



**PERSONNEL POLICIES AND PROCEDURES**

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## SECTION 1. DEFINITIONS.

- 1.01. **Agency:** The Mojave Water Agency.
- 1.02. **Anniversary Date:** The date on which an employee originally commences employment with the Agency.
- 1.03. **Applicant:** An individual who has completed and submitted an application for employment with the Agency.
- 1.04. **Appointment:** The offer to and acceptance by a person of a position, and act of selection by the Agency of the person for the position, either on a regular or temporary basis.
- 1.05. **At-Will Employees:** Employees who serve at the will or pleasure of the General Manager, and are subject to Section 4.10 of the Agency's Personnel Policies and Procedures.
- 1.06. **Classification:** Classes of positions defined by class specifications including title, which groups all positions with similar duties and the equitable schedules of compensation (range) within the same class.
- 1.07. **Demotion:** A permanent reassignment to a less responsible or lower position for cause.
- 1.08. **Department:** A major administrative branch of the Agency involving a general line of work, with one or more employees under the charge of one or more individuals known as department heads.
- 1.09. **Department Head:** The manager of an Agency department.
- 1.10. **Disciplinary Action:** The termination, demotion, reduction in pay, suspension, and oral or written reprimand of an employee for cause.
- 1.11. **Eligible Employee:** A regular employee who has completed their probationary period.
- 1.12. **Employee:** A person who is legally occupying a position in the Agency's service or who is on an authorized leave of absence from such position.
- 1.13. **Exempt Employee:** Employees whose duties meet the requirements to qualify for the executive, administrative, or professional exemptions under the FLSA, and are exempt from the FLSA overtime pay requirements. Exempt employees work and are paid on a predetermined salary basis, and do not receive overtime

pay or compensatory time off. Exempt employees are not compensated for additional work performed in excess of 40 hours during the employee's designated work-week. The salary is not subject to reduction because of variations in the quality or quantity of the work performed.

- 1.14. General Employee:** Any employee of the Agency except those employees specifically designated as at-will employees under the Agency's Personnel Policies and Procedures.
- 1.15. Grievance:** An alleged violation of a specific provision of these Policies that adversely affects an employee or employees.
- 1.16. Grievance Procedure:** The systematic means by which an employee may obtain consideration of a grievance.
- 1.17. He/His, She/Her, and Their/Them:** The terms "he" and "his," "she" and "her," and "their" and "them" are used interchangeably in this document.
- 1.18. Independent Contractor:** An individual who is not an employee, and who serves solely pursuant to a contract that has been formed and approved as required by the Agency purchasing policies and procedures.
- 1.19. Leave of Absence:** Paid or unpaid leave granted to an employee at the discretion of the General Manager or designee.
- 1.20. Military Leave:** Leave associated with active or inactive duty in the United States Armed Forces, National Guard, or Naval Militia.
- 1.21. Non-Exempt Employee:** Employees whose duties do not meet the requirements to qualify for the executive, administrative, or professional exemptions under the FLSA, and are not exempt from the FLSA overtime pay requirements. An hourly employee who is entitled to overtime pay or compensatory time off at a rate of one and one-half of his/her regular rate of pay for all hours actually worked in excess of 40 hours during the employee's designated work-week.
- 1.22. On-Call:** Time when an employee is expected to be ready and available to conduct work for the Agency on an as-needed basis upon short notice.
- 1.23. Performance Evaluation:** A review and evaluation of an employee's performance and capabilities in the employee's authorized position by the employee's immediate supervisor or department head.
- 1.24. Probationary Employee:** A probationary employee serves a probationary period at either: the outset of initial employment with the Agency; or at the outset of a

promotion to a higher classification. During the initial probationary period, a probationary employee serves as an at-will employee, (*i.e.* 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.

- 1.25. Probationary Period:** A specific 12-month period during which the employee is required to demonstrate his/her fitness for the duties of the position to which the employee has been appointed by actual performance of these duties, and can be extended by the General Manager or designee up to an additional 12 months at his/her discretion.
- 1.26. Promotion:** Advancement to a higher salary range, with an increase in responsibility.
- 1.27. Regular Full-Time Employee:** An employee working forty (40) hours per week or more who has successfully completed his/her probationary period.
- 1.28. Regular Part-Time Employee:** An employee who regularly works less than forty (40) hours per week.
- 1.29. Resignation:** Voluntary separation from the Agency by an employee.
- 1.30. Supervisor:** An employee in a position designated by the Agency as a supervisory position.
- 1.31. Temporary Employee:** An employee assigned to a limited period of employment of one year or less, which may be on a full-time or part-time basis, as determined by the Agency.
- 1.32. Termination:** Separation of an employee from employment with the Agency.

## **SECTION 2. GENERAL PROVISIONS.**

- 2.01. Adoption:** Whereas, the Board of Directors of the Agency desires to provide and maintain a system of official rules concerning pay and personnel administration for its employees, it adopts the following amendments to the Personnel Policies and Procedures (“Policies”).
- 2.02. Purpose:** The purpose of these Policies is to guide the application of fair personnel management, which promotes the efficient and economical delivery of Agency services.

- 2.03. No Contract Right:** These Policies do not create any contract right or any contract of employment, express or implied. The Agency retains the full discretion to modify these Policies at any time in accordance with the law.
- 2.04. Applicability of Policies:** These Policies apply to all categories of employees of the Agency unless a specific section or provision excludes them. Independent contractors, and volunteers are not employees. Additionally, the policies are not applicable to Board Members.
- 2.05. Prior Policies Repealed:** If any provision of these Policies is inconsistent or in conflict with any requirement of applicable law, applicable law shall govern. If a provision of these Policies is inconsistent or in conflict with any provisions of any prior Agency personnel policies, procedures, resolutions, rules, or regulations governing the same subject, the provision of these Policies shall prevail. Any prior Agency personnel policies, procedures, resolutions, rules, or regulations that are inconsistent or in conflict with these Policies are hereby repealed.
- 2.06. Violation of Personnel Policy:** Violation of these Policies shall constitute grounds for suspension, demotion, termination, or other disciplinary action deemed appropriate in the discretion of Agency management.
- 2.07. Changes of Law:** In the event any statutory or regulatory provisions referenced in these Policies are amended, modified, or extended, the Agency shall abide by the amended, modified, or extended statutory or regulatory provisions to the extent applicable to these Policies and the employees of the Agency.
- 2.08. Amendment:** The Agency's Board of Directors may amend these Policies at any time by formal action.
- 2.09. Fair and Equal Employment Opportunity:** The Agency 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 Agency prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, color, national origin, ancestry, age (40 and over), physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, 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).

- 2.10. General Security Measures:** Vendors and consultants shall not be on Agency premises before or after work hours, on a closed Friday, or on weekends unless accompanied by an Agency employee the entire time.

For employee safety and building security, the side gate at the front desk of the Conference Center Drive building should remain closed at all times unless staff is conducting business at the side counter, or packages are being delivered. All visitors, including family members, who enter secured areas (e.g., swipe card needed) will need to sign-in at the front counter, there are no exceptions to this. Visitors will be escorted to and from their meeting room location by either the front desk personnel, or the staff member being visited. Interior doors will not be unlocked or propped open for vendors working in the office. A visitor swipe badge will be checked out and returned for door access.

- 2.11. Security Codes, Identification Cards, and Keys:** Regular employees shall receive keys to Agency facilities and related security access codes at the discretion of the General Manager or designee. Keys are the property of the Agency. Employees shall surrender all keys to the Agency prior to any extended leave of absence, upon termination, or resignation and before receiving payment of salary due at termination or resignation. Employees shall immediately report lost or stolen identification cards to the Agency's Human Resources Department.

- 2.12. Standard of Conduct:** The Agency has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. In addition, the Agency expects employees to adhere to a standard of professional conduct that is respectful, considerate, and courteous to all persons. The Agency will not tolerate conduct that is personally offensive to others. Abusing the dignity of anyone through ethnic, sexist, or racial slurs or other derogatory or objectionable conduct may be cause for disciplinary action up to and including termination. Included in this area of offensive behavior are suggestive remarks, physical advances, or intimidation. Please see Section 28 below for the Agency's Policy against Discrimination, Harassment, and Retaliation.

- 2.13. Supplemental Policies:** These Policies do not preclude the General Manager or designee from developing and administering supplemental personnel policies, as long as they do not conflict with these Policies or other Agency resolutions and ordinances.

- 2.14. General Manager's Authority:** The Board of Directors hereby authorizes the General Manager or designee to make such administrative decisions as are necessary to implement these personnel rules and expedite Agency services in accordance with all federal and state laws and regulations and these Policies. The General Manager or designee may delegate responsibility to the Human Resources Manager to perform personnel actions in accordance with these Policies.
- 2.15. Statutory Provisions:** The Board of Directors is the governing body of the Agency and shall exercise all of its powers as provided for in the Mojave Water Agency Law, California Water Code Appendix Section 97-1 et seq.
- 2.16. Copy of Rules:** The Agency will make a copy of these Policies available to each employee of the Agency following changes to the Policies, during employee orientation for new employees; and a copy shall be placed on file with the Agency.
- 2.17. Employee Acceptance:** 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: a) he/she has received a copy of or access to the Policies; b) understands that he/she is responsible to read and become familiar with the contents of and any revisions to the Policies; and c) he/she agrees to abide by these Policies.
- 2.18. Outside Employment:** Employees shall not engage in any voluntary, paid or self-employment activity, or enterprise which is inconsistent, incompatible or in conflict with his/her Agency duties, functions, responsibilities, or that of the department in which he/she is employed at the Agency. 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 prior to undertaking any outside employment as described in this Policy.
- A. Authorization and Appeal Process:
1. Request Form: An employee who wants to undertake a paid outside employment activity, must complete, sign, and submit the "Employee Report On Outside Employment" form (this form can be obtained from the Human Resources Department).
  2. Analysis and Decision: The Human Resources Manager and/or the Department Head will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at the

Agency. If the Human Resources Manager determines such activity is or could be compatible under applied conditions or restrictions, he/she will inform the General Manager. The General Manager shall 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.

3. Appeal: If the Human Resources Manager and/or the Supervisor/Department Head 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.
  4. Authorization Period: 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/she must make another request following the process in this Policy.
- B. Prohibited Outside Activities: An employees outside employment, activity, or enterprise may be prohibited if it:
1. Involves the use for private gain or advantage of Agency time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of the Agency or employment at the Agency;
  2. Involves receipt or acceptance by the employee of any money or other consideration from anyone other than the Agency for the performance of an act that the employee would be required or expected to render in the regular course of his/her Agency employment;
  3. Involves the performance of an act in other than his/her capacity as an Agency 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
  4. Involves time demands that would render the employee's performance of his/her regular Agency employment less efficient or dangerous to the employee.

- C. Changes in Outside Employment Status: The employee must promptly report in writing to the General Manager 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.
- D. 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.
1. The employee's work performance declines; or
  2. 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 Agency.

Should the employee violate any of the requirements set forth herein, said violation may be cause for discipline, up to and including termination, in addition to any other grounds for discipline.

- E. Use of Agency Equipment Prohibited: Under no circumstances may an employee use any Agency equipment, vehicles, tools, supplies, machines, or any other item that is Agency property while an employee is engaged in any outside employment, activity, or enterprise.
- F. Conflict of Interest Prohibited: In addition to the foregoing, the employee shall at all times comply with all applicable provisions of the Agency's Conflict of Interest Code and Personnel Policies and Procedure, the requirements of Government Code Section 1090, and all other applicable provisions of law.

### **SECTION 3. HIRING PROCEDURES.**

- 3.01. Selection Procedures:** The General Manager or designee shall appoint each employee. The General Manager or designee shall establish selection procedures, which shall ensure the employment of the best, qualified applicants, including such factors as education, experience, skills, knowledge, personal qualifications, and potential for growth.
- 3.02. Eligibility:** All persons considered for employment with this Agency shall be qualified to perform the essential functions of the position for which they are considered.

- 3.03. Application Forms:** Job applications shall be made on forms provided by the Agency.
- 3.04. Disqualification of Applications:** The General Manager or designee shall reject any applications that indicate the applicant does not meet the minimum qualifications required for the position; is not properly completed or incomplete; is received after the application deadline; or makes any false statement of any material fact.
- 3.05. Filling Vacancies:** The General Manager or designee has the discretion to decide the manner in which to fill a vacancy including reinstatement, promotion, transfer, demotion, or appointment of temporary employees. When a regular vacancy occurs in an authorized position, the General Manager or designee may attempt, whenever reasonable, to fill the vacant position with an existing Agency employee who is both qualified for the position and willing to accept the employment change. When the General Manager or designee deems it better not to fill the vacancy with an Agency employee, the General Manager or designee may fill the vacancy with a person who is not an Agency employee. The General Manager or designee may determine that it is in the Agency's best interest to leave the position vacant. This section shall not be construed to limit in any way the General Manager's or designee's right to hire the most qualified person available to fill any vacancy.
- 3.06. Appointment:** The General Manager or designee may make an appointment based on a personal interview with the applicant, using his/her best judgment as to the applicant's ability, experience, and adaptability to the position for which the applicant is applying.
- 3.07. Medical Examination:** After the Agency makes a conditional offer of employment, the prospective employee shall be required to complete a pre-employment physical examination that will help to determine their ability to perform the job. A licensed physician or qualified medical professional chosen by the Agency shall perform the examination without cost to the prospective employee. The prospective employee shall be required to complete a medical history questionnaire and a medical records release to facilitate the physical examination at the Agency's preferred doctor's office. The physician will indicate the employee's fitness for employment on the physical examination form. In the event the physical examination is not completed prior to the employee's scheduled start date, only a tentative appointment may be made.

- 3.08. Drug Testing:** After the Agency makes a conditional offer of employment, the prospective employee may be required to undergo a urinalysis for drug screening purposes. See Section 20, Prohibitions on Drugs and Alcohol in the Workplace, for more information on pre-employment drug testing.
- 3.09. Criminal Conviction Check:** After the Agency makes a conditional offer of employment, the General Manager 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 Agency will not deny employment to any applicant solely because he/she has been convicted of a crime. The Agency 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.
- 3.10. Final Appointment:** Final appointment will be contingent on a satisfactory physical examination and background-check results and any other required pre-employment testing. The Agency shall reasonably accommodate qualified individuals with disabilities pursuant to Section 27, Reasonable Accommodation and the Interactive Process.
- 3.11. Notification of Examination Results:** Each candidate in an examination shall be given written notice of the result thereof upon request.
- 3.12. Immigration Law Compliance:** In compliance with the Immigration Reform and Control Act of 1986, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9 within three (3) days of the employee's first day of employment. Former employees who are rehired must also complete the form if they have not completed an I-9 with the Agency within the past three (3) years, or if their previous I-9 is no longer retained or valid.
- 3.13. Reasonable Accommodation:** The Agency provides reasonable accommodations as required under the Americans with Disabilities Act (ADA), the Fair Employment and Housing Act (FEHA), and the California Department of Fair Employment and Housing (DFEH) statutes and regulations. See Section 27, Reasonable Accommodation and Interactive Process below for more information.

## **SECTION 4. EMPLOYMENT.**

- 4.01. Working Hours:** The Agency is open to the public from 8:00 a.m. to 5:00 p.m., Mondays through Thursdays, and Fridays from 8:00 a.m. to 4:30 p.m., except

holidays. The office is closed every other Friday. The standard workweek is nine (9) hours per day up to forty (40) hours per week. The daily work schedule, or designated work week shall be consistent with Section 4.02, approved by each Department Head, and may vary based on job responsibilities. The General Manager or designee has discretion to alter the work schedule (*i.e.*, working hours) on a case-by-case basis, based on the needs of the Agency.

- 4.02. Designated Workweek and Work Schedule:** The Agency works a 9-80 work schedule, which consists of four (4) days at nine (9) hours per day, and eight (8) hours on the fifth day (Friday), with nine (9) hours per day for four (4) days on the alternating weeks. For overtime purposes, a workweek shall begin exactly four (4) hours after the start of the shift of the alternating eight-hour Friday.
- 4.03. Meal Period:** The Agency provides a one-hour non-compensated meal period to all full-time non-exempt employees who work at least an eight-hour work day. The Agency provides a 30-minute non-compensated meal period to all non-exempt full-time employees who work more than five (5) hours in a work day. An employee may waive the employee's right to the meal period in limited circumstances. If a work period of not more than six hours will complete the employee's shift for the work day, the meal period may be waived by mutual consent of the Agency and the employee. Employees who do not agree to waive their meal period in the circumstances described above will be provided a 30-minute non-compensated meal period in accordance with California law and the Agency policy. An employee may not use the meal period to shorten the work day. Non-exempt employees are responsible for taking their meal period at a time designated by their supervisor/department head. A waiver can be obtained from the Human Resources Department.
- 4.04. Rest Period:** The Agency provides a 10-minute compensated rest period to all non-exempt employees for each four-hour period of service. The employee shall take his/her rest period at a time designated by the employee's supervisor/department head. An employee may not use rest periods to shorten the workday or to extend the meal period.
- 4.05. Lactation Accommodation:**
- A. The Agency provides a reasonable amount of break time to accommodate an employee desiring to express breast milk for their infant child. The break time shall, if possible, run concurrently with any break time already provided to the employee.

- B. The Agency will provide employees with the use of a room or location to express milk in private. This room or location may be where the employee normally works. The room or location will:
1. not be a bathroom;
  2. be in close proximity to the employee's work area;
  3. be shielded from view;
  4. be free from intrusion while the employee is expressing milk;
  5. be safe, clean, and free of toxic or hazardous materials;
  6. contain a surface to place a breast pump and personal items;
  7. contain a place to sit; and
  8. have access to electricity or alternative devices including, but not limited to, extension cords or charging stations, needed to operate an electric or battery-powered breast pump.
- C. The Agency will also provide access to a sink with running water and a refrigerator or cooling device suitable for storing milk in close proximity to the employee's workspace. The use of the room for lactation shall take precedence over other uses, but only for the time it is in use for lactation purposes.
- D. If an employee desires an accommodation, the employee must submit a request to the Human Resources Department. If the Agency is unable to provide break time or a location to express milk, the Agency will provide a written response to the employee's request. If the employee feels that the employee's rights have been violated, the employee has the right to file a complaint with the Labor Commissioner.

**4.06. Attendance:** The Finance Department will keep an accurate and current record of attendance, absences, and status of employees, including sick leave and vacation accrued and allowed, overtime for such employee, and related matters.

- A. Advance Notice: All employees are required to seek advance permission from his/her supervisor/department head for any foreseeable absence or deviation from regular working, break, and meal times.

- B. Personal Appointments: Employees shall make every effort to schedule personal appointments outside their working hours.
- C. Unforeseen Late Arrival or Absence: A non-exempt employee who is unexpectedly unable to report for work as scheduled must notify his/her immediate supervisor/department head no later than 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.
- D. Unauthorized Absences: Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent authorization. An overtime-eligible employee who fails to timely notify the supervisor/department head 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.
- E. Excessive Tardiness/Absenteeism and Abuse of Leave:
  - 1. 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.
  - 2. Excessive absenteeism occurs when the number of unapproved absences for reasons that are not permitted by state or federal law, exceeds three (3) days in any three (3) month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination.
  - 3. Abuse of leave occurs when an employee claims to be entitled 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 Agency suspect that there is an abuse of leave by an employee, the Agency may require that the employee submit a physician's certificate to support the absence.
- F. Attendance Records: The Agency will maintain records of employee attendance to identify critical and chronic attendance problems that may require corrective action.

- G. Performance Evaluation: Each supervisor/department head will review and consider an employee's attendance when considering an employee's annual performance evaluation.

#### **4.07. Personnel Changes:**

- A. The Human Resources Department shall complete an "Employee Change Form" to carry out all actions affecting an employee's position, classification, salary, work department, or payroll deductions.
- B. It is the responsibility of each employee to notify the Human Resources Department promptly of any changes in personal data. Personal mailing addresses, telephone numbers, number and names of dependents, educational accomplishments, individuals to be contacted in the event of an emergency, and other such status reports should be accurate and current at all times.

#### **4.08. Classifications:** All appointments shall be under one of the following types:

- A. Regular Full-Time: Employee will work the standard forty (40) hour workweek and receive compensation and benefits as herein provided.
- B. Regular Part-Time: Employee works less than the normal forty (40) hour workweek, but on a regular basis. Compensation and benefits are proportionate to that received for full-time work. However, vision, dental, and life insurance coverages are available in full proportion to that received by regular full-time employees. Part-time employees are subject to the same standards of performance as regular full-time employees.
- C. Temporary Full-Time: Employees who hold a position which has been authorized by the Agency for only a limited period of time or for the duration of a specified project. Temporary full-time employees shall be employed as if for regular employment, and on appointment shall be given written notice of the limited nature of their employment and of the fact that they shall not earn the right to employment past the period authorized. Temporary full-time employees shall receive the same fringe benefits as regular full-time employees.
- D. Temporary Part-Time: Temporary employees who work part-time on an hourly basis as required by the Agency. Temporary part-time employees are not eligible for Agency benefits that are not required to be provided by

law such as vacation leave and sick leave beyond what is required by law; and vision, dental or life insurance coverage.

- 4.09. Probationary and Regular Employees:** All original appointments and promotions of employees shall be subject to a probationary period of twelve (12) months, which can be extended an additional twelve (12) months if deemed necessary by the General Manager or designee. A probationary employee may be dismissed without cause at any time during the probationary period. An employee who serves the required probationary period in a satisfactory manner shall be classified as a regular employee and shall be subject to termination only for cause.
- 4.10. At-Will Employees:** All at-will employees serve at the pleasure of the appointing authority, and have no property right in continued employment. Temporary employees, non-exempt employees, and probationary employees are at-will employees of the Agency who serve at the pleasure of the Agency's General Manager.
- 4.11. Driver's License and Insurance Requirements:** Possession of a current, valid California driver's license and insurability are a prerequisite for employment for positions that include driving as a job requirement. The Agency will consider any violation on an employee's driving record prior to employment in the insurability review and may, in conjunction with post-hire violations, result in un-insurability. An employee who becomes uninsurable or no longer possesses a valid California driver's license due to violations received on or off the job during the term of employment with the Agency, regardless of fault, may be subject to immediate termination. Employees must provide to the Agency a copy of a valid California driver's license and driving record for the last three (3) years prior to employment and on an annual basis, and proof of insurance. Employees must also notify the Agency immediately upon loss or suspension of license or becoming uninsurable. The Agency may require an employee to participate in the Employer Pull Notice ("EPN") Program depending on the employee's position.
- 4.12. Use of Agency Vehicles:** Employees using Agency vehicles at any time must obey all traffic laws. Violations of this section may result in discipline, up to and including termination.
- A. Employees On-Call: An employee On-Call must sign a waiver acknowledging the terms and conditions for using an Agency vehicle before he/she may use an Agency vehicle. An employee On-Call may not

use an Agency vehicle for personal use and may not allow any person other than an Agency employee to operate an Agency vehicle or ride as a passenger in an Agency vehicle. An employee On-Call must first receive written approval from the General Manager or designee before the employee may take an Agency vehicle home overnight. An employee on-call will be provided an Agency vehicle to take home for Agency use while on-call (see Section 8.07B).

- B. Employees Assigned Agency Vehicles: Employees assigned Agency vehicles in their contract or employment agreement, must sign a waiver acknowledging the terms and conditions for using an Agency vehicle before he/she may use the Agency vehicle. Employees assigned Agency vehicles may not use Agency vehicles for personal use, may not allow any person other than an Agency employee to operate an Agency vehicle, and may not allow any person other than an Agency employee to ride as a passenger in an Agency vehicle unless the passenger is riding for business related reasons and the employee has prior authorization from the General Manager or designee to have such passenger. However, an employee assigned an Agency vehicle may take his/her Agency assigned vehicle home overnight.
- C. Use of Agency Vehicles for Out-of-Town Meetings, Trainings, and Conferences: An employee may check out an Agency vehicle for use to attend an out-of-town meeting, training, or conference. However, an employee must first be authorized to use the vehicle and sign a waiver acknowledging the terms and conditions for using an Agency vehicle before he/she may use an Agency vehicle. If the employee must depart for the out-of-town meeting, training, or conference before regular working hours, the employee may check out the Agency vehicle the night before and keep the Agency vehicle at his/her home overnight. If the employee returns from the out-of-town meeting, training, or conference after regular working hours, the employee may keep the Agency vehicle at his/her home overnight and return the Agency vehicle the following morning. Employees may not use Agency vehicles for personal use, may not allow any person other than an Agency employee to operate an Agency vehicle, and may not allow any person other than an Agency employee to ride as a passenger in an Agency vehicle unless the passenger is riding for business related reasons and the employee has prior authorization from the General Manager or his/her designee to have such passenger.

## SECTION 5. LAY-OFF AND RECALL PROCEDURES.

**5.01. Lay-Off:** Whenever it becomes necessary to reduce the number of employees because of lack of work, lack of funds, or in the interest of economy, the General Manager or designee shall have the authority to implement the use of furlough days at his/her discretion and/or approve the specific positions to be discontinued.

### **5.02. Procedures for Lay-Off:**

- A. Order of Lay-Offs: When a lay-off is necessary, the formula used for the selection of positions to be eliminated shall be based upon neutral, and not prohibited, criteria. The Agency may retain an employee due to that employee's special training, ability, knowledge, or experience. 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, suspension, or layoff. Within each classification, employees will be laid off in the following order: temporary; part-time; probationary; and for-cause status. If two (2) 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 Lay-Off: Affected employees shall be given reasonable advance notice in writing of an impending lay-off. The Agency shall furnish any laid-off employee with notice of his/her rights to continued health care coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA).
- C. Displacement Rights: Employees whose positions have been deleted may bump employees in the same or lower classifications having less Agency seniority, at the General Manager's or designee's discretion.
- D. Benefits Upon Recall: An employee who is laid off will retain accrued vacation and sick leave benefits if recalled within twelve (12) months; however, an employee may elect to receive payment for accrued benefits at the time of lay-off.

- E. Termination Pay: In case of lay-off of a regular employee of the Agency through no fault of his/her own, and who has been employed for one (1) continuous year, termination pay equivalent to one (1) bi-weekly salary payment shall be made to the employee.

**5.03. Recall:**

- A. A recall of employees from lay-off will begin with the most senior position in the classification refilled.
- B. Employees who are laid off will remain on a recall list for twelve (12) months and shall be given the first opportunity to fill vacancies in classifications from which they were laid off and for which they are qualified.
- C. Recalled employees shall not have to serve a probationary period and will have all prior existing rights, benefits, and entitlements restored, providing they meet the current standards for the position they are recalled to fill.
- D. The Agency shall notify recalled employees of the recall by certified letter. Such employees who do not directly contact the General Manager or designee within ten (10) working days of the mailing date of said letter shall be removed from the recall list automatically.

**SECTION 6. RESIGNATION, JOB ABANDONMENT, AND RETIREMENT.**

**6.01. Resignation:** An employee who desires to resign in good standing shall submit his/her resignation in writing to the General Manager or designee at least two (2) weeks in advance of his/her intended resignation date. Resignation will not entitle an employee to any termination benefit. 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 Agency. A resignation becomes final and irrevocable when the General Manager or designee accepts the resignation in writing. The General Manager or designee can accept a resignation even if the employee submits the resignation less than two (2) weeks prior to the intended resignation date.

**6.02. Involuntary Resignation:** An involuntary resignation may result from the following:

- A. An employee who is absent from his/her position for five (5) or more consecutive work days/shifts without prior authorization and without notification to his/her supervisor/department head or the General Manager or designee may be deemed to have resigned from Agency service.
- B. Failure to return from a leave of absence may be considered an automatic resignation.
- C. The employee will be given written notice, at his/her address of record, of the circumstances of the involuntary resignation, and an opportunity to provide an explanation for the employee's unauthorized absence. An employee who promptly responds to the Agency's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the General Manager or designee before final action is taken, to explain the unauthorized absence and failure of notification. The Agency will reinstate an employee separated for job abandonment upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment that prevented notification. No employee separated for job abandonment has the right to a post-separation appeal.

**6.03. Retirement:** An employee planning to retire shall provide a written notice to the General Manager or designee prior to the effective date of the retirement. A notice of retirement becomes final when the General Manager or designee accepts the notice of retirement in writing.

## **SECTION 7. BENEFITS ELIGIBILITY.**

When an employee is separated from employment for any reason except for a lay-off, employee benefits are lost, effective the date of separation, except for vested rights under any applicable retirement plan and accrued vacation. Involuntary resignation or termination shall not entitle an employee to any termination payment.

## **SECTION 8. COMPENSATION.**

**8.01. Paydays:** The Agency shall pay all employees bi-weekly on the Wednesday following the end of the pay period. If a payday falls on a holiday, the Agency shall pay all employees on the immediately preceding workday.

**8.02. Method of Calculation:** The equivalent hourly rate of employees paid on a bi-weekly basis will be calculated by multiplying the basic monthly salary of the

employee by 12 (for the number of months in the year) and then dividing by 2,080 hours (representing 52 weeks of 40 hours).

**8.03. Responsibility for Payroll Preparation:** The Finance Department is responsible for preparing the payroll checks.

**8.04. Overtime Pay:**

- A. Agency Policy: It is the Agency's policy that Agency work is done during regular working hours. Non-exempt employees must have their supervisor's/department head's pre-approval and authorization before working any overtime. The General Manager and all exempt personnel, as defined by the Agency Board of Directors, are not entitled to overtime pay.
- B. Calculation of Overtime: Overtime shall be provided to non-exempt employees in accordance with the FLSA for all hours worked in excess of forty (40) hours in a workweek. For calculating overtime hours, a workweek shall begin exactly four (4) hours after the start of the shift of the alternating eight-hour Friday. Vacation time shall count as hours worked in the workweek. Sick leave will only count as hours worked in the workweek if the extra hours worked were because of an Agency emergency and approved by the employees' supervisor/department head. The employees' day of work shall begin at the normally scheduled start time as determined by their supervisor/department head. Overtime shall also be provided to non-exempt employees who work in excess of twelve (12) hours in a work day.
- C. Overtime Rate: Any overtime work shall be paid at the rate of one and one-half (1 ½) times the employee's regular rate of pay for work in excess of forty (40) hours in a work week or two (2) times the employee's regular rate of pay for work in excess of 12 hours a day upon approval by the supervisor/department head and paid to the employee at the same time as his/her regular pay.
- D. Overtime on Holidays: Employees required to work on a scheduled holiday shall be paid at the rate of one and one-half (1 ½) times the employee's regular rate of pay upon approval by the General Manager or designee and paid to the employee at the same time as his/her regular pay. This is 1 ½ times regular pay rate and is not to be in addition to regular hours worked (which would be 2 ½ times the regular pay rate).

The one and one-half (1 ½) rate for working on a Holiday is for overtime on a holiday or still within the regular 40 hours worked for that week.

- E. Travel: Whether travel made on days off, whether at the request of the Agency or not, is eligible for overtime is determined on a case-by-case basis based on the nature of the travel involved.
  - F. Prior Approval Required for Overtime: The Agency prohibits non-exempt employees from working overtime except as directed and authorized by their supervisor/department head, or in case of emergency, as determined by the Agency. Working overtime without prior authorization or approval is grounds for discipline. In emergencies that necessitate working overtime, the employee must notify a supervisor/department head as soon as possible, and in no event later than the end of that day upon which the emergency occurred. If the supervisor/department head denies the request to work overtime, the employee must obey the supervisor's/department head'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.
  - G. No Volunteering of Work Time: Employees must report all time worked for the benefit of the Agency as hours worked on time records so that the employee receives payment 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/department head has authority to request non-exempt employees to volunteer work time.
  - H. No Remote Access for Overtime-Eligible Employees: Unless the General Manager or designee specifies otherwise in writing, non-exempt Employees may only have remote access to Agency equipment, resources, or email if approved in writing in advance by the General Manager or designee.
  - I. Accurate Time Reporting: All employees must accurately report all work time to the nearest five (5) minutes.
- 8.05. Compensatory Time Off (CTO):** A non-exempt employee may opt to accrue compensatory time-off ("CTO") in lieu of cash payment for overtime worked if his/her Department Head/General Manager agrees prior to overtime work being performed.

- A. Accrual Rate: CTO accrues at the rate of one and one-half (1.5) hours for each hour, or fraction thereof, worked after forty (40) hours of actual work within the employee's designated workweek. Time in paid leave status does not count toward CTO. Employees cannot accumulate CTO in excess of eighty (80) hours at any given time.
- B. Employee Request to Use CTO: The Agency 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/department head no later than five (5) days prior to the date requested. If the employee does not provide five (5) days' notice, or if the department cannot accommodate the time off without undue disruption, the Agency will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.

#### **8.06. Salary Schedule:**

- A. The Board of Directors shall adopt a salary schedule pursuant to Section 8.11.A. hereof.
- B. The General Manager or designee shall develop job descriptions and salary ranges for every classification and update these as necessary; ranges shall be updated as necessary but approved annually by the Board of Directors in compliance with CalPERS policies.
- C. Compensation of the General Manager shall be as agreed by negotiation with the Board of Directors.

#### **8.07. On-Call Pay:**

- A. Employees may be required to be On-Call to respond to emergencies that may arise.
- B. The Agency will compensate employees On-Call at a rate to be determined by the Agency's Board of Directors and/or General Manager in accordance with these Policies. Employees On-Call will receive an Agency vehicle to take home for Agency use while On-Call. Please see Section 4.12 above for further information on employee use of Agency vehicles.

- C. New employees who may not have the experience to be solely on-call and may need assistance until he/she gains the needed experience of the Agency's operations and maintenance, will be classified as "On-Call Operator in Training" and will be compensated at a rate determined by the Agency's Board of Directors and/or General Manager or designee.
- D. Employees On-Call shall be able to respond within one (1) hour of a report of emergency.
- E. Employees On-Call shall receive a minimum two-hour overtime call provision when required to show up on location of an incident.
- F. Employees On-Call must remain free of alcohol or any substance that can impair the employee's judgment.

**8.08. Payroll Deductions:** The Finance Department shall deduct from each employee's salary or wages such amounts as may be required by law or as may be authorized by the employee for the following purposes:

- A. Federal income tax (withholding).
- B. State income tax.
- C. State disability insurance.
- D. Medicare tax.
- E. Such other deductions as may be required by law and/or as may be authorized by the employee and/or the Board of Directors. When so authorized or required, the Finance Department shall make such deductions and shall pay the amounts thereof into the specified agency, firm, or group.

**8.09. Mistaken Overpayment:** In the event an employee receives wages in excess of those to which the employee is entitled, the Agency reserves the right to obtain reimbursement from the employee for the overpayment as such overpayment constitutes an impermissible gift of public funds in violation of Article XVI, Section 6 of the California Constitution. The overpayment will be deducted from the first payroll after the overpayment has been identified. The Agency and the employee may enter into an agreement for the employee's reimbursement for the overpayment, which may include deductions for one (1) or more paychecks.

**8.10. Performance-Based Evaluation Process:** Evaluations, annual rate reviews, and position reviews are not subject to the grievance procedure.

- A. Employees will be evaluated annually based on their performance during the preceding year. This evaluation is based on sections entitled "General Performance Standards (Performance)", "Core Values (Values)", and "Personal and Performance Objectives (Objectives)". The concept of the performance-based merit system is that each employee's salary will reflect his/her work performance (see Human Resources Department for form).
- B. Each supervisor/department head will meet with an employee prior to the review to set or change both the weight assigned to each item and the objectives for the year. Each element in each section is weighted to reflect the importance it has relative to that employee's specific duties.
- C. Each employee shall be evaluated the twelfth month of employment (unless their probation has been extended), then thereafter, each July 1. This evaluation shall be based on the employee's performance as outlined by the previously established goals, objectives, and performance measures. The supervisor/department head and employee will also work together during this period to establish new or revised objectives for the following year. Any merit increase awarded will be effective as of July 1.
- D. In the event an employee's objectives or weights are modified, either during the annual evaluation or during the year, the supervisor/department head shall modify the individual objectives or weights and communicate the changes to the employee and Human Resources Manager.

**8.11. Salary Review Process:** Evaluations, annual rate reviews, and position reviews are not subject to the grievance procedure.

- A. Annual Salary Range Review Process: Each year, the Agency may conduct a general market trend analysis to determine whether the market has increased or decreased over the preceding year and whether such market fluctuation should result in an adjustment to the Agency's salary ranges. Staff's recommendation, based on this analysis, shall be presented to the Board of Directors during the annual budget review. Should the Board of Directors authorize an adjustment to the wage ranges, such adjustment shall have no effect on an individual's current rate of pay except to the extent such fluctuation places an employee below the minimum of the new salary range. An employee's rate of pay will only be adjusted pursuant to the job performance review process or as otherwise specified herein.

- B. Annual Budget Review Process: Each year, staff shall recommend to the Board of Directors a salary adjustment budget for approval. The salary budget may include either a cost-of-living increase, merit pool increases, or both. The cost-of-living increase will be the same percentage applied to all employees. The cost-of-living is typically set to be the percentage set by the Bureau of Labor Statistics Consumer Price Index data for the San Bernardino/Riverside area for the preceding September to September twelve (12) month period. The merit pool will be distributed to the employees based on their individual evaluations throughout the year. The range changes made based on the market adjustment will be effective July 1.
- C. Non-base Building Compensation: If a merit increase applied to an employee's pay pursuant to the performance evaluation process described under Section 8.10 results in pay above the upper of their salary range, that employee shall be eligible to receive such non-base building compensation. Any portion of this increase in pay that takes the employee's pay above the upper of their salary range is temporary and does not add to the employee's continuing regular pay. Any merit increase applied to an employee's pay shall be based on at most the upper of an employee's salary range. Under no circumstance may an employee be eligible for non-base building compensation that exceeds the max of their salary range.
- D. Promotions: A promotion is defined as taking a position that is in a salary range higher than the current position. Employees who are promoted to another position shall receive a minimum five percent (5%) increase provided the five percent (5%) does not exceed the top of the new salary range. Employees who are promoted shall be subject to a twelve (12) month probationary period. If the employees' current wage rate is below the bottom level of the new salary range, they will be increased/placed at the bottom level rate of the new salary range. In the event an employee does not satisfactorily complete his/her probationary period, the employee may be reinstated to his/her prior position if it is still vacant but will lose the salary increase. Employees should not be placed higher than the midpoint of the range without General Manager or designee approval.
- E. Transfers: Employees who voluntarily transfer to another position that is in the same salary range as their current position shall not be eligible for an increase. In the event an employee's transfer is at the specific request of the Agency based on the needs of the operation, such employee shall be

compensated with an increase up to a maximum of five percent (5%), provided such increase does not exceed the maximum of the current salary range. Employees who are transferred shall be subject to a twelve (12) month probationary period. If the employees current wage rate is below the bottom level of the new salary range, they will be increased/placed at the bottom level rate of the new salary range. In the event an employee does not satisfactorily complete his/her probationary period, the employee may be reinstated to his/her prior position if it is still vacant but will lose the salary increase.

- F. Position Reclassification: In the event a current position is re-evaluated and reclassified to a higher salary range, the incumbent in that position shall be placed in the new salary range at approximately the same relative level the employee held in the previous range. This procedure shall apply only when the reason for the reclassification is due to the addition of new or more complex responsibilities. In the event the responsibilities remain unchanged, the employee shall remain at the same wage rate unless the current wage rate is below the entry level of the new salary range, at which time the employee shall be increased to the bottom-level rate of the new salary range. However, the employee must meet the minimum qualifications of the job duties for the reclassified position.

**8.12. Position Review Process:** Evaluations, annual rate reviews, and position reviews are not subject to the grievance procedure.

- A. New Position Development and Review Process:

1. A detailed job description must be developed utilizing the authorized format.
2. A limited or directed marketplace review and internal evaluation of this position may be conducted by the General Manager or designee at the request of the supervisor/department head. The General Manager or designee shall determine the budget capacity of the new position and, if appropriate, include the new position in the staff's budget recommendation to the Board of Directors.

- B. Existing Position Review Process:

1. The job description must be revised to reflect an increase in responsibility that would justify the salary range change, or in the event the market for the position has changed to the degree to

warrant a re-evaluation of the position, such justification must be prepared.

2. A limited or directed marketplace review and internal evaluation of this position may be conducted by the General Manager or designee at the request of the supervisor. The General Manager or designee shall determine the budget capacity of the new position and, if appropriate, include the new position in the staff's budget recommendation to the Board of Directors.

C. Interim or Temporary Positions within the Same Salary Range for Regular Employees: An employee who formally assumes the additional duties and responsibilities of another position that is within the employee's same salary range may be eligible for a salary increase for an interim period under the following conditions:

1. The employee is formally assigned the additional duties and responsibilities of another position, and the General Manager or designee approves the assignment.
2. Such additional duties and responsibilities are over a limited and specified time period of not less than fourteen (14) days.
3. Such duties and responsibilities are in addition to the employee's current duties and responsibilities.

The interim salary increase shall be based on the complexity of the additional duties as determined by the Department Head up to a maximum of five percent (5%) with the approval of the General Manager or designee. Once the employee's interim period has ended, the employee will return to his/her previous salary.

D. Interim or Temporary Positions with a Higher Salary Range: An employee, who formally assumes the additional duties and responsibilities of another position that is in a higher salary range, may be eligible for an interim salary increase under the conditions outlined in Subsection C above, subject to General Manager or designee approval. Such interim salary increase shall be a minimum of five percent (5%) or up to the mid-point of the higher salary range.

E. Interim or Temporary Positions with Multiple Salary Ranges: An employee who is assigned a variety of additional duties and responsibilities on an

interim basis, which involve more than one specific position, may be eligible for a salary increase equivalent to the level and complexity of the additional responsibilities, subject to General Manager or designee approval. Such employee may be offered a maximum of five percent (5%) over the mid-point of the salary range of the highest-level position involved.

## **SECTION 9. SICK LEAVE.**

**9.01. Purposes for Sick Leave:** Sick leave is paid leave from work that can be used for the following purposes:

- A. 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; or
- B. For an employee who is a victim of domestic violence, sexual assault, stalking or other crime in order for the employee to engage in any of the following activities: 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 the employee's 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.

**9.02. Accrual & Carryover:**

- A. Accrual & Carryover for Different Categories of Employees:
  - 1. Employees in regular positions who are not temporary employees shall accrue sick leave prorated on the basis of eight (8) hours per month with a maximum of 96 hours per year. Accrued sick leave carries over from year to year.
  - 2. Employees in temporary positions who work thirty (30) or more days within a year from the commencement of employment with the Agency accrues one (1) hour of paid sick leave for every thirty (30) hours worked. Accrued and unused sick leave carries over to the following year of employment but employees in temporary positions stop earning sick leave once he/she has accrued forty-eight (48) hours or six (6) work days/shifts, whichever is greater.

- B. **Sick Leave Use:** Earned sick leave shall be available for use the first day following the month in which it is earned subject to the limits and request provisions in this Policy. Employees may use accrued sick leave, in a minimum increment of two (2) hours, upon completion of one (1) full pay period of continuous service.

**9.03. Protected Sick Leave:**

- A. For employees in regular positions 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.
- B. For employees in temporary positions, up to twenty-four (24) hours, or three (3) 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.

**9.04. Sick Leave Request:** To request to use sick leave if the need for leave is foreseeable, an employee must give the immediate supervisor/department head reasonable 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 (1) day, the employee must keep the immediate supervisor/department head 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.

**9.05. Certification:** The Agency may require that employees who are not in temporary positions must provide a physician's certification to support any absence that involves the illness of the employee or family member if the Agency suspects that there is an abuse of sick leave by the employee. All employees, including those in temporary positions, who use paid leave to address issues related to domestic violence, sexual assault, stalking, or other crimes and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter.

**9.06. Sick Leave Conversion:**

Sick Leave Conversion: Upon retirement, resignation, death, or termination, an eligible employee or the estate of an eligible employee will be paid for unused sick leave accrued to the date of termination according to the following formula:

<u>Sick Leave Accrued As Of Date of Termination</u>	<u>Cash Payment % of Hours Accrued Sick Leave</u>
480 Hours or Less	30%
481 Hours to 600 Hours	35%
601 Hours to 720 Hours	40%
721 Hours to 840 Hours	45%
841 Hours to 960 Hours	50%

Upon retirement, the total remaining sick leave hours are reported to CalPERS and become additional service credits toward the employee's retirement. At the employees' option, all sick leave may be reported to CalPERS in lieu of a cash payment.

- 9.07. Sick Leave Reinstatement:** If an employee separates, is rehired within one (1) year from separation, and did not convert sick leave pursuant to Section 9.06 above, accrued and unused sick leave, to a maximum of six (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 Agency may immediately use reinstated sick leave. An employee who had not worked 90 days in the initial employment with the Agency must work the remaining amount of the 90 day-qualifying period to be able to use accrued sick leave.

**SECTION 10. FAMILY AND MEDICAL CARE LEAVES.**

- 10.01. Statement of Policy; Concurrent Running of FMLA and CFRA Leaves:** The Agency provides family and medical care leave for eligible employees up to 12 weeks per rolling 12-month period in accordance with California's Moore-Brown-Roberti Family Rights Act ("CFRA") and the federal Family and Medical Leave Act of 1993 ("FMLA").

Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination. Employees who fraudulently obtain

or use CFRA leave are not protected by the CFRA's job restoration or maintenance of health benefits provisions. Unless otherwise stated in Section 10, all references to "leave" in Section 10 means leave pursuant to the FMLA and CFRA. Unless otherwise provided by law, the Agency will run each employee's FMLA and CFRA leaves concurrently.

This Policy is supplemented by the FMLA, and the CFRA. Notwithstanding anything herein to the contrary, all applicable provisions of the CFRA and FMLA as may be amended from time to time, as well as all other applicable statutory requirements, are hereby incorporated herein and shall control over any inconsistent provisions of the Agency's Policies. Employees with any questions regarding this Policy should contact the Agency's Human Resources Department.

**10.02. Required Forms:** Employees must complete the applicable forms to receive family and medical care leave. Employees may find these forms in the Human Resources Department.

**10.03. Definitions:**

- A. "12-Month Period" means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.
- B. "Single 12-Month Period" means a 12-month period that begins on the first day the eligible employee takes FMLA leave to take care of a covered servicemember and ends 12 months after that date.
- C. "Family Member" for FMLA leave means an employee's child, parent, and spouse. "Family Member" for CFRA leave means an employee's child, parent, spouse, domestic partner, grandchild, grandparent, and sibling.
- D. "Child":

Under the FMLA, "child" means 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 stepchild. 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.

Under the CFRA, “child” means a child, including a child who is 18 years of age or older who is incapable of self-care. An employee’s child means a biological, adopted, foster, stepchild, legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.

- E. “Parent” means the biological 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.
- F. “Spouse” means 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.
- G. “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 equivalent substantially to the California domestic partnership is also sufficient.
- H. “Grandparent” means a parent of the employee’s parent.
- I. “Grandchild” means a child of the employee’s child.
- J. “Sibling” means a person related to the employee by blood, adoption, or affinity through a common legal or biological parent.
- K. “Serious Health Condition” means an illness, injury impairment, or physical or mental condition that involves:
  - 1. 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

2. 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:
    - i. 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
    - ii. 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.
3. 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 disability leave. See Section 10.17 below.
4. 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.
5. 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 a health care provider.
  6. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care 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.
- L. "Health Care Provider" means:
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.
- M. "Covered active duty" means: 1) 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 2) 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.
- N. "Covered Servicemember" means: 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.
- O. "Outpatient Status" means, with respect to a covered servicemember, 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.
- P. "Next of Kin of a Covered Servicemember" means the nearest blood relative other than the covered servicemember's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered servicemember by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered servicemember has specifically

designated in writing another blood relative as his or her nearest blood relative for purposes of military caregiver leave under the FMLA.

- Q. “Serious Injury or Illness” means: 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 servicemember 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 servicemember 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.

#### **10.04. Eligibility:**

- A. To be eligible for family and medical care leave, an employee must:
1. Have worked for the Agency for at least twelve months prior to the date on which the leave is to commence;
  2. Have worked at least 1,250 hours in the twelve (12) months immediately preceding the commencement of the leave; and
  3. For FMLA leave eligibility, the Agency directly employs five (5) or more persons to perform services for a wage or salary. The phrase “current or preceding calendar year” refers to the calendar year in which the employee requests the leave or the calendar year preceding this request.
- B. To be 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, an employee must:
1. Have worked for the Agency for at least twelve months prior to the date on which the leave is to commence;
  2. Have worked at least 1,250 hours in the twelve (12) months immediately preceding the commencement of the leave; and

3. The Agency directly employs at least 20 full or part-time employees within a 75-mile radius.

**10.05. Permissible Uses for Family and Medical Care Leave:** An employee may request Family and Medical Care Leave 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. Under the CFRA only, leave is permitted to care for a domestic partner, grandparent, grandchild, or sibling who has a serious health condition. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA;
- E. Leave because of a serious health condition that makes the employee unable to perform any one or more essential functions of his/her position;
- F. 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; or
- G. Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered servicemember 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.

**10.06. Substitution of Paid Leave for Family and Medical Care Leave:** Although family and medical care leave is unpaid, the Agency will require an employee to concurrently use all paid accrued leaves during family and medical care leave as described below.

- A. Agency’s Right to Require an Employee to use Paid Leave when using FMLA/CFRA Leave: Employees are required to use and exhaust their accrued vacation time and other paid personal leave (except sick leave)

concurrently with all family and medical care leaves with two exceptions as described below:

1. 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
  2. An employee must agree to use accrued sick leave to care for a child, parent, spouse, or domestic partner.
- B. Sick Leave: Employees may elect to use sick leave concurrently with family and medical care leave to attend to the employee's own serious health condition or that of the employee's child, parent, spouse, or domestic partner, or for other types of family care leave. An employee on family and medical care leave for his/her own serious health condition may use sick leave or flex time, if available, for additional time off on a pro-rata basis, with total benefits not exceeding wages or salary at the time of the leave.
- C. Agency'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 Agency will designate that leave as running concurrently with the employee's 12-week FMLA/CFRA leave entitlement.
- D. Agency 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 Agency may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. However, if the Agency denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the Agency may require the employee to exhaust accrued leave as described above.

**10.07. Amount of Leave:** An eligible employee may take a maximum of 12 workweeks (or 26 workweeks to care for a covered servicemember) of family and medical care leave in a rolling 12-month period measured backwards from the date the employee's leave commences. 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.

The substitution of paid leave for family and medical care leave does not extend the total duration of family and medical care leave to which an employee is entitled to beyond 12 weeks in a 12-month period. For example, if an employee has accrued four weeks of unused paid vacation time at the time of the request for family and medical care leave that paid vacation time will be substituted for the first four weeks of family and medical care leave, leaving up to eight additional weeks of unpaid leave.

**10.08. Minimum Duration of Leave:**

- A. If leave is requested for the birth, adoption, or foster care placement of a child of the employee, leave generally must be taken in blocks of at least two weeks' duration; however, the Agency will provide employees with leave for birth, adoption, or foster care placement of less than two weeks' duration on any two (2) occasions. Leaves taken for the birth, adoption, or foster care placement of a child must be concluded within one year of the birth, adoption, or placement.
- B. If leave is requested to care for a child, parent, spouse, domestic partner, grandparent, grandchild, sibling or the employee themselves 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.

**10.09. Intermittent Leave or Leave on a Reduced Schedule:** Family or medical care leave for the employee's own serious health condition, or to care for the serious health condition of the employee's spouse or domestic partner, parent, or child, may be taken intermittently or on a reduced schedule where the employee provided 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. If leave is taken intermittently or on a reduced schedule, the Agency retains the discretion to transfer the employee temporarily to an alternative position with equivalent pay and benefits which better accommodates the employee's leave schedule.

**10.10. Parents both Employed by the Agency:** Parents who are both employed by the Agency who request to take leave for the birth, adoption, or foster care of their child are entitled to bonding leave as follows

- The aggregate number of workweeks of FMLA leave to which both may be entitled may be limited to 12 workweeks during any 12-month period; and

- Each parent is entitled to take 12 workweeks of CFRA leave during any 12-month period.

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

**10.11. Leave's Effect on Pay:** Except to the extent that other paid leave is substituted for family or medical care leave, family and medical care leave is unpaid. Employees may be entitled to Paid Family Leave (PFL) for up to six (6) weeks in any twelve-month period. PFL provides a partial wage replacement for absences from work to care for a seriously ill or injured family member or for bonding with a minor child within one year of the birth or placement of the child in connection with foster care or adoption. Employee contributions for short-term disability provide funding for this program. PFL is administered like State Disability Insurance by the California Employment Development Department. PFL must be taken concurrently with family and medical care leave and does not entitle an employee to take any additional time off. In addition, an employee must use up to two weeks of any accrued but unused vacation before the employee will be eligible to receive PFL.

**10.12. Leave's Effect on Benefits:**

- A. Health Insurance During Unpaid Leave: During an employee's family or medical care leave, for up to a maximum of six (6) months in a twelve (12)-month period, the Agency will continue to pay for the employee's participation in the Agency's group health, vision, and, dental plans to the same extent and under the same terms and conditions as would apply had the employee not taken leave.
- B. Employees will continue to accrue vacation, sick time, holidays, health, vision, and dental benefits during the first six (6) months of an approved leave of absence. However, no tenure or benefits will accrue after six (6) months, if the employee is still on a leave of absence, until such time as all accrued vacation and sick leave are used.
- C. 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/her paid leave) or direct payments (if the employee is not using his/her paid leave). The Agency

will inform the employee whether the direct payments for premiums should be paid to the carrier or to the Agency, 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.

- D. Recovery of Premiums if Employee Fails to Return from Leave: If the employee fails to return to work after his/her leave entitlement has been exhausted or expires for a reason other than the recurrence, continuation, or onset of a serious health condition of the employee or his/her family member which entitle the employee to leave or because of other circumstances beyond the employee's control, the Agency can recover any health premiums paid by the Agency on the employee's behalf for the entire leave period.
- E. Accrual of Benefits: Employees on family and medical care leave accrue employment benefits such as sick leave, vacation benefits, or seniority only when paid leave is substituted for unpaid leave and only if the employee would otherwise be entitled to such accrual.
- F. Coordination of Benefits: At the employee's option, a leave of absence for a non-work-related disability will be coordinated with short-term and long-term disability, or any other benefits provided to the employee in an effort to minimize the impact of a leave of absence for both the employee and the Agency.

**10.13. Employee Notice and 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 Notice of Leave: Although the Agency 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 the employee 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 their 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.

- B. 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 their position. Upon expiration of the time period the health care provider originally estimated that the employee needed for their own serious health condition, the employee must obtain recertification if additional leave is requested.
- C. Family Member Serious Health Condition: Employees who request leave to care for a child, parent, domestic partner, spouse, grandparent, grandchild, or sibling 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, spouse, grandparent, grandchild, or sibling 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, domestic partner, spouse, grandparent, grandchild, or sibling. 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.
- D. 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 Agency will verify the certification as permitted by the FMLA regulations.
- E. Qualifying Exigency: The first time an employee requests 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 Agency 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 Agency will verify the certification as permitted by the FMLA and CFRA regulations.

- F. Time to Provide a Medical Certification: When an employee has provided at least 30 days' notice for a foreseeable leave, the employee must provide the required medical certification to the Agency before the leave begins. When this is not possible, employees must provide the required medical certification to the Agency within 15 calendar days after the Agency's request for certification, unless it is not practicable under the circumstances to do so, despite the employee's diligent, good faith efforts.
- G. Consequences for Failure to Provide an Adequate or Timely Medical 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 Agency 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. Any request for an extension of the leave also must be supported by an updated medical certification.
- H. Second and Third Medical Opinions for Employee's Own Serious Health Condition: If the Agency has a good faith, objective reason to doubt the validity of the medical certification provided by the employee for the employee's serious health condition, the Agency may require the employee to obtain a medical opinion from a second health care provider of the Agency's choosing at the Agency's expense. If the employee's health care provider and the doctor providing the second opinion do not agree, the Agency may require the opinion of a third health care provider jointly approved by the Agency and the employee, also at the Agency's expense. The opinion of the third provider will be binding. The Agency will provide the employee with a copy of the second and third medical opinions, where applicable, without cost, upon the request of the employee. Before permitting the employee to return to work, the Agency

also may require the employee to provide medical certification that the employee is able to return to work.

**10.15. General Manager's or Human Resources Manager'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/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 General Manager or Human Resources Manager will give the employee written notice of the deficiencies and seven (7) 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 General Manager or Human Resources Manager 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 that the health care provider verify that he/she signed the form and completed or authorized the information on 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 General Manager or Human Resources Manager may not ask for additional information beyond that required on the certification form.

**10.16. 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 Agency, the employee will be reinstated within two business days, where feasible, after the employee notifies the Agency of his/her readiness to return.
- C. Employee's Obligation to Report on Their 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/her job, the employee must 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": Under the FMLA only, the Agency may deny reinstatement to employees who are among the highest paid ten percent (10%) of the Agency's employees ("Key Employee") if such denial is necessary to prevent substantial and grievous economic injury to the Agency's operations and the employee is notified of the Agency's intent to deny reinstatement on such basis at the time the Agency determines that such injury would occur. Under the CFRA, the Agency shall not deny reinstatement to a Key Employee during or upon the expiration of CFRA leave.

#### **10.17. Pregnancy-Related Disability Leave:**

- A. Amount of Leave: Any employee who is disabled on account of pregnancy, childbirth, or related conditions may take a pregnancy-related disability leave for the period of actual disability 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 hours 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.

Pregnancy-related disability leave is in addition to any family and medical care leave to which the employee may be entitled under Section 10.04 B

of this policy. Employees may take pregnancy-related disability leaves intermittently, or on a reduced-hours schedule, as medically necessary.

- B. Notice: Employees must submit requests for pregnancy disability leave 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 the Human Resources Manager.
- C. Certification: The request for pregnancy disability leave must be supported by a written certification from the attending physician stating that: 1) 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.
- D. Reasonable Accommodation: An employee is entitled to a reasonable accommodation for pregnancy, childbirth, or related medical conditions if she so requests and provides the Agency with medical certification from her health care provider. In addition to other forms of reasonable accommodation, a pregnant employee may be entitled to transfer temporarily to a less strenuous or hazardous position or to less hazardous or strenuous duties if she so requests, the transfer request is supported by proper medical certification, and the transfer can be reasonably accommodated.
- E. Compensation During Leave: Pregnancy-related disability leaves are without pay, but employees may be eligible for SDI and, if so, the Agency may coordinate the employee's benefits through the SDI program. However, an employee taking pregnancy-related disability leave must substitute any available sick pay for her leave and may, at her option, substitute any accrued vacation time for her leave. The substitution of paid leave for pregnancy-related disability leave does not extend the total duration of the leave to which an employee is entitled.
- F. Leave's Effect on Benefits: An employee taking a pregnancy-related disability leave may continue to receive the group health, dental, and vision 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

Agency 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 CFRA.

- G. Sick and Vacation Leaves: Sick and vacation leaves do accrue while an employee is on unpaid pregnancy disability leave.
- H. 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 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.
- I. Reinstatement:
  - 1. 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.
  - 2. If the employee's original position is no longer available, the employee will be assigned to a comparable, open position.
  - 3. 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 Agency will initiate an interactive process with the employee in order to identify a potential reasonable accommodation in accordance with these Policies. See Section 27, Reasonable Accommodation and Interactive Process below.

## **SECTION 11. MEDICAL LEAVES OF ABSENCE FOR OCCUPATIONAL INJURIES AND ILLNESSES.**

**11.01. Industrial Industry Leave:** Employees who are absent from work by reason of an injury or illness covered by Workers' Compensation, shall continue in pay status subject to this Policy.

- A. Coordination of 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, vacation, personal holidays, and compensatory time, if any. The employee will continue in pay status and receive the employee's pay until all accumulated sick leave, and authorized compensatory time, personal holidays and vacation days, have been depleted to the nearest hour.

- B. Accrual of Sick and Vacation Leave Continues While on Paid Leave: During the time the employee is in fully paid status while absent from work by reason of injury or illness covered by Workers' Compensation, the employee shall continue to accrue sick leave and vacation benefits as though the employee were not on a leave of absence.
- C. Unpaid Leave and Continuation of Health Care Benefits: Any employee subject to this Policy who depletes the employee's 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 federal and/or state law.

**11.02. Disability-Related Leaves of Absence:** Pursuant to the Agency's Family and Medical Care Leaves (Section 11) and Reasonable Accommodations (Section 27) policies, an employee on an approved disability or medical related leave of absence, may be eligible for disability-related benefits administered through the state Employment Development Department ("EDD"). Such benefits may be coordinated with the employee's accrued, available leaves as set forth in the Agency policy applicable to the type of leave taken. However, the total amount of compensation may not exceed the employee's wages or salary. Employees are encouraged to contact the Human Resources Manager or visit the EDD website, at <https://www.edd.ca.gov/>, for more information.

## **SECTION 12. OTHER LEAVES.**

**12.01. Access to Agency Property during Leave:** While an employee is on any type of leave outlined in Sections 10, 11, and 12 of these Policies, the Agency reserves the right to disable the employee's Agency key card, Agency-issued cell phone(s), and Agency-issued credit card(s) and restrict access to Agency computers, laptops, email and electronic systems, and desk phones.

**12.02. Leave of Absence without Pay Must Be Authorized by Law or These Policies:**

- A. Leave Without Pay: Unless authorized by law or an Agency policy, an employee is not entitled to a leave of absence without pay. Leave without pay shall be granted only upon request of the employee through the recommendation of the General Manager or designee.
1. Unless required by law and except as otherwise provided herein, the increments of sick leave, sick leave credits, increases in salary, all other paid leaves, holidays, fringe benefits, other similar benefits, and vacation time shall not accrue when an employee is absent without pay.
  2. Service credit will not accrue, during the period of approved leave of absence without pay. Instead, service credit shall be retained at the levels existing as of the effective date of the leave.
  3. During a leave of absence without pay, the employee shall be responsible for paying the entire cost of the employee's own group health insurance and other benefits. Unless required by law, the Agency will not maintain contributions toward group insurance or retirement coverage for the employee on such leave.
  4. An authorized leave of absence without pay is not a break in service for purposes of calculating seniority.
- B. Procedures: The Agency may require an employee returning from any leave without pay for any reason to have a physical examination to determine the employee's fitness to work.

**12.03. 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/General Manager or designee 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/General Manager or designee may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

**12.04. Jury Duty Leave:**

- A. Notification: Each employee, including a temporary employee, who is summoned for jury duty service or subpoenaed or ordered to be a witness, must notify the employee's supervisor/department head as soon as possible. Any employee who is released from jury service prior to the end

of the employee's scheduled work hours must report to work unless otherwise authorized by the employee's supervisor/department head.

B. Compensation:

1. **Non-Exempt Employees:** All non-exempt employees will be paid for actual work hours missed because of time spent in jury service or court up to ten (10) work days per period of jury service. The time spent on jury duty is not work time for purposes of calculating overtime compensation. The Agency will offset from pay the amount the employee receives from the Court for jury fees. Should a non-exempt employee be called upon to serve longer than a ten (10)-day period, the General Manager or designee has the discretion to authorize compensation beyond the initial ten (10)-day period.
2. **Exempt Employees:** All exempt employees will continue to receive their normal salary while on jury duty or as serving as a witness only for any workweek in which they perform any work duties. The Agency will offset the amount from pay the employee receives from the Court for jury fees. Should an exempt employee be called upon to serve longer than a ten (10)-day period, they will continue to receive their normal salary while on jury duty or as serving as a witness only for any workweek in which they perform any work duties. The Agency may direct the exempt employee not to perform work duties in a workweek in which they are on jury duty or serves as a witness.

C. Confirmation of Service: Employees must turn in their jury duty confirmation slip to the Human Resources Manager upon return to work after jury duty.

D. Approval & Deferral: The General Manager or designee shall approve a leave slip for the period of absence. The Agency may request a deferment of jury duty.

**12.05. Leave for Victims of Domestic Violence, Sexual Assault, Stalking, or Other Crimes to Obtain Restraining Orders or Injunctive Relief:** Any employee, including a temporary employee, who is a victim of domestic violence, sexual assault, stalking, or other crime, 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 the employee's 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: (1) a police report indicating that the employee was a victim; (2) a court order protecting the employee from the perpetrator; (3) evidence from the district attorney or court that the employee has appeared in court; (4) 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, accrued vacation or paid leave, or compensatory time off.

**12.06. Leave for Victims of Domestic Violence, Sexual Assault, Stalking, or Other Crimes to Obtain Medical Attention or Counseling or Safety Planning:** Any employee, including a temporary employee, who is a victim of domestic violence, sexual assault, or stalking, or other crime, may take leave from work if the employee provides advance notice of the employee's intention to take time off to attend to any of the following: (1) obtaining medical attention or psychological counseling; (2) obtaining services from a shelter, program or crisis center; or (3) participating in safety planning or other actions to increase safety. If advance notice is not feasible, the employee must provide any of the following to the Agency within a reasonable time after the leave: (1) a police report indicating that the employee was a victim; (2) a court order protecting the employee from the perpetrator; (3) evidence from the district attorney or court that the employee has appeared in court; (4) 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, accrued vacation or personal leave, or compensatory time off.

**12.07. Other Court or Administrative Proceeding Appearances:**

- A. Regarding Agency Duties: Any employee, including a temporary employee, who is subpoenaed to appear in court in a matter regarding an event or transaction in the course of the employee's Agency job duties, must give the employee's supervisor/department head as much advance notice as is possible. The Agency will determine whether the matter involves an event or transaction in the course of the employee's Agency 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 Agency will offset the amount from pay the employee receives for witness fees.

- B. Regarding Employee-Initiated Proceedings: Any employee, including a temporary employee, who is subpoenaed to appear, or appears in court because of civil or administrative proceedings that the employee 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 labor relations-related conferences or hearings, or at a personnel or merit commission is entitled to paid release time.
- C. Regarding Crime Victim / Victim Family Member Court Attendance Leave: Any employee, including a temporary employee, who is a victim of a crime, may take leave from work to attend judicial proceedings related to that crime, if the employee provides the Agency the notice or copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the Agency, 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.
- D. Regarding Crime Victim / Family Member Victim's Rights Proceedings Leave: Any employee, including a temporary 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 Agency, 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.

#### **12.08. Bereavement Leave:**

- A. An employee shall be granted a necessary leave of absence without loss of pay not to exceed five (5) workdays (or 40 hours) on account of the death of a member of his/her immediate family. Members of the immediate family include mother, mother-in-law, father, father-in-law, spouse, domestic partner, son, daughter, stepchild, grandchild, brother, sister, grandmother, grandfather, son/daughter-in-law, brother/sister in-law, legal guardian, custodial child, any relative living in the immediate household of the employee, or the same relatives of a domestic partner; or any relative living in the immediate household of the employee. An employee who utilizes bereavement leave shall notify the employee's supervisor/department head of the intent to use such leave.
- B. The General Manager or designee may grant an employee bereavement leave as appropriate in the event of the death of an individual who is not an immediate family member. If an employee requires more than the allotted time for bereavement leave, the employee may request additional unpaid leave or may request the opportunity to use any accrued sick leave or vacation time.

#### **12.09. School-Related Leave:**

- A. School or Licensed Day Care Activity Leave: Any employee who is a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to one or more children who are in kindergarten or grades 1 through 12, or who are in a licensed child care facility, shall be allowed up to 40 hours each school year, not to exceed eight hours in any calendar month of the school year, to: (1) participate in activities of their child's school or licensed child care facility; (2) find, enroll, or reenroll a child in a school or with a licensed child care provider; or (3) to pick up a child due to a child care provider or school emergency. The employee must provide reasonable advance notice to the employee's supervisor/department head 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 childcare facility as verification that the employee participated in school or childcare facility activities on a specific date and at a particular time. If both parents, guardians or grandparents having custody work for the Agency at the same Agency work site, only the first parent requesting will be entitled to leave under this provision.

- B. 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 the employee's supervisor/department head. A school has the authority to request that the parent attend the child's school if the child has: (1) committed any obscene act; (2) habitually used profanity or vulgarity; (3) disrupted school activities; or (4) otherwise willfully defied the valid authority of school personnel.

**12.10. Catastrophic Leave:** During a declared local, state, national emergency, disaster, or pandemic, that impacts the ability of affected employees to attend work, focus on Agency business, or other major event(s) that may occur beyond the employee(s) control and at the discretion of the General Manager or designee, the General Manager or designee may grant paid leave for a duration of time as determined by the General Manager or designee, up to a maximum of three (3) days per twelve (12) month period.

**12.11. Paid Administrative Leave:** The Agency has the right to place an employee on leave with full pay for non-disciplinary reasons at any time when the General Manager or designee has determined that the employee's and/or Agency's best interests warrant the leave. The employee does not have a right to appeal the Agency's decision to place the employee on administrative leave with pay.

**12.12. Time off to Vote:** Any employee, if he/she does not have sufficient time outside of working hours to vote, may request up to two hours of paid leave at the beginning or end of scheduled working hours to enable him/her to vote. The employee must request time off to vote from his/her supervisor/department head at least two days prior to Election Day.

## **SECTION 13. BENEFITS.**

**13.01. Flexible Benefits Package:** The Agency will provide an annual dollar amount to all regular employees to choose from the benefit options below:

- Health Insurance
- 457 (b) Deferred Compensation (pre-tax or post-tax)

- Retiree Health Savings Account
- Employee PERS contribution payment

The dollar amount provided will be the average of the three highest healthcare premiums (to cover Subscriber & 2+ dependents for Region 3 offered by CalPERS to the Agency) for a year. The basis for determining the annual dollar amount may only be changed with approval of the Board of Directors. The annual dollar amount will be pro-rated over 26 pay periods (1/26th per pay period).

Employees will receive a pro-rated amount of the monthly dollar amount, which will reflect only the pay periods during which the employee was employed by the Agency. For employees whose first day of work with the Agency is after the first day of a pay period or who separates from their employment with the Agency before the last day of a pay period, the monthly dollar amount will be pro-rated for the number of days the employee actually worked during that pay period.

**13.02. Section 125 Plan:** The Agency maintains a Flexible Benefits Plan (Plan) and all employees in regular positions shall be eligible to participate in said plan. Each employee may select among the options indicated and specify what portion of Plan monies will be applied to selected options. Selections must be in increments of \$1.00.

**13.03. Deferred Compensation Plan (401(a) Plan):** Effective July 1, 2018, each employee will receive 5% of the employee's base pay rate placed into an Agency sponsored 401(a) deferred compensation plan.

**13.04. Life Insurance:** Group term life insurance coverage is provided to eligible full-time Agency employees at the Agency's expense.

**13.05. Health Plan Insurance:** Group health plan insurance coverage is offered to eligible Agency employees and their dependents under the Flexible Benefit Package.

**13.06. Dental Insurance:** Group dental insurance is provided to eligible full-time Agency employees and their dependents at no cost to the employee.

**13.07. Vision Insurance:** Group vision insurance is provided to eligible full-time Agency employees and their dependents at no cost to the employee.

**13.08. Retiree “Annuitant” Health Benefits:** Each regular full-time and regular part-time employee who has worked more than 1,000 hours in a fiscal year is covered under the State of California's "Public Employee's Retirement System."

For employees who retire from the Agency through CalPERS, qualify as an “annuitant” under the Public Employees’ Medical and Hospital Care Act (PEMHCA), which governs the CalPERS Health Program, and enroll under PEMHCA, the Agency will contribute \$200 per month directly to CalPERS on behalf of each annuitant.

Employees retiring from the Agency on or before June 1, 2006, who retire through CalPERS immediately upon separation from the Agency, but do not participate in PEMHCA, may receive a \$200 per month reimbursement through a Health Reimbursement Arrangement (“HRA”) to use for IRS-determined eligible expenses supported with receipts.

Employees retiring after June 1, 2006, who meet the requirements in the paragraph below, but do not participate in PEMHCA, may receive a reimbursement of \$500 per month through an HRA to use for IRS-determined eligible expenses supported with receipts. If the retiree participates in PEMHCA, and meets the requirements in the paragraph below, the Agency will supplement the \$200 per month PEMHCA contribution with a \$300 per month contribution to an HRA to use for a portion of the remaining PERS PEMHCA health premium, or other IRS-determined eligible expenses support with receipts, for a total combined Agency contribution of \$500.

To qualify for the PEMHCA contribution, the retiree must meet all statutory requirements to be considered an “annuitant” of the Agency for PEMHCA purposes. To qualify for any non-PEMHCA contribution, the retiree must retire from the Agency within 120 days, begin receiving a CalPERS retirement allowance, and remain continuously retired from the Agency. If a retiree reinstates from retirement from the Agency and begins employment with another CalPERS agency, they will no longer receive the \$500 retiree health contribution.

**13.09. Standard and Long-Term Disability Insurance:** Coverage is provided to eligible full-time Agency employees and their dependents at no cost to the employee.

**13.10 Auto Allowance:** An auto allowance may be provided to certain exempt employees at the discretion of the General Manager or designee.

## SECTION 14. VACATIONS.

- 14.01. Vacations:** The Agency makes vacation with pay available to employees subject to approval by the General Manager or designee, in the interest of the Agency for the recreation, health, and well-being of the employees.
- 14.02. Approval:** Employees may take vacation leave with the approval of the Department Head/General Manager or designee at such times as will not impair the work schedule or efficiency of the Agency. An employee shall provide a minimum of one (1) week's written advance notice, unless waived by the General Manager or designee, when requesting vacation time off.
- 14.03. Earned Vacation:** Employees of the Agency shall earn vacation leave for the first five (5) years of continuous employment at the rate of eighty (80) hours per year. During the second five (5) years (*i.e.*, years 6-10) of continuous employment, vacation leave shall be earned at the rate of 120 hours per year. Effective the 11th year of employment, vacation leave shall accrue at the rate of 160 hours per year.
- 14.04. Bi-Weekly:** Vacation leave shall accrue on a per payroll basis based on the amount earned yearly.
- 14.05. Denial of Vacation:** Any employee whose approved vacation day(s) is/are revoked by order of the General Manager or designee for Agency business-related reasons, may cash out the lost vacation day(s) at the employee's hourly base rate.
- 14.06. Adjustments:** Anniversary dates shall be adjusted if the employee is on an unprotected leave of absence or any other unprotected non-pay status in excess of thirty (30) consecutive calendar days so that no leave is earned during such period.
- 14.07. Accumulated Vacation Time:** Each employee shall be entitled to accrue a maximum of twice the employee's annual vacation leave accrual rate. When an employee reaches the equivalent of two (2) times the employee's annual vacation leave accrual rate, the employee shall cease earning vacation leave until the employee's leave balance falls below the equivalent of two (2) times the employee's annual vacation leave accrual rate. Vacation leave will not accrue during leaves of absence without pay unless required by law.

**14.08. Vacation Cash Out:** Each employee shall be entitled to cash out fifty percent (50%) of their annual vacation accrual one (1) time during a 12-month period, provided the following terms are met:

- A. The employee must have a minimum of 40 hours available after cash out.
- B. In addition, the employee must have taken at least 40 hours of the annual vacation accrual in the previous 12 months from the time of request.

The General Manager or designee, at their discretion, may approve emergency requests that are inconsistent with this policy.

**14.09. Termination:** Upon separation from the Agency, employees shall be paid a cash lump sum at their then current rate of pay for any unused annual vacation leave. Vacation leave granted prior to its having been earned shall have its monetary value deducted from the final pay of an employee who terminates.

**14.10. Vacation as Sick Leave:** If an employee has exhausted their paid sick leave, the employee may be permitted to use any accrued vacation time upon the approval of the General Manager or designee.

**14.11. Holidays During Vacation:** When an approved holiday falls within a vacation period, an employee on vacation shall be entitled to compensation for that holiday in lieu of the employee's regular vacation.

**14.12. New Employees:** Newly hired employees on probation are not entitled to take vacation time unless otherwise approved by the General Manager or designee.

A. Scheduling:

- 1. Scheduling of annual vacation leave must be approved in advance by the Department Head/General Manager or designee, except in cases of emergency.
- 2. Work requirements and the interest of the employee are the determining factors in approving vacation schedules.
- 3. The Agency will grant preference in the initial selection of vacation dates based on the employee length of service.

B. Procedure:

- 1. Employees must submit all annual vacation requests to the employee's supervisor/department head thirty (30) days prior to the

vacation dates requested. The General Manager or designee must authorize any exceptions.

2. A change in the rate of annual vacation leave accrual shall take effect in the pay period following the one in which the employee completed the required length of service.

## **SECTION 15. FLEX TIME**

**15.01. Definition of Flex Time:** Flex time off with pay is made available in the interest of the Agency for personal time off for recreation, health, family affairs, and well-being of the employees, subject to approval by the employee's supervisor/department head and/or the General Manager or designee.

**15.02. Approval:** Flex time periods shall be taken with the approval of the General Manager or designee at such times as will not impair the work schedule or efficiency of the Agency.

**15.03. Earned Flex Time:** Employees of the Agency shall earn flex time leave each July 1st in the amount of forty (40) hours. Employees hired after July 1 in any year will have their flex time leave prorated for that year, based on a 365-day calendar year. Any time not used by June 30th of the following year will be forfeited.

**15.04. Termination:** Upon separation from the Agency, employees shall not be paid a cash lump sum for flex time.

**15.05. Flex Time as Sick Leave:** If an employee has exhausted their paid sick leave, they may be permitted to use any accrued flex time upon the approval of the General Manager or designee.

### Scheduling:

- A. The time when flex time leave may be taken and the amount granted during any particular period are matters of administrative discretion based on Agency needs, except that no employee shall lose flex time leave because of the urgency of work.
- B. Scheduling of flex time leave must be approved in advance by the Department Head/General Manager or designee, except in cases of emergency.

- C. Work requirements and the interest of the employee are the determining factors in approving flex time schedules.
- D. Preference in the initial selection of flex time dates will be granted based on the length of service.

## **SECTION 16. HOLIDAYS.**

### **16.01. Fixed Holidays:**

- New Year's Day
- Martin Luther King Day
- President's Day
- Memorial Day
- Juneteenth Day
- Independence Day
- Labor Day
- Veteran's Day
- Thanksgiving Day
- Day After Thanksgiving
- Christmas Eve
- Christmas Day
- New Year's Eve Day
- Floating Holiday \*

\* A Floating Holiday of 9 hours will be given each July 1 and must be used during the fiscal year, ending the following June 30. Employees hired after July 1 in any year will have their floating holiday prorated for that year, based on a 365-day calendar year. Any time not used by June 30th of the following year will be forfeited.

**16.02. New and Terminating Employees:** Active employees must be on the payroll the day before and the day after a fixed holiday to receive holiday pay. Regular employees must be on the payroll the day before or the day after a fixed holiday to receive holiday pay.

**16.03. Weekend Holidays:** When a fixed holiday falls on Saturday or Sunday, the fixed holiday shall be taken on the previous Friday or following Monday, respectively.

**16.04 Friday Holiday:** When a holiday falls on a Friday that is a non-work day under the nine-eighty (9-80) schedule, the preceding day will be observed.

## **SECTION 17. REIMBURSEMENT.**

**17.01 Use of Private Vehicle:** The use of a private vehicle for Agency business shall be by approval of the General Manager or designee. All traffic laws must be obeyed at any time while conducting Agency business. Violations of this may result in discipline, up to and including termination. The Agency will reimburse employees at the rate established by the IRS for the use of a private vehicle while conducting Agency business. Employees shall use Agency vehicles whenever possible and shall keep Agency vehicles well serviced. Employees may use Agency credit cards to buy gasoline, oil, etc. for Agency vehicles. However, employees may not use Agency credit cards for expenses related to using private vehicles, including when using private vehicles for Agency business.

**17.02 Tools, Uniforms, and Equipment:** To the extent required by law, and upon General Manager or designee approval, the Agency shall reimburse employees for the cost of tools, uniforms, and equipment required for the performance of the employee's job duties with the Agency, which becomes Agency property. Employees must submit appropriate receipt records that reflect costs in order to be reimbursed.

### **17.03. Boot Policy:**

- A. Cal/OSHA's General Industry Safety Order, Section 3385 (Foot Protection) requires that appropriate footwear be required for employees who are exposed to foot injuries from electrical hazards, hot, corrosive, or poisonous substances, falling objects, crushing or penetrating actions that may cause injuries, or who are required to work in abnormally wet conditions. The Agency requires all employees who are subject to exposure to such hazardous conditions to wear protective footwear during the course of duties that meet all the specifications in the American National Standard for Personal Protection-Protective Footwear, Z41-1991.
- B. All full and part-time regular employees performing or subject to performing field operations or work assignments where foot hazards exist are eligible to receive a voucher from an Agency selected vendor not to exceed the amount of \$300 to purchase approved safety toe boots. Thereafter, if needed, employees will receive a voucher for approved safety toe boots on the two (2)-year anniversary date from the date of purchase. Employees are responsible for paying the additional cost above the allowance for approved safety toe boots.

- C. New employees will receive a voucher for approved safety toe boots upon hire. If an employee fails to pass the twelve (12) month probationary period required of all employees, the amount paid for the boots, up to \$300, may be deducted from their final paycheck.
- D. If an employee's safety toe boots are damaged or wear out sooner because of unusual circumstances related to the work performed and no longer provide proper safety protection, a more frequent voucher may be assigned on a case-by-case basis upon approval of the General Manager or designee.
- E. Employees should contact the Human Resources Department for the name of the Agency selected vendor and for a list of classifications, whose normal work assignments generally require safety toe boots.
- F. Employees may select the safety toe boot provided it meets American National Standard for Personal Protection-Protective Footwear, Z41-1991 specifications. Only the cost of boots that meet these specifications can be applied to the voucher.
- G. The Human Resources Department will provide the voucher to the employee, which the employee will present to the vendor. The vendor will return a receipt with the purchased safety footwear. The employee is responsible for submitting the original receipt to the Human Resources Manager.

**17.04. Educational Assistance:** Agency regular employees may voluntarily continue education at an independent bona fide institution of learning that is directly related to their employment or advancement for the needs of the Agency. In order for an eligible employee, who has passed probation, to receive financial assistance from the Agency with respect to the costs of such education, per fiscal year, the following procedure will be observed:

- A. Prior to enrollment, an educational plan will be submitted and approved by the employee's supervisor/department head and the General Manager or designee via an Educational Assistance Request form, (see Human Resources Department for form). Once signed by the supervisor/department head, it will be submitted to the Human Resources Manager for review and signature of approval by General Manager or designee.

- B. Upon successful completion of the course(s) with a minimum final grade (or equivalent) of "C" or better, the Agency will reimburse a regular employee, who has satisfactorily completed probation, for lab fees, registration, parking fees, supplies, textbooks and other costs related to a course, along with tuition, up to the annual IRS non-taxable amount in accordance with Internal Revenue Code (IRC) Section 127.
- C. The employee shall submit a request for reimbursement, attaching proof of the successful completion of the course and all receipts, along with a copy of the original Educational Assistance Request form to the Human Resources Department for verification
- D. For Certifications/Licenses, the Agency will reimburse the amount of the classes and test application fees after a successful completion of the classes and a "pass" grade of the certification test.

## **SECTION 18. ATTENDANCE AT CONFERENCES, CONVENTIONS, AND MEETINGS.**

At the discretion of the General Manager or designee, employees may attend conferences, conventions, and meetings when attendance is of benefit to the Agency. Overtime will be paid only when attendance at the conference, convention, or meeting is mandated by the Agency outside of normal work days and/or hours, however every attempt shall be made to ensure the forty (40) hour work week is not exceeded and overtime is not necessitated, which may include changes to the employee's work schedule.

## **SECTION 19. WORKPLACE CONDUCT.**

**19.01. Dress Code and Appearance Standards:** The Agency's dress code and appearance standards are designed to promote the Agency's legitimate and non-discriminatory goals to promote workplace safety and a professional image, which is consistent with the employee's job duties and level of public contact.

Employees are required to dress appropriately for the jobs they are performing. The following dress code standards shall apply to all Agency employees. If employees have questions about how these standards apply to them, the matter should be immediately raised with their supervisor/department head for consideration and determination.

- A. All clothing and footwear must be neat, clean, in good repair, and appropriate for the work environment and functions performed.

- B. Prescribed uniforms and safety equipment must be worn.
- C. Hair must be neat, clean, and well groomed.
- D. Beards, mustaches, and sideburns must be maintained in neat and well-groomed fashion.
- E. Piercings that pose a health or safety hazard to employees in the performance of their job duties are prohibited.
- 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.

**19.02. Confidentiality and Non-Disclosure:**

- A. The protection of confidential business information and trade secrets is vital to the interests and the success of the Agency. Such confidential information includes, but is not limited to, the following examples:
  - 1. Compensation data
  - 2. Computer processes
  - 3. Personnel Files
  - 4. Litigation Matters
  - 5. Pending projects and proposals
  - 6. Technological data
- B. Employees who improperly use or disclose trade secrets or confidential business information will be subject to disciplinary action, up to and including termination of employment, even if they do not actually benefit from the disclosed information.
- C. To maintain confidentiality, the Agency will not respond to applications for CCW's (Concealed Weapons Permit).

**19.03. Use of Phone and Mail Systems:**

- A. Employees will be required to reimburse the Agency for any charges resulting from their personal use of an Agency telephone. Employees should hold their personal use of the Agency telephone to a minimum.

- B. Employees must notify appropriate Agency personnel of their use of Agency-paid postage for personal correspondence and reimburse the Agency for such use.
- C. To ensure effective telephone communications, employees should always use the appropriate greeting and speak in a courteous and professional manner. Please confirm information received from the caller, and hang up only after the caller has done so.
- D. The Agency may require a cell phone for the employee's use. In this instance, the Agency will supply the phone to the employee for Agency-business related use. Agency issued cell phones are the property of the Agency. Employees do not have an expectation of privacy in Agency issued cell phones and the Agency reserves the right to search Agency issued cell phones to assure that Agency property is being used for business purposes and not for any unlawful or improper use. An employee's use of an Agency issued cell phone is at the sole discretion of the Agency and can be modified or revoked at any time. An employee must surrender the Agency issued cell phone to the Agency upon Agency request.

#### **19.04. Computer, Laptop, Tablet and Email Usage:**

- A. Computers, laptops, tablets, computer files, the email system, and software furnished to employees are Agency property intended for Agency business related use. As such, employees have no expectation of privacy in their use of any Agency computers, laptops, tablets, computer files, email system, or software. Employees should not use a password, access a file, or retrieve any stored communication without authorization. To ensure compliance with this policy, the Agency may monitor computer, laptop, tablet and email usage. The Agency reserves the right to search Agency-issued computers, laptops, and tablets to assure that Agency property is being used for business purposes and not for any unlawful or improper use. An employee's use of an Agency-issued computer, laptop and tablet is at the sole discretion of the Agency and can be modified or revoked at any time. An employee must surrender the Agency-issued computer, laptop and tablet to the Agency upon Agency request.
- B. The Agency strives to maintain a workplace free of harassment, and that is sensitive to the diversity of its employees. Therefore, the Agency prohibits the use of computers, laptops, tablets and the email system in

ways that are disruptive, offensive to others, or harmful to morale. For example, the Agency prohibits display or transmission of sexually explicit images, messages, and cartoons. Other such misuse includes, but is not limited to, ethnic slurs, racial comments, off-color jokes, or anything that may violate the Agency's policies, including, but not limited to, the policy against discrimination, harassment, and retaliation in Section 28. Employees may not use email or any other equipment to solicit others for commercial ventures, religious or political causes, outside organizations, or other non-business matters.

- C. The Agency purchases and licenses the use of various computer software for business purposes and does not own the copyright to this software or its related documentation. Unless authorized by the software developer, the Agency does not have the right to reproduce such software for use on more than one computer.
- D. Employees may only use software on local area networks or on multiple machines according to the software license agreement. The Agency prohibits the illegal duplication of software and its related documentation.
- E. Employees should notify their immediate supervisor/department head, the General Manager or designee, or any member of management upon learning of violations of this policy. Employees who violate this policy will be subject to disciplinary action, up to and including termination of employment.

**19.05. Internet Usage:** The Agency provides internet access ("Internet") to global electronic information resources on the World Wide Web to assist employees in obtaining work-related data and technology. The Agency has established the following guidelines to help ensure responsible and productive Internet usage. While the Agency intends employees to use the Internet for job-related activities, the Agency permits incidental and occasional brief personal use within reasonable limits.

- A. All Internet data that is composed, transmitted, or received via our computer communications systems is considered to be part of the official records of the Agency and, as such, is subject to disclosure to law enforcement or other third parties. Consequently, employees should always ensure that the business information contained in Internet email messages and other transmissions is accurate, appropriate, ethical, and lawful.

- B. The equipment, services, and technology provided to access the Internet remain at all times the property of the Agency. As such, the Agency reserves the right to monitor Internet traffic, and retrieve and read any data composed, sent, or received through our online connections and stored in our computer systems. Employees have no expectation of privacy in use of the Internet.
- C. Data that is composed, transmitted, accessed, or received via the Internet must not contain content that could be considered discriminatory, offensive, obscene, threatening, harassing, or intimidating to any employee or other person. Examples of unacceptable content may include, but are not limited to, sexual comments or images, racial slurs, gender-specific comments, or any other comments or images that could reasonably offend someone on the basis of race, color, age, sex, marital status, religious or political beliefs, national origin, ancestry, physical or mental disability, medical condition, genetic information, sexual orientation, gender, gender expression or identity, veteran status, or any other characteristic protected by law.
- D. The Agency expressly prohibits the unauthorized use, installation, copying, or distribution of copyrighted, trademarked, or patented material on the Internet. As a general rule, an employee should not put any material on the Internet that -they did not create, does not own the rights to, or has not gotten authorization to use. Employees are also responsible for ensuring that the person sending any material over the Internet has the appropriate distribution rights.
- E. Internet users should take the necessary anti-virus precautions before downloading or copying any file from the Internet. Employees must check all downloaded files for viruses and check all compressed files before and after decompression.
- F. Abuse of the Internet access provided by the Agency in violation of law or Agency policies will result in disciplinary action, up to and including termination of employment. Employees may also be held personally liable for any violations of this Policy.
- G. The following behaviors are examples of previously stated or additional actions and activities that are prohibited and can result in disciplinary action:

- Sending or posting discriminatory, harassing, or threatening messages or images;
- Using the organization's time and resources for personal gain;
- Stealing, using, or disclosing someone else's code or password without authorization;
- Copying, pirating, or downloading software and electronic files without permission;
- Sending or posting confidential material, trade secrets, or proprietary information outside of the organization;
- Violating copyright law;
- Engaging in unauthorized transactions that may incur a cost to the organization or initiate unwanted Internet services and transmissions;
- Sending or posting messages or material that could damage the organization's image or reputation;
- Sending or posting messages that defame or slander other individuals;
- Attempting to break into the computer system of another organization or person;
- Sending or posting chain letters, solicitations, or advertisements unrelated to business purposes or concerted activities;
- Jeopardizing the security of the organization's electronic communications systems;
- Sending or posting messages that disparage another organization's products or services;
- Passing off personal views as representing those of the organization;
- Sending anonymous email messages; and
- Engaging in any other illegal activities;

*This is not a complete list of prohibited behaviors, but are examples for employees to use as guidelines when using the Agency's internet facilities.*

**19.06. Children in the Workplace:** The Agency prohibits employees from bringing children to the workplace. The presence of children in the workplace causes issues of safety, confidentiality, disruption of Agency operations, disruption of Agency services, and disruption to other Agency employees. Supervisors/department heads may grant a one-time exception for a temporary, unforeseen emergency. When authorized, the accompanying employee must supervise the child(ren) at all times.

**19.07. Pets in the Workplace:** The Agency does not permit employees to bring their household pets to the workplace. Animals may pose a threat of infection and

may cause allergic reactions to other employees. Some employees may feel threatened or scared in the presence of animals. An employee who requires the help of an assistive animal, as defined by Title 2 of the California Code of Regulations section 11065, may participate in the interactive process with the Agency pursuant to Section 27 below.

## **SECTION 20. PROHIBITIONS ON DRUGS AND ALCOHOL IN THE WORKPLACE.**

**20.01. Purpose and Scope:** The purpose of this policy is to promote a drug and alcohol-free workplace and to eliminate drug and alcohol-related inefficiencies and risks. This policy applies to all Agency employees, whether they are on Agency property, or they are performing Agency-related business elsewhere. This policy supplements the Agency's Policy for a Drug-Free Workplace. Disciplinary action will be taken against those who violate this policy.

**20.02. Drug- and Alcohol-Free Awareness Program:** The Agency's employee assistance provider ("EAP") offers counseling and treatment of drug- or alcohol-related problems. The EAP has information about: (1) the dangers of drug or alcohol abuse in the workplace; (2) the penalties that may be imposed for drug or alcohol abuse violations; (3) the Agency's policy of maintaining a drug- and alcohol free workplace; and (4) any available drug or alcohol counseling, rehabilitation or employee assistance programs.

**20.03. Prescription Drugs:** The legal use of prescription drugs prescribed to the employee in question by a licensed physician is permitted on the job only if it does not impair the employee's ability to perform the essential functions of their job effectively and in a safe manner and does not endanger other individuals in the workplace.

**20.04. Prohibited Conduct:** This Policy prohibits:

- A. The manufacture, distribution, sale, 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 Agency workplaces or wherever Agency 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 their supervisor/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 Agency equipment.
- D. An employee's failure to notify the Human Resources Manager of any criminal conviction for a drug violation that occurred in the workplace within five days after such conviction.
- E. An employee's criminal conviction for a drug violation that occurred in the workplace.

**20.05. Consequences for Violations:** Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment. Such violations may also have legal consequences.

**20.06. Drug and Alcohol Testing:** The Agency has discretion to test applicants and employees for alcohol and drug use under the following circumstances. The Agency 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, protecting national security, enforcing drug laws, and/or operating natural gas pipelines.
- B. Reasonable Suspicion Testing: The Agency 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" 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 Agency reasonably suspects drugs or alcohol may have played a role in an accident involving Agency property or equipment that will also constitute reasonable suspicion.

2. Document and Analysis: In order to receive authority to test, the supervisor/department head must record the factors that support reasonable suspicion in writing and analyze the matter with the Human Resources Manager. The General Manager or designee must pre-approve any reasonable suspicion testing.
3. Testing Protocol: If the documentation and analysis demonstrate reasonable suspicion of drug or alcohol abuse at work and the General Manager or designee has approved, the employee will be relieved from duty, transported to the testing facility and to their home after the test. The Agency will place the employee on sick or other paid leave until the test results are received.

**20.06. Questions:** Employees with questions on this Policy or issues related to drug or alcohol use in the workplace should raise their concerns with their supervisor/department head or the Human Resources Department.

## **SECTION 21. SMOKE-FREE AND TOBACCO-FREE WORKPLACE.**

In compliance with California Labor Code section 6404.5, the Agency prohibits the use of all tobacco products including, but not limited to cigarettes, e-cigarettes, vaping, cigars, pipes, and smokeless (including chewing) tobacco anywhere on Agency premises outside of the two designated smoking areas. Agency premises include but is not limited to all Agency owned offices, buildings, garages, covered walkways, covered parking areas, Agency-owned vehicles, and other enclosed places of employment. The Agency also prohibits smoking in any outdoor area within 25 feet of any Agency entry, outdoor air intake, and operable window. The Agency also prohibits smoking outside the Agency property line in places used for Agency business purposes.

Employees who do not observe this Smoke-Free and Tobacco-Free Workplace policy may be subject to disciplinary action up to and including termination.

## **SECTION 22. PERSONNEL RECORDS.**

### **22.01. Job References & Verification of Employment:**

- A. All reference inquiries and verifications of employment must be referred to and approved by the General Manager or designee.
- B. Unless the General Manager or designee receives a written waiver signed by the employee, the Agency will release only the employee's dates of employment, last position held, and final salary rate. However, if withholding information concerning a former employee could result in potential liability to the Agency, that information may be disclosed after consultation with the Agency's legal counsel.
- C. Supervisors and department heads should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the General Manager or designee on a case-by-case basis.
- D. A record of all reference inquiries and verifications of employment shall be retained in the employee's personnel file. This includes confirmation requests for salary data and employment references.

**22.02. Reference Release:** The Agency will give separating employees the opportunity to sign a release for reference inquiries and verifications of employment at their exit interview.

**22.03. Inspection of Personnel Files:** Personnel files are the property of the Agency and access to the information they contain is restricted to protect employee privacy interests. Current and former employees have the right to inspect their personnel records pursuant to Section 1198.5 of the Labor Code. This pertains to any records regarding the employee's performance or to any grievances concerning the employee. This does not include any records relating to the investigation of a possible criminal offense, letters of reference, or ratings, reports or records that were (a) obtained prior to the employee's employment, or (b) obtained in connection with a promotional examination.

- A. Access to personnel files shall be restricted to the Human Resources Manager and supervisors/department heads with authorization from the Human Resources Manager.
- B. A current employee and/or their representative, who wishes to review their personnel file should make a written request to the Human Resources

Manager. Current employees may inspect their own personnel file at reasonable times and at reasonable intervals during Agency office hours within thirty (30) days of a written request. The inspection must occur in the presence of the General Manager 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.

- C. A former employee and/or their representative who wishes to review their personnel file should make a written request to the Human Resources Manager. Former employees may inspect their personnel file one (1) time per year within thirty (30) days of a written request. The inspection must occur in the presence of the General Manager or designee.
- D. A current or former employee is entitled to receive a copy of their personnel records within thirty (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 Manager in writing. The Agency may charge a fee for the actual cost of copying.
- E. If the current or former employee wishes to have another person/representative inspect their personnel file, they must provide the person/representative with written authorization. The Human Resources Manager or designee will notify the employee and/or representative of the date, time, and place of the inspection in writing.
- F. No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.
- G. Prior to making a copy of personnel records or allowing inspection, the Agency may redact the names of nonsupervisory employees. Under no circumstances will the Agency 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.
- H. A supervisor/department head or General Manager or designee may inspect personnel records in connection with a personnel matter.

- I. The Agency will cooperate with Federal, State, and local government agencies investigating an employee if the investigator furnishes proper identification and proof of legal authority. The Agency may permit a government investigator to review a personnel file on Agency premises, but the investigator shall not be allowed to remove or reproduce this information without consent from the General Manager or designee. The employee shall be notified of such review unless prohibited by law or court order.

**22.04. Retention:** The Agency shall maintain original personnel records for five (5) years after an employee's separation of employment. After that time, the records may be stored in other archival forms such as a document imaging system, microfilm, etc.

**22.05. Medical Files:** The Agency stores all medical information about employees or applicants in separate medical files and treats all such medical information as confidential. Access to the medical information or file of an employee or applicant shall be strictly limited to only those with a legitimate need to have such information for Agency business reasons, or if access is required by law, subpoena, or court order. In the case of an employee with a disability, supervisors/department heads may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

## **SECTION 23. GRIEVANCES.**

**23.01. Definition of a Grievance:** A grievance is an alleged 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 Grievance" below. The following procedure applies to all Agency employees, unless the employee is covered by a grievance procedure in a memorandum of understanding; another dispute resolution procedure applies to the dispute; or a discipline policy and procedure applies. The grievance procedure cannot be utilized to challenge the content of a performance evaluation.

**23.02. Statement of the Grievance:** A concern is not a grievance 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; and
4. A list of all persons who are witnesses or are involved.

The employee filing a written grievance must sign the grievance to certify that they have filed the document in good faith.

**23.03. Timelines:** Failure of the Agency to comply with the time limits of the grievance procedures allows the grievant to appeal to the next level of review. Failure of the grievant to comply with the time limits of the grievance procedures constitutes settlement and resolution of the grievance based on the last disposition. The parties may extend time limits by mutual written agreement in advance of a deadline.

**23.04. Process:** All grievances shall be initiated at the informal step and progress accordingly.

A. Informal Step.

1. At this step, an employee shall discuss the grievance with their immediate supervisor/department head within five (5) working days of the incident giving rise to the grievance.
2. The immediate supervisor/department head shall attempt to achieve an equitable solution within five (5) working days after discussing the grievance, and will notify the employee as to the proposed resolution.

B. Formal Step.

1. If the employee believes the grievance has not been resolved at the informal step, the employee may submit a written grievance to the General Manager or designee within five (5) working days after receiving the informal response from their immediate supervisor/department head.
2. The General Manager or designee shall consider, discuss the grievance with the grievant, and/or investigate, as they deem appropriate.
3. Within five (5) working days from receiving the written grievance, the General Manager or designee shall respond to the employee in writing. That decision is final.

**23.05. Representation:** An employee may be represented by counsel at any time during the grievance process at their own expense.

## **SECTION 24. DISCIPLINARY ACTIONS AND APPEAL PROCEDURE.**

**24.01. Suspensions, Demotions, Reduction in Salary, and Termination:** The Agency shall impose all disciplinary actions including but not limited to suspensions, demotions, reductions in salary for a specified length of time, and terminations of regular general employees who are not at-will employees in accordance with these Policies and/or as otherwise required by law.

**24.02. Cause for Discipline:** The Agency may discipline employees for, including but not limited to, any of the following causes of discipline:

- A. Unsatisfactory job performance;
- B. Insubordination, or insulting or demeaning the authority of a supervisor or manager;
- C. Failure to obey or violation of any Agency or department rule, Agency policy or procedure, ordinance, or resolution;
- D. Absence without authorized leave, excessive tardiness, excessive absenteeism, or abuse of leave, as set forth in Section 4.06 E;
- E. Use of leave from work in a manner not authorized or provided for under Agency policies;
- F. Discourteous treatment of the public or of fellow employees or other willful failure of good conduct tending to injure the public service;
- G. Evidence establishing careless conduct or willful disregard for the health and welfare of employees;
- H. Reckless or unsafe conduct, including horseplay or fighting;
- I. Falsifying, making inaccurate entries or material omissions, or tampering with any Agency records, including work time or financial records;
- J. Providing wrong or misleading information or other fraud in securing initial employment or in appointment, promotion, or maintaining employment;

- K. Mishandling, misappropriation, or unauthorized removal or possession of public funds, the funds and/or property of the Agency, and/or any co-worker;
- L. Using, possessing or being under the influence of alcohol or unlawful drugs while on duty, while on Agency property, or while operating an Agency vehicle;
- M. Unauthorized political activity during the assigned hours of duty;
- N. Misuse or unauthorized use of any Agency property, including, but not limited to: physical property, electronic resources, supplies, tools, equipment, Agency communication systems, Agency vehicles, or intellectual property;
- O. Inefficiency;
- P. Carrying firearms or other dangerous weapons while on duty when not required by job duties;
- Q. Working overtime without prior authorization or refusing to work assigned overtime;
- R. Any conduct that impairs, disrupts, or causes discredit to the Agency, to the public service, or other employee's employment;
- S. Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the Agency;
- T. Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties;
- U. Abusive conduct, including malicious verbal, visual, or physical actions, or the gratuitous sabotage or undermining of a person's work performance;
- V. Mishandling of public funds;
- W. Theft;
- X. Violation of the Agency's or a department's confidentiality policies, or disclosure of confidential Agency information to any unauthorized person or entity;
- Y. Dishonesty; and

- Z. Damaging any Agency property, equipment, resource, or vehicle, or the waste of Agency supplies through negligence or misconduct.

#### **24.03. Types of Counseling, Reprimands, and Discipline:**

- A. Counseling Memo: A counseling memo will be provided to an employee to identify: (1) a failure of appropriate conduct or performance issue; (2) the performance the employee is to demonstrate in the future; and (3) consequences for failure to correct the behavior or problem. A counseling memo will be retained in the supervisor/department head's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor/department head 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/department heads file until the completion of the evaluation year and then documented in the performance evaluation, as the supervisor/department head 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 their written rebuttal attached to the reprimand in the employee's personnel file, if the employee submits the rebuttal to the General Manager or designee/Human Resources Manager within fourteen (14) days after the reprimand is received.
- D. Suspension without Pay: The Agency may suspend an employee from their 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. A suspension without pay is subject to the discipline and discipline appeal procedures

described below. Exempt employees will only be suspended without pay as authorized by the FLSA.

- E. Reduction in Pay or Paid Leave: The Agency 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 flex time, 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. Exempt employees are not subject to pay reduction, except loss of accrued vacation, floating holiday, or flex time.
- F. Demotion: The Agency may demote an employee from their position to a lower 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 Agency may terminate an employee from their 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.

**24.04. Rules:** A written copy of these rules shall be given to each employee. The employee shall acknowledge in writing the receipt of such rules. In doing so, the employee's act shall constitute presumptive proof of the employee's knowledge and understanding of such rules governing disciplinary actions and procedures.

**24.05. Discipline Procedures:** The discipline procedures in this Section apply to all Agency employees except for at-will employees. All at-will employees, including, but not limited to, temporary and probationary employees, may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed in this Section. The following discipline procedures apply only to suspension without pay, reduction in pay, demotion, and termination.

**24.06. Investigations:** The Agency may conduct an investigation into alleged violations of these Policies or other alleged workplace misconduct and may

utilize an internal or external investigator to do so in the sole discretion of the General Manager or designee.

**24.07. Notice of Proposed Action:**

- A. Prior to the issuance of a written order to either suspend, demote, reduce salary, or dismiss a regular employee, written notice of at least five (5) working days of the proposed disciplinary action shall be given to the employee, which will include the following information:
1. Notice of Proposed Action.
  2. The specific charges that support the proposed disciplinary action;
  3. A summary of the facts that show the elements of each charge at issue in the notice of proposed action;
  4. A copy of all materials upon which the proposed disciplinary action is based;
  5. A notice of the employee's right to respond to the proposed disciplinary action in writing and/or orally or by requesting an informal meeting (or both) within five (5) working days from the date of the notice except as provided below. An employee may request a period longer than five (5) working days within which to respond in specific cases where the volume of material or complexity of the issues involved might warrant an extension, but only upon written request and with the approval of the General Manager or designee.
  6. Notice of the employee's right to have a representative of their choice at the informal meeting; and
  7. Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to imposition of final discipline.
- B. The notice of proposed disciplinary action shall be in writing and signed by the General Manager or designee. Upon receipt of the employee's response, the General Manager or designee shall review the response and determine the appropriate course of action. This may include imposing the same level of disciplinary action, modifying with less severe disciplinary action, or rescinding the notice of proposed action.

**24.08. Limitations and Exceptions:**

- A. Oral notice is insufficient as full notice to an employee and may be given only as the initial notice in extraordinary circumstances, which call for immediate action.
- B. Employees may be suspended without prior written notice in extraordinary circumstances when it is essential to avert harm to the public, other employees, or to avert serious disruption of governmental business. Extraordinary circumstances include, but are not limited to, situations involving acts or threats of violence, misappropriation of public funds or property, working while under the influence of intoxicating liquor or drugs, open insubordination, and disruption of Agency's business through misconduct.

**24.09. Pre-Discipline Informal Meeting:** If the employee requests an informal meeting, the General Manager 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 them and present any mitigating circumstances. The General Manager or designee will consider the employee's presentation before issuing the disciplinary action. The employee's failure to attend the meeting, or to deliver a written response by the date specified in the Notice of Proposed Action, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the Notice of Proposed Action.

**24.10. Final Notice of Discipline:** After the informal meeting and/or timely receipt of the employee's written response, the General Manager or designee will consider any employee response and: 1) take no disciplinary action; 2) modify the intended discipline; or 3) impose the intended disciplinary action. In any case, the General Manager or designee will provide the employee with a notice that contains the following:

1. The level of discipline, if any, to be imposed and the effective date of the discipline;
2. The specific charges upon which the discipline is based;
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 discipline is based; and
5. A reference to the employee's appeal right and deadline to appeal.

The General Manager or designee shall sign the final notice of discipline.

**24.11. Delivery of the Final Notice of Discipline:** The final notice of discipline shall be personally delivered to the employee or sent by mail method that verifies delivery to the employee's last known address. If the notice is not deliverable because the employee has moved without notifying the Agency or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

**24.12. Request for Appeal Hearing:**

A. Notice of Appeal and Request for Hearing. A regular employee may appeal only from an order of suspension without pay, demotion, reduction in pay, or termination and request a hearing as provided for in these rules. The disciplinary appeal procedures do not apply for at-will employees. All at-will employees, including but not limited to temporary and probationary employees, may be disciplined or separated at will, with or without cause, and without disciplinary appeal procedures. The notice of appeal and request for a hearing must be in writing and must be filed with the Agency within five (5) working days of receipt of the final notice of discipline or the date of attempted delivery by the post office or delivery service of the notice to the last known address of the employee. Failure to file a timely written request for an appeal waives the right to an appeal hearing and any appeal of the discipline.

B. Appellant's Answer to the Charges. If the employee appeals, a written answer to the charges must also be filed with the Agency within five (5) working days of the receipt of the final notice of discipline or the date of attempted delivery by the post office or delivery service of the notice to the last known address of the employee. The answer to the charges must be attached to the notice of appeal and request for a hearing.

The answer must address each cause for discipline set forth in the order and may state specific facts or reasons as grounds for the appeal. If an answer denying the causes for discipline set forth in an order is not filed, said causes for discipline will be deemed admitted.

**24.13. Appeal Hearing Procedure:**

A. Designation of Appeal Hearing Officer:

1. The Board of Directors may elect to have the appeal heard by one of the following methods within thirty (30) days of their election:
    - a. A full hearing by a Third Party Mediator who shall present the findings and a recommendation to the Board of Directors.
    - b. A full hearing by a hearing officer who shall present the findings and a recommendation to the Board of Directors. If the General Manager or designee presided over the pre-disciplinary informal meeting for the discipline at issue, they cannot serve as the hearing officer.
    - c. A full hearing before a Disciplinary Review Board appointed by the Board of Directors. The Disciplinary Review Board shall be comprised of three (3) members: one member selected by the Board of Directors, one member selected by the employee, and the third member selected by the two members previously described. The General Manager or designee that presided over the pre-disciplinary informal meeting for the discipline at issue cannot serve on the Disciplinary Review Board. All members of the Disciplinary Review Board must be employees of the Agency. The Disciplinary Review Board shall present findings and recommendations to the Board of Directors for final disposition.
  2. The hearing officer shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Policies.
  3. The Board of Directors shall have the final authority on all appeals and may mitigate or modify the disciplinary action.
  4. The Board of Directors shall notify the Appellant in writing as to the hearing proceedings.
- B. Time and Place of the Appeal Hearing:
1. Pursuant to the Board of Directors decision in Section 24.12, the General Manager or designee shall take every appropriate action necessary and reasonable to convene a hearing within the time prescribed.

2. The Agency's representative, the appellant and/or representative, and the hearing officer or Disciplinary Review Board shall meet in a pre-hearing conference to determine the time, place, and manner in which the hearing will be conducted.
- C. Purpose: The purpose of the hearing is to determine the accuracy and the sufficiency of the facts attendant to the disciplinary action. The Agency shall have the burden of proof by the preponderance of the evidence. The parties may stipulate to certain facts or evidence that shall be considered without abridgment or adulteration by the hearing officer or Disciplinary Review Board upon whom the action was based and any pertinent information that may establish the truth or falsity of such evidence.
- D. Parties: The Appellant and their representative and the Agency's representative shall attend the hearing. Failure of the Appellant, with or without their representative, to appear in person at the time and place set for the hearing shall be deemed a withdrawal of the appeal, unless otherwise excused by the Board of Directors.
- E. Rights: Each party shall have the right to:
1. Choose a representative.
  2. Testify under oath.
  3. Call witnesses and present documentary evidence.
  4. Question all witnesses and examine the evidence.
  5. Argue a case.
- F. Prehearing Notice: No later than ten (10) days before the hearing date, each party will provide the other and the hearing officer or Disciplinary Review Board 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 hearing officer or Disciplinary Review Board may not allow either party 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.
- G. Subpoena: Upon the request of either party, and upon their own motion, the hearing officer or Disciplinary Review Board will issue subpoenas to

compel attendance at the appeal hearing. Each party is responsible for serving their/its own subpoenas.

H. Presentation of the Case:

1. The hearing shall open with the recording of the time, place, and date of the hearing and the presence of the parties and representatives, if any. The Agency shall first present its case on which it based the disciplinary action. A hearing guide may be used and will be made available to all parties.
2. The parties will address their remarks, evidence, and objections to the hearing officer or Disciplinary Review Board. The hearing officer or Disciplinary Review Board may terminate argument at any time and issue a ruling regarding an objection or any other matter. The hearing officer or Disciplinary Review Board may limit redundant or irrelevant testimony or evidence, or directly question the witness.
3. The hearing will proceed in the following order unless the hearing officer or Disciplinary Review Board directs otherwise:
  - a. The Agency is permitted to make an opening statement;
  - b. The employee is permitted to make an opening statement;
  - c. The Agency will produce its evidence;
  - d. The employee will produce its evidence;
  - e. The Agency, followed by the employee, may present rebuttal evidence;
  - f. Oral closing arguments of no more than twenty (20) minutes may be permitted at the discretion of the hearing officer or Disciplinary Review Board. The Agency argues first, the employee argues second, and if the Agency reserved a portion of its time for rebuttal, the Agency may present a rebuttal.

- I. Report of the Hearings: A record of the proceeding shall be taken and maintained by the Agency. The Agency may choose to make a mechanical or electronic record of the proceedings. If the Agency orders a transcript or makes a transcript of the recording, the Agency will notify

the employee within three (3) days of ordering or making the transcript and will provide a copy of the transcript upon receipt of the costs of duplication. Costs for transcripts shall be borne by the requesting party.

- J. Adjournment and Continuances: The hearing may adjourn or recess the hearing for good cause, upon the request of a party or the hearing officer or Disciplinary Review Board. The hearing officer or Disciplinary Review Board may continue a scheduled hearing only upon good cause shown.
- K. Exhibits and Witnesses:
1. The names of witnesses and exhibits shall be identified properly and shall be made part of the official record.
  2. The Agency will use numbers to identify its evidence and the employee will use alphabet letters.
  3. The hearing officer or Disciplinary Review Board may exclude witnesses not under examination and admonish witnesses to refrain from discussing the subject of their testimony with other witnesses or potential witnesses. The parties may remain at all times during the proceeding.
  4. Witnesses shall be required to testify under oath or affirmation. The oath shall read:  
  
"Do you solemnly swear (or affirm) that the testimony you are about to give in this matter shall be the truth, the whole truth and nothing but the truth."
  5. 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 hearing officer or Disciplinary Review Board shall determine the relevance, weight, and credibility of testimony and evidence.
- L. 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 hearing officer or Disciplinary Review Board.

- M. Confidentiality: The hearing shall be closed to the public and shall not be a public record unless an open public hearing is requested and ordered.
- N. Expenses: The expenses of witnesses for either party shall be paid by the party producing such witnesses. Agency employees required to testify shall be on call and shall be relieved of regular duties to testify. Agency employees shall receive their regular compensation for the time taken to testify.
- O. Closing of Hearing: The hearing officer or Disciplinary Review Board shall inquire if either side has anything further to offer. Upon receiving negative replies, the hearing shall be closed.
- P. Written Briefs: Either party may request to submit a written brief and/or a draft decision. The hearing officer or Disciplinary Review Board will determine whether to allow written briefs or draft decisions, the deadline for submitting briefs, and the page limit for briefs.
- Q. Recommended Decision: The hearing officer or Disciplinary Review Board shall make written findings and a recommended decision as to discipline to the Board of Directors within thirty (30) days after the closing of the hearing.

The Board of Directors shall act upon that recommendation by upholding, reversing, or modifying the findings, recommendations, or disciplinary action taken. The decision of the Board of Directors is final. There is no process for reconsideration.

- R. Proof of Service of the Written Findings and Decisions: The Agency shall notify the parties within five (5) working days of the outcome of the Board of Directors' final decision.

The Agency will mail a copy of the final written findings and decisions, 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 Agency of their address. A copy of the decision shall also be provided to the Human Resources Manager.

## **SECTION 25. ETHICAL CONDUCT POLICY.**

### **25.01. General:**

- A. This Policy describes the minimum work conduct expectations for Agency employees. The Agency expects that employees will perform their duties conscientiously, honestly, and in accordance with the best interests of the Agency. This Policy may include subjects addressed in other Agency policies. In such cases, the respective Policy is referenced in order for the reader to obtain additional information regarding that subject.
- B. It is the policy of the Agency that all employees must comply with all applicable laws and regulations at all times.
- C. The Agency will not condone and will initiate disciplinary action against any employee who violates the law or engages in unethical business dealings. The Agency will immediately notify an appropriate law enforcement agency. This includes any payments in consideration of illegal acts, indirect contributions, rebates, and bribery.
- D. All business conduct should be well above the minimum standards required by law. Accordingly, employees must ensure that their actions cannot be interpreted as being, in any way, in contravention of the laws and regulations governing the Agency' operations.

#### **25.02. Responsibilities:**

- A. Employees: Every employee is responsible for reading and obtaining an understanding of this Policy. Employees uncertain about the application or interpretation of the contents of this Policy should obtain clarification from their immediate supervisor/department head.
- B. Supervisors: All supervisors are responsible for discussing the contents of this Policy with their staff, as needed. Supervisors should direct any questions regarding this Policy to the appropriate department head.
- C. Department Head: All department heads are responsible for knowing the contents of this Policy and must be prepared to address any concerns or questions raised by their staff competently.
- D. Human Resources: The Human Resources Department is responsible for the posting of this Policy. This Policy is applicable to all current employees and new hires. The Human Resources Department is responsible for proposing updates to this Policy when appropriate, and monitoring compliance through audits that are performed.

#### **25.03. Agency Funds:**

- A. Employees who have access to Agency funds in any form must follow the prescribed procedures for recording, handling, and protecting money as detailed in the Agency's instructional manuals or other explanatory materials, or both. The Agency imposes strict standards to prevent fraud and dishonesty.
- B. When an employee's position requires spending Agency funds or incurring any reimbursable personal expenses, that individual must use good judgment on the Agency's behalf to ensure that the Agency receives good value for any expenditure.
- C. Agency funds and all other assets of the Agency are for Agency purposes and not for personal use, except as provided under specific policies. This includes the personal use of Agency equipment, resources and assets, such as vehicles and computers.

**25.04. Conflict of Interest:** Employees must not use their position or the knowledge gained because of their position for private or personal advantage if such action would be in conflict with the interests of the Agency. Regardless of the circumstances, if employees' sense that a course of action they have pursued, are presently pursuing, or are contemplating may involve them in a conflict of interest with the Agency, they should immediately communicate all the facts to their supervisor/department head.

**25.05. Outside Activities, Employment, and Directorships:** All employees share a responsibility for the Agency's good public relations, especially at the community level. Their readiness to help with charitable, educational, and civic activities brings credit to the Agency and is encouraged. Employees must, however, avoid acquiring any business interest or participating in any other activity outside the Agency that would (1) create excessive demand upon their time and attention, thus depriving the Agency of their best efforts on the job; and/or (2) create a conflict of interest, an obligation, interest, or distraction that may interfere with their ability to make independent job-related decisions that are in the best interests of the Agency. See Section 2.18 for additional information and requirements on the Agency's policy on outside employment.

**25.06. Relationships with Contractors and Suppliers:** Employees shall not invest in or acquire a financial interest in any business organization that has a contractual relationship with the Agency, or that provides goods or services, or both to the Agency.

**25.07. Conflict of Interest and Disclosure Code:** The Agency has adopted a Conflict of Interest and Disclosure Code. The provisions of this Code are additional to Government Code Section 87100 and the laws pertaining to conflicts of interest. Each person holding a designated position listed in the Code shall file a Statement of Economic Interests (Form 700) disclosing their interest in investments, business positions, real property, and income designated as reportable under the category to which their position is assigned and otherwise comply with the Code. Employees may obtain this Code from the Secretary to the Board.

**25.08. Gifts, Entertainment, and Favors:** Employees must not accept entertainment, gifts, personal favors, or preferential treatment that could influence Agency-related business decisions in favor of any person or organization with whom or with which the Agency has, or is likely to have, business dealings.

**25.09. Kickbacks and Secret Commissions:** Employees may not receive payment or compensation of any kind, except as authorized under the Agency's compensation policies. In particular, the Agency strictly prohibits the acceptance of kickbacks and secret commissions from Agency suppliers or others.

**25.10. Agency Records:** Accurate and reliable records of many kinds are necessary to manage the affairs of the Agency and to meet the Agency's legal and financial obligations. The Agency's books and records must reflect all business transactions in an accurate and timely manner. The employees responsible for accounting and record keeping must fully disclose and record all assets, liabilities, or both, and must exercise diligence in enforcing these requirements. Employees must not make any false record or engage in any false communication, whether internal or external, including but not limited to, false expense, attendance, production, financial, or other misleading representations.

**25.11. Confidentiality:** When handling financial and personal information about customers, Agency employees, or others with whom the Agency have dealings, the following principles must be observed:

- A. Collect, use, and retain only the personal information necessary for the Agency's business. Whenever possible, obtain any relevant information directly from the person concerned. Use only reputable and reliable sources to supplement this information.
- B. Retain information only for as long as necessary or as required by law. Protect the physical security of this information.

- C. Limit internal access of personal information to those with a legitimate business reason for seeking that information.
- D. Safeguard proprietary and confidential information except when disclosure is authorized or required by law.

**25.12. Reporting of Fraudulent Activity:** If employees become aware, or even suspicious, of any evidence of fraudulent activity, they should immediately advise their supervisor/department head, the Agency's Human Resources Department, or the General Manager or designee. Employees may leave an anonymous message.

## **SECTION 26. EMPLOYMENT OF RELATIVES, SPOUSES OR DOMESTIC PARTNERS.**

**26.01. Policy:** The Agency regulates the employment and placement of relatives, spouses, and domestic partners to avoid conflicts of interest and to promote safety, security, supervision, and morale.

### **26.02. Definitions:**

- A. "Relative" means child, stepchild, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.
- B. "Spouse" means one of two persons to a marriage, or two people registered as domestic partners, as those terms are defined by California law.
- C. "Supervisory relationship" means 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 their Agency appointment.

**26.03. Employment of Relatives:** The Agency 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.

**26.04. Spouses or Domestic Partners:** The Agency 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:

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

**26.05. Marriage or Domestic Partnership after Employment:**

- A. Transfer: If two Agency employees who work in the same department later become spouses or domestic partners, the General Manager or designee 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 General Manager or designee retains sole discretion to determine which employee will be transferred based upon Agency 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 General Manager or designee finds to be consistent with the Agency's interest in the promotion of supervision, safety, security, or morale, then the General Manager or designee retains sole discretion to separate one employee from Agency 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.

## **SECTION 27. REASONABLE ACCOMMODATION AND INTERACTIVE PROCESS.**

**27.01. Reasonable Accommodation:** Absent undue hardship or direct threats to the health and safety of employee(s), the Agency provides employment-related reasonable accommodations to:

- A. Qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions;
- B. Employees with conditions related to pregnancy, childbirth, or a related medical condition, if they so request, and with the advice of their health care provider;
- C. Employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
- D. Employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

### **27.02. Supporting Documentation or Certification:**

- A. Reasonable Medical Documentation of Disability: If the disability or the need for reasonable accommodation is not obvious, the Agency 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

Agency will provide the employee with notice of the need for a medical certification within two (2) 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: (1) a description of the requested accommodation or transfer; (2) a statement describing the medical advisability of the accommodation or transfer due to pregnancy; (3) 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 their 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: (1) a police report indicating the employee's victim status; (2) a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; (3) 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.

### **27.03. Fitness for Duty Examinations:**

- A. Applicants: After a conditional offer of employment has been extended to an applicant, the Agency 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 their right to obtain a second opinion at their expense and that they may submit such second opinions for consideration.
- B. Current Employee: The General Manager or designee 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 their job when there is significant evidence that:

1. The employee's ability to perform one or more essential functions of their job has declined; or
2. Could cause a reasonable person to question whether an employee is still capable of performing one or more of their essential job duties, or is still capable of performing those duties in a manner that does not harm themselves or others.

C. Role of Health Care Provider: The Agency may request the applicant or employee's health care provider to conduct a fitness for duty exam on the applicant or employee, or may request an Agency-selected health care provider to do so at the Agency's expense. The Agency will allow an employee paid time off to attend the exam. The Agency 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 their 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 Agency with non-confidential information regarding whether:

1. The applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
2. The applicant or employee is fit to perform essential job functions;
3. Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
4. There are any reasonable accommodations that would enable the applicant or employee to perform essential job functions; and
5. The applicant's potential employment or employee's continued employment poses a threat to the health and safety of themselves or others.

Should the health care provider exceed the scope of the Agency's request and provide confidential health information, without valid consent of the applicant or employee, the Agency 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 Agency has requested.

- D. Authorization for Use of Medical Information: During the course of a fitness for duty examination, the Agency will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.
- E. Medical Information from the Applicant or Employee: If an employee or applicant submits medical information to the Agency from their own health care provider, the Human Resources Manager will not forward that information on to the health care provider who conducted the examination for the Agency, without the employee or applicant's written authorization. Upon receipt of the written authorization, the Human Resources Manager will request the Agency-paid health care provider to determine whether the information alters the original fitness for duty assessment.

#### **27.04. Interactive Process:**

- A. When to Initiate the Interactive Process: The General Manager or designee will initiate the interactive process when:
  1. An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s);
  2. The Agency 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;
  3. The Agency becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, CFRA/FMLA 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;
  4. An employee disabled by pregnancy, childbirth, or related medical conditions requests a reasonable accommodation or transfer based on the advice of their health care provider;
  5. An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave;

6. An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for their safety at work;
  7. An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement; or
  8. An employer is aware of the need for a reasonable accommodation for an employee or applicant's religious beliefs, observance, or practices.
- B. Interactive Communication: After the occurrence of any of the above-stated circumstances that trigger the need to conduct an interactive process meeting, the General Manager or designee will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee and their designated representative, if any. The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations. The General Manager or designee will document these communications in writing.
1. 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 their 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 Agency 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, but not limited to: 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.

2. 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 takes into account 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.

3. 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 Agency will consider the exigent circumstance or danger facing the employee. The Agency 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 work station;
  - Installation of locks;
  - Assistance in documenting domestic violence, sexual assault, stalking, or other crime 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.
  
4. 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 Agency 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 their religious observances.

- C. **Determination**: After the interactive process communications, the General Manager or designee will review the information received, and determine: whether all available information has been reviewed; whether all potential accommodations that the applicant or employee has suggested have been considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant's or employee's preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions without harming themselves or others; and if the accommodations would pose an undue hardship on Agency finances or operations. The General Manager or designee will inform the applicant or employee of the determination in writing. The General Manager or designee will use their discretion based upon the particular facts of each case.

**27.05. Access to Medical Information:** 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 Human Resources Manager, the Agency's legal counsel, first aid and safety personnel in case of emergency, and supervisor/department heads who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to state and federal law.

## **SECTION 28. POLICY AGAINST DISCRIMINATION, HARASSMENT, AND RETALIATION.**

**28.01. Policy:** The Agency is committed to prohibiting and preventing discrimination, harassment, and retaliation in the workplace. The Agency has zero tolerance for any conduct that violates this Policy. Conduct need not violate state or federal law to constitute a violation of 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 Agency encourages all covered individuals to report to their supervisor/department head any conduct they believe violates this Policy as soon as possible. The Agency prohibits any retaliation against an employee because they filed or supported a complaint or because they participated in the complaint resolution process. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

**28.02. 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.

**28.03. Definitions:**

- A. Protected Classifications: 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 (forty (40) and over), sexual orientation, 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 a 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 taken because of another person's actual or perceived protected classification:

1. Speech, such as epithets, derogatory comments or slurs, and propositioning based on a protected classification. This includes inappropriate comments about appearance, dress, physical features, gender identification, or race-oriented stories and jokes.
  2. 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.
  3. Visual acts, such as derogatory posters, cartoons, emails, pictures, or drawings related to a protected classification.
  4. 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.
- E. 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, or 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.

**28.04. Guidelines for Identifying Harassment:** Harassment includes any conduct that 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:

- A. 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.

- B. 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.
- C. 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 directed explicitly or specifically at a particular individual.
- D. 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).

**28.05. Complaint Procedure:** A covered individual who believes they have experienced discrimination, harassment, or retaliation may make a complaint -- orally or in writing -- to any supervisor/department head, without regard to any chain of command. Any supervisory/department head employee who receives a harassment complaint should immediately notify the Human Resources Manager. Upon receiving notification of a harassment complaint, the Human Resources Manager will complete and/or delegate the following steps. If the Human Resources Manager is the accused or is 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.
- F. The Agency will notify the complainant when the investigation is complete.

**28.06. Proactive Approach:** The Agency takes a proactive approach to potential Policy violations. The Agency will conduct an investigation if supervisory/ department head employees become aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or a third party reports a potential violation.

**28.07. 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 Agency bulletin boards for office locations and telephone numbers.

**28.08. Confidentiality:** Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to investigate fully and the duty to take effective remedial action. This Policy prohibits an employee interviewed during the course of an investigation from attempting to influence any potential witness while the investigation is ongoing. The Agency 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.

**28.09. Responsibilities:**

- A. Each non-supervisor or non-department head is responsible for:

1. Treating all individuals in the workplace or on worksites with respect and consideration.
  2. Modeling behavior that conforms to this Policy.
  3. Participating in periodic training.
  4. Cooperating with the Agency's investigations pursuant to this Policy by responding fully and truthfully to all questions posed during the investigation.
  5. Taking no actions to influence any potential witness while the investigation is ongoing.
  6. Reporting any act they believe in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to their immediate supervisor/department head, or the Human Resources Manager.
- B. In addition to the responsibilities listed above, each supervisor/department head is responsible for:
1. Informing employees of this Policy.
  2. 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.
  3. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.
  4. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
  5. Informing those who complain of harassment or discrimination of their option to contact the EEOC or DFEH regarding alleged Policy violations.
  6. Assisting, advising, or consulting with employees and the Human Resources Manager regarding this Policy.

7. 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.
8. Implementing appropriate disciplinary and remedial actions.
9. Reporting potential violations of this Policy of which they become aware to the Human Resources Manager, regardless of whether a complaint has been submitted.
10. Participating in periodic training and scheduling employees for training.

## **SECTION 29. ANTI-BULLYING POLICY.**

**29.01. Policy:** The Agency is committed to providing a safe work environment. In addition to prohibiting all forms of discrimination and harassment, the Agency also prohibits any form of “intimidation or bullying” in the workplace or elsewhere, such as at offsite events.

**29.02. Policy Coverage:** Every employee and other individuals, such as temporary agency workers, interns, consultants, independent contractors, volunteers, 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 harms the individual or damages the individual’s property; has the effect of interfering with an employee’s ability to work; is severe or pervasive; and creates an environment that is intimidating, threatening, hostile, or offensive.

Bullying comes in many shapes and sizes and can take many forms including, but not limited to, the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person’s work performance. Other examples include tormenting, taunting, exclusion of another, abusive comments, using threatening gestures, pushing, shoving, punching, unwanted physical contact, any use of violence, name-calling, spreading rumors, or teasing. Such conduct can also occur via use of electronic or telephonic communications such as the internet, email, text messaging, phone calls, or misuse of cameras and video equipment.

**29.03. Complaint Procedure:** The Agency will not tolerate bullying in any form. Any individuals who believe that they are being or have been subjected to any form of bullying should immediately report this to their supervisor/department head or the Human Resources Manager. In addition, any person who believes they have witnessed bullying and any person who has received a report of such conduct, whether the subject to the complaint is an employee or a non-employee, shall immediately report the conduct to their supervisor/department head or the Human Resources Manager.

Individuals who violate this Policy are subject to disciplinary action, up to and including termination.

**29.04. 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 Agency or its representatives into allegations of bullying. Additionally, all employees have a duty to cooperate in connection with any investigation.

## **SECTION 30. POLICY AGAINST VIOLENCE IN THE WORKPLACE.**

**30.01 Safe and Secure Workplace:** The Agency is committed to providing a safe and secure workplace and prohibits acts or threats of violence in the workplace. The workplace includes any location where Agency 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.

**30.02. 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 Agency employment. The Agency has zero tolerance for any conduct that references workplace violence, even if intended to be harmless, humorous, a prank, blowing off steam, or venting.

**30.03. Workplace Violence:** “Workplace violence” is any conduct that causes an individual to fear reasonably for their personal safety or the safety of their 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 their family, friends, associates, or property.
- B. The destruction of, or threat of destruction of Agency 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 phone calls.
- G. Surveillance.
- H. Stalking.
- I. Possessing a weapon(s) during work hours unless the Agency issues the weapon(s) for performance of the job. "Weapon" is 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.

#### **30.04. Incident Report Procedures:**

- A. Employees must immediately report to their supervisor/department head whether they have been a victim of, or have witnessed, workplace violence. The supervisor/department head will immediately report the matter to the Human Resources Manager.
- B. The Human Resources Manager 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.
- C. The General Manager or designee or the Human Resources Manager will take appropriate steps to provide security, such as:
  - 1. 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.

**30.05. Investigation:** The Human Resources Manager or designee will see that reported violations of this Policy are investigated as necessary.

**30.06. Prevention:** Each supervisor/department head has authority to enforce this Policy by:

- A. Training supervisors/department heads 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 Human Resources Manager 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.

## **SECTION 31. WHISTLEBLOWER PROTECTION.**

**31.01. Whistleblower Protection:** The Agency prohibits all of the following:

- A. 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 Agency, 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;
- B. Preventing an employee from disclosing information to a government agency, including to the Agency, 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;
- C. 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

- D. 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.

**31.02. Coverage:** This Whistleblower Protection Policy governs and protects Agency officials, officers, employees, temporary/intern employees, or applicants for employment.

**31.03. Protected Activity:** "Protected activity" includes any of the following:

- A. 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.
- B. 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.
- C. Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity.
- D. Associating with another covered individual who is engaged in any of the protected activities enumerated here.
- E. Making or filing in good faith and with reasonable cause an internal complaint with the Agency regarding alleged unlawful activity.
- F. Providing informal notice to the Agency regarding alleged unlawful activity.
- G. Calling a governmental agency's "Whistleblower hotline" in good faith.

**31.04. Adverse Action:** "Adverse action" may include, but is not limited to, any of the following:

- A. Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity.

- B. Refusing to hire an individual because of actual or potential protected activity.
- C. Denying promotion to an individual because of actual or potential protected activity.
- D. Taking any form of disciplinary action because of actual or potential protected activity.
- E. Extending a probationary period because of actual or potential protected activity.
- F. Altering work schedules or work assignments because of actual or potential protected activity.
- G. Condoning hostility and criticism of co-workers and third parties because of actual or potential protected activity.
- H. Spreading rumors about a person because of that person's actual or perceived protected activity.
- I. Shunning or unreasonably avoiding a person because of that person's actual or perceived protected activity.

**31.05. Complaint Procedure:** An applicant, employee, or temporary/intern employee who feels they have been retaliated against in violation of this Whistleblower Protection Policy should immediately report the conduct according to the complaint procedure in the Agency's Policy against Discrimination, Harassment, or Retaliation outlined in Section 28 above so that the complaint can be resolved fairly and quickly. Supervisors/department heads have the same responsibilities as defined in the Policy against Discrimination, Harassment, or Retaliation.

**CERTIFICATION of (EMPLOYEES) RECEIPT AND AGREEMENT OF PERSONNEL  
POLICIES AND PROCEDURES**

I have received a copy of the updated December 11, 2025, Mojave Water Agency Personnel Policies and Procedures. I have read, understand and agree to abide by the rules set forth in such Personnel Policies and Procedure.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**THIS ACKNOWLEDGMENT PAGE WILL BE PLACED INTO THE MOJAVE WATER AGENCY PERSONNEL FILE TO DOCUMENT THAT YOU ARE AWARE OF, UNDERSTAND, AND AGREE TO ABIDE BY THE MOJAVE WATER AGENCY'S POLICIES.**

**Updated December 11, 2025  
Section 13.08 & 16.01**