



**WEST VALLEY WATER DISTRICT**  
855 W. Base Line Road, Rialto, CA 92376  
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**POLICY REVIEW AND OVERSIGHT COMMITTEE MEETING  
AGENDA**

**TUESDAY, APRIL 25, 2023 - 6:00 PM**

**NOTICE IS HEREBY GIVEN** that West Valley Water District has called a meeting of the Policy Review and Oversight Committee to meet in the Administrative Conference Room, 855 W. Base Line Road, Rialto, CA 92376.

**BOARD OF DIRECTORS**

**President Gregory Young, Chair  
Director Kelvin Moore**

Members of the public may attend the meeting in person at 855 W. Base Line Road, Rialto, CA 92376, or you may join the meeting using Zoom by clicking this link: <https://us02web.zoom.us/j/8402937790>. Public comment may be submitted via Zoom, by telephone by calling the following number and access code: Dial: (888) 475-4499, Access Code: 840-293-7790, or via email to [administration@wvwd.org](mailto:administration@wvwd.org).

If you require additional assistance, please contact [administration@wvwd.org](mailto:administration@wvwd.org).

**I. CALL TO ORDER**

**II. PUBLIC PARTICIPATION**

*The public may address the Board on matters within its jurisdiction. Speakers are requested to keep their comments to no more than three (3) minutes. However, the Board of Directors is prohibited by State Law to take action on items not included on the printed agenda.*

**III. DISCUSSION ITEMS**

1. Updates to the Policy Review and Oversight Committee
2. Personnel Policies and Procedures

**IV. ADJOURN**

**DECLARATION OF POSTING:**

**I declare under penalty of perjury, that I am employed by the West Valley Water District and posted the foregoing Policy Review and Oversight Committee Agenda at the District Offices on April 19, 2023.**

*Elvia Dominguez*

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**Elvia Dominguez, Board Secretary**



**BOARD OF DIRECTORS  
POLICY REVIEW AND OVERSIGHT COMMITTEE  
STAFF REPORT**

**DATE:** April 25, 2023  
**TO:** Policy Review and Oversight Committee  
**FROM:** Van Jew, Acting General Manager  
**SUBJECT:** PERSONNEL POLICIES AND PROCEDURES

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**BACKGROUND:**

The Board of Directors approved and adopted the revised Personnel Policies and Procedures manual on July 1, 2021. The manual contains all the policies and procedures that apply to all employees. Unless the District has agreed to a separate collective bargaining agreement, all employees of the District are bound by the policies and procedures.

**DISCUSSION:**

As a result of changes to legislation, current negotiations, and discrepancies that were found, staff are currently reviewing and updating the Personnel Policies and Procedures Manual. A draft of the amended manual will be presented to the Policy Committee in early August.

**FISCAL IMPACT:**

No fiscal impact

**STAFF RECOMMENDATION:**

This agenda item is for information only, no action is required.

Respectfully Submitted,

*Van Jew*

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Van Jew, Acting General Manager

VJ:hms

**ATTACHMENT(S):**

1. HR Policies and Practices - Adopted 7.1.2021

**This document contains the Personnel Policies and Procedures for the West Valley Water District.**

**These policies and procedures are the rules and processes that govern all employment and/or personnel related matters for the District.**

**Unless the District has agreed to in a separate collective bargaining agreement, all employees of the District are bound by the policies and procedures contained in this document**

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**VOTED ON APPROVED BY THE BOARD OF DIRECTORS FOR THE WEST VALLEY WATER DISTRICT ON JULY 1, 2021**



***PERSONNEL POLICIES AND PROCEDURES  
FOR  
WEST VALLEY WATER DISTRICT***

**APPROVED DISTRICT ON JULY 1, 2021**

**WEST VALLEY WATER DISTRICT**  
**PERSONNEL POLICIES & PROCEDURES**  
*Revised on July 1, 2021*  
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## **SECTION 100 PERSONNEL POLICIES AND PROCEDURES**

The Personnel Policies and Procedures contained in this document, in their entirety, shall be known and may be cited as the “Human Resources Policies & Procedures.

Any reference to policies contained within these Human Resources Policies & Procedures may be referred to as “Policies.”

### **101 SEVERABILITY**

If any section, subsection, sentence, clause, or phrase of these Human Resources Policies & Procedures Manual is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this Manual.

### **102 DELEGATION OF AUTHORITY**

The Board of Directors (“Board”) of the West Valley Water District (“District”) retains the ultimate authority over all personnel actions as authorized by law and these Policies.

The Board may delegate to a Personnel Officer or Officers the authority to authorize employment, establish job responsibilities, and perform other personnel actions as to subordinate employees in accordance with all federal and state laws and regulations and these Policies.

The Personnel Officer(s) may be any manager or human resources professional the Board deems suitable to act in its best interest on a particular subject. This may include, but is not limited to, the General Manager, the Director of Human Resources & Risk Management, or any other appropriate Department Head.

### **103 EFFECT AND APPLICABILITY OF POLICIES**

These Policies do not create any contract right, or any express or implied contract of employment.

The District retains the full discretion to modify these Policies at any time in accordance with law.

### **104 APPLICABILITY OF POLICIES**

These Policies apply to all categories of employees of the District unless a specific section or provision excludes them.

Independent contractors, volunteers, and Board members are not employees, although some provisions may apply to them through applicable law or as specified in these Policies.

## **105 EMPLOYEE ACCEPTANCE OF POLICIES AND REVISIONS**

As a condition of employment, all employees are required to read and request necessary clarification of these Policies.

Each employee is required to sign a statement of receipt acknowledging that:

1. He or she has received a copy, or has been provided access to the Policies;  
and
2. Understands that he or she is responsible to read and become familiar with the contents and any revisions to the Policies.

## **106 MANAGEMENT RIGHTS**

The District shall retain, whether exercised or not, solely and exclusively, all express and inherent rights and authority necessary to determine the level of, and the manner in which, the District's activities are conducted, managed, and administered.

All employees shall recognize the exclusive right of the District to establish and maintain District-wide rules and procedures and to manage the affairs of the District in all of its various services and other aspects, including, but not limited to the following rights:

- Direct and schedule work and/or overtime work as required in the manner most advantageous to the District.
- Direct employees to perform all job duties, including those incidental job duties not expressly stated in a job description. Every incidental duty connected with operations enumerated in job descriptions is not always specifically described; nevertheless, it is intended that the employee perform all such duties.
- Discipline or discharge employees subject to Article 1900 of this Manual.
- Lay off personnel at any time as described in Article 1707 of this Manual.
- Determine assignments and establish methods and processes by which assignments are performed.
- Transfer employees within departments, divisions and sections and to a position outside of a department, division or section in a manner most advantageous to the District.
- Effect reorganizations and reallocation of work of the District.

- Contract for matters relating to District operations. The right of contracting or subcontracting is vested exclusively in the District.
- Determine and adopt safety, health, and property protection measures for the District.
- Establish, continue, discontinue, amend, and enforce District policies, practices, or procedures.

The District shall also reserve all other prerogatives and responsibilities normally inherent in management.

## 107 CATEGORIES OF EMPLOYEES AND NON-EMPLOYEES

### a) At-Will Employee

An at-will employee is one who serves at the pleasure of the appointing authority and therefore can be dismissed by the District, without warning, for any legal reason.

The employee has no property right in continued employment and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. The following are examples of at-will employees:

- General Manager
- Assistant General Manager
- Chief Financial Officer
- Probationary employees
- Temporary employees
- Part-Time employees

### a) Probationary Employee

A probationary employee is one who is serving a probationary period at either: the outset of initial employment with the District; or at the outset of a promotion to a higher classification. For more information regarding probation, see Article 303.

### b) Regular Employee

A regular employee is a full-time employee who has satisfactorily completed the initial probationary period and cannot be disciplined except when the District has cause to do so.



A regular employee has a property right in continued employment and has the right to pre- and post-disciplinary procedural due process and an evidentiary appeal for certain types of disciplinary actions that result in a significant deprivation of property.

c) Full or Part-Time Employee

A full-time employee is one whose position is budgeted to work at least 40 hours per week. Full-time employees receive all benefits provided in these Policies, unless otherwise provided in an agreement approved by the District.

A part time employee is one whose position is budgeted to work less than 30 hours per week.

Part time employees may have different rights to leave and other benefits under the law or these Policies than full time employees. However, if a regular full time employee is working less than 40 hours per week because the employee is, for instance, working within the District's Workers' Compensation or Rehabilitation Program, he or she shall remain eligible for all District leaves and benefits.

d) Temporary (1,000 Hour) Employees

A temporary employee (also called a 1,000-hour employee) is one who is appointed for a short term or seasonal basis, not to exceed one thousand (1,000) hours per fiscal year, whenever the District's work load increases to a level that full time employees cannot accommodate it and/or whenever the District seeks to offer individuals relevant work experience on a short term basis.

A temporary employee serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

The Board reserves the right to renew a temporary employee for an additional one thousand (1,000) hour term(s) at the beginning of each fiscal year.

A temporary employee shall not accrue vacation, holidays, or any other benefits, except as provided by law.

e) Volunteer

A volunteer is not an employee, but instead is an individual who provides services to the District for civic or philanthropic reasons and receives no compensation or benefits other than nominal fees and reimbursement of expenses.

A volunteer serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

**108 EFFECTIVE DATE**

These Human Resources Policies & Procedures shall take effect as of the date of the Board's approval, and shall supersede any previous personnel policy and procedures manuals, resolutions, revisions and/or amendments.

## **SECTION 200**

### **EQUAL EMPLOYMENT OPPORTUNITY POLICY**

The District affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline and termination.

The District prohibits discrimination against employees or applicants for employment 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 (40 and over), sexual orientation, or military and veteran status or any other basis protected by law.

Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Policies, or by contacting the U.S. Equal Employment Opportunity Commission (EEOC), or the California Department of Fair Employment and Housing (DFEH).

### **201 POLICY AGAINST DISCRIMINATION, HARASSMENT AND RETALIATION; COMPLAINT PROCEDURE**

The District has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace.

The District has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions.

This Policy establishes a complaint procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation. The District encourages all covered individuals to report any conduct they believe violates this Policy as soon as possible.

Any retaliation against an employee because they filed or supported a complaint or because they participated in the complaint resolution process is prohibited. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

#### Covered Individuals and Scope of Policy

The individuals covered by this Policy are: applicants, employees regardless of rank or title, elected or appointed officials, interns, volunteers, and contractors.

This Policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement,

promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

## 1 DEFINITIONS

### a) Protected Classification

This Policy prohibits harassment, discrimination or retaliation because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status, or any other basis protected by law. This Policy prohibits discrimination, harassment or retaliation because: 1) of an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.

### b) Protected Activity

This Policy prohibits discrimination, harassment, or retaliation because of an individual's protected activity. Protected activity includes: making a request for an accommodation for a disability; making a request for accommodation for religious beliefs; making a complaint under this Policy; opposing violations of this Policy; or participating in an investigation under this Policy.

### c) Discrimination

This Policy prohibits treating covered individuals differently and adversely because of the individual's protected classification, actual or perceived; because the individual associates with a person who is member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy.

### d) Harassment

Harassment includes, but is not limited to, the following types of behavior that are taken because of a person's actual or perceived protected classification:

- Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This includes inappropriate comments about appearance, dress, physical features, gender identification, or race-oriented stories and jokes.
- Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.

- Visual acts, such as derogatory posters, cartoons, emails, pictures or drawings related to a protected classification.
- Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

### Guidelines for Identifying Harassment

Harassment includes any conduct which would be unwelcome or unwanted to an individual of the recipient's same protected classification. The following guidelines to determine if conduct is unwelcome or unwanted should be followed:

- It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.
- Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one has yet complained does not preclude someone from complaining if the conduct is repeated in the future.
- Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
- Conduct can constitute harassment even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames, hugs).

## **2. RETALIATION**

Retaliation occurs when adverse conduct is taken against a covered individual because of the individual's protected activity as defined in this Policy.

"Adverse conduct" may include but is not limited to: disciplinary action, counseling, taking sides because an individual has reported harassment or discrimination; spreading rumors about a complainant or about someone who supports or assists the complainant; shunning or avoiding an individual who reports harassment or

discrimination; or making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

### **3. COMPLAINT PROCEDURE**

A covered individual who believes he or she has been subjected to discrimination, harassment or retaliation may make a complaint -- orally or in writing -- to any supervisor, manager, or department head, without regard to any chain of command.

Any supervisory or management employee who receives a harassment complaint should immediately notify the Director of Human Resources & Risk Management or Manager.

Upon receiving notification of a harassment complaint, the Director of Human Resources & Risk Management or Manager will complete and/or delegate the following steps. If it is the Director of Human Resources & Risk Management or Manager that is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps:

- a) Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: 1) the complainant; 2) the accused; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.
- b) Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
- c) Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
- d) If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
- e) Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

### **4. PROACTIVE APPROACH**

The District takes a proactive approach to potential Policy violations and will conduct an investigation if it's supervisory or management employees become aware that harassment, discrimination or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

- a) Option to Report to Outside Administrative Agencies

An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH).

These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of the telephone book or employees can check the posters that are located on District bulletin boards for office locations and telephone numbers.

#### **b) Confidentiality**

Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law.

Occasionally though, complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action.

An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative.

The District will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

#### **c) Employee Responsibilities**

Each non-manager or non-supervisor is responsible for:

- Treating all individuals in the workplace or on worksites with respect and consideration.
- Modeling behavior that conforms to this Policy.
- Participating in periodic training.
- Cooperating with the District's investigations pursuant to this Policy by responding fully and truthfully to all questions posed during the investigation.
- Taking no actions to influence any potential witness while the investigation is ongoing.

- Reporting any act, he or she believes in good faith constitutes harassment, discrimination or retaliation as defined in this Policy, to his or her immediate supervisor, or department head, or to the Director of Human Resources & Risk Management or Manager.

**d) Manager Responsibilities**

In addition to the responsibilities listed above, each manager and/or supervisor is responsible for:

- Informing employees of this Policy.
- Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
- Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
- Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
- Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
- Assisting, advising, or consulting with employees and the Director of Human Resources & Risk Management regarding this Policy.
- Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.
- Implementing appropriate disciplinary and remedial actions.



- Reporting potential violations of this Policy of which he or she becomes aware to the Director of Human Resources & Risk Management or Manager, regardless of whether a complaint has been submitted.
- Participating in periodic training and scheduling employees for training.

**SECTION 300****HIRING, APPLICATIONS, SELECTION, PROBATION, NEPOTISM, ETC****301 JOB ANNOUNCEMENTS**

The Director of Human Resources & Risk Management in collaboration with the affected department head will prepare a job posting to announce a proposed recruitment.

The announcement may be posted on the District's website and other locations deemed appropriate, depending upon whether the recruitment is open to the public or current employees only.

The announcement will include:

- The title and pay for the position;
- The nature of the work to be performed and essential job duties of the position;
- The minimum qualifications, including whether the job is a promotional position;
- A statement of the employment status of the position – for cause (regular) or at-will;
- The last date that the District will accept applications, if any;
- The time, place, and type of the examination, if known, and if a medical examination, and/or a drug screen will be required following a conditional offer of employment; and
- Such other information as determined in the discretion of the Director of Human Resources & Risk Management or designee.

In addition, the District, in its discretion, may post positions as “promotional” and open internally for District employees only instead or prior to inviting “outside” applicants to apply. In order to establish a competitive internal recruitment process there must be at least three (3) qualified internal candidates to open a closed/promotional recruitment.

## **302. APPLICATIONS**

Job applications shall require information describing an individual's training, experience, and other pertinent information as deemed necessary to assess qualifications for the job.

Applicants may be required to provide supplementary information, including but not limited to: answers to job-related questions; resume; licenses; certifications; diplomas; letters of recommendation; and references.

All applications must be completed in full and signed, physically or electronically, by the person applying. The District will not process any application which is not fully completed and signed. Should an applicant be appointed to a position, the supplemental information shall become a part of the individual's permanent employment records.

The District may reject any application which: is not properly completed or incomplete; received after the application deadline; or indicates that the applicant does not meet the minimum qualifications for the position. Whenever an application is rejected, notice of such rejection shall be emailed to the applicant.

If it is determined that an applicant or employee has falsified any portion of his/her employment application, such falsification could be grounds for refusal to hire an applicant or discipline of an employee.

## **303. SELECTION PROCESS**

### **a) Interviews and Examinations**

The Director of Human Resources & Risk Management or Director in collaboration with the affected department head shall determine the manner and method by which the interviews and examinations will be prepared and administered.

The District may contract with any competent agency or individual for the performance of such interviews and examinations. In the absence of such a contract, the Director of Human Resources & Risk Management or designee shall perform such duties.

Examinations may consist of written tests; oral tests; performance tests; evaluations of prior training and performance, experience and/or education; interviews; working style assessments; practical exercises; file review; or any combination thereof. The content of all examinations will be job-related and designed to test knowledge, skills or abilities that help predict successful completion of job duties.

The content of all examinations will be kept confidential prior to the administration of the examination. All applicants who are invited to the examination will be notified of the nature of the examination.

An applicant with a disability may request accommodation in an examination process. Following receipt of a request for accommodation, the Director of Human Resources & Risk Management or designee may require additional information,

such as reasonable documentation of the existence of a disability.

Failure in one part of the examination, or the failure to meet established standards described in the job announcement, may be grounds for declaring such applicant as failing in the entire examination or as disqualified for subsequent parts of an examination. Each applicant will be notified in writing via email whether he or she will continue in the examination process.

Applicants who meet the minimum qualifications and pass all examinations may be subject to a background and reference checks.

#### **b) Eligibility Lists**

1. After completion of an open or promotional examination for a classification, the Director of Human Resources & Risk Management or designee will prepare an eligibility list consisting of the names of candidates who passed the examination. Eligibility lists shall become effective upon the certification by the Director of Human Resources & Risk Management or designee. Employment lists shall remain effective one (1) year, unless sooner exhausted.
2. A person appearing on an eligible list will be emailed a notice of his or her placement on the list.
3. A person placed on an eligibility list shall be removed from the list if he or she so requests in writing or fails to respond to notification of an opening within five days after notification. It is the responsibility of the eligible person to keep the Human Resources Department informed of his/her current physical or email address, or phone number.

#### **c) Appointments**

The Director of Human Resources & Risk Management or designee, in collaboration with the department head, will make all appointments except for those classifications that report directly to the Board of Directors.

The Director of Human Resources & Risk Management or designee has discretion to decide in what manner a vacancy shall be filled. Vacancies may be filled by reinstatement, promotion, transfer, demotion, appointment of temporary employees, or from an appropriate eligibility list if available. No specific list shall have priority over other lists.

The District's Board will make appointments for those classifications that report to it.

#### **d) Promotional or open from Eligibility List**

When a position is to be filled from a promotional or open eligibility list, the Director of Human Resources & Risk Management or designee may choose from the specified list one of the top three candidates on the eligibility list.

If no person among the top three candidates indicates a willingness to accept the appointment, the Director of Human Resources & Risk Management or designee may make the appointment from among the remaining names on the eligibility list, may request a new examination and establish a new eligibility list, or may fill the position by any other method authorized by these Policies.

**e) Drug and Alcohol Testing/Medical and Psychological Examinations.**

Appointment to certain positions may be made contingent upon the applicant/employee passing a drug / alcohol test, and/or a job-related medical and/or psychological examination.

Such examination shall only be required after a conditional offer of employment has been made. (See Section 2600, Reasonable Accommodation and Interactive Process; and Section 1800, Prohibitions on Drugs and Alcohol in the Workplace.)

**f) Criminal Conviction Checks**

After the District makes a conditional offer of employment, the Director of Human Resources & Risk Management or designee may then request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged. Unless required by law, the District will not deny employment to any applicant solely because he or she has been convicted of a crime. The District may, however, consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the position.

The person accepting appointment shall report to the Director of Human Resources & Risk Management or designee on the date designated by the Director of Human Resources & Risk Management or designee. Otherwise, the applicant shall be deemed to have declined the appointment.

**g) Proof of Employable Status**

The Immigration Reform and Control Act of 1986 requires that the District verify the legal status and identity of all individuals accepting employment with the District.

Acceptable proof of legal status and identity shall be determined by review of appropriate documentation as set forth in the regulations passed under the Immigration Reform and Control Act.

**h) Orientation and Training**

The Director of Human Resources & Risk Management or designee shall conduct an orientation for new employees as to District policies, procedures, and benefits. Subsequently, each employee shall be responsible for being familiar with the policies of the District.

The supervisor shall acquaint employees with all aspects of the job function as represented in the job description.

**i) Public Employee Disaster Service Worker Status**

As set forth in the California Government Code Sections 3100 through 3109, in the event of a disaster, all public employees become “disaster service workers.”

The law requires, as a condition of employment, that every District employee take and subscribe to the oath set forth in the State Constitution that declares them to be disaster service workers in time of need.

**304. PROBATION**

**1) Probationary Appointments**

**a) At-Will Status:**

The probationary period is part of the examination process and is used to determine whether work performance or work-related behavior meets the required standards of the position. A probationary employee may be rejected at any time during the probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights set forth under Section 1900, Causes for Discipline and Procedures.

The probationary employee will be notified prior to the expiration of the probationary period that he or she has been rejected from probation.

**b) Evaluation:**

At the conclusion of the probationary period, if the probationary employee has not already been released, the probationary employee’s supervisor will prepare and sign a performance evaluation. The evaluation must be reviewed and approved by Human Resources before it is provided to the employee.

Upon the recommendation of the employee’s supervisor, Department Head and the General Manager, said employee will be granted full or part time employee status.

**c) Length of Probation:**

Unless otherwise specified by memorandum of understanding or these Policies, the probationary period is six months of actual and continuous service. The probationary period is automatically extended by the length of any absence of one work week or more.

The probationary period can also be extended by the District at the discretion of the Director of Human Resources & Risk Management or Director, or his/her designee.

## 2) Probationary Period for Promotional Appointments

### a) **At-Will Status:**

A promotional probationary employee may be rejected at any time during the promotional probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights described in Section 1900, Causes for Discipline and Procedures.

In cases where the employee has been promoted into a new position and does not pass the probationary period, the Director of Human Resources & Risk Management or Director, in conjunction with the employee's supervisor in the previous position, shall have the discretion to return the employee to his/her previous position or a similar position if such a position is available and the needs of the District would warrant the return of the employee to such a position, unless he or she is terminated for cause.

### b) **Length of Probation:**

On accepting a promotion, an employee serves a new probationary period of six months of actual and continuous service. The probationary period is automatically extended by the length of any absence of a week or more.

## 305. (ANTI-NEPOTISM POLICY) - EMPLOYMENT OF RELATIVES, SPOUSES, AND DOMESTIC PARTNERS

The District regulates the employment and placement of relatives, spouses, and domestic partners so as to avoid conflicts of interest and to promote safety, security, supervision, and morale.

### 1) **Definitions**

#### a) Relative

Child, stepchild, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or registered domestic partnership.

#### b) Spouse

One of two persons to a marriage, or two people who are registered domestic partners, as those terms are defined by California law.

#### c) Supervisory Relationship

One in which one employee exercises the right or responsibility to control, direct, reward, or discipline another by virtue of the duties and responsibilities assigned to his or her District appointment.

## 2) Employment of Relatives

The District will not appoint, promote or transfer a person to a position within the same department, division, or facility in which the person's relative already holds a position, if any of the following would result:

- a) A direct or indirect supervisory relationship between the relatives;
- b) The two employees having job duties which require performance of shared duties on the same or related work assignment;
- c) Both employees having the same supervisor; or
- d) A potential for creating an adverse impact on supervision, safety, security, morale or efficiency.

## 3) Spouses or Domestic Partners

The District will not appoint, promote, or transfer a person, to the same department, division, or facility in which the person's spouse or registered domestic partner already holds a position, if such employment would result in any of the following:

- One spouse or registered domestic partner being under the direct supervision of the other spouse or domestic partner; or
- Potential conflicts of interest or hazards for married persons or those in a registered domestic partnership which are greater than for those who are not married or in registered domestic partnerships.

## 4) Marriage or Registered Domestic Partnership after Employment

### a) Transfer:

If two District employees who work in the same department later become spouses or domestic partners, the Director of Human Resources & Risk Management or Director has discretion to transfer one of the employees to a similar position in another department.

Although the wishes of the two employees will be considered, the Director of Human Resources & Risk Management or Director retains sole discretion to determine which employee will be transferred based upon District needs for supervision, safety, security or morale.

Any such transfer that results in a salary reduction is not disciplinary and is not



subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

**b) Separation:**

If continuing employment of both employees, who work in the same department and who later become spouses or domestic partners, cannot be accommodated in a manner the Director of Human Resources & Risk Management or Director finds to be consistent with the District's interest in the promotion of supervision, safety, security, or morale, then the Director of Human Resources & Risk Management or Director retains sole discretion to separate one employee from District employment.

Absent the resignation of one employee, the less senior employee will be separated. Any such separation is not considered to be disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

### **306. EMPLOYMENT CLASSIFICATION**

**1) Classification Plan**

The Classification Plan establishes the classification and salary schedule for employees of the District.

When a new position is created, such position may not be filled until the classification plan has been amended to provide for the new position. Any revisions to the plan shall become effective upon approval of the District's Board.

All vacant positions shall ordinarily be filled at Step 1 of the salary range for each classification. However, the Director of Human Resources & Risk Management or Director in collaboration with the Department Head may employ qualified persons at higher step positions based on bona fide factors other than prior salary, such as education or experience.

**2) Reclassification**

The Director of Human Resources & Risk Management in collaboration with the General Manager and the affected department head may initiate a job audit to determine whether the duties of a position have changed to such an extent that they necessitate reclassification of the position from the existing classification to a more appropriate classification.

Upon completion of the job audit, the Director of Human Resources & Risk Management shall make a recommendation regarding reclassification to the District's Board.

**3) Temporary Reclassification**

A regular full-time employee designated by their supervisor and approved by the Director of Human Resources & Risk Management to act in a higher classification

shall receive a salary increase of 5% of the employee's base salary or will be paid at the lowest step of the higher classification (whichever is more) for all the time actually spent working in the acting position until such time as the employee is returned to their original job classification.

The employee must meet the requirements of the higher position as specified in the job description to be designated by their supervisor to act in the higher classification.

Temporary reclassified status shall not exceed six months and must be approved by the Director of Human Resources & Risk Management in advance. Should the higher classification position become vacant and open for recruitment during the temporary reclassification, the employee may be considered a candidate through the competitive recruitment process.

#### **4) Temporary Assignment – Acting Pay**

In the event that another position within a department becomes vacant and/or another employee is placed on a leave of absence, the Director of Human Resources & Risk Management may temporarily assign additional duties to an employee in order to meet the operations of the department. Temporary assignments must be for a minimum of 14 days and may be up to twelve (12) months.

Employees placed on a temporary assignment shall receive a salary increase of 5% of the employee's base salary or may be considered for a temporary reclassification.

### **307. IDENTIFICATION CARDS**

District employees shall be issued identification and/or security access cards verifying their affiliation with the District.

Employees shall return identification cards and/or security access cards upon resignation or separation.

### **308. PERFORMANCE EVALUATIONS**

The General Manager, Department Heads, Directors and Supervisors will prepare probationary or annual Performance Evaluations for direct reports only.

A non-probationary employee's Director or supervisor will prepare and sign a performance evaluation on a District form for probationary and each one-year performance evaluation periods.

The performance evaluation should be prepared on or before the probationary period expires, before anniversary of the employee's hire date, or before he anniversary of the employee's most recent promotion, or as soon as practical thereafter.

- The General Manager and Department Heads may only review performance evaluations of subordinates in his or her department.
- The General Manager will review and approve all performance evaluations of department heads or any other employees under his or her direct supervision.
- All performance evaluations must also be reviewed and approved by Human Resources before they are provided to the employee.
- If an employee is on an extended leave of absence, his or her merit and review dates will be adjusted by the number of days he or she was on such leave.

### **1) Probationary Employee Performance Evaluations**

At the conclusion of the probationary period, if the probationary employee has not already been released, the probationary employee's supervisor will prepare and sign a performance evaluation.

The evaluation must be reviewed and approved by Human Resources before it is provided to the employee.

Upon the recommendation of the employee's supervisor, Department Head and the General Manager, said employee will be granted full or part time employee status.

#### **a) Performance Evaluation Meeting**

The supervisor will meet with the employee to discuss the evaluation. The employee shall sign the evaluation to acknowledge its contents and that he or she has met with his or her supervisor to discuss the evaluation.

The employee's signature shall not mean that he or she endorses the contents of the evaluation.

### **2) Advancements and Performance Improvement Plans (PIPS)**

The District reserves the right to place any employee whose performance is rated below satisfactory on a Performance Improvement Plan (PIP).

A PIP is designed to provide assistance and guidance to an employee in order help the employee improve his or her job performance.

Employees who are rated as having satisfactory (or higher) performance may be eligible for a salary advancement, as discussed further below in Section \*\*\*.

### **3) No Appeal Right**

An employee does not have the right to appeal or submit a grievance regarding any matter relating to the content of a performance evaluation.

Instead, the employee may comment on the evaluation in a written statement which will then be placed with the evaluation in the employee's personnel file. The written comment or statement must be submitted within 10 days after the employee receives the evaluation.

### **309. CROSS TRAINING**

All District employees are expected to accept cross training in other positions and shall be expected to fill those positions in the event of illness, vacation, or emergency operations of the District.

### **310. OPEN DOOR POLICY**

If an employee has a problem, a complaint, a suggestion, or an observation, District management wants to hear from the employee. By listening to the employee, the District is able to improve, to address complaints, and to support employee understanding of the rationale for practices, processes and decisions.

It is the policy of the District that if any employee has a concern within their work environment, they shall allow their immediate Supervisor or Director to address their concern. If the employee is not satisfied with the Supervisor or Director's response to the concern, the employee shall then bring that concern to next level of authority respecting the appropriate chain of command. The final level of review and decision making authority regarding the employee's concern shall rest with the General Manager and Human Resources.

### **311. EXIT INTERVIEW**

An exit interview may be requested, but not required, of an employee who submits a written resignation. The interview shall be conducted by the Director of Human Resources & Risk Management or Director and/or a designee.

## **SECTION 400 CLASSIFICATIONS AND SALARY SCHEDULE**

Classification and Salary Schedules are established and approved by the District's Board of Directors.

### **401 SCHEDULE REVIEW BY THE BOARD**

Prior to the second meeting in June of each fiscal year, the Board reviews the Classification and Salary Schedule, attached as Exhibit "A", to add to and clarify position titles and to otherwise make provisions which, in its judgment, it considers necessary and proper to the efficient operation of the affairs of the District.

### **402 PAYROLL PERIODS**

A payroll period means the period consisting of fourteen (14) calendar days which is the time period for the District issuing salary payments.

There are twenty-six (26) equal payroll periods per year.

Every other Thursday is established as payday. Should pay day fall on a holiday, payday shall be the day before the holiday.

### **403 SEPARATION PAY**

Upon separation from employment, an employee shall receive pay equivalent to all hours worked for which he or she has not already been compensated, as well as all accrued vacation, administrative leave hours and available floating holidays not used.

The separation paycheck shall be issued as follows:

- A. The employee shall receive payment one pay period following the separation from employment.
- B. Checks are available at the District office and/or can be mailed only upon written request of the employee.

#### **404 ADVANCEMENTS**

Salary advancements (also known as salary increases or raises) shall be made upon evidence of satisfactory performance, which is defined as meeting the work, conduct, attitude, educational requirements, and aptitude standards established by the District.

Employees may be considered eligible for salary increases on an annual basis until the employee reaches the cap level of his/her job classification.

Advancement in salary is not automatic. It should be considered a reward for meritorious service. Employees must meet goals and expectations set forth by their supervisor in a satisfactory manner before a salary advancement will be awarded.

Employees who receive a Satisfactory (Meets Expectation) Annual Performance Evaluation (4 and 3 ratings) may receive no more than a one-step advancement increase.

Employees who receive an Outstanding (Exceeds Expectation) Annual Performance Evaluation (5 and 4 ratings) may receive a two-step advancement increase only if;

- The evaluation is accompanied by a compelling and persuasive memorandum from the employee's supervisor clearly justifying the 2-step increase; and only
- The Director of Human Resources & Risk Management, in his or her sole discretion, approves the increase.

At no time can an employee receive more than a 2-step increase related to a single evaluation period.

An employee who furthers his/her knowledge in the field of employment may become eligible for consideration of a salary review by the Director of Human Resources & Risk Management in collaboration with the Department Head.

#### **405 COST-OF-LIVING TYPE SALARY ADJUSTMENTS**

All cost-of-living type salary adjustments shall be approved by the Board of Directors and become effective as determined by the Board.

(To the extent there is a conflict between the Human Resources Personnel Policies & Procedures Manual and the MOU, the Union has the right to bargain the effects of the changes).

## **SECTION 500 ATTENDANCE**

Employees showing up to work is very important in order for the District to be able to conduct its business. The following are the attendance guidelines and rules for all employees, including all exempt and non-exempt employees.

### **501 ADVANCE REQUEST FOR PERMISSION TO DEVIATE FROM REGULAR WORK HOURS**

A non-exempt employee is required to seek advance permission from his or her supervisor for any foreseeable absence or deviation from regular working, break, and mealtimes.

### **502 NOTIFICATION OF UNFORESEEN LATE ARRIVAL OR ABSENCE**

A non-exempt employee who is unexpectedly unable to report for work as scheduled must notify his or her immediate supervisor no later than thirty (30) minutes after the beginning of the employee's scheduled work time and report the expected time of arrival or absence. If the immediate supervisor is not available, the employee must notify the department head.

### **503 UNAUTHORIZED ABSENCE IS PROHIBITED**

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent authorization. A non-exempt employee who fails to timely notify the supervisor of any absences as required by this Policy, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence and will not receive compensation for the period of absence.

### **504 EXCESSIVE TARDINESS/ABSENTEEISM AND ABUSE OF LEAVE**

Excessive tardiness occurs when a non-exempt employee who, without authorization, is late to work or late to return from breaks more than three times during any 30-day period.

Excessive absenteeism occurs when the number of unapproved absences for reasons that are not permitted by state or federal law, exceeds three days in any three-month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination.

Abuse of leave is a claim of entitlement to leave when the employee does not meet the requirements for taking the leave, and may be grounds for discipline, up to and including termination.

Should the District suspect that there is an abuse of leave by an employee, the District may require that the employee submit a physician's certificate to support the absence.

#### **505 ACCURATE TIME REPORTING**

All employees must accurately report all work time to the nearest fifteen minutes.

#### **506 NO VOLUNTEERING OF WORK TIME**

All time spent for the benefit of the District must be reported as hours worked on time records so that the employee is paid for all work. Non-exempt employees may not "volunteer" work time to perform duties that are the same or similar as their stated or regular job duties.

Employees have no authorization to work without compensation. No supervisor has authority to request non-exempt employees to volunteer work time.



## **SECTION 600 EMPLOYEE APPEARANCE AND DRESS**

These dress code, tattoo, and body piercing appearance standards are designed to promote the District's legitimate and non-discriminatory goals to promote workplace safety and a professional image that is consistent with the employee's job duties and level of public contact.

It is important that our District convey to the public, customers, and business associates the best possible image.

### **601 DRESS CODE**

Employees are required to dress appropriately for the jobs they are performing. The following dress code regulations shall apply to all District employees, unless otherwise stated:

- a) All clothing and footwear must be neat, clean, in good repair, and appropriate for the work environment and functions performed. Loose clothing is not to be worn when operating equipment, as shown in the District's Safety and Injury Illness Prevention Program Manual.
- b) Prescribed uniforms and safety equipment must be worn.
- c) Hair must be neat, clean and well-groomed. The District will not consider traits that are historically associated with race, including, but not limited to, hair texture and protective hairstyles, such as braids, locks, and twists, inappropriate under this Policy. However, the District may prohibit hairstyles based on a bona fide occupational qualification or applicable security regulations. Hair must be of a style and length to avoid coming into contact with moving equipment.
- d) Beards, mustaches, and sideburns must be maintained in neat and well-groomed fashion. Beards and mustaches must be of style and length to avoid coming into contact with moving equipment.
- e) Jewelry that does not pierce the skin is acceptable except where it constitutes a health or safety hazard.
- f) Good personal hygiene is required.

- g) Dress must be professionally appropriate to the work setting, particularly if the employee has contact with the public at work.
- h) No dress code can cover all contingencies so employees must use good judgment in their choice of clothing and shoes worn to work. Employees must use common sense. For example – If you would wear it to the beach or pool, it is not appropriate for the workplace.

Casual dress is every Friday, the week of Thanksgiving, the two weeks at Christmas and New Year’s, and any other day as designated by the General Manager.

**1) Additional Guidelines for Non-Field Employees**

<b>DO</b>	<b>CASUAL DAYS ONLY</b>	<b>DON'T</b>
WVWD Logo attire Blouses/sweaters/knit tops/banded-collar shirts Collared polo shirts Corduroys Footwear: Loafers, dress shoes, ankle or knee boots, flats, dress shoes, pumps, dress sandals, leather deck shoes Khaki/chino/twill pants Knitted shirts Oxford button-down shirts Polo/golf shirts Slacks, dress pants and capris Sport coats/blazers Tights with acceptable skirt or dress lengths Suits (ties optional) Turtlenecks Dresses Sweaters	Jeans Casual skirts, culottes, and Bermudas (below the knee) Capri pants Footwear: athletic shoes, sneakers, casual boots, western boots, sandals T-Shirts Non-collared shirts Sweatshirts without hoods Shirts with sports team, university or school names.	Loungewear Flip flops, slippers or unsafe shoes Sweatpants, running suits, shorts, overalls Spandex pants, leggings, jeggings Short, tight skirts; mini-skirts, beach dresses Skin-tight, thin or transparent clothing Spaghetti strap tops or dresses Velcro sandals (no Texas or Birkenstocks) Shirts with potentially offensive words, terms, logos, pictures, cartoons, graphic designs or slogans Torn/ripped/frayed clothing Clothing revealing tattoos, cleavage, your back, your chest, your stomach or your underwear Clothing shorter than 2” from the knee Hoodie type sweatshirts

## **2) Additional Guidelines for Field Employees**

### **a) Clothing**

The District supplies all field personnel with uniforms. Any field employee not wearing a complete uniform while performing District functions is subject to disciplinary action.

Uniforms are not to be worn for personal use. Each employee who is required to wear a uniform will be issued the necessary amount of uniforms.

### **b) Field employees shall wear their uniforms on casual days.**

The District shall determine the uniform to be worn by the uniformed supervisors, and shall be as follows: white one-pocket dress shirts (short or long sleeved); blue chino-type pants; a District logo and name tag or a photo identification clipped to the shirt.

All other field employees who have routine customer contact in the field or off-premises shall wear a District issued uniform. The District uniform to be worn by field employees shall be as follows: blue button-down shirts or t-shirts (short or long sleeved); blue chino-type pants; a District logo and name tag or a photo identification clipped to the shirt.

Supervisors will ensure all their employees are wearing complete uniforms. Failure to wear a complete uniform may result in disciplinary action.

The District will replace torn, worn out, or damaged uniforms, as they occur during the normal course of the employee's work day, at no cost to the employee. However, lost or missing uniforms are the responsibility of the employee and the cost of replacing lost or missing uniforms will be billed to the employee.

Upon separation from the District an employee is required to return all uniforms. If they do not do so, they may be billed for the cost of the missing uniforms.

## **3) Compliance**

If clothing fails to meet these standards as determined by the employee's director, supervisor or the Director of Human Resources & Risk Management, the employee may be sent home to change clothes and will be required to use vacation or floater hours for time away from work.

If hours are not available, the time away from the office for non-exempt employees will be unpaid. Any work time missed because of failure to comply with this policy will not be compensated, and repeated violations of this policy will be cause for disciplinary action.

If an employee has questions about how these standards apply to him or her, the matter should be immediately raised with his/her supervisor for consideration and determination.

## **602 FOOTWEAR**

All field employees are required to wear steel toed safety shoes or boots. The District will reimburse each field employee annually on or after the employee's hire date then on or after the employee's anniversary date; thereafter, for said shoes or boots upon proof of purchase.

The maximum reimbursement amount allowed for the purchase of acceptable shoes or boots will be set per the Board of Directors (see Salary Schedule Exhibit A).

If an employee has questions about how these standards apply to him or her, the matter should be immediately raised with his/her supervisor for consideration and determination.

## **603 TATTOOS**

Employees are expected to project a professional appearance while at work and must abide by the standards below.

- a) No tattoos are allowed anywhere on the head, face, or neck.
- b) Any visible tattoos shall not be obscene, sexually explicit, discriminatory to sex, race, religion, or national origin, extremist, and/or gang-related.
- c) No visible tattoos shall be larger than 4 by 6 inches.
- d) Any non-conforming tattoos will be covered with clothing, bandage or makeup while at work, or removed.

## **604 PIERCING**

Employees are expected to project a professional appearance while at work and not endanger themselves or others with excessive body piercing. If an employee has questions about how these standards apply to him or her, the matter should be immediately raised with his/her supervisor for consideration and determination.

- a) No objects, articles, jewelry or ornamentation of any kind shall be attached to or through the skin if visible on any body part including the tongue or any part of the mouth except that a set of reasonably-sized pierced earrings may be worn in each lobe.
- b) Any non-conforming piercing shall be removed, covered with a bandage, or replaced with a clear, plastic spacer.

## **SECTION 700**

### **WORK SCHEDULES WORK WEEK, REST BREAKS, ON CALL, OVERTIME AND COMP TIME OFF**

#### **701 WORK SCHEDULES**

Work schedules are determined at the discretion of the supervisor and department head and are subject to change with or without notice, according to the needs of the department or the District. An overtime-eligible employee shall be in attendance and at work during the hours specified by the supervisor.

#### **702 DIFFERENT SCHEDULES**

The District has established the following work schedules:

**a) Standard Schedule:**

Employees work eight (8) straight time hours per day, Monday through Friday, forty (40) straight time hours per work week.

**b) 9/80 Schedule:**

Employees work nine (9) straight time hours per day, Monday through Thursday and work eight (8) hours every other Friday, averaging forty (40) straight time hours per work week, with employee being off every other Friday.

**c) 4/10 Schedule:**

Employees work ten (10) straight time hours per day for four days per week, forty (40) straight time hours per work week.

**d) Rotation Schedule:**

Employees' schedules consist of a variation of the above schedules, forty (40) hours per work week.

#### **703 WORK WEEK**

For employees on the standard and 4/10 schedules, the work week begins at 12:00 a.m. on Saturday and ends the following Friday at 11:59 p.m.

For employees working a 9/80 work schedule, each employee's designated work week shall begin exactly four hours after the start of his/her eight-hour shift on the day of the week that corresponds to the employee's alternating regular day off.

For employees on the rotation schedule, the work week begins on Thursday at 12:00am and ends the following Wednesday at 11:59pm.

#### **704 REST BREAKS AND MEAL PERIODS**

##### **a) Rest Period:**

Employees receive one fifteen (15) minute paid break for every four (4) hours of work, to be taken at a time designated by the employee's supervisor. Rest periods may not be combined to shorten the workday or to extend the meal period. Employees shall not leave the job site or the area of the District office during rest breaks.

##### **b) Meal Period:**

A meal period of no less than thirty (30) minutes and no more than sixty (60) minutes unpaid, will be provided to all full-time overtime-eligible employees who work at least an eight-hour workday.

A 30-minute non-compensated meal period will be provided to all overtime-eligible full-time employees who work more than five hours, but less than eight hours during the workday. Supervisors will schedule an employee's meal period.

Overtime-eligible employees are responsible for taking their meal period at a time designated by the supervisor.

Employees may leave the job site or District office during meal periods.

#### **705 ON-CALL POLICY**

On-call employees are not expected to disrupt their normal routine day-to-day activities while being on-call but are expected to remain within the general area of the District and carry a District cell phone (charged and turned on) at all times when away from any previously-arranged telephone location.

The "general area of the District" means that the employee should be able to return to District offices in no more than 60 minutes.

On-call employees are also expected to refrain from any activities that might impair the performance of their assigned duties if called back to work.

A schedule shall be maintained by the Director of Operations whereby field employees and supervisors shall be assigned, on a rotational basis, to be "on-call"

after hours, on weekends, holidays, and other times not considered regular hours of work for District employees.

On-call employees will serve on-call for one (1) week beginning on Monday at 8 a.m. through the following Monday, 8 a.m. unless the following Monday is a Holiday, in which case the on-call period will end at 8 a.m. on Tuesday.

### **1. Call Backs**

- a) If an on-call employee is called back to work after normal work hours, he or she shall receive a minimum of two (2) hours overtime pay.
- b) The call back period shall begin when the employee receives the call from either the on-call dispatcher or answering service. The call back period shall end when completes all assigned work and leaves the District premises where he or she was working.
- c) If the on-call employee receives an additional call(s) within two (2) hours of the start time for the first call and/or before the call back period ends, the employee shall not receive a second two (2) hour minimum overtime pay, but will receive overtime pay for any time actually worked beyond the two (2) minimum.

This rule applies regardless of the number of calls the employee receives during the initial two-hour period and during the call back period. In order for the employee to receive a new two (2) hour minimum, he or she must receive a call two (2) or more hours after the start time for the first call-out *and* after the call back period has ended.

- d) The on-call employee shall receive his/her call from the on-call dispatcher, a supervisor, or a member of the administrative staff, unless prior arrangements are made for the on-call employee to receive calls from the answering service.

### **2. On-Call Dispatchers**

On-call dispatchers shall document the time spent actually answering and responding to calls.

- a) When time spent answering and responding to calls is less than 60 minutes a day, the only compensation will be the on-call pay of one (1) hour of overtime pay for that day.
- b) When time spent answering and responding to calls exceeds 60 minutes in a day, the time in excess of 60 minutes shall be considered hours worked and will be paid at the overtime rate in accordance with the Overtime Policy, set

forth below.

## **706 OVERTIME**

Overtime is all hours an overtime-eligible employee works over forty (40) hours in his or her designated work week. Time worked includes actual hours worked, sick leave used, District-recognized holiday during the work week, vacation, jury duty, and other authorized leave time used during the work week.

- a) Due to the nature of demands on the District, all employees may be asked to work beyond normal employee's scheduled work shift or forty (40) hours per work week. Overtime-eligible employees who are directed to work overtime must do so.
- b) Overtime will be paid at time and a half (1.5 times) the employee's regular rate of pay. However, if an employee is scheduled to work on a District-recognized holiday, they shall not receive overtime, but instead will receive holiday pay plus straight time pay for the actual time worked on the holiday.
- c) If an employee is called back to work after hours, on weekends, holidays or other times not considered regular hours of work, overtime shall begin at the time the employee arrives at the District or job site. The only exception to this is provision is for on-call work, discussed above in section 705. For on-call work, the start time for overtime pay to begin shall be at the time the employee receives the call from either the on-call dispatcher or answering service.
- d) Unless the Director of Human Resources & Risk Management specifies otherwise in writing, overtime-eligible employees may not have remote access to District equipment, resources, or email.
- e) Non-Exempt employees are not permitted to work overtime except as directed and authorized by their supervisor, or in case of emergency, as determined by the District. Working overtime without prior authorization or approval is grounds for discipline. In emergency situations that necessitate working overtime, the employee must notify a supervisor as soon as possible, and in no event later than the end of that day upon which the emergency occurred. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working. Failure to follow these overtime approval procedures may subject the employee to disciplinary action, up to and including termination, for violating the overtime approval procedures.



If the employee does not provide seven days' notice, or if the department cannot accommodate the time off without undue disruption, the District will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.

- a) Upon reasonable notice to the employee, the supervisor may direct the employee to take earned CTO. The District also reserves the right to cash out accumulated CTO at any time.
- b) Whenever possible, CTO should be taken within the year it is earned.
- c) An accounting of the employee's CTO balance is provided to employees in their biweekly check stubs.
- d) During employment, CTO is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials and special pays).

Employees separating from District service shall be compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their average FLSA regular rate for the prior three years, whichever is higher.

## 1. Exempt Employees

“Exempt” employee means an employee in a position classification not entitled to overtime.

Generally, employees hired in an administrative/management and supervisory staff (i.e., employees who spend at least 51% of work time utilized in supervising only and in a non-working status) shall be considered “Exempt” employees.

Refer to Exhibit A, the Classification and Salary Schedule, for positions that are considered exempt.

## 707 COMPENSATORY TIME OFF

An overtime-eligible employee may opt to accrue compensatory time-off (CTO) in lieu of cash payment for overtime worked if his or her supervisor agrees prior to overtime work being performed.

### a) Accrual Rate:

CTO accrues at the rate of 1.5 hours for each hour, or fraction thereof, worked after 40 hours within the employee's designated work week.

Like overtime, time worked includes actual hours worked, sick leave used, District-recognized holiday during the work week, vacation, jury duty, and other authorized leave time used during the work week.

CTO cannot be accumulated in excess of eighty (80) hours at any given time. Once an employee has a CTO balance in excess of eighty (80) hours he/she shall be paid in cash for all CTO hours in excess of eighty (80) hours.

### b) Employee Request to Use CTO:

The District will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested without undue disruption to department operations; and 2) the employee makes the request in writing to the supervisor no later than seven days prior to the date requested.

**SECTION 800  
BENEFITS**

Employees who have questions about the benefit programs offered by the District should contact the Human Resources Department.

Employees must notify the Human Resources Department immediately of any life event changes such as: marriage, divorce, legal separation, birth or adoption and death as these have an effect on insurance coverage.

**801 LOOK-BACK MEASUREMENT AFFORDABLE CARE ACT POLICY**

The District is committed to ensuring compliance with the Patient Protection and Affordable Care Act (ACA) and the Internal Revenue Code Section 4980H Shared Responsibility for employers regarding Health Care Coverage.

The District will adopt the Look-Back Measurement Method Safe Harbor provision of the ACA to determine the full-time status of employees where section 4980H defines "full-time" status as "an employee who is employed on average at least 30 hours of service per week."

Beginning January 1, 2014, the ACA will require the District to offer health insurance coverage to at least ninety-five percent (95%) of employees who work, on average, thirty (30) or more hours per week or pay tax penalties and show proof. The District establishes the Look-Back Measurement Method Safe Harbor with regard to all ongoing employees as follows:

<b>Standard measurement period:</b>	November 1 - October 31
<b>Administrative period:</b>	November 1 - December 31
<b>Stability Period:</b>	January 1 through December 31

The District establishes the following periods for new, part-time, variable hour & temporary employees:

**1) Initial Measurement period:**

Twelve months (beginning on the first of the month following the first date of work).

**2) Administrative period:**

One month following the initial measurement period.

**3) Stability period:**

Twelve months following the administrative period. The District may amend the measurement periods, administrative period and the stability period.

#### **4) Procedure:**

Upon hire, the District will determine whether a new employee is expected to be a full-time employee, part-time employee, variable hour employee, or a temporary employee. If the employee is expected to be full-time, the District will offer the employee health coverage the month following appointment. The Finance Department will provide Human Resources and department supervisors with reports summarizing part-time hours worked. The Finance and Human Resources Department will share the responsibility of providing Employer Notifications, as required by the Department of Labor and in compliance with IRS reporting requirements.

#### **5) Allowable Hours:**

Allowable hours for all new, part-time, variable hour and temporary employees will be less than 1,560 hours in the first twelve months of employment.

Allowable hours for ongoing, part-time, variable hour and temporary employees will vary by position and depend on prior approval from the Manager or her/his designee.

Supervisors are responsible for ensuring their employees do not exceed the allowable number of hours worked. If an employee works more than the allowable number of hours, the District will offer medical coverage to the employee, during the administrative period.

All new, part-time hours worked will be measured over two periods:

- 1) During the twelve-month period beginning on the first day of the month following the date of employment.
- 2) During the standard measurement period. The initial measurement period and the standard measurement period will be applied to variable hour employees regardless of any break in service they may experience during the periods.

If a break in service occurs, the District will calculate the average hours worked by inputting hours of service for the special unpaid leave/break period at a rate equal to average weekly hours of service.

## **803 EDUCATIONAL REIMBURSEMENT PROGRAM**

The District encourages employees to enroll in educational programs which will aid them in the performance of their current jobs, or better qualify them for positions which are important to the continued successful operation of the District.

The District provides reimbursement for eligible and pre-approved coursework for regular, full-time employees for certain expenses for a pre-approved educational course(s) or undergraduate/graduate degree programs that will mutually benefit the District and the employee. "Certain expenses" may include registration fees, tuition, books, parking, and/or laboratory fees.

The Human Resources Department is responsible for administering this policy and any policy interpretation or course eligibility questions should be directed to that department. However, the General Manager shall make the final decision on whether to approve or deny the employee educational assistance requests at his or her discretion.

The Board of Directors has the right to unilaterally amend or repeal this policy at any time at its discretion.

### **1) ELIGIBILITY**

Regular, full-time employees are eligible for education reimbursement once they have passed their probationary period, provided their job performance is Satisfactory in the evaluation period prior to enrollment in any course(s) and they are on the payroll at both the beginning and conclusion of the course(s).

The education is subject to reimbursement if the education is undertaken to:

1. Maintain or improve competency in the current job.
2. Provide related knowledge in order to advance to a higher-level position in the field.
3. Provide the training/knowledge needed to progress on any approved career path at the District.

### **2) ELIGIBLE COURSES**

Courses eligible for reimbursement loans are those taken at an accredited

college, university, technical or business school. Correspondence or online courses do not qualify unless offered by an accredited college or university.

"Accredited" is defined as a college or university that has been accredited by an accrediting association recognized by the U.S. Department of Education or the Council for Higher Education Accreditation (CHEA).

Courses taken under this program shall be attended on the employee's own time, during hours other than scheduled work hours.

### **3) PRE-APPROVED COURSE WORK**

Course work must be approved by the Human Resource Department prior to enrollment to be eligible for reimbursement.

### **4) REIMBURSEMENT**

The employee is responsible for paying for the courses at the time of enrollment. Upon receiving approval by the Human Resources Department that the employee has completed the coursework with a "passing" grade of a C or better, the employee will be eligible to receive:

- (a) \$2,500 for all general employees per fiscal year; or
- (b) \$5,000 for all management level employees per fiscal year.

### **804 STIPEND FOR CLASS "A" DRIVERS' LICENSE**

A stipend of \$25 per pay period shall be paid to any field employees that have a class "A" drivers' license and are included in the random drug/alcohol testing program. (See Article 1805)

### **805 BILINGUAL COMPENSATION**

District employees who qualify as a bilingual Spanish speaker by taking a test with a passing score of 70% or higher will receive a stipend of \$25 per pay period.

### **806 INCENTIVES FOR CERTIFICATION**

All full-time, regular field and/or office employees that are required by job position to obtain or maintain a Water Treatment/Distribution Operation certificate issued by the State Water Resources Control Board Division of Drinking Water will be reimbursed for the tuition, books and other course required costs associated with obtaining and maintaining said certificate.

The actual cost for the certification will be 100 percent reimbursed by the District. District employees are responsible for renewing their certification and the District will not reimburse late fees for certifications not renewed in a timely manner.

**807 COSTS FOR ATTENDING CONFERENCES, SEMINARS, WORK SHOPS**

District staff may be authorized to attend water industry and Special District related conferences, workshops and seminars, as well as any other functions or meetings pertaining to the water industry, at District expense, should it be of benefit to the District, subject to the approval of the Director of Human Resources & Risk Management and the Department Head.

If approved, the cost for attending any of these functions will be paid ahead of time by the District, or it will be reimbursed to the employee if he or she pays for it.

It is the responsibility of the attending employee to inquire with the Human Resources Department regarding what expenses can and will be reimbursed.

**808 LONGEVITY PAY**

Regular, full-time employees are eligible for longevity pay upon continuous length of service with the District.

Continuous length of service begins with the date the employee was hired as a full time employee and continues as long as the employee is considered a working or active employee.

Longevity pay occurs in one annual lump sum payment subject to a satisfactory performance review and the approval of the Department of Human Resources and the General Manager.

After 5 years through the end of the 9 <sup>th</sup>	\$150.00
After 10 years through the end of 14 <sup>th</sup>	\$225.00
After 15 years through the end of 19 <sup>th</sup>	\$350.00
After 20 years through the end of 24 <sup>th</sup>	\$475.00
After 25 years	\$600.00

## **SECTION 900 DISTRICT HOLIDAYS**

Full time employees, with the exception of temporary employees, receive the holidays listed below with pay.

If New Year's Day, Independence Day, or December 25 falls on a Sunday, the Monday following shall be treated as the holiday. If any of those three holidays falls on a Saturday, the preceding work day shall be treated as the holiday.

1. New Year's Day
2. Martin Luther King, Jr. Day
3. Presidents' Day
4. Memorial Day
5. Independence Day
6. Labor Day
7. Veteran's Day, November 11<sup>th</sup>, or as designated
8. Thanksgiving Day
9. Day after Thanksgiving
10. Day before Christmas Day
11. Christmas Day
12. Day before New Year's Day
13. Floating Holiday- Effective January 1<sup>st</sup> of each Calendar Year
14. Floating Holiday-Effective July 1<sup>st</sup> of each Fiscal Year

Employees entitled to paid holidays or floating holidays shall be paid for the number of hours the employee was scheduled to work had it not been a holiday or floating holiday.

### **901 FLEX TIME HOLIDAY**

If a District holiday falls on a non-working day under the 5/40 schedule, 9/80 schedule, 4/10 schedule or rotating schedule, each employee will receive a full day's work hours added to the employee's holiday accrual bank to be used at another time designated by the employee with Supervisor approval.

### **902 FLOATING HOLIDAYS**

Any floating holidays not used during the year that were granted will be cashed out on the last pay period of the calendar year.



**903 HOLIDAY WORK**

A non-exempt employee who is required to work on a holiday will receive holiday pay and straight time pay for the actual time worked on the holiday.

**904 HOLIDAY WHILE ON VACATION**

If one or more holidays falls within a vacation leave that an eligible full time employee is taking, such holiday shall not be charged as vacation leave.

**905 SPECIAL SIGNIFICANCE HOLIDAY**

The Board of Directors shall have the authority to grant a holiday in any year on any nationally recognized holiday, if there is some special significance given the holiday to be celebrated.

**SECTION 1000  
VACATION**

Vacation is an earned right to a leave with pay for recreation and well-being of the employee.

**1001 ACCRUAL OF VACATION TIME**

For regular full-time employees, vacation leave accrues per complete pay period and is credited each pay period. Vacation leave will not accrue during leaves of absence without pay unless required by law.

Length of Continuous Service	Annual Vacation Allowance	Per Pay Period Accrual	Maximum Allowed Accrued Vacation
After 1 Year	80 Work Hours	3.1 Work Hours	120 Work Hours
After 4 Years	120 Work	4.6 Work Hours	180 Work Hours
After 9 Years	Hours 160	6.2 Work Hours	240 Work Hours
After 14 Years	Work Hours 200 Work	7.7 Work hours	300 Work Hours

Once an employee’s vacation accrual allowance reaches the maximum allowed accrued vacation, the employee will no longer continue to accrue vacation time until the balance falls below the accrued maximum. Once the accrued vacation balance falls below the accrued maximum, the employee will begin to accrue vacation time again, up to the maximum.

Part-time employees earn vacation leave while in paid status in a pro-rated amount based upon the accrual applicable to full time employees. Once a part-time employee reaches the pro-rated accrual cap, they stop earning vacation.

Any employee separating from the District who has accrued vacation leave shall be paid for all accrued vacation at his or her rate of pay at the time of separation.

The District may, at its discretion, require an employee to use accrued vacation.

**1002 APPROVAL FOR SCHEDULING VACATION TIME**

Vacation leave may not be used until it is earned and vacation periods shall be taken annually with the approval of the employee’s supervisor.

The scheduling of vacation time off will be based on the employee's preference and the District's operational needs.

Vacation leave shall be taken at such time as will not impair the work schedule or efficiency of the District.

Employees must provide as much notice as possible and provide a two week notice for vacation requests of one week or more.

### **1003 VACATION CASH OUT**

Employees may cash out four (4) times during the year for a maximum of 160 hours of their accrued vacation/floater time, as long as they maintain a minimum of 80 hours of accrued vacation/floater time and they have used 40 hours of accrued vacation/floater time in the previous 12- month period.

The cash out increment can be any combination with a minimum of 20 hours and a maximum of 160 hours within the calendar year. The request needs to be submitted to the Human Resources Department.

### **1004 FLOATER HOURS**

The employee is allowed a maximum of 80 floater hours. Once an employee's floater accrual allowance reaches the maximum allowed, the employee will no longer continue to accrue floater time until the floater hours are used or cashed out.

Once the accrued floater balance falls below the accrued maximum, the employee will begin to accrue floater time again, up to the maximum.

### **1005 MANAGEMENT ADMINISTRATIVE LEAVE**

Executive Management Staff may be granted 80 hours of Management Administrative Leave per fiscal year, with exception to the General Manager and Assistant General Manager may be granted 120 hours of Management Administrative Leave.

The amount of administrative leave hours granted will be prorated depending on the month when the employee is hired or promoted.

Executive/Management Staff includes the Director of Government and Legislative Affairs, Director of Engineering, Director of Operations, Director of Human Resources & Risk Management, Director of General Services, Director of Finance Business Systems Manager, General Services Manager and Board Secretary.

### Management Administrative Leave Cash Out

Employees entitled to Management Administrative Leave shall cash out the unused balance at the end of the fiscal year during the month of June.

Management Administrative Leave will not be carried over to the next fiscal year. The cash out request must be submitted to the Human Resources Department before the last pay period ending in June.

## **1100 SICK LEAVE**

### **1101 PURPOSES FOR SICK TIME OFF**

Sick leave is paid leave from work that can be used for the following purposes: diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling.

For an employee who is a victim of domestic violence, sexual assault, or stalking to:

- i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or his or her child; or
- ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety.

Sick leave shall not be used for vacation or personal leave, unless approved by the employee's Supervisor, the Department Head and the Human Resources Manager or his/her designee.

### **1102 TERMS OF SICK LEAVE**

#### **a) Accrual & Carryover for Different Categories of Employees:**

- 1) Full time employees who are not temporary accrue 3.7 hours of sick leave for each complete pay period of paid status; part-time employees accrue sick leave in an amount prorated to the lower number of hours they work each calendar month in paid status. Accrued sick leave carries over from year to year. No accrual limit applies.
- 2) A temporary employee who works 30 or more days within a year from the

commencement of employment with the District accrues one hour of paid sick leave for every 30 hours worked. Accrued and unused sick leave carries over to the following year of employment but a temporary employee stops earning sick leave once he or she has accrued 48 hours or 6 workdays/ shifts, whichever is greater.

### **1103 SICK LEAVE USE**

An employee may use accrued sick leave, in a minimum increment of two hours, beginning on the 90th day after the first day of employment with the District, subject to the limits and request provisions in this Policy.

The District encourages its employees to maintain sufficient paid leave balances in the event the employee is subjected to an unforeseen emergency or incident requiring multiple days off with little or no notice to the supervisor.

### **1104 PROTECTED SICK LEAVE**

For full time employees who are not temporary employees, one-half of the employee's accrued and available annual sick leave is protected and may be used for any of the purposes stated in this Policy.

For temporary employees, up to 24 hours, or three days, whichever is greater, of accrued and available sick leave each year is protected and may be used for any of the purposes stated in this Policy. The year is measured beginning on July 1, 2015, or the employee's anniversary of hire date, whichever is later.

Emergency Paid Leave described in Section 1109 is protected when used for the reasons specified in Section 1109 b.

### **1105 SICK LEAVE REQUEST**

To request to use sick leave if the need for leave is foreseeable, an employee must give the immediate supervisor one to two week advance written or oral notice.

If the need for sick leave is not foreseeable, the employee shall provide written or oral notice of the need for the leave as soon as practicable.

If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave.

Failure to request sick leave as required by this Policy without good reason, may result in the employee being treated as absent without leave.

### 1) Certification

The District may require any employees who are not temporary to provide a physician's certification to support any absence that involves the illness of the employee or family member if the District suspects that there is an abuse of sick leave by the employee.

The District also retains the right to require a medical release for any sick leave absence exceeding three (3) consecutive workdays.

All employees, including temporary employees, who use paid leave to address issues related to domestic violence, sexual assault or stalking, and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter.

An employee using Emergency Paid Sick Leave must certify the reason for the leave.

## 1106 SICK LEAVE ON SEPARATION FROM EMPLOYMENT

For temporary employees, unused sick leave cannot be cashed out. For all other employees, the following provisions apply:

### 1) Conversion of Sick Leave

Upon retirement, permanent disability or death, an employee, or estate of a deceased employee, may elect to have all accrued sick leave applied to such employee's PERS retirement account as provided for in the contract between PERS and the District. Such employee, or estate of a deceased employee, must

elect to apply one hundred percent (100%) of accrued sick leave to such employee's PERS retirement account, or Sections (ii) and (iii) below shall apply.

In the event the employee, or estate of a deceased employee, does not make the election pursuant to Section (i) above, upon retirement, permanent disability or death, an employee or the estate of a deceased employee will be paid for unused sick leave accrued to the date of retirement, permanent disability, or death, based upon the formula below.

Sick Leave Accrued as of Date of Retirement, Disability, or Death	Permanent	Percentage (%) to be Paid
480 Hours or less		30%
481 to 600 Hours		35%
601 to 720 Hours		40%
721 to 840 Hours		45%
841 to 960 Hours		50%

Upon retirement, permanent disability or death, all accrued and unused sick leave above the cash payment formula shall be applied to the employee's PERS retirement account as provided for in the contract between PERS and the District or an employee may elect to allow all sick leave to be applied to the retirement account.

In no event shall any employee, or estate of a deceased employee, receive cash payment under this Section in excess of four hundred eighty (480) hours.

**1107 SICK LEAVE CASH OUT**

The District will pay up to forty (40) hours of accrued sick leave per year under the following conditions:

- A total of 160 hours must be maintained after reimbursement.
- The request for reimbursement must be submitted in writing to the Human Resources Department.



- The General Manager and/or Director of Human Resources & Risk Management must approve all requests.
- Sick Leave Cash Out payments will be made on an off-cycle payroll week in November.

## **1108 SICK LEAVE REINSTATEMENT**

If an employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of 6 days or 48 hours, whichever is greater, will be reinstated.

An employee who worked at least 90 days in the initial employment with the District may immediately use reinstated sick leave.

An employee who had not worked 90 days in the initial employment with the District must work the remaining amount of the 90 day-qualifying period to be able to use accrued sick leave.

## **SECTIONS 1200 PERSONNEL FILES**

### **1201 PURPOSE**

The purpose of this section is to provide the District's guidance and rules regarding personnel files.

### **1202 CONFIDENTIAL DISTRICT FILES**

The District maintains a personnel file on each employee. Files are kept for at least three years after separation of employment.

A personnel file will contain only material that the District deems necessary and relevant or that is required by law. Personnel files are the property of the District, and access to the information they contain is restricted to protect employee privacy interests.

#### **Notification of Changes**

Each employee is responsible to promptly notify Human Resources of any changes in his or her contact and benefits information, including mailing address; telephone number; persons to contact in emergency; and number and names of dependents.

### **1203 EMPLOYEE MEDICAL INFORMATION**

All medical information about an employee or applicant is kept in separate medical files and is treated as confidential.

Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for District business reasons, or if access is required by law, subpoena or court order.

In the case of an employee with a disability, Directors and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

## 1204 EMPLOYEE ACCESS TO PERSONNEL FILE

### a) Inspection of File:

A current employee may inspect his or her own personnel file, at reasonable times and at reasonable intervals, within 30 days of a written request.

A former employee is entitled to inspect his or her personnel records one time per year.

A current or former employee who wishes to review his or her personnel file should make a written request to the Human Resources Department. The inspection must occur in the presence of the Director of Human Resources & Risk Management or designee and: 1) at a location where the employee works and at a time other than the employee's work time; or 2) at another agreed upon location without loss of compensation to the employee.

### b) Copies:

A current or former employee is entitled to receive a copy of his or her personnel records within 30 days after the employer receives a written request. A current or former employee who wishes to receive such a copy should contact the Human Resources Department in writing.

The District may charge a fee for the actual cost of copying.

### c) Representative's Inspection:

If the current or former employee wishes to have another person inspect his or her personnel file, he or she must provide the person with written authorization.

The Human Resources Department will notify the employee and/or representative of the date, time, and place of the inspection in writing.

**d) No Removal of File Documents:**

No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.

**e) Limitations on Access or Copying of Personnel File**

Prior to making a copy of personnel records or allowing inspection, the District may redact the names of nonsupervisory employees.

Under no circumstances will the District provide access or copying of the following categories of personnel file documents: records relating to the investigation of a possible criminal offense; letters of reference; ratings, reports, or records that were obtained prior to employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination.

## SECTION 1300 OUTSIDE EMPLOYMENT

Employees cannot engage in outside employment without prior approval.

An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible or in conflict with his or her District duties, functions, responsibilities, or that of the department in which he or she is employed at the District.

In order to avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must obtain written approval from the General Manager and the Director of Human Resources & Risk Management prior to undertaking any outside employment as described in this Policy.

### 1301 AUTHORIZATION AND APPEAL PROCESS

a) **Written Request:** Any employee who wants to undertake a paid outside employment, activity, or enterprise must submit a written request to his or her department head. The written request must include: the work hours and/or time required; job title or the nature of the activity; the work location; and the supervisor, Director and name of the employer or activity.

b) **Analysis and Decision:**

The Director of Human Resources & Risk Management will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at the District. If the Director of Human Resources & Risk Management determines such activity is compatible, or would be if any conditions or restrictions applied, he or she will authorize the activity and specify the conditions/ restrictions in writing, give the employee the outside employment authorization, and place a copy of the written authorization in the employee's personnel file.

**c) One Year Authorization:**

An outside employment authorization is valid only up to one year. Should the employee continue the outside employment, activity, or enterprise for a longer duration, he or she must make another request following the process in this Policy.

**d) Appeal:**

If the Director of Human Resources & Risk Management denies an employee's outside employment request, the employee may submit a written notice of appeal to the General Manager within 10 days after the date of the denial. The decision on appeal will be put in Writing, provided within 10 days after the receipt of the appeal, and will be final.

### **1302 PROHIBITED OUTSIDE ACTIVITIES**

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

- a) involves the use for private gain or advantage of District time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of the District or employment at the District;
- b) involves receipt or acceptance by the employee of any money or other consideration from anyone other than the District for the performance of an act which the employee would be required or expected to render in the regular course of his/her District employment;
- c) involves the performance of an act in other than his/her capacity as a District employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which he/she is employed; or
- d) involves time demands that would render the employee's performance of his or her regular District employment less efficient or dangerous to the employee.

### **1) Changes in Outside Employment Status**

The employee must promptly report in writing to the Director of Human Resources & Risk Management any of the following changes that may occur during the year of an authorized outside employment: the outside employment ends; or the authorized employment changes as to the number of work hours, location, or types of duties.

### **2) Revocation / Suspension of Outside Employment Authorization**

Any outside employment authorization may be revoked or suspended during the year it is granted under the circumstances listed below.

An employee may appeal the revocation or suspension as provided in this Policy.

- a) The employee's work performance declines; or
- b) An employee's conduct or outside employment conflicts with the conditions of the outside work authorization or is incompatible with the employee's work for the District.

### **3) Use of District Equipment Prohibited**

Under no circumstances may an employee use any District equipment, vehicles, tools, supplies, machines, or any other item that is District property while an employee is engaged in any outside employment, activity or enterprise.

## **SECTION 1400 FAMILY AND MEDICAL LEAVE**

The District provides family and medical care leave for eligible employees as required by State and federal law.

This Policy is supplemented by the Federal Family and Medical Leave Act (“FMLA”), and the California Family Rights Act (“CFRA”). Unless otherwise stated in this Policy, “Leave” means leave pursuant to the FMLA and CFRA.

1. Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination.
2. Employees who fraudulently obtain or use CFRA leave are not protected by the CFRA’s job restoration or maintenance of health benefits provisions.

### **1401 CONCURRENT WITH FMLA AND CFRA**

Unless otherwise provided by law, the District will run each employee’s FMLA and CFRA leaves concurrently.

### **1402 DEFINITIONS**

#### **12-Month Period**

A rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.

#### **Single 12 Month Period**

A 12-month period which begins on the first day the eligible employee takes FMLA leave to take care of a covered service member and ends 12 months after that date.

#### **Child**

A child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of a mental or physical disability. An employee’s child is one for whom the employee has actual day-to-day responsibility for care, and includes a biological, adopted, foster or step-child.

A child is “incapable of self-care” if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming and hygiene, bathing, dressing and eating, cooking, cleaning shopping, taking public



transportation, paying bills, maintaining a residence, or using telephones and directories.

### **Parent**

The biological or adoptive parent of an employee or an individual who stands or stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.

### **Spouse**

One or two persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined below.

### **Registered Domestic Partner**

Is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.

### **Serious Health Condition**

An illness, injury impairment, or physical or mental condition that involves:

Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom).

A person is considered “inpatient” when a health care facility admits him or her to the facility with the expectation that he or she will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or

- 1) Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
  - a) A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and

- b) Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
  - c) Treatment two or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
  - d) Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
  - e) Any period of incapacity due to pregnancy or for prenatal care. Note that pregnancy is a "serious health condition" only under the FMLA. Under California law, an employee disabled by pregnancy is entitled to pregnancy leave. (See section 709, Leave Because of Pregnancy, Childbirth, or Related Medical Condition.)
- 2) Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
- a) Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
  - b) Continues over an extended period of time (including recurring episodes of a single underlying condition); and
  - c) May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
- 3) A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by health care provider.
- 4) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of healthcare services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a

condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

### Health Care Provider

- 1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of California;
- 2) Individuals duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;
- 3) Podiatrists, dentists, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
- 4) Nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
- 5) Christian Science practitioners listed with the First Church of Christ, Scientist in Boston, Massachusetts; and
- 6) Any health care provider from whom an employer or group health plan's benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

### **1403 COVERED ACTIVE DUTY**

In the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; or

In the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.

#### **a) Covered Service-member**

- 1) A current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or

therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or

- 2) A veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

**b) Outpatient Status**

With respect to a covered service-member, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

**c) Next of Kin of a Covered Service- member**

The nearest blood relative other than the covered service-member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service-member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service-member has specifically designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

**c) Serious Injury or Illness**

1) In the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered service-member incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the service-member medically unfit to perform the duties of the member's office, grade, rank, or rating; or

2) In the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

## 1404 REASONS FOR LEAVE

Leave is only permitted for the reasons listed below.

- a) The birth of a child or to care for a newborn of an employee;
- b) The placement of a child with an employee in connection with the adoption or foster care of a child;
- c) Leave to care for a child, parent, spouse, or domestic partner who has a serious health condition;
- d) Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of his/her position;
- e) Leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s spouse, son, daughter, or parent is on active duty or call to active duty status in the National Guard or Reserves in support of a contingency operation (This is a FMLA leave and not a CFRA leave); or
- f) Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered service-member of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to 26 weeks of unpaid leave during a single 12-month period. (This is a FMLA leave and not a CFRA leave.)
- g) Leave due an inability to work (or telework) due to the care of a child under the Emergency Family and Medical Leave Expansion Act. (Subject to section 704.19 below.)

## 1405 EMPLOYEES ELIGIBLE FOR LEAVE

An employee is eligible for leave if:

- a) The employee has been employed by the District for at least 12 months; and
- b) The employee has been employed by the District for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.
- c) An employee is eligible for 12 weeks of parental leave to bond with a new child within one year of the child’s birth, adoption or foster care placement if:

- a) The employee has been employed by the District for at least 12 months; and
- b) The employee has been employed by the District for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

## **1406 AMOUNT OF LEAVE**

Eligible employees are entitled to a total of 12 workweeks (or 26 workweeks to care for a covered service-member) of leave during any 12-month period.

If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

### **1) Minimum Duration of Leave**

- a) If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g. bonding with a newborn) for less than two weeks duration on any two occasions.
- b) If leave is requested to care for a child, parent, spouse or the employee him/herself with serious health condition, there is no minimum amount of leave that must be taken. However, compliance with the notice and medical certification provisions in this Policy is required.

### **2) Parents both Employed by the District**

If both parents of a child, adoptee, or foster child are employed by the District and are entitled to bonding leave, the aggregate number of workweeks of leave to which both may be entitled may be limited to 12 workweeks during any 12-month period.

If both parents of a covered service-member are employed by the District and are entitled to leave to care for a covered service-member, the aggregate number of workweeks of leave to which both may be entitled is limited to 26 work weeks during the 12-month period. This limitation does not apply to any other type of leave under this Policy.

## 1407 EMPLOYEE BENEFITS WHILE ON LEAVE

### 1) Group Health Insurance During Unpaid Leave:

Leave under this Policy is unpaid. However, while on unpaid leave, employees will continue to be covered by the District's group health insurance for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the job.

If the employee is disabled by pregnancy, coverage will continue up to four months each leave year.

If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, the District will maintain her coverage while she is disabled by pregnancy (up to four months or 17 1/3 weeks) and during her CFRA leave (up to 12 weeks).

### 2) Benefit Plans not provided through the District's Group Health Plan During Unpaid Leave Do Not Continue:

The District does not pay for benefit plans that are not part of the group health plan for any employee on unpaid leave. As a result, employees will not continue to be covered under the District's benefit plans that are not provided through the District's group health plans while the employee is on unpaid leave.

#### a) Payment of Premiums:

Employees may make the appropriate contributions for continued coverage under the health benefits plans by payroll deductions (if the employee is using his or her paid leave) or direct payments (if the employee is not using his or her paid leave).

The District will inform the employee whether the direct payments for premiums should be paid to the carrier or to the District, and the deadlines for paying premiums in order to prevent coverage from being dropped. Employee contribution rates are subject to any changes in rates that occur while employee is on leave.

#### b) Recovery of Premium if the Employee Fails to Return from Leave:

If an employee fails to return to work after his/her leave entitlement has been exhausted or expires, the District shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or his/her family member which would entitle the employee to leave, or because of circumstances beyond the employee's control.

### c) Substitution of Paid Accrued Leaves

Although family and medical care leave is unpaid, an employee may elect and the District will require an employee to concurrently use all paid accrued leaves during family and medical care leave as described below.

#### Employee's Right to Use Paid Accrued Leave Concurrently with Family Leave

An employee may use any earned or accrued paid leave except sick leave for all or part of any unpaid family and medical care leave. An employee is entitled to use sick leave concurrently with family and medical care leave for the employee's own serious health condition or that of the employee's parent, spouse, domestic partner or child.

### 3) District's Right to Require an Employee to use Paid Leave when using FMLA/CFRA Leave

Employees must use and exhaust their accrued leaves concurrently with family and medical care leave to the same extent that employees have the right to use their accrued leaves concurrently with family and medical care leave with two exceptions:

- a) Employees are not required to use paid leave during leave pursuant to a disability plan that pays a portion of the employee's salary while on leave unless the employee agrees to use paid leave to cover the unpaid portion of the disability leave benefit; and
- b) An employee must agree to use accrued sick leave to care for a child, parent, spouse or domestic partner.

### 4) District's Right to Require an Employee to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves

If an employee takes a leave of absence for any purpose which also qualifies under both the FMLA and CFRA, the District will designate that leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement.

### 5) District's and Employee's Rights if an Employee Requests Accrued Leave Without Mentioning FMLA or CFRA

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the District may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. However, if the



District denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the District may require the employee to exhaust accrued leave as described above.

#### **1408 MEDICAL CERTIFICATION/ RECERTIFICATION**

Employees who request leave must provide a medical certification and/or recertification to support the need for the leave as described below:

##### **a) Employee's Own Serious Health Condition:**

Employees who request leave for their own serious health condition must provide written certification from the health care provider that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of his or her position.

Upon expiration of the time period the health care provider originally estimated that the employee needed for his/her own serious health condition, the employee must obtain recertification if additional leave is requested.

##### **b) Family Member Serious Health Condition:**

Employees who request leave to care for a child, parent, domestic partner or a spouse who has serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, domestic partner, or spouse, and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent or spouse.

The term "warrants the participation of the employee" includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care. Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested.

##### **c) Service-member Serious Injury or Illness:**

Employees who request FMLA leave to care for a covered service member who is a child, spouse, parent or "next of kin" of the employee, must provide written

certification from a health care provider regarding the injured service member's serious injury or illness. The District will verify the certification as permitted by the FMLA regulations.

**d) Qualifying Exigency:**

The first time an employee requests FMLA leave because of a qualifying exigency, an employee may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member's active duty service.

A copy of the new active duty orders or similar documentation shall be provided to the District if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different military member. The District will verify the certification as permitted by the FMLA regulations.

**1) Time to Provide a Medical Certification**

When an employee has provided at least 30 days' notice for a foreseeable leave, the employee must provide a medical certification before the leave begins. When this is not possible, the employee must provide the medical certification to the District within the time frame requested by the District (which must allow at least 15 calendar days after the employer's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

**2) Consequences for Failure to Provide an Adequate or Timely Certification**

If an employee provides an incomplete medical certification, the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established in this Policy, the District may delay the taking of FMLA/CFRA leave until required certification is provided, or deny FMLA/CFRA protections following the expiration of the time period to provide an adequate certification.

**3) Director of Human Resources & Risk Management's Review of the Contents of Medical Certification for Employee's Own Serious Health Condition**

**a) Complete and Sufficient:**

The employee must provide a certification for his or her own serious health condition that is complete and sufficient to support the request for leave. A certification is incomplete if one or more of the applicable entries on the certification form have not been completed. A certification is insufficient if the information on the certification form is vague, ambiguous, or not responsive. If the certification is incomplete or insufficient, the Human Resources Director or designee will give the employee written notice of the deficiencies and seven days to cure, unless a longer period is necessary in light of the employee's diligent, good faith efforts to address the deficiencies.

**b) Authentication and Clarification:**

After giving the employee an opportunity to cure the deficiencies in a medical certification for the employee's own serious health condition, the Human Resources Director may contact the health care provider who provided the certification to clarify and/or authenticate the certification.

"Authentication" means providing the health care provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the health care provider who signed the form.

"Clarification" means contacting the health care provider to understand the handwriting on the medical certification or to understand the meaning of the response. The Human Resources Director may not ask for additional information beyond that required on the certification form.

**4) Second and Third Medical Opinions for Employee's Own Serious Health Condition**

If the District has a good faith, objective reason to doubt the validity of a certification for the employee's serious health condition, the District may require a medical opinion of a second health care provider chosen and paid for by the District.

If the second opinion is different from the first, the District may require the opinion of a third provider jointly approved by the District and the employee, but paid for by the District. The opinion of the third provider will be binding.

The District must provide the employee with a copy of the second and third medical opinions, where applicable, without cost, upon the request of the employee.

## 5) Intermittent Leave or Leave on a Reduced Leave Schedule

If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule for his or her own serious health condition, or to care for an immediate family member with serious health condition, the employee must provide medical certification that such leave is medically necessary.

“Medically necessary” means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule.

The District may require an employee who certifies the need for a reduced schedule or intermittent leave to temporarily transfer to an alternate position of equivalent pay and benefits that better accommodates the leave schedule.

## 6) Employee Notice of Leave

Although the District recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much verbal or written notice as possible of their need for leave. If leave is foreseeable, at least 30 days’ notice is required. In addition, if an employee knows that he/she will need leave in the future, but does not know the exact day(s) (e.g. for the birth of a child or to take care of a newborn), the employee shall inform his/her supervisor as soon as possible that such leave will be needed.

For foreseeable leave due to a qualifying exigency, an employee must provide verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

## 1409 REINSTATEMENT UPON RETURN FROM LEAVE

### a) Reinstatement to Same or Equivalent Position:

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits and pay. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the FMLA/CFRA period.

### b) Date of Reinstatement:

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the District, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of his/her readiness to

return.

**c) Employee's Obligation to Periodically Report on His/her Condition:**

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

**d) Fitness for Duty Certification:**

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform his or her job, the employee may be required to obtain and present a fitness-for-duty certification from the health care provider stating that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

**e) Reinstatement of "Key Employees":**

The District may deny reinstatement to a "key" employee (i.e., an employee who is among the highest paid 10 percent of all employed by the District within 75 miles of the worksite) if such denial is necessary to prevent substantial and grievous economic injury to the operations of the District, and the employee is notified of the District's intent to deny reinstatement on such basis at the time the employer determines that such injury would occur.

Employees must complete the applicable forms by the Human Resources Department to receive family and medical care leave.

## **SECTION 1500 OTHER LEAVES**

### **1501 BEREAVEMENT LEAVE**

All employees, including temporary employees, may utilize paid bereavement leave to attend a funeral or memorial service, or to take care of family matters, that are related to the death of a member of immediate family or any relative living with the employee.

#### **1) Definition**

“Immediate family” consists of the following: employee’s spouse, registered domestic partner, child, stepchild, parent, grandparent, grandchild, brother, sister, mother/father-in-law, son or daughter-in-law, brother or sister-in-law, legal guardian, or custodial child, or the same relatives of a registered domestic partner.

Employees are entitled to up to five days for each death in the immediate family or of any relative living with the employee. An employee who utilizes bereavement leave shall notify his/her supervisor or department head of the intent to use such leave. The employee requesting bereavement leave must present acceptable supporting documentation to Human Resources within 30 days following the event. Supporting documentation may include an obituary, funeral announcement or any other documentation deemed acceptable in the sole discretion of the Human Resources Department.

If additional time is needed, an employee may request to use accrued sick leave, subject to the approval of the Department Head and the Director of Human Resources & Risk Management .

### **1502 WORKERS’ COMPENSATION/INDUSTRIAL INJURY LEAVE**

Employees who are absent from work by reason of an injury or illness covered by Workers’ Compensation must provide the Department of Human Resources certification from a recognized medical professional confirming the necessity of the leave to the District within fourteen (14) days after the leave begins.

### 1) Accruals and Benefits

When the employee authorizes, the difference between the amount granted pursuant to such Workers' Compensation and the employee's regular pay will be deducted from the employee's accumulated sick leave.

Once the accumulated sick leave is exhausted, the difference will be deducted from the employee's accumulated vacation, personal holidays, and compensatory time, if any.

The employee will continue in pay status and receive his or her pay until his/her accumulated sick leave, and authorized compensatory time, personal holidays, and vacation days, have been depleted to the nearest hour.

During the time the employee is receiving partial checks from the District:

- a) He/she will accrue sick leave on a pro-rated basis;
- b) He/she will accrue vacation time on a pro-rated basis;
- c) If a holiday falls on a day he/she is on disability leave, he/she will receive holiday pay on a pro-rated basis;

When not receiving partial checks from the District, the employee will not accrue sick leave, vacation time, or receive holiday pay.

Any employee subject to this Policy who depletes his or her accumulated sick leave, compensatory time, personal holiday time and vacation days while absent from work by reason of an injury or illness covered by Workers' Compensation may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.

### 2) Concurrent Leave

To the extent allowed by law, this leave will run concurrently with leave under the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA).

### 3) Return to Work

Workers' Compensation Leave shall continue until the employee:

- a) Is determined to be physically able to return to work and such medical determination, if disputed, is confirmed by Workers' Compensation

Appeals Board; or

- b) Is determined to be physically able to return to work with medical restrictions which the District can accept, and such determination, if disputed, is confirmed by Worker's Compensation Appeals Board; or
- c) Accepts employment outside the District; or
- d) Accepts employment in another position with the District; or
- e) Has been found to be permanent and stationary and is not rehabilitated as provided by law; or
- f) Is disability retired pursuant to Government Code provisions.

The District may, in its discretion, provide modified or light duty work if the employee's release contains such limitation.

If the employee has been released without limitation, the employee will be offered the same position he or she held previously, unless the job no longer exists or has been filled so that the District can operate safely and efficiently, or the employment relationship has otherwise been terminated.

#### **4) Employee Obligation**

If an employee continues working and is undergoing treatment, all treatment slips from the treating facility must be given to the Human Resources Department and his or her supervisor prior to returning to his or her regular work duties.

A medical release shall be required upon returning to work after three (3) consecutive days of disability leave indicating that the employee is physically able to return to his/her normal duties or to modified work, if it is available.

### **1503 PREGNANCY, CHILDBIRTH, OR RELATED MEDICAL CONDITION LEAVE**

#### **1) AMOUNT OF LEAVE**

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid leave for up to the number of hours she would normally work within four calendar months (one-third of a year or 17 1/3 weeks).



For a full-time employee who works 40 hours per week, “four months” means 693 hours of leave entitlement, based on 40 hour per week times 17 1/3 weeks.

An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave.

## **2) NOTICE & CERTIFICATION REQUIREMENTS**

### **a) Notice:**

Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to Human Resources.

### **b) Certification:**

The request for pregnancy disability leave must be supported by 1) a written certification from the attending physician stating that: the employee is disabled from working by pregnancy, childbirth, or a related medical condition; 2) the date on which the employee became disabled by pregnancy, childbirth or a related medical condition; and 3) the estimated duration or end date of the leave.

## **3) COMPENSATION DURING LEAVE**

Pregnancy disability leaves are without pay. However, the employee must first use sick leave, if any.

Once sick leave is depleted, the employee may elect to use vacation leave or any other accrued paid time off during the leave.

## **4) BENEFITS DURING LEAVE**

### **a) Group Health Insurance:**

An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave.

The District may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act.

b) Sick and Vacation Leaves:

Sick and vacation leaves do not accrue while an employee is on unpaid pregnancy disability leave.

c) Employee Status during Leave:

The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan.

Benefits will be resumed upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualification period, physical exam, or other qualifying provisions.

## 5) REINSTATEMENT

Upon the expiration of pregnancy leave, the employee will be reinstated to her original or a comparable position, so long as it was not eliminated for a legitimate business reason during the leave.

- a) If the employee's original position is no longer available, the employee will be assigned to a comparable, open position.
- b) If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the District will initiate an interactive process with the employee in order to identify a potential reasonable accommodation in accordance with these Policies.

## **1504 STATE DISABILITY INSURANCE (SDI)/PAID FAMILY LEAVE (PFL)**

California's Employment Development Department (EDD) administers the State Disability Insurance (SDI) and Paid Family Leave (PFL) programs to provide partial wage replacement for employees temporarily unable to work for qualifying reasons.

Employees who experience a loss of wages when they are unable to work due to a non-work-related illness, injury, or pregnancy, may be eligible for Disability Insurance (DI) benefits.

Employees who experience a loss of wages when they need to take time off work to care for a seriously ill child, parent, parent-in-law, grandparent, grandchild, sibling, spouse, registered domestic partner, or to bond with a new child entering the family through birth, adoption, or foster care placement, may be eligible for Paid Family Leave (PFL) benefits.

Employees fund SDI/PFL benefits through employee payroll deductions. The District does not fund SDI/PFL. Benefit amounts are solely determined by the EDD. It is the employee's responsibility to file a claim for SDI/PFL benefits. The District is not involved in the application or benefit payment process. Upon request from the EDD, the District will verify employment, pay rate, dates of absence due to a qualifying event, and integration of paid leave (if applicable).

The employee is responsible for notifying the District of claim approval and benefit amounts.

The SDI/PFL program allows for integration of SDI/PFL benefits with an employee's accrued, unused paid leave. Integration has the effect of ensuring the employee will receive his/her normal salary or wages during the period of SDI/PFL wage replacement benefits. The District reserves the right to integrate an employee's benefits with accrued, unused paid leave to the extent permitted by law. Employees whose benefits are being integrated will continue to accrue sick leave, vacation leave, and holiday leave on a prorated basis.

Employees who are not receiving any compensation from the District (for instance, employees who have exhausted their accrued leaves) and are only receiving compensation from the EDD will not accrue sick leave, vacation leave, or holidays for that period of time.

For additional information regarding SDI, please see the Human Resources Department or visit [www.edd.ca.gov](http://www.edd.ca.gov).

## **1505 MILITARY LEAVE**

Military leave will be granted in accordance with state and federal law. An employee requesting leave for this purpose shall promptly provide the department head with a copy of the military orders specifying the dates, site and purpose of the activity or mission.

Within the limits of such orders, the department head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

The District also provides unpaid spousal/registered domestic partner leave for qualified employees in accordance with California Military & Veterans Code section 395.10.

Employees requesting leave under this policy may choose to use accrued paid leave (such as vacation or paid time off) concurrently with some or all of the leave under this policy.

## **1506 JURY DUTY/SUBPOENAED OR COURT-ORDERED WITNESS LEAVE**

### **1) JURY DUTY**

Any employee who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify his or her supervisor or department head as soon as possible.

Any employee who is released from jury service prior to the end of his or her scheduled work hours must report to work unless otherwise authorized by his or her supervisor.

Verification from the court clerk, generally Attendance Slips, are to be turned in to the Human Resources Department .

District employees are to complete the Waiver of Pay form at the courthouse. Please ask the court clerk for more information. Employees are required to only waive the daily per diem fee. Mileage and/or parking may be optional.

If an employee receives a court check that includes a per diem or daily fee, it is his or her responsibility to return those monies to the court. Employees may, however, keep any mileage and/or parking reimbursements.

a) **Non-Exempt Employees**

All Non-Exempt employees will be paid for actual work hours missed for time spent in jury service or court.

The time spent on jury duty is not work time for purposes of calculating overtime compensation.

b) Exempt Employees

All FLSA-exempt employees will continue to receive their normal salary while on jury duty or as serving as a witness only for any work week in which they perform any work duties.

**2) SUBPOENAED EMPLOYEES**

a) District related

Any employee who is subpoenaed to appear in court in a matter regarding an event or transaction in the course of his or her District job duties, must give his or her supervisor as much advance notice as is possible.

The District will determine whether the matter involves an event or transaction in the course of the employee's District job duties. If so, this leave to appear in court will be without loss of compensation, and the time spent will be considered work time.

The District will offset the amount from pay the employee receives for witness fees.

b) Non-District Related

Any employee who is subpoenaed to appear or appears in court because of civil or administrative proceedings that he or she initiated, is not entitled to receive compensation for time spent related to those proceedings.

An employee may request to receive time off without pay or may use any accrued leave other than sick leave for time spent related to those proceedings. The time spent in these proceedings is not considered work time.

Notwithstanding the above, an employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission is entitled to paid release time.

The District also provides unpaid leave to eligible employees who are summoned to appear as witnesses in a judicial proceeding, pursuant to a subpoena or other court order, that was not initiated by the employee and that does not involve an event or transaction in the course of the employee's District job duties.

Employees may use accrued time, including vacation or compensatory time off, and/or unused paid time off for leave taken under this policy. The time spent in these proceedings is not considered work time.

#### **1507 REGARDING CRIME VICTIM/ VICTIM FAMILY MEMBER COURT ATTENDANCE LEAVE**

Any employee who is a victim of a crime that is a serious or violent felony, or a felony involving theft or embezzlement, may take leave from work to attend judicial proceedings related to that crime, if the employee provides the District a copy of the notice of the scheduled proceeding in advance.

If advance notice is not feasible, the employee must provide the District, within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court / governing agency that shows that the judicial proceeding occurred when the leave was used.

An employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime.

The leave is unpaid unless the employee elects to use accrued vacation, sick, or other paid leave, or compensatory time off.

#### **1508 REGARDING CRIME VICTIM/ FAMILY MEMBER VICTIMS' RIGHTS PROCEEDINGS LEAVE**

Any employee who is a victim of a crime listed in Labor Code section 230.5(a)(2)(A), may take leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue if the employee provides the employer reasonable advance notice.

If advance notice is not feasible, the employee must provide the District, within a reasonable time after the leave is taken, certification from a police report, a district attorney or court, or from a health care provider or victim advocate, that the

employee was a victim of any of the crimes listed in Labor Code section 230.5(a)(2)(A).

An employee who is a spouse, parent, child, sibling, or guardian of such a crime victim is also a victim who is entitled to this leave if the above notice or certification requirements are met.

The leave is unpaid unless the employee elects to use accrued vacation or paid leave, or compensatory time off.

### **1509 LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING TO OBTAIN RESTRAINING ORDERS OR INJUNCTIVE RELIEF**

Any employee who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or his or her child, if the employee provides advance notice of the need for leave.

If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse.

The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or paid leave, or compensatory time off.

### **1510 LEAVE FOR VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING TO OBTAIN MEDICAL ATTENTION OR COUNSELING OR SAFETY PLANNING**

Any employee who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program, or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes.

If advance notice is not feasible, the employee must provide any of the following to the District within a reasonable time after the leave: a police report indicating that

the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse.

The leave is unpaid unless the employee elects to use 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a) (2)), accrued vacation or personal leave, or compensatory time off.

### **1511 CIVIL AIR PATROL LEAVE – STATE OF CALIFORNIA**

The District provides eligible employees who are volunteer members of the California Wing of the Civil Air Patrol and are called to emergency operational missions up to 10 days of unpaid leave per calendar year. Leave for a single emergency operational mission will generally be limited to three days unless an extension is granted by the appropriate government entity(ies) and approved by the District.

The employee shall give the District as much notice as possible of the intended dates upon which the Civil Air Patrol leave will begin and end.

The District may require certification from the proper Civil Air Patrol authority to verify the eligibility of the employee for the leave requested or taken. The District may deny the leave to be taken as Civil Air Patrol leave if the employee fails to provide the required certification.

The employee taking leave shall not be required to exhaust accrued vacation leave, personal leave, compensatory leave, sick leave, disability leave, or any other leave that may be available to the employee in order to take Civil Air Patrol leave.

### **1512 ORGAN AND BONE MARROW DONATION LEAVE**

The District provides eligible employees up to 30 business days in a 12-month period of leave to donate an organ to another person. For the first ten (10) business days of the leave, employees are required to use accrued paid time off. For the remaining time needed, up to a maximum of twenty (20) business days, the District will provide the employee with paid leave.

The District will provide additional unpaid leave of absence, not exceeding 30 business days in a one-year period, to an employee who is an organ donor, for the purpose of donating the employee's organ to another person.



The District also provides eligible employees up to five business days in a 12-month period of leave to donate bone marrow to another person. Employees will be required to use up to five business days of their accrued paid time off for leave under this policy to donate bone marrow.

### 1) Eligibility

To be eligible, employees must have been employed with the District for 90 days immediately preceding the commencement of leave. Additionally, the District may require written certification that the employee is a bone marrow or organ donor and that the procedure is medically necessary, as well as certification regarding the amount of leave needed.

## 1513 SCHOOL ACTIVITIES / APPEARANCE LEAVE / SUSPENSION LEAVE

### 1) SCHOOL ACTIVITIES/APPEARANCE LEAVE

Employees are entitled to take unpaid time-off from work to participate in their child's school activities, as stated below. The employee taking School Activities Leave must be a parent, grandparent, guardian, stepparent, foster parent, or person who stands in *loco parentis* to a child of the age to attend kindergarten through grade 12, or at a licensed child care provider.

Employees may take up to 40 hours of School Activities Leave each year to participate in the following child-related activities:

1. To participate in activities of the school or licensed child care provider of a child;
2. To find, enroll, or re-enroll a child in a school or with a licensed child care provider; or
3. To address a "child care provider or school emergency," As defined, "Child care provider or school emergency" means that an employee's child cannot remain in a school or with a child care provider due to one of the following reasons:

The school or child care provider has requested that the child be picked up, or has an attendance policy, excluding planned holidays, that prohibits the child from attending or requires the child to be picked up from the school or child care provider;

1. Behavioral or discipline problems;
2. Closure or unexpected unavailability of the school or child care provider, excluding planned holidays; or

3. A natural disaster, including, but not limited to fire, earthquake or flood.
4. Time-off to participate in school or child care activities or to find, enroll, or re-enroll in school or child care (items 1 and 2, above) is limited to 8 hours per month.

The employee must provide reasonable advance notice to his/her supervisor of the planned absence.

The leave is unpaid unless the employee uses vacation, personal leave or compensatory time off. The employee must provide documentation from the school or licensed child care facility to his or her supervisor and Human Resources as verification that the employee participated in school or child care facility activities on a specific date and at a particular time.

If both parents, guardians or grandparents having custody work for the District at the same District work site, only the first parent requesting will be entitled to leave under this provision. However, both may participate if approved by the District.

#### **1514 CHILD SUSPENSION LEAVE**

Any employee who is the parent or guardian of a child in grades 1 through 12 may take time off to go to the child's school in response to a request from the child's school, if the employee gives advance notice to his or her supervisor.

A school has the authority to request that the parent attend the child's school if the child has: committed any obscene act; habitually used profanity or vulgarity; disrupted school activities; or otherwise willfully defied the valid authority of school personnel.

#### **1515 CALIFORNIA EMERGENCY RESPONDER LEAVE**

The District provides unpaid leave to eligible employees who are volunteer firefighters, reserve peace officers or emergency rescue personnel so that such employees may respond to a call to emergency duty.

Additionally, the District provides unpaid leave, up to 14 days per calendar year, to such employees so that they may engage in scheduled fire, law enforcement or emergency rescue training.

Employees should notify the District of their status as a volunteer firefighter, reserve peace officer or emergency rescue personnel. Additionally, employees should provide as much advanced notice as practicable of the need for leave under this policy when they are called to emergency service. Employees may use accrued,

unused paid time off vacation or compensatory leave off for leave taken under this policy.

### **1516 VOTING LEAVE**

In circumstances where an employee's work schedule does not provide sufficient time to vote on an election day, the District will provide a reasonable amount of time off during scheduled work time, including up to two hours of paid time off, for employees to vote.

Employees who need time off to vote should notify their supervisors at least two days prior to Election Day and submit proof of voting. The District reserves the right in its sole discretion to specify a time period during which the polls are open for employees to leave work to vote.

## **SECTION 1600 LEAVE OF ABSENCE WITH OR WITHOUT PAY**

It is the District's policy that Leave of Absence without pay must be authorized by law or by provisions in these policies.

Unless authorized by law a District policy,

1. An employee is not entitled to a leave of absence without pay. An authorized leave of absence without pay is not a break in service for purposes of calculating seniority.
2. Vacation leave credits, sick leave credits, increases in salary, all other paid leaves, holidays and fringe benefits and other similar benefits do not accrue to an employee on unpaid leave.
3. The District will not maintain contributions toward group insurance or retirement coverage for the employee on such leave.

During the period of authorized unpaid leave, all service and leave credits shall be retained at the levels existing as of the effective date of the leave.

### **1601 PAID ADMINISTRATIVE LEAVE**

The District has the right to place an employee on leave with full pay for non-disciplinary reasons at any time when the Director of Human Resources & Risk Management has determined that the employee's and/or District's best interests warrant the leave.

The employee does not have a right to appeal the decision to be placed on administrative leave with pay.

## **SECTION 1700 RESIGNATION, JOB ABANDONMENT, LAYOFF, SEPARATION AND EMPLOYMENT REFERENCES**

It is the District's policy to follow the following guidance and rules on employment separations.

### **1701 TYPES OF SEPARATION**

All separations of employees from positions in District employment are designated as one of the following types:

- Probationary release
- Release of at-will employee
- Resignation
- Retirement
- Job abandonment
- Layoff
- Non-disciplinary separation
- Disciplinary separation

### **1702 PROBATIONARY RELEASE**

Probationary employees serving in their initial probationary period with the District may be released at any time during the probationary period as recommended by the Department Head, without cause or reason, without notice or appeal or grievance, and without any rights set forth under Section 1900, Causes for Discipline and Procedures.

### **1703 RELEASE OF AT-WILL EMPLOYEES**

An At-Will employee may be separated at any time, without cause, and without right to any appeal or grievance.

## **1704 RESIGNATION**

An employee who wishes to resign his or her District employment in good standing must submit written notice of resignation to the Department Head at least two weeks prior to the planned separation date.

The written notice must state the reasons for the resignation.

Failure to follow the aforementioned procedure may be cause for denying future employment with the District.

A resignation becomes final when the Director of Human Resources & Risk Management accepts the resignation in writing. Once a resignation has been accepted, it is final and irrevocable.

A resignation can be accepted by the Director of Human Resources & Risk Management even if it is submitted less than two weeks prior to the planned resignation date.

## **1705 RETIREMENT**

An employee planning to retire may provide a written notice to the Department Head prior to the effective date of the retirement.

A notice of retirement becomes final when the Director of Human Resources & Risk Management accepts the notice of retirement in writing.

Once a notice of retirement has been accepted, it is final and irrevocable.

## **1706 JOB ABANDONMENT**

An employee is deemed to have resigned from his/her position if he or she is absent for five consecutive scheduled work days/shifts without prior authorization and without notification during the period of the absence.

The employee will be given written notice, at his or her address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence.

An employee who promptly responds to the District's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Department Head before final action is taken, to explain the unauthorized absence and failure of notification.

An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification.

No employee separated for job abandonment has the right to a post-separation appeal.

### **1707 LAYOFF**

Whenever, in the judgment of the Board, a reduction in personnel is necessary for economic or operational reasons, any employee may be laid off or demoted for non-disciplinary reasons.

#### **a) Order of Layoffs**

Employees will be laid off in the inverse order of their seniority in their classification in the department.

Seniority is determined based on the length of employment in the affected classification in the department, or higher classifications in the department.

Length of employment includes all days of employment in attendance at work and on authorized or legally-protected leaves of absence. Length of service does not include unauthorized periods of leave or suspension or layoff.

Within each classification, employees will be laid off in the following order: temporary; part-time; probationary; and for-cause (regular) status.

If two or more employees in a classification to be laid off have the same length of employment, the employee to be laid off will be decided by lottery.

b) Notification of Layoff

Employees to be laid off will be given 21 calendar days' notice of layoff.

c) Displacement

Regular employees who are noticed for layoff and who have held regular status in a lower classification within the same classification series in the same department, may displace employees in the lower classification provided that the employee seeking to displace has greater length of employment in the lower classification than the incumbent in the lower classification.

Employees in lower classifications will be displaced in inverse order of their length of employment in the classification.

Any employee who seeks to displace another must provide the Human Resources Director with written notice no later than five working days after the date of the notice of layoff.

d) Transfer

If the Director of Human Resources & Risk Management determines that a regular employee who is subject to layoff is qualified to perform the duties in a vacant position, the employee will receive a written notice of option to transfer in lieu of layoff.

An employee who does not accept a transfer within 10 days after the date of the written notice, forfeits the option to transfer. An employee who accepts a transfer will be paid the rate applicable to the position into which he or she transfers.



**1708 NON-DISCIPLINARY SEPARATION**

Any employee separated because of an inability to accommodate after the reasonable accommodation and interactive process is concluded, will be given a written pre-separation notice of the reasons for the separation, the evidence supporting the decision to separate for non-disciplinary reasons, and an opportunity to respond before the separation takes effect.

Any regular employee has the opportunity for a post-separation appeal as described in section 1900, Causes for Discipline and Procedures.

**1709 DISCIPLINARY SEPARATION**

A regular employee may be separated for disciplinary reasons pursuant to the policy and procedures in Section 1900, Causes for Discipline and Procedures.

**1710 RETURN OF DISTRICT PROPERTY**

All District property in the employee's possession must be returned prior to separation, including keys, key fobs, identification cards, equipment, credit cards, gas cards, cell phones, pagers, uniforms and any other District equipment.

**1711 JOB REFERENCES/VERIFICATION OF EMPLOYMENT**

All reference inquiries and verifications of employment must be referred to and approved by Human Resources.

Unless the District receives a written waiver signed by the employee, the District will release only the employee's dates of employment, last position held, and final salary rate.

Department heads and supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by Human Resources on a case-by-case basis.

## **SECTION 1800 POLICY AGAINST DRUGS AND ALCOHOL IN THE WORKPLACE**

It is the policy of the District to promote a drug and alcohol-free workplace and to eliminate drug and alcohol-related inefficiencies and risks.

This Policy applies to all District employees, whether they are on District property, or they are performing District-related business elsewhere, except as this Policy is superseded by federally mandated drug and alcohol policies.

Compliance with this Policy is a condition of employment. Disciplinary action will be taken against those who violate this Policy.

There are additional requirements for District employees in safety-sensitive positions and/or performing safety-sensitive functions set forth below in section 1806.

### **1801 PROPER APPLICATION OF THE POLICY**

The District is dedicated to assuring fair and equitable application of this Substance Abuse Policy. Therefore, supervisors are required to administer all aspects of the policy in an unbiased and impartial manner.

Any supervisor who knowingly disregards the requirement of this policy, or who is found to deliberately misuse the policy with respect to his/her subordinates shall be subject to disciplinary action, up to and including termination.

### **1802 DRUG AND ALCOHOL-FREE AWARENESS PROGRAM**

The District's employee assistance provider offers counseling and treatment of drug- or alcohol-related problems. The employee assistance provider has information about:

- (a) the dangers of drug or alcohol abuse in the workplace;
- (b) the penalties that may be imposed for drug or alcohol abuse violations;
- (c) the District's Policy of maintaining a drug- and alcohol-free workplace; and
- (d) any available drug or alcohol counseling, rehabilitation, or employee assistance programs.

### **1803 PROHIBITED CONDUCT**

- a) The manufacture, distribution, sale, purchase, dispensation, possession, or use of any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee in either District workplaces or wherever District business is performed.
- b) Working or being subject to call in if impaired by alcohol or any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee.
- c) An employee's failure to notify his/her department head before beginning work when taking medications or drugs, including but not limited to: prescription drugs, over the counter medications, or illegal drugs or narcotics (including marijuana) which could interfere with the safe and effective performance of duties or operation of District equipment.
- d) An employee's failure to notify his or her supervisor or the Director of Human Resources & Risk Management of any drug or alcohol use that he or she observed or participated in in the workplace.
- e) An employee's failure to notify his or her supervisor or the Director of Human Resources & Risk Management of any criminal conviction for a drug violation that occurred in or outside of the workplace and within five days after such conviction.
- f) An employee's criminal conviction for a drug violation that occurred in the workplace.

For purposes of this Policy, "alcohol" is broadly defined as the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol including methyl or isopropyl alcohol.

### **1804 DRUG AND ALCOHOL TESTING**

The District has discretion to test applicants and employees for alcohol and drug use under the following circumstances. The District will use an outside laboratory to perform all testing.

- a) **Pre-Employment Testing for External Applicants for Certain Jobs:**

Those external applicants who apply for certain jobs where a special need for pre-employment drug and alcohol testing exists must take and pass a drug and alcohol test following a conditional offer of employment. The categories of jobs subject to pre-employment drug and alcohol testing include, but is not limited to, safety sensitive jobs that have public safety implications, such as operating heavy trucks to transport hazardous material.

**b) Reasonable Suspicion Testing:**

The District may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work, under the following circumstances.

**1) “Reasonable suspicion”**

Reasonable suspicion to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work.

Examples of objective factors, include, but are not limited to: unusual behavior, slurred or altered speech, body odor, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job, a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin, runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, or other evidence of recent drug or alcohol use.

If the District suspects drugs or alcohol may have played a role in an accident involving District property or equipment, this may also constitute reasonable suspicion.

**2) Document and Analysis:**

In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the department head and the Director of Human Resources & Risk Management.

Any reasonable suspicion testing must be pre-approved by the Director of Human Resources & Risk Management.

### 3) Testing Protocol:

If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the Director of Human Resources & Risk Management has approved, the employee will be relieved from duty, transported to the testing facility and to his or her home after the test.

The employee will be placed on sick or other paid leave until the test results are received.

## 1805 ADDITIONAL REQUIREMENTS FOR SAFETY-SENSITIVE EMPLOYEES

### 1) Applicability

These additional provisions are also intended to comply with all applicable Federal regulations governing workplace antidrug programs in the transportation industry.

The Federal Highway Administration (FHWA) of the Department of Transportation has enacted 49 CFR Part 382 that mandates urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result.

The Department of Transportation has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine and breath specimens. In addition, the Department of Transportation has enacted 49 CFR Part 29,

"The Drug-Free Workplace Act of 1988," which requires the establishment of drug free workplace policies and the reporting of certain drug-related offenses to the Department of Transportation. These provisions incorporate those requirements of safety-sensitive employees and others when so noted.

These additional provisions apply to all safety-sensitive employees and contractors when they are on District property or when performing any District related business. They apply to off-site lunch periods and breaks when a safety-sensitive employee is scheduled to return to work.

Visitors, vendors, and contracted employees are also governed by this policy while on District premises, and they will not be permitted to conduct business if found to be in violation of this policy.

## **2) Definition of a safety-sensitive position**

A safety-sensitive position is defined as any position requiring the use of a Class "A" or Class "B" commercial driver's license. A listing of the Districts safety-sensitive employee (function and/or position) classifications can be found in section 1406.6 of this policy.

A safety-sensitive employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

## **3) Prohibited Conduct**

In addition to the prohibitions set forth above, no safety-sensitive employee shall use alcohol while on duty or on call, while performing safety-sensitive functions, or within four hours of reporting for duty.

## **4) Additional Testing**

In addition to reasonable suspicion testing, set forth above, safety-sensitive employees are subject to additional testing procedures as required by law.

All safety-sensitive employees are subject to controlled substance testing and breath alcohol testing.

Any safety-sensitive employee who refuses to comply with a request for testing, who provides false information in connection with a test or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately and be referred to a Substance Abuse Professional (SAP).

Refusal to submit to a test can include an inability to provide a urine specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test.

Analytical urine-controlled substance testing and breath testing for alcohol will be conducted as required under Department of Transportation guidelines. All safety-sensitive employees shall be subject to testing prior to employment, randomly, for reasonable suspicion, and following an accident, as defined in the Department of Transportation guidelines.

In addition, all safety-sensitive employees will be tested prior to returning to duty after failing a controlled substance and/or alcohol test. Employees who have returned to duty will be subject to unannounced follow-up tests for up to five

years, as determined by a Substance Abuse Professional (SAP). Safety-sensitive employees who perform safety-sensitive functions as defined in the Department of Transportation guidelines shall also be subject to testing on randomly selected, unannounced basis.

Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities, which have been approved by the Department of Health and Human Services (DHHS). All testing will be conducted consistent with the procedures put forth in the Department of Transportation guidelines.

The District affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process.

Any safety-sensitive employee who has a confirmed positive controlled substance or alcohol test will be removed from his/her position, informed of education and rehabilitation programs available, and evaluated by a Substance Abuse Professional (SAP).

#### **a) Controlled Substance Testing**

The controlled substances that will be tested for include marijuana, cocaine, opiates, amphetamines, and phencyclidine (PCP). An initial controlled substance screen will be conducted on each specimen. For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed.

The test will be considered positive if the controlled substance levels present are above the minimum thresholds established in the Department of Transportation guidelines.

#### **b) Alcohol Testing**

Tests for alcohol concentration will be conducted utilizing an approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT).

If the initial test indicated an alcohol concentration of 0.02 or greater, a confirmation test will be performed to confirm the result of the initial test.

An employee who has a confirmed alcohol concentration of 0.02 but less than 0.04 will be removed from his/her position for at least twenty-four hours unless a retest results in an alcohol concentration less than 0.02.

An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of Department of Transportation guidelines and this policy.

**c) When Testing Will Occur**

Employees in safety-sensitive positions may be tested under any of the following circumstances:

**1) Employment Testing.**

All new employees conditionally hired for safety-sensitive classifications shall undergo urine controlled substance testing. Receipt of satisfactory test results is required as a condition of employment and failure of a controlled substance test will disqualify the applicant from further employment. Employment testing requirements will be conducted in compliance with the current law and the testing procedures set.

**5) Reasonable Suspicion Testing**

The District may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work. "Reasonable suspicion" to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors are provided above in section 1405(b)(1).

Reasonable suspicion determinations will be made by a supervisor who is trained to detect the signs and symptoms of controlled substance and alcohol use and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to prohibited substance abuse or misuse.

**6) Post-Accident Testing**

Employees will be required to undergo controlled substance and/or breath alcohol testing if they are involved in an accident with a District vehicle that results in a fatality.

This includes all safety-sensitive employees who are on duty in the vehicles and/or whose performance could have contributed to the accident.



In addition, a post-accident test will be conducted if an accident results in injuries requiring transportation to a medical treatment facility; or where one or more vehicles incurs disabling damage that requires towing from the site; and the safety-sensitive employee receives a citation under State or local law for a moving traffic violation arising from the accident.

Following an accident, the employee will be tested as soon as possible, but not to exceed eight hours for alcohol and 32 hours for controlled substances. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to controlled substance and alcohol testing will be considered to have refused the test and subject to termination.

Post-accident testing of employees will include not only the operation personnel, but any other covered employees whose performance could have contributed to the accident.

#### **7) Random Testing**

Employees working in safety-sensitive classifications and employees who perform safety-sensitive functions, as defined by the DOT, will be subjected to randomly selected, unannounced testing. The random selection will be by a scientifically valid method.

Each safety-sensitive employee will have an equal chance of being tested each time selections are made. Safety-sensitive employees will be tested either just before departure, or during duty, or just after the safety-sensitive employee has ceased performing his/her duty.

#### **8) Return-To-Duty Testing**

All employees who previously tested positive on a controlled substance or alcohol test must test negative and be evaluated and released to duty by the Substance Abuse Professional (SAP) before returning to duty. Employees will be required to undergo unannounced follow-up controlled substance and/or alcohol breath testing following returning to duty.

The duration and frequency will be determined by the SAP. However, it shall not be less than 6 tests during the first 12 months, nor longer than 60 months in total, following return to duty.

#### **9) Employee Requested Testing**

Any safety-sensitive employee who questions the result of a required controlled substance test under Department of Transportation guidelines may

request that an additional test be conducted. This additional test may be conducted at the same laboratory or at a different DHHS certified laboratory.

The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are to be paid by the employee unless the second test invalidated the original test.

The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in the Department of Transportation guidelines. The safety-sensitive employee's request for a retest must be made to the Medical Review Officer (MRO) within 72 hours of notice of the initial test result. Request after 72 hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

## **10) Employee Assessment**

Any safety-sensitive employee who tests positive for the presence of controlled substances or whose breath alcohol concentration is above the minimum thresholds set forth in the Department of Transportation guidelines will be assessed by a Substance Abuse Professional (SAP). A SAP is a licensed physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinically experienced in the diagnosis and treatment of alcohol related disorders.

The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance abuse or misuse.

If a safety-sensitive employee is returned to duty following rehabilitation, he/she must agree to and sign a Return-to-Duty Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up tests for a period of one to five years, as determined by the SAP.

The cost of any rehabilitation and subsequent controlled substance and/or alcohol testing is borne by the safety-sensitive employee and is on a onetime basis only. The employee will immediately be terminated on the occurrence of a second verified positive test result.

Employees may use accumulated sick leave, vacation, and floating holidays, if any, to participate in the prescribed rehabilitation program.

## 11) Rehabilitation

The decision to discipline or terminate an employee found to have used and/or be under the influence of drugs, alcohol and/or other controlled substances during working hours may be waived or held in abeyance by the District pending the employee's participation in a formal rehabilitation program.

The District has discretion to handle each case individually, with factors such as the employee's frequency of use, commitment to rehabilitation, and type of substance taken into consideration regarding the waiving of penalties.

Discipline or termination that is waived or held in abeyance pending rehabilitation should be done on the condition, set forth in writing, that the employee:

- Successfully complete an approved rehabilitation program;
- Faithfully comply with maintenance and therapeutic measures (e.g., attendance at AA or NA meetings); and,
- Be subject to periodic testing without further reasonable cause.

If an employee is returned to duty following rehabilitation, he/she must agree to and sign a Return-To-Duty Agreement, pass a return-to-duty controlled substance and/or alcohol test and be subject to unannounced follow-up tests for a period of one to five years, as determined by the SAP.

The cost of any rehabilitation and subsequent controlled substance and/or alcohol testing is borne by the employee and is on a one-time basis only.

An employee will be immediately terminated from employment on the occurrence of a second verified positive test result. Employees may use accumulated sick leave, vacation, administrative leave, and/or floating holidays, if any, to participate in the prescribed rehabilitation program.

The District is committed to providing reasonable accommodation to those employees whose alcohol or drug abuse problem classifies them as disabled under federal and/or state law.

## 1806 SAFETY-SENSITIVE EMPLOYEE CLASSIFICATIONS FOR DISTRICT

Funded and Unfunded Classifications Impacted by the Regulations: (subject to change)

- Production Operator
- Supervisor
- Water Service Operator
- Water Quality

Human Resources will maintain a list of the specific positions within the above-listed classifications that are covered under Department of Transportation regulations.

### a) Procedures - Reasonable Suspicion Testing

- 1) A safety-sensitive employee who may possibly be under the influence of alcohol and/or controlled substances is observed by a supervisor.

Any employee may identify someone suspected of alcohol and/or controlled substance to any supervisor. Employees should realize, however that it is against District policy to make false or malicious statements about other employees and doing so can result in disciplinary action being taken against the offending employee. However, the supervisor must witness first-hand the safety-sensitive employee's signs and symptoms.

- 2) The supervisor is then obligated to ensure that the matter is immediately investigated. If possible, two supervisors determine (independently or together) that the safety-sensitive employee in question may indeed be under the influence of alcohol and/or controlled substances.
- 3) When the supervisor(s) suspect and believe that the safety-sensitive employee may be under the influence of alcohol and/or controlled substances, the safety-sensitive employee is then immediately suspended from duty (with pay) and driven by District staff (or others designated) to the District specified collection site.

Because of a testing facility requirement, the safety-sensitive employee in question must show proof of identification, such as a photo driver's license or state-issued photo identification card.

Whenever practical, the Director of Human Resources & Risk Management should be notified in advance of the employee being taken to the collection site.

- 4) At the collection site, the safety-sensitive employee will be required to submit a urine sample in the event that controlled substances are suspected or a breath sample in the event that alcohol intoxication is suspected to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
- 5) The District will take precautions to prevent the safety-sensitive employee being tested from going back to work and driving their own car home. Instead, the safety-sensitive employee will be given assistance in obtaining a ride home from the collection site.
- 6) The safety-sensitive employee whose test results are negative (less than 0.02 alcohol concentration) will be released to return to work.

The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04, will not be permitted to return to duty or perform a safety-sensitive function for 24 hours after administration of the test.

The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater for alcohol will be referred to a District specified outside Substance Abuse Professional (SAP) who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee.

Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.

- 7) The safety-sensitive employee whose controlled substance test results are verified negative will be released to return to work.

The safety-sensitive employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a District specified outside Substance Abuse Professional who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee.

Failure to follow the accepted recommendations or refusal to submit to

return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.

## **1807 PROCEDURES FOR RANDOM TESTING**

The compliance company notifies the supervisor to send the safety-sensitive employee to the collection site for alcohol and/or controlled substance testing.

- 1) The supervisor notifies the safety-sensitive employee to go to the collection site for alcohol and/or controlled substance testing immediately. Because of a testing facility requirement, the safety-sensitive employee in question must have proof of identification, such as a photo driver's license or state-issued photo identification card.
- 2) At the collection site, the safety-sensitive employee will be required to submit a urine sample in the event that controlled substances are to be tested for, or a breath sample in the event that alcohol is being tested for to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
- 3) The safety-sensitive employee whose test results are negative (less than 0.02 alcohol concentration) will be released to return to work. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04, will not be permitted to return to duty or perform a safety-sensitive function for 24 hours after administration of the test.

The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater for alcohol will be referred to a District specified outside Substance Abuse Professional (SAP) who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee.

- 4) Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.
- 5) The safety-sensitive employee whose controlled substance test results are verified negative will be released to return to work.

The safety-sensitive employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a District specified

outside Substance Abuse Professional who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee.

Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.

## **1808 PROCEDURES - POST ACCIDENT**

- 1) The safety-sensitive employee notifies a supervisor that an accident has occurred.
- 2) The supervisor determines that the circumstances of the accident warrant a post-accident test when a citation was issued or a fatality occurred.

Thereafter, the supervisor directs the safety-sensitive employee to immediately go to the collection site for alcohol and controlled substance testing. Because of a testing facility requirement, the safety-sensitive employee in question must have proof of identification, such as a photo driver's license or state-issued photo identification card.

- 3) At the collection site, the safety-sensitive employee will be required to submit a urine sample for controlled substances and a breath sample for alcohol testing to the on-duty technician.

Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.

- 4) The Director of Human Resources & Risk Management will be notified that an accident has occurred, and that the safety-sensitive employee was instructed to go to the collection site.
- 5) The safety-sensitive employee whose test results are negative (less than 0.02 alcohol concentration) will be released to return to work.

The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04, will not be permitted to return to duty or perform a safety-sensitive function for 24 hours after administration of the test.

The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater for alcohol will be referred to a District specified outside Substance Abuse Professional (SAP) who will assess the safety-sensitive employee's condition and make a

recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee.

Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.

- 6) The safety-sensitive employee whose controlled substance test results are verified negative will be released to return to work.

The safety-sensitive employee whose controlled substance test is verified positive by the Medical Review Officer will be referred to a District specified outside Substance Abuse Professional who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee.

Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination.

## **1809 PROCEDURES - RETURN-TO-DUTY AND FOLLOW-UP**

1. The compliance company notifies the District to send the safety-sensitive employee to the collection site for alcohol and controlled substance testing.
2. The supervisor notifies the safety-sensitive employee to go to the collection site for alcohol and/or controlled substance testing immediately. Because of a testing facility requirement, the safety-sensitive employee in question must have proof of identification, such as a photo driver's license or state-issued photo identification card.
3. At the collection site, the safety-sensitive employee will be required to submit a urine sample in the event that controlled substances are to be tested for, or a breath sample in the event that alcohol is being tested for to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
4. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 or whose controlled substance test is verified positive will be terminated.

### **a) Procedures - Chain Of Custody For Controlled Substance Specimens**



1. At the time a specimen is collected, the safety-sensitive employee will be given a copy of the specimen collection procedures.
2. Urine will be in a wide-mouthed clinic specimen container, which will remain in full view of the safety-sensitive employee until split, transferred to sealed and initialed in two tamper-resistant urine bottles.
3. Immediately after the specimens are collected, the urine bottles will, in the presence of the safety-sensitive employee, be labeled and then initialed by the employee. If the sample must be collected at the site other than the controlled substance and/or alcohol-testing laboratory, the specimens will then be placed in the transportation container.

The container will be sealed in the safety-sensitive employee's presence and the safety-sensitive employee will be asked to initial or sign the container. The container will be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method.

A chain of custody form will be completed by the on-duty technician during the specimen collection process and attached to and mailed with the specimen.

**b) Procedures - Specimen Collection Of Strange and / or Unrecognizable Substances**

1. A safety-sensitive employee is observed with a strange and/or unrecognizable substance.
2. The supervisor, in the presence of a witness, places the strange and/or unrecognizable substance into a clear plastic bag. The bag is sealed, labeled, and signed by both the supervisor and a witness.
3. An incident report is made and signed by both the supervisor and a witness.
4. The plastic bag containing the specimen and a copy of the incident report is taken to the collection site for transportation to the laboratory for analysis.

**c) Procedures - Alcohol Concentration**

1. The safety-sensitive employee and the on-duty Breath Alcohol Technician (BAT) complete the alcohol testing form to ensure that the results are properly recorded.

2. After an explanation of how the breathalyzer works, an initial breath sample is taken.
3. If the results of the initial test show an alcohol concentration of 0.02 or greater a second or confirmation test must be conducted. The confirmation test must not be conducted less than 15 minutes after or more than 20 minutes after the screening test.
4. The confirmation test will utilize Evidential Breath Testing devices that prints out the results, date and time, a sequential test number, and the name and serial number of the Evidential Breath Testing device to ensure the reliability of the results.

**SECTION 1900  
CAUSES FOR DISCIPLINE AND PROCEDURES**

It is the policy of the District that employees may be disciplined for, including but not limited to, any of the following causes of discipline:

1. Providing false information in your application for employment;
2. Violation of any department rule, District policy or District regulation, ordinance or resolution;
3. Violation of the Districts' policy against harassment, discrimination and retaliation;
4. Absence without authorized leave or tardiness;
5. Excessive absenteeism and/or tardiness;
6. Use of leave from work in a manner not authorized or provided for under District policies;
7. Making any false representation or statement, or making any omission of a material fact;
8. Providing wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment;
9. Unsatisfactory job performance;
10. Inefficiency;
11. Damaging any District property, equipment, resource, or vehicle, or the waste of District supplies through negligence or misconduct.
12. Insubordination; or insulting or demeaning the authority of a supervisor or manager;

13. Dishonesty;
14. Theft;
15. Violation of the District's or a department's confidentiality policies, or disclosure of confidential District information to any unauthorized person or entity;
16. Misuse or unauthorized use of any District property, including, but not limited to: physical property, electronic resources, supplies, tools, equipment, District communication systems, District vehicles or intellectual property;
17. Mishandling of public funds;
18. Falsifying or tampering with any District record, including work time or financial records;
19. Discourteous or offensive treatment of the public or other employees;
20. Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance.
21. Failure to inform your department head and supervisor that you are undergoing a criminal investigation and may be charged with a crime that may impact your employment and duties with the district
22. Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties;
23. Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the District;
24. Any conduct that impairs, disrupts or causes discredit to the District, to the public service, or other employee's employment;
25. Reckless or unsafe conduct;

26. Working overtime without prior authorization or refusing to work assigned overtime;
27. Carrying firearms or other dangerous weapons while on duty when not required by job duties;
28. Physical violence, fighting, or creating a disturbance;
29. Horseplay or fighting;
30. Conducting non-District business activities during working hours
31. Destroying or willfully damaging District or employee property, records, or other materials.
32. Failure to immediately report the loss of a California driver's license due to suspension, withdrawal, forfeiture or confiscation by any court of law or by the California Department of Motor Vehicles by employees who must maintain such a license as a condition of employment.
33. Violation of the Districts' Media Policy

## **1901 TYPES OF COUNSELING, REPRIMANDS AND DISCIPLINE**

The following are types of counseling, reprimands and discipline which the District may impose:

### **a) Counseling Memo:**

A counseling memo will be provided to an employee to identify: a failure of appropriate conduct or performance issue; the performance the employee is to demonstrate in the future; and consequences for failure to correct the behavior or problem.

A counseling memo will be retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as

the supervisor deems necessary. A counseling memo is not subject to the discipline or discipline appeal procedures described below.

**b) Verbal Reprimand:**

A verbal reprimand is a verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue.

A verbal reprimand will be documented in writing and retained in the supervisor's file until the completion of the evaluation year and then documented in the performance evaluation, as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeal procedures described below.

**c) Written Reprimand:**

A written reprimand is written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue.

A written reprimand will be retained in the employee's personnel file and documented in the performance evaluation. Unless required by law, a written reprimand is not subject to the discipline or discipline appeal procedures described below.

The employee has the right to have his or her written rebuttal attached to the reprimand in the employee's personnel file, if the employee submits the rebuttal to the Personnel Officer within 14 days after the reprimand is received.

**d) Suspension Without Pay:**

The District may suspend an employee from his/her position without pay for cause. Documents related to a suspension shall become part of the employee's personnel file when the suspension is final and documented in the performance evaluation.

Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will only be suspended as authorized by the FLSA.

**e) Reduction in Pay or Paid Leave:**

The District may reduce an employee's pay or paid leave for cause.

A reduction in pay for disciplinary purposes may take one of three forms: 1) a decrease in salary to a lower step within the salary range; 2) a decrease in salary paid to an employee for a fixed period of time; or 3) loss of accrued paid vacation or administrative leave, floating holiday, or compensatory time off.

Documents related to a reduction in pay shall become part of the employee's personnel file when the reduction in pay is final and documented in the performance evaluation.

A reduction in pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from the Fair Labor Standards Act (FLSA) overtime requirements are not subject to pay reduction, except loss of accrued vacation, floating holiday, or administrative leave.

**f) Demotion:**

The District may demote an employee from his or her position to a lower step or position for cause.

Documents related to a demotion shall become part of the employee's personnel file when the demotion is final and documented in the performance evaluation. A demotion is subject to the discipline and discipline appeal procedures described below.

**g) Termination:**

The District may terminate an employee from his or her position for cause.

Documents related to the termination shall become a part of an employee's personnel file when the termination is final.

A terminated employee is entitled to the discipline and discipline appeal

procedures described below.

## **1902 SKELLY PROCESS**

The following types of discipline will require the District initiate and put the employee through a Skelly quasi-judicial process as referenced in Section 2003.

1. Suspension Without Pay
2. Reduction in Pay or Paid Leave
3. Demotion
4. Termination

## **1903 DISCIPLINE PROCEDURES**

The following discipline procedures only apply to the District's regular employees.

All employees other than regular employees, namely at-will employees, may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed below.

The following discipline procedures apply only to suspension without pay for four or more days, reduction in pay, demotion, or termination.

### **a) Skelly Notice of Intended Disciplinary Action to Employee:**

The Skelly process will require a written notice to the subject employee of the intended disciplinary action shall be given to the employee, which will include the following information:

1. The level of the intended discipline;
2. The specific charges that support the intended discipline;
3. A summary of the facts that show that the elements of each charge at issue in the intended discipline;
4. A copy of all materials upon which the intended discipline is based;



5. Notice of the employee's right to respond to the department head regarding the intended discipline within five working days from the date of the notice, either by requesting a *Skelly* conference, or by providing a written response, or both;
6. Notice of the employee's right to have a representative of his or her choice at the *Skelly* conference; and
7. Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.

**b) Response by Employee and *Skelly* Conference/ Meeting**

If the employee requests a *Skelly* conference, the department head or designee will conduct an informal meeting with the employee.

During the informal meeting, the employee shall have the opportunity to rebut the charges against him or her and present any mitigating circumstances.

The department head will consider the employee's presentation before issuing the disciplinary action.

The employee's failure to attend the conference, or to deliver a written response by the date specified in the *Skelly* notice, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the *Skelly* letter.

**c) Final Notice of Discipline**

After the *Skelly* conference and/or timely receipt of the employee's written response, the Department of Human Resources in collaboration with the department head will:

- 1) Take no disciplinary action;
- 2) Modify the intended discipline; or
- 3) Impose the intended disciplinary action.

In any case, the Department of Human Resources in collaboration with the department head will provide the employee with a notice that contains the following:

- The level of discipline, if any, to be imposed and the effective date of the discipline;
- The specific charges upon which the discipline is based;
- A summary of the facts that show that the elements of each charge at issue in the intended discipline;
- A copy of all materials upon which the discipline is based; and
- A reference to the employee's appeal right and deadline to appeal.

#### **d) Delivery of the Final Notice of Discipline**

The final notice of discipline will be sent by mail method that verifies delivery to the last known address of the employee, or delivered to the employee in person.

If the notice is not deliverable because the employee has moved without notifying the District or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

### **1904 DISCIPLINE APPEAL PROCEDURES**

The following appeal procedures only apply to the District's regular employees. All employees other than regular employees, namely at-will employees, may be disciplined or separated at will, with or without cause, and without the disciplinary appeal procedures listed below.

The following appeal procedures apply only to suspension without pay, demotion, reduction in pay, or termination.

## **1) Request for Appeal Hearing**

An employee may submit a written request for appeal to the Personnel Officer within 14 days from: 1) receipt of the final notice of discipline; or 2) the date of attempted delivery by the post office or delivery service of the notice to the last known address of the employee, whichever is earlier.

Failure to file a timely written request for an appeal waives the right to an appeal hearing and any appeal of the discipline.

## **2) Appeal Hearing Officer**

The appeal hearing officer shall be an individual selected by the General Manager through State Mediation and Conciliation Service (SMCS) or the California Office of Administrative Hearings (OAH).

### **a) Date and Time of the Appeal Hearing**

Once the appeal hearing officer has been designated, Human Resources will set a date for an appeal hearing.

The employee shall be notified in writing at least 21 days prior to the hearing of the scheduled date.

### **b) Prehearing Notice of Witnesses and Evidence**

No later than 10 days before the hearing date, each party will provide the other and the appeal hearing officer a list of all witnesses to be called (except rebuttal witnesses), and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing.

The District will use numbers to identify its evidence; the employee will use alphabet letters.

Neither party will be permitted to call any witness or evidence that has not been listed, unless that party can show that the party could not have reasonably anticipated the need for the witness or exhibit.

**c) Subpoenas**

Upon the request of either party, and upon his or her own motion, the hearing officer will issue subpoenas to compel attendance at the appeal hearing.

Each party is responsible for serving his/her/its own subpoenas.

District employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing.

District employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually spend testifying.

**d) Continuances**

The appeal hearing officer may or may not decide on a request by either party to continue a scheduled hearing.

**e) Record of the Appeal Hearing**

The hearing shall be recorded, either electronically or by a court reporter, at the option of the District.

If the District orders a transcript or makes a transcript of the recording, the District will notify the employee within three days of ordering or making the transcript, and will provide a copy of the transcript upon receipt of the costs of duplication.

**f) Employee Appearance**

The employee must appear personally before the hearing officer at the time and place set for the hearing.

The employee may be represented by any person he or she may select.

## 1905 CONDUCT OF THE HEARING

### a) Sworn Testimony

All witnesses shall be sworn in prior to testifying. The hearing officer or court reporter shall request each witness to raise his or her hand and respond to the following: "Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth?"

### b) Evidence

Hearings need not be conducted according to technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner that the hearing officer decides is the most conducive to determining the truth.

The rules dealing with privileges shall be effective to the same extent that they are recognized in civil actions. Irrelevant or unduly repetitious evidence may be excluded.

The appeal hearing officer shall determine the relevance, weight and credibility of testimony and evidence.

### c) Exclusion of Witnesses

During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing.

### d) Burden of Proof

The District has the burden of proof by the preponderance of the evidence.

### e) Authority of Hearing Officer

The appeal hearing officer shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Policies.

**f) Professionalism**

All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity or personal behavior of their adversaries or the appeal hearing officer.

**1906 PRESENTATION OF THE CASE**

The parties will address their remarks, evidence, and objections to the appeal hearing officer.

The appeal hearing officer may terminate argument at any time and issue a ruling regarding an objection or any other matter. The appeal hearing officer may limit redundant or irrelevant testimony, or directly question the witness.

The hearing will proceed in the following order unless the appeal hearing officer directs otherwise:

1. The District is permitted to make an opening statement;
2. The employee is permitted to make an opening statement;
3. The District will produce its evidence;
4. The employee will produce its evidence;
5. The District, followed by the employee, may present rebuttal evidence;
6. Oral closing arguments of no more than 20 minutes may be permitted at the discretion of the appeal hearing officer. The District argues first, the employee argues second, and if the District reserved a portion of its time for rebuttal, the District may present a rebuttal.

**1) Appeal Hearing Officer's Recommended Decision**

Within 15 days of the conclusion of the hearing, the appeal hearing officer shall make written findings and a recommended decision as to the discipline.

The General Manager in collaboration with the Department of Human Resources shall review the findings and recommendations of the appeal hearing officer and may then affirm, revoke, or modify the findings, recommendations, or disciplinary action taken.

The decision of the Board is final. There is no process for reconsideration.

## **2) Proof of Service of the Written Findings and Decision**

The District will mail a copy of the final written findings and decision, along with a proof of service of mailing that confirms that each of the parties and each of the parties' representatives were mailed the final written findings and decision.

It shall be the responsibility of the employee to inform the District of his/her address. A copy of the decision shall also be provided to Human Resources.

## **SECTION 2000 POLICY AGAINST VIOLENCE IN THE WORKPLACE**

The District is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace.

The workplace includes any location where District business is conducted, including vehicles and parking lots. Any violation of this Policy may lead to criminal prosecution, and/or disciplinary action, up to and including termination.

### **2001 PROHIBITED BEHAVIOR**

Employees are prohibited from participating in or promoting acts of intimidation, violence, threats, coercion, assault and/or abusive behavior toward any person while in the course of District employment.

The District has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting.

### **2002 WORKPLACE VIOLENCE**

Workplace violence is defined as any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property.

Specific examples of workplace violence include, but are not limited to, the following:

- a) Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.
- b) The destruction of, or threat of destruction of District property or another employee's property.



- c) Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay.
- d) Striking, punching, slapping, or assaulting another person.
- e) Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise.
- f) Harassing or threatening gestures, phone calls, texts, emails, faxes, or letters.
- g) Unauthorized surveillance.
- h) Stalking.
- i) Possessing a weapon(s) during work hours unless the District issues the weapon(s) for performance of the job.

“Weapon” is defined as a firearm, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

### **2003 INCIDENT REPORTING PROCEDURES**

Employees must immediately report to their supervisor or department head whether they have been a victim of, or have witnessed, workplace violence. The supervisor or department head will immediately report the matter to the Director of Human Resources & Risk Management.

- a) The Director of Human Resources & Risk Management or designee will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.

- b) The Director of Human Resources & Risk Management or designee will take appropriate steps to provide security, such as:
- 1) If necessary, placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
  - 2) Asking any threatening or potentially violent person to leave the site; or
  - 3) Immediately contacting an appropriate law enforcement agency.

## **2004 INVESTIGATION**

The Director of Human Resources & Risk Management will have the authority to see that reported violations of this Policy are investigated, as necessary.

## **2005 PREVENTION**

Each department head has authority to enforce this Policy by:

- a) Training supervisors and subordinates about their responsibilities under this Policy;
- b) Assuring that reports of workplace violence are accurately and timely documented and addressed;
- c) Notifying the Director of Human Resources & Risk Management and/or law enforcement authorities of any incidents;
- d) Making all reasonable efforts to maintain a safe and secure workplace; and
- e) Maintaining records and follow up actions as to reports of workplace violence.

## **2006 ANTI-BULLYING POLICY**

The District is committed to providing a safe work environment. In addition to prohibiting all forms of discrimination and harassment, the District also prohibits any form of "intimidation or bullying" in the workplace or elsewhere, such as at offsite events.

### **1) Applicability**

This policy applies to all District employees.

### **2) Policy Coverage**

Every employee and other individuals, such as temporary agency workers, consultants, independent contractors and visitors, have the right to be treated with respect.

Bullying is the use of aggression with the intention of harming another individual. It can include any intentional written, visual, verbal, or physical act, when the act physically harms the individual or damages his or her property; has the effect of interfering with an employee's ability to work; is severe or pervasive; and/or creates an intimidating or threatening environment.

Bullying comes in many shapes and sizes and can take many forms including, but not limited to, excluding, tormenting, taunting, abusive comments, using threatening gestures; pushing, shoving, punching, unwanted physical contact, or any use of violence; graffiti; name-calling, sarcasm, spreading rumors, teasing.

Such conduct can also occur via use of electronic or telephonic communications such as the internet, email and chatroom misuse, mobile threats by text messaging, or calls or misuse of cameras and video equipment.

### **3) Complaint Procedure**

The District will not tolerate bullying in any form. Any individual who believes that he or she is being or has been subjected to any form of bullying should immediately report this to his or her supervisor, department head, or the Director of Human Resources & Risk Management.

In addition, any person who believes they have witnessed bullying and any person who has received a report of such conduct, whether the perpetrator is an employee or a non-employee, shall immediately report the conduct to their supervisor or other appropriate person in the chain of command. If this is not possible, the conduct should be reported to the General Manager or District Legal Counsel.

Individuals who violate this bullying policy are subject to disciplinary action, up to and including termination.

#### **4) Policy against Retaliation**

No employee will be subjected to any form of retaliation for reporting an incident of bullying, or participating in an investigation by the District or its representatives into allegations of bullying.

Additionally, all employees have a duty to cooperate in connection with any investigation being conducted.

## **SECTION 2100 COMPLAINT RIGHTS OF EMPLOYEES**

The District has established a complaint process that employees may use to bring forth any complaint that alleges the violation of a specific provision of these Policies that adversely affects the employee and that contains all of the information listed in the "Statement of the Complaint" below.

The following procedure applies to all District employees, unless another dispute resolution procedure applies to the dispute or a discipline policy and procedure applies.

### **1) Not Applicable to Evaluations or Discipline**

The complaint procedure cannot be utilized to challenge the content of a performance evaluation.

The complaint procedure shall not apply to any disciplinary matters or procedures that are covered by Article 1900.

## **2101 STATEMENT OF THE COMPLAINT**

A concern is not a complaint unless the affected employee is able to state each of the following:

- 1) The date of the alleged violation;
- 2) The specific provision(s) of these Policies that were allegedly violated;
- 3) A description of all facts regarding how the alleged violation occurred;
- 4) A list of all persons who are witnesses or are involved; and, if relevant,
- 5) A description of how he or she would like the complaint grievance to be resolved.

The complaining employee(s) may write up his or her complaint or use a District form to make the Statement of the Grievance.

A Statement of the complaint must be signed by the employee filing the grievance to certify that it is filed in good faith.

## 2102 TIMELINES

Failure of the District to comply with the time limits of the complaint procedures allows the grievant to appeal to the next level of review.

Failure of the complaining employee(s) to comply with the time limits of the complaint procedures constitutes settlement and resolution of the matter on the basis of the last disposition.

The parties may extend time limits by mutual written agreement in advance of a deadline.

### 1) Procedures

#### a) First Level Review:

The employee must first work in good faith to resolve the complaint informally through discussion with his/her immediate supervisor no later than 7 working days after the employee(s) first became aware of the facts or circumstances resulting in the filing of the complaint.

Should the supervisor's oral answer to the problem be unsatisfactory to the employee, the employee should prepare and submit a written Statement of the Complaint to his/her immediate supervisor.

It is understood that a supervisor shall be obligated to accept a question or problem in writing only when it is presented within 14 working days after the employee first became aware of the facts or circumstances resulting in the filing of the complaint

The supervisor shall deliver a written answer to the employee within 14 working days.

#### b) Second Level Review:

If the employee believes that the complaint has not been resolved through Step I, the employee may submit a written Statement of the Complaint to his/her department head.

The employee must submit the Statement of the Complaint within 7 working days after receipt of the supervisor's written answer.

The department head shall consider, discuss the grievance with the complaining employee(s), and/or investigate as he/she deems appropriate, and shall, within

14 working days of receipt of the written Statement of the Complaint, submit his/her decision in writing to the employee(s).

**c) Third Level Review:**

If the employee believes that the complaint has not been resolved through Step II, the employee may appeal the complaint decision of the department head to the General Manager and the Human Resources Manager.

Such appeal must be filed within 7 working days of the date of the department head's written decision.

The General Manager and Director of Human Resources & Risk Management shall consider, discussing the complaint with the employee(s), and/or investigate as he/she deems appropriate, and shall, within 14 working days of receipt of the written Statement of the Grievance, submit his/her decision in writing to the grievant.

The decision of the General Manager in collaboration with the Director of Human Resources & Risk Management shall be final.

## **SECTION 2200 REPORTING A WORKPLACE INJURY**

This section is intended to provide guidance for the District and its employees in compliance with the District's Safety & Injury Illness Prevention Program.

### **2201 PROCEDURE**

District personnel shall report all injuries, however slight, to his/her immediate supervisor, or if not available, another supervisor in his/her work area, and the Human Resources Department as soon as practicable after the employee has realized that he or she has suffered a recordable work-related injury or illness.

Employees may initially make reports verbally, whether by phone or in person, but shall complete and file with the Human Resources Department a claim form as soon as practicable following the injury or illness. The Human Resources Department will furnish the claim form to be completed and the Workers' Compensation Benefit form.

In the event that the employee is incapacitated and cannot file a claim form, his/her immediate supervisor shall file a preliminary claim form, noting incapacitation of the injured employee, and the District will furnish a claim form to an immediate family member.

Nothing in this policy is intended to deter or discourage employees from accurately reporting a workplace injury or illness and employees shall not be subject to retaliation for making a reasonable report about a workplace illness or injury.

### **2202 MEDICAL TREATMENT**

If medical treatment is needed, the Human Resources Department will provide an "Authorization for Treatment" form.

All personnel shall be treated at the Districts contracted Industrial Medical Clinic unless a personal physician has been designated and on file.

If prompt medical attention is essential, the Human Resources Department should be notified of the injury and they will call the treating facility with the authorization for treatment.

If the employee continues working while undergoing treatment, all treatment slips from the treating facility must be given to the Human Resources Department and his/her supervisor prior to returning to his/her regular work duties. For information about Workers' Compensation, see Section 1502.



## **SECTION 2300 USE OF DISTRICT VEHICLES, EQUIPMENT, AND TOOLS**

District equipment and resources may only be used to conduct District business, except for incidental personal use that is consistent with this Policy. As a result, District equipment and resources are non-public forums.

All District employees are required to adhere to this Policy.

### **2301 DISTRICT EQUIPMENT OR RESOURCES**

District equipment or resources is any District-owned or supplied item or resource, including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), vehicles, telephones, cell phones, pagers, tools, machines, supplies, copy machines, facsimile machines, desks, office equipment, computers (including hardware and software), file cabinets, lockers, Wi-Fi, internet, intranet, District network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through District electronic resources or equipment.

### **2302 NO EXPECTATION OF PRIVACY**

The District periodically and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through District networks or electronic resources.

District employees must provide the agency with the employee's username or password for any District-issued equipment or resource.

The existence of passwords or delete functions does not restrict the District's access. As a result, District employees have no expectation of privacy in their use of any District equipment or resources.

### **2303 APPROPRIATE USE ONLY – NO MISUSE**

Employees may only use District equipment or resources in compliance with District policies. Except as authorized by this Policy, employees are expected to avoid any use or communication which is unrelated to District business, destructive, wasteful, or illegal.

The District has discretion to restrict or rescind employee access to District equipment or resources. The following are examples of misuse of District equipment or resources:

- a) Any use that violates applicable law and/or District policies, rules or procedures.
- b) Exposing others to material, which is offensive, harassing, obscene or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment.
- c) Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status or any other basis protected by law.
- d) Communication and/or disclosure of confidential or proprietary District information to unauthorized individuals within or outside of the District.
- e) Unauthorized attempts to access or use District data or break into any District or non-District system.
- f) Theft or unauthorized transmission or copying of paper or electronic files or data.
- g) Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication.
- h) Misrepresentation of one's identity for improper or illegal purposes.
- i) Personal commercial or business activities (e.g. "for sale" notices, personal ads, etc.).
- j) Transmitting/accessing obscene material and/or pornography.
- k) E-Commerce.
- l) Online gambling.
- m) Installing or downloading unauthorized software or equipment.
- n) Violating terms of software licensing agreements.
- o) Using District equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
- p) Any unauthorized access to District equipment or resources, including: using keys or key cards; using or disclosing the username or password of another person or employee to gain access to his or her email or other electronic resources; or making District equipment or resources available to others who would otherwise have no authorized access.
- q) Using District equipment or resources to speak on the District's behalf without authorization.
- r) Interfering with any District security measures.

## **Additional Security Measures**

Employees are responsible for the following:

- a) Maintaining the security of District equipment and resources under their control. This includes, but is not limited to, locking District vehicles, securing District PC's, PDA's, smart phones, laptops, and workstations with a password, keeping all passwords secure, logging off when a device is unattended, and not providing access to District information systems either deliberately or through failure to secure system access.
- b) Promptly reporting any security breaches or theft of District equipment or resources to their supervisor.

### **2304 DISTRICT EMAIL ADDRESSES**

The District's email system is an official communication tool for District business.

The District establishes and assigns official email addresses to each employee as the District deems necessary. Employees must send all District communications that are sent via email to and from his or her official District email address.

Employees are prohibited from using their private email address (such as Gmail, yahoo, MSN/Hotmail, etc.) when communicating District business via email.

Should an email related to District business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's District email account and responded to accordingly.

#### **1) Incidental Personal Use**

Employees may use District telephones, cell phones, internet access, and e-mail for incidental personal communications provided that the use:

- a) Is kept to a minimum and limited to break times or non-working hours;
- b) Does not interfere or conflict with District operations or the work performance of any District employees;
- c) Allows the employee to more efficiently perform District work;
- d) Is not abusive, illegal, inappropriate, or prohibited by this Policy (for example, no social media use, no electronic dating, no gaming); and
- e) Clearly indicates it is for personal use and does not indicate or imply City sponsorship or endorsement.

## **2305 USE OF DISTRICT VEHICLES**

Due to the need for designated District personnel to respond to emergencies as soon as possible and be available to the public on a 24-hour basis, the General Manager, Assistant General Manager, Director of Governmental & Legislative Affairs, Director of Operations, Director of Engineering, field supervisors, shift operator, and on-call employees shall be assigned a District vehicle to be used for commuting from home to work and from work to home.

The use of a District vehicle for this purpose is a benefit to the District, not the employee; however, per IRS regulations the use of the vehicle for commuting must be calculated as a taxable benefit.

Use of District vehicles for personal use is generally prohibited. However, the District recognizes that the District Vehicle may be used by the standby personnel on occasion for personal errands within the response time area.

Failure to comply shall subject the employee to disciplinary action and/or termination.

## **2306 PERSONAL USE OF EQUIPMENT AND TOOLS**

District-owned equipment and tools shall not be used for personal use.

## **2307 CELL PHONE USE WHILE DRIVING**

In the interest of the safety of our employees and other drivers, the District employees are prohibited from using cell phones, including text messaging, while driving or operating District vehicles or equipment and while driving or operating personal vehicles or equipment while on District business and/or District time.

If your job requires that you keep your District issued cell phone turned on while you are driving, you must use a hands-free device or safely pull off the road before conducting District business. Under no circumstances should employees place phone calls or text message while driving or operating equipment or a motor vehicle while on District business and/or District time.

### **Personal Cell Phone Use**

Field personnel will use the District two way radios to conduct daily business. In emergency situations, cell phones may be utilized for communication purposes.

## **2308 ELECTRONIC TRACKING TECHNOLOGY**

Employees of the District may, in the course of employment, be required to drive and/or ride in an agency-owned or leased vehicle equipped with Electronic Tracking Technology.

Electronic Tracking Technology means a technological method or system used to observe, monitor, or collect information, including telematics, Global Positioning System (GPS), wireless technology, or location-based technologies.

Electronic Tracking Technology may include event data recorders (EDR), sensing and diagnostic modules (SDM), or other systems that are used for the purpose of identifying, diagnosing, or monitoring functions related to the potential need to repair, service, or perform maintenance on the District vehicle and/or to capture safety systems-related data for retrieval after a collision or similar incident has occurred.

Electronic Tracking Technology is intended to allow the District to monitor location, elevation, and velocity of its vehicles.

Electronic Tracking Technology use for public safety greatly enhances job performance, personnel safety, situational awareness, and may provide assistance in time critical scenarios.

Electronic Tracking Technology in District-vehicles may also be used to for other business-related purposes, including, but not limited to, measuring productivity, locating stolen vehicles, providing aid to vehicles that break down, increasing employee safety, managing agency resources effectively, or ensuring that employees are following their routes or assignments.

The District may use Electronic Tracking Technology at the agency's sole discretion. Not all District vehicles are required to have Electronic Tracking Technology.

### **Utilized for Disciplinary Investigations**

The District may utilize Electronic Technology to initiate a disciplinary investigation or discipline of its employees pertaining to the misuse or abuse of their vehicles, inappropriate use of time, speeding or other misconduct. Thus, the documents provided by the Electronic Tracking Technology, if any, could be part of a personnel file and subject to protections afforded the same.

The California Public Records Act may require that the District disclose specified public records. In response to requests for such disclosure, it may be necessary to

examine Electronic Tracking Technology records to determine whether they are public records that are subject to disclosure.

Additionally, the agency may be required to produce information obtained from Electronic Tracking Technology pursuant to a court order, subpoena, or statute.

Employees are prohibited from altering or attempting to alter or disable electronic Tracking Technology in the District's vehicles.

## **SECTION 2400 FITNESS FOR DUTY EXAMINATIONS**

### **2401 APPLICANTS**

After a conditional offer of employment has been extended to an applicant, the District may require the applicant to submit to a fitness for duty examination that is job-related; necessary for efficient operations of the agency; and required of all applicants for the job classification.

An applicant or employee who is required to pass a medical and/or psychological examination will be notified of his/her right to obtain a second opinion at his/her expense and that he/she may submit such second opinions for consideration.

#### **1) Current Employee**

Human Resources may require an employee to submit to a fitness for duty examination to determine if the employee has a disability and is able to perform the essential functions of his or her job when there is significant evidence that:

- a) The employee's ability to perform one or more essential functions of his or her job has declined; or
- b) Could cause a reasonable person to question whether an employee is still capable of performing one or more of his or her essential job duties, or is still capable of performing those duties in a manner that does not harm him or herself or others.

### **2402 ROLE OF HEALTH CARE PROVIDER**

The District may request the applicant's or the employee's health care provider to conduct a fitness for duty exam on the applicant or employee, or may request a District-selected health care provider to do so at the District's expense.

The District will allow an employee paid time off to attend the exam. The District will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job.

The examination will be limited to determining whether the applicant or employee can perform the essential functions of his/her position and any work restrictions and/or functional limitations that apply to the applicant or employee.

The health care provider will examine the employee and provide the District with non-confidential information regarding whether:

- a) The applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act (DFEH);
- b) The applicant or employee is fit to perform essential job functions;
- c) Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
- d) There are any reasonable accommodations that would enable the employee to perform essential job functions; and
- e) The employee's continued employment poses a threat to the health and safety of him or herself or others.

Should the health care provider exceed the scope of the District's request and provide confidential health information, without valid consent of the applicant or employee, the District will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the District has requested.

#### **1) Authorization for Use of Medical Information**

During the course of a fitness for duty examination, the District will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

#### **2) Medical Information from the Employee or Applicant**

If an employee or applicant submits medical information to the District from his or her own health care provider, the Director of Human Resources & Risk Management will not forward that information on to the health care provider who conducted the examination for the District, without the employee or applicant's written authorization.

Upon receipt of the written authorization, the Director of Human Resources & Risk Management will request the District-paid health care provider to determine whether the information alters the original fitness for duty assessment.

### **2403 ACCESS TO MEDICAL INFORMATION REGARDING FITNESS FOR DUTY**

Medical records and information regarding fitness for duty, or the need for an accommodation, will be maintained separately from non-medical records and information.

Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the Director of Human Resources & Risk Management, the District's legal counsel, first aid and safety personnel in case of



emergency, and department heads and supervisors who are responsible for identifying reasonable accommodations.

Medical records and information contained therein may be released pursuant to state and federal law.

## SECTION 2500 WHISTLEBLOWER PROTECTION

The District prohibits all the following:

- Taking any retaliatory adverse employment action against an employee because the employee has or is believed to have disclosed information to any government or law enforcement agency, including to the District, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation;
- Preventing an employee from disclosing information to a government agency, including to the District, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation;
- Retaliating against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation; and
- Retaliating against an employee because the employee's family member has or is perceived to have engaged in any of the protected activities listed in (a)-(c) above.

### 2501 POLICY COVERAGE

This Policy governs and protects District officials, officers, employees, temporary employees, and applicants for employment.

#### 1) Definitions

**Protected Activity** includes any of the following:

- Filing a complaint with a federal or state enforcement or administrative agency that discloses any information that the employee has reasonable cause to believe violates state or federal law or a violation or noncompliance with a local, state, or federal rule or regulation.

- Participating in or cooperating in good faith with a local, federal, or state enforcement agency that is conducting an investigation in to alleged unlawful activity.
- Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity.
- Associating with another covered individual who is engaged in any of the protected activities enumerated here.
- Making or filing in good faith and with reasonable cause an internal complaint with the District regarding alleged unlawful activity.
- Providing informal notice to the District regarding alleged unlawful activity.
- Calling a governmental agency's "Whistleblower hotline" in good faith.
- Filing a written complaint under penalty of perjury that the District has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety.
- Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation.

**Adverse Action"** may include, but is not limited to, any of the following:

- Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity.
- Refusing to hire an individual because of actual or potential protected activity.
- Denying promotion to an individual because of actual or potential protected activity.
- Taking any form of disciplinary action because of actual or potential protected activity.
- Extending a probationary period because of actual or potential protected activity.

- Altering work schedules or work assignments because of actual or potential protected activity.
- Condoning hostility and criticism of co-workers and third parties because of actual or protected activity.
- Spreading rumors about a person because of that person's actual or perceived protected activity.
- Shunning or unreasonably avoiding a person because of that person's actual or perceived protected activity.

## **2502 COMPLAINT PROCEDURE**

An applicant, employee, or temporary employee who feels he or she has been retaliated against in violation of this Policy should immediately report the conduct according to the complaint procedure in the District's Policy against Discrimination, Harassment or Retaliation so that the complaint can be resolved fairly and quickly.

Supervisors and Directors have the same responsibilities as defined in the Policy against Discrimination, Harassment or Retaliation.

## **2503 OPEN AND TRANSPARENT:**

This Policy is designed to provide the agency with the opportunity to promptly address and remedy retaliation against actual or perceived whistleblowers.

It is our policy to always be as open and transparent as possible in response to complaints of whistleblowing. The goal is always to comply with the law, and promptly correct any failures to do so. History shows that the cover up is always worse than the original failure of compliance.

**2600****REASONABLE ACCOMMODATION AND INTERACTIVE PROCESS**

Absent undue hardship or direct threats to the health and safety of employee(s), the District provides employment-related reasonable accommodations to:

- Qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions; and
- Employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider; and
- Employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
- Employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

Based on the particular facts of each case, the District shall determine, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of accommodation(s) to provide.

The District will consider the preference of the employee or applicant but has the right to select and implement any accommodation that it deems effective.

**2601 WHEN TO INITIATE THE INTERACTIVE PROCESS**

The District will initiate the interactive process when:

- An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s); or
- The District otherwise becomes aware of the need for an accommodation through a third party (e.g. a doctor's note requesting an accommodation), or by observation of the employee's work; or
- The District becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, Family and Medical Act leave, or other leave rights, but the employee and/or the employee's health care provider indicate that

further accommodation is still necessary for recuperative leave or other accommodation; or

- An employee disabled by pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider; or
- An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave; or
- An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for his or her safety at work; or
- An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement; or
- The District is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance or practices.

### **1) Interactive Communication**

After the occurrence of any of the above-stated circumstances that trigger the need to conduct an interactive process meeting, the Department of Human Resources will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee and his or her designated representative, (if any).

The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations.

The employee conducting the interactive process will document these communications in writing.

## **2602 POTENTIAL ACCOMMODATIONS FOR APPLICANTS OR EMPLOYEES WITH DISABILITIES**

Depending on the facts of each case, the interactive process analysis will generally begin with a review of possible reasonable accommodations that would enable the individual to retain his or her current job.

The process will generally then move on to possible reasonable accommodations in other vacant jobs, for which the individual is qualified, if there is no reasonable accommodation in the current job that does not cause undue hardship, or that does not present a risk of harm to the individual or others.

The District will consider accommodations that the applicant or employee suggests but has the right to select and implement any reasonable accommodation that it

deems effective. The range of potential reasonable accommodations includes, but is not limited to:

- Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, and/or the provision of qualified readers or interpreters;
- Job restructuring;
- Part-time or modified work schedules;
- Paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave;
- Preferential consideration to reassignment to a vacant, comparable position, except when such preference would violate a bona fide seniority system;
- Reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for; or
- Reassignment to a temporary position, if the individual agrees.

### **2603 POTENTIAL ACCOMMODATIONS FOR EMPLOYEES AFFECTED BY PREGNANCY AND RELATED MEDICAL CONDITIONS**

Depending on the facts of each case, the interactive process will attempt to identify and implement a reasonable accommodation that is consistent with the medical certification applicable to the applicant or employee.

Whether an accommodation is reasonable is a case-by-case analysis that considers several factors, including, but not limited to the employee's medical needs; the duration of the needed accommodation; and the employer's legally permissible past and current practices.

The range of potential accommodations includes, but is not limited to:

- Transfer to a less strenuous or hazardous position for the duration of the pregnancy;
- Change in or restructuring of work duties, such as modifying lifting requirements;
- Providing more frequent breaks;
- Providing seating;

- Time off for medical appointments;
- Transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform in order to accommodate reduced work schedule or intermittent leave. (However, a reduction in work hours may be considered a form of pregnancy disability leave and deducted from the employee's four-month pregnancy disability leave entitlement.)

#### **2604 POTENTIAL ACCOMMODATIONS FOR EMPLOYEES REQUESTING TIME FOR LACTATION**

The District will provide a reasonable amount of break time to accommodate any employee desiring to express breast milk for the employee's infant child each time the employee has a need to express milk.

The break time shall, if possible, run concurrently with any break time already provided to the employee. If the employee takes lactation breaks at times other than their provided break times, then the lactation break shall be unpaid, or the employee may choose to use accrued leave.

Those desiring to take a lactation break at times other than their provided break times must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

The District will provide a room or other appropriate location in close proximity to the employee's worksite that is not in a bathroom to express milk in private. The room or location will meet the following requirements:

- Be shielded from view and free from intrusion while being used to express milk;
- Be safe, clean, and free of hazardous materials;
- Contain a surface on which to place a breast pump and personal items;
- Contain a place to sit; and
- Have access to electricity needed to operate an electric battery-powered breast pump.



An employee occupying such private area shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance.

The District will provide access to a sink with running water and a refrigerator, or other cooling device, suitable for storing milk, in close proximity to the employee's work area.

**a) Requesting Lactation Accommodation**

An employee may make a request for lactation accommodation, either orally or in writing, with their supervisor and the Human Resources Department.

Following receipt of a request for lactation accommodation, the District will provide a timely written response to the employee in which the District will indicate if it is unable to provide the requested break time or a requested location for the purposes of expressing breast milk.

An employee who does not believe that the District is providing an appropriate lactation accommodation should immediately inform the Human Resources Department.

An employee who does not believe that the District is providing an appropriate lactation accommodation as required by state law has the right to file a complaint with the California Division of Labor Standards Enforcement/Labor Commissioner.

**b) Storage of Expressed Milk**

Any employee storing expressed milk in any authorized refrigerated area within the District shall clearly label it as such.

## **2605 POTENTIAL ACCOMMODATIONS FOR EMPLOYEE-VICTIMS OF DOMESTIC VIOLENCE, SEXUAL ASSAULT, OR STALKING**

Depending on the facts of each individual case, the interactive process analysis will review all possible accommodations that would enhance the safety of the employee victim at work. In determining what accommodation is reasonable, the District will consider the exigent circumstance or danger facing the employee.

The District will consider the preferences of the employee to be accommodated but has the right to select and implement any accommodation that it deems effective. The range of potential safety measure accommodations includes, but is not limited to:

- Transfer, reassignment, modified schedule;
- Change in work telephone number;
- Change in location of workstation;
- Installation of locks;
- Assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace;
- The implementation of a safety procedure(s);
- Adjustment to job structure, workplace facility, or work requirement; and
- Referral to a victim assistance organization.

## **2606 POTENTIAL ACCOMMODATIONS FOR RELIGIOUS CREED, RELIGIOUS DRESS PRACTICE, OR RELIGIOUS GROOMING PRACTICE**

Depending on the facts of each case, the interactive process analysis will review all possible accommodations that would resolve the conflict between the religious belief or observance and any employment requirement.

The District will consider the preference of the employee or applicant but has the right to select and implement any accommodation that it deems effective. The range of potential accommodations includes, but is not limited to:

- Job restructuring or job reassignment (but not segregation from other employees or the public);
- Modification of work practices, including dress or grooming standards;

- Allowing time off in an amount equal to the amount of non-regularly scheduled time the employee has worked in order to avoid a conflict with his or her religious observances;

## **2607 DETERMINATION**

After the interactive process communications, the Department of Human Resources will review the information received, and determine:

1. whether all available information has been reviewed;
2. whether all potential accommodations that the applicant or employee has suggested have been considered;
3. whether additional discussions with the applicant or employee would be helpful;
4. whether the applicant's or employee's preferences have been considered;
5. if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions without harming him or herself or others; and
6. if the accommodations would pose an undue hardship on District finances or operations.

The Department of Human Resources will inform the applicant or employee of his or her determination in writing. They will use his or her discretion based upon the particular facts of each case.

### **1) Supporting Documentation or Certification**

#### **a) Reasonable Medical Documentation of Disability**

If the disability or the need for reasonable accommodation is not obvious, the District may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the agency will:

- 1) explain the insufficiency;
- 2) allow the employee or applicant to supplement the documentation; and
- 3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

**b) Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions**

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, the District will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation.

A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: a description of the requested accommodation or transfer; a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer.

**c) Certification of Victim Status**

An employee who is a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for his or her safety while at work must provide both of the following:

- 1) A written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and
- 2) A certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

**d) Accommodations for Sincerely Held Religious Beliefs and Observance**

An employee who is requesting accommodation for a sincerely held religious belief or observance need not provide certification, however, if the District has an objective basis for questioning either the religious nature or sincerity of a particular belief or practice, the District may seek additional information. "Objective basis" means a reasonably good faith belief based on facts.

**2700****POLITICAL ACTIVITIES POLICY**

The policy provides guidelines for District officers and employees regarding participation in political activities.

**2701 APPLICABILITY**

This policy applies to all District officers and employees.

**2702 POLICY**

The political activities of District officers and employees are restricted by certain State and Federal laws. District officers and employees shall obey all applicable laws.

District officers and employees are prohibited from the following:

1. engaging in political activities of any kind while on duty for the District or during work hours;
2. engaging in political activities of any kind while wearing a District uniform or other District issued clothing
3. engaging in political activities of any kind while on District premises;
4. soliciting or receiving political funds or contributions to promote the passage or defeat of any ballot measure that would affect working conditions during the working hours of its officers and employees, or in District offices; or
5. directly or indirectly soliciting political contributions from other officers or employees of the District unless the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include officers from and employees of the District.

Nothing stated herein shall be construed as limiting any District Officer's or employee's right to vote, or freedom of reasonable expression or right of association, nor the exercise of any rights protected by the Constitution of the United States of America and the State of California.