES (Adopted 5-9-95; Deleted 10-8-13)**

### **3.15 SUBPOENAS OF INFORMATION ON PUBLIC ASSISTANCE RECIPIENTS (Adopted 5-1-79)**

From time-to-time the Board of Supervisors is called upon to consider the execution of a subpoena to obtain information and personal records on individuals who are receiving or have applied to receive public assistance.

On May 1, 1979, the Board of Supervisors approved a policy that enables the Chairperson of the Board to execute subpoena documents on behalf of the full Board, thereby precluding the need for the names of those who are listed on the subpoenas appearing in the agenda packages that are considered by the Board and publicly released.

This policy reflects the Board's desire to ensure a proper review of applications for public assistance without unduly violating the privacy of those who are affected by a subpoena for information.

### **3.16 LATE ADDITIONS AND INSERTIONS - BOARD AGENDA PACKETS (Adopted 9-29-98)**

The Board discourages the adding of supplemental documents and information after the agenda is posted and packets of information are distributed. Providing documentation which is late and sometimes voluminous, impacts the Board decision-making process by not allowing adequate time for review and study by a Board member and may impact the public by not having complete materials available for public review. As a result, the Board may vote to hold the item to a future date for consideration.

However, in recognition that there are occasions and circumstances in which additional materials necessary for the decision-making process are received or prepared late, the County Executive is directed to develop and maintain a process for submitting late or sup-

plemental materials from County Departments. The County Executive will also establish a process for monitoring submittals of late materials.

The Board directs the Clerk of the Board to establish a process for accepting supplemental information from sources other than County Departments.

### **3.17 CONTROLLED SUBSTANCE AND ALCOHOL TESTING POLICY (Adopted 8-29-95)**

Santa Clara County has a long-standing commitment to maintain the highest standards for employee safety and health. The use of controlled substances and/or the misuse of alcohol is contrary to these high standards. The safety of the public, as well as the safety of fellow County employees, requires that no individual be permitted to perform duties while under the influence of drugs or alcohol.

It is the County's policy that each employee who performs safety-sensitive duties shall do the following:

- Participate in mandatory training about the effects and consequences of prohibited drug and alcohol use on personal health, safety, and the work environment; and
- Participate in the controlled substances and alcohol testing program; and
- Report to work without the presence of any controlled substance, or alcohol above a 0.02 blood alcohol concentration, in her or his body.

### **3.18 WORKPLACE VIOLENCE PREVENTION POLICY (Adopted 9-26-95)**

#### **3.18.1 Introduction**

Santa Clara County is committed to serving a wide range of citizens, some of whom can be under severe stress and have nowhere else to turn. Providing services to these and other persons can place County employees in a position of vulnerability to violence or threatening behavior. The County values its employees and clients and, with this Policy, the Board of Supervisors affirms its commitment to providing workplaces and facilities that are free from violence. This will be accomplished through:

#### **3.18.2 Types of Perpetrators**

(A) Strangers

To help protect employees from violent strangers in the community, the County will provide crime prevention information to employees and will address security issues involving worksites and facilities.

(B) Clients

Since employees in many departments deal with clients who are distressed and who may make threats or commit acts of violence, the County will provide support and guidance so that threats of violence can be recognized and prudently addressed, and so that acts of violence can be prevented if possible.

(C) Family Members or Acquaintances

If the workplace is affected by a violent act or threat of violence by an employee's family member or acquaintance, the County will provide support and guidance for the victim and his or her co-workers.

(D) Employees

The County of Santa Clara will not tolerate violent acts or threats of violence (either verbal or implied) by employees. In such cases, the County endorses immediate and definitive use of the disciplinary process up to and including discharge from County employment, consistent with ensuring the safety of co-workers. Criminal prosecution will be pursued as appropriate. The County also advocates a preventive approach whereby merit system rules and regulations are fairly and consistently administered, and where troubled employees receive guidance and, if necessary, professional help.

### **3.18.3 Roles and Responsibilities**

(A) County Executive

The County Executive shall ensure that this Policy is fully implemented and adapted to unique needs at the agency/department level, and that the County organization maintains an effective support structure for responding to acts and threats of workplace violence.

The Executive's Office of Occupational Safety and Environmental Compliance will include this Policy as part of the County's written Occupational Injury and Illness Prevention Program.

(B) Employee Services Agency

The Employee Services Agency has overall responsibility for maintaining this Policy and for identifying resources that agencies and departments can use in developing their training plans and violence prevention measures. The Employee Services Agency will also administer workplace violence prevention measures involving Labor Relations (including compulsory medical or "fitness for duty" examinations) and the Employee Assistance Program, and will coordinate post-incident activities involving employee services and claims management.

(C) Agency and Department Heads

Agency and Department Heads are responsible for ensuring that this Policy is implemented in their respective organizations and that the unique needs of their organizations are addressed through procedures and training. Each agency and/or department must develop a plan for preventing and responding to acts of workplace violence. These plans need not be lengthy, but they shall contain as a minimum a Facility Emergency Plan attachment that includes facility-specific procedures (such as alarm buttons and escape routes), notification lists, and a timeline for training designated employees.

(D) Managers and Supervisors

It is the responsibility of managers and supervisors to make safety their highest concern. When made aware of real or perceived threat of violence, management shall conduct a thorough investigation, provide support for employees, and take specific actions to help prevent acts of violence. Managers and supervisors shall also provide information and training for employees as needed.

(E) Employees

Employees should learn to recognize and respond to behaviors by potential perpetrators that may indicate a risk of violence. Employees shall also place safety as the highest concern, and shall report all acts of violence and threats of violence.

### **3.18.4 Physical Security**

Since the County is a public organization that wishes to remain accessible to its clients to the fullest extent possible, it is not the County's intent to implement a widespread "fortification" of its facilities. The County prefers to train its employees to be the primary means of reducing workplace violence. However, certain facilities, due to the nature of the service provided, may need barriers, cameras, metal detectors, better locks, and the like. Where such structures are necessary, they should be constructed in the least obtrusive way feasible.

### **3.18.5 Training and Information**

Although acts of workplace violence cannot be precisely predicted, a knowledge of how to respond to perpetrators can help County employees minimize the risk of violence or injury. The County will provide designated employees with training that will help them take appropriate precautions and respond wisely when confronted with a potentially violent individual. Departments will structure this training to meet the unique needs of each operation.

Since the vast majority of violent acts perpetrated by employees and employee family members are preceded by a number of behaviors that signal an escalating situation, the County will provide employees with written materials that will help them recognize the warning signs of violence, and will recommend professional consultation or initiation intervention measures before a violent act occurs.

### **3.19 POLICY STATEMENT ON EXPENSE REIMBURSEMENT AND USE OF PUBLIC RESOURCES (Adopted 3-21-95; Amended 12-18-12; Amended 4-17-18; Amended 8-13-19)**

#### **3.19.1 Introduction**

The County of Santa Clara (“County”) takes its stewardship over the use of its limited public funds very seriously. As such, those funds should only be used when there is a substantial benefit to the County. Such benefits may include:

1. The opportunity to discuss the community’s concerns with state and federal officials;
2. Participating in regional, state and national organizations whose activities affect the County;
3. Attending educational seminars designed to improve officials’ skill and information levels; and
4. Promoting public service and morale by recognizing such service.

The County further recognizes that:

1. Legislative and other regional, state and federal agency business is frequently conducted over meals;
2. Sharing a meal with regional, state, and federal officials is frequently the best opportunity for a more extensive, focused, and uninterrupted communication about the County’s policy concerns; and
3. Each meal expenditure must comply with the limits and reporting requirements of local, state, and federal law.

This Statement provides guidance to all individuals subject to the County’s expense reimbursement policies on the use and expenditure of County funds, as well as the standards against which those uses and expenditures will be measured. Officers and employees should direct any questions they have about this Policy, applicable statutes, ordinances, or related policies to the Office of the County Counsel.

#### **3.19.2 Authorized Expenses In General**

County funds may only be used for authorized County business - i.e., activities that relate to the County’s primary mission of providing quality public service. Any expenses incurred for authorized County business must be reasonable and prudent. County funds may not be used for personal or non-County business purposes.

- (A) Authorized Expenses

Authorized expenses may include, but are not limited to, expenses incurred in connection with the following types of activities (subject to certain limitations described below):

1. Communicating with representatives of regional, state, and national government on County adopted policy positions;
2. Attending educational seminars designed to improve officials' skill and information levels;
3. Participating in regional, state, and national organizations whose activities affect the County's interests;
4. Recognizing service to the County; and
5. Attending County events.

(B) Non-Reimbursable Expenses

Examples of personal expenses that the County will not reimburse include, but are not limited to:

1. Personal portion of any trip;
2. Political or charitable contributions or events;
3. Family expenses, including partner's expenses when accompanying official on agency-related business, as well as children- or pet-related expenses;
4. Entertainment expenses, including theater, movies (either in-room or at the theater), sporting events (including gym, massage, and/or golf related expenses);
5. Non-mileage personal automobile expenses, including repairs, traffic citations, parking tickets, insurance, or gasoline; and
6. Personal losses incurred while on County business.

Any questions regarding the propriety of a particular type of expense should be resolved by the appropriate approving authority before the expense is incurred. Reimbursement of County funds that were improperly expended is not a defense and does not excuse the improper expenditure.

### 3.19.3 Travel Policy

*(Note: The Travel Policy can be found on the County's Internet Site under County Government/Board of Supervisors/Legislation/Expense & Reimbursement Policies. The link and path to the policy is:*

<http://www.sccgov.org/sites/bos/Legislation/Pages/ExpenseReimbursementPolicies.aspx>

The Board of Supervisors must approve the County Travel Policy and any amendments to the Policy.

County funds may only be used for travel that benefits the County (“County Travel”).

Travel is authorized for the minimum number of persons necessary to carry out the business purpose of the travel, and only for those whose job tasks are directly related to the purpose of the travel.

### **3.19.4 Meal Policy (Non-Travel)**

*(Note: The Meal Policy (Non-Travel) can be found on the County’s Internet Site under County Government/Board of Supervisors/Legislation/Expense & Reimbursement Policies. The link and path to the policy is:*

<http://www.sccgov.org/sites/bos/Legislation/Pages/ExpenseReimbursementPolicies.aspx>)

The Board of Supervisors must approve the County Meal Policy (Non-Travel) and any amendments to the Policy.

The Meal Policy (Non-Travel) covers light refreshments and business meals that are not documented on a Trip Expense Voucher pursuant to the Travel Policy. Each expenditure must comply with the limits and reporting requirements of local, state, and federal law.

### **3.19.5 Procurement Card (P-Card) Policy**

*(Note: The Procurement Card Policy can be found on the County’s Internet Site under County Government/Board of Supervisors/Legislation/Expense & Reimbursement Policies. The link and path to the policy is:*

<http://www.sccgov.org/sites/bos/Legislation/Pages/ExpenseReimbursementPolicies.aspx>)

The Board of Supervisors must approve the County Procurement Card Policy and any amendments to the Policy.

The County Procurement Card (P-Card) is a charge card that may be used by designated County officials and employees to purchase supplies, materials, equipment, and services for County business.

Use of the P-Card constitutes the expenditure of public funds and may only be used for authorized County business. The purchases may not exceed \$5,000 per transaction. All agency personnel who perform critical P-Card administrative functions (Agency Program Coordinators, Approving Officials, Cardholders and Billing Officials) must attend mandatory trainings. Each Cardholder must execute the Cardholder Acknowledgment Disclosure form before receiving the card.

### **3.19.6 Family Care Expense Reimbursement Policy for Members of County Brown Act Bodies**

*(Note: The Family Care Expense Reimbursement Policy for Members of County Brown Act Bodies can be found on the County's Internet Site under County Government/Board of Supervisors/Legislation/Expense & Reimbursement Policies. The link and path to the policy is:*

<http://www.sccgov.org/sites/bos/Legislation/Pages/ExpenseReimbursementPolicies.aspx>)

The Board of Supervisors must approve the Family Care Expense Reimbursement Policy for Members of County Brown Act Bodies and any amendments to the Policy.

Only members of County Brown Act bodies who serve without compensation, are not County elected officials, and are not otherwise employed by the County, are eligible to receive reimbursement under the Family Care Expense Reimbursement Policy.

### **3.19.7 Compliance with Laws**

County officials and employees should keep in mind that some expenditures may be subject to reporting under the Political Reform Act and other laws. All agency expenditures are public records subject to disclosure under the Public Records Act.

### **3.19.8 Violation of the Policies Highlighted In This Statement**

Under state law, use of public resources or falsifying expense reports in violation of an expense reimbursement policy may result in any or all of the following:

1. Loss of reimbursement privileges;
2. Disciplinary action, up to and including termination;
3. Demand for restitution to the County;
4. Demand for three times the value of the resources used;
5. The County reporting the expenses as income to the official or employee to state and federal tax authorities;
6. Civil penalties of up to \$10,000 per day; and
7. Criminal prosecution for misuse of public resources.

### **3.19.9 Local Government Officials' Ethics Training Requirement (AB 1234)**

Under state law, training in general ethics principles and ethics laws relevant to public service is required for any member of a local agency legislative body or an elected local

agency official where the local agency provides compensation, salary, stipend, or expense reimbursement to members of a legislative body. The Board of Supervisors may also designate additional employees to receive this ethics training.

Effective December 18, 2012, in addition to those required by state law to receive the AB 1234 ethics training for local government officials, all individuals holding a position in the County's Executive Leadership Salary Ordinance shall receive at least two hours of this training within one year from the date they become an executive leader and every two years thereafter. Each Executive Leader as of December 18, 2012, who is not already required to receive this training, shall receive their first training within one year from December 18, 2012.

Effective August 13, 2019, all individuals holding the position title Board Aide in the County's Salary Ordinance shall receive at least two hours of this training within one year from the date they become a Board Aide and every two years thereafter. Each Board Aide as of August 13, 2019, who is not already required to receive this training, shall receive their first training prior to December 31, 2019.

An individual who has a certificate of completion from an AB 1234 training may submit the certificate to determine the individual's next training due date. The training must specifically meet the content requirements for AB 1234 ethics training. The Clerk of the Board maintains the records of AB 1234 ethics training completion by County elected officials, members of County legislative bodies, County executive leaders, and Board Aides.

### **3.20 OPEN DOOR ADMISSION POLICY AT VALLEY MEDICAL CENTER (Adopted 8-15-95)**

#### **POLICY ON THE OPEN DOOR ADMISSION POLICY AT VALLEY MEDICAL CENTER**

Any obligations which the County may have to care for residents of the County of Santa Clara who are in need of medical care, regardless of their ability to pay, under Welfare and Institutions Code 17000 will be carried out by maintaining the present open-door admission policy at Valley Medical Center and other suitable appropriate, and existing County medical facilities.

### **3.21 SANTA CLARA COUNTY PROTOCOL FOR FAMILY NOTIFICATION (Adopted 2-11-97)**

#### **3.21.1 Patient Identification**

The hospital will identify incoming patients to the Emergency Department.

- Every effort shall be made to identify an unaccompanied, unconscious, or incompetent unidentified patient as soon as possible in order to notify family members.

- The process of patient identification shall be clearly documented in the medical record.
- Whenever necessary, the hospital shall contact the Law Enforcement agency having jurisdiction over the area where the patient was found, to assist in the identification process.
- As necessary, the hospital shall notify the public relations department to utilize the media in assisting in patient identification.

### **3.21.2 Law Enforcement Investigations**

When there is a patient involved in a police investigation, the hospital will document the officer's name, badge number and the case number (if available) in the medical record.

### **3.21.3 Family Notification**

The hospital shall notify the patient's family as soon as possible.

- At no time is treatment withheld in the case of a life threatening emergency due to lack of parental consent, or notification to the next of kin.
- The process of family notification shall be clearly documented in the medical record.
- When the patient is in the custody of Law Enforcement, the family will be notified after permission has been obtained from Law Enforcement.
- These guidelines recognize the right of Law Enforcement to request that the hospital delay notification to the next of kin for investigative purposes, or because of a substantial risk to the patient and/or hospital personnel. Under these circumstances, the requesting Law Enforcement officer shall notify the hospital when the next of kin can be notified.

### **3.21.4 Coroner Notification**

The hospital shall notify the coroner of any patient "dead on arrival" (DOA) or "dead after admission" (DAA) to the Emergency Department.

- The date and time the coroner was notified, the name of the person notifying the coroner, and the name of the individual taking the information at the coroner's office shall be documented on the post mortem record.
- When Law Enforcement request that the hospital delay notification to the coroner until a Law Enforcement field investigator has viewed the body and retrieved evidence, the requesting Law Enforcement officer shall take full responsibility for notifying the coroner.
- The hospital will document the officer's request, the officer's name and badge number, and the date and time of the request on the post mortem record.

- The responsible officer shall notify the hospital when the coroner has been notified, and the date and time of coroner notification shall be documented on the post mortem record.

#### DOA/DAA Cases

In compliance with Government Code Sections 27491 and 27491.1 and Health and Safety Code Section 10250, the coroner must be notified of all deaths in the Emergency Department.

A person who does not notify the coroner as required in these sections is guilty of a misdemeanor.

### **3.21.5 Law Enforcement Notification**

When the patient is part of an ongoing police investigation, the hospital shall notify the responsible Law Enforcement agency of the patient's death within one hour of their demise.

- The Law Enforcement agency notified shall be the agency that responded to and recorded the patient's incident.

### **3.21.6 Patient or Employee Questioning by Law Enforcement Agencies**

A Law Enforcement officer meeting to question a patient or employee shall notify the hospital prior to making contact with the patient or employee.

- Law Enforcement notification shall be made to hospital in order that they may facilitate the questioning process.

## **3.22 EMPLOYMENT SUPPORT POLICY ON ENTRY-LEVEL WORK OPPORTUNITIES (Adopted 12-16-97; Amended 3-8-22)**

It is the policy of the County of Santa Clara Board of Supervisors that, where appropriate, entry-level job classifications in all County departments be made available to support active participants of County programs with a vocational or employment service component ("County Programs"), in accordance with County Charter sections 701(a)(15) and 704(h) and applicable County Merit System Rules.

County Programs include those that are funded, administered, and/or coordinated by the County (e.g., CalWORKs, CalFresh Employment and Training, and Rapid Rehousing). The County Executive will determine whether specific programs are applicable to this policy.

This Employment Support Policy ("Policy") is part of the County's approach to helping economically disadvantaged individuals obtain gainful employment. As the third largest

employer in Silicon Valley, the County is responding to this challenge in the hopes that other employers in the public and private sectors will follow our example. Patterned after the highly successful “Unclassified Clerk Typist Program” that operated in the County’s Social Services Agency, this Policy will support efforts that create win-win situations for County Programs participants and the County departments that hire them.

- Pursuant to County Charter Sections 701(a)(15) and 704(h) and Footnote 126 of the Master Salary Ordinance, County departments may consider active participants from County Programs to fill available entry-level positions through unclassified appointment.
- County Programs may notify program participants of available County job opportunities and assist program participants with completing the County job application.
- Employee Services Agency (ESA)-Human Resources will screen the applications of candidates from County Programs to ensure candidates meet employment standards (i.e., minimum qualifications) of the entry-level classifications to which they have applied.
- County Programs should coordinate with ESA-Human Resources to refer qualified candidates from County Programs to hiring managers in County departments who have indicated an interest in considering these candidates.

Entry-level classifications are identified in Footnote 126 of the Master Salary Ordinance, which may be updated periodically. The designation as an entry-level classification is based on employment standards that:

1. Do not require post-secondary degree completion (i.e., up to the completion of some college credits); and
2. Require minimal to no experience (i.e., up to one year of relevant work experience).

Classifications that permit candidates to meet employment standards through certification may also be considered entry-level classifications if 1 and 2 above are also true.

### **3.23 DRINKING DRIVER PROGRAM SERVICES (Adopted 12-9-97)**

The purpose of this policy is to make clear the role that the County Department of Alcohol and Drug Services can and will play in the provision of Drinking Driver Program (DDP) services in Santa Clara County.

- (1) Under Title 9 of the State regulations, the duties and responsibilities of the County Department of Alcohol & Drug Services fall into the following categories: (1) to review and recommend applications for licensure; (2) to monitor the drinking driver programs operating in Santa Clara County to assure compliance with Title 9 regulations and report problems to the State Department of Alcohol and Drug Pro-

- grams; and (3) to act as a liaison with the Courts, the County Probation Department, Drinking Driver Programs, and interested parties at the County level.
- (2) The regulation of state-licensed drinking driver program providers is a matter within the exclusive jurisdiction of the State Department of Alcohol and Drug Programs.
  - (3) All State-licensed drinking driver program providers are eligible to receive Court referrals to provide Drinking Driver Program services in Santa Clara County according to the terms of their licensure. The County Department of Alcohol and Drug Services will provide the Courts with a list of the names, addresses, and telephone numbers of these providers for that purpose.
  - (4) In the event that the County Department of Alcohol and Drug Services determines that there is a need for additional State-licensed drinking driver program providers, after careful review and input from the Courts and State-licensed Drinking Driver Program providers in Santa Clara County, the County may issue Requests for Proposals to all persons or organizations interested in providing drinking driver program services, in accordance with the applicable provisions of Title 9 of the state regulations.
  - (5) The County Department of Alcohol and Drug Services has no legal right or authority to prevent or limit State-licensed Drinking Driver Program providers from making full use of their licenses to provide Drinking Driver Program services in Santa Clara County.
  - (6) The County Department of Alcohol and Drug Services will meet periodically with the State-licensed Drinking Driver Program providers; will provide the providers with administrative, coordinating and monitoring services; and will make recommendations, as necessary, to the County Board of Supervisors and to the State Department of Alcohol and Drug Programs.

### **3.24 COUNTY FAIRGROUNDS POLICY (Adopted 5-12-98)**

#### **3.24.1 Good Neighbor Policy**

It is the policy of the Board of Supervisors that the Santa Clara County Fairgrounds maintain a “Good Neighbor” relationship\* with the surrounding community; that the Fairgrounds be used for children and family-oriented uses; that the County Fair continue to be situated at the Fairgrounds; that the Fairgrounds become economically self-sufficient; and that the County of Santa Clara seek public/private partnerships to generate revenue to support capital improvements.

\*Note: The term, “Good Neighbor” relationship, for the purpose of this policy statement refers to the County having a relationship with the surrounding community in which the County is respectful and responsive to community concerns that arise from activities at the Fairgrounds.

### **3.24.2 Entertainment Events at the County Fairgrounds (Adopted 2-6-01)**

It is the policy of the Board of Supervisors that the following guidelines shall apply to entertainment events conducted at the Santa Clara County Fairgrounds. These policy guidelines are in addition to the existing policies that are embodied in the Santa Clara County - Fair Management Corporation (FMC) Management Agreement, and those policies adopted on May 12, 1998 with respect to the Fairgrounds Revitalization Plan.

Where these guidelines call for the development of specific programs or procedures to implement the policies, it is the direction of the Board that the County Executive's Office coordinate the joint development of such programs or procedures by the FMC, County Counsel, and the Office of the Sheriff. These policies shall also be incorporated into agreements between the FMC and promoters of events at the Fairgrounds. The FMC shall require event promoters, sponsors and concessionaires to enforce these policies for all events at the Fairgrounds.

#### Prohibition of Illegal Drug Use at Fairgrounds

It is the policy of the Board that the County Fairgrounds be designated as a "drug free zone." To reaffirm this policy, the FMC shall work diligently with the Office of the Sheriff, private security firms hired by promoters, the San Jose Police Department as applicable, County Counsel and other agencies as needed to create and implement a program for a drug free environment at the Fairgrounds. The language and procedures of this program shall be incorporated in the FMC's contracts with promoters, and those promoters will be held responsible under their contracts to enforce the County's policy. It is the policy of the Board that the possession, possession with intent to sell or distribute, or consumption of illegal drugs is strictly prohibited. It is the intent of the County that violators will be arrested and prosecuted to the full extent of the law. As noted in the ensuing section regarding security, the specific security requirements to implement this policy and discourage drug violations will be tailored on an event-by-event basis.

#### Restrictions on the Sale and Consumption of Alcoholic Beverages

It is the policy of the Board that the FMC and its promoters and concessionaires strictly enforce all laws pertinent to the distribution, sale and consumption of alcoholic beverages. The concessionaire shall routinely curtail the sale of alcoholic beverages at events where a high percentage of the participants, regardless of age, are observably under the influence of alcohol beyond the legal limit. In addition, alcoholic beverages shall not be sold in buildings at the Fairgrounds where events are hosted for, or predominantly targeted to persons under the age of 21. Alcohol sales shall be curtailed one hour in advance of the scheduled conclusion of events. Sponsors and distributors of alcoholic beverages who do business at the Fairgrounds shall be required by the FMC to cooperate in posting signs at events that encourage responsible consumption and moderation. The FMC and its promoters and concessionaires shall also require wristband identification screening at all events that are attended by a high percentage of persons who are under the age of 21. The FMC and its promoters and concessionaires shall strictly enforce proof of age requirements regardless of the age mix at events.

### Events Curfew

It is the policy of the Board that a 2:00 a.m. curfew shall be imposed on all events at the Fairgrounds except for events that may be scheduled for New Years Eve with the prior approval of the FMC and the County Executive's Office. Any such New Year's Eve event shall be confined to indoor venues and be limited to persons 18 years and older. Under existing FMC policy, there is a 9:00 p.m. curfew on outdoor amplified music, except during the annual Fair, when the curfew is 10:00 p.m.

### Safety and Security, Traffic & Parking Control, and Fire and Life Safety Requirements

It is the policy of the Board that the Office of the Sheriff shall be responsible for the coordination and planning of all security and safety at the Fairgrounds and at Fairgrounds events, regardless of what promoters are involved. In order to enhance the ability of the Sheriff's Office to perform this function, a newly designated Sheriff's Lieutenant or other appropriate position shall be assigned to the FMC to act as the Safety and Security Coordinator. The Coordinator shall be responsible to work collaboratively with the FMC to develop a Fairgrounds Safety and Security Plan and to coordinate advance planning for safety and security for all Fairgrounds events. The Coordinator shall also be responsible for the enforcement of the other requirements of this Board Policy with respect to illegal drugs and alcohol. The costs of this assigned Sheriff's position shall be borne by the various promoters of Fairgrounds events, on a pro rata basis determined by the FMC, so that there will be no impact on the County General Fund.

The FMC, through the Safety and Security Coordinator, shall coordinate with the San Jose Police Department for the provision of off-site security and traffic control for all large events. Decisions as to the need for off-site traffic control will be made on an event-by-event basis and involve input from the Sheriff, FMC staff, the FMC's contracted parking management firm, and the promoters of scheduled major events.

The FMC shall contract directly with the Office of the Sheriff for on-site security for the annual County Fair. The FMC shall act as a liaison between promoters and the Safety and Security Coordinator to provide security for all other events at the Fairgrounds, but arrangements for these services (whether sworn, private, or a mix of sworn and private) will be covered through contracts directly between the promoters and the Sheriff and/or independent security firms. Promoters of events also are required to pay for any Fire Marshal and on-site paramedic services that may be required for events. The Safety & Security Coordinator will conduct pre-event planning meetings with the FMC and event promoters to assess and arrange for requirements in these areas.

The FMC shall assess the need and feasibility of imposing a parking permit program for neighborhoods that surround the Fairgrounds. The FMC shall assist the Fairgrounds neighbors in this effort and will coordinate their efforts with the City of San Jose.

The Safety & Security Coordinator shall ensure that representatives of paramedic providers are included in all pre-event planning meetings that involve projected attendance in excess of 5,000 patrons. The Coordinator will ensure that adequate medical and paramedic resources are on the site for all such events.

It is the policy of the Board that, with respect to any events held at the Fairgrounds, the public health and safety of the community is of paramount concern. It is the policy of the Board that the FMC and its representatives will treat all groups and patrons with courtesy and respect, and that the legal rights of all groups and patrons will be upheld. Event promoters, at their own discretion, may authorize their security staff to conduct legally permissible gate searches to prohibit illegal drugs or weapons from being brought onto the Fairgrounds.

The FMC and the Office of the Sheriff shall conduct appropriate background checks on promoters of large events at the Fairgrounds. The FMC and the Office of the Sheriff shall evaluate the existing event sponsorship application process and develop improvements to the process as needed to meet the intent of these Board policies. Consistent with the Board's policy about equitable treatment for all groups and individuals, and consistent with legal requirements, the FMC may decline applications to book events if the applicant has misrepresented the nature of its business or has a history of promoting activities that pose a demonstrated threat to the public health and safety.

### **3.25 POLICY RELATING TO CONFIDENTIALITY OF DOCUMENTS (Adopted 3-9-99; Amended 1-26-21)**

#### **3.25.1 Introduction**

The purpose of this policy is to help identify which County documents are confidential, and to specify how those documents should be handled to ensure that they remain confidential. Generally, unless subject to statutory privileges or protections, County records are not confidential;<sup>1</sup> they are public documents, as required by the Public Records Act (the "Act"), California Government Code § 6250 et seq. The Act states that access to public information is a fundamental right and requires government agencies to either disclose requested information or justify their refusal to do so by citing a specific enumerated exception to the Act, which courts have narrowly construed. Public records are defined as "any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." Government Code § 6252(d). The courts have further declared that "this definition is intended to cover every conceivable kind of record that is involved in the governmental process and will pertain to any new form of record-keeping instrument as it is developed." *San Gabriel Tribune v. Superior Court* 143 Cal. App. 3d 762, 774 (1983).

#### **3.25.2 Policy**

Santa Clara County is committed to ensuring that the public shall have access to information concerning the conduct of the people's business, as is their right under the Act. The

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1. This does not include, for example, privileged legal documents or records relating to County clients, patients, inmates, or employees that are subject to statutory confidentiality requirements and/or the constitutional right to privacy.

law does, however, provide that certain documents may not or should not be publicly disclosed, in order to protect the privacy of individuals and/or the best interests of the County. To ensure that such confidential County documents remain confidential, County officers and staff shall employ the following actions to maintain the confidentiality of documents exempt from the requirements of the Public Records Act:

- A. Confidential documents and communications shall be labeled as such.
- B. Confidential documents should be maintained in separate files or kept in some other manner designed to ensure their confidentiality is maintained.
- C. County departments shall establish policies to limit access to confidential documents and the information therein to those properly having access to such documents.
- D. Each member of the Board of Supervisors may designate any person(s) on the Supervisor's staff who is/are authorized to have access to confidential documents and information, in accordance with Section 3.25.4, below.
- E. Confidential documents shall be shredded before they are discarded.
- F. Confidential emails shall not be forwarded or otherwise shared with unauthorized persons.
- G. If unauthorized persons do gain access to privileged materials, immediate steps shall be taken to obtain their destruction or return.
- H. County employees with access to confidential documents shall be informed about this policy by their supervisors and provided a copy of it.

### **3.25.3 Confidential Documents - Definitions and Discussion**

For the purposes of this policy, "confidential documents" are those County records exempt from disclosure under the Public Records Act, documents received during or related to closed sessions of the Board, and any other documents protected from disclosure by law.

#### **A. Records exempt from the Public Records Act**

The Public Records Act exempts particular records from disclosure. The exemptions listed below are broadly applicable to the County's business. This is not an exhaustive list, however. Many specific exemptions and confidentiality laws apply to different aspects of the County's work. County employees should receive training on exemptions and confidentiality laws applicable to their area of work, and County Counsel should be consulted about any questions regarding the applicability of the Public Records Act to a particular document.

- 1. Preliminary Drafts, Notes, or Inter-agency Memoranda

Preliminary drafts, notes, or inter-agency memoranda are exempt from disclosure if they are not retained by the agency in the ordinary course of business and if the public interest in nondisclosure outweighs the interest in disclosure. *See* Government Code § 6254(a). Courts have interpreted this exemption narrowly, placing the burden upon the government agency to prove both that such records are ordinarily not retained and that there is an overriding public interest in nondisclosure. *See Citizens for a Better Environment v. Dept. of Food & Agriculture*, 171 Cal. App.3d 704, 715 (1985) (holding that memoranda normally retained and consisting of factual material or severable factual material along with deliberative material may be disclosed without doing violence to the public interest in withholding such records).

## 2. Records Prepared for Pending Litigation

Records pertaining to pending litigation, until the litigation is finally adjudicated or settled, are exempt from disclosure. *See* Government Code § 6254(b). A document is protected from disclosure only if it was specifically prepared for use in litigation; documents that are at issue in a litigation, but that were not prepared for the litigation and are not otherwise exempt, are not shielded by this provision. *See City of Hemet v. Superior Court*, 37 Cal. App. 4th, 1411, 1420 (1995) (holding that because public interest in the activities of a public agency are highest when the agency is being sued, the litigation exemption should be narrowly construed). This exemption may apply more broadly than attorney-client privilege and attorney work product doctrine, to exempt, for example, confidential correspondence between opposing counsel and parties during the pendency of the litigation. *See Bd. of Trustees of California State U. v. Super. Ct.*, 132 Cal. App. 4th 889, 900 (2005).

## 3. Personnel, Medical, or Similar Records

The Public Records Act exempts from disclosure medical records, personnel records, and similar records if their disclosure would constitute an unwarranted invasion of privacy. Government Code § 6254(c).

Employers have a duty to protect the privacy rights employees have in certain personnel records and other personal information. *Valley Bank of Nevada v. Superior Court*, 15 Cal. 3d 652 (1975); *see also Braun v. City of Taft*, 154 Cal. App. 3d 332, 344-45 (1984) (a council member was allowed access to records pertaining to appointment of transit administrator; irrelevant personal items could be taken out before being made public). In some instances, however, personnel records must be disclosed, and County Counsel should be consulted to determine whether a particular record is subject to disclosure. *See* Penal Code § 832.7(b) (requiring disclosure of certain peace officer personnel records).

In addition, individuals served or employed by the County have constitutional and statutory rights to the privacy of their medical information as well as other personal information. *See, e.g.*, Cal. Const. art. I, § 1 (state constitutional right to privacy); Civil Code § 56 et seq. (Confidentiality of Medical Information Act). Unlawful disclosure of protected personal information can result in monetary and criminal penalties. Because state and federal privacy laws are frequently updated and amended, staff should consult County Counsel regarding the confidentiality requirements applicable to specific types of employee and client records.

4. Client/Patient Records Exempt from Disclosure under State or Federal Law

In addition to the exemption for personnel and medical records, the Public Records Act exempts records the disclosure of which is exempted or prohibited by state or federal law. Government Code § 6254(k). This exemption applies to a wide range of records containing personal information of individuals served by the County. For example, medical and mental health records, juvenile records, criminal offender record information, public benefits information, and financial records, among others, may be exempt and barred from disclosure under this provision and relevant state or federal laws. As noted above, unlawful disclosure of protected personal information can result in monetary and criminal penalties. Because state and federal privacy laws are frequently updated and amended, staff should consult County Counsel regarding the confidentiality requirements applicable to specific types of employee and client records.

5. Taxpayer Information

Information required from any taxpayer in connection with the collection of local taxes may not be disclosed if the information was received in confidence and disclosure would result in an unfair competitive disadvantage to the person who supplied the information. Government Code § 6254(i).

6. Attorney-Client Privilege and Attorney Work Product

In addition to the exemption for records prepared for pending litigation, the Public Records Act exempts from disclosure certain privileged legal documents and communications, regardless of whether litigation is pending. Government Code § 6254(k). This exemption applies to County records subject to the attorney-client privilege and/or the attorney work product doctrine. Evidence Code § 952; Code of Civil Procedure § 2018.030.

Documents subject to the attorney-client privilege include memoranda from and correspondence (including email) with a County Counsel attorney and/or outside counsel for the purpose of providing confidential legal advice or consultation. Records subject to the attorney work product doctrine include documents prepared by an attorney, or others working with the attorney, in investigating, researching, analyzing, or assessing legal matters, including

but not limited to any document that reflects an attorney's impressions, conclusions, opinions, or legal research or theories.

Attorney-client privileged documents and attorney work product are confidential and exempt from disclosure. However, these legal protections may be waived and confidentiality potentially forfeited if (1) the Board of Supervisors (or, in the case of work product, the County Counsel) affirmatively acts to waive attorney-client privilege or work product protection, or (2) protected information is shared with unauthorized persons or otherwise not maintained as confidential. Because the attorney-client privilege is between the County and County Counsel, in most cases only the Board of Supervisors can voluntarily waive the privilege. All County staff must ensure that attorney-client privileged records and attorney work product remain confidential.

To preserve confidentiality, attorney-client privileged information and attorney work product should be shared only with County staff who reasonably need the information to accomplish the purpose for which legal advice was sought. In addition, all staff who receive attorney-client privileged information or attorney work product should take measures to maintain its confidentiality and should properly label and secure privileged documents. Staff should not discuss attorney-client privileged information or attorney work product in a public place or with unauthorized persons, leave privileged information where it can be seen by others, or forward emails containing attorney-client privileged information or attorney work product to unauthorized persons or to staff who do not have a need to know. It is the responsibility of each County employee or official with access to attorney-client privileged documents and/or attorney work product to take appropriate steps to maintain confidentiality.

## 7. Law Enforcement Records

The Public Records Act contains a number of exemptions for law enforcement records. Government Code § 6254(f), (k). Generally, investigative files and records are exempt from disclosure. However, the Act requires disclosure of certain information regarding arrests, complaints and requests for assistance, and video or audio recordings related to critical incidents, and it requires certain additional disclosures to victims and insurance carriers. Government Code § 6254(f). In addition, certain law enforcement personnel records and information may be subject to disclosure. *See Long Beach Police Officers Assn. v. City of Long Beach*, 59 Cal. 4th 59, 64 (2014) (names of police officers involved in on-duty shootings subject to disclosure, absent safety concerns); Penal Code § 832.7(b) (requiring disclosure of certain peace officer personnel records).

## B. Closed Session Documents/Information

Documents received during, or in relation to, closed sessions of the Board of Supervisors are confidential. Closed session meetings of the Board are authorized under specified circumstances by the provisions of the Brown Act, Government Code § 54950 et seq.

1. Divulging Information to Members of the Public

The purpose of a closed session meeting is to prevent disclosure of the matters discussed to the general public. The Brown Act authorizes closed session meetings in a narrow range of sensitive contexts including, for example, to allow the Board to instruct its negotiators or attorneys on specified matters relating to litigation and real estate transactions, and in certain instances where confidential personnel or labor relations information is involved. The California Attorney General has stated “it would be improper for information received during a closed session to be publicly disclosed without authorization of the governing body as a whole.” 76 Cal. Op. Atty. Gen. 289, 290 (1993); 51 Cal. Op. Atty. Gen. 203, 206 (1968); 44 Cal. Op. Atty. Gen. 147, 149 (1964). Accordingly, no member of the Board or staff member authorized to attend closed session should disclose information received during or in connection with the closed session meeting, unless authorized by the Board as a whole or required by law.

2. Divulging Information to Staff

The only persons who may be present in closed sessions of the Board are those actually necessary to advise or take direction from the Board, in light of the specifically permitted purpose of a particular closed session discussion. The Board may determine which individuals should attend a closed session, consistent with the Brown Act. Other County staff, and the staff of the Supervisors, are not authorized to be present in closed session. The Board as a whole may make the determination that it is appropriate for business reasons to permit disclosure of information from closed session to specified staff members, as they could do in relation to the general public.

C. Other Documents Protected from Disclosure by Law

Numerous state and federal laws impose confidentiality restrictions on records held by the County. These confidentiality laws are incorporated in the Public Records Act through Government Code section 6254(k), which exempts from disclosure any record that cannot be disclosed, or is exempt from disclosure, pursuant to state or federal law.

### **3.25.4 Designation of Staff Authorized to Receive Confidential Information**

In adopting this Policy, the Board of Supervisors has determined that in order to perform the official duties of Board members, it may be necessary for specified staff of Board members to have limited access to confidential documents and information provided to

the Board member. The Board hereby finds that given the nature and volume of significant issues coming before the Board, and the extent of background information necessary for each Board member to review in order to fulfill the duties of the Board of Supervisors, each Board member may appropriately allow his or her Chief of Staff access to confidential material directed to that Board member, so that the Chief of Staff may assist the Board member.

Any Board member who determines that any other member or members of his or her staff must have access to confidential documents in order to allow that Board member to adequately perform the duties of his or her office may authorize such access verbally or in writing. Such authorization automatically terminates when the staff member terminates employment with the Board member, and may be terminated at any time by the Board member. Persons so designated should have access to confidential information only to the extent reasonably necessary to achieve the purpose of the confidential communications to the Board member. It is the policy of the Board that no person other than the Board member should have access to confidential materials that relate to personnel issues concerning individuals who are appointees of the Board.

### **3.26 POLICY SPECIFYING CRITERIA AND PROCEDURES FOR PROCESSING OFF-CYCLE FUNDING REQUESTS FROM COMMUNITY-BASED ORGANIZATIONS (CBOs) (Adopted 12-8-98; Amended 5-25-99)**

This policy specifies criteria and procedures to be followed when CBOs (Community Based Organizations) request general fund support outside the Budget Process and months of the year when funding requests are normally given consideration by the Santa County Board of Supervisors. This policy is limited to requests made by CBO's directly to the Board of Supervisors and not through departments. Normal opportunities for funding occur through RFP processes (various months), budget requests sponsored by Board Committees or individual Supervisors (May and June), or at the mid-year budget review (January).

#### **3.26.1 Criteria for Off-Cycle Funding**

Four criteria will be utilized when determining whether or not to fund a CBO requesting off-cycle financial support directly from the Board of Supervisors. In order to be considered, a request must meet *all* four criteria, as follows:

- **Current Contract** - The CBO must have a contract or similar relationship with the County in the current fiscal year;
- **Verifiable Crisis** - The CBO must be on the verge of interruption or termination of services due to a verifiable financial or facility-related crisis;
- **Critical Service** - The CBO must provide a critical service that other similar organizations could not provide without significant difficulty and/or delay;

- **Significant Impact** - Interruption or termination of the services provided by the CBO must have a significant impact on the number of residents affected or the duration of the impact.

### **3.26.2 Procedures for Use of the Criteria**

The CBO's request for funding would be referred to the Finance and Government Operations Committee for evaluation.

If all four criteria are met, the Committee forwards the request to the Board of Supervisors for action, along with a recommendation to grant or not grant the request, accompanied by reasons for the recommended action. Even if the Committee finds that the four criteria are met, it may cite overriding concerns for not granting the request.

If the Committee grants the request, it is the policy of the Board of Supervisors that a repayment plan is developed so the funds can be repaid to the County over a mutually agreeable timeframe.

The Finance and Government Operations Committee and the Board of Supervisors have the ability, on an exception basis, to provide a grant that does not require repayment if they believe the financial circumstances of the organization in question support such a decision.

If the request fails to meet the criteria, in the opinion of the Finance and Government Operations Committee, the CBO would be notified that its request has been rejected at the Committee level. The CBO would be advised of its right to appeal the Committee's recommendation at a meeting of the full Board of Supervisors.

Upon receiving the Finance and Government Operations Committee's recommendation, and/or upon hearing the CBO's appeal, the Board of Supervisors has three options:

- Grant the request, for the reasons stated (e.g., the extreme urgency of taking this action, which affects large numbers of residents over a significant period of time);
- Deny the request, for reasons stated (e.g., the matter is not urgent enough to take action at this time, and could damage the perception that the Board of Supervisors allocates funds to CBOs in a fair and impartial manner); or
- Refer the matter to a Board Policy Committee having jurisdiction over the type of services the CBO provides, requesting that it be brought back to the full Board if the request has merit, in the opinion of that Committee.

### **3.27 POLICY REGARDING COUNTY COUNSEL REVIEW OF DOCUMENTS AND TRANSACTIONS; PARTICIPATION IN CONTESTED MATTERS (Adopted 1-12-99; Amended 8-27-02; Amended 12-13-11; Amended 1-26-21)**

#### **3.27.1 Document Review**

It is the policy and expectation of the Board of Supervisors that all legal documents (such as contracts, memoranda of understanding/memoranda of agreement, side letter agreements, ordinances, and resolutions) being presented to the Board for approval, or for approval based on a delegation of authority, be first reviewed (and approved as to form and legality) by the Office of the County Counsel. This policy does not apply to routine, non-urgency salary ordinance amendments that concern only the addition of positions, removal of positions, or wage adjustments pursuant to a Board-approved agreement prepared using a form previously approved by the Office of the County Counsel and so identified. All other salary ordinances must be reviewed and signed as to form and legality by County Counsel. Any legal document not bearing signature approval as to form and legality by the Office of the County Counsel is voidable and is not binding on the County or any other entity for which the Board is the governing body.

In order to implement this policy, Agencies, Departments, Districts, officers, and other parties intending to place such items on the Board's agenda or otherwise process such items for approval shall provide the Office of the County Counsel with all relevant material sufficiently in advance of the Board meeting or applicable deadline to allow thorough legal review and modifications or clarification where required. "All relevant material" includes the legal document in question together with all exhibits and/or attachments, a copy of the draft transmittal, and information regarding the target date for Board or delegate consideration. In the case of contract amendments, the original contract and all previous amendments shall be provided.

It is further the policy of the Board of Supervisors that all transmittals to the Board which raise potential legal issues should first be reviewed by the Office of the County Counsel. This includes, for example, memoranda which reference prior or current legal advice of the County Counsel's Office, interpretations of statutes or ordinances, or conclusions or recommendations regarding legal liability of the County or other parties. It also must include any transmittal which requires the Board to make legal findings and/or take a legal action in a legislative or quasi-judicial hearing.

#### **3.27.2 Timing of Review**

Ordinarily, such materials shall be provided to the Office of the County Counsel no later than three (3) weeks prior to the Board meeting or applicable deadline at which it is desired that the matter be considered, which is approximately one week prior to the date items for that meeting must be submitted to the County Executive's Agenda Review Committee. This time period will usually allow adequate time for review, identification of any legal issues, any necessary changes to the document(s), and where necessary, preparation

of a separate written communication to the Board or delegate regarding legal matters. Where special circumstances exist which prevent a department from adhering to this schedule (such as a Board referral with a short turnaround time, an urgency situation, or changed circumstances or funding which require immediate amendment to a contract), the department shall contact the County Counsel or the attorney assigned to that department to make mutually-acceptable arrangements for review of the documents.

If the County Counsel's Office determines that there is insufficient time to permit a thorough review of the matter, the County Counsel's Office will inform the Board or person with delegated authority.

### **3.27.3 Training**

To assist in the smooth implementation of this policy, County Counsel will provide training to staff regarding the legal requirements for documents being presented to the Board for approval.

### **3.27.4 Involvement in Negotiation of Contracts and Other Transactions**

In order to protect and to further the interests of the County, and to avoid delays when County Counsel is first consulted late in the process of developing or negotiating significant transactions, it is the policy and expectation of the Board that County staff shall consult with County Counsel regarding significant transactions at a time early enough to allow meaningful consideration of legal strategy and risk analysis. For purposes of this policy, a "significant transaction" is a proposed contractual arrangement, project or program that may result in non-routine changes to the County's fiscal or legal obligations or in the operations of a county program. A "significant transaction" in labor contract negotiations is a proposed change in contract language, including, for example, settlement agreements and side letter agreements, but excluding changes solely relating to base salary or corrections of a clerical nature.

### **3.27.5 Involvement in Contested Matters**

In order to reduce County liability and to protect and further the County's interest, it is the policy and expectation of the Board that County staff shall consult with the Office of the County Counsel in any matter in which an attorney is handling a matter adverse to the County. This includes but is not limited to labor grievance resolutions, labor arbitrations, personnel board matters, any agreement that settles a contested matter regardless of the name of said agreement, and land use hearings. For purposes of this policy, when County staff consult with the Office of the County Counsel, they shall collaboratively determine the appropriate handling and staffing of the matter.

### **3.27.6 Involvement in Written Responses to State and Federal Investigative Agencies**

In order to reduce County liability and to protect and further the County's interest, it is the policy and expectation of the Board that all formal written responses to State or Federal agencies investigating alleged violations of law, including but not limited to the Department of Fair Employment and Housing (DFEH), the Equal Employment Opportunity Commission (EEOC), the Department of Justice (DOJ), the Public Employment Relations Board (PERB), and other regulatory and licensing agencies, shall be reviewed by the Office of the County Counsel prior to submission to those agencies. In order to implement this policy, written responses and all relevant materials shall be provided to the Office of the County Counsel sufficiently in advance of the due date for submission of the written response to allow for an appropriate and meaningful legal review.

### **3.28 POLICY ON TIME CERTAIN FOR REPORTS BACK TO THE BOARD AFTER REFERRAL HAS BEEN MADE (Amended 12-17-02; Amended 3-23-04)**

A Board referral is any request for information made by a majority vote of the Board of Supervisors and referred to a County Department or Agency for report back. A referral can also be made by a Board Committee, and the report back to that committee will be subject to the same time constraints outlined in this policy.

Unless otherwise specified in a referral to staff made by the Board of Supervisors or Board Committee, reports back to the Board of Supervisors or its standing Committees shall be due on the Board or Committee agenda within 45 days from the date of the referral, or the next Board/Committee meeting date after the 45 days. Upon completion, the Department or Agency will submit a report back to the originating body through the transmittal process, or if originally specified, an off-agenda report to the members of the Board/Committee, the Clerk of the Board and the County Executive.

If a Department or Agency responding to the referral discovers that it cannot meet a report back deadline, an off-agenda extension request shall be sent to the Board or Board Committee, the Clerk of the Board, and the County Executive by the referral due date. The request shall state the amount of time, the amount of work and a description of the effort required to respond to the referral. After reviewing the off-agenda extension request, any Board member may direct the Department or Agency to prepare a transmittal to agendize the referral on the next available Board or Committee meeting for discussion and to make a decision as to the appropriate handling of the referral. Possible decisions by the Board or Committee include, but are not limited to, adjusting the scope of the referral by limiting the work to be done, or determining relative time priority or referral priority compared to other referrals that may be pending.

The Board Referral Matrix will be used to keep the Board of Supervisors updated on the status and progress being made on all pending referrals.

Any referral originated by a Board Committee must be reported to the Board as part of the Committee report agendized at each Board meeting.

This policy does not apply to Board Budget letters. This policy shall not prevent an individual Board member from requesting verbal or written information that may require minor staff time, or is already contained in reports already prepared by the Department consistent with the Department's work program or normal work process.

### **3.29 POLICY RELATING TO USE OF DOUBLE-SIDED COPYING IN COUNTY FACILITIES (Adopted 4-6-99; Deleted 10-8-13)**

### **3.30 EARLY CHILDHOOD DEVELOPMENT COLLABORATIVE SHALL BE AN ADVISORY COMMITTEE TO THE COUNTY CHILDREN AND FAMILIES FIRST COMMISSION (Adopted 3-23-99)**

The Early Childhood Development Collaborative shall be an Advisory Committee to the County Children and Families First Commission. The County Commission may also establish other advisory committees as deemed necessary or appropriate to provide geographic breadth or interest group input.

Proposition 10 sets forth that a county commission shall establish one or more advisory committees to provide technical and professional expertise and support for any purposes that will be beneficial in accomplishing the purposes of the act.

It is the policy of the Board of Supervisors that the Early Childhood Development Collaborative (ECDC) shall be an advisory committee to the county commission, and that it act under the direction of the Executive Director to provide professional expertise in support of the purposes of the commission and in the development of the strategic plan. This advisory committee will meet and make recommendations and produce reports as deemed necessary.

Consistent with the language of Proposition 10, the county commission may also establish other advisory committees as deemed necessary or appropriate.

### **3.31 USE OF SPECIFIC CRITERIA TO MAKE APPOINTMENTS TO THE COUNTY CHILDREN AND FAMILIES FIRST COMMISSION (Adopted 3-23-99)**

It is the policy of the Board of Supervisors that when making individual appointments to the County Children and Families First Commission, Board Members shall give strong consideration to the categories of persons described below.

- Parent who is a recipient of project services included in the county strategic plan;

- Educator associated with elementary level education and/or specializes in early childhood development;
- Representative of a community-based organization that specializes in parent education or represents children of special needs or specializes in prevention or early intervention for families at-risk;
- Representative of a community-based organization that specializes in early childhood development research and/or child advocacy; and
- Physician of a local medical, pediatric, or obstetric association or society.

The one category of persons that is included in Proposition 10, but that is not listed among the categories described in the policy statement is “representatives of a local child care resource or referral agency or a local child care coordinating group.” The CFC (Children and Families Committee) accounts for this category in its recommendation establishing a designated seat for the Santa Clara County Local Child Care Planning Council.

The rationale for the categories of persons recommended by the CFC:

1. Parent who is a Recipient of Project Services included in the County Strategic Plan

This category is slightly different in that we emphasize a “parent who is a recipient of project services” rather than a “recipient of project services.” When we refer to a “parent who is a recipient of project services,” we mean that either the parent is receiving the services or the child of the parent is receiving services. In both instances, the parent would be eligible to serve on the county commission.

Any initiative focused on early childhood development cannot overlook the perspective of parents. We recommend that a parent who is a recipient of the services contained in the County Children and Families First Commission’s strategic plan be eligible for a place on the commission because he or she would have first-hand understanding of the resources and support that are needed to raise healthy children.

Parents may also be recipients of project services. Proper parenting skills, for example, are essential for the healthy development of children. We expect then that programs that teach parents nurturing and parenting skills will be among the services that are funded in the strategic plan.

2. Educator associated with Elementary Level Education and/or Specializes in Early Childhood Development

This category is slightly different in that we expanded it to enable “educators associated with elementary level education” to also be eligible. Recent research shows that a child’s first three years are the most critical in stimulating brain development. These three years offer opportunities that will enable children to enter school in good health, ready-to-learn, and emotionally well-developed. Educational practitioners are aware of the web of support that successful children have in their lives

from a very early age, such as adult nurturing, access to quality medical care, and positive social experiences.

We recommend that an educator associated with elementary level education and/or who specializes in early childhood development be eligible for a place on the commission because he or she would bring first-hand knowledge of what experiences in the early years affect a child's future success in school. This knowledge, which is obtained through direct interaction and observation of young children and their families, is distinct from the knowledge and experience that other members who have a theoretical background in child development would bring to the commission.

3. Representative of a Community-Based Organization (CBO) that Specializes in Parent Education or Represents Children with Special Needs or Specializes in Prevention or Early Intervention for Families At-Risk

This category is different from that described in Proposition 10 in that we place a special emphasis on CBOs that specialize in parent education or represent children with special needs. The rationale for this emphasis is provided below.

A) CBOs Specializing in Parent Education

Proper parenting and nurturing are vital to the healthy development of children. A number of community-based organizations provide support to parents to help them deal with the challenges of parenting, understand the benefits of nurturing, and celebrate the joy that children bring to their lives. The support and education provided by such organizations lead to enhanced child cognitive development, improved parent-child relationships, and the improved emotional well-being of children.

We recommend that a representative of a community-based organization specializing in parent education have an opportunity for a seat on the commission because one of the purposes of the county commission is to establish parental education and family support services relevant to effective child development, and this representative would inform and advance this charge.

B) CBOs Representing Children with Special Needs

Parents of children with special needs often struggle to obtain access to critical services such as special education and child care. This population of children is often neglected because the type of support the child and family need to be successful are distinct from the support that children without these special needs require and the level of support that is required is more substantial.

We recommend that a community-based organization representing children with special needs have an opportunity for a seat on the commission because such organizations understand the types of support parents of children with

special needs require as well as the barriers that preclude access to vital services. A place on the commission is one way in which to represent this population and advocate for services within the strategic plan to be directed toward this population.

C) CBOs Specializing in Prevention or Early Intervention for Families At-Risk

Family support services are sometimes necessary for proper parenting. Indeed, substance abuse, poor impulse control and anger management, and inadequate parenting skills can lead to domestic violence, child abuse, or poor parenting. One of the purposes of the county commission is to fund community-based family support services so that families can function more successfully and children can benefit from proper parenting and nurturing.

In addition to family support services, it would also be beneficial to have a representative of an organization involved in smoking cessation activities for three reasons: 1) Smoking and second-hand smoke endanger the physical development of a child; for example, smoking during pregnancy accounts for 20 to 30 percent of low birth weight infants; 2) One of the purposes of Proposition 10 is to promote smoking cessation activities and education on the dangers of smoking; and 3) The sole source of revenue for this initiative is a surtax on tobacco products.

We recommend that a community-based organization specializing in prevention or early intervention services for families at-risk have an opportunity for a seat on the commission because such organizations can assist the commission to make sound decisions with respect to the strategic plan and the funding of these types of services. We also want to call out that organizations such as the Tobacco Control Coalition and the American Lung Association which focus on smoking cessation efforts would qualify for participation on the commission under this category.

D) Representative of a Community-Based Organization that Specializes in Early Childhood Development Research and/or Child Advocacy

This category is different from that described in Proposition 10 in that we place an emphasis on early childhood development research and child advocacy.

A number of local organizations conduct research and evaluate programs to educate practitioners and the public on the most effective strategies (best practices) to promote healthy early childhood development. Advocates use the findings from research and evaluation to influence public policy and leverage funds to enhance or create needed child development services.

We recommend that a non-profit or private community-based organization specializing in childhood development research and/or child advocacy be eligible for a place on the commission because such organizations under-

stand what environments and services benefit children as they are developing and can advise the commission on steps to take to sustain our efforts far into the future.

E) Physician of a Local Medical, Pediatric, or Obstetric Association or Society

This category is slightly different from that described in Proposition 10 in that we specify that the representative of a local medical, pediatric, or obstetric association or society be a physician, preferably a pediatrician. This recommendation came at the suggestion of our County Public Health Officer who felt it important that a physician be on the county commission.

The physical development of children is one of the foci of early childhood development. Conditions such as inadequate access to health care and poverty harm a child's physical health and can, in turn, diminish his or her life prospects. Research and studies show, for example, that low birth weight infants are especially at-risk for severe physical and developmental complications. We recommend that a physician of a local medical, pediatric, or obstetric association or society have an opportunity for a place on the commission because he or she would share the most current medical research and assure that the physical development of children is not neglected in the work of the commission and in the strategic plan.

### **3.32 CODE OF ETHICAL CONDUCT (Adopted 5-9-00)**

The County of Santa Clara affirms that public service is a public trust. The mission of the County of Santa Clara is to provide quality public services to our residents. In order to perform its mission, the County must have the trust and confidence of the public it serves. The "County" is its employees, and the trust of county residents is dependent on those county employees discharging their duties honestly, forthrightly, objectively and with personal integrity.

Every employee of Santa Clara County is responsible for performing their duties in a way that maintains the trust and confidence of the public, including placing the interest of the public good ahead of our own interest and working for the common good.

These standards of ethical conduct include:

- Upholding principles of equality, fairness, and objectivity;
- Treating all individuals with respect and dignity;
- Upholding federal, state, county and local laws, ordinances and regulations;
- Respecting and protecting privileged and confidential information.

Professional and personal affairs must be conducted in a manner that demonstrates that one could not be improperly influenced in the performance of official duties or that one

seeks personal gain through their position, regardless of the level of responsibility of the individual employee.

### **3.33 GUIDELINES FOR CONSIDERING ISSUES WHICH HAVE NATIONAL AND INTERNATIONAL IMPLICATIONS (Approved 1-25-00; Amended 6-20-06; Amended 2-26-13; Amended 1-14-14)**

*The Board adopted Resolution No. BOS-2013-26, suspending appointments to the Legislative Committee. This continues in effect until the Board directs otherwise. Legislative matters shall be referred to the other five Board Policy Committees for recommendations on support/oppose positions to the full Board, or to the full Board directly, depending on the subject matter of the legislation*

When a Commission or Advisory Body to the Board of Supervisors desire to take a public position on legislative issues or other issues which have a national and/or international implication, the following guidelines will be followed:

- (1) The Commission or Advisory Body, or a subset of members as designated by the Commission or Advisory Body, will make a preliminary determination on the appropriateness of the Board of Supervisors considering the matter.

In making this determination, the following criteria will be utilized:

- (a) Consistency with the Ordinance, Charter, and Bylaws of the Commission or Advisory Body.
- (b) Documented financial and/or programmatic impact on Santa Clara County government.
- (c) Impact on identified communities within Santa Clara County.
- (d) Consistency with existing Santa Clara County policies or positions on similar or related issues.

The process for this preliminary determination, and any further review by the Commission or Advisory Body, shall be determined by each Commission or Advisory Body and shall be consistent with the Ordinance, Charter, or Bylaws of such, as well as the Brown Act.

The Office of Intergovernmental Relations is available to Commissions and Advisory Boards to provide and/or consult regarding resources for evaluation of criteria b-d above.

- (2) Upon determination by the Commission or Advisory Body, or a subset of members as designated by the Commission or Advisory Body, that the matter under consideration is appropriate according to the criteria set forth in

item 1 a-d above, the matter may be placed on the agenda of the Commission or Advisory Body for consideration by the members at a properly noticed public meeting.

- (3) Should the Commission or Advisory Body vote to request the Board of Supervisors approve a public position on legislative issues or other issues which have a national and/or international implication, a letter summarizing the recommendation, how it meets the criteria set forth in item 1 a-d above (with supporting data), and reasons for the position will be submitted to the Deputy County Executive for Intergovernmental Relations, with a copy to members of the Legislative Committee, the Legislative Director and County Counsel. If the request includes adoption of a Resolution or Proclamation of the Board, a draft document will also be included.
- (4) Once referred to the Legislative Committee, the Committee's consideration and any recommendation shall be reported to the Board of Supervisors along with the regular Legislative Report.
- (5) Once the Board of Supervisors has acted, the Clerk of the Board will forward a copy of the Summary Minutes from the meeting to the Commission or Advisory Body to inform them of the Board's action.

### **3.34 FORM AND CONTENT OF MINUTES OF COUNTY LEGISLATIVE BODIES (Adopted 2-27-01; Amended 2-10-09; Amended 11-22-11; Amended 6-9-15; Amended 4-12-16)**

The Rules of the Board of Supervisors, Santa Clara County Ordinance Code, and California Government Code require that the Clerk of the Board, or deputy clerk designee, attend all regular and special open meetings of the Board of Supervisors and record the proceedings.

In particular, Government Code §25101 requires that the Clerk of the Board shall “keep and enter in the minute book of the Board a full and complete record of the proceedings, including the entry in full of all resolutions and of all decisions on questions concerning the allowance of accounts.” With the approval of the Board of Supervisors, the Clerk of the Board may keep a resolution book in which all resolutions are kept, rather than entering them in full in the minute book. Where this approval has been given, the resolutions can be referred to in the minute book by number and subject reference.

The law also requires that the minute book be kept in the custody of the Clerk and available for public inspection during normal business hours.

The purpose of this policy is to set forth the form and content of the Clerk of the Board minutes which will fulfill the legal requirement that a “full and complete record of the proceedings” at all Board of Supervisors open meetings is maintained. By adopting this policy, the Board of Supervisors gives its approval for the Clerk of the Board to keep a

“resolution book” pursuant to Government Code § 25102.1, thereby eliminating the need to set forth “in full” in the minute book the text of each resolution passed and adopted by the Board of Supervisors.

### **3.34.1 Content of Minutes**

The Clerk of the Board, or deputy clerk designee, shall enter into the minute book a full and complete record of the proceedings of each regular or special open meeting of the Board of Supervisors.

The Clerk shall prepare and distribute summary action minutes (minutes) of Board of Supervisors’ open meetings. The summary action minutes shall consist of the brief statement of each item posted on the agenda plus all motions, resolution and ordinance numbers related thereto, recusal information, all votes recorded thereon, and the final action taken by the Board, including any referrals or direction to Administration included as part of the motion. The minute book entry recorded for each meeting shall be the webcast video of the meeting, coupled with written minutes in summary action minute format.

The Clerk of the Board, or deputy clerk designee, may maintain discretion to include any other entries in the minute book not required to be included under the above provisions, but which concern statements, information, or events occurring during an open Board meeting which the Clerk of the Board determines should be included in the minutes. For open sessions held solely for the purpose of recessing into a closed session, the County Counsel or designee shall attend and document the information for the open session minutes.

Open sessions held solely for the purpose of recessing into a closed session and open sessions held for the purpose of training are not webcast.

### **3.34.2 Content of Other Legislative Body Meeting Minutes**

The Clerk of the Board, or deputy clerk designee, shall attend each regular and special open meeting of the Board of Supervisors’ policy committees and enter into the minute book a full and complete record of the proceedings of each such meeting. The minute book entry recorded for each meeting shall be the webcast video of the meeting coupled with written minutes in summary action minute format.

For open sessions of Board of Supervisors’ policy committees held solely for the purpose of recessing into a closed session, the County Counsel or designee shall attend and document the information for the open session minutes. Open sessions of Board of Supervisors’ policy committees held solely for the purpose of recessing into a closed session are not webcast.

The Clerk of the Board, or deputy clerk designee, shall attend each regular and special open meeting of the various advisory boards and commissions assigned to the Clerk of the Board, and certain corporations, task forces, and other bodies established by the Board of Supervisors, and enter into the minute book a full and complete record of the proceedings

of each such meeting. If the meeting is webcast, the minute book entry recorded for each meeting shall be the webcast video of the meeting coupled with written minutes in summary action minute format.

For other legislative bodies not staffed by the Clerk of the Board, the assigned departmental staff shall clerk the meetings. If the meetings of the legislative body are webcast, the minute book entry recorded for each meeting shall be the webcast video of the meeting coupled with written minutes in summary action minute format. The summary action minutes shall consist of a brief statement of each item posted on the agenda which shall include all motions, resolution and ordinance numbers related thereto, recusal information, all votes recorded thereon, the final action taken by the legislative body, and any referrals or requests to Administration, included as part of the motion.

For all meetings of all legislative bodies that are not webcast, the minute book entry recorded for each meeting shall be the written minutes which contain the following information:

- (A) Opening of the Meeting
  - (1) The date and time the meeting is called to order; and,
  - (2) The roll call.
- (B) Late Arrivals
  - (1) The time and Agenda item number during which any member joins the meeting after roll call.
- (C) Public Comment/Presentations
  - (1) The number of individuals that address the body;
  - (2) A brief summary of the subject matter (any matter not on agenda); and,
  - (3) Any Board referrals, including to which committee, department and/or person the referral is addressed, and any due date(s) and time(s) directed for report delivery.
- (D) Approval of the Minutes
  - (1) Any action taken on the approval of prior meeting minutes, and if approved, the motion, second, and vote outcome including any no vote, abstention, and absence of a member previously present in the meeting.
- (E) Approval of Consent Calendar Items
  - (1) The Agenda number of each item scheduled as part of the consent calendar approval;

- (2) The description of each item scheduled as part of the consent calendar approval as listed on the agenda;
  - (3) The Agenda number of each item removed from the consent calendar approval. Such items will then be documented in the minutes as agenda items discussed and/or considered;
  - (4) Recusal information for each item remaining on the consent calendar approval; and,
  - (5) The motion, second, and vote outcome including any no vote or abstention for each item voted on as part of the consent calendar approval, and absence of a member previously present in the meeting.
- (F) Agenda Items Discussed/Considered
- (1) The Agenda item number;
  - (2) The description of the item as listed on the Agenda;
  - (3) Recusal information;
  - (4) The motion, second, and vote outcome including any no vote, abstention, and absence of a member previously present in the meeting; and,
  - (5) Any referrals, including to which committee, department, and/or person the referral is addressed, and any due date(s) and time(s) directed for report delivery.
- (G) A brief synopsis of any announcements and/or correspondence.
- (H) Adjournment: time that the meeting adjourned, the date and time of next meeting, and name and title of who adjourned the meeting.

### **3.34.3 Form of Minutes**

The minutes shall be recorded in written form and, following approval by the legislative body, posted on the same web site as the agenda of the body. The written minutes, with a full and complete archived webcast of the meeting if available, shall constitute the minute book. As such, the Clerk of the Board shall convert the webcast video to new and appropriate technologies as available and necessary.

- (A) Verbatim Minutes
- (1) Upon the request of any member of the Board of Supervisors, the County Executive, or County Counsel, the Clerk of the Board shall prepare verbatim minutes of any agenda item for meetings that are webcast and are clerked by the Clerk of the Board.

### **3.34.4 Availability to the Public**

For Board of Supervisors, Board Policy Committees, and other legislative bodies clerked by the Clerk of the Board, the Clerk of the Board shall keep custody of a copy of the minute books, to be made available for public inspection during normal business hours, and members of the public may contact the Office of the Clerk of the Board to make arrangements to review them.

For other legislative bodies not staffed by the Clerk of the Board, the assigned departmental staff shall keep custody of a copy of the minute books, to be made available for public inspection during normal business hours.

## **3.35 MANAGEMENT AUDITOR POLICY (Adopted 6-26-01; Amended 4-5-05; Amended 5-25-10)**

### **3.35.1 Policy Statement**

County Charter Section 302c grants the Board of Supervisors the authority to inquire into the conduct of any office or department to which the County contributes money and examine all their records and accounts. The Board's policy is to establish and maintain a management audit function that is independent of the Board's appointees and the other independently elected County officials so that the Board may carry out the Board's power under Section 302c. The Board further recognizes the degree of independence reserved to the Management Auditor in conducting audits under the General Accounting Office's Government Accounting Standards. The Board currently contracts with a private firm for management audit services and the contract provisions will supersede this policy statement where they are in conflict.

### **3.35.2 Management Auditor Duties**

To conduct these inquiries and examinations the Board assigns the management auditor the following duties:

- Performance Audits - Economy and Efficiency
- Performance Audits - Program Performance
- Management and Technical Audits
- Ancillary Audit Services
- Budget Analysis
- Whistle Blower
- Special Studies or Projects

### **3.35.3 Management Auditor Performance Expectations**

The Board has the following performance expectations of the Management Auditor in carrying out the Board's assigned duties:

- (A) Conduct all assigned duties in accordance with the agreed upon contract terms and with the General Accounting Office's (GAO) Governmental Auditing Standards. The Management Auditor will, at all times, remain professional in dealings with all County staff. The Board expects the Auditor to approach the assigned duties vigorously and comprehensively while maintaining, at all times, professional communication and conduct with Agency and Department management.
- (B) Be sensitive to the impact that requests for information or documentation have on the County staff's ability to carry out their normal duties and responsibilities to their primary customers.
- (C) Alert Agency/Department management prior to the release of the final draft audit report to the discovery of any significant issues or the conclusion that line staff has not provided sufficient information or adequate documentation requested on a particular topic. Prior to the release of the final draft report, the Management Auditor will give Agency/Department management an opportunity to explain their perspective on the issue and/or provide the necessary documentation or information.
- (D) Maintain the strictest confidentiality regarding any issues relating to the audit's subject matter prior to the release of an audit's public report. Those inside the County must have a clear business need to know and those outside the County must be authorized by law or regulation to receive the information. The Management Auditor may contact other jurisdictions or agencies to obtain information where the contact is reasonable or necessary to complete the audit.
- (E) Deliver all work products in a timely manner and issue public reports, unless otherwise directed by the Board. The Board values the discovery or raising of significant, systemic, or strategic-level policy issues about how the County agencies use public resources, achieve Board adopted goals and objectives, or comply with applicable laws and regulations. The quality of the issues raised and recommendations made is more important than the quantity. In communicating findings and recommendations, shorter is better.

### **3.35.4 Agency/Department Performance Expectations**

In working with the Management Auditor, the Board has the following performance expectations of County agency and department management that report to Board appointees. The Board requests that the Court, the independently elected County officials, and independent jurisdictions that receive County funds also follow these guidelines.

- (A) Provide timely access to staff and records as requested by the Management Auditor to complete the Board's assignments. All County staff will cooperate fully with

the Management Auditor and they will communicate and conduct themselves at all times in a professional manner with Auditor staff.

- (B) Return to the Management Auditor all copies of all draft audits issued by the Management Auditor.
- (C) Respond proactively and constructively in the development of corrective action to significant issues identified by the Management Auditor even prior to the issuing of the Auditor's final report to the Board.
- (D) Maintain the strictest confidentiality regarding any issues relating to the audit's subject matter prior to the release of an audit's public report. Those inside the County must have a clear business need to know and those outside the County must be authorized by law or regulation to receive the information. Agency/Department management may contact other jurisdictions or agencies to obtain information where the contact is reasonable or necessary to respond to the audit. If prior to the public release of the audit, Agency/Department management believes release of audit information outside the County is required or warranted, it will contact the County Counsel who will bring the issue to the Board as appropriate.
- (E) Provide a written response to each audit, which must be incorporated in the final audit report, and focus the written response on the significant, systemic, or strategic level policy issues raised in the Auditor's report. The quality of the comments in terms of being concise, clear and to the point is more important than the quantity. In communicating responses to the Auditor's findings and recommendations, shorter is better.

### **3.35.5 Monitoring Implementation**

The appropriate Board Appointee or independently elected Official will have responsibility for reporting on the implementation status of high priority audit recommendations that the Board approved. The County Executive will report the status of those audit recommendations that the Board refers to the Committee or the Administration for further review prior to a final Board decision. The Finance and Government Operations Committee (FGOC) will review implementation status reports as may the Board Policy Committee that has oversight of the agency covered by the Audit. At the request of the Board or the Committee, or at the Management Auditor's discretion, the Management Auditor will provide an independent assessment of the implementation status of all Priority One recommendations approved for implementation.

### **3.35.6 Management Auditor Evaluation**

Following FGOC published procedures, the Management Auditor will submit periodic status reports on the annual audit work plan, provide a written annual self-assessment performance evaluation, and arrange for an external quality control review of the County's Management Audit Program in accordance with current GAO Government Accounting Standards.

### **3.36 E-MAIL POLICY (Adopted 4-10-01)**

#### Purpose of Policy

This policy addresses access to and the disclosure of information created, transmitted, received and stored via the County's e-mail systems. Access to e-mail is provided to employees and occasionally to other persons such as authorized contractors or volunteers (collectively referred to as "employees" in this policy), to assist them to perform their work, and their use of e-mail must not jeopardize operation of the County's information systems or the reputation and integrity of the County. This policy is intended to ensure that County employees know their rights and responsibilities in using e-mail, and to ensure the appropriate, cost effective, and efficient use of County e-mail systems.

Use of the County's information systems must withstand public scrutiny. The California Public Records Act (CPRA), Government Code Section 6250, *et. seq.*, requires the County to make all public records available for inspection and to provide copies upon request. A public record is any writing, including electronic documents, relating to the conduct of the people's business. Any information sent via e-mail may be subject to disclosure under the CPRA or requested in the process of litigation discovery. In addition, no use of licensed or copyrighted material should be made without permission from the holder of the license or copyright.

#### **3.36.1 Appropriate Use of E-Mail**

E-mail is provided as a business tool, however, its reasonable, incidental use for personal purposes is acceptable, so long as such use does not interfere with performance of work duties nor with the operation of the County's information systems.

- (A) No employee may use e-mail for inappropriate purposes, such as, but not limited to the following:
  - (1) Personal profit, including commercial solicitation or conducting or pursuing their own business interests or those of another organization.
  - (2) Unlawful or illegal activities.
  - (3) Creation or dissemination of harassing or demeaning statements toward any individual or group for any reason, including on the basis of sex, age, race, color, national origin, creed, disability, political beliefs, organizational affiliation, or sexual orientation.
  - (4) The dissemination of hoaxes, chain letters, or advertisements.
  - (5) The knowing propagation or downloading of viruses or other contaminants.
- (B) Employees should not create, send, forward, or reply to distribution lists concerning non-County business. Employees should consider the impact on the County's networks when creating and using large, work-related distribution lists.

### **3.36.2 Access to Messages**

- (A) Employees should have no expectation of privacy in any messages sent via e-mail over the County's networks; employees should not use the system for any messages that they wish to remain private. Any electronic information transported across the County's networks is potentially subject to access by technical support staff, and review, monitoring, and disclosure by an audit authority designated by an employee's department head (or by the County Executive with respect to usage by department and agency heads). All computer applications, programs, and work-related information created or stored by employees on the County's information systems are County property. If employees make incidental use of the e-mail system to transmit personal messages, such messages will be treated no differently from other messages.
- (B) The use of employee passwords and other message protection measures, other than those specifically authorized by the County, are prohibited. The County's authorization to use a password or other data protection measure shall not constitute consent by the County to maintain the messages as private.
- (C) This policy does not supplant the legal protections available to shield confidential, internal County communications from third party requests, such as information exempt from disclosure under the CPRA, shielded by attorney-client privilege, or subject to state law mandating confidentiality for specific subject matter.

### **3.36.3 Retention Policy**

E-mail that is not necessary to the ordinary course of business should be routinely deleted.

### **3.36.4 Enforcement**

Any violation of the County's e-mail policy may result in appropriate disciplinary action up to and including termination. Any improper e-mail will not be disclosed by the County to others except to the extent necessary to consider and to implement discipline, for other employment related purposes, or to respond to litigation requests. Potential criminal conduct which is revealed by improper e-mail will be referred to the appropriate law enforcement authorities.

## **3.37 INTERNET USAGE POLICY (Adopted 4-10-01)**

### Purpose of Policy

The Internet has become an increasingly important source of information for County employees. Many County employees, and occasionally others such as contractors and volunteers (collectively referred to in this policy as "employees"), are provided access to the Internet to assist in the performance of their work for the County. However, the diversity of information available on the Internet brings with it the potential for abuse. This policy

is intended to ensure that County employees know their rights and responsibilities in using the Internet, and to ensure the appropriate, cost effective, and efficient use of County Internet access capabilities.

Use of the Internet via the County's system must withstand public scrutiny. The California Public Records Act (CPRA), Government Code Section 6250, *et. seq.*, requires the County to make all public records available for inspection and to provide copies upon request. A public record is any writing, including electronic documents, relating to the conduct of the people's business. The CPRA applies to information processed, sent and stored on the Internet. Additionally, records of Internet use may be requested during litigation discovery. No use of licensed or copyrighted material should be made without permission from the holder of the license or copyright.

### **3.37.1 Appropriate Internet Use**

Access to the Internet is provided as a business tool, however, its reasonable, incidental use for personal purposes is acceptable, so long as such use does not interfere with performance of work duties or the operation of County information systems.

- (A) No employee, however, may use the Internet for inappropriate purposes, such as, but not limited to the following:
  - (1) Personal profit, including commercial solicitation or conducting or pursuing their own business interests or those of another organization.
  - (2) Unlawful or illegal activities, including the downloading of licensed material without authorization, or downloading copyrighted material from the Internet without the publisher's permission.
  - (3) To access, create, transmit, print, download or solicit material that is or may be construed to be harassing or demeaning toward any individual or group for any reason, including on the basis of sex, age, race, color, national origin, creed, disability, political beliefs, organizational affiliation, or sexual orientation.
  - (4) To access, create, transmit, print, download or solicit sexually-oriented messages or images.
  - (5) The knowing propagation or downloading of viruses or other contaminants.
- (B) Internet Relay Chat channels or other Internet forums such as newsgroups or net-servers may be used only to conduct work-related business.

### **3.37.2 Access to Usage Records**

- (A) Employees should have no expectation of privacy in their usage of the Internet. An audit authority designated by a department head may monitor usage of the Internet

by department employees, including reviewing a list of sites accessed by an employee within the department; audit and examination of usage by an agency or department head shall be performed by a person designated by the County Executive. For this purpose, records of access to sites, materials and services on the Internet may be recorded and retained for a time period set by the County. The County or department head may restrict access to certain sites that it deems are not necessary for business purposes.

- (B) This policy does not supplant the legal protections available to shield confidential, internal County communications from third party requests, such as information exempt from disclosure under the CPRA, shielded by attorney-client privilege, or subject to state law mandating confidentiality for specific subject matter.

### **3.37.3 Enforcement**

Violation of the County's policy on Internet use may result in appropriate disciplinary action up to and including termination. Any improper Internet usage will not be disclosed by the County to others except to the extent necessary to consider and to implement discipline, for other employment related purposes, or to respond to litigation requests. Potential criminal conduct which is revealed by improper Internet usage will be referred to the appropriate law enforcement authorities.

## **3.38 RECOGNIZING THE CONSULAR IDENTIFICATION ISSUED BY THE MEXICAN AND OTHER FOREIGN GOVERNMENTS AS OFFICIAL IDENTIFICATION (Adopted 8-6-02)**

It is the policy of the Board of Supervisors that:

- (A) The identification card issued by the Mexican Consulate, entitled the *Matricula Consular*, shall be accepted as a valid form of identification by County departments and agencies.
- (B) County departments and agencies shall accept an identification card that is issued by a country, other than Mexico, to its citizens or nationals as a valid form of identification if the County Executive has determined that the identification card meets the following requirements: (1) the issuing country authorizes the use of the card as an alternative to a passport for re-entry into the issuing country, (2) the card has a photograph of the person and the person's date of birth, (3) the card holder was required to provide reliable identifying information in order to obtain the card, and (4) the card has features reasonably designed to protect against fraud and counterfeit reproduction, including the use of bonded paper, lamination, a hologram, an imbedded signature of the issuing officer and serialization. The County Executive shall compile and make available to County departments a list of the identification cards and the issuing countries that the County Executive has determined meet the requirements of this paragraph. Any County Department and any member of the

public may request that the County Executive review an identification card for compliance with this paragraph.

- (C) Nothing in this policy prohibits a County department from asking for additional information from individuals in order to verify a current address or other facts that would enable the department to fulfill its responsibilities.
- (D) The sole purpose of this policy is to facilitate the establishment of a person's identity. It does not establish any legal status or entitlement to any benefits.
- (E) The requirements of this policy do not apply under circumstances where (1) a federal or state statute, regulation, court decision or other applicable law requires the County to obtain different identification, (2) a federal or state statute, regulation, court decision or other applicable law preempts local regulation of identification requirements, (3) the County would be unable to comply with a condition imposed by a funding source, causing the County to lose funds from that source, or (4) there are reasonable grounds for a determination that a specific card is counterfeit, altered, improperly issued to the card holder, or is an otherwise unreliable form of identification.
- (F) It is not the intention of the Board of Supervisors that County departments and agencies use the *Matricula Consular* to assist federal agencies in the enforcement of federal immigration law. Furthermore, County departments and agencies shall not consider the possession of a *Matricula Consular* as evidence of illegal immigration status.
- (G) In adopting and implementing this policy, the County is only acting to promote the general welfare. The County is not assuming, nor imposing on its officers, agents and employees, an obligation the breach of which imposes liability on the County for money damages.

### **3.39 SISTER COUNTY COMMISSIONS (Adopted 1-14-03)**

It is the policy of the Board to encourage and support the creation of Sister County commissions. Sister County commissions create a unique partnership between county governments, the business community and volunteer community residents. These commissions benefit the County by promoting an intercultural understanding and enhance the knowledge and acceptance of others.

*Mission Statement: The County of Santa Clara encourages the creation of Sister-County commissions to promote friendship and understanding and to build bridges with countries of origin for various ethnic populations residing in the County. These relationships enhance the region's international profile; encourage mutual understanding and foster cultural, educational, technological and business exchanges between people of the County of Santa Clara and the people of our Sister communities.*

Sister County Commission Program Elements:

- (A) The County Executive's Office of Public Communication and Community Outreach (Office) provides programmatic and administrative support to the Sister County commissions. The Clerk of the Board provides secretarial support and both provide financial management support. County agencies and departments may be called on for direct involvement in Sister County commission programs. It is the policy of the Board that a ratio of one staff liaison is assigned to every two Sister County commissions. The Board will examine in consultation with the Clerk of the Board, whether additional clerical support is required.
- (B) The budget of the Sister County commissions will comply with the Board of Supervisors' Policy Manual, Section 3.3. Incidental expenses of a Sister County commission relating to stationery, mailing and refreshments for visiting delegations are paid out of the budget of the Office of the County Executive.
- (C) Sister County commissions are to implement cultural, educational, technological, and economic exchange programs and require raising necessary funds, beyond County funds to support these programs and activities. The local sponsoring committee will secure and the Sister County will provide a significant artifact of indigenous art for public display representing the Sister County.
- (D) The process to evaluate prospective Sister County commissions:
  - (1) A local sponsoring committee submits an *Affiliation Application* to the County Executive, Office of Public Communication and Community Outreach.
  - (2) The Office will review the *Affiliation Application* based on the following criteria: community characteristics of the Sister County, the demonstrable commitment of at least 15 residents from a local sponsoring committee, an established United States diplomatic presence, political ease of partnership, an identifiable funding source to support the relationship beyond County funds, a work plan for accomplishing goals and objectives, and consistent with Sister Cities International (SCI) guidelines, to limit affiliations with counties that already have partnerships with U.S. jurisdictions. The Office will prepare a recommendation to the Board of Supervisors.
  - (3) If the Board of Supervisors approves the proposed Sister County commission, the Office will obtain official recognition with the SCI documenting the new partnership and send a welcoming letter to the presiding official of the new Sister County.
  - (4) If the Board of Supervisors does not approve a prospective Sister County's *Affiliation Application*, the local sponsoring committee may re-submit the application one year from the date of denial.

- (5) The Board may waive any or all criteria during the review and approval process to accommodate underserved populations.
  
- (E) Before ending a Sister County relationship, the Office must determine whether there is a community-based support for continuing the relationship. If continuing community-based support exists, the Office sends a letter to the presiding official of the Sister County commission stating that the County is prepared to reactivate the relationship. If the Sister County commission agrees, staff will develop an action plan to rejuvenate the link. If the Sister County commission does not respond, has no further interest in continuing the relationship, or if there is insufficient community-based support, the County will inform the Sister County commission and Sister Cities International in writing that the relationship has terminated.

### **3.40 GENERAL POLICY RELATING TO THE HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA) (Adopted 2-25-03; Amended 8-31-04; Amended 10-18-22)**

It is the policy of the Board of Supervisors that:

- (A) Pursuant to the Health Insurance Portability and Accountability Act of 1996, the County of Santa Clara designates itself as a hybrid entity performing both covered and non-covered functions.
  
- (B) Accordingly, the County designates the following health care components:
  - (1) County of Santa Clara Health System, excluding:
    - (a) Emergency Medical Services; and
    - (b) Components of the Public Health Department, as identified in writing by the Director of the Public Health Department.
  
  - (2) Health Plans:
    - (a) Valley Health Plan; and
    - (b) Staff of the Employee Services Agency who administer the Flexible Spending Account for Health Care.
  
  - (3) Staff within the following departments providing support services to and on behalf of designated health care components, which require access to individually identifiable health information:
    - (a) the Office of the County Executive, including Information Security Office, Internal Audit, and Risk Management;
    - (b) the Department of Tax and Collections;

- (c) the Office of the County Counsel;
  - (d) Technology Services and Solutions; and
  - (e) the Board of Supervisors.
- (C) The Office of the County Executive and the Office of the County Counsel with the County of Santa Clara Health System Ethics, Privacy, and Compliance Office will develop, maintain, and administer the HIPAA Compliance Policy concerning the use and disclosure of protected health information in compliance with applicable HIPAA regulations.
- (D) The County of Santa Clara Health System Ethics, Privacy and Compliance Office will oversee the training of the County's affected workforce on the policies and procedures for HIPAA compliance in a manner consistent with their respective job responsibilities.

### **3.41 DEVELOPING AND PRODUCING INFORMATION FOR THE PUBLIC REGARDING BOARDS AND COMMISSIONS (Adopted 11-15-05; Amended 12-12-06)**

- (A) Boards and Commissions may develop or produce informational and educational materials for distribution in hard copy or for inclusion on the County web site, relating to their roles, responsibilities and meeting information. Material and information shall be in compliance with enabling legislation, State statutes and local Ordinance Codes, the Boards and Commissions Handbook, County Board and Administrative Policies and Board direction.
- (B) Informational and educational information may be distributed in the form of hand-outs, brochures, fact sheets, and any other pamphlet or booklet as well as on the County website so long as the distribution is cost-sensitive and complies with Board policy.
- (C) Information included in the material or on the County website must be informational-only and related to the work of the board or commission as identified in the Santa Clara County Ordinance Code, other enabling legislation, the Board action which established the Body, or as a result of a specific Board of Supervisors' referral. The information shall not be for the purpose of advocating or promoting (for or against) a position or fundraising unless specifically authorized by enabling legislation or an act by the Board of Supervisors. The Sister County Commissions may engage in revenue producing activities that directly support the purpose of the Commission. A board or commission may request additional information be included on hardcopy materials or on the County website subject to availability of funding and approval by County Administration.
- (D) Basic information to be included on all material and the County website must include: The name of the Body, a date the material is created (hardcopy materials

only), a concise description of the role and/or purpose of the board or commission, appropriate contact information, the County website address (hardcopy materials only) and the County Seal. All information is subject to approval by County Administration.

- (E) The following shall apply to producing hardcopy informational materials:
- (1) Reasonable costs for producing informational material shall be at the expense of the County within the budgetary parameters established by the Board of Supervisors and the County Executive and limited to the amount of funding available in the budget of the Clerk of the Board of Supervisors for such expenditure.
  - (2) All documents will be printed using County resources to assure standardized paper stock, binding, and print size.
  - (3) The Clerk of the Board of Supervisors or designee will work in concert with the chair or designee(s) of each board or commission, except for the Sister County Commissions, during the development of the informational or educational material. The Office of Public Affairs will work with the Sister County Commissions or designee, during the development of educational or informational material.
  - (4) A majority of the entire membership of the board or commission must review the draft document and take action to request the production of informational or educational material at a regular meeting properly noticed by the Clerk of the Board of Supervisors.
  - (5) Matters of conflict or disagreement which cannot be resolved at the administrative level shall be forwarded to the Board of Supervisors for final decision as to the appropriateness for production and distribution.
  - (6) Copies of boards' and commissions' informational material will be retained by the Clerk of the Board of Supervisors.
- (F) The following shall apply to producing County board or commission websites and the content contained on the website:
- (1) It is the policy of the Board of Supervisors that all board and commission websites are hosted on the County's website, [www.sccgov.org](http://www.sccgov.org) in accordance with the policies and guidelines approved by the Board of Supervisors.
  - (2) The Clerk of the Board of Supervisors and the Information Services Department shall provide and maintain a hosting process for advisory board and commission websites. This hosting process will include templates, guidelines and procedures as well as the hardware, software and network infrastructure necessary for maintaining websites.

- (3) Board and commission website content may be maintained, in compliance with the content hosting process, by County Departments other than the Clerk of the Board of Supervisors or the Information Services Department.
  - (4) Boards and commissions must comply with the existing County policies relating to the online information privacy, security, links, acceptable use and the County “look and feel.”
- (G) This policy applies to all County boards and commissions except those who are an independent legal entity separate from the County of Santa Clara.

### **3.42 SUBSCRIPTION SERVICE FOR TRANSMITTING REQUESTED COUNTY INFORMATION VIA US MAIL (Adopted 3-16-04)**

The Board of Supervisors is committed to providing public access to various types of County information and recognizes that there are numerous options as to what method is used to provide information to ensure efficiency, less labor-intensiveness, and reduced cost.

In an effort to enable the public and all interested parties to obtain copies of agendas, full agenda packets and minutes for the meetings of the Board of Supervisors; Board Committees, Task Forces; Advisory Boards/Commissions and any other legislative body staffed by County personnel, it is policy that:

- Requests for copies of agendas, full agenda packets, and meeting minutes will be accommodated through the use of computer technology, free of charge.
- If computer technology is not feasible, requests will be accommodated through the use of a subscription service fee based on current postage (mailing rates) and copy charges established by County administration.
- The fee will be calculated annually based on multiplying the applicable per agenda material charge by the particular mailing frequency of each specific Board, Commission, Committee, or other qualified entity.
- The Clerk of the Board of Supervisors is authorized to administer the Subscription Service Program and to maintain and/or modify the subscription fee as appropriate.

### **3.43 ARCHIVE POLICY (Adopted 9-14-04)**

The Board of Supervisors recognizes the need for a formal archive policy to insure the preservation and availability for historical and evidentiary purposes of the official papers and artifacts of the County of Santa Clara; and

The purpose of the County of Santa Clara Archive is to preserve those historically valuable materials which document the origins, activities, and achievements of the County of Santa Clara; and

The County has acquired a facility suitable for the collection, cataloging, preservation and access of historical materials pertaining to Santa Clara County; and

The Board of Supervisors approved the formation of an Archive Committee charged with the responsibility to oversee the development and maintenance of an archive program.

It is County policy to establish and maintain a Countywide Records Management program, utilizing the cooperation and support of County agencies and departments, and to identify it as a priority to enable the County to systematically control the creation, maintenance, and disposition of all County records, as well as provide a County archive facility for use by the public, the County organization, and any individual or organization in need of historical and evidentiary information about the County of Santa Clara.

### **3.44 USE OF COUNTY FACILITIES (Adopted 3-1-05; Amended 3-26-13; Amended 5-14-13; Amended 1-10-17)**

#### **Purpose**

To identify the conditions under which County facilities, excluding those park facilities that are subject to Board Policy 7.6, may be used for meetings and events, who may use those facilities, and when they may be used. This policy further details the responsibilities of the County and the user of the County facility with regard to non-County meetings and events. Through this policy, the Board of Supervisors establishes criteria for the use of County facilities and delegates to the County Executive or his or her designees the responsibility to implement this policy. All below fair market real property, franchise and concession agreements involving County property, shall be subject to and comply with the provisions of Board Policy Section 5.9.5.6.

This policy is not in conflict with and does not supersede the Santa Clara County Ordinance Code, including, but not limited to, the following sections:

- Div. A21. License Agreements and Permits to Enter.
- Div. A25-396. Use of county buildings.
- Sec. B13-10. Restricted areas of public buildings.
- Div. B14. Parks and Recreation.

#### **Organizations Authorized to Request Use of Facilities**

This policy relates to two categories of users:

- County agencies and departments meeting on County business.
- Non-County organizations.

#### **County Agencies and Departments Meeting on County Business**

The Board of Supervisors, County boards and commissions, and County departments/agencies may use County facilities for County business when space is available and

through arrangement with the department responsible for scheduling. No special provisions are required for insurance, security, or financial charges. Governmental bodies that contain one or more members of the Board of Supervisors, who are officially representing the County, reserving meeting rooms to conduct Board meetings in County facilities shall be considered as using the rooms for County business. (Examples of such bodies include, but are not limited to, the Valley Transportation Authority Board and the Santa Clara County Library Joint Powers Authority Board.)

### **Non-County Organizations**

There are several types of organizations that are considered non-County organizations.

- (A) *Agencies and officers of federal, state or other local governments for government functions.* Organizations in this category are subject to the cost recovery provisions of this policy. However, they are not subject to the indemnification and insurance provisions.
- (B) *Registered or recognized County employee organizations.* Organizations in this category are subject to the cost recovery provisions of this policy. However, they are not subject to the indemnification and insurance provisions. If an organization in this category hosts a meeting or event that has attendees who are not County employees, then that meeting or event would be subject to all provisions of this policy.
- (C) *Non-profit organizations and other organizations.* Organizations in this category are required to meet all requirements of this policy, including but not limited to insurance, security and payment of charges. This applies equally to organizations that have sponsorship from the County and those that do not.
- (D) *Groups formed and authorized by departments and agencies for the purpose of furthering the provision of County-related services.* Groups in this category include medical support groups formed by clinical leaders with the goal of sharing information and managing through a disease state. Social Services Agency client groups would also belong to this category. Groups in this category would be required to meet the security provisions of this policy, but would not be responsible for cost recovery, indemnity or insurance.

Organizations that are not part of the Federal, State, County or other local government are referred to as “non-government organizations” with respect to several elements of this policy. All organizations outside of County of Santa Clara (including other governmental organizations) are referred to as “non-County organizations.”

### **Requirement for a License Agreement**

A written agreement is required for all non-County organizations (as defined in (A) through (D) above) use of County facilities. The Director of the Facilities and Fleet Department is responsible for developing an agreement template, subject to approval by County Counsel as to form and legality, which shall be used by all County Executive des-

ignees when a County space, facility or property is to be used by or is offered for use to non-County organizations.

The County Executive, or his or her designees, is authorized to negotiate, amend and execute space use agreements for the use of County facilities or space by non-County organizations if: (1) the use is for a duration of no more than 10 days per year, (2) the rent or fee for the use is less than \$10,000 per month, (3) the agreement is non-renewable, (4) the use serves a public purpose, (5) the County executive or his or her designee will ensure that the use will comply with all other applicable provisions of the County Board of Supervisors Policy Manual (including but not limited to Board Policy 5.9.5.6 pertaining to fair market rent/fees), the County Ordinance Code and other laws pertaining to such use, (6) an executed copy of the space use agreement is provided to the Director of the Facilities and Fleet Department immediately upon execution, and (7) FAF presents an annual report to the FGOB with a table summary of all agreements executed within the prior twelve months.

Exemptions to this policy must be authorized by the Board of Supervisors.

### **Priorities for Facility Use**

Generally, the priority for use of a County facility shall be as follows:

1. Meeting of the Board of Supervisors.
2. Meeting of Board Committees.
3. Meeting held and attended by individual Board member for the purpose of conducting County business.
4. County boards and commissions.
5. Santa Clara County Departments/Agencies.
6. Federal, State and local governments.
7. Non-government organizations.

The County's need to use its facilities during declared states of emergency, for emergency response, or under unusual security conditions, such as a change in the Homeland Security Threat condition, will take precedence over all of the categories listed above.

### **Cancellation by the County**

Authorization to use a County facility may be cancelled if the space is needed for County business and no other appropriate space is available. The County will make all efforts to find replacement space, and, when possible, 24-hour notice will be given. However, there may be occasions when this is not possible. Emergency situations such as those described in the preceding paragraph could lead to cancellation with no advance notice.

### **Reservation Review and Approval Process**

Departments and agencies with responsibility for scheduling County facilities for use by non-County groups shall develop procedures for reservation application, review and approval. To ensure consistent application of the Board of Supervisors' Policy, these procedures will be reviewed and approved by the County Executive or his or her designee. Reservations must be requested and an application form submitted a minimum of thirty (30) business days in advance of the meeting or event to allow time for processing the request and verifying insurance requirements.

### **Hours/Days Authorized for Facility Use**

Hours and days authorized for use shall be established by the department responsible for the facility with review by the County Executive and the Facilities and Fleet Department and shall be in accordance with the County Security Plan or Agency/Department Security Plans, Energy Conservation Policy, and any other applicable County policies.

### **Indemnification and Insurance**

Non-government organizations using County facilities must provide, in advance, evidence of insurance and must agree to indemnify, defend, and hold the County harmless for claims or loss arising out of facility usage. Insurance requirements and indemnification language shall be as required by Risk Management and County Counsel. If these requirements are not met, authorization to use County facilities shall not be granted.

### **Excess Cost Recovery**

By charging non-County organizations for the use of County facilities for costs that exceed the normal operating costs of the County, the County can ensure that no private group will be accorded additional benefits at taxpayers' expense. Prior to approval for the use of County facilities, a deposit shall be made with the County for the estimated cost of all expenses that would not otherwise be incurred by the County if the non-County organization was not using the County facility. If actual charges are less than estimated, a refund shall be provided. If actual charges are greater than estimated, the difference shall be billed to the organization using the facility. Expenses may include, but are not limited to:

- Janitorial/cleanup costs
- Equipment setup/removal costs (stages, tables, chairs, audio-visual equipment, etc.)
- Security
- County employee time to open/close facility
- Repair of damages

Actual charges for services shall be determined by the agency/department providing the services. Cost recovery reimbursements will be provided to the agencies/departments providing the services.

### **Security**

With the exception of designated park facilities, security will be required for non-County groups that allow members of the public into County buildings during County non-business hours. Security may be required for any other event as determined by the County Executive or his or her designee. County Executive approval is required for the use of County facilities by non-County groups during periods when the National Terror Advisory system has issued an active alert affecting County buildings or operations. Security will be provided by the Office of the Sheriff or other recognized law enforcement agency approved by the County Executive or his or her designee. Departments with appropriate County security staff may utilize those employees as adequate security. User groups will reimburse the County for the County's incurred cost of providing security.

### **Other Considerations**

- Meetings and events held by non-government organizations must be open to the public. Medical support groups and Social Services client groups that are meeting in the furtherance of County services may require privacy in order to be effective and shall be exempt from this provision.
- Admission may not be charged and funds may not be raised at meetings and events held in County facilities. This does not preclude the availability or dissemination of membership information.
- Organizations using County facilities must disclose all activities planned to occur during scheduled meetings or events.

### **Health, Safety and Property Protection**

The County Executive will develop facility use procedures that protect the health and safety of users of County facilities and County employees and that protect County property. All facility use policies must comply with all other County policies. Areas to be addressed in these procedures shall include, but are not limited to:

- Food and beverage use
- Prohibition on smoking and alcohol use in County facilities
- Decorations
- Hazardous activities

### **Facility Clean-Up after Events**

- Groups using County facilities are expected to clean and leave the facilities, including restrooms, in the condition in which they found them.
- If the County is required to clean up after a group, charges will apply.

### **Audio-Visual (AV) Equipment Needs**

All AV equipment, including equipment for the hearing impaired, must be provided by the organization using the County facility, unless exempted through the reservation request process, and be used only with the approval of the County.

### **Policy Non-Compliance**

Non-compliance with the provisions of this policy may preclude future use of County facilities or warrant additional requirements or restrictions for future use as determined by the County Executive.

### **Related Policies**

- Use of County Facilities at 70 W. Hedding Street and 55 W. Younger Avenue - <https://connect.sccgov.org/sites/policies/policypages/Pages/Use-of-County-Facilities>

This section of the Board Policy Manual, in its original format, can be found at <http://www.sccgov.org/sites/bos/Legislation/BOS-Policy-Manual/Documents/BOSPolicyCHAP3.pdf>

## **3.45 NUTRITIONAL POLICY RELATING TO VENDING MACHINE PRODUCTS AND COUNTY-SPONSORED MEETINGS AND EVENTS (Adopted 11-15-05)**

In order to ensure consistency with the healthcare mission of the County and to provide healthy food and beverage choices to the public and our employees, the County will strive to provide healthy choice options in vending machines and at County-sponsored meetings and events.

### **3.45.1 Nutrition Standards Relating to Vending Machine Products**

There will be a phase in of healthy options in County vending machines with 20 percent meeting the standard below in 2005-2006 and 50 percent meeting the standard thereafter.

- (A) Beverages: Beverage selections offered in each vending machine shall be one or a combination of the following:
- (1) Water (with no additives).
  - (2) 100 percent Fruit Juices with no added sugars, artificial flavors or colors (limited to a maximum of 10 ounces per container).
  - (3) Dairy Milk: Nonfat, 1 percent and 2 percent only (no flavored milks).
  - (4) Plant-derived (i.e. rice, almond, soy, etc.) milks (no flavored milks).
  - (5) Artificially-sweetened, calorie-reduced beverages that do not exceed 50 calories per 12-ounce container (i.e. teas, electrolyte replacements).
  - (6) Other non-caloric beverages, such as coffee, tea, and diet soda.
- (B) Snacks/Foods: Snacks and Food selections offered in each vending machine shall meet the following criteria:

- (1) Not more than 35 percent calories from fat with the exception of nuts and seeds; snack mixes and other foods of which nuts are a part must meet the 35 percent standard.
- (2) Not more than 10 percent calories from saturated fat.
- (3) Does not contain trans fats added during processing (hydrogenated oils and partially hydrogenated oils).
- (4) Not more than 35 percent total weight from sugar and caloric sweeteners with the exception of fruits and vegetables that have not been processed with added sweeteners and fats.
- (5) Not more than 360 mg. of sodium per serving.

### **3.45.2 County Sponsored Meetings and Events**

Foods and beverages intended for County functions should provide variety, nutritional benefit and choice to employees and the public. When foods are provided, there should be a consideration of reduced fat, salt and sugar items. When possible, provide fruit and vegetable options.

## **3.46 CORPORATE SPONSORSHIP, MARKETING AND ADVERTISING POLICY (Adopted 6-19-07; Amended 12-14-10)**

### **Purpose**

The purpose of this policy is to provide guidelines for the development, implementation, and administration of Marketing and Advertising Plans developed by County departments pursuant to Ordinance Code Section A36 and Government Code Sections 26109 and 26110. The objectives of this policy are:

- (A) To establish guidelines for entering into Corporate Sponsorship or Advertisement Agreements with third parties who will adhere to the County's commitment to deliver quality programs and services to County residents.
- (B) To generate revenue from Corporate Sponsorship or Advertisement Agreements that can be used to fund County programs, activities, and services.
- (C) To ensure that Corporate Sponsorship and Advertisement Agreements are consistent with and appropriate to the County's mission to advance the health, safety, and welfare of the general public and show sensitivity to the County's values, while maximizing revenue and public benefits and minimizing the perception that the County has become commercialized or inappropriately subjected to advertising.
- (D) To maintain a position of neutrality on political and religious issues.

- (E) To enable the County to market its assets to the greatest extent possible subject only to the limitations imposed by the laws of the State of California and of the County of Santa Clara, including, but not limited to Government Code Sections 26109 and 26110 and the Santa Clara County Ordinance Code, Sections 1-8 of Division A36, and this policy.
- (F) To ensure coordination of County department efforts through the County Executive.

**Development of Marketing Plans**

- (A) Prior to soliciting offers to enter into any corporate sponsorship and licensing agreement, a County department shall consult with a qualified licensing agent to develop a Marketing Plan for consideration by the Board of Supervisors and adoption by resolution that shall:
  - (1) Identify marketing and licensing opportunities, including but not limited to, sale of advertising space and provision of exclusive/non-exclusive designation promotions;
  - (2) Outline a method for evaluating both the revenue potential of proposed contracts and the future revenue impact of a proposed contract;
  - (3) Establish procedures for comparing the revenue potential of alternative contracts;
  - (4) Identify opportunities to attract advertisers with messages promoting products and services that assist in implementing the County's Policy on Sustainability (Board Policy 8.0), including, but not limited to products or services that promote sustainability;
    - (a) Walking, carpooling, car-sharing, bicycling and use of public transit and other sustainable transportation methods;
    - (b) Purchase of locally made products, locally grown produce, or minimally processed and nutritious food;
    - (c) Increases use of renewable resources;
    - (d) Planting trees;
    - (e) Reduced electrical energy usage through conservation and improved energy efficiency;
    - (f) Increased reuse, recycling and solid waste diversion from landfills; and
    - (g) Reduced water consumption.

- (5) Identify opportunities to attract advertisers promoting products and services that meet or exceed the County's Environmental Preferable Purchasing Policy Goals (5.3.17.2);
  - (6) Provides procedures for auditing the licensee's performance (if applicable);
  - (7) Provide outreach to public agencies for (paid) advertising of public service messages;
  - (8) As appropriate, ensure County property and resources will continue to be used for County messages; and
  - (9) Detail short-term and long-term revenue goals.
- (B) All corporate sponsorship and licensing agreements must be formalized in a written contract approved by the Board of Supervisors. Contractual language will be consistent with all applicable County policies, ordinances, and good business practices, and will be approved as to form and legality by County Counsel. In general, corporate sponsorship and licensing agreements will include the following:
- (1) Specified term of agreement;
  - (2) Renewal options, if any;
  - (3) Consideration, such as fee, commission, or in-kind goods or services;
  - (4) Description of County programs, projects, and activities that will benefit;
  - (5) Rights and benefits of all parties; and
  - (6) Termination provisions.

### **Development of Advertising Plans**

- (A) Prior to soliciting offers to enter into any advertising agreement for the sole purpose of raising revenue, a County department shall develop an Advertising Plan for consideration by the Board of Supervisors and adoption by resolution that shall:
- (1) Identify opportunities for advertising on County real or personal property, including in electronic or written publications;
  - (2) Identify opportunities to attract advertisers with messages promoting products and services that assist in implementing the County's Policy on Sustainability (Board Policy 8.0), including, but not limited to products or services that promote sustainability:
    - (a) Walking, carpooling, car-sharing, bicycling and use of public transit and other sustainable transportation methods;

- (b) Purchase of locally made products, locally grown produce, or minimally processed and nutritious food;
  - (c) Increases use of renewable resources;
  - (d) Planting trees;
  - (e) Reduced electrical energy usage through conservation and improved energy efficiency;
  - (f) Increased reuse, recycling and solid waste diversion from landfills; and
  - (g) Reduced water consumption.
- (3) Identify opportunities to attract advertisers promoting products and services that met or exceed the County's Environmental Preferable Purchasing Policy Goals (5.3.17.2);
  - (4) Evaluate the revenue potential of proposed contracts;
  - (5) Compare the revenue potential of alternative contracts;
  - (6) Provide outreach to public agencies for (paid) advertising of public service messages;
  - (7) As appropriate, ensure County property and resources will continue to be used for County messages; and
  - (8) Detail short-term and long-term revenue goals.
- (B) All advertising agreements must be formalized in a written contract approved by the Board of Supervisors. Contractual language will be consistent with all applicable County policies, ordinances, and good business practices, and will be approved as to form and legality by County Counsel. In general, advertising agreements will include the following:
- (1) Specified term of agreement;
  - (2) Renewal options, if any;
  - (3) Consideration, such as fee, commission, or in-kind goods or services;
  - (4) Description of County programs, projects, and activities that will benefit;
  - (5) Rights and benefits of all parties; and
  - (6) Termination provisions.

### **Standards for Proposals for Agreements**

- (A) Any offer to enter into a corporate sponsorship, licensing or advertising agreement must comply with the following standards:
- (1) The proposed agreement may not result in any loss of County jurisdiction or authority.
  - (2) In adopting this policy, the County in no way intends to establish any forum for the exchange of views. Therefore, no advertisement, license or sponsor recognition shall be erected on County property or included in a County publication pursuant to a corporate sponsorship, license or advertising agreement unless the sole and exclusive purpose of the advertisement is to (1) propose a consumer transaction, (2) to publicize the names of sponsors of County programs, services, or facilities, or (3) to publicize a public service message from a public agency.
  - (3) If an advertising, sponsorship or license opportunity would make use of a limited County resource, the Advertising or Marketing Plan should call for an open and competitive selection process, or explain why the advertising should be limited to a defined group of commercial enterprises. If the Advertising or Marketing Plan mandates an open and competitive selection process, an offer that conforms to these Standards for Proposals, as well as any additional neutral standards in the Plan, shall not be rejected based solely upon the content of the proposed advertisement. The Plan shall:
    - (a) Explain whether advertising will be limited on the basis of a neutral standard reasonably related to the purpose of the Advertising Plan (e.g., the Department of Parks and Recreation may limit advertising in trail maps to outdoor recreation companies);
    - (b) Describe how the selection process will meet the purpose of this policy;
    - (c) Include a statement that the County will reject any offer that does not conform to the Standards for Proposals, or to any additional neutral standard in the Plan; and
    - (d) Include a statement that the County may reject any third party offer at its sole discretion.
  - (4) Because one of the purposes of this policy is to further the health, safety, and welfare of the general public, proposed agreements should not conflict with the County's mission. Accordingly, no corporate sponsorship, license or advertising agreement will be entered into that would involve the County's endorsement of, advertisement on County property of, advertisement in County publications of, or use of the County's logo in connection with (1) alcoholic beverages, (2) tobacco products, (3) adult businesses, (4)

gambling enterprises, (5) illegal drugs or drug paraphernalia, (6) firearms, (7) beverages, single food items or meals meeting nutritional standards described in Section A18-352 of the Ordinance Code in advertisements targeting children or adolescents, or (8) beverages, snacks or food items that do not meet the minimum nutrition standards in Board Policy 3.45.1. For the purpose of this policy:

Alcoholic beverages and brand references will be excluded to limit exposure by minors to alcoholic beverage advertisements, consistent with findings in Section B13-36 of the Ordinance Code that underage drinking threatens public health, safety, and welfare.

- (a) Tobacco products and brand references will be excluded consistent with findings in Section B13-79 of the Ordinance Code that tobacco products contribute to air pollution, cause cardiovascular disease, and impair respiratory function.
- (b) Adult businesses, as defined in Section 2.10.040 of the County's Zoning Ordinance, will be excluded consistent with the County's authority under Section 4.10.020 of the Zoning Ordinance to regulate these businesses in the interest of public health, safety, and welfare.
- (c) Gambling enterprises, including cardrooms and bingo enterprises, as defined in Section B2-11 and B3-76 of the Ordinance Code, will be excluded consistent with County ordinances prohibiting and regulating such enterprises in furtherance of public health, safety, and welfare.
- (d) Illegal drugs and drug paraphernalia will be excluded consistent with Sections A20-53 *et seq.* of the Ordinance Code, which restrict the sale and display of drug paraphernalia to minors.
- (e) Firearms will be excluded consistent with the County's authority in Section B19-1 of the Ordinance Code to regulate the sale and advertisement of dangerous weapons in the interest of public health, safety, and welfare.
- (f) In advertisements targeting children or adolescents, beverages, single food items or meals meeting the nutrition standards described in Section A18-352 of the Ordinance Code shall be excluded consistent with findings in Section A18-350 that such items contribute to childhood obesity and other health problems.
- (g) Beverages, snacks or food items that do not meet the minimum nutrition standards described in Board Policy 3.45.1 shall be excluded consistent with the healthcare mission of the County as stated in the policy and elsewhere.

- (5) The Board may revise this policy to exclude other categories of products and businesses from corporate sponsorship, license or advertisement agreements. Such exclusions shall be reasonably related to the purpose of the County's mission as expressed in ordinances and Board policies, and the Board shall expressly incorporate the exclusion into this Board policy.
- (6) No corporate sponsorship, license or advertisement agreement will involve the licensing of the private commercial use of the County name, logo, or other intellectual property, or the depiction of County property, unless the corporate sponsorship, license or advertisement agreement contains assurances by the corporate sponsor, licensee or advertiser that it does not discriminate against employees or customers solely on the basis of age, race, color, national origin, ancestry, religion, sex/gender, sexual orientation, mental disability, physical disability, medical condition, political beliefs, organizational affiliations, marital status, or other criteria listed in Board Policy 5.3.5.
- (7) Consistent with the purpose of this policy, no advertisement displayed pursuant to a corporate sponsorship, license or advertisement agreement shall contain content that:
  - (a) Is false, deceptive, or misleading;
  - (b) Constitutes trade defamation or defames the character of any person;
  - (c) Is lewd, lascivious, obscene, or otherwise highly offensive to a reasonable person; or
  - (d) Engenders harmful stereotypes, hatred, or discrimination on the basis of any social category enumerated in Board Policy 3.8.

### **Administration**

- (A) All activities relating to this policy will be coordinated by the Office of the County Executive or an appointed designee. The Office of the County Executive will be responsible for:
  - (1) Providing oversight and coordination of Marketing Plans;
  - (2) Providing guidance to all County departments regarding the implementation and application of this policy;
  - (3) Providing assistance and advice to departments regarding Marketing and Advertising Plans activities and implementation, while maintaining the existing departmental responsibilities for program areas that may be included in Marketing and Advertising Plans

- (4) Reviewing and assisting in the development of the corporate sponsorship, license or advertisement agreements;
- (5) Assisting the departments with administration, auditing, and monitoring of performance of corporate sponsorship, license or advertisement agreements developed through Marketing or Advertising Plans.

**Additional Provisions**

- (A) County departments can accept gifts in accordance with the limitations of Santa Clara County Code section A2-17. Any benefits conferred on the donor outside of mere acceptance must be in accordance with approved corporate sponsorship, license or advertisement agreements.
- (B) The County accepts the principle that third parties may become partners with the County in the sponsorship of County-approved programs, projects, events, facilities, or activities where such partnerships are mutually beneficial to both parties and in a manner consistent with all applicable policies and ordinances. In no event will such a partner be considered an employee, agent, officer, or servant of the County.

**3.47 NO SMOKING POLICY (Adopted 4-7-09; Amended 3-25-14)**

The health hazards from smoking tobacco products, as well as the second-hand smoke and third-hand smoke generated by such smoking, are well documented. The use of tobacco products is detrimental to the health of smokers and nonsmokers and is one of the most preventable causes of death. Second-hand and third-hand smoke endangers the health and well-being of nonsmokers by exposing them to many of the same carcinogens as the smoker.

The use of electronic smoking devices-such as e-cigarettes-and emissions from those devices also present health hazards. The U.S. Food and Drug Administration's analysis of electronic cigarette samples has found carcinogens and toxic chemicals to which individuals could be exposed. Therefore, for purposes of this policy, the term "smoking" shall include use of any electronic smoking device. "Electronic smoking device" shall mean an electronic and/or battery-operated device that can deliver an inhalable dose of nicotine to the user. "Electronic smoking device" includes any product meeting this definition, regardless of whether it is manufactured, distributed, marketed or sold as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, electronic vape, vaporizer or any other product name or descriptor.

The Board of Supervisors adopts this policy to protect the public health and welfare of County employees and visitors.

**Prohibition on Smoking at and around County-Owned and Operated Facilities and County-Leased Facilities**

Smoking shall be prohibited within any enclosed structure owned or leased by the County, wherever located, and at all unenclosed places within 30 feet of any operable doorway, window, vent or other opening into such a building. At all current and future County-operated health facilities and clinics where patient care is provided, however, this smoking prohibition shall extend at least as far as the property line.

Staff have an ongoing obligation to work with the landlords of leased buildings where the County is one of several occupants, to encourage a prohibition on smoking in or within 30 feet surrounding those leased buildings.

### **Smoking Prohibition for County Vehicles**

It is the policy of the County of Santa Clara to prohibit smoking in all County vehicles.

### **Signs**

“No Smoking” signs that give notice of this County policy shall be posted in appropriate locations visible to County employees and visitors. Such signs shall explain that the prohibition includes use of electronic smoking devices.

### **Prohibition on Selling Tobacco Products and Electronic Smoking Devices on County-Owned and Operated Property**

The following products shall not be sold on any property owned and operated by the County: tobacco products, electronic smoking devices, as well as any components, accessories, or cartridges specifically designed for use with an electronic smoking device.

### **Promote Smoking Cessation**

A summary of the County's no-smoking policy shall be included in all contracts and leases, including personal service contracts, where smoking cessation could be influenced. Contractors shall be required to abide by this policy while working on County property described in this policy.

Smoking cessation resources should be placed alongside “No Smoking” signs, where feasible, to support those who would like to stop smoking.

## **3.48 COUNTY DISTRIBUTION OF TICKETS OR PASSES (Adopted 10-6-09; Amended 4-5-11; Amended 4-10-12; Amended 4-12-16)**

This policy establishes a procedure for the distribution, use and reporting of tickets or passes, provided to the County, to a facility, event, show or performance for an entertainment, amusement, recreational or similar purpose (hereinafter the “Event”) in compliance with section 18944.1 of the California Code of Regulations (hereinafter “FPPC Regulation”<sup>1</sup>). FPPC Regulation 18944.1 sets forth circumstances when a public agency’s distribution of tickets or passes, when no consideration of equal or greater value is provided by

the public official or employee, does not result in a gift to the public official or employee. Tickets or passes to an Event distributed and accounted for in compliance with this policy and FPPC Regulation 18944.1 will not be considered gifts to the County officials or employees who make use of donated tickets and passes.

The public purpose in distributing tickets and passes to Events, which is described in more detail in Section 3.48.3, is to promote County resources, programs and facilities, to monitor and evaluate County venues and County-sponsored events, and to promote cultural, recreational and educational facilities, services and programs available to the public within the County.

This policy is subject to all applicable FPPC Regulations and the Political Reform Act. Nothing in this policy is intended to alter, amend or otherwise affect the obligations of County officials and employees under the Political Reform Act and its implementing regulations or under any County policy or conflict of interest code.

### **3.48.1 Definitions**

“Ticket Administrator” means the County Executive or his/her designee(s) for County departments, agencies, and boards and commissions, and for elected County officials, the elected County officials’ staff designee. The Ticket Administrator has sole discretion to determine who shall receive the tickets.

“County official” means every member, officer, employee or consultant of the County of Santa Clara, as defined in Government Code Section 82048 and FPPC Regulation 18701. Such term shall include, without limitation, any County board or commission member or other appointed or elected official or employee required to file an annual Statement of Economic Interests (FPPC Form 700).

“Face value” means the price indicated on the ticket, or if no price is indicated, the price at which the ticket or similar pass would otherwise be offered for sale to the general public by the operator of the venue or host of the event who offers the ticket for public sale.

“Immediate Family” means spouse and dependent children.

“Ticket” means “ticket or pass” as that term is defined in FPPC Regulation 18944.1, as amended from time to time, but which currently defines “ticket or pass” as admission to a facility, event, show, or performance for entertainment.

### **3.48.2 Applicability**

This policy applies to tickets that are: (i) gratuitously provided to the County by an outside source; (ii) purchased by the County; (iii) received by the County pursuant to the terms of

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1. The FPPC Regulations can be found in Title 2 of the California Code of Regulations.

a contract for use of public property or because the County controls the event; or, (iv) received and distributed by the County in any other manner.

### **3.48.3 Public Purpose**

Any distribution of tickets in accordance with this policy to a County official, or to an individual or organization outside the County at the behest of a County official, must be in furtherance of a public purpose and be reported as provided in this policy. Public purposes under this policy include, but are not limited to, the following:

- (A) Facilitating the attendance of a County official at an event where the job duties of the County official require his or her attendance at the event.
- (B) Promotion of intergovernmental relations and/or cooperation and coordination of resources with other governmental agencies, including, but not limited to, attendance at an event with or by elected or appointed public officials from other jurisdictions, their staff members and their guests.
- (C) Official welcoming of visiting foreign officials and dignitaries.
- (D) Promotion of County resources and/or facilities available to the public.
- (E) Promotion of County-run, sponsored or supported community programs or events.
- (F) Increasing public exposure to, and awareness of, the various recreational, cultural, and educational venues and facilities available to the public within the County.
- (G) Promoting, supporting and/or showing appreciation for programs or services rendered by charitable and non-profit organizations benefiting County residents.
- (H) Attracting or rewarding volunteer service.
- (I) Attracting and retaining highly qualified employees in County service; recognizing or rewarding meritorious service by a County employee; and/or promoting enhanced County employee performance or morale.

### **3.48.4 Exemptions to Policy**

(A) Income

The County official treats the tickets as income consistent with federal and state income tax laws and the County reports distribution of the tickets or passes as income to the County official on the FPPC Form 802.

(B) Reimbursement

The County official reimburses the County for the face value of the tickets within thirty (30) days of receipt or acceptance of the tickets, as defined in the Political Reform Act.

### **3.48.5 Procedures for Distribution and Reporting**

#### **(A) Distribution**

- (1) Tickets that are donated or provided by an outside source and are earmarked for use by a specific County official by that source are considered gifts to the County official and are subject to the disclosure and reporting requirements applicable to gifts, unless one of the exemptions listed in Section 3.48.4 applies.
- (2) Tickets received by the County from an outside source without designation as to the specific County official who may use the tickets shall be forwarded to the Ticket Administrator. The Ticket Administrator shall determine the face value of the tickets or passes, the individuals who may use them, and report their distribution as provided in Section 3.48.5(B) below.
- (3) A County official may request use of tickets, or for distribution to an individual or organization outside the County, by completing Part 3 of FPPC Form 802 and submitting the request to the Ticket Administrator.

#### **(B) Reporting Requirement**

Tickets distributed by the County to a County official, or to an individual or organization outside the County at the behest of a County official, pursuant to this policy, or to a County official for admission to an event at which he/she will perform a ceremonial role or function on behalf of the County, shall be documented in a completed FPPC Form 802 (see Attachment “A”) or such other form(s) as the FPPC may designate. The completed Form 802 must be filed with the Clerk of the Board within 45 days of distribution of tickets and must be maintained as a public record, be subject to inspection and copying under California Government Code Section 81008(a), and must be posted on the County’s website. A link to the County’s website shall be forwarded to the FPPC for posting on its website.

#### **(C) Transfer Prohibition**

A County official who receives tickets or passes distributed by the County according to this policy is prohibited from transferring or giving the tickets or passes to any other person except to members of the County official’s immediate family or no more than one guest solely for their attendance at the Event. No person receiving a ticket or pass pursuant to this policy shall sell or receive reimbursement for the value of the ticket or pass.

#### **(D) Policy Application Limitations**

This Policy and the Form 802 reporting apply only to the benefits the official receives that are provided to all members of the public with the same class of ticket.

(E) Retention of Form 802

The original Form 802 must be retained by the Clerk of the Board for a period of not less than seven years.

Attachment A: FPPC Form 802 (Feb/16) (*Current Form Available on the FPPC website at [www.fppc.ca.gov](http://www.fppc.ca.gov) or toll-free helpline: 866-275-3772*)

**Agency Report of:  
 Ceremonial Role Events and Ticket/Pass Distributions**

**A Public Document**

<b>1. Agency Name</b>		Date Stamp	<b>California Form 802</b> For Official Use Only
Division, Department, or Region <i>(if applicable)</i>			
Designated Agency Contact <i>(Name, Title)</i>			
Area Code/Phone Number	E-mail	<input type="checkbox"/> <b>Amendment</b> <i>(Must Provide Explanation in Part 3.)</i> Date of Original Filing: _____ <i>(month, day, year)</i>	

**2. Function or Event Information**

Does the agency have a ticket policy? Yes  No  Face Value of Each Ticket/Pass \$ \_\_\_\_\_

Event Description: \_\_\_\_\_ Date(s) \_\_\_\_/\_\_\_\_/\_\_\_\_  
*Provide Title/ Explanation*

Ticket(s)/Pass(es) provided by agency? Yes  No  If no: \_\_\_\_\_  
*Name of Source*

Was ticket distribution made at the behest of agency official? Yes  No  If yes: \_\_\_\_\_  
*Official's Name (Last, First)*

**3. Recipients**

• Use Section A to identify the agency's department or unit. • Use Section B to identify an individual. • Use Section C to identify an outside organization.

A. Name of Agency, Department or Unit	Number of Ticket(s)/ Passes	Describe the public purpose made pursuant to the agency's policy
B. Name of Individual <i>(Last, First)</i>	Number of Ticket(s)/ Passes	Identify one of the following:
		Ceremonial Role <input type="checkbox"/> Other <input type="checkbox"/> Income <input type="checkbox"/> <i>If checking "Ceremonial Role" or "Other" describe below:</i>
		Ceremonial Role <input type="checkbox"/> Other <input type="checkbox"/> Income <input type="checkbox"/> <i>If checking "Ceremonial Role" or "Other" describe below:</i>
C. Name of Outside Organization <i>(include address and description)</i>	Number of Ticket(s)/ Passes	Describe the public purpose made pursuant to the agency's policy

**4. Verification**

*I have read and understand FPPC Regulations 18944.1 and 18942. I have verified that the distribution set forth above, is in accordance with the requirements.*

\_\_\_\_\_  
 Signature of Agency Head or Designee      Print Name      Title      *(month, day, year)*

Comment: \_\_\_\_\_

FPPC Form 802 (2/2016)  
 FPPC Toll-Free Helpline: 866/ASK-FPPC (866/275-3772)

**Agency Report of:  
Ceremonial Role Events and Ticket/Pass Distributions**

**California Form 802**

**A Public Document**

This form is for use by all state and local government agencies. The form identifies persons that receive admission tickets and passes and describes the public purpose for the distribution. This form was prepared by the Fair Political Practices Commission (FPPC) and is available at [www.fppc.ca.gov](http://www.fppc.ca.gov).

**General Information**

FPPC Regulation 18944.1 sets out the circumstances under which an agency's distribution of tickets to entertainment events, sporting events, and like occasions would not result in a gift to individuals that attend the function. In general, the agency must adopt a policy which identifies the public purpose served in distributing the admissions. The Form 802 serves to detail each event and the public purpose of each ticket distribution. FPPC Regulation 18942 lists exceptions to reportable gifts, including ceremonial events, when listed on this form.

When the regulation procedures are followed, persons, organizations, or agencies who receive admissions are listed on a Form 802. Agency officials do not report the admissions on the official's Statement of Economic Interests, Form 700, and the value of the admission is not subject to the gift limit.

The Form 802 also informs the public as to whether the admissions were made at the behest of an agency official and whether the behested tickets were provided to an organization or to specific individuals.

**Exception**

FPPC This form is not required for admission provided to a school or university district official, coach, athletic director, or employee to attend an amateur event performed by students of that school or university.

**Reporting and Public Posting**

**Ticket Distribution Policies:** An agency must post its ticket policy on its website within 30 days of adoption or amendment and e-mail a link of the website location to FPPC at [form802@fppc.ca.gov](mailto:form802@fppc.ca.gov).

**Form 802:** The use of the ticket or pass under the policy must be reported on Form 802 and posted on the agency's website within 45 days of distribution. A link to the website location of the forms must be e-mailed to FPPC at [form802@fppc.ca.gov](mailto:form802@fppc.ca.gov).

The FPPC will post on its website the link to each agency's policy and completed forms. It is not necessary to send an e-mail each time a new Form 802 is posted. It is only necessary to submit the link if the posting location changes.

This form must be maintained as a public document.

**Privacy Information Notice**

Information requested by the FPPC is used to administer and enforce the Political Reform Act. Failure to provide information may be a violation subject to administrative, criminal, or civil penalties. All reports are public records available for inspection and reproduction. Direct questions to FPPC's General Counsel.

**Instructions**

**Part 1. Agency Identification:**

List the agency's name. Provide a designated agency contact person, their phone number, and e-mail address. Mark the amendment box if changing any information on a previously filed form and include the date of the original filing.

**Part 2. Function or Event Information:**

Confirm that your agency has a policy for ticket distribution. Unless the ceremonial role or income box in Part 3, Section B, is marked, this form is only applicable if your agency has a policy.

Complete all of the other required fields that identify the ticket value, description of event, date(s) and whether the ticket was provided by the agency or an outside source. If an agency official behests the tickets, the official's name is also required. Use the comment field or an attachment to explain in full.

**Part 3. Ticket Recipients:**

This part identifies who uses the tickets. The identification requirements vary depending upon who received the tickets and are categorized into three sections. Each section must list the number of tickets received. Use the comment field or an attachment to explain in full.

**Section A.** Report tickets distributed to agency staff, other than an elected official or governing board member, pursuant to the agency's policy. It is not necessary to list each employee's name, but identify the unit/department for which the employee works. The agency must describe the public purpose associated with the ticket distribution. A reference to the policy is permissible.

**Section B.** Report: 1) any agency official who performs a ceremonial role; 2) any agency official who reports the value as income; or 3) tickets used by elected officials and governing board members (including those distributed pursuant to the agency's policy).

**Section C.** Report tickets provided to an organization. The organization's name, an address (website url is permissible), and a brief description of the public purpose are required.

**Agency Report of:  
 Ceremonial Role Events and Ticket/Pass Distributions  
 Continuation Sheet**

**California Form 802**  
**A Public Document**

Agency Name \_\_\_\_\_

**3. Recipients**

• Use Section A to identify the agency's department or unit. • Use Section B to identify an individual. • Use Section C to identify an outside organization.

A. Name of Agency, Department or Unit	Number of Ticket(s)/ Passes	Describe the public purpose made pursuant to the agency's policy
B. Name of Individual (Last, First)	Number of Ticket(s)/ Passes	Identify one of the following:
		Ceremonial Role <input type="checkbox"/> Other <input type="checkbox"/> Income <input type="checkbox"/> <i>If checking "Ceremonial Role" or "Other" describe below:</i>
		Ceremonial Role <input type="checkbox"/> Other <input type="checkbox"/> Income <input type="checkbox"/> <i>If checking "Ceremonial Role" or "Other" describe below:</i>
		Ceremonial Role <input type="checkbox"/> Other <input type="checkbox"/> Income <input type="checkbox"/> <i>If checking "Ceremonial Role" or "Other" describe below:</i>
		Ceremonial Role <input type="checkbox"/> Other <input type="checkbox"/> Income <input type="checkbox"/> <i>If checking "Ceremonial Role" or "Other" describe below:</i>
C. Name of Outside Organization (include address and description)	Number of Ticket(s)/ Passes	Describe the public purpose made pursuant to the agency's policy

### **3.49 SPONSORSHIP OF COUNTY-PRESENTED EVENTS (Adopted 1-12-10)**

It is the policy of the Board of Supervisors that no Supervisor who has made a financial contribution to a County-presented event will be listed as a sponsor of such event, so as not to imply support or non-support of a County program by Board members.

From time-to-time, members of the Board of Supervisors are solicited by County employees and members of County boards and commissions to make financial contributions to support a County-presented event. In exchange for the financial contribution, the Supervisor has been listed as a sponsor. It is the intent of this policy to prohibit the listing as a sponsor of a Supervisor who has made a financial contribution towards a County-presented event in all event-related materials, so as not to imply support or non-support of a County program by Board members.

This policy does not preclude a Supervisor's name from being listed on event-related materials in the absence of a financial contribution from that Supervisor.

#### **Definitions**

For purposes of this policy:

“County employee” means a person under any appointment or contract with the County and excludes an independent contractor.

“County-presented event” means an event that is solely organized, endorsed and controlled by a County agency, department, board or commission, and/or program and is an activity that is open to the public including, but not limited to conferences, meetings, awareness campaigns, educational seminars, social and cultural gatherings, performances, or concerts.

“Financial contribution” means a monetary payment of any value made from the personal funds or officeholder account of the Board member.

“Listed as a sponsor” means to identify by name, photograph, District number, or any other means that reveals the identity of the Board member who made a financial contribution to the County-presented event, including, but not limited to invitations, announcements, media bulletins, brochures, banners, inclusion in a sponsor list, or any event-related materials or announcements.

### **3.50 REPORTING OF IMPROPER GOVERNMENT ACTIVITY (Adopted 4-13-10; Amended 12-5-17; Amended 2-25-20)**

It is the policy of the Board of Supervisors that an effective process be established for the receipt, acceptance, investigation, documentation, monitoring, and reporting of allegations of improper government activity in accordance with County of Santa Clara Ordinance Code, Division A25, Sections A25-750 to A25-753. The process created by this Board

Policy for the reporting of improper government activity is entitled “24/7 Whistleblower Program.” The 24/7 Whistleblower Program shall operate under the direction of the Office of the County Counsel (County Counsel).

The 24/7 Whistleblower Program shall be guided by the following principles:

- (1) The public purpose in the reporting and investigation of improper government activity is the protection of integrity in governmental institutions. In furtherance of this interest, the County of Santa Clara encourages individuals to report to the 24/7 Whistleblower Program: violations of laws, regulations, and rules governing the conduct of County officers and employees; practices in County government that are wasteful and inefficient; or the misuse of County government funds.
- (2) Complainants, including but not limited to County officers and employees as well as members of the public, should not fear retaliation for filing a complaint with, or providing information about, improper government activity by County officers and employees.
- (3) Whenever possible the Whistleblower Program staff will provide complainants with information about more direct means by which they can seek to resolve their complaint or file their complaint with the specific County staff and program designed to receive such complaints. While urgent complaints should be prioritized over others, all complaints within the jurisdiction of the 24/7 Whistleblower Program should be investigated as promptly as possible. Complaints that lie outside the jurisdiction of the 24/7 Whistleblower Program include those involving non-County matters, issues under litigation, over which litigation is threatened, or those decided in prior litigation, or investigations deemed confidential by State Law (e.g., Public Safety Officers Procedural Bill of Rights Act).
- (4) Where improper government activity is uncovered it should be corrected.
- (5) All complainants should be kept informed to the extent reasonably possible of the outcome of their complaints as requested.
- (6) The 24/7 Whistleblower Program should be used as a tool to detect and correct systemic problems in County operations.
- (7) Any retaliation or reprisal by any County officer or employee against any complainant or informant is strictly prohibited. This prohibition against retaliation is in addition to the protections contained in Labor Code section 1102.5, and any amendment thereto. However, the filing of a complaint by a County employee in bad faith may result in the employee being subject to appropriate disciplinary action.

This policy supplements and does not supplant any and all other processes and procedures required by law or available for reporting and investigating complaints of improper government activity.

### **3.50.1 Reporting Procedures**

Complaints of improper government activity may be made via letter, web-based form, e-mail, telephone, or any other medium of communication established by the 24/7 Whistleblower Program. Information on how to file complaints shall be provided to the public and County employees via the County's website, and Whistleblower Program information will be made available at the County Information Desk, the reception area of the Board of Supervisors, and in other County facilities.

### **3.50.2 Receipt and Processing of Complaints**

As part of its overall responsibility for the program, County Counsel shall oversee the receipt and processing of all complaints submitted to the 24/7 Whistleblower Program. County Counsel may use a third-party vendor for receiving complaints. In addition to receiving complaints, such vendor may, under the direction of County Counsel, perform additional tasks for the 24/7 Whistleblower Program. All complaints and investigations shall be kept confidential to the greatest extent permitted by law and in accordance with the County Ordinance Code.

### **3.50.3 Investigation of Complaints**

#### **(A) Personnel Complaints**

Under the direction of County Counsel, all personnel complaints shall be referred for investigation to the Chief Operating Officer (COO). Examples of such personnel complaints include allegations of poor or lax management, falsification of time cards by colleagues, engaging in private business activity on County time, personal use of County resources, or nepotism. They also include allegations of violations of the County's merit system rules, e.g., allegations of improper consideration of transfers, improper hiring, requiring that employees work extra hours without commensurate pay, or impermissible discrimination or harassment of a County-protected class.

The COO shall direct his or her staff to conduct investigations into personnel complaints. To the extent that the complaints constitute violations of any collective bargaining agreement and such agreement includes a process for addressing such complaints, the complainant may be directed to pursue such remedies before filing a whistleblower complaint. The COO may also direct the Equal Opportunity Department (EOD) to investigate claims where the allegations indicate that a violation of the Board's Policy Against Discrimination, Harassment, and Retaliation (Board Policy 3.8) may have occurred.

If any complaint is directed against the Board of Supervisors or other elected officials, the County Executive, the Chief Operating Officer, or the County Counsel, such complaint shall be referred to an outside investigator.

All investigations must occur on a timely basis and must be conducted lawfully (without the complainant being retaliated against). The County Counsel shall be available to review investigation plans, and advise and direct the conduct of investigations regardless of the entity that conducts it.

(B) Non-Personnel Complaints

All non-personnel complaints shall be investigated by County Counsel. The County Counsel may refer appropriate complaints to the Board's Management Audit Division. Non-personnel complaints include allegations of waste, fraud, and abuse regarding the use of County resources by County officers, employees, or contractors such as: (i) violations of laws and regulations including the County Open Government Ordinance and Board Policy (except violations of Merit System Rules and personnel issues discussed above); (ii) waste or misuse of County resources by acts of omission or commission; (iii) inefficient or poor delivery of services and benefits; (iv) a substantial and specific danger to public health or safety; or (v) claims of fraud leading to the waste of County resources.

In instances of complaints related to the performance or activity of individuals or entities that contract with the County, County Counsel may refer such complaints to the County Agency/Department monitoring such contract.

In the discretion of the County Counsel, complaints may be referred to law enforcement for investigation.

### **3.50.4 Disposition of Complaints**

All complaints shall be investigated as appropriate based on the information provided. The investigation shall determine whether complaints are sustained, partially sustained, inconclusive, or not-sustained. A determination of a violation or breach of federal or state law, ordinance, policy, regulation, or contract shall be made by County Counsel in light of the facts uncovered in the investigation.

Where complaints are sustained or partially sustained, the County Executive's Office in consultation with the County Counsel's Office, shall determine or approve an appropriate corrective action plan and the County Executive shall direct County officers and employees to implement the approved corrective action plan(s). Such corrective action plan shall be documented and tracked with the complaint, with appropriate follow-up. The implementation of such steps shall be subject to verification. Methods by which to verify such may include reviewing a written report, interviewing departmental management, and/or visiting the related departmental worksite to review documents and observe operations.

### **3.50.5 Reporting of Complaints and Investigations**

County Counsel shall be responsible for reporting at least twice per year to the Board of Supervisors, through the Finance and Government Operations Committee, summary statistics on the complaints and disposition of complaints, as well as on any complaints

involving alleged retaliation for filing prior whistleblower matters, and any complaints involving violations of the County's Open Government Ordinance (Division A17). Such reporting may include the number of complaints received, timeliness of investigations, and analysis (including trend analysis) of complaints. The reports shall be published on the County's website.

### **3.51 POLICY TO PROTECT YOUTH (Adopted 5-11-10)**

It is the policy of the Board of Supervisors that juveniles under the age of 13 should not be placed in Juvenile Hall and that the County shall take every possible effort to find a more suitable placement for the juveniles.

### **3.52 COMPREHENSIVE VEHICLE POLICY (Adopted 6-22-10; Amended 10-25-11; Amended 9-10-13; Amended 10-7-14)**

#### **3.52.1 Policy Overview**

##### **3.52.1.1 Applicability**

All County agencies, departments, and offices shall apply this policy in the management of all County-owned or -controlled vehicles regardless of fund source. In addition, this policy applies to all County employees whether full time, part time, extra help, paid interns, unpaid interns, dependent contractors, or volunteers that drive County vehicles or their own vehicle in the conduct of County official business.

##### **3.52.1.2 Definitions**

- (A) "Assigned Take-Home Vehicle" as referred to in this policy is a County-owned vehicle that is used by a County employee for County official business and for commuting between the employee's home and work site.
- (B) "Assigned Vehicle" as referred to in this policy is a County vehicle assigned primarily to a department or County employee for County official business, but not for employee commuting to and from the employee's home and work site.
- (C) "Business need" as referred to in this policy means the need of a County employee to use a County vehicle for official County business; as opposed to personal use of a County vehicle, including after business hours use, weekend use, and non-County business use during work hours. This specifically excludes assignment of vehicles based on an employee's rank, management status or other category that does not reflect vehicle use based on the employee's actual day-to-day duties. Business use is further defined as vehicle use that is required in order to perform functions that are necessary for the County department to fulfill its duties and responsibilities as authorized by the County Ordinance Code, and State and Federal law.

- (D) “County” as referred to in this policy is the County of Santa Clara.
- (E) “County departments” as referred to in this policy include all County agencies, departments, and offices.
- (F) “County drivers” as referred to in this policy include County staff, whether full time, part time, extra help, paid interns, unpaid interns, dependent contractors, or volunteers that drive County vehicles or their own private vehicle in the conduct of County official business.
- (G) “County vehicles” as referred to in this policy includes all County-owned or controlled motor vehicles and motorized equipment.
- (H) “Designated Parking Area” as referred to in this policy is a County parking facility or lot which has been identified by an employee's department director as an acceptable overnight location for parking the assigned County vehicles.
- (I) “Assigned Work Location” as referred to in this policy is the office or site where a County employee normally reports to work and would park their personal vehicle should they commute to work.
- (J) “Official business” as referred to in this policy includes vehicle travel to directly perform the business needs of the department, including employee work assignments, parts/materials acquisition, meetings, training, authorized conferences or business related events, etc. County vehicles shall not be used for private or personal business unless otherwise indicated in this policy.

### **3.52.1.3 Purpose**

The purpose of this policy is to:

- (A) Clarify roles and responsibilities as related to management of County vehicles;
- (B) Establish guidelines for the management of the vehicle fleet size and the utilization of County vehicles; and
- (C) Establish and maintain improved internal controls and accountability as related to operations and maintenance of County vehicles.

### **3.52.1.4 Other Policies/Procedures**

- (A) This policy supersedes the following Board and Administrative policies, in whole or in part:
  - 407 - County Driver Permits;
  - 407.1 – Business Use of Private Vehicles;
  - 461 - County Driver Permits;

- 4.20 - Ten Year Fleet Plan;
  - 706 - Safe Driving Program;
  - 706.1 - Vehicle Use - County Driver Permits;
  - 706.3 - County Vehicle Use;
  - 706.4 - Department Motor Vehicle Accident Review;
  - 301 - Travel Policy;
  - Office of the Sheriff General Order #13.06; and
  - Department of Correction Policy 1.55 - County Vehicles Use and Control.
- (B) The following remain in effect until modified by the Board of Supervisors:
- County Ordinance Code, Division A31-Travel;
  - County Executive Management Master Salary Ordinance; and
  - County Salary Ordinance.

### **3.52.1.5 Management Responsibilities**

- (A) The County Executive shall oversee Department Heads' implementation of, and make recommendations for changes to, this policy.
- (B) Department Heads shall:
- (1) Forward suggested changes of policies and procedures to the County Executive;
  - (2) Maximize the conduct of official business by using web meetings, conference calls, electronic mail, telephone, or other electronic/telecommunications means whenever possible, to minimize the need for County vehicles;
  - (3) Follow procedures outlined in this policy regarding the acquisition, replacement, utilization, and disposal of department assigned County vehicles;
  - (4) Create and implement any department specific supplemental guidelines necessary to address department specific needs while ensuring the effective and efficient management, operation, maintenance, and repair of County vehicles;
  - (5) Forward a copy of all implementing documents and guidelines to the following:
    - (a) County Executive or designee
    - (b) Facilities and Fleet Department (FAF)
    - (c) Employee Services Agency (ESA)

- (d) Finance Agency
  - (6) Include motor vehicle management in department internal audit programs.
- (C) The Facilities and Fleet Department (FAF) shall:
  - (1) Be responsible for revising this policy;
  - (2) Develop technical instructions for and provide guidance to County departments concerning the acquisition, replacement, rental, utilization, and disposal of County vehicles;
  - (3) In collaboration with the Procurement Department, acquire, lease, and dispose of all County vehicles;
  - (4) Provide guidance to County departments regarding renting vehicles;
  - (5) Provide maintenance, repair, and fueling services;
  - (6) Provide guidance to County departments regarding the operations, maintenance, repair, and fueling of County vehicles; and
  - (7) Provide ongoing desk reviews of departments' implementation of this policy starting Fiscal Year 2011.
- (D) The Finance Agency shall:
  - (1) Provide guidance to the departments on budget and financial accounting for County vehicles;
  - (2) Provide guidance to FAF regarding conducting desk reviews of departments' implementation of this policy; and
  - (3) Annually review the results of the desk review conducted by FAF to determine if a comprehensive audit of the County's compliance with this policy is warranted and if so, conduct the audit and report findings to the County Executive and the Board of Supervisors.
- (E) The Employee Services Agency (ESA) shall:
  - (1) Ensure labor agreements and salary ordinances are aligned to reflect the take-home vehicle provisions of this policy;
  - (2) Ensure insurance coverage is in place for all County vehicles at all times;
  - (3) Manage the County Driver authorization program including conditions for issuance, renewal, and suspension/revocation of County driver authorizations;

- (4) Administer the Accident Review process for accidents involving drivers of County vehicles, except for those County drivers employed by the Sheriff's Office, that result in damages greater than \$1,000; or any driver of County vehicles, with the exception of the Office of the Sheriff, who demonstrates an inability to maintain a safe driving record or safe driving practice;
  - (5) Revoke the County-issued driver authorization of any driver of a County vehicle, with the exception of the Office of the Sheriff, who demonstrates an inability to maintain a safe driving record or safe driving practice; and
  - (6) Compile and provide the Board of Supervisors a semi-annual report of all accidents, losses or damages involving County vehicles, including personnel actions and other steps taken to prevent similar occurrences in the future.
- (F) The Procurement Department shall:
- (1) Acquire, lease, and dispose of County vehicles, and acquire fleet parts and related services consistent with Board procurement policies and applicable legislation;
  - (2) Report net revenue from the sale of assets to FAF, which will in turn transfer those revenues to the Fund that supported the acquisition of the vehicle; and
  - (3) Provide information to FAF regarding acquisitions and disposals so that transactions are tracked within the Fleet ISF management information system as well as SAP.
- (G) The Office of the Sheriff shall:
- (1) Administer the Internal Collision Review Board (CRB) for all accidents for those County employees using County vehicles employed by the Office of the Sheriff/Department of Corrections. The seven member CRB shall meet on a regular basis. The following representatives shall sit on the CRB: Assistant Sheriff ("chair"), Department Fleet Manager, Traffic Investigation Deputy, Administrative Sergeant from Patrol Division, Bargaining Unit Representative, Department Risk Manager and the Employee Services Agency Director or designee.
  - (2) Impose corrective measures against Office of the Sheriff employees in an effort to prevent future accidents;
  - (3) The Employee Services Agency Director will review CRB findings and recommendations to determine if the County-issued driver authorization of any employee of the Office of the Sheriff/Department of Corrections who demonstrates an inability to maintain a safe driving record or safe driving practice will be revoked; suspended or placed on a probationary period; and,

- (4) Compile and provide the Board of Supervisors an annual report of all accidents, losses or damages involving County vehicles driven by employees of the Office of the Sheriff, including personnel actions and other steps taken to prevent similar occurrences in the future.

### **3.52.2 Vehicle Acquisition/Replacement, Leases, Rentals, Outfitting, Modifications, and Disposal**

#### **3.52.2.1 Fleet Rightsizing, Acquisition, Outfitting, Disposal**

- (A) The Annual Vehicle Fleet Plan, as described by Appendix A must include:
  - (1) A recommendation for the optimization of the County vehicle fleet size and mix of vehicles as a whole and by each County department;
  - (2) A summary report of criteria used to make the recommendation is contained in Appendix B;
  - (3) A comparison of vehicle usage to the criteria to justify the ongoing asset costs;
  - (4) A summary of recommendations for repurposing and/or disposing of vehicles that do not meet the Board approved criteria; and
  - (5) A 5-YEAR FLEET PLAN update.
- (B) Department Heads shall:
  - (1) Follow the procedures outlined in Attachment A, the Annual Fleet Plan;
  - (2) Department Heads are responsible for determining the number and types of vehicles to meet the business needs of their department;
  - (3) Establish internal standards for and develop comprehensive specifications (type, accessories, safety) of their vehicles. These standards shall be consistent with this policy and the County Climate Action Plan Emission Reduction Goals, and should take into account the operational requirements, occupant safety, and lowest overall ongoing cost to the County, and include consideration of alternative fuel vehicles and alternative fuel availability. In general, the following criteria will be used unless otherwise approved by the County Executive:
    - (a) Vehicles selected for an individual task must be the best one suited by virtue of size, configuration, availability, and economy of operation to include consideration of alternative fuel vehicles and alternative fuel availability;

- (b) Vehicles will be commercially designed motor vehicles to meet general transportation requirements;
    - (c) Vehicles will be the least expensive trim line along with its standard option package for that trim line; and
    - (d) All vehicles will be white unless otherwise approved by the County Executive.
  - (4) Ensure that all County vehicles are essential to performance of departmental missions and that those vehicles that are no longer necessary, not utilized to the fullest extent, have according to FAF reached the end of their useful life, or require greater than 50 percent of their residual value for repair will be returned to FAF for reassignment, pooling, or decommissioning and removal from the inventory;
  - (5) Submit all requests for procurement, leasing outfitting, and disposal of all County vehicles to FAF including adding vehicles through grants or donations; and
  - (6) Submit changes to their Departmental 5-YEAR FLEET PLAN.
- (C) FAF shall:
- (1) Implement the steps required to develop the Annual Fleet Plan as described in Appendix A;
  - (2) Annually review and modify as necessary the criteria that will be used as a basis for the Annual County Vehicle Fleet Plan, Appendix B, and submit the criteria to the Board for approval;
  - (3) In developing the Annual Fleet Plan, include all County vehicles and vehicle use, e.g. month-to-month rentals, short-term rentals, vehicles borrowed from others, grant-funded vehicles, and business use of private vehicles.
  - (4) Provide supplemental guidance to departments related to the development of the Annual Fleet Plan and the criteria;
  - (5) Provide the Board a quarterly report regarding disposition and assignment of the vehicle fleet as a whole.
- (D) Off-cycle replacement requests that result from vehicle loss due to collision or mechanical failure will be reviewed by the County Executive and approved by the Board of Supervisors.

### **3.52.2.2 Vehicle Leases**

Departments shall include long-term vehicle lease requests for a period of 12 months or more as part of the Annual Fleet Plan.

### **3.52.2.3 Month-to-Month Rentals**

Provided the Department Head has made a determination that no other solution will satisfy the transportation requirement, County departments may obtain vehicles for terms exceeding 30 days, but not exceeding 6 months by using the State of California Department of General Services Vehicle Rental Contract. Any combination of rentals that exceed more than 6 months in any 12 month period shall be reported and addressed as part of Finance Agency's desk audit and the FAF annual utilization review in preparation of the Annual Vehicle Fleet Plan.

### **3.52.2.4 Short-Term Rentals**

- (A) To satisfy short-term travel requirements, temporary peak loads, unusual requirements, or emergencies, departments shall use the least expensive of the following options for vehicle rentals of less than or equal to 30 days:
  - (1) FAF pool vehicle on a reimbursable basis, if available; or
  - (2) The State of California Department of General Services Vehicle Rental Contract using Purchase cards.
- (B) FAF shall provide departments guidance regarding the use and costs associated with each of the aforementioned options.

### **3.52.2.5 Other Sources of Motor Vehicles**

Departments may use vehicles from Federal, State, local government agencies or non-profit business entities for a period not to exceed six months in one 12 month period without approval of the Board of Supervisors. Such vehicles shall be consistent with departmental business needs. Use of such vehicles exceeding 6 months shall be considered as part of the FAF annual utilization review in preparation of the Annual Vehicle Plan.

### **3.52.2.6 Modification of Vehicles**

Modification of vehicles shall not be performed without collaboration with FAF. The departments shall establish adequate configuration control to ensure vehicle modifications are limited to those required for safety, security, or accomplishment of their business needs. Limited modification for such purposes as providing wrecker service or two-way radio service, and for installation of emergency warning devices or auxiliary fire-fighting equipment, may be accomplished by FAF, but only after due consideration of the cost effectiveness of the action and with the approval of the County Executive.

### **3.52.2.7 Identification and Marking of Motor Vehicles**

(A) General

- (1) This section contains guidelines and procedures for the marking of all County vehicles. County vehicles shall, unless exempted, display the County logo, Fleet Vehicle Identification Number (VIN), and license plate. Additional markings, decals, and temporary signage are strictly prohibited and will be removed by FAF during maintenance cycles on a reimbursable basis.
- (2) Vehicles that are less than 26,000 pounds gross vehicle weight and are rented from commercial sources are exempt from having to display a County logo.
- (3) Long-term leased vehicles are subject to other marking and license plate requirements as noted herein.

(B) Exemptions from Identification and Marking

- (1) Marked Sheriff Patrol and cold-plate vehicles are exempt from the identification requirements but must follow departmental guidelines.
- (2) Assigned take-home vehicles are exempt from having to have a County logo displayed.
- (3) Other specific department logos must be approved by the County Executive.

(C) Identification and Marking Procedures

Departments will implement all vehicle identification and marking through FAF. Standard County logos, VIN, and license plates are part of the normal FAF Fleet Management rates. Other identification and marking requirements will be reimbursable.

### **3.52.3 Operations, Maintenance, Repair, and Fueling**

#### **3.52.3.1 General Operations Requirements**

(A) Department Heads shall:

- (1) Ensure that County employees are trained and reminded that operating a County vehicle is neither an employee's right nor privilege; rather it is a trust conferred to the employee to facilitate the necessary performance of departmental business needs that directly benefits the County;
- (2) Enable supervisors to determine, consistent with this policy, whether or not it is appropriate for an employee to operate a County vehicle;

- (3) Establish procedures to ensure vehicles are operated in a safe and serviceable condition, e.g. drivers are trained in accordance with the County Safe Driver Program, authorized, and licensed, vehicle maintenance is completed according to the FAF recommended schedule, vehicles are clean and ready for use, etc.;
  - (4) Provide for rotation of vehicles, where practical and economical, to equalize the equipment usage and to ensure attainment of life-cycle utilization goals within the vehicle life expectancy;
  - (5) Designate department primary point-of-contacts to coordinate vehicle maintenance and repair appointments with FAF and to be responsible for departmental pool vehicles;
  - (6) Ensure that all records of title, registration, and the purchase of outside fueling, services, maintenance and repair, vehicle supplies shall be provided to FAF for information and compliance tracking purposes;
  - (7) Ensure that all records related to short-term and month-to-month rentals are provided to FAF for information and compliance tracking purposes;
  - (8) Ensure that all travel outside of the County is supported by a completed Travel Authorization Form;
  - (9) Establish a Utilization Record of motor vehicle assignment which collects the name of the driver, date and time of assignment, return date and time, destination at time of checkout, mileage records (beginning and ending mileage), and contact number; and
  - (10) Ensure that managers and supervisors at all levels are responsible and accountable for using maintenance and operations data to measure the effectiveness of County vehicle activities under their control.
- (B) FAF shall furnish the following information to Department Heads for placement in the glove compartment of each County-owned or -leased vehicle:
- (1) Vehicle Registration Information;
  - (2) Blank Vehicle Accident/Incident Form;
  - (3) County's evidence of financial responsibility for self-insurance;
  - (4) Vehicle Self Inspection Forms;
  - (5) Roadside assistance and towing programs;
  - (6) Fuel locations;
  - (7) Vehicle wash facilities;

- (8) Maintenance and repair facilities; and
- (9) FAF contact information.

### **3.52.3.2 County Driver Requirements**

While driving a County vehicle, County drivers shall:

- (A) Remember that their actions represent the professionalism and character of all County employees to the citizens of the County and ensure their use of a County vehicle always leads to a positive perception by our citizens;
- (B) Be subject to applicable Local, State and Federal laws and be aware of new and existing laws;
- (C) Operate vehicles according to the official use of vehicles section set forth in this policy, drive defensively, anticipate emergency situations, follow the rules of the road, and make every reasonable effort to avoid accidents;
- (D) Know the mechanical and cosmetic condition of the County vehicle the employee is driving, promptly report any suspected equipment malfunctions, damage, or safety condition to his/her supervisor who will in turn notify FAF to schedule follow up repairs, and ensure that vehicles are promptly turned in for preventive maintenance and repair work;
- (E) Not transport family members or other passengers not engaged in County official business or required to be conveyed in the performance of duty;
- (F) Ensure that seat belts are to be worn by all occupants of a County vehicle while it is in operation, and children must ride properly buckled up in safety seats or boosters until they are at least 6 years old OR weigh at least 60 pounds;
- (G) Follow the anti-idling policy, Appendix C;
- (H) Keep vehicles clean and free of litter and debris;
- (I) Ensure that, absent emergency conditions, vehicles never have less than 1/4 tank of fuel in the event they are needed to assist in disaster response;
- (J) Be responsible for pre- and post-trip inspections. Documentation of these inspections shall be maintained at terminals as required by law for specific vehicle classes. Departments shall reference their specific procedures in the departmental policies and procedures;
- (K) Be responsible for any personal property stored or left in a County vehicle or private vehicle being driven on County business as the County assumes no such responsibility;

- (L) Ensure that no one smokes in a County vehicle;
- (M) Not eat or drink while operating the vehicle;
- (N) Excluding assigned take-home vehicles, not use a County vehicle to carry alcohol or firearms except in the performance of County official business unless otherwise approved by the County Executive;
- (O) Maximize the economical and efficient use of County vehicles by:
  - (1) Not driving vehicles unnecessarily;
  - (2) Taking the most direct route to, from or between job assignments;
  - (3) Ensuring tires are inflated properly;
  - (4) Removing equipment in excess of what is required to perform assigned duties for the purpose of obtaining optimum vehicle mileage; and
  - (5) Not using quick acceleration or rapid braking.
- (P) Not use Drive-thru lanes with the exception of the Sheriff Transportation Division vehicles that are governed by the Sheriff's General Orders;
- (Q) Not be entitled to any expectation of privacy with respect to a County-owned vehicle and allow inspection/search of a County-owned vehicle by their supervisor/department;
- (R) Verify the following information is in the glove compartment of each County-owned or -leased vehicle prior to use:
  - (1) Vehicle Registration Information;
  - (2) Blank Vehicle Accident/Incident Form;
  - (3) County's evidence of financial responsibility for self-insurance;
  - (4) Vehicle Self Inspection Forms;
  - (5) Roadside assistance and towing programs;
  - (6) Fuel locations and guidance;
  - (7) Vehicle wash facilities locations and guidance; Maintenance and repair facilities locations and guidance; and
  - (8) FAF contact information.

- (S) Be held responsible for immediate payment of losses resulting from negligence, including impound/storage fees, replacement or duplicate key charges, roadside assistance resulting from low fuel or other non-mechanical related causes, and daily charges for non-permissive use;
- (T) Be familiar with Spill Prevention Procedures at County stations and must immediately report any spills to the Environmental Coordinator via the MAC Room. Contact information is prominently displayed at all fuel locations;
- (U) Follow the safety, accident prevention, and accident/loss/damage reporting requirements set forth in this policy;
- (V) Immediately notify their supervisor/department of receiving any moving violation and/or parking citations while driving a County vehicle and:
  - (1) Pay for all moving violations and/or parking citations for which he/she is responsible; and
  - (2) Clear citations including all fees and penalties on their own time.
- (W) Immediately notify their supervisor/department if their driver's license is revoked, suspended, or restricted in any way;
- (X) Maintain a current County driver authorization;
- (Y) Complete the County driver training Course every three years; and
- (Z) Follow other sections of this policy and any supplemental department guidelines.

### **3.52.3.3 Driver Selection, Training, Driver Responsibility Statement**

Departments shall:

- (A) Before issuing a County driver authorization:
  - (1) Ensure their Fleet Liaison, in addition to their other duties, shall:
    - (a) Identify the County drivers within the organization that will need to read and sign the County Vehicle Drivers Responsibility Statement. Without exception this statement must be signed by all County drivers, whether full time, part time, extra help, paid interns, unpaid interns, dependent contractors, or volunteers that drive County vehicles or their own private vehicle in the conduct of County official business.
    - (b) Ensure County drivers are given reasonably sufficient explanation, briefings, and training regarding the Comprehensive Vehicle Policy and its implications.

- (c) Obtain and maintain signed County Vehicle Drivers Responsibility statements acknowledging their briefing of this policy.
- (2) Ensure that all County drivers complete and submit to their department Form 6409 - Request for Driver Authorization, and DMV Form INF 1101-Authorization for Release of Driver Record Information.
- (3) Verify that County drivers have a valid California Drivers License for the type of vehicle to be operated.
- (B) Assist with enrolling the new County employee or volunteer in the County Driver Training Course.
- (C) Obtain driving records directly from the DMV for County drivers.
- (D) Enroll all County drivers into the DMV Employer Pull Notice Program.
- (E) Once notice is received from the DMV Employer Pull Program that a County driver's California license has been revoked or suspended, the department must not allow the County driver to drive while on County business.
- (F) Discipline County drivers who fail to notify the Department that their license or County driver authorization has been pulled or revoked and who continue to operate County vehicles or private vehicles in conjunction with work.
- (G) Refer to the Vehicle Accident Review Board for possible revocation of County driver authorization of any County driver, with the exception of the Office of the Sheriff, who demonstrates an inability to maintain a safe driving record or safe driving practice.
- (H) Remove from the DMV Pull Program County drivers once they separate from the County.

#### **3.52.3.4 Official Use of Vehicles**

- (A) Unless otherwise stipulated below, County vehicles are only to be used for County official business.
- (B) Generally, the determination as to whether a particular use is for official business is a matter of administrative discretion of the Department Head. In making determinations Department Heads shall consider all pertinent factors, including: whether the transportation is the following:
  - (1) Essential to the successful completion of a County business need, function, activity, or operation; and
  - (2) Consistent with the purpose for which the motor vehicle was acquired.

- (C) Driving vehicles to commercial establishments for meals or breaks is prohibited unless:
  - (1) The County driver has an approved travel authorization for out-of-county travel and the reasonable and necessary mileage uses are subsequently approved by the department;
  - (2) The County driver is on official business and not within 10 minutes driving time to the driver's home work site or a County cafeteria/vending operation; or
  - (3) The County driver is a law enforcement officer driving a marked Sheriff's patrol vehicle that is governed by the Sheriff's General Orders.

### **3.52.3.5 Assigned Take-Home Vehicles**

- (A) Only positions indicated within the County Salary Ordinance or the County Executive Management Master Salary Ordinance shall be eligible for assigned take home vehicles. ESA shall make annotations in the ordinances to indicate Board approved take-home vehicles and their approved use, e.g. "commuting only" or "commuting and personal use." Effective July 1, 2010, employees that are not made eligible through one of these ordinances will not be eligible or assigned take home vehicles.
- (B) Certain positions having take-home vehicles that are stipulated as part of existing labor contracts or customarily assigned by long term practice will remain in force until the contractual provisions are renegotiated. This provision is not intended to prohibit County Departments' review of the need for adjustments to the number of take-home vehicles assigned for after hours on-call work, but a reporting of all assigned take-home vehicles will be included in an annual report to the Board of Supervisors.
- (C) Regardless of the salary ordinances listed above, County take-home vehicles may be assigned to individuals who reside within the County and in the case of those residing outside the County, the commute must not be more than thirty-five (35) miles from the County Government Center, 70 West Hedding Street, San Jose.
- (D) Unless otherwise indicated by one of the salary ordinances, assigned take-home vehicles are for the use of County employees only. Non-County employee passengers other than County clients are strictly prohibited.
- (E) Unless otherwise indicated by one of the salary ordinances, assigned take-home vehicles may not be used for non-business related purposes, other than for commuting.
- (F) ESA shall provide an annual report to the Board of Supervisors regarding assigned take home vehicles including domicile zip code.

- (G) The Finance Agency shall provide annual guidance to employees concerning the valuation of their take-home vehicle for personal income tax purposes. Employees, however, are ultimately responsible for filing their tax returns and ensuring they comply with the law.
- (H) A person who is “acting” in a position of an official entitled to receive an assigned take home vehicle is not entitled to this benefit unless the position was vacated due to resignation, death, or removal.
- (I) Temporary assignment of a take-home vehicle may be authorized by the County Executive when an emergency exists. “Emergency” means circumstances that are immediate, unforeseeable, and temporary where there is a need specific to the performance of a County mission. An emergency may occur where there is a major disruption of available means of transportation to or from a work site, an essential service must be provided, and there is no other way to transport those employees. All temporary assignments must be reported with start and projected end dates to the Finance Agency.
- (J) Exceptions to Temporary Assigned Take-Home Vehicles include instances wherein departments utilize common sense and practical assignment of vehicles for employees travelling to out-of-County meetings, in such cases where there is greater efficiency by allowing vehicles to be taken home the evening preceding the business meeting and retained the evening following the business meeting. In these cases the Travel Authorization Form shall be completed to reflect the temporary assignment, commute mileage shall be considered travel and the Travel Form shall be annually reported to the Controller.
- (K) All requests for assigned take-home vehicles shall be in writing and be approved by the County Executive or designee based on the nature of the on call assignment.

### **3.52.3.6 On-Call County Employees**

County vehicles that are to be used by on-call employees may be assigned as take-home vehicles and are individually approved by the County Executive or designee based on the nature of the on-call assignment.

### **3.52.3.7 Business Use of Private Vehicles**

- (A) Department Heads or their designee may authorize the use of private vehicles on County business.
- (B) Employees who utilize private vehicles to transact County business may apply for reimbursement at the rate established by the Internal Revenue Service.
- (C) In order to be reimbursed, employees shall make mileage claims according to the following:

- (1) If the amount is expected to be greater than \$100, claims shall be submitted by the pay period following the end of any month; and
  - (2) If the amount expected is less than \$100, claims shall be submitted no later than the first pay period following the end of any fiscal quarter. The fiscal quarters end September 30, December 31, March 31, and June 30.
- (D) Liability associated with the operation of a private vehicle on County business is the responsibility of and primary to the County driver. The County will not be responsible for collision, comprehensive or liability losses for private vehicles; the reimbursement rate is the full and complete compensation for use of a private vehicle.
- (E) Prior to reimbursing County drivers using private vehicles on County business, departments shall ensure that drivers:
- (1) Maintain a current County driver authorization;
  - (2) Hold a valid California driver license;
  - (3) Maintain and provide to their department valid proof of vehicle liability insurance in accordance with Sections 16450 and 16451 of the California Vehicle Code and County Ordinance, Division A31, Section A31-12;
  - (4) Provide written notice to their department ten days prior to expiration, termination or material change of such insurance policy; and
  - (5) Submit the Driver Responsibility Statement (Form 6448), to their department and receive approval on Form 6448 prior to driving a private vehicle on County business.

#### **3.52.3.8 Use of Vehicles by Other Agencies**

County vehicles may be furnished for short periods (less than 72 hours) of time to other local government agencies when the County use will not be impaired and the reason is one of the following:

- (A) An emergency, lifesaving situation;
- (B) Specifically authorized by the Board or statute; or
- (C) Direct support of a department function; provided the Department Head makes a determination that commercial transportation is not capable of satisfying the transportation requirement. In this case, reimbursement shall be computed to recover the total cost incurred by the County.

### **3.52.3.9 Contractor Operated Vehicles**

- (A) Independent contractors shall ordinarily furnish motor vehicles needed in performing County contracts, meeting insurance requirements established in the contract or service agreement.
- (B) Motor vehicles may be provided to contractors in accordance with contract stipulations only under a cost reimbursement contract when:
  - (1) The number of vehicles required for use by contractor personnel is predictable and is expected to remain fairly constant;
  - (2) The Contractor will bear the entire cost of the vehicle program;
  - (3) The vehicles will not be used on any contract other than for which the vehicles are to be provided;
  - (4) Prospective contractors do not have or would not be expected to have an existing and continuing capability for providing the vehicles from their own resources; and
  - (5) Substantial savings are expected.
- (C) The County Department sponsoring the contract is required to ensure that FAF is provided monthly reports that include vehicle make, model, fuel usage and mpg for emissions data and reporting purposes.

### **3.52.3.10 Maintenance and Repair**

- (A) Departments shall use FAF maintenance and repair services for all County vehicles.
- (B) FAF shall:
  - (1) Coordinate maintenance and repairs for all County vehicles except for:
    - (a) Rentals; and
    - (b) Private vehicles that are being operated to conduct County business.
  - (2) Include routine maintenance and repair services as part of the annually approved standard vehicle fleet rates except for the following:
    - (a) Beginning Fiscal Year 2011, departments shall reimburse Fleet for vehicle repair costs resulting from misuse, negligence, or accident damage greater than \$500; and
    - (b) Vehicles established as reimbursable which will be billed on a time and material basis.

- (3) Notify departmental fleet liaisons when scheduled maintenance is due;
- (4) Establish safety thresholds on vehicle wear items, including minimum tire tread depth, minimum brake pad thickness, etc. When FAF finds that a vehicle does not meet established safety thresholds, FAF shall:
  - (a) Take the vehicle out of service to affect the necessary repairs, and
  - (b) If necessary, coordinate a replacement vehicle with the Department.
- (5) In general, pull a vehicle from the department when the cost of repairs exceeds more than 50% of the fair market value of a vehicle and not perform repairs. FAF, working with the County department, will decide when it is no longer economically justifiable to make repairs and whether or not to dispose of the vehicle and, if necessary, pursue a replacement vehicle.

### **3.52.3.11 Private Vehicles**

Private vehicles shall not be parked, garaged, or stored in any building except within designated parking areas. Private vehicles, vehicle units, parts, accessories, and equipment shall not be repaired, serviced, or manufactured in any County shop, garage, or other buildings. County owned vehicles, tools, modernized equipment, or supplies shall not be used to service or repair such private property.

### **3.52.3.12 Fueling**

- (A) County vehicles may be fueled in one of three ways: County fuel pumps; County Credit Card; Reimbursement of employee fuel purchase. County employees shall make an effort to maximize the use of County fuel pumps.
- (B) Departments shall:
  - (1) Submit authorization for employee fuel privileges to FAF including the employee name, 5-digit employee number, department name and work phone number. Departments are responsible to report employee transfer and separation immediately to FAF; and
  - (2) Train all County drivers regarding Spill Prevention Procedures at County stations.
- (C) FAF shall:
  - (1) Document and post fuel credit card transactions on the County Intranet site;
  - (2) Administer requirements for direct-pay reimbursements of fuel including collection of receipts and explanations for failing to use County fuel pumps or credit card; and

- (3) Deactivate or cancel fuel card privileges of employees who have repeatedly failed, after notification by FAF, to comply with the County's established fuel card usage and accurate odometer reading reporting. FAF shall contact the employee's department before temporarily cancelling the fuel card and shall restore the card only after the Department takes corrective action to ensure that the employee complies with the established policies.
- (D) County vehicles, with the exception of specific equipment, are authorized to use unleaded grade 87 or ultra-low sulfur diesel fuel only. Unauthorized transactions for fuel blends or products will be the responsibility of the employee.
- (E) All employees that fuel vehicles must be familiar with Spill Prevention Procedures at County stations and must immediately report any spills to the Environmental Coordinator via the MAC Room. Contact information is prominently displayed at all fuel locations.

### **3.52.3.13 Anti-Idle**

- (A) Idling creates harmful pollution and is a substantial source of carbon monoxide, toxic air contaminants and greenhouse gases. Idling results in wasted fuel expenses and creates unnecessary wear and tear on vehicles.
- (B) All County drivers shall turn off the engine upon stopping at a destination. Drivers may not allow an engine to idle at any location for more than 1 minute consecutively or a period or periods aggregating more than 5 minutes in any one-hour period.
- (C) The overview for the anti-idling policy, Appendix C, shall be prominently posted at each vehicle terminal, dispatch center or workplace that utilizes vehicles.
- (D) Departments shall:
  - (1) Train and inform staff of the anti-idling policy; and
  - (2) Investigate complaints and discipline violators.

### **3.52.3.14 Telematics**

- (A) Departments shall coordinate with FAF for the installation of telematic devices or wireless information transponder equipment for selected vehicles.
- (B) Tampering, altering or removing these devices is prohibited by this policy. This equipment may be used to determine vehicle speeds, location, routes, usage, idling frequency and on board diagnostic information.

### **3.52.3.15 Travel Authorization Requirements**

Departments shall issue Travel Authorization numbers in accordance with the Travel

Policy for all contract rentals and FAF pool not qualified as loaners for vehicles undergoing repair or maintenance.

**3.52.3.16 Safety, Accident Prevention, and Accident / Loss / Damage Reporting**

(A) Department Heads shall:

- (1) Within 24 hours of an accident, loss, or reported damage involving a County vehicle, make a report to ESA Risk Management and FAF;
- (2) Immediately identify the individual responsible for the custody and operation of the vehicle when an infringement, damage or loss occurs of all vehicles;
- (3) Within 10 business days submit all County vehicles involved in an accident to FAF for a vehicle damage estimate and/or repair;
  - (a) Vehicles with significant damages must be submitted directly to FAF;
  - (b) For vehicles with minor damages, a digital photo may be provided to FAF for a determination of whether or not repairs are warranted. Departments can contact FAF for advice on determining extent of damage.
- (4) With the assistance of the Employee Services Department (ESA), FAF, and County Counsel, investigate and make a determination concerning the causes and surrounding circumstances of each accident, loss, or reported damage involving a County vehicle including steps taken to prevent similar occurrences in the future; and,
- (5) Ensure that all vehicle accident records are accurate and complete.

(B) County drivers shall:

- (1) Report all accidents or losses for county vehicles to their immediate supervisor, regardless of fault, including undocumented damage;
- (2) In the event of an accident, or loss, or upon discovering damage to a County vehicle, complete a Vehicle Accident/Incident Report Form (Form 1542) by the next business day and submit it to their supervisor; and
- (3) Be responsible for contacting law enforcement to report all collisions and incidents involving other parties or property, and be responsible for recording file or case numbers on the Vehicle Accident Report Form.

(C) Vehicle Accident Review Board

- (1) All County drivers operating motor vehicles on County business are expected to drive defensively, to anticipate emergency situations, to know the mechanical condition of the vehicle they are operating, and to make every reasonable effort to avoid accidents. In order to prevent the occurrence and reoccurrence of vehicle accidents involving these drivers, the Vehicle Accident Review Board (VARB) will review all accidents reported to ESA Risk Management, except for the Office of the Sheriff, involving County vehicles in which total damages exceed \$1,000 or which involve circumstances of concern. The VARB will impose corrective measures against employees in an effort to prevent future accidents. The VARB will also review and impose corrective measures against employees who have accumulated excessive unresolved parking citations while in the possession of County vehicles. The responsibilities of the VARB consist of actions affecting employee County driver authorizations and supplemental employee driver training. The decisions of the VARB are appealable to the County Executive or designee, whose decision is final.
  
- (2) The eight-member VARB shall meet on a regular basis. One representative each from the District Attorney, FAF, Health and Hospital System, Office of the Sheriff, Parks and Recreation, Roads and Airports Department, and the Social Services Agency shall sit on the VARB. The Senior Loss Prevention Specialist with ESA Risk Management shall serve as the eighth-member and be responsible for administering the VARB. A Chairperson shall be elected in January each year.

### **3.52.3.17 Citations**

- (A) The Department shall:
  - (1) Be responsible for ensuring that County drivers clear all parking citations against County vehicles within 120 days;
  - (2) After 120 days, coordinate with the Finance Agency to transact wage garnishment for the value of parking citations;
  - (3) Will work with FAF to identify operators of confidential plate vehicles; and
  - (4) Refer County drivers having excessive parking citations while in possession of a County vehicle to the VARB.
  
- (B) The Finance Agency shall provide an annual report of unpaid citations to the Board of Supervisors.

### **3.52.4 Penalties for Misuse, Neglect, and At-Fault Accidents**

- (A) Disciplinary Action. The unauthorized use or willful misuse of a County vehicle, or the negligence of a County driver, or other circumstances where the County driver is found at fault, or the violation of this policy may be cause for:
  - (1) Disciplinary actions consistent with County Merit System Rules; and
  - (2) Administrative action including the revocation of the County driver's authorization.
- (B) Criminal Sanctions. Depending on the facts and circumstances, criminal sanctions of relevant laws and codes may apply.

### **3.52.5 Cost Accounting and Management Reporting**

- (A) Department Heads shall provide uniform data necessary for the efficient and effective management of motor vehicle assets, to include operation and maintenance as required by the County Executive, FAF, ESA, and/or the Finance Agency.
- (B) Data shall include cost summaries and forecast budget implications so that the County fleet as a whole can be better managed.
- (C) Departments shall review the proposed budget for assigned vehicles and provide comment back to FAF.
- (D) Departments must notify FAF of vehicle reassignments, planned additions or reductions.
- (E) Departments are responsible to review the monthly fuel credit usage and report any discrepancies to the Finance Agency

### **3.52.6 Appendix A - Annual Vehicle Plan**

- (A) The Annual Fleet Plan shall include the following:
  - (1) A recommendation for the optimization of the County vehicle fleet size and mix of vehicles as a whole and by each County department;
  - (2) A summary report of criteria used to make the aforementioned recommendation is contained in Appendix B;
  - (3) A comparison of vehicle usage to the aforementioned criteria to justify the ongoing asset costs;
  - (4) A summary of recommendations for repurposing and/or disposing of vehicles that do not meet the Board approved criteria; and

(5) A 5-YEAR FLEET PLAN update.

(B) Definitions:

The following definitions will be used by FAF in determining the disposition of any County vehicle:

Under Utilized

Any vehicle that does not meet minimum use guidelines over a 12 month period.

Guideline

The use or economic point at which vehicles are considered candidates for action by FAF in collaboration with the operating department. The intent of the action is to ensure that the size and composition of the County fleet is consistent with the best interests of the County.

Retain

Disposition of a vehicle that has met minimum use criteria or that has been determined to be more cost effective than other alternatives.

Reassign

Disposition of vehicles that have not met minimum use guidelines in current assignment but have the potential to be more fully used elsewhere in the County.

Pool

Disposition of a vehicle that has not met minimum use guidelines but may be economically or of operational value to the County if retained in the Fleet Management pool for short-term rental.

Decommission

Disposition of a vehicle that does not meet minimum use guidelines and/or is no longer needed in County operations. Unit will be disposed through normal channels consistent with County policy.

(C) Procedures

(1) FAF shall:

(a) Annually review and recommend any modifications to the criteria that will be used as a basis for the Annual County Vehicle Fleet Plan and submit the criteria to the Board for approval;

- (b) Annually prepare an analysis that assess the use and replacement of all vehicles once each year according to established criteria and determine if each vehicle meets or exceeds the minimum use guidelines;
- (c) Determine the cost effectiveness of departmental assigned vehicles, as compared to pool and private vehicle costs;
- (d) Propose actions for those vehicles that fail to meet the minimum use guidelines and contact the departments regarding its determinations;
- (e) If the department agrees with a recommended disposition other than “retain”, the department must surrender the vehicle to FAF within 30 calendar days;
- (f) Should the department disagree with the recommended disposition, the Department Head must notify FAF in writing within two weeks. The notification must state the nature of the disagreement and justification as to why the disposition should be altered. FAF may determine that the dispute cannot be resolved and in such case, FAF will arrange to meet the Department Head and the County Executive for resolution. The County Executive’s decision will be final; and
- (g) FAF will finalize the Annual Fleet Plan and submit it to the Board of Supervisors for approval.

### 3.52.7 Appendix B - Vehicle Review Criteria

As a general rule, the criteria contained herein shall not be used as hard and fast rules to disposition a vehicle, but instead shall be used as performance indicators that trigger closer review and discussion between FAF and the user department for the purpose of exploring alternatives that will result in lower costs to the County compared to status quo.

FAF will annually review and propose modifications of these criteria to the Board based on benchmarks of similar agencies for number of departmental staff compared to number of departmental assigned vehicles.

#### Vehicle and Equipment Utilization Criteria

Vehicle Type	Meter Type	Annual Utilization Guideline
Sedans	Miles	8,000-10,000
SUV	Miles	8,000-10,000
Vans, Passenger	Miles	6,000-10,000
Vans, Cargo	Miles	3,500-10,000
Trucks, Light	Miles	5,000-7,000

Trucks, Utility, 1 Ton +	Miles	1 Ton + Miles 4,000
Trucks, Specialty	Miles	3,000
Construction Equipment	Hour	250
Moving, Forklifts, Campus Vehicles	Hour	100

### **Vehicle Equipment Replacement Methodology**

Replacement of County vehicles and equipment shall be based on the following:

- (A) Take the number of vehicles in each class, divided by the Age/Miles replacement criteria, to arrive at an average number of vehicles per year to be replaced;
- (B) Use the cost per mile analysis (summary of all costs associated with the vehicle including labor and parts, excluding collision repair, as compared to class averages) for primary criteria in evaluating which vehicles within each specific class range should be replaced;
- (C) Use age of the vehicle as secondary criteria; safety is a primary concern and older vehicles present significant challenges to acquire parts;
- (D) Use odometer miles as third criteria since high miles create excessive wear and tear on major system components;
- (E) Use safety features, fuel economy and vehicle emissions characteristics to prioritize replacement vehicles;
- (F) Overall priority for replacement will be given to vehicles within those departments whose services relate to public health and safety and law enforcement; and
- (G) Fund sources other than General Fund may accelerate replacements to achieve emission reductions or increased fuel economy as recommended by the County Executive and approved by the Board of Supervisors Age/Mile Replacement Criteria.

### **Age/Mile Replacement Criteria**

The targeted replacement cycles, in terms of years and miles for the current fleet, are as follows:

Note: These criteria are intended to be used for analysis; condition, value and safety are factored into the annual replacement recommendation. In some cases vehicles may exceed the published replacement criteria provided they are deemed safe by FAF and continue to demonstrate usefulness to the County.

### **Description Age and/or Miles**

- (A) Sedans - 10 years and/or 100,000 miles

- (B) Law Enforcement Patrol - 5 years and/or 95,000 miles
- (C) Vans
  - (1) Passenger - 10 years and/or 100,000 miles
  - (2) Cargo - 10 years and/or 120,000 miles
- (D) Light Duty Trucks
  - (1) Sports Utility - 10 years and/or 100,000 miles
  - (2) Pickup and 4 x 4 – 10 years and/or 100,000 miles
- (E) Medium and Heavy Duty Trucks - 15 years and/or 150,000 miles
- (F) Buses - 15 years and/or 150,000 miles
- (G) Miscellaneous Equipment - By condition

### **3.52.8 Appendix C - Anti-Idle Policy Purpose**

The purpose of this policy is to limit idling for all vehicles. The State regulation limits unnecessary idling for in-use off-road diesel vehicles. The regulation states “no Vehicles or engines subject to this regulation may idle for more than five (5) consecutive minutes.”

This policy extends this requirement throughout the vehicle fleet, including on-road and off-road light, medium and heavy duty vehicles.

All County vehicle idling is limited to five (5) consecutive minutes or less.

#### **General Procedures**

All drivers of County vehicles or private vehicles while on County business shall turn off the engine upon stopping at a destination. Drivers may not allow an engine to idle at any location for more than one (1) minute consecutively or a period or periods aggregating more than five (5) minutes in any one-hour period.

Departments are responsible to label in-use off-road diesel vehicles with a dash board label that states “THIS ENGINE CAN NOT IDLE FOR MORE THAN 5 MINUTES. IT IS A STATE ENVIRONMENTAL REGULATION.”

Employees that wish to report non-compliant idle activities in vehicles should contact their Supervisor or the ESA. Violators of the policy will be subject to disciplinary action including possible revocation of the County driver authorization.

#### **Exceptions**

The idling limit does not apply to:

- (A) Idling when queuing that at all times is beyond 100 feet from any restricted area;
- (B) Idling to verify that the vehicle is in safe operating condition as required by law and that all equipment is in good working order, either as part of a daily vehicle inspection or as otherwise needed, provided that such idling is mandatory for such verification;
- (C) Idling for testing, servicing, repairing or diagnostic purposes, including regeneration or maintenance of the exhaust emission control device during engine idling when the dashboard indicator light, if so equipped, is illuminated indicating that regeneration or maintenance is in process;
- (D) Idling when positioning or providing a power source for equipment or operations, other than transporting passengers or propulsion, which involve a power take off or equivalent mechanism and is powered by the primary engine for:
  - (1) Controlling cargo temperature, operating a lift, crane, pump, drill, hoist, mixer, or other auxiliary equipment;
  - (2) Providing mechanism extension to perform work functions for which the vehicle was designed; and
  - (3) Collection of solid waste or recycling material authorized by contract, permit, license or permit by a local government.
- (E) Idling required to bring the machine system to operating temperature, as specified by the manufacturer; and
- (F) Idling necessary to ensure the safe operation of the vehicle.

**Allowable**

Allowable idling includes:

- (A) Buses may idle for up to ten (10) minutes prior to passenger boarding, or when passengers are on board;
- (B) Idling when vehicle must remain motionless due to traffic conditions, an official traffic control device, or an official traffic control signal for which the driver has no control, or at the direction of a peace officer;
- (C) Idling due to immediate adverse weather conditions affecting the safe operation of the vehicle or due to mechanical difficulties over which the driver has no immediate control;
- (D) Idling when operating equipment such as a wheelchair or people assist lift as prescribed by the Americans with Disabilities Act;

- (E) Idling while in immediate response to a disaster event, crime scene or other official law enforcement activity or operation; and
- (F) Idling to support or create traffic control signal or directional indicator.

### **3.53 DESIRED CHARACTERISTICS OF CANDIDATES FOR APPOINTMENT TO THE ASSESSMENT APPEALS BOARD AND VALUE HEARING OFFICERS (Adopted 1-11-11; Amended 6-7-22)**

State law defines the minimum qualifications for persons serving on assessment appeals boards and as hearing officers. The County of Santa Clara Ordinance Code provides additional minimum qualifications in the case of hearing officers. Given the complexity of property tax assessment appeals filed in the County, the Board of Supervisors adopts this policy regarding desired characteristics of candidates for appointment to the Assessment Appeals Board (AAB) and Value Hearing Officers.

#### **3.53.1 Appointment of Members to the Assessment Appeals Board**

It is the policy of the Board of Supervisors that when considering the appointment of members to the Assessment Appeals Board, Board members may, but shall not be obligated to, give preference to candidates possessing the following background:

- (A) Certified public accountants with experience in the appraisal/valuation of real and/or business personal property;
- (B) Licensed real estate brokers with a Certified Commercial Investment Member (CCIM) designation from the CCIM Institute, a Certified Real Estate Brokerage Manager (CRB) designation from the Council of Real Estate Brokerage Managers, a Certified Residential Specialist (CRS) designation from the Council of Residential Specialists, a Graduate Realtor Institute (GRI) designation from the National Association of Realtors, or a similar designation;
- (C) Real property appraisers with the designation of Member Appraisal Institute (MAI) or a similar designation evidencing experience with complex income property valuation;
- (D) Personal property appraisers with an Accredited Senior Appraiser (ASA) designation from the American Society of Appraisers or a similar designation;
- (E) Attorneys with experience with complex income and business property valuation; or
- (F) Individuals having experience which is comparable to that set forth in subsections (A) through (E) above.

In addition, Board members may, but shall not be obligated to, ensure that each separate AAB panel has at least one real property appraiser with the designation of MAI from the Appraisal Institute, or similar designation evidencing experience with complex income property valuation, as well as one experienced Assessment Appeals Board member.

### **3.53.2 Assessment Appeals Board IV**

Assessment Appeals Board IV may be dedicated to the resolution of appeals contesting a “change in ownership” or new construction determination by the Assessor, as well as appeals regarding the Assessor's valuation of real property. If so, then notwithstanding the guidelines above, Seat 1 of Assessment Appeals Board IV shall be filled by one member with experience as a real property appraiser with the designation of MAI from the Appraisal Institute or a similar designation evidencing experience with complex income property valuation. Seats 2 and 3 shall each be filled by a member who has a minimum of five years' professional experience in this State as an attorney, preferably related to real estate and property transfers, and who the nominating member of the Board of Supervisors has reason to believe is possessed of competent knowledge of property taxation. However, a panel that does not meet these requirements is not precluded from hearing any type of appeal.

### **3.53.3 Appointment of Value Hearing Officers**

It is the policy of the Board of Supervisors that when considering prospective value hearing officers, Board members may, but shall not be obligated to, give preference to candidates possessing the following background:

- (A) Residential real property appraisers with an SRA designation from the Appraisal Institute;
- (B) Residential real property appraisers licensed at the Certified Residential or Certified General level by the State of California Office of Real Estate Appraisers; or
- (C) Individuals having experience which is comparable to that set forth in subsections (A) and (B) above.

In addition, Board members may, but shall not be obligated to, give preference to candidates with prior experience as either a hearing officer or arbitrator.

## **3.54 COOPERATION WITH U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (Adopted 10-18-11; Amended 6-4-19)**

It is the policy of the County of Santa Clara that County officials and employees may cooperate with United States Immigration and Customs Enforcement (ICE) only as follows:

- (A) Consistent with longstanding County policy, the California Values Act (Gov. Code, §§ 7284-7284.12), and the Fourth Amendment to the United States Constitution, the County does not, under any circumstances, honor civil detainer requests from ICE by holding inmates on ICE's behalf for additional time after they would otherwise be released from County custody.
- (B) It is the policy of the County that the Sheriff may exercise discretion to facilitate the transfer of an adult inmate to ICE custody if an ICE agent presents a valid arrest warrant signed by a federal or state judicial officer, or other signed writ or order from a federal or state judicial officer authorizing ICE's arrest of the inmate. An administrative warrant signed by an agent or official of ICE or of the Department of Homeland Security (such as a Form I-200) is not a judicial warrant and will not be honored. The Sheriff and Chief of Correction shall jointly develop transfer procedures to implement this paragraph.
- (C) Except as permitted by this Policy, the County shall not provide assistance or cooperation to ICE in its civil immigration enforcement efforts, including by giving ICE agents access to individuals or allowing them to use County facilities for investigative interviews or other purposes, expending County time or resources responding to ICE inquiries or communicating with ICE regarding individuals' incarceration status or release dates, or otherwise participating in any civil immigration enforcement activities. This Policy does not limit or prohibit giving assistance with the investigative activities of any local, state, or federal law enforcement agency relating to suspected violations of criminal laws.

### **3.55 DEFENDING PROFESSIONALLY LICENSED EMPLOYEES IN ADMINISTRATIVE PROCEEDINGS (Adopted 10-25-11)**

The County values its employees and desires to support them when they perform their duties within the scope of their employment in a good-faith manner and to the best of their abilities. The County acknowledges that its professionally-licensed employees often face difficult judgment calls that need to be made promptly and sometimes result in good-faith mistakes. The County considered these factors in adopting this policy.

Further, this policy may be applied retroactively to underlying actions or failures to act that form the subject matter of a professional-licensing entity proceeding, but is prospective in nature in that it applies only to matters that were initiated by a professional-licensing entity after the enactment of this policy.

#### **3.55.1 Policy**

Pursuant to Government Code section 995.6, the County does not have a legal duty to defend employees licensed pursuant to the provisions of the California Business and Professions Code ("professionally-licensed employees") in administrative proceedings initi-

ated by the respective professional licensing entities. The County may, however, provide a defense to its current and former employees if:

- (a) The administrative proceeding is brought on account of the employee's act or omission in the scope of his or her employment; and
- (b) The County determines that such defense would be in the best interests of the County and that the employee acted, or failed to act, in good faith, without actual malice, and in the apparent interests of the County.

In accordance with Government Code section 995.6, the County will decide on a case-by-case basis whether to defend professionally-licensed employees in administrative proceedings. The decision to defend employees is at the sole discretion of the County and will be provided only if all the requirements of Section 995.6 have been met.

The County will make the decision whether to defend employees in administrative proceedings at three stages. The first stage pertains to the initial investigation and written response to the inquiry from a professional-licensing entity; the second stage to the formal initiation of disciplinary charges if the written response does not resolve the inquiry; and the third stage to any appellate proceeding that the employee wishes to initiate following a decision adverse to the employee.

Even if the County initially agrees to defend an employee, the County has the right to withdraw its defense if it is established that 1) the proceeding was not brought on account of an act or omission in the scope of the employee's employment with the County; 2) the County determines that the defense would not be in the best interests of the County; or 3) the employee did not act in good faith, without actual malice, or in the apparent interests of the County. The right to withdraw during Stage 1, Stage 2, and Stage 3 is discussed below.

### **3.55.2 Procedures**

The following procedures will be followed to implement the County's policy for defending professionally-licensed employees in administrative proceedings:

(A) Stage 1

- (1) Immediately upon receipt of an inquiry from a professional-licensing entity, the employee, or the head of the department in which the employee works, must contact the Office of the County Counsel to request a defense in the proceeding if he or she wants to have County-appointed representation. (Note: In view of the Short response time involved in inquiries from the medical board to physicians, physicians who receive an inquiry, or the department head, will contact the deputy county counsel assigned to medical malpractice cases. The deputy county counsel will determine if the physician acted within the course and scope of his/her employment with the Santa Clara County Health and Hospital System and, if so, assist the physician in

drafting a response to the Board. If the medical board decides to initiate formal disciplinary proceedings against the physicians, all the provisions of Stage 2 will apply.)

This provision does not apply to the Office of the Public Defender that will handle Stage 1 of all inquiries “in-house” in recognition of the expertise developed in that office relating to Stage 1 inquiries. The Public Defender will, however, provide the Office of the County Counsel with notice of all inquiries that it will handle in-house and the responses thereto. The Public Defender's in-house handling of Stage I inquiries for its attorneys will not result in a waiver of the employee's entitlement to request a defense during Stage 2 or Stage 3 of said proceedings.

- (2) If an employee decides not to have County-appointed representation, the employee may be precluded from later receiving representation from the County. Under these circumstances, the employee will sign the attached waiver indicating that he or she understands and acknowledges that the County may refuse to represent him or her in Stage 2 or Stage 3 of the professional-licensing entity proceedings if he or she decides not to have County-appointed representation during Stage I or Stage 2 of said proceedings.
- (3) If a request for County-appointed representation is made, County Counsel will appoint an attorney in the Office of the County Counsel to review the matter as soon as possible after receipt of the inquiry. The employee is required to reasonably cooperate in good faith with the assigned attorney to provide all pertinent and known information and to assist in the preparation of a response to the inquiry. Failure to cooperate at any stage of the administrative proceeding may result in withdrawal of representation.
- (4) Before assuming the representation of an employee, the County and the employee will enter into an agreement in which the County, through the Deputy County Executive responsible for the Employee Services Agency (“Deputy County Executive”), reserves the right to withdraw its defense as follows:

At any time during Stage I of the proceeding if it is established that 1) the employee did not act within the scope of his or her employment; 2) the employee did not act in good faith, without actual malice, or in the apparent interests of the County; or 3) the employee failed to cooperate with the defense (“Stage 1 Requirements”).

At any time during Stage 2 of the proceeding if it is established that 1) the employee did not act within the scope of his or her employment; 2) the County determines that the defense would not be in the best interests of the County; 3) the employee did not act in good faith, without actual malice, or in the apparent interests of the

County; or 4) the employee failed to cooperate with the defense (“Stage 2 Requirements”).

At any time during Stage 3 of the proceeding if it is established that 1) the employee did not act within the scope of his or her employment; 2) the County determines that the defense would not be in the best interests of the County; 3) the employee did not act in good faith, without actual malice, or in the apparent interests of the County; or 4) the employee failed to cooperate with the defense (“Stage 3 Requirements”).

- (5) A decision by the Deputy County Executive to withdraw the County’s defense of an employee under any of these circumstances after the County initially agreed to defend the employee may be appealed to the County Executive, who in his or her sole discretion will make a final decision regarding withdrawal.
- (6) If, upon review of the inquiry or during the initial investigation, it is determined that the Stage 1 Requirements of Section 995.6 have not been met, the County will withdraw its defense. The Deputy County Executive will make the decision upon advice of counsel. The Office of the County Counsel will advise the employee in writing of the Deputy County Executive’s decision.
- (7) If, upon review of the inquiry or the initial investigation, the Deputy County Executive determines that the Stage 1 Requirements of Section 995.6 have been met, the assigned attorney from the Office of the County Counsel will represent the employee during the first stage of the proceedings. After consultation with the employee, the assigned attorney will prepare a written response to the inquiry from the professional-licensing entity.
- (8) The County will not assume payment of fees or costs incurred by an employee for representation by an attorney privately retained by the employee, unless specifically approved by the County before the commencement of such representation.

(B) Stage 2

- (1) If the professional-licensing entity decides to pursue formal disciplinary charges, the employee will be afforded the opportunity to meet with the Deputy County Executive to explain his or her account of the claims asserted against him or her and to request that the County provide him or her with a defense in Stage 2 of the proceedings.
- (2) If the employee decides at the outset of Stage 2 of the proceedings that he or she does not want County-appointed representation, the employee may be precluded from requesting County-appointed representation at a later date.

- (3) If the employee requests County-appointed representation, the Deputy County Executive will, upon advice of counsel, decide whether the County will continue to defend the employee. The decision will be made at the sole discretion of the Deputy County Executive.
- (4) If the Deputy County Executive determines that the County will not continue to defend the employee, the employee can appeal the Deputy County Executive's decision to the County Executive, who will independently review the decision. The decision on appeal will be made at the sole discretion of the County Executive.
- (5) The County Executive's decision, made upon advice of counsel, other than counsel defending the employee, will be final.
- (6) If the Deputy County Executive or the County Executive decides that the County will continue to defend the employee with respect to a formal disciplinary charge, the Office of the County Counsel will provide the defense, or at the sole discretion of the County Counsel, will appoint outside counsel of its choice.
- (7) The County will not assume payment of fees or costs incurred by an employee for representation by an attorney privately retained by the employee, unless specifically approved by the County before the commencement of such representation.

(C) Stage 3

- (1) If there is a finding adverse to an employee during Stage 2 of the disciplinary proceedings, and the employee wishes to appeal the finding, the County will, at the request of the employee, continue to provide him or her with County-appointed representation during the appellate process, subject to the provisions below.
- (2) If an employee decides during Stage 1 or Stage 2 of the proceedings that he or she does not want County-appointed representation, the employee may be precluded from receiving County-appointed representation during Stage 3.
- (3) If the County continues to provide County-appointed representation to the employee with respect to the appeal of a formal disciplinary charge, the Office of the County Counsel will provide the defense, or at the sole discretion of the County Counsel, appoint outside counsel of its choice.
- (4) If it is determined at any time during Stage 3 of the proceedings that the Stage 3 Requirements of Section 995.6 have not been met, the County will withdraw its defense. The Deputy County Executive will make such decision upon advice of counsel. The Office of the County Counsel will advise the employee in writing of the Deputy County Executive's decision.

- (5) If the Deputy County Executive determines that the County will not continue to defend the employee in Stage 3, the employee can appeal the Deputy County Executive's decision to the County Executive, who will independently review the decision. The decision on appeal will be made at the sole discretion of the County Executive.
- (6) The County Executive's decision, made upon advice of County Counsel, will be final.
- (7) The County will not assume payment of fees or costs incurred by an employee for representation by an attorney privately retained by the employee during Stage 3, unless specifically approved by the County before the commencement of such representation.

WAIVER

In Re the Inquiry/ Matter of \_\_\_\_\_

I, \_\_\_\_\_ [full name], an employee of \_\_\_\_\_ have received an Inquiry/Complaint from \_\_\_\_\_ in regard to actions arising in the course and scope of my employment for the County. I elect not to have County-appointed representation in this matter. I hereby understand and acknowledge that if I request County-appointed representation at a later stage of this proceeding, the County may refuse to represent me and that I will be solely responsible for my own representation throughout this matter. I further understand and acknowledge that I will not have the right to seek reimbursement from the County for any of the fees, costs, or expenses that I incur in providing my own representation in this matter.

\_\_\_\_\_ Name

\_\_\_\_\_ Date

## **3.56 LITIGATION HOLD POLICY (Adopted 2-28-12)**

### **3.56.1 Purpose**

The County is required to preserve existing and future records that are in any way related to pending or reasonably-anticipated lawsuits. This preservation requirement is commonly referred to as a “Litigation Hold” obligation. The purpose of this policy is to set forth the procedures for initiating, implementing, and releasing Litigation Holds.

### **3.56.2 Background**

The law requires that as soon as the County is notified or becomes aware of the filing of a lawsuit or facts that suggest the potential for a lawsuit, it is obligated to preserve all records that it knows or reasonably should know may be relevant to the lawsuit. The County's Litigation Hold obligation includes suspending routine destruction of records pursuant to any existing County and departmental records retention and destruction schedules and practices.

Courts have broad discretion in penalizing parties who breach their retention obligations. Those penalties could include monetary sanctions or a court order precluding the County from introducing evidence related to the destroyed documents.

### **3.56.3 Scope**

This policy applies to all County departments and employees, and to all documents and records as defined below.

### **3.56.4 Definitions**

(A) Documents/Records

Any writing containing information related to the conduct of the public's business prepared, produced, owned, used, retained, or received by the County, its departments, or employees, regardless of physical form or characteristics, including but not limited to: calendars, charts, databases, diagrams, electronically-stored information such as emails and text messages, exhibits, graphs, invoices, letters, logs, magnetic or paper tapes, maps, memoranda, microfilm, minutes, notes, papers, photographic films and prints, photographs, reports, spreadsheets, video and audio recordings, and voicemails.

(B) Electronically-Stored Information

Electronically-stored information (ESI) includes, but is not limited to: charts, drawings, graphs, images, photographs, sound recordings, writings, and other data or data compilations stored in any electronic medium (e.g., databases, diagrams, digital images, documents, e-mail, instant messages, records, spreadsheets, text

messages, voicemail, and other digital forms requiring the use of computer hardware or software) from which information can be obtained, translated if necessary, into a reasonably usable form that is within the possession, custody, or control of the County and includes embedded data and metadata.

(C) Litigation Hold

A “Litigation Hold” is a legal directive to cease destruction processes and preserve all “Official Records” and “Unofficial Records,” regardless of form, related to the nature or subject of pending or reasonably-anticipated litigation involving the County, its departments, or employees.

(D) Litigation-Hold Liaison

The “Litigation-Hold Liaison” is a person designated by departments to coordinate with the Office of County Counsel (County Counsel), information-technology personnel, ESA Risk Management, and Litigation-Hold Liaisons from other County departments to preserve documents/records.

(E) Official Records

Records are official records of the County's business activities when there is a legal duty to create and/or retain those records, or when they are created during the discharge of the County's official duties. Official records include those that relate to, document, or provide evidence of business activities of employees, departments, or the County as a whole; record decisions, decision-making processes, advice and/or direction; or support the institutional memory of employees, departments, and/or the County as a whole.

(F) Unofficial Records

Unofficial records do not have a role in explaining the functions or activities carried out by employees, departments, or the County. Unofficial records include personal working files that are not ordinarily kept in the course of business; publications, references, duplicates, preliminary drafts, notes, or memoranda that are not ordinarily kept in the course of business.

(G) Records Retention and Destruction Schedule

A Records Retention and Destruction Schedule is a written statement of retention or destruction actions to be taken regarding Official Records produced or maintained by the County. The schedule specifies the length of time that Official Records must be maintained before they are scheduled for destruction or archived.

### **3.56.5 Policy**

- (A) The County, its departments, and employees have a legal duty to preserve all documents that they know or reasonably should know may be relevant to pending or

reasonably-anticipated litigation, as soon as the County, through its Board of Supervisors, departments, or employees, (1) is notified of litigation or facts suggesting potential litigation, or (2) reasonably anticipates litigation.

- (B) The duty to preserve documents/records is not limited to the actual commencement of litigation. In other words, if the County, its departments, or employees receive information that would reasonably suggest that litigation is possible, the duty to preserve is triggered. Triggering events include, but are not limited to, the presentation of a claim, receipt of Notice of Intent to Sue letters, notice that a personnel matter has been filed with the Equal Employment Opportunity Commission (EEOC) or Department of Fair Employment and Housing (DFEH), or receipt of any correspondence that suggests litigation is reasonably foreseeable. The duty to preserve documents/records can, however, be triggered before an employee files a complaint if the County became aware of the possibility of litigation before such a complaint was filed.
- (C) When a County department or employee learns facts that reasonably suggest that litigation is possible, the department and employee are obligated to inform County Counsel of the potential litigation. As soon as a department or an employee is aware of potential litigation, the department and the employee are obligated to preserve all records that might relate to the anticipated litigation, including ESI, and suspend the destruction of documents/records related to the litigation.
- (D) Similarly, as soon as County Counsel or ESA Risk Management advises a department or an employee of the threat of litigation or reasonably-anticipated litigation, the department and its employees are obligated to preserve all documents/records that might relate to the anticipated litigation, including ESI, and suspend the destruction of documents/records related to the litigation.
- (E) When a department or an employee learns of pending or reasonably-anticipated litigation, or when County Counsel requests a department or an employee to institute a Litigation Hold, the department and the employee must promptly contact and coordinate with department personnel, including information-technology staff, to implement the Litigation Hold.
- (F) If a department or an employee is uncertain whether documents must be preserved, they must consult with County Counsel, who will provide the department or employee with direction regarding the nature and scope of records to be preserved pursuant to a Litigation Hold.
- (G) Each department must designate a Litigation-Hold Liaison to coordinate with County Counsel, information-technology personnel, ESA Risk Management, and Litigation Hold Liaisons from other County departments to accomplish Litigation Holds.
- (H) Litigation-Hold Liaisons are responsible for the following:

- (1) Identifying all records, both Official and Unofficial, that might be subject to the Litigation Hold.
  - (2) Assisting County Counsel to identify records, both Official and Unofficial, that might be subject to the Litigation Hold.
  - (3) Providing sufficient information regarding the subject of the pending or reasonably-anticipated litigation to allow employees to conduct a reasonable search for information related to the lawsuit.
  - (4) Taking immediate steps to preserve all records that are identified as related to the pending or reasonably-anticipated litigation until the conclusion of the litigation.
  - (5) Taking immediate steps to suspend the application of document-destruction policies to documents/records that are related to the pending or reasonably-anticipated litigation until the conclusion of the litigation.
  - (6) Coordinating with information-technology personnel to place a Litigation Hold on ESI that is related to the pending or reasonably-anticipated litigation.
  - (7) Coordinating with Litigation-Hold Liaisons from other departments, if any, involved in the pending or reasonably-anticipated litigation.
- (I) Only County Counsel can release Litigation Holds once implemented.

### **3.57 SANTA CLARA COUNTY RECORD RETENTION AND DESTRUCTION POLICY (Adopted 2-10-15)**

#### **3.57.1 Purpose**

This document sets forth a Record Retention and Destruction Policy (Policy) for the County of Santa Clara, its departments, agencies, offices, officers and employees as defined in sections A1 -17 and A1 -18 of the Santa Clara County Ordinance Code (County). The Policy sets forth mandatory procedures to properly and lawfully retain and destroy “Records,” defined in Section 3.57.2.

The Policy is intended to: (1) establish consistent procedures throughout the County for the management, retention, and destruction of Records; and (2) ensure compliance with laws that govern the retention and destruction of those Records that qualify as “Official Records,” defined in Section 3.57.2.

#### **3.57.2 Definitions**

- (A) Records

Records are synonymous with documents and include, but are not limited to, any handwriting, typewriting, printing, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing; any form of written communication or representation, including letters, words, pictures, symbols, or combinations thereof; and any record thereby created, regardless of the manner in which the record has been stored or its physical form or characteristics. Records include “Electronically-Stored Information,” as defined in this Section 3.57.2.

(B) Electronically-Stored Information

Electronically-Stored Information consists of Records stored on a computer or created by using a computer, or any other electronic medium or device for electronic processing, which requires a computer or other electronic medium or device to display or process the Records.

Electronically-Stored Information includes, but is not limited to, e-mails, text messages, instant messages, digital images, voicemail, photographs, sound recordings, compact disks, audiotapes, videotapes, spreadsheets and other data or data compilations stored in any electronic medium from which information can be obtained. Electronically-Stored Information also includes electronic information created through the use of, and contained in, Social Media Applications, as defined in the County's Social Media Application Policy.

(C) Official Records

An Official Record is a Record in the custody of the County that meets any of the following criteria: (1) the Record was prepared to disseminate information to the public; (2) the Record was prepared and retained to memorialize an official transaction; (3) the Record is required by law or regulation to be retained; or (4) the Record is necessary to the discharge of a County employee’s official duties and was made or retained for the purpose of preserving its informational content.

Official Records do not usually include preliminary drafts, notes, or memoranda. But preliminary drafts, notes, or memoranda used in the preparation of Official Records may themselves be Official Records when their retention is necessary to disseminate information to the public, to memorialize an official transaction, or to the discharge of a County employee’s official duties and was made to preserve their informational content. Official Records also do not include personal communications that do not meet one of the criteria above.

An email may or may not constitute an Official Record. When an email is sent to others simply to communicate messages, and not for one of the purposes described above (e.g., to disseminate information to the public), the email likely is not an “Official Record.”

(D) Record Retention and Destruction Schedules

Record Retention and Destruction Schedules are written statements of retention and destruction requirements that apply to County Records. The schedules specify the length of time that Official Records must be maintained before destruction. The Countywide Retention and Destruction Schedule (the Countywide Schedule) reflects retention and destruction requirements for general categories of Official Records pertaining to multiple County departments, agencies and offices (Departments). Departmental Record Retention and Destruction Schedules (Departmental Schedules) are prepared by County Departments and include retention and destruction requirements with respect to specific Official Records that Departments prepare, own, receive, use, or retain. Whether a Record constitutes an Official Record is a determination made by the Department(s) with custody of the Record.

### **3.57.3 Background**

The County generates, receives, handles, and maintains many Records in the performance of its business activities as a public entity. There are at least four reasons why the County must effectively manage and ensure the proper retention and destruction of Records. First, the efficient, effective, and economical management of Records in a regulated environment will ensure the availability of information in the conduct of County business and will allow the County to establish and maintain control over its information flow.

Second, the law requires that certain types of Official Records must be retained for specified time periods. To comply with these laws, it is essential that Official Records are properly managed and retained during the mandated retention period, and then timely destroyed.

Third, the California Public Records Act (CPRA) is intended to increase freedom of information by giving the public access to certain information in the possession of public agencies. (Govt. Code §§ 6250-6270.) The CPRA gives members of the public the right to inspect public records that are not exempt from disclosure. (Govt. Code § 6253.) To ensure public access to Records, it is essential that all Records are properly managed to comply with the law.

Fourth, the law imposes an obligation on the County to preserve relevant evidence as soon as the County reasonably anticipates litigation against or by the County. The duty to preserve evidence includes an obligation to identify, locate, and maintain Records that are relevant to specific, predictable, and identifiable litigation. Once the obligation to preserve Records has been triggered, record retention and destruction policies must be suspended and Litigation Holds implemented to ensure the preservation of relevant Records. (*See* Board Policy 3.56, Litigation Hold Policy.) Appropriate policies for the management of Records enable the County to properly implement Litigation Holds.

### **3.57.4 Scope of Policy**

This Policy applies to all Records generated, prepared, authored, produced, owned, used, created, retained, or received by the County during the ordinary course of County business, provided those Records are within the possession, custody, or control of the County.

This Policy is distinct from, and in addition to, the requirements of the CPRA, which gives members of the public the right to inspect “public records.” The term “public records” is defined more broadly in the CPRA (Govt. Code § 6252(e)) than the term “Official Records” is defined in this Policy. The CPRA defines “public records” to “include any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics.” Govt. Code § 6252(e). Accordingly, a document that is not an Official Record may still qualify as a public record. Thus, compliance with this Policy does not ensure compliance with the CPRA; County employees must separately adhere to both this Policy and the CPRA.

### **3.57.5 Policy**

#### **(A) Departmental Record Retention and Destruction Policies and Retention Schedules**

The development of Departmental Record Retention and Destruction Policies (Departmental Policies) consists of four primary steps. First, Departments must prepare an inventory of their Records by identifying and cataloguing the types, classes, and categories of existing Records, where and how those Records are kept, the volume of those Records, and the uses of each type, class, and category of Records.

Second, Departments must appraise the catalogued Records by: (1) identifying Official Records and separating them from non-Official Records; and (2) identifying Records that can be destroyed immediately and the appropriate method of destruction.

Third, upon completion of Departmental Record inventories and appraisals, Departments must prepare Departmental Schedules, which must be consistent with the Countywide Schedule. To prepare these schedules, Departments must determine the retention period for each type, class, or category of Official Records as described in Section V. B. below. Also, Departments must determine whether Official Records have specifically-articulated vital, administrative, legal, fiscal, or research/historical/archival value, as defined in Section 3.57.5(B). Departmental Schedules must contain the title of each category of Official Records; a description of those Official Records; applicable retention periods; and applicable laws, regulations, and/or policies mandating or warranting the stated retention periods. Departmental Schedules must also identify Records with specifically-articulated vital, administrative, legal, fiscal, or research/historical/archival value, as defined in Section 3.57.5(B), and list the extended retention periods for those Records. The

Offices of the Board of Supervisors are not required under this Policy to prepare or maintain Departmental Schedules.

Departments must review their Departmental Schedules with County Counsel at least every five years to ensure that the schedules comply with the law and properly reflect Departmental record retention and destruction practices. Whenever there is a change in the legal requirements for record-retention periods or a significant change in Departmental record keeping practices, Departmental Schedules must be amended immediately. Departments should consult with County Counsel to determine whether any changes in Departmental record keeping practices are significant under this Policy. Departmental changes of mission, added functions, or new programs can require amendments to Departmental Schedules.

And finally, upon completion of the Departmental Schedules, Departments must prepare their own Departmental Policies, which must be consistent with this Santa Clara County Record Retention and Destruction Policy. Departmental Policies must define internal processes for the management, retention, and destruction of Departmental Records. Departmental Policies must be prepared in consultation with County Counsel to ensure compliance with the law. Departmental Schedules must be attached to Departmental Policies and be incorporated therein by reference. The Offices of the Board of Supervisors are not required under this Policy to prepare or maintain Departmental Policies.

Departments must include in their Departmental Policies procedures to manage, retain, audit and destroy Electronically-Stored Information commensurate with that accorded other forms of Records. Except as otherwise provided below, emails and other Electronically-Stored Information require the same degree of management, retention, and destruction as hard-copy Records and other physical media. To ensure its integrity and availability, Electronically-Stored Information must be maintained in a reliable electronic record keeping system that makes it readily accessible.

(B) Record Retention and Destruction Periods

As described in more detail below, record retention and destruction periods are determined as follows:

(1) General retention requirements

- (a) All Official Records, including emails and other Electronically-Stored Information, must be retained for a legally-mandated minimum period of at least two years (very limited exceptions to this two-year minimum period are provided by statute);
- (b) The law requires that certain types of Official Records must be retained more than two years. In these instances, the retention periods generally range between three and twenty years. When the law provides for a retention period of more than two years for specified

types of Official Records, Departments must retain the Official Records for the legally-mandated period; and

- (c) Official Records that have specifically-articulated vital, administrative, legal, fiscal, or research/historical/archival value may be retained longer than the legally-mandated period. The specific retention period applicable to such Official Records must be specified in the Departmental Schedules.

(2) Minimum two-year retention period

If the law does not provide a mandatory retention period for specific types of Official Records, the minimum retention period for Official Records is two years. (Govt. Code § 26202.) In such cases, all Official Records, including emails or other Electronically-Stored Information, must be retained for two years after preparation or receipt thereof.

Official Records should be destroyed after the two-year period has expired, unless: (1) Department Heads determine that they have specifically-articulated vital, administrative, legal, fiscal, or research/historical/archival value justifying a longer retention period; (2) there is a pending CPRA request; or (3) there is a Litigation Hold.

The two-year minimum retention period does not apply to non-Official Records.

(3) Specific retention periods greater than two years

The law provides mandatory retention periods for certain types of Official Records. When the law provides a specified retention period for Official Records of more than two years, they must be retained for the specified period.

Official Records should be destroyed after the legally-mandated period has expired, unless: (1) Department Heads determine that they have specifically-articulated vital, administrative, legal, fiscal, or research/historical/archival value justifying a longer retention period; (2) there is a pending CPRA request; or (3) there is a Litigation Hold.

(4) Retention periods for Official Records that have vital, administrative, fiscal, legal, and research/historical/archival value

Official Records may be retained for longer than the legally-mandated period only when Department Heads determine that the Records have a specifically-articulated vital, administrative, fiscal, legal, or research/historical/archival value that justifies a retention period longer than the legally-mandated period. In determining whether to retain Official Records for more than the legally-mandated retention period, Department Heads must consider

the Official Records' vital, administrative, fiscal, legal, and research/historical/archival value, defined as follows:

- (a) Vital Value: Records generally have vital value when they are essential for the reconstruction and continuation of operations if a disaster or an emergency negatively impacts the County's business.
- (b) Administrative Value: Records generally have administrative value as long as they can be shown to significantly assist the County in performing current or future public-entity business.
- (c) Legal Value: Records generally have legal value if they contain evidence of the County's legally-enforceable rights or obligations.
- (d) Fiscal Value: Records generally have fiscal value if they pertain to financial transactions.
- (e) Research/Historical/Archival Value: Records generally have enduring research/historical/archival value if they reflect significant historical events or document a significant aspect of Departmental history or development.

If Department Heads determine that certain types of Official Records must be retained permanently or for a period exceeding the legally-mandated period, Department Heads must specify the extended retention period and the reason justifying the extended retention period. The extended retention period must be included in Departmental Schedules. These Official Records should be destroyed once the extended retention period has expired or they no longer serve a vital, administrative, legal, fiscal, or research/historical/archival purpose, whichever comes first, unless: (1) the Department Head determines that the Official Records must be retained for a longer period of time; (2) there is a pending CPRA request; or (3) there is a Litigation Hold.

Department Heads may further extend an extended retention period if they determine that the Records continue to have a specifically-articulated vital, administrative, legal, fiscal, or research/historical/archival value. Department Heads must specify the duration of the further extended period and the reason justifying the further extended retention period, which should be included in the Departmental Schedules.

(5) Retention of non-Official Records

Non-Official Records should be deleted or destroyed immediately or as soon as reasonably practicable unless they are subject to a Litigation Hold (*See* Litigation Hold Policy) or pending CPRA request.

(6) Deletion of electronic mail (emails) more than two years old

If an email is not an Official Record, the email does not have to be preserved and should be deleted.

If an email constitutes an Official Record, the user must take affirmative steps to retain the email. All emails that constitute Official Records must be retained for a minimum period of at least two years. Emails that constitute Official Records should be permanently deleted after two years from preparation or receipt unless they are subject to a legally-mandated period exceeding two years. If the emails are subject to a legally-mandated retention period exceeding two years, steps must be taken to ensure that they are not prematurely deleted after two years.

The same steps must be taken for Official Records that serve a specifically-articulated vital, administrative, legal, fiscal, or research/historical/archival purpose. Failure to take such steps may result in the inappropriate deletion of Official Records. Official Records and non-Official Records that are subject to a pending litigation hold and/or a pending CPRA request must not be deleted without prior approval by the Office of County Counsel.

(C) Duplicates and Reproductions

In determining whether, when, and how to manage, preserve, and destroy Official Records, including emails and other Electronically-Stored Information, the following guidelines must be considered:

- (1) A duplicate copy of an Official Record may be destroyed before the expiration of any minimum retention period, provided the original Official Record or a true and accurate digital reproduction of the original Official Record is preserved throughout the minimum retention period. (Govt. Code §§ 26201, 26206.7.) This provision applies to both hard-copy and digital Official Records.
- (2) An original Official Record, whether in digital or hard-copy (e.g., paper) form, may be destroyed before the expiration of the applicable retention period if:
  - (a) No law expressly requires that the original Record be maintained in its original form;
  - (b) The original Official Record is reproduced and stored using a reliable system of digital reproduction and storage that does not permit additions, deletions, or changes to the original Record. Best practices require a combination of techniques, policies, and procedures for which there is no plausible scenario in which a document retrieved from or reproduced by the system could differ substantially from the original Record (Govt. Code §§ 26205.1, 12168.7.); and,
  - (c) The reproduction is available for public use.

(D) Destruction of Records

(1) Destruction of Official Records, including emails

Official Records, including emails, should be destroyed after the following determinations have been made:

- (a) The Official Records have been retained for the legally-mandated period specified in the Countywide Schedule and the Departmental Schedules; and
- (b) If no such legally-mandated retention period exists, the Official Records have been retained for the minimum two-year retention period; and
- (c) The Official Records have been retained for the period, if any, determined by Department Heads and set forth in the Departmental Schedules specifying that the Official Records have vital, administrative, fiscal, legal, or research/historical/archival value; and
- (d) The Official Records are not subject to a Litigation Hold (*See Litigation Hold Policy*) or pending CPRA request.

(2) Destruction of non-Official Records, including emails

Non-Official Records, including emails, should be destroyed after the person or Department in possession of the Official Records has determined that the Records are not subject to a Litigation Hold (*See Litigation Hold Policy*) or pending CPRA request.

(3) Destruction methods

- (a) Non-confidential Records must be recycled if possible.
- (b) Confidential Records must be destroyed pursuant to Board Policy 3.25, Policy Relating to Confidentiality of Documents.
- (c) Non-confidential and confidential Records in the form of emails or Electronically-Stored Information must be permanently deleted.

(E) Department Head Responsibilities

- (1) Department Heads or their specifically-appointed designees will be responsible for the preparation and implementation of Departmental Policies and Departmental Schedules, and will appoint a specific person responsible for the preparation and implementation thereof.
- (2) Department Heads or their specifically-appointed designees must update the Departmental Schedules immediately upon legal changes pertaining to

retention periods or significant Departmental changes. Regardless of any amendments, Departments must review their Departmental Schedules with County Counsel at least every five years to ensure the Departmental Schedules accurately and completely reflect the Departments' records retention and destruction policies.

- (3) Department Heads or their specifically-appointed designees must communicate Departmental Policies, Departmental Schedules and the Countywide Schedule to all employees; ensure that all Department employees receive training regarding the provisions, application, and implementation of Departmental Policies and Departmental Schedules; and ensure compliance with Departmental Policies, Departmental Schedules and the Countywide Schedule.
- (4) Department Heads or their specifically-appointed designees must appoint individuals to act as records-management program coordinators to assist employees in records-management functions and to coordinate records management with other Departments, when appropriate.
- (5) Department Heads must be familiar with other statutes bearing on destruction of records.

(F) Approval of Departmental Schedules

The Board of Supervisors must authorize the destruction of specific categories of Official Records by approving the Countywide Schedule and the Departmental Schedules. Each Department shall submit to the Board for its approval a Departmental Schedule that sets forth the specific retention period for each category of Official Records in the Departmental Schedule. County Counsel must approve each Departmental Schedule and the Countywide Schedule before it is submitted to the Board. When a Department revises a Departmental Schedule, it must, before implementation, submit the revised Departmental Schedule first to County Counsel for review and then to the Board for approval.

### **3.58 LANGUAGE ACCESS (Adopted 3-24-15)**

The County of Santa Clara seeks to ensure that every resident has meaningful access to County services, programs, benefits, and information. To further this goal, the County shall strive to meet the language needs of residents to help them access County information, regardless of their proficiency in English.

Santa Clara County is a linguistically diverse community, with its residents speaking more than 100 distinct languages from across the globe. According to the 2010 U.S. Census, more than half of Santa Clara County residents speak a language other than English at home. Additionally, Santa Clara County has the highest percentage of foreign-born residents in the state.

- (A) Every County department and agency shall ensure that members of the public with limited English proficiency are provided language interpretive services at no cost to ensure meaningful access to County program information, benefits and services. Language interpretive services shall be available as provided in the County's Language Access Guidelines and Procedures to those attending County functions and meetings, visiting County facilities, and participating in County programs and services.
- (B) The County shall work to promote the availability of language interpretive services to residents and visitors to the County through the publication of information on the County website, signage conspicuously posted at offices and locations where the public regularly interacts with County staff, and, when feasible, on publicly disseminated information.
- (C) The County shall work to ensure that signage and way-finding notices incorporate universal symbols and are posted in public locations.

### **3.59 LACTATION ACCOMMODATION (Adopted 4-21-15)**

The County of Santa Clara recognizes that breast milk is the optimal food for growth and development of infants. Extensive research documents diverse and compelling advantages to infants, mothers, families, and society from breastfeeding and the use of human milk for infant feeding. These include health, nutritional, immunological, developmental, psychological, social, economic, and environmental benefits.

Both Federal law (29 U.S.C. § 207(r)) and California law (Lab. Code §§ 1030-1033) require employers to provide a location to express breast milk in private and a reasonable amount of break time to accommodate women wishing to express breast milk. The Board of Supervisors affirms that it is the policy of the County of Santa Clara to provide a room or other private location and a reasonable amount of break time for County employees who wish to express breast milk or nurse an infant at work.

Therefore, it is the policy of the Board of Supervisors that:

- (A) Breaks
  - (1) A reasonable amount of break time must be provided to employees who want to express breast milk or nurse an infant.
  - (2) The break time shall, if possible, coincide with any paid break time already provided to the employee. Additional break time that does not run concurrently with the break time authorized for the employee by the County shall be unpaid.

Generally, a nursing mother needs to express breast milk every 2-3 hours, and a typical pumping session requires 20-40 minutes, including time for

travel to and from the private lactation space, expression of milk, clean up and storage.

- (3) With supervisory approval, the employee may use personal leave, vacation time, compensatory time off (comp time), a flexed work schedule, or any other arrangement allowed under the employee's labor agreement to cover any unpaid break time.

(B) Space

- (1) Every County department shall make reasonable efforts to provide employees with a room or other private location in which to express milk or nurse an infant. This space must not be a bathroom (29 U.S.C. § 207(r)(1)(b)) or a toilet stall (Lab. Code § 1031), and the space should be in close proximity to the employee's work area. For the purposes of this policy, "close proximity" means generally not more than a 5-minute walk.

A room or location can be made private by placing a message on the door that the room is in use, drawing blinds or curtains, covering windows, or setting up a portable partition. The room or location may include the place where the employee normally works if it is shielded from view, free from intrusion from coworkers and the public, and otherwise meets the requirements of this policy.

- (2) At existing County buildings designated as Major County Facilities by the County Executive, the County shall make available, at minimum, one dedicated lactation accommodation room with each of the following characteristics:
  - (a) A door that locks with a thumb lock, key pad lock, or ID badge reader.
  - (b) An electrical outlet that will accommodate a breast pump.
  - (c) Close proximity to a refrigerator.
  - (d) Close proximity to a sink with running water for hand washing and cleaning of equipment.

When the County constructs a new facility or acquires a facility, a dedicated lactation accommodation room with these characteristics is required, unless waiver is granted by the Office of the County Executive for small buildings, special uses, or occupancies, etc. Waiver will only be granted after advance consideration of the appropriateness for such rooms in the planning process. Public access to dedicated lactation accommodation rooms should be provided when doing so does not compromise the security of County operations. California law permits a mother to breastfeed her child in any location,

public or private, where the mother and child are otherwise authorized to be present (Civ. Code § 43.3).

- (3) The County Executive shall maintain a list of Major County Facilities that contain dedicated lactation accommodation rooms and ensure that the list is available to all County employees, and that the procedures necessary for employees and visitors to access these spaces are implemented. For employees at non-traditional County worksites, the employee's supervisor will work with the employee to create a mutually acceptable solution. This may include a flexible schedule to allow the employee to return home for such activity, a temporary transfer to another facility, or other resolution. Additionally, the County should endeavor to make available dedicated lactation accommodation rooms containing these characteristics at every County facility where doing so would be feasible and when it is determined that a permanent room is the best way to ensure that the requirements of this policy are met.

(C) Storage

- (1) A hygienic and secure location will be available for employees to store expressed milk.

(D) Notification/ Education

- (1) A copy of this policy shall be disseminated to every incoming and current employee.
- (2) Breastfeeding accommodation information shall be included in employee orientation materials.
- (3) Managers and supervisors shall be familiar with County Lactation Accommodation policies.
- (4) A breastfeeding education packet, including a copy of this policy and breastfeeding support after returning to work, shall be made available to employees prior to their maternity leave.
- (5) Materials related to breastfeeding and lactation accommodation shall be posted on the County of Santa Clara website, to be made available to employees and the community.
- (6) Information promoting the benefits of breastfeeding and lactation accommodation shall be displayed in break areas.

(E) Atmosphere of Acceptance

- (1) Breastfeeding should not constitute a source of discrimination in employment or in access to employment. It is prohibited under this policy to harass

a breastfeeding employee or exercise any conduct that creates an intimidating, hostile or offensive working environment. Any incident of harassment of a breastfeeding employee will be addressed in accordance with the County of Santa Clara's policies and procedures for discrimination and harassment.

(F) Children in the Workplace

- (1) Except as described above, this policy does not change existing County practice concerning children in the workplace.

The County Executive shall ensure that the Board's policy on lactation accommodations is made known to all County employees, and that the procedures necessary to assure compliance are implemented.

### **3.60 POSTING OF BAIL AGENT AND CRIMINAL DEFENSE ATTORNEY INFORMATION IN COUNTY JAILS (Adopted 11-1-16)**

The County of Santa Clara recognizes that it is essential for individuals held at County jail facilities to have access to information about all available options for pretrial release and legal representation. As long as state law permits jail inmates to obtain pretrial release by posting a commercial bail bond, the information provided in County jail facilities should include contact information for bail agents together with or alongside information regarding all other available release options. In addition, because not all jail inmates qualify for, or wish to use the services of, the County of Santa Clara Public Defender Office, the information provided should include contact information for private criminal defense attorneys.

The County also recognizes that the information provided about bail agents and criminal defense attorneys should be neutral and accurate and should facilitate prompt pretrial release and legal representation. Individuals held at County jail facilities who choose to use the services of bail agents and/or private criminal defense attorneys are more likely to obtain prompt release and representation if they have access to bail agents and criminal defense attorneys who comply with state licensing requirements and are located in Santa Clara County. Therefore, it is the policy of the Board of Supervisors that duly licensed bail agents and criminal defense attorneys located in Santa Clara County be given an opportunity to submit information for posting in County jail facilities, in accordance with the following provisions.

(A) Posting of Information

- (1) Information on bail agents and private criminal defense attorneys may be posted in all County jail facilities. As used herein, the term "bail agent" refers to either a bail bond company or an individual bail agent. Information shall be limited to one listing per bail bond company (i.e., one name, address, phone number, etc., per company). If a bail bond company employs

multiple bail agents, the individual bail agents shall not be named or listed separately.

- (2) Information shall be limited to bail agents and criminal defense attorneys who have an office in and do business in Santa Clara County, and who provide their information to the County as required by this Policy.
- (3) Posted information shall include, in a standardized, black and white, text-only format:
  - (a) The name of the bail agent or criminal defense attorney;
  - (b) The name of the bail agent's company or the attorney's law firm, if applicable;
  - (c) The California Department of Insurance Bail License number or California State Bar number of the bail agent or attorney;
  - (d) A local phone number for the bail agent or attorney;
  - (e) The local address where the bail agent or attorney conducts business;
  - (f) The bail agent's or attorney's email address and/or web address, if any;
  - (g) An indication of whether the bail agent or attorney is able to conduct business in Spanish and/or any other language in which the Santa Clara County Registrar of Voters provides election materials pursuant to Election Code Section 14201.
  - (h) An indication of whether the bail agent or attorney has been disciplined by the Department of Insurance or the State Bar of California, or has been convicted of unlawful activity related to the provision of bail bonds or legal services, within the past five years.
- (4) The information shall be posted in locations that enable individuals in custody to make calls to bail agents and/or criminal defense attorneys at appropriate times. Reasonable efforts shall be made to provide this information together with or alongside information about other pretrial release options, including the Office of Pretrial Services, and the services of the County of Santa Clara Public Defender Office.
- (5) The posted information shall be updated annually.
- (6) Information about bail agents and criminal defense attorneys shall be posted in random order and re-ordered on an annual basis. The random order shall be computer-generated, for example by using spreadsheet software to ran-

domize a list of bail agents and attorneys. Bail agents shall be listed separately from criminal defense attorneys.

(B) Requests to Have Information Posted

- (1) Any bail agent or criminal defense attorney who wishes to have his or her information posted in County jail facilities must submit a request on an annual basis, at a time and through a process determined by the relevant County department. However, a bail bond company employing multiple bail agents, or a law firm employing multiple attorneys, is limited to one request; individual bail agents or attorneys within the same company may not submit separate requests and may not be listed separately. It shall be a rebuttable presumption that individuals using the same phone number or address are associated together.
- (2) The request must include the following information:
  - (a) All information listed in Section (A)(3) above.
  - (b) A list of any disciplinary actions taken by the California Department of Insurance or the State Bar of California against the bail agent or attorney within the past five years, and the dates of any such actions.
  - (c) A list of any convictions against the bail agent or attorney within the last five years related to the provision of bail bonds or legal services, and the dates of any such convictions.
- (3) The request must include a certification, under penalty of perjury, that:
  - (a) The information provided in the request is true and correct.
  - (b) The bail agent has an active license issued by the California Department of Insurance or the attorney is an active member in good standing of the State Bar of California.
  - (c) In providing bail or legal services in Santa Clara County, the bail agent or attorney complies with all applicable state, federal, and local laws, rules, and regulations.
  - (d) The bail agent or attorney (or the attorney's law firm) has complied with any applicable local licensing or permitting requirements.
  - (e) The bail agent or attorney conducts business out of a physical office located in Santa Clara County. For purposes of this Policy, the term "office" means a location that maintains files; is listed with the Department of Insurance or the State Bar of California as the office address of the bail agent, bail bond company, or attorney; and is open to the public. As applied to bail agents, the address of the office must

match the address posted on the face sheet of the bonds issued by the bail agent or bail bond company.

- (f) The local phone number provided connects the caller with the bail agent's or attorney's physical office in Santa Clara County.

(C) Requirement to Update Information

- (1) If any information provided or verified by a bail agent or attorney changes after a request has been submitted, the bail agent or attorney must notify the relevant County department within 15 business days.
- (2) If a bail agent or attorney provides notice that he or she is no longer actively licensed by the California Department of Insurance or in good standing with the State Bar of California, the bail agent or attorney's information may be removed from County jail facilities.
- (3) If a bail agent or attorney provides notice that he or she no longer conducts business out of an office physically located in Santa Clara County, the bail agent or attorney's information may be removed from County jail facilities.
- (4) If a bail agent or attorney provides notice that his or her local phone number or address has changed, but is still located in Santa Clara County, efforts may be made to update the bail agent or attorney's information in County jail facilities. This provision does not obligate the County to update the information more than annually.

(D) Non-Compliance

Failure by a bail agent or attorney to comply with the provisions of this Policy shall result in removal of the bail agent's or attorney's information from County jail facilities; denial of the bail agent's or attorney's request to have information posted at the next annual posting of information; and/or a requirement that the bail agent or attorney submit documentation to verify the information provided in subsequent requests. Repeated or serious violations may result in disqualification from all future postings.

### **3.61 MEDICAL EXAMINER-CORONER'S OFFICE DETERMINATIONS OF MANNER AND CAUSE OF DEATH (Adopted 12-6-16)**

Except as provided for by state law, it is the policy of the Board of Supervisors that determinations of cause and manner of death by the Medical Examiner-Coroner's Office shall not indicate, reflect, or suggest criminal or civil fault or liability, which is a determination to be made by a court or appropriate administrative body.

### **3.62 RESTROOM ACCESS (Adopted 3-14-17)**

In accordance with the County’s Policy Against Discrimination, Harassment, and Retaliation, the County of Santa Clara seeks to ensure that every visitor to County facilities has meaningful access to County programs, services, and facilities. To further this goal, the County shall strive to provide adequate and necessary access to restroom facilities to all members of the public visiting County facilities as well as to all employees.

The Board of Supervisors recognizes that transgender and gender-nonconforming persons may experience harassment in public restrooms, or in restrooms at their places of work. Required use of gender-specific restrooms can create unnecessary risks of transgender and gender-nonconforming individuals being denied access, verbally harassed, or physically assaulted in these facilities. These experiences, in turn, may deter participation in public life, and may discourage those individuals from seeking resources and services.

The Board recognizes that the provision of all-inclusive restrooms reduces these risks, and also benefits the wider community. All-inclusive restrooms provide universal access for families with children, people with disabilities who rely upon personal care assistance from an attendant or family member, and seniors who require assistance or supervision.

All-inclusive restrooms become essential to individuals in the process of transitioning and for those whose gender identity is non-binary. The mission for the County of Santa Clara includes, “to plan for the needs of a dynamic community, provide quality services, and promote a healthy, safe and prosperous community for all.” As such, the County takes measures to ensure inclusion, promote diversity, and strive toward equity for our community relevant to race, color, sex, religion, gender, sexual orientation, ability, and all of the protected classes in the State of California.

Within the constraints of the California Building Standards Code, it is the policy of the Board of Supervisors that:

- (A) Individuals shall have the right to use gender-specific restrooms at County facilities that are consistent with and appropriate to their gender identity, regardless of their sex assigned at birth, anatomy, medical history, appearance, or the sex indicated on their identification.
- (B) Individuals shall not be required to provide medical or legal documentation of their gender to have access to gender-specific restrooms at County facilities, except in situations where all persons are asked to verify their gender.
- (C) For construction of new County-owned buildings where restrooms are provided, the County must include at least one all-inclusive restroom in the building, and it must be accessible to both members of the public and County employees. For purposes of this policy, “County-owned” includes buildings designed and/or built by third parties that are to become property of the County upon completion. This requirement will apply only to the construction of County-owned buildings beginning design on or after the date of adoption of this policy.

- (D) When extensive renovations are made to either restrooms or one or more of the floors of an existing County-owned building that does not already contain an all-inclusive restroom, the project shall include an all-inclusive restroom. For the purposes of this policy, “extensive renovations” is defined as when the construction cost for the renovation exceeds 50% of the replacement cost of the area being renovated. This requirement will apply only to renovation of County-owned buildings beginning design on or after the date of adoption of this policy.
- (E) All-gender signage and wayfinding notices in County facilities shall comply with the all-gender restroom signage standard that incorporates universal symbols and be posted in public locations. All single-user restrooms shall be identified as all-gender restrooms by signage and be designated for use by no more than one occupant at a time or for family or assisted use.
- (F) In instances where hardship may preclude full compliance with these guidelines, a waiver from this policy may be approved by the County Executive or designee. For example, if it is determined to be physically impracticable to provide an all-inclusive restroom in a County building, the County may elect to provide an all-inclusive restroom in a nearby building. For purposes of this policy, “nearby” is defined as a building within two minutes of pedestrian travel between building entrances.

The Board of Supervisors delegates to the County Executive the responsibility to implement this policy.

### **3.63 AUTOMATIC RECOUNTS IN LOCAL RACES (Adopted 2-27-18)**

The Registrar of Voters shall conduct, prior to certification of election results, manual recounts in all contests wholly contained within Santa Clara County (excluding those for state and federal office) where the margin of victory is either less than 0.25 percent of the ballots cast, or less than 25 votes, except for countywide races or citywide races in the City of San Jose for which machine recounts may be used.

### **3.64 POLICY ON THE OFFICE OF CORRECTION AND LAW ENFORCEMENT MONITORING (Adopted 4-17-18)**

This Policy supplements the Ordinance Code, Division A20, Chapter V (“the Ordinance”) by providing Board policy direction regarding the Office of Correction and Law Enforcement Monitoring (“Office”).

#### **3.64.1 Selection of the Monitor**

The Board shall select an independent contractor (“the Monitor”) to perform the functions of the Office through a formal competitive solicitation process. The Clerk of the Board shall administer the solicitation process in consultation with County Counsel.

An ad hoc committee of the Board of Supervisors shall perform an initial evaluation of proposals received pursuant to the solicitation and select finalists for further consideration as follows: After the Clerk of the Board, in consultation with County Counsel, identifies qualified proposals, the ad hoc committee shall evaluate those proposals in a confidential setting.

The Board intends to use an inclusive solicitation process that involves participation and input from affected communities. As part of this process, the Board shall appoint an evaluation committee to evaluate the finalists selected by the ad hoc committee. The evaluation committee should include representation from the following affected communities:

- Families of incarcerated individuals;
- Registered employee organizations representing staff in the Sheriff's Office, Department of Correction, Custody Health, and other affected departments;
- A current or retired judge;
- The Employee Services Agency;
- Medical and mental health professionals;
- Current or former directors of law enforcement monitoring bodies; and
- The general public.

The Board may modify or add other representatives to this list at its discretion. The evaluation committee shall consider and evaluate the finalists in open, public meetings and make recommendations to the Board. The Board shall consider the evaluation committee's recommendations in selecting the Monitor.

### **3.64.2 Contract Oversight**

The Board shall oversee the contract with the Monitor. The Board shall designate a Board Member or Board Appointee to serve as the contract liaison for the purpose of managing the services provided by the Monitor under the contract. The contract shall provide for the development of work plans, reporting, and performance standards consistent with this Policy.

The Monitor shall serve as an independent contractor that shall have discretion to determine the manner and method by which it develops and implements its work plans and satisfies performance standards, including discretion over the hiring, supervision, training, and compensation of its staff.

### **3.64.3 Development of Work Plans; Mission Alignment**

The Office shall annually prioritize issues that it believes should be monitored under the Ordinance and policies that it believes the Board should consider. These priorities shall be identified in an annual work plan approved by the Board.

The work plan shall also discuss how the Office intends its work to support mission alignment relating to law enforcement and jail operations and ensuring that the Board's goals and the purposes of the Office as described in Ordinance Code Section A2-61 are met.

#### **3.64.4 Reporting to the Board and Public**

Consistent with its Board-approved work plan, the Office shall report to the Board on its activities at least quarterly. In addition, the Office shall provide at least one public, annual report each November.

#### **3.64.5 Measuring Effectiveness**

The Board shall annually establish performance standards for the Office, and the Office shall report on its adherence with such standards in its annual report. The Office shall also describe in its annual report how its work contributes to the overall effectiveness of the criminal justice system, including but not limited to reducing recidivism, enhancing public safety, and furthering the safety of staff.

### **3.65 PROHIBITION ON BULLYING IN YOUTH-FACING DEPARTMENTS AND PROGRAMS (Adopted 6-19-18)**

The County of Santa Clara seeks to ensure that the County's departments, programs, and facilities that serve youth provide a safe and positive environment for all youth. Lesbian, gay, bisexual, transgender, and queer (LGBTQ) youth, and youth who are perceived as LGBTQ, face an increased risk of being bullied, among other vulnerable categories of youth.

For the purposes of this Policy, the Board defines bullying as any severe or pervasive act or conduct, whether physical, electronic, or verbal, committed by a youth against another youth, that:

1. May, but need not, be based on a youth's actual or perceived characteristics, including but not limited to race, color, ethnicity, religion, national origin, age, gender, gender identity or expression, sexual orientation, immigration status, or disability; and
2. Can reasonably be predicted to: (a) place the youth in reasonable fear of physical harm to the youth's person or property; (b) cause a substantial detrimental effect on the youth's physical or mental health; or (c) substantially interfere with the youth's ability to access, participate in, or benefit from the services, activities, or privileges provided by the County.

Bullying may include, but is not limited to:

1. Kicking, hitting, slapping, or shoving to gain power over another youth.
2. Using teasing, name-calling, or jokes to belittle or demean another youth.

3. Ostracizing and spreading rumors about a youth.
4. Posting, sending, or spreading images, threats, rumors, or information through text, email, or social media.
5. Sexual bullying, whether in-person or online, which may include crude comments, vulgar gestures, uninvited touching, sexual propositioning, and pornographic material.

Acts of bullying, harassment, and intimidation are an affront to the County's core values. While the County recognizes that any form of bullying, whether carried out by a youth or an adult, is a serious concern, this Policy focuses on bullying by a youth against another youth. To better enable the County to serve youth in a safe and positive environment, County departments that provide youth-facing programs and facilities shall adopt department- or program-level policies that prohibit bullying as described in this Policy. Each policy shall clearly communicate that bullying is prohibited and provide procedures for reporting and responding to incidents of bullying.

### **3.66 POLICY ON ORGANIZATIONAL HEALTH AND WELL-BEING (Adopted 11-6-18)**

#### **3.66.1 Purpose**

The County of Santa Clara Board of Supervisors affirms that County employees are central to the County's provision of efficient, customer-focused service delivery. The Board further recognizes that to reach optimal service delivery, the County must support a workplace culture and organizational practices that contribute to optimal employee health and well-being.

Workplaces addressing the health of their organizations are more focused, high-performing, inclusive, and cohesive. Some common themes for healthy organizations are their ability to be:

- Vision-focused and able to grow, learn, and change to efficiently and effectively utilize resources;
- Flexible to adjust based on feedback and organizational needs;
- Data-driven in decision-making with regular check-ins with departments and employees;
- Communicative to provide clear, frequent, and ongoing opportunities for employees to engage and dialogue.

#### **3.66.2 Practice**

The Board desires to create a work environment reflecting the qualities described above and acknowledges that:

- A well workforce is healthy, productive, engaged, and resilient;
- Supporting employees holistically allows them to provide optimal service to the community;
- Endorsing countywide and departmental procedures and practices that promote healthy workplaces will provide a supportive environment for employees to incorporate personal and organizational well-being into daily operations; and
- It will be necessary to align programmatic resources to create workday and worksite opportunities for County employees to be their healthy best.

To integrate support for individual and organizational health and well-being into County objectives, the County shall seek to:

- Educate and provide tools, materials, and resources to all employees on the dimensions of well-being and the role these dimensions play in creating workplace and organizational health; and
- Offer all employees multiple means and opportunities to participate in professionally and personally meaningful well-being initiatives.

The County will seek to provide the following types of offerings related to the dimensions of well-being, including but not limited to:

- Increasing the number and types of physical and nutritional well-being offerings available to employees at their worksites before, during, and after the workday;
- Augmenting emotional well-being services to assist employees with developing resiliency skills;
- Promoting social well-being by encouraging employees to participate in department and local office activities;
- Providing opportunities for employees to learn financial well-being strategies;
- Supporting or initiating strategies that provide work locations with amenities and collaborative spaces that promote well-being and work-life balance; and
- Creating supportive spaces for employees to gain exposure to, and to practice, skills which enrich professional development and career growth.

The County Executive may develop administrative guidelines to support this policy as needed.

### **3.67 COUNTY BLOOD DONATION EVENT SERVICES (Adopted 12-18-18)**

#### *Background*

The United States Food and Drug Administration (FDA) has issued guidance on blood donor eligibility, including deferrals for potential donors who have recently undergone

specified medical procedures or received certain vaccinations, have certain infections or illnesses, or who are taking specified prescribed medications. Included in this guidance is a deferral period of twelve months since last sexual contact for men who have had sex with another man (MSM). The 12-month deferral period is unnecessary and reinforces stigmas and misguided beliefs around sexual activity. The deferral applies categorically and excludes an entire population of men who could donate blood and advance the safe increase of the nation's donor pool, and does not take into account modern screening and diagnostic tools that can detect HIV infection as early as weeks after last exposure with a high degree of sensitivity, preventing the addition of blood infected with HIV or other pathogens into the donated blood supply.

### *County-sponsored Blood Drives*

The Board of Supervisors supports the inclusion of all members of the community in the donation and collection of blood. While all blood collectors in the United States are required to follow the rules and regulations issued by the FDA, County-sponsored blood drives (i.e., blood drives that receive County funding, or that occur on County-owned or -leased property) should engage blood donation services, where possible, that take actions to include and educate as many members of the community as possible within the current guidelines. Such actions may include:

- A. Accepting blood donations without an appointment, to avoid discouraging persons who are interested in donating but were unaware of a blood drive.
- B. Explaining the FDA MSM deferral policy in any marketing material that advertises an upcoming blood drive, and on the blood collection organization's website, including making clear that the FDA's prior lifetime ban on donation no longer exists.
- C. Providing information at blood drives to donors and potential donors relating to the MSM deferral period, and how donors and potential donors can contact their elected representatives and/or the FDA to voice any concerns they may have.
- D. Encouraging the participation of individuals who are affected by the MSM deferral period in education and outreach efforts, including volunteering for an event or bringing a friend who is eligible to donate to make a blood donation in their place.
- E. Hosting blood drives in conjunction with other community donation drives, including but not limited to clothing drives, bone marrow registries, volunteer events, and donation of other life-impacting services, to allow any person to participate regardless of health status or other factors.

## **3.68 DONATIONS AND SPONSORSHIPS USING COUNTY ASSETS (Adopted 8-27-19, Amended 4-20-21)**

### **3.68.1 Purpose**

The purpose of this County Donation and Sponsorship Policy (“Policy”) is to set forth the conditions under which donations and sponsorships may occur by County Agencies/ Departments and Board of Supervisors offices.

### **3.68.2 Definitions**

For purposes of this Policy:

“**County Assets**” means (a) any funds available for use by the County, including but not limited to the General Fund, enterprise funds, and any special funds; (b) the efforts or work of any County employee or contractor while being compensated by the County; and (c) the use of County property. For the purpose of this Policy, County Assets do not include private funding sources designated for donations or grant funds.

“**Donation**” means a transfer of County Assets to a non-County entity or person in any manner other than explicitly pursuant to a County contract, purchase order, or authorized invoice for goods and/or services received by the County.

“**Eligible Organization**” means either a nonprofit organization defined by section 501(c)(3) of the Internal Revenue Code or a government entity.

“**Sponsorship**” is a type of Donation by the County to support an event, including but not limited to, a conference, meeting, awareness campaign, educational seminar, social or cultural gathering, performance, or concert that is not organized and controlled by a County Agency/Department, Board office, and/or County Board or Commission.

### **3.68.3 Restrictions on County Donations and Sponsorships**

Donations and Sponsorships may only be made with express authorization of the Board of Supervisors or an agent of the County authorized by the Board to make a specific donation for a specified purpose.

Donations and Sponsorships must support an activity, event, or program that serves a County purpose.

Transfers of County Assets are not permitted for (a) religious purposes or for the endorsement or disapproval of any religion; (b) campaign purposes or events that influence or attempt to influence the action of the voters for or against the nomination or election of a candidate or candidates, or the qualification or passage of any ballot measure; or (c) any activity prohibited by law. Only an Eligible Organization, as defined above, may receive a Donation or Sponsorship.

All Donations and/or Sponsorships authorized under this Policy are subject to an agreement between the County and the Eligible Organization. The County Executive or designee is authorized to enter into such agreements, subject to review and approval by County Counsel as to form and legality. Such agreements shall require, where applicable, as a condition of the Donation or Sponsorship, that an Eligible Organization acknowledge the contribution of the County in its annual reports and all publications related to the County-sponsored event or activity, and that the County shall retain all rights, title, and interest in and to its name, seal, and logos.

The County Executive shall develop procedures that are necessary for the implementation of this Policy.

### **3.68.4 Additional Criteria When Initiated by a Board Member**

In addition to complying with the foregoing provisions of this Policy, the following additional criteria apply to Donations and Sponsorships initiated by a Board Member:

1. No Donation or Sponsorship shall exceed \$5,000.
2. Board approval of a Sponsorship must occur at least 30 days before the event/activity, in part to ensure that the County is appropriately acknowledged as sponsor for the event/activity.
3. Any Donation or Sponsorship of an event or organization focused on one Supervisorial District shall involve that Board Member as one of the Board Members initiating the request. This provision does not apply to events or organizations of a countywide nature.
4. Total Donations and Sponsorships per fiscal year per Supervisorial District shall not exceed \$20,000. Where two Board Members jointly initiate the request, the amount shall be divided equally between the two districts.

### **3.68.5 Exclusions to Policy**

This Policy shall not apply to:

- County sponsorship, promotional, donation, or fundraising activities that have been separately authorized by action of the Board of Supervisors.
- The use of County facilities by non-County organizations as set forth under Board Policy 3.44.
- Private commercial uses of County property, consistent with a Board of Supervisors-approved County marketing plan under Division A36 of the Ordinance Code.

### **3.69 REQUIREMENTS FOR BOARDS' AND COMMISSIONS' EXEMPTION REGARDING FREQUENCY OF MEETINGS (Adopted 12-18-18)**

The Board of Supervisors ("Board") values the important role served by its advisory boards and commissions ("commissions") and seeks to strike an appropriate balance with the workload placed on facilities and staff in holding commission meetings. Ordinance Code section A6-3 provides that regular meetings of commissions established pursuant to Charter section 506 shall be held no more frequently than once every two months unless specifically exempted from this requirement by the Board. In addition to regular meetings, a commission may set a special meeting when necessary, in compliance with the Brown Act and County policies.

To apply for an exemption to the frequency of regular meetings under Section A6-3 of the Ordinance Code, a commission shall demonstrate to the Board the justification for the exemption and the ability of the commission members to meet regularly on a more frequent basis. Exemptions may only be granted for any of the following grounds:

1. The commission has a legal requirement to meet more frequently based on the opinion of the County Counsel;
2. The commission serves a quasi-judicial function for the County and/or holds hearings as part of a quasi-judicial County process; or
3. The commission has a specific task the Board approved on the commission's annual workplan that must be completed within the next 12 months, and that cannot be accomplished through the combined use of subcommittees and the schedule of regular meetings as provided in the Ordinance Code.

A commission may seek an exemption by formally approving a request for exemption at a commission meeting, following Board approval of the commission's annual work plan. Upon approval by the commission, the Clerk of the Board shall forward the request for exemption to the Board. The exemption request must include the following information:

1. If in the opinion of the County Counsel there is a legal requirement for the commission to meet more often.
2. If there is a specific task the Board approved on the commission's annual workplan that must be completed within 12 months, and that cannot be accomplished through the combined use of subcommittees and the schedule of regular meetings as provided in the Ordinance Code. The commission shall specify the task and a detailed timeline of what is to be accomplished each month for a monthly meeting schedule through the December 31st end date of the requested exemption.

3. The number of regular meetings of the commission scheduled in the prior 12-month period, and the number of those meetings that had a quorum, based on the records of the Clerk of the Board.
4. The number of special meetings of the commission scheduled in the prior 12-month period, and the number of those meetings that had a quorum, based on the records of the Clerk of the Board.
5. If the commission had an exemption approved in the prior calendar year, and the status of the task that needed to be completed under that exemption.

The Clerk of the Board and any department or agency that provides staff assistance to the commission may provide input to the Board regarding the commission's request.

Requests approved under Exemptions 1 and 2 may be granted on an ongoing basis, subject to review upon changes to legal requirements or to the duties of the commission. County Counsel will review changes to legal requirements and notify the Clerk of the Board if an ongoing exemption approval may no longer be applicable under Exemption 1 or 2.

Requests approved under Exemption 3 shall remain in effect for no more than 18 months ending on December 31, such that a request approved during a given Fiscal Year will remain in effect for the remainder of that Fiscal Year and for the six months immediately following the end of the Fiscal Year.

### **3.70 POLICY REGARDING PUBLIC RECORDS REQUESTS (Adopted 2-25-2020)**

In accordance with the County's Open Government Ordinance, the County of Santa Clara is committed to transparency, public participation, and accountability. The California Public Records Act (CPRA) provides that "access to information concerning the conduct of the people's business is a fundamental and necessary right of every person in this state." Under the CPRA, the public has the right to inspect and to obtain copies of public records that are not exempt from disclosure requirements.

The purposes of this Policy are to: (1) ensure the County's responses to public records requests comply with the CPRA and the County Open Government Ordinance, and (2) identify the role and responsibilities of the Office of the County Counsel and all County departments, agencies, and offices (collectively, "departments") in the processing of records requests.

#### **3.70.1 Designated Office for Coordinating Public Records Requests**

In accordance with the County Open Government Ordinance section A17-12, the Office of the County Counsel is responsible for receiving and coordinating the County's responses to CPRA requests. Individual departments continue to have responsibility for responding to requests for, and producing, routine records as determined by the Office of the County Counsel. For non-routine records requests, the Office of the County Counsel

shall coordinate with the department(s) that maintains the requested records for searching, compiling, and reviewing records, responding to the request, and producing non-exempt records.

In order to ensure the protection of private information (e.g., protected health information, confidential criminal justice information, and personal information such as social security numbers), the Office of the County Counsel is responsible for providing legal review of records for appropriate redactions or exemptions to disclosure prior to the production of records.

### **3.70.2 Receipt of Requests for Records**

Requests for public records may be made via letter, e-mail, telephone, or any other medium of communication established by the County. The County shall establish a centralized intake portal for public records requests under the oversight of the Office of the County Counsel. Upon creation of the centralized intake portal, all requesters shall be encouraged (but are not obligated) to use the County's portal. Information on how to submit requests for records shall be provided to the public via the County's website, and information regarding the intake portal, once established, will be made available at the reception areas of the Office of the County Counsel and the Board of Supervisors.

### **3.70.3 Department CPRA Coordinators**

Each County department shall identify and provide to the Office of the County Counsel the name of at least one primary designated CPRA Coordinator and at least one back-up. The Office of the County Counsel shall maintain the list of the departments' CPRA Coordinators.

Each CPRA Coordinator is responsible for being the departmental liaison with the Office of the County Counsel relating to the receipt of non-routine records requests, as well as any departmental coordination for the searching and compiling of records, responding to a request, and producing non-exempt records. Each department must ensure that all its staff are aware of the identities of the department's CPRA Coordinators, and that it updates the Office of the County Counsel when there are updates to its designated CPRA Coordinators.

### **3.70.4 Routine and Non-Routine Records Requests**

Departments have existing processes in which individuals may inspect and order or otherwise request copies of non-exempt public records. To streamline these routine requests and ensure that there is no undue delay in providing records to the public, each department, in consultation with the Office of the County Counsel, shall develop a department protocol that identifies the types of records that are routinely provided by a department and do not require coordination through the Office of the County Counsel. The department protocol must be approved by the Office of the County Counsel. Requests for all other records not specified as routine shall be processed as non-routine records requests.

Notwithstanding a department's protocol, the following records requests must be forwarded to the Office of the County Counsel for processing:

- Requests for records maintained by one or more other County department(s);
- Requests for records involving a Board of Supervisors Office or the County Executive;
- Requests from an attorney or law firm;
- Requests that pertain to an issue that is the subject of potential or existing litigation;
- Requests that seek materials on private devices;
- Requests that pertain to issues that may be of a controversial nature; and/or
- Requests that include both routine and non-routine records.

### **3.70.5 Responsibilities of the Office of the County Counsel and Department CPRA Coordinators**

Upon receipt of a CPRA request for non-routine records that do not fall under a County Counsel-approved department protocol, the receiving department shall provide the request to the Office of the County Counsel via email on the same business day. A department must not turn away a records request directed to it.

If a department receives an oral request for non-routine records, the department may ask the requester to complete the County of Santa Clara Public Record Request Form (Request Form) or complete the Request Form for the requester. Upon establishment of the County's centralized intake portal, all requesters shall be encouraged (but not obligated) to use the intake portal for their requests. If a department or employee receives a non-routine request outside of the portal and the requester does not or cannot use the portal to submit the request, the County department/employee shall submit the information into the portal for tracking and assignment by the Office of the County Counsel.

The Office of the County Counsel shall log the records request and assign an attorney to coordinate with the appropriate department(s) on the records search, records review, records redaction as needed, response to the request, and production of records.

The Office of the County Counsel is responsible for determining whether any exemptions from disclosure apply to any records or portions of records, and for overseeing any necessary redactions.

The Office of the County Counsel and department CPRA Coordinator(s) shall coordinate regarding any communications with the requester, including the response to the request, written notice of extension to respond to the request, and production of records.

### **3.70.6 Administrative Policies and Implementing Guidelines**

To effectuate the goals of this Policy and the County’s Open Government Ordinance, and to ensure centralization and coordination of the County’s response to CPRA requests, the County Counsel may adopt administrative policies and implementing guidelines.

## **3.71 GENDER-INCLUSIVE LANGUAGE (Adopted 12-07-21)**

### **Purpose**

The Purpose of the Gender-Inclusive Language Policy is to ensure that to the maximum extent possible, and to the extent permitted by law, all official documents and communications from the County of Santa Clara are drafted with gender-inclusive language.

### **Definitions**

For purposes of this policy, the following definitions apply:

“Gender-inclusive language” means using gender-neutral terminology, including pronouns such as “they” (for both singular and plural uses) and/or rephrasing and editing sentence structure to avoid the use of gendered pronouns, such as by repeating the noun rather than using a pronoun. To the extent feasible, rephrasing and editing sentence structure to avoid gendered pronouns is preferred. When gendered pronouns are used in phrasing, the authors should default to “they” or include a minimum of three gendered pronoun options such as “she/he/they.”

“Gendered pronouns” means pronouns such as “he,” “she,” “him,” “her,” “his,” “hers” and binary combinations such as “he/she,” “him/her,” and “his/hers.”

“Personal pronouns” means the pronouns that people use to refer to themselves. These pronouns may include more than one set of pronouns, if an individual so chooses. Some common personal pronouns include, but are not limited to, “he/him/his,” “she/her/hers,” “they/them/theirs,” and “ze/hir/hirs.” Personal pronouns are determined by the individual and should not be presumed.

### **County Ordinances, Resolutions, and Proclamations**

All new County Ordinances, Resolutions, and Proclamations of the Board of Supervisors shall be drafted using gender-inclusive language to the extent permitted by law. When referring to specific individuals, County documents and communications may use the appropriate personal pronouns. County staff may respectfully inquire with the individual to ensure use of appropriate personal pronouns. In limited other circumstances, and in consultation with County Counsel, gendered pronouns may be used when necessary to convey the intended meaning of the official action.

As existing ordinances and Board policies are being updated for any purpose (for example, ordinances being revised to comply with changes in state or federal law), Administra-

tion and County Counsel shall ensure that the ordinance or policy updates include revisions to use gender-inclusive language to the extent permitted by law.

### **County Administrative Policies, Forms, and Other Documents**

All new official documents and communications from County agencies, departments, boards, and commissions—including, but not limited to, administrative policies, procedures, forms, websites, press releases, and social media communications—shall be drafted using gender-inclusive language to the extent permitted by law. When referring to specific individuals, County documents and communications may use the appropriate personal pronouns. County staff may respectfully inquire with the individual to ensure use of appropriate personal pronouns. In limited other circumstances, specific gendered pronouns may be used when necessary to convey the intended meaning of the official document or communication.

All County agencies and departments shall periodically, and as time and resources permit, review existing official documents and communications and revise them to use gender-inclusive language to the extent possible and to the extent permitted by law. Priority shall be given to revising existing forms and websites that are public-facing to facilitate members of the public interacting with the County encountering gender-inclusive language.

## **3.72 LOCAL VOTER RIGHTS ACT POLICY (Adopted 3-8-22)**

### **Purpose**

The purpose of this Local Voter Rights Act Policy is to declare the County of Santa Clara's unwavering commitment to ensuring that all residents of the county that are eligible to vote are empowered to register to vote and to exercise their right to vote. The County, through this policy, reaffirms its commitment to sustaining and expanding access to the ballot through policies including, but not limited to, language access programs, disability accessibility initiatives, voter education and outreach programs, and other initiatives to provide voters with more flexibility in when, how, and where they vote. Through this policy, the County intends to support making voting a cultural norm throughout the county. This policy further aims to ensure that to the maximum extent possible, and to the extent permitted by law, all departments and agencies in the County participate in voter engagement efforts coordinated by the Registrar of Voters.

### **Registrar of Voters as Lead Voter Engagement and Outreach Coordinator**

The Registrar of Voters, as the County of Santa Clara's elections official, shall serve as the lead department in the County charged with coordinating voter engagement and outreach activities. In that capacity, the Registrar of Voters will, to the extent permitted by time and resources and consistent with applicable law, maintain voter engagement and outreach materials and plan and execute meetings, forums, and other activities designed to inform community organizations and voters about voter registration, election processes, and specific upcoming elections. The voter engagement and outreach materials may include a range of materials from flyers and posters to more fulsome explanations of voter rights

and responsibilities. Such materials will be available in those languages designated for election materials pursuant to state law to the extent appropriate for such materials. The Registrar of Voters will include in its outreach and education plan, to the extent time and resources permit, efforts and materials targeted to specific populations such as new citizens, young voters, justice-involved individuals, homeless and unhoused voters, students, senior citizens, voters with disabilities, voters who need language assistance, and the hospitalized and homebound. As a part of the Local Voter Rights Act voter education and outreach plans coordinated by the Registrar of Voters, the Registrar of Voters will seek to work with other County agencies and departments, particularly those that serve targeted populations, as well as other local jurisdictions, school districts, community organizations, members of the public, and state and federal agencies such as designated voter registration agencies.

### **Collaboration of County Agencies and Departments Collaborate in Voter Engagement and Outreach**

All County agencies and departments shall, to the maximum extent possible, as time and resources permit and consistent with applicable law, become familiar with existing voter engagement materials provided by the Registrar of Voters (including locally created materials as well as those created by state and federal agencies and community organizations) and collaborate with the Registrar of Voters to share materials with members of the public. Priority shall be given to informing residents who interact with County agencies and departments for social safety net services of voter registration and upcoming elections, including members of the public who are new citizens, young voters, justice-involved individuals, homeless and unhoused voters, students, senior citizens, voters with disabilities, voters who need language assistance, and the hospitalized and homebound. Each direct service County agency and department shall identify at least one point of contact for coordinating with the Registrar of Voters on voter education and outreach activities to identify opportunities for improving the reach and efficacy of the County of Santa Clara's Local Voter Rights Act voter engagement and outreach program.

## **3.73 POLICY ON THE COUNTY PRIVACY OFFICE (Adopted 8-30-22)**

The Privacy Office is an office established within the County under the authority of the County Executive. There is within the Privacy Office the position of Chief Privacy Officer, who reports to the County Executive or designee.

### **(A) Function and Duties**

The Privacy Office, under the direction and approval of the Chief Privacy Officer, shall perform the following duties and functions:

- (1) Work collaboratively with departments to protect personal information maintained by the County, including by providing resources and support for best practices to protect personal information and by assisting departments with implementing legally mandated protections for personal information.

- (2) Promote a culture of protecting privacy throughout the County.
- (3) Develop and maintain privacy training courses for County employees, consistent with any administrative policies issued by the County Executive and in consultation with the Office of the County Counsel and Office of the County Executive.
- (4) In consultation with the Office of the County Counsel, maintain the County Website Privacy Policy and serve as a point of contact for inquiries from the public about the policy.
- (5) Participate in the further development of policies and practices to prevent and respond to breaches of personal information.
- (6) Perform designated functions pursuant to the administrative policy issued by the County Executive relating to a notification required under California Civil Code section 1798.29 relating to security breaches of personal information.
- (7) Perform the functions and duties required by the Surveillance Technology and Community Safety Ordinance, Division A-40 of the County of Santa Clara Ordinance Code.
- (8) Regularly conduct research, make policy recommendations, identify best practices, and consult with the Board of Supervisors, the County Executive, and other County departments on privacy, technology policy, and related topics. Such topics may include, but are not limited to, data security, data sharing, surveillance technology, facial recognition, and algorithmic information processing
- (9) Establish a Privacy Center of Excellence that will bring together experts in academia, business, advocacy groups, and government to discuss and encourage privacy practices and solutions that better protect people and organizations.
- (10) In consultation with the Office of the County Counsel, assist departments with compliance with County policies that protect personal information and with local, state, and federal privacy laws.
- (11) Such other duties and functions assigned by the County Executive or Chief Operating Officer.
- (12) The Privacy Office shall work collaboratively with the Office of County Counsel; the Privacy Office shall also ensure the Office of the County Counsel reviews and analyzes any inquiries the Privacy Office receives from County departments concerning compliance with County policies and local, state, and federal privacy laws, including inquiries from County departments

related to the sharing of personal information with other County departments and external entities.

The duties and functions of the Privacy Office do not include those duties in Policy 3.40 that are assigned to the Health System Ethics, Privacy and Compliance Office related to compliance with the Health Insurance Portability and Accountability Act of 1996.

**(B) Guiding Principles**

The Privacy Office will be guided by the following principles when performing its functions and duties:

- (1) Protecting and safeguarding individuals' fundamental right to privacy is a vital part of the County's duties.
- (2) The County seeks to maintain strict compliance with local, state, and federal privacy laws.
- (3) The County recognizes that the limited and appropriate sharing of personal information between departments enables the County to provide robust, efficient, and evidence-based services and programs to the community.
- (4) The County strives to balance the County's need to collect and process personal information when providing services to the community with the County's responsibility to safeguard personal information.

