

RESOLUTION NO. 080518

BOARD OF SUPERVISORS, COUNTY OF SAN MATEO, STATE OF CALIFORNIA

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**RESOLUTION AUTHORIZING AN AMENDMENT TO RESOLUTION 078718
ESTABLISHING THE SALARY AND BENEFITS OF UNREPRESENTED ATTORNEY
EMPLOYEES OF THE COUNTY OF SAN MATEO FOR THE TERM FEBRUARY 20,
2022 THROUGH OCTOBER 5, 2024**

RESOLVED, by the Board of Supervisors of the County of San Mateo, State of California, that

WHEREAS, the Board of Supervisors sets the salary and benefits for Attorneys working for the County by resolution; and

WHEREAS, the Resolution Establishing the Salary and Benefits of Unrepresented Attorney Employees of the County of San Mateo (the "Resolution") does not currently provide for an appeal hearing after dismissal; and

WHEREAS, it is recommended that this Board amend the Resolution in order to provide Attorneys working for the County a probationary period of 2080 hours; and

WHEREAS, it is recommended that this Board amend the Resolution in order to provide Attorneys working for the County the ability to request an appeal to an impartial hearing officer if they have been issued a decision to demote to a lower level classification or salary step or a decision to dismiss them from County employment after completing their probationary period; and

NOW THEREFORE, IT IS HEREBY ORDERED that the Board of Supervisors authorizes an amendment to Resolution 078718 Establishing the Salary and Benefits of Unrepresented Attorney Employees of the County of San Mateo for the Term February 20, 2022 through October 5, 2024 as follows:

A: New Section 24 and Section 25 of the Resolution are added as indicated to reflect the following changes:

24. Probationary Period

The probationary period for Attorneys is 2080 hours (one year of full-time employment) of continuous service in a regular position and shall be regarded as the final step in the hiring process for employees hired into the Attorney classification. It shall be utilized for close observation of the new employee's performance, and for termination, if such performance does not meet the work standards for the classification or if the new employee's conduct, moral responsibility, or integrity is found to be unsatisfactory.

The appointing authority may terminate a probationary employee at any time during the probationary period without right of appeal in any manner and without recourse to the procedures provided in Section 25.

Because the purpose of a probationary period is to observe an employee's performance and work to improve it, if an employee is incapacitated due to medical conditions and is reassigned to work that is not part of the employee's

normal duties or goes on leave for any reason, the probationary period for the primary job will be extended for the duration of the reassignment or leave. The employee shall be notified in writing of the probationary extension at the time of the reassignment or leave.

25. Appeal Procedures for Demotion or Dismissal

Attorneys who have completed the probationary period described in Section 24 shall be afforded the following procedure upon being issued a written notice of Decision to Demote or Decision to Dismiss from County employment. The employee demoted or dismissed from employment may appeal the decision by submitting a written request to the Human Resources Director within fourteen (14) calendar days after notice of the demotion or dismissal is mailed or hand-delivered to the employee.

The County Executive is directed to create a policy outlining the details, rules and procedures for the appeal process. The policy shall include the parameters set forth below.

The appeal shall consist of an impartial hearing conducted by an Administrative Law Judge (ALJ) employed by the California Department of General Services, Office of Administrative Hearings, to serve as the hearing officer. If for some reason an ALJ is unable to serve as the hearing officer, the policy created by the County Executive's Office will set forth an alternate method for selection of an impartial hearing officer.

The hearing officer will be charged with determining if there was cause for demotion or termination. While individuals employed as attorneys by the County are not Civil Service employees, the list of causes contained in County of San Mateo Civil Service Rule VIII, Section 4, shall serve as a non-exhaustive list of causes sufficient for such action. The County shall have the burden to prove by a preponderance of the evidence that there was cause for demotion or termination.

The hearing officer shall have the authority to order reinstatement of the employee and award full, partial or no backpay based on the specific circumstances of each case. The decision of the hearing officer on matters properly before the hearing officer shall be final and binding on both parties. Each party shall bear the costs of its own presentation, including expense related to preparation for any hearings before the hearing officer, the hearing before the hearing officer, and post hearing briefs, if any.

For purposes of this section, a demotion is defined solely as moving an employee to a lower classification or salary step. It does not include other changes like removal of the differentials specified in Section 20 of this Resolution for Deputy-in-Charge or Lead Deputy County Counsel, or change in assigned duties or work location.

The above Appeal Procedure shall also apply to employees occupying Chief Deputy County Attorney and Assistant County Attorney positions, notwithstanding that the salary and benefits for those positions will continue to be covered by the Resolution Establishing the Salary and Benefits of Unrepresented Management Employees of the County of San Mateo. However, Chief Deputy County Attorneys and Assistant County Attorneys may be demoted to the highest Deputy County Attorney position and salary step (Deputy IV E) without cause or a right to the above Appeal Procedure.

B: All changes to the Resolution effected by this amendment are effective on June 25, 2024.

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