

SECTION 27. PROMOTION

(As amended June 30, 2015)

27-1. Policy on promotion.

- (a) A supervisor's assignment of higher-graded duties to an employee or an employee's assumption of higher-graded duties must not be considered a promotion or temporary promotion unless it has been formally designated as a promotion or temporary promotion.
- (b) The County's promotional program must provide:
 - (1) general notification of promotional opportunities; and
 - (2) full and fair consideration of all eligible employees for higher level positions.
- (c) A department director should not temporarily reassign an employee to a higher graded position unless the director:
 - (1) first considers the use of alternate means, such as transfer, for filling the position temporarily; and
 - (2) determines the action is necessary to accomplish the department's workload.
- (d) A department director must not give a temporary promotion to an employee unless the employee:
 - (1) assumes all the duties and responsibilities of a higher-graded encumbered or vacant position; and
 - (2) meets the minimum qualifications for the vacant position.

27-2. Types of promotion.

- (a) **Competitive promotion.** Prior to making the final selection for promotion, the department director must ensure that an applicant's qualifications are evaluated under the competitive rating process specified in Section 6-5 of these Regulations.
- (b) **Proficiency advancement; noncompetitive promotion.**

- (1) **Proficiency advancement.** A department director may approve a noncompetitive promotion of an employee who has passed all required examinations and meets the requirements for a proficiency advancement from an entry or training level class to the designated budget level class within the same occupational series.
- (2) ***Noncompetitive promotion.***
 - (A) A department director may noncompetitively promote a current employee who was demoted as a result of disability or RIF or who was reclassified or reallocated downward, if the individual:
 - (i) is promoted to a position at the same or lower grade level than the employee held at the time of reclassification, reallocation, or demotion;
 - (ii) meets the requirements for the position;
 - (iii) passes a physical examination, if required for the position; and
 - (iv) applies for promotion within 5 years after the date of reclassification, reallocation, or demotion.
 - (B) The department director must obtain the OHR Director's approval of the noncompetitive promotion.
 - (C) For an employee who took a voluntary demotion because of a RIF, noncompetitive promotion does not affect the employee's right to priority consideration for other positions under Sections 6-9 and 30-4 of these Regulations.
 - (D) Noncompetitive promotion is the prerogative of management and not a right or entitlement of an employee. An employee may not file a grievance or appeal over the denial of a noncompetitive promotion.
- (c) ***Noncompetitive temporary promotion.***
 - (1) A department director:
 - (A) may approve a noncompetitive temporary promotion of an employee for up to 12 consecutive calendar months;

- (B) must obtain the approval of the MSPB for a noncompetitive temporary promotion longer than 12 calendar months;
 - (C) must compensate an employee under Section 10-5(c)(2) for a noncompetitive temporary promotion; and
 - (D) must not give an employee who was noncompetitively temporarily promoted a priority claim or competitive advantage if the position is later filled on a competitive basis.
- (2) In order to effect a noncompetitive temporary promotion, a department director must submit:
- (A) a written request for approval of a temporary promotion to the OHR Director stating the reason for the promotion, the duration of the temporary promotion, and the amount of the promotional salary increase; and
 - (B) a Personnel Action Form (PAF) that shows the effective date of the temporary promotion as the first day of the pay period in which the employee's temporary promotion begins.
- (3) In order to extend a noncompetitive temporary promotion beyond 12 months, a department director must submit a written request to the OHR Director stating the reason for the extension. If the OHR Director believes that the extension request is supported by "exigent or compelling circumstances" as defined by the MSPB, the OHR Director must submit the request to the MSPB with a recommendation on the merits of the request. If the OHR Director, however, concludes that it is unlikely that the MSPB would approve the extension for the reasons given, the OHR Director may deny the extension request by the department director. The department director may appeal the OHR Director's denial to the CAO.
- (4) When a temporary promotion ends, the department director must:
- (A) return the employee to the position occupied immediately prior to the temporary promotion, unless the department director otherwise promotes, demotes, or transfers the employee to another position; and

- (B) submit to the OHR Director a PAF that shows the end date of the temporary promotion as the last day of the pay period in which the employee's temporary promotion ends.

(d) ***Competitive temporary promotion.***

- (1) Prior to making the final selection for a competitive temporary promotion, the department director must provide for full and open competition and ensure that an applicant's qualifications are evaluated under the competitive rating process specified in Section 6-5 of these Regulations.
- (2) A competitive temporary promotion may extend beyond 12 consecutive calendar months without obtaining the approval of the MSPB.

27-3. Compensation for a promotion. A department director must compensate an employee for a promotion as described in Section 10-5(c).

27-4. Appeal of promotional action.

- (a) An employee with merit system status may file a grievance under Section 34 of these Regulations over a promotional action. The employee must show that the action was arbitrary and capricious or in violation of established procedure.
- (b) An employee who applied for promotion to a merit system position and who alleges that the CAO's decision was arbitrary and capricious, illegal, based on political affiliation, failure to follow announced examination and scoring procedures, or nonmerit factors, may file an appeal directly with the MSPB.
- (c) An employee who alleges discrimination prohibited by the County's EEO policy in a promotional action may not file a grievance but may file a complaint under the processes described in Section 5-4 of these Regulations.

Editor’s note – The subjects covered in this section of the Personnel Regulations are addressed for bargaining unit employees in the current collective bargaining agreements as indicated below:

Bargaining unit	Articles of current agreements with references to promotion
Firefighter/Rescuer	2, Organizational Security 5, Management Rights 22, Prevailing Rights 29, Promotions 38, Contract Grievance Procedure 40, Employee Status 48, Job Sharing Program
OPT/SLT	2, Management Rights 5, Wages, Salary and Employee Compensation 8, Seniority 9, Working Conditions 12, Probationary Period for Promoted Employees 23, Promotion 24, Demotion 30, Notices to Employees Appendix VIII, Reasonable Accommodation
Police	12, Seniority 20, Leave Without Pay 35, Vehicles 42, Management and Employee Rights 43, Discipline 44, Promotions 50, Reductions-in-Force and Furlough 53, Performance Evaluation 54, Demotion 55, Job Sharing Program