

# Personnel Policy



**NID**

EFFECTIVE MARCH 26, 2025

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**100 Introduction and General Information Policies**

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**102 Effect and Applicability of Personnel Policies****102.1 *No Contract Right; District's Discretion to Modify These Policies***

These Personnel Policies (Policies) do not create any contractual rights, or any express or implied employment contract between the District and the individuals covered by these Policies.

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

**102.2 *Applicability of Policies***

These Policies apply with equal force to District employees unless expressly exempted or excluded herein.

Independent contractors and Board of Directors are not District employees and are not covered by the Policies included, herein.

**102.3 *Conflict between These Policies and a Memorandum of Understanding ("MOU")***

If a provision of these Policies conflicts with any provision of a valid MOU between the District and a recognized employee organization, the MOU supersedes the policy in conflict.

**102.4 *Employee Acceptance of Policies and Revisions to Policies***

As a condition of employment, the District requires that each employee read and, if necessary, request clarification regarding these Policies.

Each employee must sign a statement of receipt acknowledging the following: (1) they have received a copy or have been provided access to the Policies and have had the opportunity to ask questions and seek clarification about the policies; and (2) they understand that they are responsible for reading and becoming familiar with the contents of these Policies, as well as with all subsequent revisions to the Policies.

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## **104 Delegation of Authority**

### ***104.1 Delegation of Appointing and Personnel Authority to the General Manager***

The Board of Directors delegate(s) to the General Manager, the authority to authorize employment, establish job responsibilities, adopt, amend or revoke personnel policies, and perform other personnel actions as to all subordinate employees in accordance with all federal and state laws and regulations and these Policies.

The General Manager may delegate responsibility to the Director of Human Resources to perform personnel actions in accordance with this section.

### ***104.2 Retention of Personnel Authority as to Certain Personnel***

As to elected officials or employees who directly report to the Board of Directors, the Board of Directors retain exclusive authority over all personnel actions related to these employees, as authorized by federal and state laws and regulations and these Policies.

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## **106 Categories of Employees and Non-Employees**

### **106.1 *At-Will Employees***

An at-will employee is one (1) who serves at the pleasure of the General Manager, has no property right in continued employment with the District, and is not entitled to any pre- or post-disciplinary procedural due process or evidentiary appeal.

At-will employees include the following employees:

- (a) General Manager
- (b) Assistant General Manager
- (c) Department Directors
- (d) Board Secretary
- (e) Employees designated as temporary/seasonal
- (f) Probationary employees

### **106.2 *Probationary Employee***

A probationary employee is an employee who is serving a probationary period after beginning employment with the District.

### **106.3 *For-Cause Employee***

A for-cause employee is an employee who has satisfactorily completed their initial probationary period and cannot be disciplined, except when the District has cause to do so.

A for-cause employee has a property right in continued employment with the District and is entitled to pre- and post-disciplinary procedural due process and evidentiary appeals in certain types of disciplinary proceedings that may result in a significant deprivation of property.

### **106.4 *Full or Part-Time Employee***

A full-time employee is an employee whose position is budgeted to work at least forty (40) hours per week. Full-time employees are entitled to all benefits provided in these Policies, unless otherwise provided in an MOU or an employment agreement approved by the Board of Directors.

A part-time employee is an employee whose position is budgeted to work less than forty (40) hours per week. Part-time employees may have different rights to leave and other benefits under the law or these Policies, depending on the number of hours they work.

### **106.5 *Temporary/Seasonal Employee***

A temporary/seasonal employee is an at-will employee who is hired on a temporary basis that is not to exceed six (6) months.

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**200 Equal Employment Opportunity**

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**202 Equal Employment Opportunity Policy**

The District affords equal employment opportunity for all qualified employees and applicants to all terms of employment with the District, including, but not limited to, compensation, hiring, training, promotion, transfer, discipline, and termination.

The District prohibits discrimination against employees and applicants for employment on the basis of the employee or applicant's race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status or any other basis protected by law.

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## **204 Policy Against Discrimination, Harassment, and Retaliation**

### **204.1 Purpose**

The District is committed to preventing discrimination, harassment, and retaliation in the workplace.

The District has zero tolerance for any conduct that violates this policy. Conduct need not violate either federal or state law to constitute a violation of this policy.

A single act by a District employee may constitute a violation of this policy and provide sufficient grounds for the District to discipline the District employee.

This policy establishes a complaint procedure by which the District will investigate and resolve complaints of discrimination, harassment, and retaliation by and against District-covered individuals. The District encourages all covered individuals to report any conduct that they believe violates this policy as soon as possible.

The District expressly prohibits any retaliation against an employee because they filed or supported a complaint or because they participated in the investigation or complaint resolution process.

#### **204.1.1 Covered Individuals and Scope of Policy**

This policy covers the following individuals: applicants for employment at the District; District employees regardless of rank or title; elected or appointed officials of the District; interns; and contractors.

This policy applies to all terms and conditions of employment, internships, and opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

### **204.2 Definitions**

#### **204.2.1 Protected Classification**

This policy prohibits discrimination, harassment, or retaliation because of an individual's protected classification.

“Protected Classification” includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status, or any other basis protected by law.

This policy prohibits discrimination, harassment, or retaliation for the following reasons: (1) 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.

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### **204.2.2      *Protected Activity***

This policy prohibits discrimination, harassment, and retaliation because of an individual's protected activity.

Protected activity includes, but is not limited to, the following activity: (1) making a request for an accommodation for a disability; (2) making a request for accommodation for religious beliefs; (3) making a complaint under this policy; (4) opposing violations of this policy; or (5) participating in an investigation under this policy.

### **204.2.3      *Discrimination***

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

### **204.2.4      *Harassment***

This policy prohibits harassment of a covered individual because of the individual's actual or perceived protected classification. Harassment includes, but is not limited to, the following conduct:

- (a) Derogatory, offensive, or inappropriate speech, such as epithets, slurs or stereotypical comments, or verbal propositions made on the basis of the individual's protected classification. This includes, but is not limited to, comments, stories, and jokes about appearance, dress, physical features, gender identification, and race.
- (b) Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes, but is not limited to, pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
- (c) Visual acts, such as derogatory, offensive or inappropriate, posters, cartoons, emails, pictures or drawings related to a protected classification.
- (d) 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 unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive working environment.

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#### **204.2.4.1 Other Examples of Conduct That Might Constitute Harassment**

Harassment includes conduct that another individual who is a member of the protected classification would find unwelcome or unwanted. Harassment may include the following:

- (a) Conduct that is not intended as to harass. Conduct may violate this policy if the conduct is directed at or implicates a protected classification and the recipient finds the conduct to be offensive or inappropriate, even if its well-intentioned conduct (*e.g.*, gifts, over-attention, endearing nicknames, hugs).
- (b) Conduct to which the recipient appears to have consented. The District does not recognize as a defense that the recipient appeared to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest offensive or inappropriate conduct for many legitimate reasons, including, but not limited to, the need to avoid being perceived as insubordinate or to avoid being ostracized or subjected to retaliation.
- (c) Conduct about which no employees previously complained. The fact that no employee previously complained about the same or substantially similar conduct does not mean that the conduct is inoffensive or appropriate nor does that fact preclude an employee from complaining about the conduct if it is repeated.
- (d) Conduct witnessed by a third party or about which a third party learns, even if they did not witness the conduct. Visual, verbal, or physical conduct between two (2) people who do not find the conduct to be offensive or inappropriate may constitute harassment of a third party witnesses the conduct or learns about the conduct later and finds the conduct to be offensive or inappropriate. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
- (e) Conduct can constitute harassment even if the individual has no intention to harass. Conduct that may be well-intentioned conduct (*e.g.*, gifts, over-attention, endearing nicknames, hugs) may nevertheless constitute harassment if the conduct is directed at, or implicates a protected classification, and if the individual finds the conduct inappropriate or offensive.

#### **204.2.5 Retaliation**

Retaliation occurs when an employer takes adverse action against a covered individual because of the individual's protected activity as defined in this policy.

“Adverse action” may include, but is not limited to, the following actions: (1) disciplinary action; (2) counseling; (3) taking sides because an individual has reported harassment or discrimination; (4) spreading rumors about a complainant or about someone who supports or assists the complainant or who participates in the investigation; (5) shunning or avoiding an individual who reports harassment or discrimination; or (6) making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

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### **204.3            *Complaint Procedure***

A covered individual who believes they have been subjected to discrimination, harassment, or retaliation may make a complaint, either orally or in writing, to any supervisor, Department Director, or the Director of Human Resources, without regard to any chain of command.

Any supervisor or Department Director who receives a harassment complaint should immediately notify the Director of Human Resources. Upon receiving notification of a complaint regarding discrimination, harassment, or retaliation, the Director of Human Resources 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 the following individuals: (1) the complainant; (2) the accused (*i.e.*, the subject of the investigation); (3) witnesses to the conduct at issue in the complaint; and (4) other persons who have relevant knowledge concerning the allegations in the complaint.
- (b) Review the factual information gathered during the investigation to determine whether the alleged conduct violated 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) Prepare a summary report of the determination as to whether the conduct violated this policy and provide a report to the General Manager. If discipline is imposed, the level of discipline will not be communicated to the complainant.
- (d) If conduct in violation of this policy occurred, take or recommend to the General Manager 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.

If the Director of Human Resources is accused, or a witness to the events at issue, the General Manager will complete and/or delegate the above steps.

#### **204.3.1            *Proactive Approach***

The District takes a proactive approach to potential policy violations and will conduct an investigation if any supervisor or Department Director becomes aware that harassment, discrimination, or retaliation occurred or may be occurring, regardless of whether the recipient or third party reports a potential violation.

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#### **204.4            *Right to File Report with Outside Administrative Agencies***

An individual possesses the right to report workplace harassment, discrimination, or retaliation to the Equal Employment Opportunity Commission (EEOC) and/or the California Civil Rights Department (CRD).

These administrative agencies provide a complaint process as well as certain legal remedies where the applicable agency determined that a violation of the law occurred.

The nearest EEOC and CRD offices are listed on the internet and on District bulletin boards.

#### **204.5            *Confidentiality***

The District will make every effort to assure the confidentiality of complaints made under this policy to the greatest extent allowed by law. However, complete confidentiality may not be possible because of the District's need to investigate the complaint and provide the subject of the complaint their due process rights, that include providing the subject of the investigation a copy of the complaint after the initial investigatory interview, if requested.

The District expressly prohibits an employee who is interviewed during the course of an investigation from attempting to influence other employees, including employees who may have witnessed the underlying conduct at issue, while the investigation is open and ongoing.

An employee may discuss their interview with a designated representative from the employee's employee organization and/or the employee's legal representative. The District will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

#### **204.6            *Responsibilities***

(a) Employees are responsible for the following:

- 1) Treating all individuals in the workplace or on District worksites with respect and consideration.
- 2) Modeling behavior that conforms to this policy.
- 3) Participating in periodic trainings on personnel matters.
- 4) Cooperating with the District's investigations pursuant to this policy by responding fully and truthfully and in a timely manner to all questions posed during the investigation.
- 5) Taking no actions to influence the complainant or any potential witness while the District's investigation is ongoing.

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- 6) Reporting any act they believe in good faith constitutes harassment, discrimination, or retaliation as defined in this policy, to their immediate supervisor, Department Director, or the Director of Human Resources.
- (b) In addition to the responsibilities listed above, supervisors and Department Directors are responsible for the following:
- 1) Informing employees under their supervision of this policy.
  - 2) Taking all steps necessary to prevent harassment, discrimination, and retaliation from occurring, including, but not limited to, monitoring the work environment and taking immediate and appropriate action to stop violations (*e.g.*, removing inappropriate pictures or correcting inappropriate language).
  - 3) Receiving and responding to complaints in a uniformly fair and serious manner
  - 4) Documenting the steps taken to resolve such complaints.
  - 5) Following up with those who have complained to ensure that the offensive conduct has stopped and that there have been no reprisals or retaliation or threats of reprisals or retaliation.
  - 6) Informing those who complain about harassment and/or discrimination of their option to contact the EEOC or CRD and file a complaint about such activity.
  - 7) Assisting and/or advising employees regarding this policy.
  - 8) Assisting in the investigation of complaints involving subordinate employee(s).
  - 9) Where a complaint is substantiated, assisting in the development of a recommendation concerning an appropriate corrective or disciplinary action.
  - 10) Implementing appropriate corrective or disciplinary actions.
  - 11) Reporting potential violations of this policy to the Director of Human Resources, regardless of whether an employee complained about the conduct.
  - 12) Participating in periodic training and scheduling employees for training.

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## **206 Reasonable Accommodation and Interactive Process**

### **206.1 Reasonable Accommodation**

Absent the imposition of undue hardship to the District or its operations or the existence of a direct threat to either the health and safety of employee requesting the accommodation or others, the District will provide employment-related accommodations to the following employees and applicants for employment:

- (a) Qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions; and
- (b) Employees with conditions related to pregnancy, childbirth, or a related medical condition, if requested, and with the advice of their health care provider; and
- (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.

### **206.2 Supporting Documentation or Certification**

#### **206.2.1 Reasonable Medical Documentation of Disability**

If the disability or the need for reasonable accommodation is not obvious, the District may require the individual requesting the accommodation 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 District will do the following: (1) explain the insufficiency of the documentation provided; (2) allow the employee or applicant to supplement the documentation in order to remedy the issue with the documentation provided; and (3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

#### **206.2.2 Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions**

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, the District will provide the employee with notice of the need for a medical certification within two (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; and (3) the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer.

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### **206.2.3      *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:

- (a) 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
- (b) A certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

### **206.3      *Fitness for Duty Examinations***

#### **206.3.1      *Applicants***

After the District extends a conditional offer of employment to an applicant, the District may require the applicant to submit to a fitness for duty examination that is job-related, necessary for efficient operations of the District, and required of all applicants for the job classification. The District will notify an applicant or employee who is required to pass a medical examination of their right to obtain a second opinion at their expense and submit that opinion for consideration.

#### **206.3.2      *Current Employee***

The Director of Human Resources may require an employee to submit to a fitness for duty examination to determine whether the employee has a disability and is able to perform the essential functions of their job when there is significant evidence that:

- (a) the employee's ability to perform one (1) or more essential functions of their job has declined; or
- (b) a reasonable person would question whether an employee is still capable of performing one (1) or more of their essential job duties or is still capable of performing duties in a manner that does not harm themselves or others.

#### **206.3.3      *Role of Health Care Provider***

The District may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or employee or may request a District-selected health care provider to do so at the District's expense. The District will allow an employee paid time off to attend the exam. The District will provide the healthcare 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

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or employee. The health care provider will examine the employee and provide the District with non-confidential information regarding whether:

- (a) The applicant or employee has a disability within the meaning of the Fair Employment Housing Act (“FEHA”);
- (b) The applicant or employee is fit to perform essential job functions;
- (c) Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
- (d) There are any reasonable accommodations that would enable the employee to perform essential job functions; and
- (e) The employee’s continued employment poses a threat to the health and safety of themselves or others.

Should the health care provider exceed the scope of the District’s request and provide confidential health information, without valid consent of the applicant or employee, the District will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the District has requested.

#### **206.3.4      *Authorization for Use of Medical Information***

During a fitness for duty examination, the District will not seek or use information regarding an employee’s medical history, diagnoses, or course of treatment without an employee’s written authorization.

#### **206.3.5      *Medical Information from the Employee or Applicant***

If an employee or applicant submits medical information to the District from their own healthcare provider, the Director of Human Resources will not forward that information on to the healthcare provider who conducted the examination for the District, without the employee or applicant’s written authorization.

Upon receipt of the written authorization, the Director of Human Resources will request the District-paid health care provider to determine whether the information alters the original fitness for duty assessment.

#### **206.4          *Interactive Process***

##### **206.4.1        *When to Initiate the Interactive Process***

The Director of Human Resources will initiate the interactive process when:

- (a) An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s);

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- (b) The District otherwise becomes aware of the need for an accommodation through a third party (e.g., a doctor's note requesting an accommodation), or by observation of the employee's work;
  - (c) The District becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, Family and Medical Act leave, or other leave rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation;
  - (d) 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;
  - (e) An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave;
  - (f) An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for their safety at work;
  - (g) An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement; or
  - (h) An employer is aware of the need for a reasonable accommodation for an employee or applicant's religious beliefs, observance or practices.

#### **206.4.2        *Interactive Communication***

After the occurrence of any of the above-stated circumstances that trigger the need to conduct an interactive process meeting, the Director of Human Resources 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 Director of Human Resources will document these communications in writing.

##### **206.4.2.1        *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 District will consider accommodations that the applicant or employee suggests, but has the right to select and implement any reasonable accommodation that it deems effective. The range of potential reasonable accommodations includes, but is not limited to, the following:

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- (a) Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including, but not limited to, the following: 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;
  - (b) Job restructuring;
  - (c) Part-time or modified work schedules;
  - (d) 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;
  - (e) Preferential consideration to reassignment to a vacant, comparable position, except when the preference would violate a bona fide seniority system;
  - (f) Reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for; or
  - (g) Reassignment to a temporary position, if the individual agrees.

**206.4.2.2      *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, the following:

- (a) Transfer to a less strenuous or hazardous position for the duration of the pregnancy;
- (b) Change in or restructuring of work duties, such as modifying lifting requirements;
- (c) Providing more frequent breaks;
- (d) Providing seating;
- (e) Time off for medical appointments; and
- (f) Transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform 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 (4) month pregnancy disability leave entitlement.

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**206.4.2.3      *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 District will consider the exigent circumstance or danger facing the employee. The District will consider the preferences of the employee to be accommodated but has the right to select and implement any accommodation that it deems effective.

**206.4.2.4      *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 District will consider the preference of the employee or applicant but has the right to select and implement any accommodation that it deems effective.

**206.4.3          *Determination***

After the interactive process communications, the Director of Human Resources 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 District finances or operations. The Director of Human Resources will inform the applicant or employee of their determination in writing. The Director of Human Resources will use their discretion based upon the particular facts of each case.

**206.5            *Access to Medical Information Regarding Fitness for Duty***

Medical records and information regarding fitness for duty, or the need for an accommodation, will be maintained separately from non-medical records and information. Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the Director of Human Resources, the District's legal counsel, first aid and safety personnel in case of emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to federal and state law.

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## **208 Whistleblower Protection**

### **208.1 Policy**

The District prohibits the following conduct by District employees:

- (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 District, if the employee has reasonable cause to believe that the information discloses a violation of federal or state 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 District, if the employee has reasonable cause to believe that the information discloses a violation of federal or state 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 federal or state 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.

### **208.2 Policy Coverage**

This policy governs and protects the Board of Directors, employees, seasonal/temporary employees, or applicants for employment.

### **208.3 Definitions**

“Protected activity” means any of the following activities:

- (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 federal or state 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;

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- (e) Making or filing in good faith and with reasonable cause an internal complaint with the District regarding alleged unlawful activity;
  - (f) Providing informal notice to the District regarding alleged unlawful activity;
  - (g) Calling a governmental agency's "whistleblower hotline" in good faith;
  - (h) Filing a written complaint under penalty of perjury that the District has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety; and
  - (i) Refusing to participate in any activity that the employee reasonably believes would result in a violation of federal or state law, or a violation or noncompliance with a local, state, or federal rule or regulation.

"Adverse action" means, but is not limited to, the following actions:

- (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 protected activity;
- (h) Spreading rumors about a person because of that person's actual or perceived protected activity; and
- (i) Shunning or unreasonably avoiding a person because of that person's actual or perceived protected activity.

#### **208.4            *Complaint Procedure***

An applicant, employee, or seasonal/temporary employee who feels they have been retaliated against in violation of this policy should immediately report the conduct according to the complaint procedure in the District's policy against discrimination, harassment or retaliation so that the complaint can be resolved fairly and quickly. Supervisors and Department Directors have the same responsibilities as defined in the policy against discrimination, harassment, or retaliation.

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**300 Classification Policies**

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**302 Classification Plan****302.1 *Classification Plan***

The Director of Human Resources ascertains and records the duties and responsibilities of all positions and, after consulting with affected Department Directors, will recommend a classification plan, including job descriptions, for those positions. The plan and any revisions become effective upon approval of the General Manager.

**302.2 *Reclassification***

The Director of Human Resources may initiate a job audit to determine whether the duties of a position have changed to the extent that they necessitate reclassification of the position from the existing classification to a more appropriate classification. Upon completion of the job audit, the Director of Human Resources makes a recommendation regarding reclassification to the General Manager.

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## **400 Recruitment, Selection, and Appointment**

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### **402 Recruitment, Selection, and Appointment**

#### **402.1 *Job Announcement***

The Director of Human Resources will prepare a job announcement to announce a proposed recruitment. The announcement may be posted on the District's website and other locations the Director of Human Resources deems appropriate, depending upon whether the recruitment is open to the public or employees only.

The announcement will include the following:

- (a) The title and pay scale for the position;
- (b) The nature of the work to be performed and essential job duties of the position;
- (c) The minimum qualifications, including whether the job is a promotional position;
- (d) A statement of the employment status of the position – for cause or at-will;
- (e) The last date that the Director of Human Resources will accept applications, if any;
- (f) State if a medical examination, background check, and/or a drug screen will be required following a conditional offer of employment; and
- (g) Other information as determined in the discretion of the Director of Human Resources.

#### **402.2 *Application Forms***

Job applications require information describing an individual's training, experience, and other pertinent information as deemed necessary to assess qualifications for the job. Applicants may be required to provide supplementary information, including, but not limited to, the following: answers to job-related questions; resume; licenses; certifications; diplomas; letters of recommendation; and references. Applications must be completed in full and signed, physically or electronically, by the person applying. The Director of Human Resources will not process any application that is not fully completed and signed. Should an applicant be appointed to a position, the supplemental information becomes a part of the individual's permanent employment records.

#### **402.3 *Disqualification of Applications***

The Director of Human Resources may reject any application that is not properly completed or incomplete; received after the application deadline; or indicates that the applicant does not meet the minimum qualifications for the position. When an application is rejected, notice of rejection will be mailed or emailed to the applicant.

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**402.3.1      *Criminal Conviction Check***

After the District makes a conditional offer of employment, the Director of Human Resources may request legally permissible information regarding criminal convictions, except for misdemeanor marijuana-related convictions that are over two (2) years old, or convictions that have been judicially sealed, eradicated, or expunged. Unless required by law, the District will not deny employment to any applicant solely because they have been convicted of a crime. The District may, however, consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the position.

**402.4      *Employment Examinations***

- (a) Employee classes or positions may be subject to employment examinations. The Director of Human Resources will determine the manner and methods of administering employment examinations. Examinations may consist of: written tests; oral tests; performance tests; evaluations of prior training and performance, experience and/or education; interviews; working style assessments; practical exercises; file review; or any combination thereof. The content of examinations will be job-related and designed to evaluate knowledge, skills or abilities that help predict successful completion of job duties.
- (b) The content of examinations will be kept confidential prior to the administration of the examination. Applicants who are invited to the examination will be notified of the nature of the examination.
- (c) An applicant with a disability may request accommodation in an examination process. Following receipt of a request for accommodation, the Director of Human Resources may require additional information, such as reasonable documentation of the existence of a disability.
- (d) Failure of any part of the examination, or the failure to meet established standards described in the job announcement, may be grounds for declaring disqualification. Applicants will be notified if they advance in the examination process.
- (e) Applicants who meet the minimum qualifications and pass all examinations will be subject to a background check.

**402.5      *Appointments***

- (a) The Director of Human Resources will make all appointments except for those classifications that report to the governing body. The Director of Human Resources has discretion to decide in what manner a vacancy is filled. Vacancies may be filled by reinstatement, promotion, transfer, demotion, or appointment of temporary/seasonal employees. The Board of Directors will make appointments for those classifications that report to them.

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- (b) Appointment to certain positions may be made contingent upon the applicant/employee passing a drug/alcohol test, and/or a job-related medical examination. Examinations are only required after a conditional offer of employment has been made.
  - (c) The person accepting appointment must report to the Director of Human Resources on the date designated. Otherwise, the applicant is deemed to have declined the appointment.

**402.5.1        *New-Hire Probationary Period***

- (a) At-Will Status: The probationary period is part of the examination process and is used to determine whether work performance or work-related behavior meets the required standards of the position. A probationary employee may be released at any time during the probationary period with or without cause or reason, without notice or appeal or grievance. The probationary employee will be notified prior to the expiration of the probationary period that they have been released from probation.
- (b) Length of Probation: Unless otherwise specified by memorandum of understanding or these Policies, the probationary period is six (6) months of actual and continuous service. The probationary period is automatically extended by the length of any absence of one (1) workweek or more. The probationary period can also be extended by the District at the discretion of the General Manager.

**402.5.2        *Promotional Probationary Period***

- (a) A promotional probationary employee may be released at any time during the promotional probationary period with or without cause or reason, without notice or appeal or grievance. If the employee fails to satisfactorily complete the probationary period in the promotional position, the employee may return to the position held prior to promotion at the range and step held prior to promotion.
- (b) Length of Probation: On accepting a promotion, an employee serves a probationary period of six (6) months of actual and continuous service. The probationary period is automatically extended by the length of any absence of one (1) workweek or more.

**402.6        *DMV Pull Notice System – California Commercial Motor Vehicle Safety Act***

The District is required to obtain public driving records through the California Department of Motor Vehicles (“DMV”) Employer Pull Notice program for employees whose jobs entail driving certain types of vehicles or who are required to have a driver’s license as a condition of employment.

**402.6.1        *Required Employees***

Employees are required to be enrolled in the Employer Pull Notice Program if their job position:

1. Requires assignment to drive a District vehicle that requires a Commercial Class A or Class B driver’s license.

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2. Requires a Commercial Class C driver's license special endorsement (Hazardous Materials, Passenger Vehicles, Tank Vehicles).
  3. Requires regular driving for District business and as determined by the District, the job description requires a valid driver's license of any type.

**402.6.2      *Employee Notification***

District employees required to participate in the Employer Pull Notice program will be informed that the District will receive reports of their public driving records from the DMV and that these reports may be used as a basis for taking corrective action, up to and including termination.

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## **403 Drug and Alcohol Policy for Drivers Operating Commercial Vehicles and Employees in DOT-Covered Positions.**

### **403.1 Purpose.**

The use of alcohol, drugs, and controlled substances in the workplace is not conducive to safe working conditions. To promote a safe, healthy, and productive work environment for all employees and the public, it is the District's objective to promote a drug and alcohol-free workplace.

This policy also is intended to comply with all applicable federal and state laws and regulations governing workplace anti-drug programs and safety-sensitive employees. The federal Drug-Free Workplace Act of 1988 and the California Drug-Free Workplace Act of 1990 required the establishment of drug free workplace policies and the reporting of certain drug-related offenses to the federal Department of Transportation (DOT). Additionally, the DOT's Federal Motor Carrier Safety Administration (FMSCA) has enacted regulations that mandate urine drug testing and breathalyzer alcohol testing for DOT-covered positions and prevent the performance of such functions when there is a positive test result. The DOT has also set standards for collecting and testing urine and breath specimens.

Employees will be asked to sign a statement certifying that they have received a copy of this policy and understand its contents. Any questions regarding rights and obligations under this Policy will be referred to the employee's supervisor, Department Director, or Personnel Officer or designee.

This policy complies with and incorporates 49 CFR Part 655, as amended, 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended. Copies of Parts 655, 382, and 40 are available in the Human Resources office. They can be found on the internet at the Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance website <http://www.dot.gov/odapc>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with these regulations.

### **403.2 Covered Employees**

This policy applies to all employees whose position requires the possession of a commercial driver's license (CDL) to operate the following vehicles in the course and scope of employment for the District:

- (a) A combination vehicle with a gross combination weight rating or gross combination weight of 26,001 pounds or more, whichever is greater, inclusive of a towed unit(s) with a gross vehicle weight rating or gross vehicle weight of more than 10,000 pounds, whichever is greater; or
- (b) A heavy straight vehicle with a gross vehicle weight rating or gross vehicle weight of 26,001 pounds or more, whichever is greater.

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### **403.3 Prohibited Conduct**

Unless otherwise stated, prohibited conduct includes the following on District property, in a District vehicle, or while conducting or performing District business, regardless of location:

- (a) The use of illegal drugs is prohibited at all times. Employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, including, but not limited to, marijuana (medical and recreational), amphetamines, opiates, phencyclidine (PCP), and cocaine.
- (b) Being under the influence of alcohol, drugs, or any controlled substances while working or being on standby or on-call status.
- (c) Performing or continuing to perform safety-sensitive functions with an alcohol concentration of 0.02 or greater.
- (d) Consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions.
- (e) Consuming alcohol within four (4) hours before performing safety-sensitive job functions.
- (f) Consuming alcohol within eight (8) hours following an accident or until they submit to the post-accident drug and alcohol test, whichever occurs first.
- (g) Manufacturing, selling, distributing, dispensing, possessing, or otherwise attempting to manufacture, sell, or distribute alcohol, drugs, or controlled substances to any person, including any employee, at any time or while on District premises, whether directly or through a third party, or using any District property or premises to manufacture, sell, or distribute alcohol, drugs, or controlled substances.
- (h) Absence or tardiness resulting from being under the influence of alcohol, drugs, or controlled substances during non-work time.

### **403.4 Violation of Policy**

- (a) Sanctions: Any violation of this Policy that may constitute criminal conduct or violation of the DOT regulations may be reported to the appropriate law enforcement agencies and/or subject the employee to civil penalties.
- (b) Removal from Work Site: Employees reasonably believed to be under the influence of alcohol, drugs, or controlled substances will be immediately prevented from engaging in further work and may be detained for a reasonable time until the District can see that they are safely transported from the work site.

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(c) Removal of Safety Sensitive Functions: An employee whose alcohol test indicates an alcohol concentration level between .02 and .04 will be immediately removed from their safety sensitive position until the start of their next regularly scheduled duty period, but no less than 24 hours following administration of the test. An employee whose alcohol test indicates an alcohol concentration level greater than .04 will be immediately removed from their safety sensitive position for a period to be determined by the Director of Human Resources or the Department Director and may be subject to other disciplinary action as defined herein. If an employee violates this Policy, the District may, at its sole discretion, refer the employee to a Substance Abuse Professional (SAP). An SAP is a licensed physician, psychologist, social worker, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol, drug, and controlled substance abuse disorders, or an individual identified through the Employee Assistance Program. If an employee tests positive for drugs or controlled substances and the District refers them to an SAP, the employee may not perform safety sensitive functions until satisfying the following requirements:

- 1) The employee must be retested and receive a verified negative result; and
- 2) When referred to an SAP, the employee must complete any course of rehabilitation and submit to a return-to-duty test, as developed with the assistance of the SAP. The District is not required to pay for this type of treatment.

(d) "Safety Sensitive Functions" mean all time from the time a driver begins to work or is required to be ready to work until the time the employee is relieved from work and all responsibility for performing work. This includes:

- 1) All time waiting to be dispatched, unless the driver has been relieved from duty;
- 2) All time spent driving the controls of a commercial motor vehicle;
- 3) All time, other than driving time, in or upon any commercial motor vehicle;
- 4) Loading or unloading a commercial motor vehicle, supervising or assisting in the loading, attending to a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded;
- 5) Repairing, obtaining assistance, inspecting, maintaining, or attending to a commercial motor vehicle; or
- 6) Use of heavy equipment.

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**403.6**            *Circumstances for Testing*

- (a) Pre-Employment Testing: Pre-employment drug tests are conducted after making a conditional offer of employment or appointment into a job involving a safety sensitive function. A negative pre-employment drug test result is required before an employee can first perform any safety-sensitive functions.

A covered employee who has previously failed or refused a DOT pre-employment drug or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

- (b) Reasonable Suspicion Testing

The District may require a blood test, urinalysis, or other drug or alcohol screening of those persons reasonably suspected of using or being under the influence of a drug or alcohol at work. Testing must be approved by the Director of Human Resources or the Department Director.

To receive authority to test, a supervisor must record the factors that support reasonable suspicion in writing and discuss the matter with the Director of Human Resources or Department Director. If there is a reasonable suspicion of drug or alcohol abuse at work, the employee will be relieved from duty and placed on sick leave until the test results are received. Employees will not be permitted to drive themselves from the worksite. A supervisor will see that the employee is transported to the District’s designated Collection Facility or to their home.

“Reasonable suspicion” is based on objective factors, including but not limited to:

- 1) Observation, whether direct or indirect but reported to the supervisor, Department Director, or Human Resources, of drug or alcohol use, possession, or other symptoms of being under their influence;
- 2) A pattern of abnormal conduct or erratic behavior;
- 3) Physical signs and symptoms consistent with the use of such substances, including but not limited to, behavior, slurred speech, body odor, appearance, or other evidence of recent drug or alcohol use that would lead a reasonable person to believe that the employee is under the influence of drugs or alcohol at work;
- 4) Occurrence of a serious or potentially serious accident, whether or not an injury resulted, that may have been caused by human error; or

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- 5) Physical confrontations or fights, assaults, or flagrant disregard or violations of established safety, security, or other District operation procedures.

(c) Post-Accident Testing

As soon as practicable following an accident involving a commercial motor vehicle operating on a public road, Post-Accident Testing will be conducted.

- 1) Alcohol Testing: As soon as practicable following an accident involving a commercial motor vehicle operating on a public road, an alcohol test will be conducted:
  - i. In the case of a fatal accident, on each surviving covered employee who was performing safety-sensitive functions with respect to the vehicle; or
  - ii. In the case of a non-fatal accident, on each driver who receives a citation within eight (8) hours of the accident under State or local law for a moving traffic violation arising from the accident, if:
    - The accident results in injuries requiring immediate medical treatment away from the scene; or
    - One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.
- 2) Drug Testing: As soon as practicable following an accident involving a commercial motor vehicle operating on a public road, a drug test will be conducted:
  - i. In the case of a fatal accident, on each surviving covered employee who was performing safety-sensitive functions with respect to the vehicle; or
  - ii. In the case of a non-fatal accident, on each driver who receives a citation within thirty-two (32) hours of the accident under State or local law for a moving traffic violation arising from the accident, if:
    - The accident results in injuries requiring immediate medical treatment away from the scene; or
    - One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.
- 3) An employee subject to post-accident testing must remain readily available, including notifying their supervisor of their location if they leave the accident

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scene. Failure to remain readily available and provide notice when required will be considered a refusal to test. Nothing in this section will be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

(d) Random Testing: Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year.

- 1) Random testing will be conducted at all times of the day when safety-sensitive functions are performed.
- 2) Testing rates will meet or exceed the minimum annual DOT percentage rate set each year. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.
- 3) A covered employee will only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.
- 4) Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the District's designated testing site.
- 5) Random testing may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide advance, verifiable notice of scheduled medical or childcare commitments will be random drug tested no later than three (3) hours before the end of their shift and random alcohol tested no later than thirty (30) minutes before the end of their shift. Verifiable documentation of a previously scheduled medical or childcare commitment, for the period immediately following an employee's shift, must be provided at least four (4) hours before the end of the shift.

(e) Return to Duty Testing: In its sole discretion, the District may allow an employee to return to safety-sensitive duties after failing or refusing to submit to a DOT drug and/or alcohol test if the employee is first evaluated by a Substance Abuse Professional (SAP) and provides a negative drug or alcohol test result. The employee will be solely responsible for any rehabilitation program costs and the costs of any return-to-duty testing, if any. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

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- (f) Follow-up Testing: After returning to duty following leave for substance abuse rehabilitation, covered employees will be subject to unannounced follow-up drug or alcohol testing for a period of one (1) to five (5) years, as directed by the Substance Abuse Professional. At least six (6) tests will be performed during the first twelve (12) months following the employee's return to duty and the duration of testing will be extended to account for any subsequent leaves of absence, as necessary. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

#### **403.7            *Test Refusals***

Covered employees must consent to drug or alcohol testing and searches pursuant to this policy. Employees who refuse to take a drug or alcohol test will incur the same consequences as testing positive. The following activities will constitute a refusal to test:

- (a) Failure to appear for any test (except a pre-employment test) within a reasonable time, as determined by the District.
- (b) Failure to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (c) Failure to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because they have left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (d) In the case of a directly observed or monitored urine drug collection, failure to permit monitoring or observation of your provision of a specimen.
- (e) Failure to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (f) Failure or declining to take a second test as directed by the collector or the District for drug testing.
- (g) Failure to undergo a medical evaluation as required by the District or the Medical Review Officer (MRO).
- (h) Failure to cooperate with any part of the testing process.
- (i) Admitting to the adulteration or substitution of a specimen to the collector or MRO, or if the MRO reports that you have a verified adulterated or substituted test result.
- (j) Failure to remain readily available following an accident.

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**403.8            *Prescription Drug Use***

No prescription drug will be possessed or used by an employee other than the employee for whom the drug is prescribed by a licensed medical practitioner. A prescription drug will be used only in the manner, combination, and quantity prescribed. In accordance with District Policy, an employee must notify their supervisor, before beginning work, when taking any medications or drugs, prescription or nonprescription, that may interfere with the safe and effective performance of duties or the operation of a District vehicle or heavy machinery.

An employee's failure to provide this notice in a timely manner may result in discipline, up to and including termination. If there is a question regarding an employee's ability to safely and effectively perform assigned duties while using medications or drugs, the District may require medical clearance from a qualified physician.

**403.9            *Notifying the District of any Criminal Drug Statute Conviction***

An employee must immediately notify the District of any criminal drug statute conviction of a violation that occurred in the workplace within five (5) days after conviction. Any employee who fails to provide this notice may be subject to discipline, up to and including termination.

**403.10          *Records Keeping and Confidentiality***

The District will maintain records of the administration, including violations, of this Policy for a period of five (5) years.

Any laboratory reports and test results will not appear in an employee's general personnel folder but will be contained in a separate, confidential medical folder that will be securely kept under the control of the Director of Human Resources. The report or test results may be disclosed to District management only as necessary and to the employee upon request. Disclosures, without employee consent, may also occur under the following situations:

- A. When the information is compelled by law or by judicial or administrative process;
- B. When the information has been placed at issue in a formal dispute between the employer and employee;
- C. When the information is to be used in administering an employee benefit plan;
- D. When the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure;
- E. When requested by the DOT or any state or local officials with regulatory authority over the District or any of its safety sensitive employees; or
- F. As is otherwise consistent with District Policy.

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**403.11      *Rehabilitation***

The District encourages employees to voluntarily use District-sponsored employee assistance programs (EAP) to assist them in resolving any alcohol, drug, or controlled substance abuse problems. Employees may contact their supervisor, Department Director or Director of Human Resources or their designees for additional information. The District is committed to providing reasonable accommodation to those employees whose alcohol or drug abuse problem classifies them as disabled under federal and/or state law.

Each employee, however, is responsible for seeking assistance before the employee's drug or alcohol problem leads to a violation of this Policy, or before the employee is asked to submit to a reasonable suspicion or post-accident drug or alcohol test. An employee's after-the-fact disclosure of a substance or alcohol abuse problem will not terminate any criminal and/or administrative investigation initiated prior to the disclosure.

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**500 Employment of Relatives**

**502 Employment of Relatives**

**502.1 Policy**

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

**502.2 Definitions**

- (a) “Relative” means child, stepchild, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those formed by marriage or domestic partnership.
- (b) “Spouse” means one of two people in a marriage or two people who are registered domestic partners, as those terms are defined by state law.
- (c) “Supervisory relationship” means an employee has the right or responsibility to control, direct, reward, or discipline another employee by virtue of the duties and responsibilities assigned to their classification.

**502.3 Employment of Relatives**

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

- (a) A direct or indirect supervisory relationship between the relatives or spouses; or
- (b) Where one relative or spouse would be directly involved in making any employment-related decision involving the other relative or spouse; or
- (c) The two (2) employees having job duties which require performance of shared duties on the same or related work assignment; or
- (d) Both employees having the same supervisor; or
- (e) A potential for creating an adverse impact on supervision, safety, security, morale, or efficiency; or
- (f) Potential conflicts of interest or hazards for spouses that are greater than for those who are not married or in domestic partnerships.

**502.4 Marriage or Domestic Partnership after Employment**

- (a) Transfer: If District employees who work in the same department later become spouses or domestic partners, the Director of Human Resources has discretion to transfer

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one (1) of the employees to a similar position in another department. Although the wishes of the employees will be considered, the Director of Human Resources retains sole discretion to determine which employee will be transferred based upon District needs for supervision, safety, security, or morale. Transfers that result in a salary reduction are not disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

- (b) Separation: If continuing employment of both employees, who work in the same department and who later become spouses or domestic partners, cannot be accommodated in a manner the Director of Human Resources finds to be consistent with the District's interest in the promotion of supervision, safety, security, or morale, then the Director of Human Resources retains sole discretion to separate one (1) employee from the District. Absent the resignation of one (1) employee, the less senior employee will be separated. Any separation is not considered to be disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

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**600 Compensation and Payroll Practices**

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**602 Work Schedules and Attendance****602.1 Work Schedules**

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

**602.2 Meal Period**

A non-compensated meal period will be provided to all full-time overtime-eligible employees. Overtime-eligible employees are responsible for taking their meal period at a time designated by the supervisor.

**602.3 Rest Period**

A 15-minute compensated rest period will be provided to all overtime-eligible employees for each four-hour period of service. The rest period must be taken at a time designated by the employee's supervisor. Rest periods may not be combined to shorten the workday or to extend the meal period.

**602.4 Lactation Break Time and Location**

The District will provide a reasonable amount of break time to accommodate any employee desiring to express breast milk for the employee's infant child each time the employee has a need to express milk. The break time will, if possible, run concurrently with any break time already provided to the employee. If the employee takes lactation breaks at times other than their provided break times, then the lactation break is unpaid, or the employee may choose to use accrued leave.

Those desiring to take a lactation break at times other than their provided break times must notify a supervisor prior to taking a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

The District will provide a room or other appropriate location in close proximity to the employee's worksite that is not in a bathroom to express milk in private. The room or location will meet the following requirements:

- (a) Be shielded from view and free from intrusion while being used to express milk;
- (b) Be safe, clean, and free of hazardous materials;
- (c) Contain a surface on which to place a breast pump and personal items;
- (d) Contain a place to sit; and
- (e) Have access to electricity needed to operate an electric battery-powered breast pump.

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An employee occupying the private area will either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance.

The District will provide access to a sink with running water and a refrigerator, or other cooling device, suitable for storing milk, in close proximity to the employee's work area.

**602.4.1      *Lactation Accommodation***

An employee may make a request for lactation accommodation, either orally or in writing, to the Director of Human Resources.

Following receipt of a request for lactation accommodation, the District will provide a timely written response to the employee indicating if the District is unable to provide the requested break time or a requested location for the purposes of expressing breast milk.

An employee who does not believe that the District is providing an appropriate lactation accommodation should immediately inform the Director of Human Resources.

An employee who does not believe that the District is providing an appropriate lactation accommodation as required by state law has the right to file a complaint with the California Division of Labor Standards Enforcement/Labor Commissioner.

**602.4.2      *Storage of Expressed Milk***

Any employee storing expressed milk in any authorized refrigerated area within the District must clearly label it as expressed milk. No expressed milk may be stored at the District beyond the employee's shift.

**602.5      *Advance Request for Permission to Deviate from Regular Work Hours***

An overtime-eligible employee is required to seek advance permission from their supervisor for any foreseeable absence or deviation from regular work hours, break, and mealtimes.

**602.6      *Notification of Unforeseen Late Arrival or Absence***

An overtime-eligible employee who is unexpectedly unable to report for work as scheduled must notify their immediate supervisor 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 Director.

**602.7      *Unauthorized Absence is Prohibited***

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent prior authorization. An overtime-eligible employee who fails to timely notify the supervisor of any absences as required by this policy, or who is not present and

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ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence and must use accrued leave to cover the unauthorized tardy or absence. If the employee has no leave balances the unauthorized tardy or absence will be unpaid.

**602.7.1        *Unauthorized Absence is Prohibited in the Event of an “Emergency Condition”***

In the event of an “emergency condition,” the District designates all employees as Disaster Service Workers, and expects employees to report to their workplace or worksite and not to leave the workplace or worksite.

In this policy, “emergency condition” means the existence of a disaster or extreme peril to the safety of persons or property at the workplace or worksite caused by natural forces or a criminal act.

**602.8        *Excessive Tardiness/Absenteeism and Abuse of Leave***

Employees are expected to be at work on time and to remain on the job during their scheduled work hours. Excessive tardiness occurs when an overtime-eligible employee who, without authorization, is late to work or late to return from breaks more than three (3) times during any 30-day period. Excessive absenteeism occurs when the number of unapproved absences for reasons that are not protected by federal or state law, exceeds three (3) days in any three (3) month period. The District may require an employee to submit a physician’s certificate to support a sick leave absence greater than three (3) days. Abuse of leave occurs when an employee’s use of sick leave establishes a pattern or practice of absenteeism that is not part of legally protected leave.

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## **604 Work Week and Overtime**

### **604.1 *Work Week***

The workweek begins at 12:00 a.m. on Monday and ends at 11:59 p.m. on Sunday, except for employees on a 9/80 work schedule, or as otherwise designated in an applicable MOU.

#### **604.1.1 *Work Week for 9/80 Work Schedule***

Employees working a 9/80 work schedule will have a regular day off every other week as determined by the District. For employees working a 9/80 work schedule, each employee's designated workweek begins exactly four hours after the start of their eight (8) hour shift on the day of the week that corresponds to the employee's alternating regular day off.

### **604.2 *Overtime***

Overtime-eligible employees required to work in excess of forty (40) hours in the work period receive overtime at time-and-a-half the employee's regular rate of pay. All paid time counts as hours worked towards the calculation of overtime. Employees may take overtime in cash or Compensation Time Off (CTO) to a maximum of eighty (80) hours. Employees may be required by the District to work overtime.

#### **604.2.1 *Prior Approval Required for Overtime***

Overtime-eligible employees are not permitted to work overtime except as directed and authorized by their supervisor, or in case of emergency, as determined by the District. Working overtime without prior authorization is grounds for discipline. In emergency situations that necessitate working overtime, the employee must notify a supervisor as soon as possible, and in no event later than the end of that day upon which the emergency occurred. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working.

### **604.3 *Accurate Time Reporting***

Employees must accurately report all work time to the nearest fifteen (15) minutes.

### **604.4 *No Volunteering of Work Time***

All time spent for the benefit of the District must be reported as hours worked on time records so that the employee is paid for all work. Overtime-eligible employees may not "volunteer" work time to perform duties that are the same or similar as their stated or regular job duties. Employees are prohibited from working without compensation. No supervisor has authority to request overtime-eligible employees to volunteer time.

### **604.5 *Compensatory Time Off***

- (a) Employee Request to Use CTO: The District will grant an employee's request to use accumulated CTO provided that: (1) the department can accommodate the use of CTO on

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the day requested without undue disruption to department operations; and (2) the employee makes the request in writing to the supervisor 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 District will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.

- (b) Value of CTO Cash Out: During employment, CTO is cashed out at the employee's current Fair Labor Standards Act (FLSA) regular rate of pay (including all FLSA-applicable salary differentials and special pays). Employees separating from District service are compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their average FLSA regular rate for the prior three (3) years, whichever is higher.

**604.6            *No Remote Access for Overtime-Eligible Employees***

Unless the Director of Human Resources specifies otherwise in writing, overtime-eligible employees are prohibited from remote access to District equipment, resources, or email.

**604.6    *Temporary Upgrade Pay***

If a Department Director or designee assigns an employee to perform the full range of duties of a higher classification, the employee will receive Temporary Upgrade Pay at the rate of pay the employee would have received if promoted.

The Department Director or designee will assign the temporary assignment in writing. The position that the employee is temporarily assigned must be vacant and the District must be actively recruiting for the vacancy. A temporary assignment will not last longer than 960 hours.

The assignment will end when the vacant position is filled through the District hiring process or when the assignment is terminated by the Department Director or designee, whichever occurs first.

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## **605 Service and Retirement Awards**

### **605.1 Purpose**

The District values the contributions, knowledge and experience of long-term employees. In appreciation of this dedicated service, the District recognizes employees as they reach milestone anniversaries of employment and retirement.

### **605.2 Eligibility**

Full-time, active employees become eligible for a service award in the year in which they complete 5, 10, 15, 20, 25, 30, and 35 years of service. Retirement recognition awards are given upon retirement after completion of 15 years of employment without a break in service.

### **605.3 Service Awards**

Service Awards are provided as follows:

<b>Service Years</b>	<b>Award Valued At</b>
5	\$25.00
10	\$50.00
15	\$75.00
20	\$100.00
25	\$200.00
30	\$350.00
35	\$400.00

### **605.4 Retirement Awards**

Retirement Awards are provided as follows:

<b>Service Years</b>	<b>Award Valued At</b>
15 - 19	\$250.00
20 - 24	\$300.00
25 - 29	\$400.00
30+	\$500.00

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## **607 Tuition Reimbursement**

### **607.1 Purpose**

The District encourages all employees to continue their education. To assist employees in this effort, the District may provide reimbursement of tuition expenses that allow employees to further their education and acquire additional skills in subject areas that are appropriate and advantageous to the mission of the District.

### **607.2 Responsibility**

The Director of Human Resources shall be responsible for staff leadership and coordination efforts. Final authorization will be the responsibility of the District. The following guidelines will provide each Department Director with standards for recommendations:

### **607.3 Eligibility**

Tuition reimbursement may be made to active, full-time regular employees who have completed their probationary period and are in good standing. Employees are not eligible for participation in the program if they are on a performance improvement plan (PIP) or on a leave of absence at the time of application or reimbursement. Employees eligible for veteran's educational benefits or other government plans are not eligible for benefits under this policy until benefits from other such plans are exhausted.

### **607.4 Tuition Reimbursement**

Courses must be given by an accredited institution. The employee must have the approval of their Department Director, the Director of Human Resources and the General Manager before enrollment. Approved courses will be reimbursed as follows:

- (a) Courses and/or degree programs that are directly related to an employee's current position will be paid at one hundred percent (100%).
- (b) Courses and/or degree programs that are not directly related to an employee's current position will be paid at fifty percent (50%).

Upon approval of a course and completion with a passing grade of C or better (Pass where only Pass/Fail is given) the employee will be reimbursed the cost of the tuition and other costs such as laboratory fees and assigned textbooks. Total tuition reimbursement shall not exceed two thousand dollars (\$2,000) in a fiscal year. No unpaid balances over the maximum will be carried forward to the next fiscal year.

Reimbursement for authorized courses discontinued prior to completion due to an unforeseen emergency, family illness, or other catastrophic event may still be reimbursed if approved by the General Manager.

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**700 Performance Evaluation**

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**702 Performance Evaluations****702.1 Performance Evaluations**

A non-probationary employee's supervisor will prepare and sign a performance evaluation on a District form for each performance evaluation period. The Department Director will review and approve all performance evaluations of subordinates in their department. The General Manager will review and approve all performance evaluations of Department Directors or any other employees under their direct supervision. Additional performance evaluations may be prepared at any time the Director of Human Resources or Department Director deems necessary.

**702.2 Probationary Employee Performance Evaluations**

Employees will be evaluated prior to the completion of their probationary period. The probationary employee's supervisor will prepare and sign a performance evaluation.

**702.3 Performance Evaluation Meeting**

The supervisor will meet with the employee to discuss the evaluation. The employee must sign the evaluation to acknowledge its contents and that they have met with their supervisor to discuss the evaluation. The employee's signature does not mean that they agree with the evaluation.

**702.4 No Appeal Right**

Employees do not have the right to appeal or submit a grievance regarding any matter relating to the content of a performance evaluation. Employees may comment on the evaluation in a written statement that will be placed with the evaluation in the employee's personnel file. The written statement must be submitted within thirty (30) days after the employee receives the evaluation.

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**800 Leaves of Absences**

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**802 Vacation Leave and Holidays****802.1 *Vacation Leave***

Employees accrue vacation leave in accordance with their MOU or Benefits and Compensation Plan. Temporary/seasonal employees do not earn vacation leave.

**802.2 *Scheduling of Vacation Leave***

Vacation leave may not be used until it is earned. The employee and the supervisor will schedule the times when an employee may take vacation leave. The scheduling will be based on the employee's preference and the District's operational needs. An employee must provide a minimum of two (2) weeks' written advance notice when requesting vacation time off. The District may, at its discretion, require an employee to use accrued vacation.

**802.3 *Unused Vacation Leave upon Separation***

Upon separation an employee will be paid out at their current rate of pay for accrued hours and may not use vacation to delay their separation.

**802.4 *Holidays***

Employees receive paid holidays in accordance with their MOU or Benefits and Compensation Plan. Temporary/seasonal employees do not receive paid holidays.

**802.5 *Effect of Holiday on Vacation Leave***

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

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## **803 Catastrophic Leave**

### **803.1 *Catastrophic Leave Donations***

Employees who have exhausted all paid leave may request catastrophic leave donations through the District for a serious illness or injury to the employee or the employee's spouse or child. Employees may only donate accrued vacation hours to qualifying employees.

### **803.2 *Eligibility***

To be eligible for this benefit, the receiving employee must: (1) Be a full-time employee who has passed their initial probationary period; (2) Have sustained a serious illness or injury to the employee or employee's spouse or child requiring confirmation by a physician; (3) Have exhausted all accrued leaves including but not limited to accumulated vacation, holiday, sick leave, CTO, and/or administrative leave; (4) Be unable to return to work for at least thirty (30) days from the date of injury; and (5) Have submitted a request for a Leave of Absence Without Pay for medical reasons if it affects the employee.

### **803.3 *Donations***

Employees who meet the eligibility requirements may request that the District solicit catastrophic leave donations from them. The District will send the request for donations upon request, but no earlier than one (1) week before the exhaustion of their paid leaves.

Vacation, CTO, or administrative leave may be donated by any full-time employee. Donated time must be a minimum of eight (8) hours. Additional time may be donated in whole-hour increments. Donations will be converted to sick leave on an hour-for-hour basis.

Donations made by employees are forfeited once made. If the receiving employee does not use all transferred leave for the catastrophic illness/injury, any balance will remain with that employee until that employee's separation.

In accordance with IRS Ruling 90-20, leave donated is not considered wages for the employee who surrenders the leave and will, therefore, not be included in gross income or subject to withholding. An employee who donates leave incurs no deductible expense or loss either upon the donation or use by the recipient.

### **803.4 *Benefit***

While an employee is on leave using donated hours, the employee may not accrue additional leave.

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## 804 Sick Leave

### 804.1 *Purposes for Sick Leave*

Sick leave is paid leave from work that an employee may use for the following purposes:

- (a) Diagnosis, care, or treatment of an existing health condition of, or preventative care for the employee themselves or any of the following family members of the employee: a child of any age or dependency status; a parent; a parent-in-law; a spouse; a registered domestic partner; a grandparent; a grandchild; or a sibling; or
- (b) Diagnosis, care, or treatment of an existing health condition of, or preventative care for a “designated person”; or
- (c) 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: (1) 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 their child; or (2) obtain medical attention or psychological counseling, services from a shelter, program or crisis center, or (3) participate in safety planning or other actions to increase safety.

### 804.2 *Terms of Sick Leave*

#### (a) Accrual & Carryover:

- 1) Full time employees who are not seasonal/temporary accrue three point six-nine (3.69) hours of sick leave per pay period in a paid status; part-time employees who are not seasonal/temporary accrue sick leave on a prorated basis according to their full-time equivalency. Accrued sick leave carries over from year to year. No accrual limit applies.
- 2) Seasonal/temporary employees who work thirty (30) or more days within a year from the commencement of employment with the District 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, but seasonal/temporary employees stop earning sick leave once they have accrued forty-eight (48) hours or six (6) workdays/shifts, whichever is greater.

#### (b) Sick Leave Use

An employee may use accrued sick leave in 15-minute increments.

#### (c) Protected Sick Leave:

- 1) For full time employees who are not seasonal/temporary employees, one-half (1/2) of the employee’s accrued and available annual sick leave is protected and may be

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used for any of the purposes stated in this policy; and

- 2) For seasonal/temporary employees, up to forty (40) hours, or five (5) 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.
- (d) Sick Leave Request: An employee must give their supervisor reasonable advance written or verbal notice when the need to use sick leave is foreseeable. If the need for sick leave is not foreseeable, the employee must provide written or verbal notice as soon as practicable. If the employee is to be absent for more than one (1) day, the employee must inform their supervisor as to the date the employee expects to return to work.
  - (e) Certification: The District may require that employees provide a healthcare provider's certification to support any absence. Employees 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.
  - (f) Sick Leave on Separation: Upon voluntary termination or death of an employee an amount equal to fifty percent (50%) of accumulated sick leave will be paid to the employee or the estate of the employee. The District does not pay employees for unused sick leave upon involuntary termination.
  - (g) Sick Leave Reinstatement: The District will reinstate a maximum of five (5) days or forty (40) hours of sick leave, whichever is greater if an employee returns to District employment within twelve (12) months from the date of separation. An employee who worked at least ninety (90) days in the initial employment with the District may immediately use reinstated sick leave. An employee who had not worked ninety (90) days in the initial employment with the District must work the remaining amount of the ninety (90) day-qualifying period to be eligible to use accrued sick leave.

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## 806 Family and Medical Care Leaves

### 806.1 *Concurrent Running of Leaves*

The District provides family and medical care leave for eligible employees as required by federal and state law. Employees who misuse or abuse family and medical care leave may be disciplined, up to and including termination. Employees who fraudulently obtain or use California Family Rights Act (CFRA) leave are not protected by the CFRA's job restoration or maintenance of health benefits provisions.

This policy is supplemented by the Federal Family and Medical Leave Act (FMLA), and the CFRA. Unless otherwise stated in this policy, "Leave" means leave pursuant to the FMLA and CFRA. Unless otherwise provided by law, the District will run each employee's FMLA and CFRA leaves concurrently.

### 806.2 *Definitions*

(a) "Child"

- a. Under the FMLA, "child" means a child under the age of eighteen (18) years of age, or eighteen (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 they require active assistance or supervision to provide daily self-care in three (3) 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.
  - b. Under the CFRA, "child" means a child, including a child who is eighteen (18) years of age or older who is capable 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.
- (b) "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.
- (c) "Covered Service Member" 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

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any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

- (d) “Designated Person” means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one (1) designated person per 12-month period for family care and medical leave.
- (e) “Domestic Partner” is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.
- (f) “Family member” for FMLA leave means an employee’s child, parent, and spouse. “Family member” for CFRA leave means an employee’s child, parent, parent-in-law, spouse, domestic partner, grandchild, grandparent, and sibling.
- (g) “Grandchild” means a child of the employee’s child.
- (h) “Grandparent” means a parent of the employee’s parent.
- (i) “Healthcare Provider” means any of the following:
  - 1) A Doctor of Medicine or Osteopathy who is authorized to practice medicine or surgery in the State of California;
  - 2) An individual 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) A podiatrist, dentist, clinical psychologist, optometrist, or chiropractor (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) A nurse practitioner or nurse-midwife or a clinical social worker who is authorized to practice under California State law and who are performing within the scope of their practice as defined under California State law;
  - 5) A Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts; and

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- 6) Any healthcare 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.
- (j) "Next of Kin of a Covered Service Member" means the nearest blood relative other than the covered service member's spouse, parent, son, or daughter, in the following order of priority: blood relatives who have been granted legal custody of the covered service member by court decree or statutory provisions, brothers and sisters, grandparents, aunts and uncles, and first cousins, unless the covered service member has specifically designated in writing another blood relative as their nearest blood relative for purposes of military caregiver leave under the FMLA.
- (k) "Outpatient Status" means, with respect to a covered service member, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.
- (l) "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.
- (m) "Parent-in-law" means the parent of a spouse or domestic partner of the employee.
- (n) "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 them to the facility with the expectation that they 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 healthcare provider: A serious health condition involving continuing treatment by a healthcare provider includes one (1) 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 (3) consecutive calendar days; and
    - b. Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
      - i. Treatment two (2) or more times by a health care provider, by a nurse or physician's assistant under direct supervision by a healthcare

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provider, or by a provider of healthcare services (*e.g.*, a physical therapist) under orders of, or on referral by a healthcare provider; or

- ii. Treatment by a healthcare provider on at least one (1) occasion which results in a regimen of continuing treatment under the supervision of the healthcare 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 healthcare 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 leave.
  - 4) Any period of incapacity or treatment for incapacity due to a chronic serious health condition. A chronic serious health condition is one (1) which:
    - a. Requires periodic visits for treatment by a healthcare provider, or by a nurse or physician’s assistant under direct supervision of a healthcare 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 incapacity qualify for leave even if the absence lasts only one (1) day.
  - 5) A period of incapacity that is permanent or long-term due to a condition for that 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 healthcare provider.
  - 6) Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a healthcare provider or by a provider of healthcare services under orders of, or on referral by, a healthcare 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 (3) consecutive calendar days in the absence of medical intervention or treatment.
- (o) “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 service member incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the service member medically unfit to perform the duties of the member’s office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member

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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.

- (p) "Sibling" means a person related to the employee by blood, adoption, or affinity through a common legal or biological parent.
- (q) "Single 12-Month Period" means a 12-month period which begins on the first (1<sup>st</sup>) day the eligible employee takes FMLA leave to take care of a covered service member and ends twelve (12) months after that date.
- (r) "Spouse" means one (1) or two (2) persons to a marriage, regardless of the sex of the persons, and for purposes of CFRA leave, includes a registered domestic partner as defined.
- (s) "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.

### **806.3            *Reasons for Leave***

Leave is only permitted for the following reasons:

- (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, or spouse who has a serious health condition;
- (d) Under the CFRA only, leave is permitted to care for a domestic partner, grandparent, grandchild, parent-in-law, sibling, or any Designated Person, 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 their 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;
- (g) Under the CFRA only, leave for "qualifying exigencies" arising out of the fact that an employee's domestic partner is on active-duty or call to active-duty status in the National Guard or Reserves in support of a contingency operation. Leave for this purpose does not apply to FMLA leave and will not run concurrently with leave under the FMLA; or

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- (h) Leave to care for a spouse, son, daughter, parent, or “next of kin” who is a covered service member of the U.S. Armed Forces who has a serious injury or illness: incurred in the line of duty while on active military duty; or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces. This leave can run up to twenty-six (26) weeks of unpaid leave during a single 12-month period.

**806.4            *Employees Eligible for Leave***

An employee is eligible for leave if the employee satisfies the following conditions:

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

**806.5            *Amount of Leave***

Eligible employees are entitled to a total of twelve (12) workweeks or twenty-six (26) workweeks to care for a covered service member of leave during any 12-month period. If FMLA leave qualifies as both military caregiver leave and care for a family member with a serious health condition, the leave will be designated as military caregiver leave first.

**806.6            *Minimum Duration of Leave***

- (a) If leave is requested for the birth, adoption, or foster care placement of a child of the employee, leave must be concluded within one (1) year of the birth or placement of the child. In addition, the basic minimum duration of leave is two (2) weeks. However, an employee is entitled to leave for one of these purposes (*e.g.*, bonding with a newborn) for less than two (2) weeks duration on any two (2) occasions.
- (b) If leave is requested to care for a child, parent, parent-in-law, 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.

**806.7            *Parents Both Employed by the District***

If both married parents of a child, adoptee, or foster child are employed by the District and are entitled to bonding leave:

- (a) The aggregate number of workweeks of FMLA leave to that both are entitled may be limited to twelve (12) workweeks during any 12-month period; and
- (b) Each married parent is entitled to take twelve (12) workweeks of CFRA leave during any 12-month period.

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

**806.8            *Employee Benefits While on Leave***

- (a) **Group Health Insurance during Unpaid Leave:** While on unpaid leave, employees will continue to be covered by the District's group health insurance for up to twelve (12) weeks each leave year to the same extent that coverage is provided while the employee is on the job. If the employee is disabled by pregnancy, coverage will continue up to four (4) months each leave year. If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, the District will maintain coverage while disabled by pregnancy (up to four (4) months or 17 1/3 weeks) and during CFRA leave (up to twelve (12) weeks). For a full-time employee who works forty (40) hours per week, "four months" means 693 hours of leave entitlement, based on forty (40) hour per week times 17 1/3 weeks. An employee who works less than forty (40) hours per week will receive a pro rata or proportional amount of leave.
- (b) **Benefit Plans Not Provided through the District's Group Health Plan during Unpaid Leave Will Continue:** While on unpaid leave, employees continue to be covered by the District's benefits plans that are not part of its group health plan for up to twelve (12) weeks each leave year to the same extent that coverage is provided while the employee is on the job.
- (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 their paid leave or direct payments to the District if the employee is not using their paid leave. The District will inform the employee of the deadlines for paying premiums in order to prevent coverage from being dropped.
- (d) **Recovery of Premium if the Employee Fails to Return from Leave:** If an employee fails to return to work after their leave has been exhausted or expires, the District has the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence, or onset of a serious health condition of the employee or their family member that would entitle the employee to leave, or because of circumstances beyond the employee's control.

**806.9            *Requirement to Use Paid Leaves When Using FMLA/CFRA Leave***

Family and medical care leave is unpaid. However, the District will require an employee to concurrently use and first exhaust their sick leave. Once sick leave is exhausted, employees are required to use and exhaust all other paid leaves while on family and medical care leave.

An employee must agree to use accrued sick leave to care for a child, parent, spouse or domestic partner, grandparent, grandchild, or sibling.

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**806.9.1      *Requirement to Exhaust FMLA/CFRA Leave Concurrently with Other Leaves***

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

**806.9.2      *District's and Employee's Rights if an Employee Requests Accrued Leave without Mentioning FMLA or CFRA***

If an employee requests to utilize accrued vacation leave or other accrued paid time off without reference to a FMLA/CFRA qualifying purpose, the District may not ask the employee if the leave is for a FMLA/CFRA qualifying purpose. However, if the District denies the employee's request and the employee provides information that the requested time off is for a FMLA/CFRA qualifying purpose, the District may require the employee to exhaust accrued leave as described above.

**806.10      *Medical Certification/ Recertification***

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

- (a) **Employee's Own Serious Health Condition:** Employees who request leave for their own serious health condition must provide written certification from the healthcare 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 (1) or more of the essential functions of their position. Upon expiration of the time period the healthcare provider originally estimated that the employee needed for their own serious health condition, the employee must obtain recertification if additional leave is requested.
  
- (b) **Family Member Serious Health Condition:** Employees who request leave to care for a child, parent, parent-in-law, domestic partner, spouse, grandparent, grandchild, or sibling who has serious health condition must provide written certification from the healthcare 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 healthcare 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 healthcare provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested.

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(c) Service member Serious Injury or Illness: Employees who request FMLA leave to care for a covered service member who is a child, spouse, parent, or “next of kin” of the employee, must provide written certification from a healthcare provider regarding the injured service member’s serious injury or illness. The District will verify the certification as permitted by the FMLA regulations.

(d) Qualifying Exigency: The first time an employee requests leave because of a qualifying exigency, an employee may require the employee to provide a copy of the military member’s active-duty orders or other documentation issued by the military which indicates that the military member is on covered active-duty or call to active-duty status in a foreign country, and the dates of the military member’s active-duty service. A copy of the new active-duty orders or similar documentation shall be provided to the District if the need for leave because of a qualifying exigency arises out of a different active duty or call to active-duty status of the same or a different military member. The District will verify the certification as permitted by the FMLA and CFRA regulations.

#### ***806.11 Time to Provide a Medical Certification***

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

#### ***806.12 Consequences for Failure to Provide an Adequate or Timely Certification***

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

#### ***806.13 Review of the Contents of Medical Certification***

(a) Complete and Sufficient: The employee must provide a certification for their 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 Director of Human Resources 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 Director of Human Resources may contact the health care provider who provided the

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certification to clarify and/or authenticate the certification. “Authentication” means providing the healthcare provider with a copy of the certification form and requesting verification that the information on the form was completed or authorized by the healthcare provider who signed the form. “Clarification” means contacting the healthcare provider to understand the handwriting on the medical certification or to understand the meaning of the response. The Director of Human Resources may not ask for additional information beyond that required on the certification form.

**806.14        *Second and Third Medical Opinions for Employee’s Own Serious Health Condition***

If the District has a good faith, objective reason to doubt the validity of a certification for the employee’s serious health condition, the District may require a medical opinion of a second healthcare provider chosen and paid for by the District. If the second opinion is different from the first, the District may require the opinion of a third provider jointly approved by the District and the employee but paid for by the District. The opinion of the third provider will be binding. The District must provide the employee with a copy of the second and third medical opinions, where applicable, without cost, upon the request of the employee.

**806.15        *Intermittent Leave or Leave on a Reduced Leave Schedule***

If an employee requests intermittent leave (a few days or hours at a time) or on a reduced leave schedule for their own serious health condition, or to care for an immediate family member with a serious health condition, the employee must provide medical certification that the leave is medically necessary. “Medically necessary” means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. The District may require an employee who certifies the need for a reduced schedule or intermittent leave to temporarily transfer to an alternate position of equivalent pay and benefits that better accommodates the leave schedule.

**806.16        *Employee Notice of Leave***

Although the District recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much verbal or written notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days’ notice is required. In addition, if an employee knows that they 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 must inform their supervisor as soon as possible that 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.

**806.17.1      *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

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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 is earlier than the original agreement of the employee and the District, the employee will be reinstated within two (2) business days, where feasible, after the employee notifies the employer of their readiness to return.
- (c) **Employee's Obligation to Periodically Report on Their Condition:** Employees may be required to periodically report their status and intent to return to work. This will avoid any delays with 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 their job, the employee must obtain and present a fitness-for-duty certification from the healthcare provider stating that the employee is able to resume work. Failure to provide certification will result in denial of reinstatement.
- (e) **Reinstatement of "Key Employees":** Under the FMLA only, the District may deny reinstatement to a "key" employee (*i.e.*, an employee who is among the highest paid ten (10) percent of all employees) if the denial is necessary to prevent substantial and grievous economic injury to the operations of the District, and the employee is notified of the District's intent to deny reinstatement on the basis at the time the employer determines that an injury would occur. Under the CFRA, the District may not deny reinstatement to a "key" employee during or upon the expiration of CFRA leave.

#### **806.18      *Required Forms***

Employees must complete the applicable forms to receive family and medical care leave. The forms may be found in the Human Resources Department.

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## **808 Leave Because of Pregnancy, Childbirth, or Related Medical Condition**

### **808.1 Amount of Leave**

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid leave for up to the number of hours she would normally work within four (4) calendar months (or, one-third of a year, or 17 1/3 weeks). For a full-time employee who works forty (40) hours per week, “four months” means 693 hours of leave entitlement. An employee who works less than forty (40) hours per week will receive a pro rata amount of leave.

### **808.2 Notice & Certification Requirements**

- (a) Notice: Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. Leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the Director of Human Resources.
- (b) 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.

### **808.3 Compensation during Leave**

Pregnancy disability leaves are without pay. However, employees must first use sick leave, if any. Once sick leave is exhausted, employees must use all paid leaves prior to taking any leave as unpaid.

### **808.4 Benefits during Leave**

- (a) Group Health Insurance: Employees on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before their leave, beginning on the date the pregnancy disability leave begins and continuing for up to four (4) 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 employment for the duration of the leave. The District may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to twelve (12) weeks of bonding leave under the FMLA.
- (b) Sick and Vacation Leaves: Sick and vacation leaves do not accrue while an employee is on unpaid pregnancy disability leave.

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- (c) Employee Status during Leave: The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any MOU or employee benefit plan. Benefits will be resumed upon the employee's reinstatement.

**808.5            *Reinstatement***

- (a) 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 any lawful reason during the leave.
- (b) If the employee's original position is no longer available, the employee will be assigned to a comparable, open position.
- (c) If upon return from leave an employee is unable to perform the essential functions of their job because of a physical or mental disability, the District will initiate an interactive process with the employee to identify a potential reasonable accommodation.

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## **809 Reproductive Loss Leave**

### **809.1 *Statement of Policy***

The District provides eligible employees with unpaid leave for a Reproductive Loss Event. A “Reproductive Loss Event” is the day or, for a multiple-day event, the final day of a failed adoption, failed surrogacy, miscarriage, stillbirth, or an unsuccessful assisted reproduction.

### **809.2 *Eligibility***

Employees are eligible for Reproductive Loss Leave if they have been working for the District at least thirty (30) days prior to the leave’s start and suffer a qualifying event.

### **809.3 *Definitions***

The following definitions apply regarding a Reproductive Loss Event:

- (a) “Failed adoption” means the dissolution or breach of an adoption agreement with the birth mother or legal guardian, or an adoption that is not finalized because it is contested by another party. This event applies to a person who would have been the parent of the adoptee if the adoption had been completed.
- (b) “Failed surrogacy” means the dissolution or breach of a surrogacy agreement, or a failed embryo transfer to the surrogate. This event applies to a person who would have been the parent of a child born as a result of the surrogacy.
- (c) “Miscarriage” means a miscarriage by a person, by the person’s current spouse or domestic partner, or by another individual if the person would have been a parent of a child born as a result of the pregnancy.
- (d) “Stillbirth” means a stillbirth resulting from a person’s pregnancy, the pregnancy of a person’s current spouse or domestic partner, or another individual, if the person would have been a parent of a child born as a result of the pregnancy that ended in stillbirth.
- (e) “Unsuccessful assisted reproduction” means an unsuccessful round of intrauterine insemination or of an assisted reproductive technology procedure. This event applies to a person, the person’s current spouse or domestic partner, or another individual, if the person would have been a parent of a child born as a result of the pregnancy.

### **809.4 *Amount of Leave***

Leave may be taken for up to five (5) days per Reproductive Loss Event. Leave is pro-rated for part-time employees based on their work schedule. If an employee experiences more than one (1) Reproductive Loss Event within a 12-month period, the District will provide reproductive loss leave up to a maximum of twenty (20) days within a 12-month period.

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**809.5**            *Timeline for Leave*

The leave is not required to be taken consecutively, but must be completed within three (3) months of the Reproductive Loss Event, with the exception that if an employee is on California Family Rights Act leave (CFRA), Pregnancy Disability Leave (PDL), or another leave protected by state and/or federal law at the time of or immediately following the Reproductive Loss Event, the employee may use their Reproductive Loss Leave within three (3) months of the end date of the other protected leave.

**809.6**            *Unpaid Leave*

Reproductive Loss Leave is unpaid, but employees may elect to use accrued paid leaves in conjunction with the leave, such as sick or vacation leave.

**809.10**           *Confidentiality*

The District maintains the confidentiality of any employee requesting Reproductive Loss Leave and will not disclose confidential information other than to internal personnel on a need-to-know basis, or as required by law.

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## **810 Other Leaves**

### **810.1 *Jury Duty Leave/Subpoenaed or Court-Ordered Witness Leave***

Employees who are summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify their supervisor or Department Director as soon as possible.

### **810.2 *Other Court or Administrative Proceeding Appearances***

#### **810.2.1 *Agency Duties***

Employees who are subpoenaed to appear in court in a matter regarding an event or transaction in the course of their District job duties, must give their supervisor as much advance notice as possible. The District will determine whether the matter involves an event or transaction in the course of the employee's District job duties. If so, this leave to appear in court will be without loss of compensation, and the time spent will be considered time worked.

#### **810.2.2 *Employee-Initiated Proceedings***

Employees who are subpoenaed to appear or appear in court because of civil or administrative proceedings that they initiated, are not entitled to receive compensation for time spent related to those proceedings. Employees must use any paid leaves other than sick leave for time spent related to these proceedings.

#### **810.3.3 *Crime Victim/Victim Family Member Court Attendance Leave***

Employees who are a victim of a crime may take leave from work to attend judicial proceedings related to that crime, if the employee provides the District notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the District, within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court/governing agency that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of 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. Employees must use paid leaves for time spent related to these proceedings.

#### **810.3.4 *Crime Victim/Family Member Victims' Rights Proceedings Leave***

Employees who are a victim of a crime listed in Labor Code section 230.5(a)(2)(A), may take leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue, if the employee provides the employer reasonable advance notice. If advance notice is not feasible, the employee must provide the District, within a reasonable time after the leave is taken, certification from a police report, a District Attorney or court, or from a healthcare 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 a crime victim is also a victim who is entitled to this leave if the above notice or certification requirements

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are met. Employees must use paid leaves other than sick leave for time spent related to these proceedings.

**810.4            *Leave for Victims of Domestic Violence, Sexual Assault, Stalking or Other Crimes to Obtain Restraining Orders or Injunctive Relief***

Employees who are 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 their child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the District Attorney or court that the employee has appeared in court; or documentation from a healthcare provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. Employees must use paid leaves for time spent related to these proceedings.

**810.4.1            *Leave for Victims of Domestic Violence, Sexual Assault, Stalking or Other Crimes to Obtain Medical Attention or Counseling or Safety Planning***

Employees who are a victim of domestic violence, sexual assault, stalking, or other crime, may take leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to the District within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the District Attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. Employees must use paid leaves for time spent related to these proceedings.

**810.5            *Bereavement Leave***

Employees who have been employed by the District for at least thirty (30) days are entitled to five (5) days of unpaid bereavement leave in the event of the death of a "family member."

A "family member" means a spouse, domestic partner, child, stepchild, parent, grandparent, grandchild, sibling, or parent-in-law.

Employees must use paid leaves during any bereavement leave.

Employees who utilize bereavement leave must notify their supervisor or Department Director of the intent to use bereavement leave. Employees may use bereavement leave on a non-consecutive basis within the three (3) months that follow that date of death of the "family member." The District may request the employee to provide documentation to support the leave. "Documentation" includes, but is not limited to, a death certificate, a published obituary, or written verification of

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death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency.

### **810.6            *Military Leave***

Military leave will be granted in accordance with federal and state law. Employees requesting leave for this purpose must promptly provide the Department Director 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 Director may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

### **810.7            *School-Related Leave***

#### **810.7.1        *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 (1) or more children who are in kindergarten or grades one (1) through twelve (12), or who are in a licensed childcare facility, will be allowed up to forty (40) hours each school year, not to exceed eight (8) hours in any calendar month of the school year, to: participate in activities of their child's school or licensed childcare facility; find, enroll, or reenroll a child in a school or with a licensed childcare provider; or to pick up a child due to a childcare provider or school emergency. The employee must provide reasonable advance notice to their supervisor of the planned absence. This leave is unpaid, employees must first use any available accrued leave, other than sick leave, prior to taking any leave without pay. 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 District at the same District work site, only the first (1<sup>st</sup>) parent requesting will be entitled to leave under this provision.

#### **810.7.2        *Child Suspension Leave***

Any employee who is the parent or guardian of a child in grades one (1) through twelve (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 their supervisor. A school has the authority to request that the parent attend the child's school if the child has: committed any obscene act; habitually used profanity or vulgarity; disrupted school activities; or otherwise willfully defied the valid authority of school personnel. This leave is unpaid, employees must first use paid leaves other than sick leave, prior to taking any leave unpaid while on leave.

### **810.8            *Paid Administrative Leave***

The Director of Human Resources has the right to place employees on leave with full pay for non-disciplinary reasons at any time. Employees do not have a right to appeal the decision to be placed on administrative leave with pay.

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**810.9            *Leave of Absence without Pay***

Unless authorized by law or a District policy, an employee is not entitled to a leave of absence without pay. Unless required by law, merit increases, paid leaves, holidays, fringe benefits, and other similar benefits do not accrue while on unpaid leave. Unless required by law, the District will not contribute toward group insurance or retirement for an employee on unpaid leave.

**810.10           *Industrial Injury Leave***

**810.10.1        *Workers' Compensation***

Employees who are absent from work by reason of an injury or illness covered by Workers' Compensation will continue in pay status under the following provisions.

**810.10.1.1     *Coordination of Benefits***

When the employee authorizes, the difference between the amount granted pursuant to Workers' Compensation and the employee's regular pay will be deducted from the employee's accumulated leaves, if any, first from sick leave then vacation, and followed by CTO or admin leave. The employee will continue in pay status and receive their pay until their accumulated leaves have been exhausted.

**810.10.1.2     *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, they will continue to accrue leaves.

**810.10.1.3     *Unpaid Leave and Continuation of Health Care Benefits***

Employees who exhaust their leaves while absent from work by reason of an injury or illness covered by Workers' Compensation may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.

**810.11           *Time Off to Vote***

If any employee does not have sufficient time outside of working hours to vote, they may request up to two (2) hours of paid leave either at the beginning or end of scheduled working hours to enable them to vote. The employee must request time off to vote from their supervisor at least two (2) days prior to Election Day.

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**900 Resignation, Job Abandonment, Layoff, and Separation**

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**902 Resignation, Job Abandonment, Layoff, and Separation****902.1 *Types of Separation***

Separations of employees are designated as one (1) of the following types:

- (a) Probationary release;
- (b) Release of seasonal/temporary employees;
- (c) Resignation;
- (d) Retirement;
- (e) Job abandonment;
- (f) Layoff;
- (g) Non-disciplinary separation; or
- (h) Disciplinary separation.

**902.2 *Probationary Release***

Probationary employees serving in their initial probationary period with the District may be released at any time during the probationary period as recommended by the Director of Human Resources, without cause or reason or notice. A released probationary employee has no right to appeal or to submit a grievance.

**902.3 *Release of seasonal/temporary employees***

Seasonal/temporary employees may be separated at any time, without cause, and without right to any appeal or grievance.

**902.4 *Resignation***

An employee who wishes to resign their District employment in good standing must submit written notice of resignation to the Director of Human Resources at least two (2) weeks prior to the planned separation date. The written notice must state the reasons for the resignation. Failure to follow the aforementioned procedure may be cause for denying future employment with the District. A resignation becomes final when the Director of Human Resources accepts the resignation in writing. Once a resignation has been accepted, it is final and irrevocable. A resignation can be accepted by the Director of Human Resources even if it is submitted less than two (2) weeks prior to the planned resignation date.

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**902.5            *Retirement***

An employee planning to retire must provide written notice to the Director of Human Resources prior to the effective date of the retirement. A notice of retirement becomes final when the Director of Human Resources accepts the notice of retirement in writing. Once a notice of retirement has been accepted, it is final and irrevocable.

**902.6            *Job Abandonment***

An employee is deemed to have resigned from their position if they are absent for three (3) consecutive scheduled workdays without prior authorization. The employee will be given written notice, at their address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence. An employee who promptly responds to the agency's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Director of Human Resources, to explain the unauthorized absence and failure of notification. An employee separated for job abandonment will be reinstated upon proof of justification for the 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.

**902.8            *Non-Disciplinary Separation***

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

**902.9            *Disciplinary Separation***

For-cause employees may be separated for disciplinary reasons.

**902.10           *Return of District Property***

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

**902.11           *Job References/Verification of Employment***

All reference inquiries and verifications of employment must be referred to and approved by the Director of Human Resources. Unless the Director of Human Resources receives a written waiver signed by the employee, the District will release only the employee's dates of employment, last position held, and final salary rate. Department Directors and supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the Director of Human Resources on a case-by-case basis.

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## 1000 Discipline

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### 1002 Causes for Discipline and Procedures

#### 1002.1 *Causes for Discipline*

Employees may be disciplined for, including but not limited to, any of the following causes of discipline:

- (a) Violation of any department rule, District policy, regulation, ordinance, or resolution;
- (b) Absence without authorized leave;
- (c) Excessive absenteeism and/or tardiness;
- (d) Use of leave from work in a manner not authorized or provided for under these policies;
- (e) Making any false representation or statement, or making any omission of a material fact;
- (f) Providing wrong or misleading information or other fraud in securing appointment, promotion, or maintaining employment;
- (g) Unsatisfactory job performance;
- (h) Inefficiency;
- (i) Damaging any District property, equipment, resource, or vehicle, or the waste of District supplies through negligence or misconduct.
- (j) Insubordination; or insulting or demeaning the authority of a supervisor or Department Director;
- (k) Dishonesty;
- (l) Theft;
- (m) Violation of the District's or a department's confidentiality policies, or disclosure of confidential District information to any unauthorized person or entity;
- (n) Misuse or unauthorized use of any District property, including, but not limited to: physical property, electronic resources, supplies, tools, equipment, District communication systems, District vehicles, or intellectual property;
- (o) Mishandling of public funds;
- (p) Falsifying or tampering with any District record, including work time or financial records;

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- (q) Discourteous or offensive treatment of the public or other employees;
  - (r) Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance.
  - (s) Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties;
  - (t) Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the District;
  - (u) Any unprotected conduct that impairs, disrupts or causes discredit to the District, to the public service, or other employee's employment;
  - (v) Reckless or unsafe conduct;
  - (w) Working overtime without prior authorization or refusing to work assigned overtime;
  - (x) Carrying firearms or other dangerous weapons while on duty when not required by job duties; or
  - (y) Horseplay or fighting.

#### **1002.2      *Types of Counseling, Reprimands and Discipline***

The following are types of counseling, reprimands, and discipline that the District may impose:

- (a) **Counseling Memo:** A counseling memo will be provided to an employee to identify: a failure of appropriate conduct or performance issue; the performance the employee is to demonstrate in the future; and consequences for failure to correct the behavior or problem. A counseling memo will be retained in the supervisor's file until documented in the performance evaluation. A counseling memo is not subject to the discipline or discipline appeal procedures described below.
- (b) **Verbal Reprimand:** A verbal reprimand is a verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A verbal reprimand will be documented in writing and retained in the supervisor's file until the completion of the evaluation year and then documented in the performance evaluation, as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeal procedures described below.
- (c) **Written Reprimand:** A written reprimand is written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A written reprimand will be retained in the employee's personnel file and documented in the performance evaluation. 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 Director of Human Resources within fourteen (14) days after the reprimand is received.

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- (d) Suspension without Pay: The District may suspend an employee from their position without pay for cause. Documents related to a suspension will become part of the employee's personnel file when the suspension is final and documented in the performance evaluation. Employees who are exempt from FLSA overtime may only be suspended as authorized by the FLSA.
  - (e) Reduction in Pay or Paid Leave: The District may reduce an employee's pay or paid leave for cause. A reduction in pay for disciplinary purposes may take one of the following 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; or (3) loss of accrued vacation leave, administrative leave, or CTO. Documents related to a reduction in pay will become part of the employee's personnel file when the reduction in pay is final and documented in the performance evaluation. A reduction in pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from the FLSA overtime requirements are not subject to pay reduction, except loss of accrued vacation leave or administrative leave.
  - (f) Demotion: The District may demote an employee from their position to a lower position for cause. Documents related to a demotion will 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) Dismissal: The District may dismiss an employee from their position for cause. Documents related to the dismissal will become a part of an employee's personnel file when the dismissal is final.

### **1002.3      *Pre-Discipline Procedures***

The following pre-discipline procedures only apply to the District's for-cause employees. All employees other than for-cause employees may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed below. The following discipline procedures apply only to suspension without pay, reduction in pay, demotion, or dismissal.

- (a) "*Skelly*" Notice of Intended Disciplinary Action to Employee: A written notice of the intended disciplinary action will be given to the employee, that includes the following information:
  - 1) The level of the intended discipline;
  - 2) The specific charges that support the intended discipline;
  - 3) A summary of the facts that support the elements of each charge;
  - 4) A copy of all materials upon which the intended discipline is based;
  - 5) Notice of the employee's right to respond to the Department Director regarding the intended discipline within seven (7) days from the date of the notice, either by requesting a *Skelly* conference, or by providing a written response, or both;

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- 6) Notice of the employee's right to have a representative of their choice at the *Skelly* conference; and
  - 7) Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.
- (b) Response by Employee and *Skelly* Conference: If the employee requests a *Skelly* conference, the Skelly Officer will conduct an informal meeting with the employee. During the informal conference, the employee has the opportunity to rebut the charges against them and present any mitigating circumstances. The Department Director will consider the employee's presentation before issuing the disciplinary action. The employee's failure to attend the conference, or to deliver a written response by the date specified in the *Skelly* notice, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the *Skelly* letter.
- (c) Final Notice of Discipline: After the *Skelly* conference and/or timely receipt of the employee's written response, the Department Director will: (1) take no disciplinary action; (2) modify the intended discipline; or (3) impose the intended disciplinary action. In any case, the Department Director 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.
- (d) Delivery of the Final Notice of Discipline: The final notice of discipline will be sent by certified mail to the last known address of the employee or delivered to the employee in person. If the notice is not deliverable because the employee has moved without notifying the District or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

#### **1002.4      *Discipline Appeal Procedures***

The following appeal procedures only apply to the District's for-cause employees. The following appeal procedures apply only to suspension without pay, demotion, reduction in pay, or dismissal.

- (a) Request for Appeal Hearing: An employee may submit a written request for appeal to the Director of Human Resources within seven (7) days from: (1) receipt of the final notice of discipline; or (2) the date of attempted delivery by the post office or delivery service of the

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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) **Appeal Hearing Officer:** The appeal hearing officer is the General Manager or an individual designated by the General Manager so long as the General Manager did not serve as the *Skelly* officer for the discipline at issue. If the General Manager served as the *Skelly* officer for the discipline at issue, then the appeal hearing officer will be an individual designated by the Board of Directors.
- (c) **Date and Time of the Appeal Hearing:** Once the appeal hearing officer has been designated, the Director of Human Resources will set a date for an appeal hearing and will be responsible for notifying the employee about the time and place of the hearing and notifying the appeal hearing officer of the nature of the proceeding. The employee will be notified in writing at least twenty-one (21) days prior to the hearing of the scheduled date.
- (d) **Prehearing Notice of Witnesses and Evidence:** No later than ten (10) days before the hearing date, each party will provide the other and the appeal hearing officer a list of all witnesses to be called (except rebuttal witnesses), and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. The District will use numbers to identify its evidence; the employee will use alphabet letters. Neither party will be permitted to call any witness or evidence that has not been listed unless that party can show that the party could not have reasonably anticipated the need for the witness or exhibit.
- (e) **Subpoenas:** Upon the request of either party, or upon their own motion, the hearing officer will issue subpoenas to compel attendance at the appeal hearing. Each party is responsible for serving their/its own subpoenas. District employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. District employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually spend testifying.
- (f) **Continuances:** The appeal hearing officer may continue a scheduled hearing only upon good cause shown.
- (g) **Record of the Appeal Hearing:** The hearing will be recorded, either electronically or by a court reporter, at the option of the District. If the District orders a transcript or makes a transcript of the recording, the District will notify the employee within three (3) days of ordering or making the transcript and will provide a copy of the transcript upon receipt of the costs of duplication.
- (h) **Employee Appearance:** The employee must appear personally before the hearing officer at the time and place set for the hearing. The employee may be represented by a representative of their choosing.
- (i) **Employee Witnesses:** Employees called as witnesses to the hearing serve without loss of pay.
- (j) **Conduct of the Hearing:**

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- 1) Sworn Testimony: Witnesses will be sworn in before testifying. The hearing officer or court reporter will request each witness to raise their hand and respond to the following: “Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth?”
  - 2) Evidence: Hearings need not be conducted according to technical rules relating to evidence and witnesses, but hearings will be conducted in a manner that the hearing officer decides is the most conducive to determining the truth. The rules dealing with privileges will be effective to the same extent that they are recognized in civil actions. Irrelevant or unduly repetitious evidence may be excluded. The appeal hearing officer will determine the relevance, weight and credibility of testimony and evidence.
  - 3) Exclusion of Witnesses: During the examination of a witness, all other witnesses, except the parties, will be excluded from the hearing.
  - 4) Burden of Proof: The District has the burden of proof by the preponderance of the evidence.
  - 5) Authority of Hearing Officer: The appeal hearing officer does not have the power to alter, amend, change, add to, or subtract from any of the terms of these Policies.
  - 6) Professionalism: All parties and their attorneys or representatives will not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity or personal behavior of their adversaries or the appeal hearing officer.
  - 7) Closed Hearing: Unless otherwise stipulated, a hearing is closed to the public and conducted informally.
- (k) Presentation of the Case: The parties will address their remarks, evidence, and objections to the appeal hearing officer. The appeal hearing officer may terminate argument at any time and issue a ruling regarding an objection or any other matter. The appeal hearing officer may limit redundant or irrelevant testimony, or directly question the witness. The hearing will proceed in the following order unless the appeal hearing officer directs otherwise:
- 1) The District is permitted to make an opening statement;
  - 2) The employee is permitted to make an opening statement;
  - 3) The District will produce its evidence;
  - 4) The employee will produce its evidence;
  - 5) The District, followed by the employee, may present rebuttal evidence; and
  - 6) Verbal closing arguments of no more than twenty (20) minutes may be permitted at the discretion of the appeal hearing officer. The District argues first, the employee argues
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second, and if the District reserved a portion of its time for rebuttal, the District may present a rebuttal.

- (l) Written Briefs: Either party may request to submit a written brief and/or a draft decision. The appeal hearing officer will determine whether to allow written briefs or draft decisions, the deadline for submitting briefs, and the page limit for briefs.
- (m) Hearing Officer's Recommendation: Within sixty (60) days of the conclusion of the hearing, the appeal hearing officer will make written findings, rulings of law (if any), and a recommended decision as to the discipline.
  - 1) If the General Manager was not the appeal hearing officer or the *Skelly* officer, they will review the findings and recommendations of the appeal hearing officer and may affirm, revoke, or modify the findings, recommendations, or disciplinary action taken. The General Manager's decision is final. There is no process for reconsideration.
  - 2) If the General Manager was the *Skelly* officer, the Board of Directors will review the findings and recommendations of the appeal hearing officer and may affirm, revoke, or modify the findings, recommendations, or disciplinary action taken. The Board of Directors decision is final. There is no process for reconsideration.
- (n) Proof of Service of the Written Findings and Decision: The District will mail a copy of the final written findings and decision, along with a proof of service of mailing that confirms that each of the parties and each of the parties' representatives were mailed the final written findings and decision. It is the responsibility of the employee to inform the District of their address. A copy of the decision will also be provided to the Director of Human Resources.

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## **1100 Grievances**

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### **1102 Grievance Procedures**

#### ***1102.1 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. Performance evaluations and disciplinary actions are not grievable.

#### ***1102.2 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 known facts regarding how the alleged violation occurred; and 4) a list of all persons who are witnesses or are involved. The grievant may use a District form to make the Statement of the Grievance. A Statement of the Grievance must be signed by the employee filing the grievance to certify that it is filed in good faith.

#### ***1102.3 Timelines***

Failure of the District 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 written agreement in advance of a deadline.

#### ***1102.4 Procedures***

- (a) **Step 1: Informal Resolution with Supervisor:** The employee must first work in good faith to resolve the grievance informally through discussion with their immediate supervisor no later than fourteen (14) days after the grievant first became aware of the facts or circumstances resulting in the filing of the grievance.
- (b) **Step 2: Department Director:** If the employee believes that the grievance has not been resolved through Step 1, the employee may submit a written Statement of the Grievance to their Department Director. The employee must submit the Statement of the Grievance within twenty-eight (28) days after the grievant first became aware that a grievance has occurred. The Department Director will consider and may discuss the grievance with the grievant, and/or investigate as they deem appropriate, and will, within fourteen (14) days of receipt of the written Statement of the Grievance, submit their decision in writing to the grievant.
- (c) **Step 3: Director of Human Resources:** If the employee believes that the grievance has not been resolved through Step 2, the employee may appeal the grievance decision of the Department Director to the Director of Human Resources. An appeal must be filed within seven (7) days of the date of the Department Director’s written decision. The Director of Human Resources will consider, and may discuss the grievance with the grievant, and/or investigate as it deems appropriate, and will, within twenty-eight (28) days of receipt of

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the written Statement of the Grievance, submit their decision in writing to the grievant. The decision of the Director of Human Resources will be final.

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## **1200 Miscellaneous Policies**

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### **1202 Personnel Files**

#### ***1202.1 Personnel Files***

The District maintains a personnel file on each employee. Files are kept for at least three (3) years after separation of employment. A personnel file will contain only material that the District deems necessary and relevant and/or that is required by law. Personnel files are the property of the District, and access to the information they contain is restricted to protect employee privacy interests.

#### ***1202.2 Notification of Changes***

Each employee is responsible to promptly notify the Director of Human Resources of any changes in their contact and benefits information, including: mailing address; telephone number; individuals to contact in emergency; and number and names of dependents.

#### ***1202.3 Access to Applicant or Employee Medical Information***

All medical information about an employee or applicant is kept in separate medical files and is treated as confidential. Access to employee or applicant medical information is strictly limited to only those with a legitimate need to have the information for District business reasons or if access is required by law, subpoena, or court order. In the case of an employee with a disability, Department Directors, and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

#### ***1202.4 Employee Access to Personnel File***

- (a) **Inspection of File:** A current employee may inspect their own physical personnel file, at reasonable times and at reasonable intervals, within thirty (30) days of a written request. A former employee is entitled to inspect their personnel records once per year. A current or former employee and/or representative who wants to review their physical personnel file should make a written request to the Director of Human Resources. The inspection must occur in the presence of the Director of Human Resources or designee at the Human Resources Office and: (1) at a location where the employee works and at a time other than the employee's work time; or (2) at another agreed upon location without loss of compensation to the employee.
- (b) **Copies:** A current or former employee is entitled to receive a copy of their personnel file within thirty (30) days after the employer receives a written request. A current or former employee who wishes to receive a copy should contact the Director of Human Resources or designee in writing.
- (c) **Representative's Inspection:** If the current or former employee requests to have another person/representative inspect their personnel file, they must provide written authorization. The Director of Human Resources or designee will notify the employee and/or representative of the date, time, and place of the inspection in writing.

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(d) No Removal of File Documents: No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.

**1202.5      *Limitations on Access or Copying of Personnel File***

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

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## **1204 Limitations on Outside Employment**

### ***1204.1 No Outside Employment Without Prior Approval***

Employees must obtain written approval from the General Manager or designee before accepting any outside employment.

### ***1204.2 Authorization and Appeal Process***

- (a) **Written Request:** Any employee who wants to undertake paid outside employment, activity, or enterprise must submit a written request to the Director of Human Resources. The written request must include: (1) the work hours and/or time required; (2) job title or the nature of the activity; (3) the work location; and (4) the supervisor and/or manager's name, if known; and (5) the name of the employer or activity.
- (b) **Analysis and Decision:** The Director of Human Resources will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at the District. If the Director of Human Resources determines the activity is compatible, or would be if any conditions or restrictions applied, they will authorize the employment, activity, or enterprise and specify any conditions/restrictions in writing, give the employee the outside employment authorization, and place a copy of the written authorization in the employee's personnel file.
- (c) **One (1) Year Authorization:** An outside employment authorization is valid up to one (1) year. Should the employee continue the outside employment, activity, or enterprise for a longer duration, they must make another request the following year using the process in this policy.
- (d) **Appeal:** If the Director of Human Resources denies an employee's outside employment request, the employee may submit a written notice of appeal to the General Manager within ten (10) days after the date of the denial. The decision on appeal will be put in writing, provided within ten (10) days, and will be final.

### ***1204.3 Prohibited Outside Activities***

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

- (a) Involves the use for private gain or advantage of District time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of the District or employment at the District;
- (b) Involves receipt or acceptance by the employee of any money or other consideration from anyone other than the District for the performance of an act that the employee would be required or expected to render in the regular course of their District employment;

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- (c) Involves the performance of an act, other than one performed in their capacity as a District employee, that may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by either the employee or the department where they are employed;
  - (d) Involves time demands that would render the employee's performance of their regular District employment less efficient or dangerous to the employee; and/or
  - (e) Is contrary to and/or might undermine the reputation of the District.

**1204.4        *Changes in Outside Employment Status***

The employee must promptly report in writing to the Director of Human Resources 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.

**1204.5        *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:

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

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

**1204.6        *Use of District Equipment Prohibited***

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

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## **1205 Gift Acceptance Policy**

### ***1205.1 “Gift” Defined***

“Gift” under this policy means any article, service, property, cash, discount, or thing of value that is received by a District employee or the employee’s family, in the exercise of employee’s duties for the District, for the employee’s (or their family’s) sole benefit. A gift is given voluntarily and without compensation and can be provided to a District employee directly, indirectly, or through a third-party. A gift does not include items that are returned to the giver within thirty (30) days, gift exchanges of equivalent monetary value, personalized plaques and trophies, tickets to fund-raising events of a 501(c)(3) organization, or food, beverages, and necessary accommodations provided in connection with an event where a District employee is participating as a presenter on behalf of the District.

### ***1205.2 Acceptance of Gifts Prohibited***

District employees will not accept gifts, gratuities, or other things of value from individuals, companies, suppliers, or organizations doing business or seeking to do business with the District that creates an actual or perceived conflict of interest, or that influences or appears to influence District decision-making or the provision of services.

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## **1206 Limitations on Political Activity**

### ***1206.1 No Solicitation During Work Hours or District Offices***

District employees may not solicit or receive political funds or contributions to promote the passage or defeat of any ballot measure that would affect working conditions during working hours or in District offices.

### ***1206.2 No Targeted Solicitation of District Employees***

District employees or candidates for elective office of the District, may not directly or indirectly solicit political contributions from employees unless the solicitation is part of a solicitation made to a significant segment of the public that may incidentally include District employees.

### ***1206.3 No Political Activity in Uniform***

No District employee may participate in political activities of any kind while in District uniform or other District-issued clothing.

### ***1206.4 No Political Activity on District Property or Work Hours***

District employees are prohibited from engaging in political activity during working hours or on District property.

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## **1208 Prohibitions on Drugs and Alcohol in the Workplace**

### ***1208.1 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 District employees, whether they are on District property, or they are performing District-related business elsewhere, except as this policy is superseded by federally mandated drug and alcohol policies.

The use of prescription drugs and/or over-the-counter drugs may also affect an employee's work performance, efficiency, safety, and health and may seriously impair the employee's value to the District. Any employee who is using prescription and/or over-the-counter drugs that may impair the employee's ability to safely perform their job, or affect the safety or well-being of others, should inform District. If use of this medication prevents the employee from safely performing their duties, the employee may use any accrued sick leave or vacation during this time period. If the employee does not have accrued leave, the employee should request a personal leave of absence.

### ***1208.2 Drug- and Alcohol-Free Awareness Program***

The District's employee assistance provider offers counseling and treatment of drug- or alcohol-related problems. The employee assistance provider has information about: (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 District's policy of maintaining a drug- and alcohol-free workplace; and (4) any available drug or alcohol counseling, rehabilitation or employee assistance programs.

### ***1208.3 Prohibited Conduct***

- (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 District workplaces or wherever District business is performed.
- (b) Working or being subject to call in if impaired by alcohol or any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee.
- (c) An employee's failure to notify their Department Director 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) that could interfere with the safe and effective performance of duties or operation of District equipment.
- (d) An employee's failure to notify the Director of Human Resources of any criminal conviction related to drugs or alcohol within five (5) days of the conviction.

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- (e) An employee's criminal conviction for a drug violation that occurred in the workplace.
  - (f) Possession or use of alcohol or any controlled substance or being under the influence of alcohol or any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee while on the job.
  - (g) Driving a District vehicle while under the influence of alcohol or a controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee.
  - (h) District presumes that being under the influence of drugs or alcohol on the job or during work hours poses a serious safety and health risk. Therefore, violation of the above rules and standards of conduct will not be tolerated. District may also bring the matter to the attention of appropriate law enforcement authorities.

#### **1208.4      *Drug and Alcohol Testing***

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

- (a) Pre-Employment Testing: All applicants who apply for employment with the District must take and pass a drug test following a conditional offer of employment.
- (b) Reasonable Suspicion Testing: The District may require a blood test, urinalysis, or other drug and/or alcohol screening of 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 District suspects drugs or alcohol may have played a role in an accident involving District property or equipment that will also constitute reasonable suspicion.
  - 2) Document and Analysis: To receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the Department Director. Any reasonable suspicion testing must be pre-approved by the Director of Human Resources.

Testing Protocol: If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the Director of Human Resources has approved, the employee will be relieved from duty, transported to the testing facility

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and to their home after the test. The employee will be placed on sick or other paid leave until the test results are received. If the employee refuses to submit to a drug screening test, the employee will be relieved from duty and transported to their home for the remainder of their shift.

- 3) **Post-Accident Testing:** District may require alcohol or drug screening following any work-related accident or any violation of safety precautions or standards, whether or not an injury resulted from the accident or violation, provided District has reasonable suspicion to believe the accident/incident resulted from the employee's use of alcohol or controlled substances (including marijuana). Not all accidents require post-accident testing. The supervisor will use their reasonable suspicion training to make any decision about post-accident testing and must obtain approval for this testing from the Director of Human Resources. A supervisor must be notified immediately following an accident to ensure proper post-accident instructions.

- (c) **Consequences of Failing an Alcohol or Drug Test:** A positive result from an alcohol or drug test may result in a conditional offer of employment being revoked or disciplinary action. Employees who have been removed from their position may not return to their position until the employee submits and tests negative to a return-to-duty controlled substance and/or alcohol test.

#### **1208.5      *Prescription Medications***

Employees must notify their supervisor if they are taking any medication that may impact their ability to perform assigned tasks or their ability to be safe while doing so. Employees are not required to disclose the fact of, or the particulars regarding, the condition for why they are taking medication.

#### **1208.6      *Failure or Refusal to Submit to Testing***

Any employee who unreasonably fails or refuses to submit to a drug or alcohol test immediately when requested by a Department Director will be treated in the same manner as an employee who has tested positive for alcohol or controlled substances.

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## **1209 Smoke Free Workplace and Tobacco/E-Cigarette Use**

### ***1209.1 Prohibited on District Property***

Smoking and vaping are prohibited on all District property, including in District vehicles, and in all District offsite conferences and meetings to provide a safe and healthy work environment for all employees. “Smoking” is the act of lighting, smoking, or carrying a lighted or smoldering cigar, cigarette, or pipe of any kind. “Vaping” is the use of electronic nicotine delivery systems or smoking devices such as electronic cigarettes, pipes, hookahs, or cigars.

### ***1209.2 No Retaliation***

The District expressly prohibits any retaliation against an employee because they filed or supported a complaint or from seeking clarification regarding this policy.

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## **1210 Use of District Equipment or Resources**

### **1210.1 *Policy and Applicability***

District equipment and resources may only be used to conduct District business, except for incidental personal use that is consistent with this policy.

### **1210.2 *District Equipment or Resources***

District equipment or resources is any District-owned or supplied item or resource, including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), vehicles, telephones, cell phones, tools, machines, supplies, copy machines, facsimile machines, desks, office equipment, computers file cabinets, lockers, Wi-Fi, internet, intranet, District network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through District electronic resources or equipment.

### **1210.3 *No Expectation of Privacy***

The District periodically and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through District networks or electronic resources. The existence of passwords or delete functions does not restrict the District's access. District employees have no expectation of privacy in their use of any District equipment or resources.

### **1210.4 *Appropriate Use Only***

Employees may only use District equipment or resources in compliance with District policies. Except as authorized by this policy, employees are expected to avoid any use or communication that is unrelated to District business, destructive, wasteful, or illegal. The District has discretion to restrict or rescind employee access to District equipment or resources. The following are examples of misuse of District equipment or resources:

- (a) Any use that violates applicable law and/or District policies, rules or procedures;
- (b) Exposing others to material that is offensive, harassing, obscene or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment;
- (c) Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status or any other basis protected by law;
- (d) Communication of confidential District information to unauthorized individuals within or outside of District;

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- (e) Unauthorized attempts to access or use District data or break into any District or non-District system;
  - (f) Theft or unauthorized transmission or copying of paper or electronic files or data;
  - (g) Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication;
  - (h) Misrepresentation of one's identity for improper or illegal purposes;
  - (i) Personal commercial or business activities (e.g., "for sale" notices, personal ads, etc.);
  - (j) Transmitting/accessing obscene material and/or pornography;
  - (k) E-Commerce;
  - (l) Online gambling;
  - (m) Installing or downloading unauthorized software or equipment;
  - (n) Violating terms of software licensing agreements; and
  - (o) Using District equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
  - (p) Any unauthorized access to District equipment or resources, including: using keys or key cards; using or disclosing the username or password of another person or employee to gain access to their email or other electronic resources; or making District equipment or resources available to others who would otherwise have no authorized access.
  - (q) Using District equipment or resources to speak on the District's behalf without authorization.

**1210.5      *District Email Address Must be Used for District Business***

The District's email system is an official communication tool for District business. The District establishes and assigns official email addresses to each employee as the District deems necessary. Employees must send all District communications that are sent via email to and from their official District email address. Employees are prohibited from using their private email address when communicating District business via email. Should an email related to District business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's District email account and responded to accordingly.

**1210.6      *Incidental Personal Use of District Communications Equipment Permitted***

Employees may use District telephones, cell phones, internet access, and e-mail for incidental personal communications provided that the use:

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- (a) Is kept to a minimum and limited to break times or non-working hours;
  - (b) Does not interfere or conflict with District operations or the work performance of any District employees;
  - (c) Allows the employee to more efficiently perform District work;
  - (d) Is not abusive, illegal, inappropriate, or prohibited by this policy (for example, no social media use, no electronic dating, no gaming); and
  - (e) Clearly indicates it is for personal use and does not indicate or imply District sponsorship or endorsement.

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## **1212 Workplace Violence Prevention Program**

### ***1212.1 Policy***

It is the policy of the Nevada Irrigation District (District) to provide employees and members of the public with a safe work environment.

It is the policy of the District to take appropriate actions to protect, as fully as possible, employees and members of the public from acts of violence, threats, intimidation, and harassment which may occur at workplaces, and during the performance of employment duties.

Department Directors and employees are responsible for implementing and maintaining the Workplace Violence Protection Program (WVPP). Employees, including department heads and supervisors, are responsible and accountable for using safe work practices, for following all directives, policies and procedures, and for assisting in maintaining a safe work environment.

Prompt and accurate reporting of all violent incidents whether or not physical injury has occurred is required. The District will not discriminate against victims of workplace violence.

The District may take action that may include involving state or local law enforcement, in pursuing prosecution through judicial or other appropriate administrative remedies when incidents occur.

The WVPP will be updated annually, when deficiencies are observed or become apparent and after each workplace violence incident.

### ***1212.2 Purpose***

The purpose of the WVPP is to ensure that the District provides employees and the public with a place to conduct business free of threats, intimidation, harassment, and acts of violence.

### ***1212.3 Definitions***

*Act of Violence* - An act of violence is the attempt (coupled with the ability), or actual use of force of violence with the intent to threaten, harass, intimidate, commit a violent injury, or damage/destroy property.

*Emergency* - Unanticipated circumstances that can be life threatening or pose a risk of significant injuries to employees or other persons.

*Engineering Controls* - An aspect of the built space or a device that removes a hazard from the workplace or creates a barrier between the employee and the hazard.

*Harassment* - The creation of a hostile work environment through unwelcome words, actions, or physical contact not resulting in physical harm. Verbal harassment may include disparaging or derogatory comments or slurs, unreasonable or excessive criticism, or name calling.

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*Intimidate* - To make afraid; to frighten, alarm, annoy, or scare. To force a person into, or deter them from, some action by inducing fear by, or as if by, threats.

*Log* - The violent incident log required by Labor Code Section 6401.9.

*Plan* - The workplace violence prevention plan required by Labor Code Section 6401.9.

*Threat of Violence* - Any verbal or written statement, including, but not limited to, texts, electronic messages, social media messages, or other online posts, or any behavioral or physical conduct, that conveys an intent, or that is reasonably perceived to convey an intent, to cause physical harm or to place someone in fear of physical harm, and that serves no legitimate purpose.

*Workplace Violence* - Any act of violence or threat of violence that occurs in a place of employment. Workplace violence includes, but is not limited to, the following:

- The threat or use of physical force against an employee that results in, or has a high likelihood of resulting in, injury, psychological trauma, or stress, regardless of whether the employee sustains an injury.
- An incident involving a threat or use of a firearm or other dangerous weapon, including the use of common objects as weapons, regardless of whether the employee sustains an injury.
- The following four (4) workplace violence types:
  - *Type 1 Violence* - Workplace violence committed by a person who has no legitimate business at the worksite and includes violent acts by anyone who enters the workplace or approaches employees with the intent to commit a crime.
  - *Type 2 Violence* - Workplace violence directed at employees by customers or visitors.
  - *Type 3 Violence* - Workplace violence against an employee by a present or former employee.
  - *Type 4 Violence* - Workplace violence committed in the workplace by a person who does not work there but has or is known to have had a personal relationship with an employee.

Workplace violence does not include lawful acts of self-defense or defense of others.

*Work practice Controls* – Any procedures and rules which are used to effectively reduce workplace violence hazards.

#### **1212.4      *Responsibility and Accountability***

The WVPP Administrator is the Assistant General Manager and has the authority and responsibility for managing this program for the District.

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Department Directors, supervisors, and employees are responsible for maintaining the WVPP in their work areas and for answering employee questions about the program.

***Department Director/Supervisor*** - Department Directors and supervisors are responsible for ensuring compliance with the provisions of this WVPP.

***Employee*** – Employees are expected to act professionally, courteously, and responsibly, which ensures compliance with the State of California’s workplace violence policy requirements. It is the responsibility of every employee to immediately report any and all acts or threats, suspicious activity, and workplace violence to their immediate supervisor or Department Director or Human Resources without fear of reprisal. Reports must be taken seriously. The initial verbal report must be followed up with written documentation which should include the following critical information: Names of the parties involved (i.e. perpetrator, victim and witnesses), exactly what occurred, when the incident occurred, where the event took place, and if known, why it happened.

### ***1212.5 Compliance***

Employees are responsible and will be held accountable for using safe work practices, for following all directives, policies and procedures, and for assisting in maintaining a safe and secure work environment.

Employees must comply with work practices that are designed to make the workplace more secure and will not engage in threats or actions which create a security hazard for others in the workplace. Department Directors and supervisors will:

- Train employees of the provisions of the District’s WVPP when they are hired and periodically through memos, electronic mail, staff meetings, and training.
- Inform employees about the WVPP.
- Evaluate the performance of employees in complying with workplace security measures.
- Recognize employees who perform work practices that promote security in the workplace.
- Provide training and/or counseling to employees who need to improve work practices designed to ensure workplace security.
- Discipline employees for failure to comply with workplace security practices.
- Follow established workplace security directives, policies, and procedures.
- Providing employees with access to this WVPP.

### ***1212.6 Communication***

Department Directors and supervisors will maintain an open, two-way communications system on all workplace safety, health and security issues. The District has a communication system designed to encourage a continuous flow of safety, health and security information between management and our employees without fear of reprisal and in a way that is readily understandable. Our communication system consists of the following items:

- New employee orientation on workplace security policies, procedures, and work practices.
- Annual review of our WVPP with all personnel.

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- Training programs designed to address specific aspects of workplace security unique to the District.
  - Regularly scheduled safety meetings with employees to include workplace security discussions.
  - A system to ensure that employees understand the workplace security policies.
  - Posted or distributed workplace security information.
  - A system for employees to inform management about workplace security hazards or threats of violence.
  - Procedures for protecting employees who report threats from retaliation by the person making the threats.
  - A system for employees to anonymously inform management about workplace security and violence concerns.

### **1212.7      *Incident Reporting Procedures***

1. Call + 911 if there is an emergency situation or if someone has been seriously injured.
2. Report all threats or acts of workplace violence to your supervisor or Department Director. If that's not possible, report incidents to Human Resources.
3. The supervisor or Department Director should complete an Incident Report Form and give it to both the Director of Human Resources and the Assistant General Manager. This form is available in Human Resources.

### **1212.8      *Hazard Assessment***

The District will perform workplace hazard assessments for workplace security in the form of periodic workplace security inspections. Periodic inspections to identify and evaluate workplace security hazards and threats of workplace violence are performed by the Safety Department and other staff as necessary in the following areas of our workplace and are performed according to the following schedule:

- No less than once a year.
- When new, previously unidentified workplace violence/security hazards are recognized.
- When occupational injuries or threats of injury occur.
- Whenever workplace conditions warrant an inspection.
- Within thirty (30) days of reported incident and a follow-up inspection is warranted.

The District performs inspections for each type of workplace violence by using the methods specified below to identify and evaluate workplace hazards:

Inspections for Type I workplace security hazards include assessing:

- The exterior and interior of the workplace for its attractiveness to criminal acts.
- The need for security surveillance measures, such as mirrors or cameras.

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- Posting of signs notifying the public that limited cash is kept on the premises.
  - Procedures for employee response during a criminal act.
  - Procedures for reporting suspicious persons or activities.
  - Posting of emergency telephone numbers for law enforcement, fire and medical services where employees have access to a telephone with an outside line.
  - Limiting the amount of cash on hand and using safes for large amounts of cash.
  - Armor car pickup.
  - Building alarm systems.
  - Other: Including landscaping, lighting, building design.

Inspections for Type II workplace security hazards include assessing:

- Access to, and freedom of movement within, the workplace.
- Adequacy of workplace security systems, such as door locks, security windows, physical barriers, and restraint systems.
- Frequency and severity of threatening or hostile situations that may lead to violent acts.
- Employee's skill in safely handling threatening or hostile service recipients.
- Effectiveness of systems and procedures to warn others of a security danger or to summon assistance, e.g., alarms or panic buttons.
- The use of work practices such as "buddy" systems for specified emergency events.
- The availability of employee's posted escape routes.

Inspections for Type III/IV workplace security hazards include assessing:

- How well the WVPP has been communicated to employees.
- How well management and employees communicate with each other.
- Employees' knowledge of the warning signs of potential workplace violence.
- Access to, and freedom of movement within, the workplace by non-employees.
- Frequency and severity of incident reports of physical or verbal abuse by employees.
- Any prior violent acts, threats of physical violence, verbal abuse, property damage or other signs of strain or pressure in the workplace.
- Progressive disciplinary procedures.

### **1212.9      *Incident Investigations***

Procedures for investigating incidents of workplace violence include:

- Reviewing previous incidents that are related.
- Visiting the scene of an incident as soon as possible.
- Interviewing employees and witnesses.
- Examining the workplace for security risk factors associated with the incident.
- Determining the cause of the incident.
- Taking corrective action to prevent similar incidents from occurring.
- Recording the findings and ensuring corrective actions are taken.
- Obtain any reports completed by law enforcement.

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## **1212.10      *Hazard Correction***

Hazards that threaten the safety or security of employees, will be corrected based on severity when they are first observed or discovered. If an imminent hazard exists that cannot be immediately abated without endangering employees and/or property, exposed employees will be removed from the situation except those necessary to correct the existing condition. Employees will be provided with the necessary protection to correct the hazard.

Corrective measures for Type I workplace security hazards can include:

- Making the workplace unattractive to criminal acts.
- Utilizing security guards and surveillance measures, such as cameras or mirrors, to provide information as to what is going on outside and inside the workplace.
- Reporting procedures for notifying designated employees of suspicious persons or activities.
- Posting emergency telephone numbers for law enforcement, fire and medical services where employees have access to a telephone with an outside line.
- Posting signs to notify the public that limited cash is kept on the premises.
- Limiting cash on hand and using time access safes and armored car services for large amounts of cash.
- Training employees on emergency action procedures.
- Using alarm systems and access control systems.
- Applying crime prevention through environmental design practices.

Corrective measures for Type II workplace security hazards include:

- Controlling access to the workplace and freedom of movement within it, consistent with business necessity.
- Ensuring adequate workplace security/access control systems, such as door locks, security windows, physical barriers, and restraint systems.
- Providing worker training in recognizing and handling threatening or hostile situations that may lead to violent acts by persons who are service recipients of our establishment.
- Placing effective systems to warn others of a security danger or to summon assistance, e.g., alarms or panic buttons.
- Providing procedures for a "buddy" system for specified emergency events.
- Ensuring adequate emergency escape routes.

Corrective measures for Type III/IV workplace security hazards include:

- Communicate the WVPP to employees.
- Improving communication between management and employees.
- Increasing employees' awareness of the warning signs of potential workplace violence.
- Controlling access to, and freedom of movement within, the workplace by non-employees.
- Providing counseling to employees who exhibit behavior that represents strain or pressure which may lead to physical or verbal abuse of coworkers.

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- Ensuring reports of violent acts, threats of physical violence, verbal abuse, property damage or other signs of strain or pressure in the workplace are handled effectively by management and that the person making the report is not subject to retaliation by the aggressor.
  - Ensuring disciplinary procedures address the potential for workplace violence.
  - Applying crime prevention measures through environmental design and administrative measures including but not limited to:
    - Well lighted areas
    - Security/controlled access to work area
    - Visitor sign-in
    - Visitor badges
    - Well lighted parking lots and area surrounding the building
    - Buddy system for walking to car or locations away from the building
    - Security cameras
    - Mounted area mirrors
    - Onsite security guards
    - Eliminate hiding places in areas surrounding the building, i.e. overgrown shrubs, dark areas
    - Panic buttons
    - Locks on restroom doors
    - Caller ID on phones
    - Cash locked in safe

### ***1212.11 Training***

Employees will be provided with annual training on the WVPP. Additional training will be provided when a new or previously unrecognized workplace violence hazard has been identified and when changes are made to the WVPP.

Workplace violence and security training includes, but is not limited to, the following:

- Explanation of the WVPP.
- Recognition of workplace security hazards.
- Measures to prevent workplace violence.
- Ways to deescalate hostile or threatening situations.
- Measures to summon others for assistance.
- Employee routes of escape.
- Notification of law enforcement authorities when a criminal act may have occurred.
- Emergency medical care provided in the event of any violent act upon an employee.
- Post-event trauma counseling for those employees desiring such assistance.
- Crime awareness.
- Location and operation of alarm systems, panic buttons, and other protective devices.
- Communication procedures.
- Self-protection.
- Dealing with angry, hostile, or threatening individuals.

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- Using the "buddy" system or other assistance from co-employees.
  - Awareness of indicators that lead to violent acts by service recipients.
  - Employee assistance programs.
  - Managing with respect and consideration for employee well-being.

**1212.12      *Recordkeeping***

Records will be maintained in accordance with the following retention schedule:

- Records of workplace violence hazard identification, evaluation, and correction will be maintained for a minimum of five (5) years.
- Training records will be maintained for a minimum of one (1) year and include training dates, a summary of the training sessions, names and qualifications of persons conducting the training, and names and job titles of all persons attending the training sessions.
- Violent incident logs will be maintained for a minimum of five (5) years.
- Records of workplace violence incident investigations conducted will be maintained for a minimum of five (5) years. These records will not contain private medical information.

Records specified above will be made available to employees and their representatives, upon request and without cost, within fifteen (15) days of a request.

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## **1214 Appearance Standards**

### ***1214.1 Basis for Standards***

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

### ***1214.2 Dress Code***

Employees are required to dress appropriately for the jobs they are performing.

- (a) Employees in the field must wear shirts containing the District logo,
- (b) If hats are worn, they must contain the District logo,
- (c) Clothing and footwear must be in good repair, and appropriate for the work environment and functions performed;
- (d) Prescribed uniforms and safety equipment must be worn;
- (e) Jewelry that does not pierce the skin is acceptable except where it constitutes a health or safety hazard;
- (f) Good personal hygiene is required; and
- (g) Dress must be professionally appropriate to the work setting.

### ***1214.3 Tattoos***

Visible tattoos must not be obscene, sexually explicit, discriminatory to sex, race, religion, or national origin, extremist, and/or gang related. Visible, non-conforming tattoos must either be removed or covered with clothing, bandage, or makeup while at work.

### ***1214.4 Piercings***

Employees are expected to project a professional appearance while at work and not endanger themselves or others with body piercings.

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## **1216 Teleworking Policy**

### ***1216.1 Purpose***

This policy is to provide certain employees a Teleworking Agreement to provide quality work in a timely manner, and to the benefit of the public.

### ***1216.2 Definitions***

“Alternative Worksite” means the employee’s home, place of residence, or from another location approved by the District other than the employee’s normal workplace.

“Telework(ing)” means a work arrangement where an employee works from an Alternative Worksite for all or a portion of their regularly scheduled work hours.

“Work Schedule” means the days and hours determined by their supervisor or Department Director when non-exempt, overtime eligible employees are under the control of the District at the Alternative Worksite.

### ***1216.3 Voluntary Teleworking Arrangements***

The District may allow Teleworking for certain eligible employees who request to Telework.

#### ***1216.3.1 Eligibility Criteria***

The General Manager has the discretionary authority to determine the job classifications, positions, and employees who are eligible to telework under this policy.

#### ***1216.4.2 Process for an Employee to Request to Telework***

To make a request for a Teleworking arrangement, employees must complete a Voluntary Telework Request Form and file the completed request form with their Department Director. The Department Director will consider Teleworking requests on a case-by-case basis consistent with the criteria above and other factors relevant to the employee’s request to telework.

#### ***1216.4.3 Final Determination; No Right to Appeal***

The decision of the Department Director regarding an employee’s Teleworking request is final and binding.

#### ***1216.4.4 Approval of Requests; Voluntary Telework Agreement***

An eligible and qualified employee who has requested and been granted the opportunity to Telework, must execute a Voluntary Teleworking Agreement (“Agreement”) prior and as a precondition to the employee teleworking.

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The Agreement will provide the mutual understanding of the employee and their Department Director concerning the teleworking arrangement.

The Agreement will be reviewed at least annually, and as needed, to ensure the teleworking arrangement continues to meet business needs. The Agreement may be terminated at any time; District and the employee will make their best efforts to provide at least two (2) weeks' notice prior to termination of the Agreement.

#### **1216.5        *Mandatory Teleworking Arrangements during Exigent Circumstances***

Where an exigent circumstance exists, the District may direct employees to remain at their homes or places of residence and the District adopt and implement a short-term teleworking arrangement for employees to provide for the continuity of essential services provided by the District.

“Exigent circumstances” means a situation in which there is an imminent threat of extreme peril to life, property and resources. Exigent circumstances may include, but are not limited to, war, public health emergencies, power failures, natural and man-made disasters, and other states of emergency.

Where an exigency exists and necessitates the adoption and implementation of a short-term mandatory teleworking arrangement for District employees, the General Manager is expressly authorized to suspend some or all provisions of this policy and adopt and implement alternative provisions necessary to provide for the continuity of essential services.

#### **1216.6        *Duties, Obligations, and Responsibilities for Teleworking Employees***

##### **1216.6.1      *General Duties, Obligations, and Responsibilities***

- (a) Existing duties, obligations, responsibilities, and conditions of employment remain unchanged. Teleworking employees must abide by all District and departmental policies and procedures, rules and regulations.
- (b) Teleworking employees' existing supervisory relationships, lines of authority and supervisory practices remain in effect.
- (c) Teleworking employees authorized to perform work at an Alternate Worksite must meet the same standards of performance and professionalism expected of District employees in terms of job responsibilities, work product, timeliness of assignments, and contact with other District employees and members of the public.
- (d) Teleworking employees are required to be accessible in the same manner as if they are working at a District worksite during the established teleworking Work Schedule, regardless of the designated location for teleworking, or Alternate Worksite. Teleworking employees must be accessible via telephone, email, and/or network access while Teleworking. Teleworking employees will check their District-related business phone messages and emails on a consistent basis.

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**1216.6.2      *Work Schedule, Overtime, Leave, Benefits***

- (a) For non-exempt employees, the District will provide the employee a work schedule that will be included in the Agreement, and that includes meal and rest breaks (Work Schedule).
- (b) For non-exempt employees assigned a Work Schedule, any deviation from the Work Schedule must be approved in advance, in writing, by the employee's Department Director.
- (c) Non-exempt employees may not Telework outside their normal work hours without prior written authorization from their Department Director.
- (d) For non-exempt employees assigned a Work Schedule, all periods of Teleworking employees' unavailability must be approved in advance by their Department Director.
- (e) Non-exempt employees, regardless of whether assigned a Work Schedule, are required to report all hours worked at the Alternate Worksite.
- (f) Employees must continue to abide by District policies and procedures for requests of sick, vacation, and other leaves of absences. If an employee becomes ill while working under the Agreement, they will notify their supervisor or manager immediately and record on their timesheet any hours not worked due to illness and/or incapacitation.
- (g) Non-exempt employees assigned a Work Schedule are required to request to work overtime in advance of doing so and it must be pre-approved in writing by the employee's supervisor.
- (h) Workers' Compensation benefits will apply only to injuries arising out of and in the course of employment as defined by Workers' Compensation law. Teleworking employees must report any work-related injuries to their supervisor immediately. The District is not responsible for injuries or property damage unrelated to work activities, including injuries to third-persons when the injuries occur at the Alternate Worksite.

**1216.6.3      *Space and Equipment, Information Security, Confidentiality***

- (a) Teleworking employees will be provided with District-issued equipment.
- (b) Teleworking employees must report to their supervisor any loss, damage, or unauthorized access to District owned equipment, immediately upon discovery of loss, damage, or unauthorized access.
- (c) Where, in response to a request to Telework, the District allows an employee to Telework, the District is not responsible for Teleworking costs, including, but not limited to, the employee's use of their home or place of residence, their utilities, internet, data, network costs, home maintenance, workspace furniture, ergonomic equipment, or any other incidental costs, unless expressly provided for in the Agreement.
- (d) Employees must take reasonable precautions to ensure their devices (*e.g.*, computers, laptops, tablets, smart phones, etc.) are secure before connecting remotely to the District's

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network and must close or secure all connections to District desktop or system resources (e.g., remote desktop, VPN connections, etc.) when not conducting work for the District. Employees must maintain adequate firewall and security protection on all such devices used to conduct District work from the Alternate Worksite.

- (e) Teleworking employees must exercise the same precautions to safeguard electronic and paper information, protect confidentiality, and adhere to the District's records retention policies, especially as it pertains to the California Public Records Act (CPRA). Teleworking employees must safeguard all sensitive and confidential information (both on paper and in electronic form) relating to District work they access from the Alternate Worksite or transport from their District worksite to the Alternate Worksite. Teleworking employees must also take reasonable precautions to prevent third parties from accessing or handling sensitive and confidential information they access from the Alternate Worksite or transport from their District worksite to the Alternate Worksite. Teleworking employees must return all records, documents, and correspondence to the District at the termination of the Agreement or upon request by their Department Director.

**1216.6.4**      *Miscellaneous*

- (a) Teleworking employees must notify their supervisor promptly when unable to perform work assignments because of equipment failure or any other unforeseen circumstances.
- (b) Teleworking employees must have access to an Alternate Worksite that is quiet and free of distractions, and that has reliable and secure power, internet and/or wireless access.
- (c) Teleworking employees must ensure that all official District documents are retained and maintained according to the normal operating procedures in the same manner as if working at a District worksite.
- (d) Dependent care may not interfere with work responsibilities.

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## 1218 Conflicts of Interest

Employees must use good judgment, adhere to high ethical standards, and avoid situations that create an actual, potential, or the appearance of a conflict between the employee's personal interests and the interests of District. A conflict of interest exists when the employee's loyalties or actions are divided between District's interest and those of another, such as a competitor, supplier, or customer. Employees unsure as to whether a transaction, activity, or relationship constitutes a conflict of interest should discuss it with their immediate superior for clarification. Any exceptions to this guideline must be approved in writing.

This guideline does not attempt to describe all possible conflicts of interest that could develop. Examples of common conflicts of interest that employees will refrain from include, but are not limited to:

- (a) Use of a District position of District facilities, equipment and/or supplies for private gain (including personal, family, charity, etc.), advantage or influence is prohibited.
- (b) Soliciting or accepting any favors or gifts from people or corporations who have, or seek to have, business contacts with District is prohibited.
- (c) Employees are precluded from divulging District confidential information without prior authorization.

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## **1220 Policy on Employee Use of Social Media**

### ***1220.1 Introduction and Purpose***

This Policy establishes guidelines for the appropriate use of social media by District employees.

### ***1220.2 Social Media Use Requirements***

The District requires employees to:

- 1) Observe and adhere to all District policies that may apply to individuals' social media use, including but not limited to those policies that protect individuals' confidentiality or privacy rights, anti-discrimination or harassment policies, and the anti-workplace violence policy.
- 2) Follow all applicable laws, including but not limited to those that protect individuals' confidentiality or privacy and those that prohibit discrimination and harassment.
- 3) Refrain from using social media in any way that could adversely affect the employee's job performance, the reputation of the District, or adversely affect members of the public served by the District.
- 4) Refrain from using social media during paid work hours.
- 5) Refrain from commenting on any matter or issue on behalf of the District or representing, in any way, that the employee's posts or comments represent the District opinion, unless required by the employee's position with District.

### ***1220.4 Social Media Use Best Practices***

The District encourages individuals to adhere to the following practices when using social media:

- 1) Ensure that social media posts are accurate and truthful, and do not contribute to the spread of misinformation or disinformation.
- 2) Be respectful of others and refrain from attacking others or making unnecessarily negative posts.
- 3) Protect privacy by not posting personal information.

Be mindful that whatever is shared, even if later deleted, may not actually be removed.

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## **1222 Mobile Device and Internet Acceptable Use**

### ***1222.1 Acceptable Use of Mobile Devices and Internet***

Use of the Internet and Mobile Devices by an employee during their shift must be in furtherance of their District duties and toward meeting the goals and objectives of the District. Internet and Mobile Device use on behalf of the District must comply with all federal and California laws and District policies. Personal use of the Internet and Mobile Devices during an employee's shift should be kept to a minimum and should not interfere with the employee's regular duties.

### ***1222.2 Prohibited Use***

An employee's use of the Internet or Mobile Devices must not hinder the use of other, more productive, means or resources to meet District goals. Employees may not violate the network policies of any non-District network while utilizing the Internet or Mobile Devices on behalf of the District. Specific prohibited uses include, but are not limited to the following:

- (a) Illegal or unlawful purposes, including but not limited to, copyright infringement, obscenity, libel, slander, fraud, defamation, plagiarism, harassment, intimidation, forgery, impersonation, gambling, solicitation, and system/network tampering.
- (b) Viewing, copying, altering, tampering with, or destroying data, software, documentation, or data communications that are owned or controlled by the District without authorized permission from the employee's supervisor or Department Director.
- (c) Establishing any District computers as participants in a peer-to-peer network, unless approved in writing by the Department Director.

### ***1222.3 Security***

Employees may not share their District-provided account or password information with another person. Attempting to obtain another employee's account or password information is strictly prohibited. If an employee learns or believes that any unauthorized person has acquired the employee's account or password information, the employee must contact the Help Desk or the District IT Administrator to obtain a password reset. Employees must take all reasonably necessary precautions to prevent the unauthorized access to District systems from non-authorized individuals.

### ***1222.4 Monitoring***

Employees have no expectation of privacy in their District-provided account or systems. The District reserves the right to monitor any Internet or Mobile Device activity on District equipment or accounts. The District employs filtering software to limit access to certain sites on the internet. If the District discovers activities that are noncompliant with applicable law or this policy, records may be retrieved to document the use.

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## **1224 Use of District Vehicles**

### ***1224.1 Driver's Licenses***

Employees who drive on behalf of the District must maintain a valid driver's license at all times. Employees must notify their supervisor or Department Director by their next scheduled workday of any changes regarding the status of their driver's license.

### ***1224.2 Passengers***

Passengers are not permitted to be transported in District vehicles unless authorized in advance by an employee's supervisor or Department Director or designee. All transportation of passengers must be pursuant to District business. Nothing prohibits the transportation of any person in case of an emergency. Emergency means a serious, unexpected, and dangerous situation, usually of a medical nature, requiring immediate action.

### ***1224.3 Use Guidelines***

At all times, employees driving on behalf of the District must do the following:

- (a) Be aware of and obey all federal, state, and local traffic laws and ordinances;
- (b) Drive in a safe manner, being respectful of others on the road and upholding a positive image and reputation to the public while using a District vehicle;
- (c) Ensure that all passengers obey federal, state, and local traffic laws and ordinances;
- (d) Operate the vehicle in accordance with reasonable safety, including the mandatory use of seatbelts by the driver and all passengers;
- (e) Use of cell phones using in "hands-free" modes while operating the vehicle.

Employees driving on behalf of the District or driving a District vehicle must never:

- (a) Text while operating the vehicle;
- (b) Smoke or use electronic vaping devices or equivalent;
- (c) Remove District vehicle decals or identifying information from the vehicle;
- (d) Personalize or modify the cosmetics or mechanical systems any District vehicle, including but not limited to storing or maintaining excessive amounts of personal belongings in the vehicle or install any permanent or semi-permanent article of personal property;

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- (e) Tow any non-District-owned trailers, unless authorized by the employee's supervisor or Department Director or designee;
  - (f) Use any District vehicle for personal gain, such as performing contract work or soliciting business;
  - (g) Transport personal property in a District vehicle other than what is expected in the normal course of business (i.e., radios, lunch boxes, water bottles, backpacks, etc.).

#### **1224.4        *Prohibitions***

Drivers are strictly prohibited from operating District vehicles or driving on behalf of the District:

- (a) While under the influence of or impaired by alcohol or illegal substance;
- (b) While under the influence of or impaired by marijuana;
- (c) When using lawfully prescribed medications that impair the employee's ability to safely operate the vehicle;
- (d) When using over-the-counter medications that impair the employee's ability to safely operate the vehicle;
- (e) When impaired by fatigue, nausea, or drowsiness;
- (f) When driving is prohibited by law.

#### **1224.5        *Stops by Employees During Unpaid Lunch or Break***

Employees may stop at a restaurant for their lunch break using a District vehicle, provided that the restaurant is in the employee's normal course of travel. Drivers may not take a District vehicle from an office location to a restaurant and return directly to the same office location. Additional stops during an unpaid lunch or break that are not District-related are not permitted without prior approval by an employee's Supervisor or Manager.

#### **1224.6        *Vehicle Take-Home/Commuting***

As determined by the Department Director, certain job classifications may be required to take a District vehicle home on a regular basis.

When authorized by the Department Director, employees may take home a District vehicle on a temporary assignment basis. Under these circumstances, the employee may be authorized to take a District vehicle home the day before, and/or return the vehicle following the assignment.

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### ***1224.6.1 Overnight Retention of District Vehicle***

Employees who are authorized to take a District vehicle home are automatically approved for overnight retention of a District vehicle for the time period authorized.

Temporary overnight retention must not exceed seven (7) days, absent emergency or unique circumstances. A temporary overnight duration longer than seven (7) days requires written, re-approval by the Department Director or designee with an explanation for the need of a longer period.

### ***1224.6.2 Vehicle Use***

Employees approved to take-home a District vehicle for regular or temporary assignment basis are only authorized to drive the District vehicle when conducting official District business. During an employee's commute to and from their residence, an employee may make convenience stops using the District vehicle, but only if a stop is along the employee's regular commute route and is less than ten (10) minutes. Employees must be cognizant of the public's perception of using District vehicles for personal use and stops should be as limited as possible.

Stops to drop-off or pick-up an employee's child in a District vehicle are never allowed.

All vehicles/equipment must be stored in a manner at the employee's residence that reasonably provides for the protection of the vehicle or equipment. District equipment and/or documents must be removed from the vehicle if it is not stored inside a secured area.

### ***1224.7 Vehicle Inspections***

#### ***1224.7.1 Light Trucks and Automobiles***

Drivers are expected to visually inspect their vehicles on a daily basis. This inspection should include checking the lighting and tire condition. Once on the road, the driver should be attentive to any defect or malfunction in the braking, suspension, electrical or fuel systems or the drive train. If any defects in the above items are discovered, they should be reported to the employee's supervisor and to the mechanic shop for evaluation and repair.

On a quarterly basis each vehicle in this class will be thoroughly inspected using a vehicle safety check form. This inspection may be performed by the employee who regularly uses or is assigned the vehicle, a supervisor, or a department designee. However, it is the supervisor's responsibility to ensure that the inspections are carried out in a timely and effective manner. Defects should be reported immediately to the mechanic shop for corrective action. Completed inspection checklists should be forwarded to the mechanic shop for appropriate filing.

#### ***1224.7.2 Heavy Trucks***

This section covers trucks of three axles or more weighing more than 26,000 pounds, truck tractors and trailers, and any truck or truck and trailer transporting hazardous materials ("Regulated Vehicle").

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The driver of a Regulated Vehicle must conduct pre-trip inspections of the above-described vehicles prior to operation each day to determine that they are in safe condition, are equipped as required, and that the required equipment is working properly. The driver should complete the Driver's Daily Vehicle Inspection Report ("DDVIR") as required by Federal and State regulations. Mechanical defects must be reported to the employee's supervisor, Department Director or designee so required repairs can be authorized, scheduled, and completed.

If no defects are found during the pre-trip inspection, the driver shall retain the DDVIR in the vehicle so that any defects, which become apparent during the day, can be included in the report. If at the end of the day no defects have been discovered, the driver shall indicate this on the report, sign the report, and turn it into the mechanic shop for filing.

If defects are discovered during the pre-trip inspection, or during the day, they must be documented on the DDVIR even if they are corrected on the spot. If a driver cannot correct a defect, or if there is a question whether the defect will prohibit the safe operation of the vehicle, a mechanic should be consulted. The mechanic has the option of either making the required repairs or certifying that the vehicle may be operated safely without correction of the defects. In either case both the mechanic and driver must sign off on the DDVIR. The DDVIR shall remain with the vehicle for the remainder of the day so that any subsequent defects may be documented. If no further problems arise, the driver shall sign the report and turn it into the mechanic shop for filing.

#### **1224.8      *Accident Reporting***

Any employee who is in a vehicle accident while operating a District vehicle or while operating a private or rented vehicle on District business is required to follow the accident reporting procedure, by completing an Employee Accident/Injury Report form within twenty-four (24) hours of the accident.

The driver must not admit fault nor discuss the accident with anyone except the following:

- (a) The police;
- (b) The employee's supervisor or Department Director or designee;
- (c) Risk Management Office;
- (d) The District's insurance adjuster, where applicable

If the employee is injured in an accident, the employee's supervisor or Department Director will also complete a "Supervisor's Report of Illness/Injury," if the driver is unable to complete the Employee Accident/Injury Report. Parking or traffic citations issued to a driver while using a District vehicle will be the sole responsibility of the driver involved. It is the driver's responsibility to resolve citation disputes and or pay citation fines promptly.

#### **1224.9      *Cost of Repairs***

Any cost to repair damage above normal wear and tear to District vehicles sustained as a result of

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gross negligence or willful misconduct by the employee may be recoverable from the employee and/or may result in disciplinary actions.