



BEAUMONT-CHERRY VALLEY WATER DISTRICT
560 Magnolia Avenue, Beaumont, CA 92223

**NOTICE AND AGENDA
MEETING OF THE PERSONNEL COMMITTEE**

*This meeting is hereby noticed pursuant to
California Government Code Section 54950 et. seq.*

Tuesday, March 19, 2024 - 5:30 p.m.
560 Magnolia Avenue, Beaumont, CA 92223

TELECONFERENCE NOTICE

*The BCVWD Personnel Committee members will attend in person at the
BCVWD Administrative Office*

This meeting is available to the public via Zoom teleconference

To access the Zoom conference, use the link below:

<https://us02web.zoom.us/j/85792068838?pwd=cFArZHZ4aHRSUmJLeTBCZVpnUGRmdz09>

To telephone in, please dial: (669) 900-9128
Enter Meeting ID: 857 9206 8838 • Enter Passcode: 457586

*For Public Comment, use the “**Raise Hand**” feature if on
the video call when prompted. If dialing in, please **dial *9 to**
“**Raise Hand**” when prompted*

Meeting materials will be available on the BCVWD’s website:

<https://bcvwd.org/document-category/personnel-committee-agendas/>

PERSONNEL COMMITTEE MEETING – MARCH 19, 2024

Call to Order: Chair Covington

Roll Call

	John Covington, Chair
	Andy Ramirez

	Lona Williams (alternate)
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PERSONNEL COMMITTEE MEETING – MARCH 19, 2024 - *continued*

Public Comment

PUBLIC COMMENT: RAISE HAND OR PRESS *9 to request to speak when prompted. At this time, any person may address the Personnel Committee on matters within its jurisdiction which are not on the agenda. However, non-agenda matters that require action will be referred to Staff for a report and possible action at a subsequent meeting. **Please limit your comments to three minutes.** Sharing or passing time to another speaker is not permitted.

1. **Adjustments to the Agenda:** In accordance with Government Code Section 54954.2, additions to the agenda require a 2/3 vote of the legislative body, or if less than 2/3 of the members are present, a unanimous vote of those members present, which makes the determination that there is a need to take action, and the need to take action arose after the posting of the agenda.
 - a. Item(s) to be removed or continued from the Agenda
 - b. Emergency Item(s) to be added to the Agenda
 - c. Changes to the order of the Agenda
2. **Acceptance of Personnel Committee Meeting minutes**
The February 20, 2024 meeting was canceled due to lack of quorum
Minutes may be accepted by consensus
 - a. January 16, 2024 Regular Meeting (pages 4 - 7)

ACTION ITEMS

3. **Report / Update from BCVWD Employees Association** (no staff report)

Association Representatives		
Andrew Becerra	Tommy Lamont	Luis Lomeli

- a. Field staff facilities / restrooms / base of operations – update from GM
4. **Report / Update from BCVWD Exempt Employees** (no staff report)
5. **Human Resources Department Report** (pages 8 - 11)
6. **Policies and Procedures Manual Updates / Revisions**

a.	Policy 2015	Harassment	Pages 12 - 19
b.	Policy 3085	Sick Leave	Pages 20 - 39
c.	Policy 3170	Smoke Free Workplace and Tobacco Use	Pages 40 - 48

d.	Policy 3150	District Vehicle Usage	Pages 49 - 58
e.	Policy 3155	Personal Vehicle Usage	Pages 59 - 64
f.	Policy 3080	Recruitment, Selection, and Onboarding	Pages 65 - 113
g.	Policy 5090	District Residences and Facility Emergency Policy	Pages 114 - 125

7. Update on Policy Tracking Matrix (pages 126 - 130)

- a. Status of Policy Revisions / Updates

8. Consideration of “Great Place to Work” or other Survey Tool

9. Action List for Future Meetings

- a. Employee Association topics
- b. Policy manual updates (ongoing)

10. Next Meeting Date: April 16, 2024

11. Adjournment

AVAILABILITY OF AGENDA MATERIALS - Agenda exhibits and other writings that are disclosable public records distributed to all or a majority of the members of the Beaumont-Cherry Valley Water District Personnel Committee in connection with a matter subject to discussion or consideration at a meeting of the Personnel Committee are available for public inspection in the District's office, at 560 Magnolia Avenue, Beaumont, California ("District Office") during business hours, Monday through Thursday from 7:30 a.m. to 5 p.m. If such writings are distributed to members of the Board less than 72 hours prior to the meeting, they will be available from the District Office at the same time or within 24 hours' time as they are distributed to all or a majority of the Board of Directors, except that if such writings are distributed one hour prior to, or during the meeting, they can be made available in the Board Room at the District Office. Materials may also be available on the District's website <https://bcvwd.gov/>.

REVISIONS TO THE AGENDA - In accordance with §54954.2(a) of the Government Code (Brown Act), revisions to this Meeting Agenda may be made up to 72 hours before the Committee Meeting, if necessary, after mailings are completed. Interested persons wishing to receive a copy of the set Agenda may pick one up at the District's Main Office, located at 560 Magnolia Avenue, Beaumont, California, up to 72 hours prior to the Committee Meeting, or download from the District's website: <https://bcvwd.gov/>.

REQUIREMENTS RE: DISABLED ACCESS - In accordance with §54954.2(a), requests for a disability related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting, should be made to the District Office, at least 48 hours in advance of the meeting to ensure availability of the requested service or accommodation. The District Office may be contacted by telephone at (951) 845-9581, email at info@bcvwd.gov or in writing at the Beaumont-Cherry Valley Water District, 560 Magnolia Avenue, Beaumont, California 92223.

CERTIFICATION OF POSTING: A copy of the foregoing notice was posted near the regular meeting place of the Board of Directors of Beaumont-Cherry Valley Water District and to its website at least 72 hours in advance of the meeting (Government Code §54956(a)).



BEAUMONT-CHERRY VALLEY WATER DISTRICT AGENDA
560 Magnolia Avenue, Beaumont, CA 92223

MINUTES OF THE PERSONNEL COMMITTEE MEETING
Tuesday, January 16, 2024 at 5:30 p.m.

CALL TO ORDER

Chair Covington called the meeting to order at 5:30 p.m.

Attendance. Directors Covington and Williams attended in person.

<i>Directors present:</i>	<i>Covington, Williams (alternate)</i>
<i>Directors absent:</i>	<i>None</i>
<i>Staff present:</i>	<i>General Manager Dan Jagers Assistant Director of Finance and Administration Sylvia Molina Human Resources Manager Ren Berioso Director of Information Technology Robert Rasha Water Utility Superintendent Julian Herrera Water Production Operator II Jeremy McCarty Water Utility Worker I Joshua Rogers Executive Assistant Lynda Kerney</i>
<i>BCVWD Employee Association reps:</i>	<i>Senior Water Utility Worker Andrew Becerra Customer Service Representative II Luis Lomeli</i>

PUBLIC COMMENT: None.

ACTION ITEMS

- 1. Adjustments to the Agenda:** None.
- 2. Acceptance of the Personnel Committee Meeting minutes**
 - a. November 6, 2023 Special Meeting
 - b. November 21, 2023 Regular Meeting

The Committee accepted the minutes of the Personnel Committee meeting by the following vote:

MOVED: Williams	SECONDED: Covington	APPROVED
AYES:	Covington, Williams	
NOES:	None.	
ABSTAIN:	None.	
ABSENT:	None.	

3. Report / Update from BCVWD Employees Association:

The employee representatives requested consideration of the restroom facilities at the Cat House in preparation for summer, and a more permanent solution for a “home” for the field crew. Mr. Jagers reported that he had been in communication with the Field Supervisor and plans were in progress.

Chair Covington added this to the items for future discussion.

4. Report / Update from BCVWD Exempt Employees: None.

5. Report from Human Resources Department

Human Resources Manager Ren Berioso presented highlights of the report:

- Currently 42 employees
- District Engineer Joe Richenberger has 17 years with the District
- Two open positions were filled in December

6. Policies and Procedures Manual Updates / Revisions

Human Resources Manager Ren Berioso presented the proposed revisions.

a. Policy 2015 Harassment

- Titles added
- Applicable to vendors
- Additions by legal counsel
- Clarified responsibilities
- Deleted right to receive a summary of the investigation
- Expanded section on retaliation

Chair Covington asked for employee comments. There were none.

Chair Covington pointed to the comments from Legal Counsel. He noted that the section 2015.5 on other forms of harassment is too broad and general and recommended striking that section. Director Williams agreed.

Chair Covington stated that he was not comfortable with the complaint process as outlined in section 2015.6 as it is confidential. He suggested condensing the process to *the immediate supervisor, the HR Department, and the General Manager or designated appointee as soon as possible after the incident*. Director Williams concurred with the elimination of the Director of Finance and Administration from the process.

Covington suggested moving the content of section 2015.7 under 2015.6. General Manager Jagers made suggestions and the Committee discussed the process.

The Committee directed staff to work on the policy language and return with revisions to the Personnel Committee.

b. Policy 3070 Holiday Pay

Mr. Berioso reviewed changes and noted that feedback had been received from field staff regarding holiday pay. Language now aligns with the MOU regarding hours worked on holidays.

Several exceptions are suggested to the policy requiring an employee to work the day before and the day after a holiday to be eligible for holiday pay, Berioso explained. The Committee found the exceptions acceptable.

The Committee recommended this policy for consideration by the Board of Directors by the following vote:

MOVED: Williams	SECONDED: Covington	APPROVED
AYES:	Covington, Williams	
NOES:	None.	
ABSTAIN:	None.	
ABSENT:	None.	

c. Policy 3085 Sick Leave

Chair Covington tabled this item to a future meeting.

d. Policy 3122 Workplace Violence

Mr. Berioso explained that this policy is being amended due to Senate Bill 553, which was enacted in response to rising cases of workplace violence in California. He listed the bill's requirements, all of which have been placed in the policy and recommended by legal counsel.

Mr. Berioso reviewed the proposed revisions and responded to questions.

Chair Covington pointed to 3122.14 noting that it would be a slippery slope for the District to become involved in restraining orders. Jagers reviewed the law and noted that the workplace "may" seek a temporary restraining order. Chair Covington expressed concern about liability and said he preferred the language be deleted; Director Williams concurred.

Chair Covington pointed to section 3122.4 regarding reporting all serious workplace violence incidents to Cal OSHA, as it would not appear to be a reportable incident. Mr. Berioso indicated it was added by legal counsel. Covington directed staff to strike the last sentence as it goes beyond Cal OSHA requirements. Committee members posited that workplace violence was different than workplace injuries. Jagers indicated staff would check on legal requirements.

The Committee recommended this policy for consideration by the Board of Directors by the following vote:

MOVED: Williams	SECONDED: Covington	APPROVED
AYES:	Covington, Williams	
NOES:	None.	
ABSTAIN:	None.	
ABSENT:	None.	

Chair Covington requested that a list of all current policies and each one in pdf format be provided to the Board. Mr. Jaggars indicated that staff would provide the Policy Matrix with status, the updated (in new format) policies as approved by the Board, and the existing policies remaining. Hard copies will be produced upon request.

7. Update on Policy Tracking Matrix

Mr. Berioso reviewed the dashboard and advised that progress had been made to 56.96 percent completeness for HR policies, and 38.73 percent overall. He pointed to the list of policies currently in development and explained priorities.

8. Action List for Future Meetings

- Employee Association topics
 - Restroom facilities for field crew
 - Permanent operations center (move forward in 2024)
- Policy manual updates (ongoing)
- Policy Updates related to travel and per diem (requested by Dir. Williams)

9. Next Meeting Date:

- Regular Meeting Tuesday, February 20, 2024, at 5:30 p.m.

ADJOURNMENT: 6:32 p.m.

Attest:

DRAFT UNTIL APPROVED

John Covington, Chairman
to the Personnel Committee of the Beaumont-Cherry Valley Water District



**Beaumont-Cherry Valley Water District
Personnel Committee Meeting
March 19, 2024**

Item 5

HUMAN RESOURCES REPORT

TO: Personnel Committee

FROM: Ren Berioso, Human Resources Manager

SUBJECT: Human Resources Department Report for the Months of January and February 2024

Table 1: Personnel

The below table represents Workforce.

As of January 31, 2024

Total Current Employees (Excluding Board Members)	43
Full-Time Employees	40
Part-Time	1
Temporary	2
Interns	0
Separations	0
Retired Employee(s)	0

As of February 29, 2024

Total Current Employees (Excluding Board Members)	44
Full-Time Employees	41
Part-Time	1
Temporary	2
Interns	0
Separations	0
Retired Employee(s)	0

Table 2: New Hires

The below table represents new hires.

As of January 31, 2024

Employee Name	Job Title	Department
None		



As of February 29, 2024

Employee Name	Job Title	Department
Jason Shields	Management Analyst II	Finance and Administration

Table 3: Anniversaries*

The below table represents BCVWD employee anniversaries.

As of January 31, 2024

Employee Name	Department	Years of Service
Joseph Haggin	Operations	22 years
Melvin Gibson	Operations	2 years

As of February 29, 2024

Employee Name	Department	Years of Service
James Bean	Operations	25 years

**Work Anniversaries for the purposes of this report are calculated from the hire date and do not determine employment conditions or terms. This report does not include elected officials.*

Table 4: Promotions or Division/Title Change

The below table represents promotions or Division/Title Changes.

As of January 31, 2024

Employee Name	Former Title	Changed to
Thomas LaMont	Maintenance Technician I	Maintenance Technician II
Jaden Schuler	Temp Water Utility Worker I	Maintenance Technician I
Robert Saiz III	Temp Water Utility Worker I	Water Utility Worker I
Jonathan Medina	Water Production Operator I	Senior Water Utility Worker

As of February 29, 2024

Employee Name	Former Title	Changed to
Melvin Gibson	Water Utility Worker I	Water Utility Worker II
Justin Petruescu	Water Utility Worker II	Senior Water Utility Worker
Edmund Clark	Senior Water Utility Worker	Water Production Operator I

**Table 5: Recruitment**

The below table represents active/closed recruitment(s).

As of January 31, 2024

Position	Department	Update
Engineering Assistant	Engineering	Posting closed 1/29/2024. Interviews Ongoing.
Management Analyst II	Finance and Administration	Position filled 1/8/2024. Start Date 2/5/2024.
Maintenance Technician I	Operations	Position filled 1/15/2024. Start Date 1/15/2024.
Senior Water Utility Worker (CS and Meter Reading)	Operations	Position filled 1/22/2024. Start Date 1/22/2024.
Customer Service Representative I	Finance and Administration	Posting closed 1/26/2024. Interviews to be scheduled.
Water Utility Worker II	Operations	Posting for 2 Closed 1/30/2024. Interviews ongoing.
Water Production Operator I	Operations	Posting open until 1/30/2024. Interviews to be scheduled.

As of February 29, 2024

Position	Department	Update
Engineering Assistant	Engineering	Position filled 2/12/2024. Start Date 3/11/2024.
Water Utility Worker II	Operations	Positions filled 2/1/2024. Start Date 2/5/2024.
Water Production Operator I	Operations	Position filled 2/8/2024. Start Date 2/12/2024.
Customer Service Representative I	Finance and Administration	Posting closed 1/26/2024. Interviews ongoing.
Management Analyst I	Finance and Administration	Posting Closed 02/23/2024. Interviews to be scheduled.
Temporary Water Utility Worker I	Operations	Posting Closed 02/18/2024. Interviews to be scheduled.



Table 6: Separation/Retirement

The below table represents employees separating from BCVWD.

As of January 31, 2024

Employee Name	Position Held	Department	Last Day
None			

As of February 29, 2024

Employee Name	Position Held	Department	Last Day
None			

Table 7: Communications

The below table represents HR communications to BCVWD employees.

As of January 31, 2024

Communication	Topic
Mandatory Online Sexual Harassment Training – February 2024	Personnel

As of February 29, 2024

Communication	Topic
Operations Department Promotion and Transfer, Status Change Announcement	Personnel
New Management Analyst II – Mr. Jason Shields	Personnel
Beaumont-Cherry Valley Water District Dress Code Policy	Personnel
Mandatory Online Sexual Harassment Training for Board of Directors – February 2024	Board of Directors

Staff Report Prepared by Ren Berioso, Human Resources Manager



**Beaumont-Cherry Valley Water District
Personnel Committee
March 19, 2024**

Item 6a

STAFF REPORT

TO: Personnel Committee

FROM: Ren Berioso, Human Resources Manager

SUBJECT: Policies and Procedures Manual Updates/Revisions Regarding Policy 2015 Harassment

Staff Recommendation

Approve the updated 2015 Harassment Policy to move forward to the next Board of Directors meeting with the revisions stated in Table 1, Summary of Policy Changes, or direct staff as desired.

Executive Summary

At the January 16, 2024, meeting, the Personnel Committee reviewed and proposed changes to the draft policy for Harassment presented by Human Resources staff, with discussion regarding forms of abuse as well as changes to the complaint and response process. The Personnel Committee also directed staff to remove the statement that defines abusive behavior towards the protected class, and to allow Personnel Committee to hire an outside consultant or firm to do an objective and thorough investigation if the harassment complaint involves the General Manager.

Background

At the January 16, 2024, Personnel Committee meeting, staff presented changes to the Harassment Policy by adding Human Resources as the department who will do an objective investigation for harassment complaints, defined disruptive behavior as harassment towards protected class, and removed a language that will provide a copy of the complete confidential investigation to the complainant as recommended by Legal Counsel. The Personnel Committee directed staff to remove the section discussing disruptive behavior towards protected class, and to add a language that will allow the Personnel Committee to hire an outside firm if the harassment complaint involves the General Manager.

The proposed redline draft version includes directions from the Personnel Committee that were also reviewed by Legal Counsel. Changes were made to ensure that legal risks are mitigated, and to improve District's response should harassment occur in the workplace.

Discussion

Table 1 outlines the proposed changes to the current Harassment policy that are in reference to the redline draft version attached herewith.



Table 1 – Summary of Policy Changes

TABLE A	Policy Section	State / Federal Law	BCVWD current practice	Personnel Committee Recommendation	Fiscal Impact of Option
1	2015.5	None	The District does not condone abusive conduct towards anyone.	Removed Section 2015.5 Other Forms.	No fiscal impact.
2	2015.6	None	Complaint Process	Changed to Section 2015.5 and removed Department Director and Director of Finance and Administrative Services in the complaint process.	No fiscal impact.
3	2015.7	None	District's Response to Complaint	Changed to Section 2015.6 and added a language allowing Personnel Committee to hire an outside firm or consultant if the complaint involves the General Manager. Moved the 3 sub-sections to Section 2015 and changed the numbering to sub-sections 2015.5.1, 2015.5.2 and 2015.5.3	The Fiscal Impact is the cost of hiring an outside firm or consultant if warranted.

Fiscal Impact

The fiscal impact depends on if there is a necessity to hire an outside consultant to conduct harassment investigation and the pricing of the said service.

Attachments

1. Redline draft version of 2015 Harassment Policy
2. Clean draft of 2015 Harassment Policy
3. Side-by-Side version of 2015 Harassment Policy

Staff Report prepared by Ren Berioso, Human Resources Manager

POLICY TITLE: HARASSMENT
POLICY NUMBER: 2015

Attachment 1

2015.1 **Unlawful Harassment.** The District is committed to providing a work environment for its employees that is free of unlawful harassment. The District prohibits sexual harassment (Policy 2020) as well as harassment because of race, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sex, gender, gender identity, gender expression, sexual orientation, veteran or military status, or any other basis protected by federal, state or local law, ordinance, or regulation (collectively "protected status"). This policy applies to all persons involved in the operation of the District and prohibits harassment by any employee of the District—supervisors and co-workers.

2015.2 **Reporting.** Employees are encouraged to immediately report any incident of unlawful harassment to either their supervisor, Human Resources, or to the General Manager so that complaints can be quickly and fairly resolved.

2015.3 **Harassment Prohibited.** Harassment because of any protected status is prohibited, including, but not limited to the following behavior:

1. Verbal conduct such as epithets, derogatory jokes or comments, slurs, unwanted sexual advances, invitations, or comments;
2. Visual conduct such as derogatory and/or sexually oriented posters, photography, cartoons, drawings, or gestures;
3. Physical conduct such as assault, unwanted touching, blocking normal movement or interfering with work because of sex, race, or any other protected basis; and, retaliation for having reported or threatened to report harassment.

2015.4 **Applicability.** This policy applies to all employees, interns, volunteers, vendors, third parties, and agents of the employer, including supervisory and non-supervisory employees, and it applies to all phases of employment. All reasonable actions will be taken to protect employees in the workplace from unwelcome conduct and actions by non-employees contractors, vendors, suppliers, clients, and others.

~~2015.5 **Other Forms.** This policy also defines harassment as any bullying, abusive conduct, and other forms of disruptive behavior that constitutes an attack towards protected class.~~

2015.56 **Complaint Process.** If any employee of the District believes they have been harassed, the employee should provide a written complaint to their immediate supervisor, Department Director, Director of Finance and Administrative Services, the Human Resources Department, General Manager or designated appointee as soon as possible after the incident. The complaint should include the details of the incident(s), dates and times, name(s) of the individual(s) involved, together with the name(s) of any witness(es).

2015.5.1 An employee is never required to make a complaint to a supervisor or manager who is alleged to be responsible for the harassment. The complaint may be made to an uninvolved supervisor or manager, or to the parties named above.

2015.5.2 While written complaints are strongly encouraged, the District will investigate all employee complaints, including those that are not written or that are anonymous. However, the ability

Adopted by Resolution 21-006, 4/14/2021

to investigate and remedy unwritten or anonymous complaints may be compromised if insufficient information is available for the investigation.

2015.5.3 The investigation will be conducted in as confidential a manner as possible, consistent with a full, fair, and proper investigation.

2015.~~67~~ **District's Response to Complaint.** Staff receiving harassment complaints will refer them immediately to the Human Resources Department or designated appointee and the General Manager or the Personnel Committee of the Board of Directors (in the event the complaint involves the General Manager) who will undertake an immediate, thorough, and objective investigation of the harassment allegation(s). ~~through Human Resources Department or designated appointee.~~ At the discretion of the General Manager, an outside firm or consultant may be retained to conduct an objective investigation. If the complaint involves the General Manager, the Personnel Committee makes a recommendation to the Full Board of Directors to hire an outside firm to conduct a thorough and objective investigation.

~~1.2015 An employee is never required to make a complaint to a supervisor or manager who is alleged to be responsible for the harassment. The complaint may be made to an uninvolved supervisor or manager, or to the parties named above.~~

~~2.2015 While written complaints are strongly encouraged, the District will investigate all employee complaints, including those that are not written or that are anonymous. However, the ability to investigate and remedy unwritten or anonymous complaints may be compromised if insufficient information is available for the investigation.~~

~~3.2015 The investigation will be conducted in as confidential a manner as possible, consistent with a full, fair, and proper investigation.~~

2015.~~78~~ **Remedial Action.** If it is determined that harassment has occurred, effective remedial action will be taken in accordance with the circumstances involved. Any employee determined to be responsible for harassment will be subjected to appropriate disciplinary action, up to, and including termination. Investigations shall be overseen by Human Resources Department or designated appointee. The complainant will be advised once the investigation is complete but will not be provided with a copy of summary of the results of the investigation, including whether corrective action was taken and the general nature of that action, consistent with employee privacy and the confidentiality of personnel matters. Others involved in the investigation may also be advised once the investigation is complete.

2015.~~89~~ **Retaliation Prohibited.** The District prohibits retaliation of any kind against any employee who has complained about harassment, opposed harassment, or participated in a harassment investigation. Retaliation is prohibited against any employee who has engaged in certain legally protected activities, filed a complaint or served as a whistleblower.

POLICY TITLE: HARASSMENT
POLICY NUMBER: 2015

Attachment 2

2015.1 Unlawful Harassment. The District is committed to providing a work environment for its employees that is free of unlawful harassment. The District prohibits sexual harassment (Policy 2020) as well as harassment because of race, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sex, gender, gender identity, gender expression, sexual orientation, veteran or military status, or any other basis protected by federal, state or local law, ordinance, or regulation (collectively “protected status”). This policy applies to all persons involved in the operation of the District and prohibits harassment by any employee of the District—supervisors and co-workers.

2015.2 Reporting. Employees are encouraged to immediately report any incident of unlawful harassment to either their supervisor, Human Resources, or to the General Manager so that complaints can be quickly and fairly resolved.

2015.3 Harassment Prohibited. Harassment because of any protected status is prohibited, including, but not limited to the following behavior:

1. Verbal conduct such as epithets, derogatory jokes or comments, slurs, unwanted sexual advances, invitations, or comments;
2. Visual conduct such as derogatory and/or sexually oriented posters, photography, cartoons, drawings, or gestures;
3. Physical conduct such as assault, unwanted touching, blocking normal movement or interfering with work because of sex, race, or any other protected basis; and, retaliation for having reported or threatened to report harassment.

2015.4 Applicability. This policy applies to all employees, interns, volunteers, vendors, third parties, and agents of the employer, including supervisory and non-supervisory employees, and it applies to all phases of employment. All reasonable actions will be taken to protect employees in the workplace from unwelcome conduct and actions by non-employees contractors, vendors, suppliers, clients, and others.

2015.5 Complaint Process. If any employee of the District believes they have been harassed, the employee should provide a written complaint to their immediate supervisor, the Human Resources Department, General Manager or designated appointee as soon as possible after the incident. The complaint should include the details of the incident(s), dates and times, name(s) of the individual(s) involved, together with the name(s) of any witness(es).

- 2015.5.1** An employee is never required to make a complaint to a supervisor or manager who is alleged to be responsible for the harassment. The complaint may be made to an uninvolved supervisor or manager, or to the parties named above.
- 2015.5.2** While written complaints are strongly encouraged, the District will investigate all employee complaints, including those that are not written or that are anonymous. However, the ability to investigate and remedy unwritten or anonymous complaints may be compromised if insufficient information is available for the investigation.

2015.5.3 The investigation will be conducted in as confidential manner as possible, consistent with a full, fair, and proper investigation.

2015.6 **District's Response to Complaint.** Staff receiving harassment complaints will refer them immediately to the Human Resources Department or designated appointee and the General Manager who will undertake an immediate, thorough, and objective investigation of the harassment allegation(s). At the discretion of the General Manager, an outside firm or consultant may be retained to conduct an objective investigation. If the complaint involves the General Manager, the Personnel Committee makes a recommendation to the Full Board of Directors to hire an outside firm to conduct a thorough and objective investigation.

2015.7 **Remedial Action.** If it is determined that harassment has occurred, effective remedial action will be taken in accordance with the circumstances involved. Any employee determined to be responsible for harassment will be subjected to appropriate disciplinary action, up to, and including termination. Investigations shall be overseen by Human Resources Department or designated appointee. The complainant will be advised once the investigation is complete but will not be provided with a copy of summary of the results of the investigation, including whether corrective action was taken and the general nature of that action, consistent with employee privacy and the confidentiality of personnel matters. Others involved in the investigation may also be advised once the investigation is complete.

2015.8 **Retaliation Prohibited.** The District prohibits retaliation of any kind against any employee who has complained about harassment, opposed harassment, or participated in a harassment investigation. Retaliation is prohibited against any employee who has engaged in certain legally protected activities, filed a complaint or served as a whistleblower.

CURRENT POLICY

POLICY TITLE: HARASSMENT
POLICY NUMBER: 2015

2015.1 **Unlawful Harassment.** The District is committed to providing a work environment for its employees that is free of unlawful harassment. The District prohibits sexual harassment (Policy 2020) as well as harassment because of race, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sex, gender, gender identity, gender expression, sexual orientation, veteran or military status, or any other basis protected by federal, state or local law, ordinance, or regulation (collectively "protected status"). This policy applies to all persons involved in the operation of the District and prohibits harassment by any employee of the District—supervisors and co-workers.

2015.2 **Reporting.** Employees are encouraged to immediately report any incident of unlawful harassment to either their supervisor, Human Resources, or to the General Manager so that complaints can be quickly and fairly resolved.

2015.3 **Harassment Prohibited.** Harassment because of any protected status is prohibited, including, but not limited to the following behavior:

1. Verbal conduct such as epithets, derogatory jokes or comments, slurs, unwanted sexual advances, invitations, or comments;
2. Visual conduct such as derogatory and/or sexually oriented posters, photography, cartoons, drawings, or gestures;
3. Physical conduct such as assault, unwanted touching, blocking normal movement or interfering with work because of sex, race, or any other protected basis; and, retaliation for having reported or threatened to report harassment.

2015.4 **Applicability.** This policy applies to all employees, interns, volunteers, vendors, third parties, and agents of the employer, including supervisory and non-supervisory employees, and it applies to all phases of employment. All reasonable actions will be taken to protect employees in the workplace from unwelcome conduct and actions by non-employees contractors, vendors, suppliers, clients, and others.

2015.5 **Other Forms.** This policy also defines harassment as any bullying, abusive conduct, and other forms of disruptive behavior that constitutes an attack towards protected class.

2015.6 **Complaint Process.** If any employee of the District believes they have been harassed, the employee should provide a written complaint to their supervisor, Department Director, Director of Finance and Administrative Services, the Human Resources Department, General Manager or designated appointee as soon as possible after the incident. The complaint should include the details of the incident(s), dates and times, name(s) of the individual(s) involved, together with the name(s) of any witness(es).

2015.7 **District's Response to Complaint.** Staff receiving harassment complaints will refer them immediately to the General Manager or the Personnel Committee of the Board of Directors (in the event the complaint involves the General Manager) who will undertake an immediate, thorough, and objective investigation of the harassment allegation(s) through Human Resources Department or designated appointee. At the discretion of the General Manager, an outside firm or consultant may be retained to conduct an objective investigation.

PROPOSED POLICY

POLICY TITLE: HARASSMENT
POLICY NUMBER: 2015

2015.1 **Unlawful Harassment.** The District is committed to providing a work environment for its employees that is free of unlawful harassment. The District prohibits sexual harassment (Policy 2020) as well as harassment because of race, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, genetic information, marital status, age, sex, gender, gender identity, gender expression, sexual orientation, veteran or military status, or any other basis protected by federal, state or local law, ordinance, or regulation (collectively "protected status"). This policy applies to all persons involved in the operation of the District and prohibits harassment by any employee of the District—supervisors and co-workers.

2015.2 **Reporting.** Employees are encouraged to immediately report any incident of unlawful harassment to either their supervisor, Human Resources, or to the General Manager so that complaints can be quickly and fairly resolved.

2015.3 **Harassment Prohibited.** Harassment because of any protected status is prohibited, including, but not limited to the following behavior:

1. Verbal conduct such as epithets, derogatory jokes or comments, slurs, unwanted sexual advances, invitations, or comments;
2. Visual conduct such as derogatory and/or sexually oriented posters, photography, cartoons, drawings, or gestures;
3. Physical conduct such as assault, unwanted touching, blocking normal movement or interfering with work because of sex, race, or any other protected basis; and, retaliation for having reported or threatened to report harassment.

2015.4 **Applicability.** This policy applies to all employees, interns, volunteers, vendors, third parties, and agents of the employer, including supervisory and non-supervisory employees, and it applies to all phases of employment. All reasonable actions will be taken to protect employees in the workplace from unwelcome conduct and actions by non-employees contractors, vendors, suppliers, clients, and others.

~~2015.5 **Other Forms.** This policy also defines harassment as any bullying, abusive conduct, and other forms of disruptive behavior that constitutes an attack towards protected class.~~

2015.5 **Complaint Process.** If any employee of the District believes they have been harassed, the employee should provide a written complaint to their immediate supervisor, Department Director, Director of Finance and Administrative Services, the Human Resources Department, General Manager or designated appointee as soon as possible after the incident. The complaint should include the details of the incident(s), dates and times, name(s) of the individual(s) involved, together with the name(s) of any witness(es).

2015.5.1 An employee is never required to make a complaint to a supervisor or manager who is alleged to be responsible for the harassment. The complaint may be made to an uninvolved supervisor or manager, or to the parties named above.

2015.5.2 While written complaints are strongly encouraged, the District will investigate all employee complaints, including those that are not written or that are anonymous. However, the ability

1. An employee is never required to make a complaint to a supervisor or manager who is alleged to be responsible for the harassment. The complaint may be made to an uninvolved supervisor or manager, or to the parties named above.
2. While written complaints are strongly encouraged, the District will investigate all employee complaints, including those that are not written or that are anonymous. However, the ability to investigate and remedy unwritten or anonymous complaints may be compromised if insufficient information is available for the investigation.
3. The investigation will be conducted in as confidential a manner as possible, consistent with a full, fair, and proper investigation.

2015.8 **Remedial Action.** If it is determined that harassment has occurred, effective remedial action will be taken in accordance with the circumstances involved. Any employee determined to be responsible for harassment will be subjected to appropriate disciplinary action, up to, and including termination. Investigations shall be overseen by Human Resources Department or designated appointee. The complainant will be advised once the investigation is complete but will not be provided with a copy of summary of the results of the investigation, including whether corrective action was taken and the general nature of that action, consistent with employee privacy and the confidentiality of personnel matters. Others involved in the investigation may also be advised once the investigation is complete.

2015.9 **Retaliation Prohibited.** The District prohibits retaliation of any kind against any employee who has complained about harassment, opposed harassment, or participated in a harassment investigation. Retaliation is prohibited against any employee who has engaged in certain legally protected activities, filed a complaint or served as a whistleblower.

to investigate and remedy unwritten or anonymous complaints may be compromised if insufficient information is available for the investigation.

2015.5.3 The investigation will be conducted in as confidential a manner as possible, consistent with a full, fair, and proper investigation.

2015.67 **District's Response to Complaint.** Staff receiving harassment complaints will refer them immediately to the Human Resources Department or designated appointee and the General Manager or the Personnel Committee of the Board of Directors (in the event the complaint involves the General Manager) who will undertake an immediate, thorough, and objective investigation of the harassment allegation(s) through Human Resources Department or designated appointee. At the discretion of the General Manager, an outside firm or consultant may be retained to conduct an objective investigation. If the complaint involves the General Manager, the Personnel Committee makes a recommendation to the Full Board of Directors to hire an outside firm to conduct a thorough and objective investigation.

~~1.2015 An employee is never required to make a complaint to a supervisor or manager who is alleged to be responsible for the harassment. The complaint may be made to an uninvolved supervisor or manager, or to the parties named above.~~

~~2.2015 While written complaints are strongly encouraged, the District will investigate all employee complaints, including those that are not written or that are anonymous. However, the ability to investigate and remedy unwritten or anonymous complaints may be compromised if insufficient information is available for the investigation.~~

~~3.2015 The investigation will be conducted in as confidential a manner as possible, consistent with a full, fair, and proper investigation.~~

2015.78 **Remedial Action.** If it is determined that harassment has occurred, effective remedial action will be taken in accordance with the circumstances involved. Any employee determined to be responsible for harassment will be subjected to appropriate disciplinary action, up to, and including termination. Investigations shall be overseen by Human Resources Department or designated appointee. The complainant will be advised once the investigation is complete but will not be provided with a copy of summary of the results of the investigation, including whether corrective action was taken and the general nature of that action, consistent with employee privacy and the confidentiality of personnel matters. Others involved in the investigation may also be advised once the investigation is complete.

2015.89 **Retaliation Prohibited.** The District prohibits retaliation of any kind against any employee who has complained about harassment, opposed harassment, or participated in a harassment investigation. Retaliation is prohibited against any employee who has engaged in certain legally protected activities, filed a complaint or served as a whistleblower.



**Beaumont-Cherry Valley Water District
Personnel Committee
March 19, 2024**

Item 6b

STAFF REPORT

TO: Personnel Committee

FROM: Ren Berioso, Human Resources Manager

SUBJECT: Policies and Procedures Manual Updates/Revisions Regarding Policy 3085 Sick Leave

Staff Recommendation

Approve the updated 3085 Sick Leave policy to move forward to the next Board of Directors meeting with the revisions outlined on Table 1, Summary of Policy Changes, or direct staff as desired.

Executive Summary

Staff is proposing updates to the current Sick Leave policy to align with the California AB 1041 effective January 1, 2023, which added language of paid sick leave for Designated Person, and SB 616 effective January 1, 2024, which extended paid sick leave to all staff for a minimum of 40 hours a year. Staff is also proposing additional language requiring medical certification for absence beyond 3 days to mitigate legal risks resulting in workers compensation.

Background

At the August 16, 2022 Personnel Committee Meeting, former Human Resources (HR) staff presented changes to the Sick Leave policy by adding a cap if sick leave is carried over to the next year, and changing “days” to “hours”, aligning with the requirements of California Healthy Workplaces, Healthy Families Act. The Committee also agreed to the HR recommendation that the sick leave carry-over should be consistent with the MOU requirement of 40 hours. At the September 14, 2022 Regular Board Meeting, the Board of Directors approved the revised policy.

At the August 16, 2022 Personnel Committee meeting, former HR staff also proposed adding a language that allows the District to ask for a doctor’s note for absence 3 days and above. However, said proposal was not included in the adopted policy. Since Legal Counsel recommends this, staff is proposing adding this language to mitigate any potential risks arising from workers compensation. District staff also identified CA SB 616, effective January 1, 2024, which provides “all CA employees with a minimum paid sick leave of 40 hours a year once they reached their 200th day of employment.” Staff prepared the draft updates to the approved policy and caught that CA AB 1041, which took effect on January 1, 2023, adding “Designated Persons” to the list of the eligible reasons an employee can utilize paid sick leave, had not been presented to the Personnel Committee, and full Board, to be included in the existing policy.

To ensure that no other requirements were missing from the policy, staff researched State and Federal requirements related to sick leave. Staff additionally reached out to the HR Consultant, HR Dynamics, to collect information about industry trends, and requested a review by Legal Counsel. Table 1, Summary of Policy Changes, includes the legally required changes, as well as staff recommendations.



Discussion

Table 1 outlines the proposed changes to the current Sick Leave policy that are in reference to the redline draft version attached herewith.

Table 1 – Summary of Policy Changes

		State / Federal Law requirement	BCVWD current practice	Option/s to Consider	Fiscal Impact of Option
1	3085.2	SB 616 SEC 3. 246.5 (a) (1) Application of paid sick leave for existing health condition or preventative care.	Paid sick leave application for preventative care.	Rewording of preventative care in the policy language.	No fiscal impact.
2	3085.4	SB 616, SEC 2., Sec. 246 (a)(3). Increase to a minimum of 40 hours a year for all employees reaching 200 th day of employment, with an annual cap of not lower than 80 hours in a year.	Provides a maximum of 24 hours for temporary and part-time employees, with an annual cap for part-time employees of 80 hours per year.	Provide a minimum of 24 hours for temp and part-time employees reaching 120 th day of employment. Increase to a minimum of 40 hours if 200 th day of employment is reached.	The hourly rate for 16 hours of accrued leave. As identified as a legal requirement, 40 hours was included for all temporary staff in the 2024 Operating Budget.
3	3085.4	None	Identified sick leave paid out only for retirement.	No language changes. Moved to separate Section 3085.5	No additional fiscal impact, part of annual budget for accounting of liability.



		State / Federal Law requirement	BCVWD current practice	Option/s to Consider	Fiscal Impact of Option
4	3085.7 and 3085.8	AB 1041, Sec 245.5 (a)(4)(c)(8). Addition of Designated Person.	Designated Person is not listed in the current policy.	3085.7 (7) Addition of sick leave to care for "Designated Person" once every 12 months. 3085.8. Sick Leave for "Designated Person" used once in a 12 -month period, with the roll-over starting at the time it is used.	No fiscal Impact.
5	3085.11	None.	No language in the current policy.	Added language requiring a doctor's note for absence beyond 3 workdays. <i>Recommended to mitigate risks resulting from workers compensation if the employee has no fit-to-work note from the doctor.</i>	No fiscal impact.
6	3085.12	None.	No language in the current policy.	Added language to further define retaliation.	No fiscal impact.

Fiscal Impact

The fiscal impact is the additional 16 hours a temp employee will accrue once his/her employment reaches 200th day. This was included in the 2024 Operating budget.

Attachments

1. Redline draft version of 3085 Sick Leave with Legal Counsel notes.
2. Clean draft of 3085 Sick Leave
3. Side-by-Side version of 3085 Sick Leave
4. Assembly Bill No. 1041, Sec 245.5
5. Senate Bill No. 616, Sec 246 (State of California Authenticated Electronic Legal Material)
6. Right-To-Paid-Sick-Leave State of California

Staff Report prepared by Ren Berioso, Human Resources Manager

Attachment 1

BEAUMONT-CHERRY VALLEY WATER DISTRICT

PERSONNEL

POLICY TITLE: SICK LEAVE (Revised 11/7/23)

POLICY NUMBER: 3085

3085.1- Application. This policy shall apply to employees in all classifications who work at least 30 days within a year in accordance with the Healthy Workplaces, Healthy Families Act, of 2014 (AB 1522).

3085.2- Definition. Sick leave is defined as absence from work due to mental or physical illness; non-industrial injury or health condition; or quarantine due to exposure to a contagious disease any of which prevents the employee from working; or to obtain medical diagnoses, care, or treatment, as well as preventative medical, vision and dental care. In addition, dentist and doctor appointments and prescribed sickness prevention measures shall be subject to sick leave when prior notice is provided to the supervisor.

3085.3- Accrual for Regular, Full-Time Employees. Employees shall accumulate sick leave at the rate of one (1) day, or ten (10) hours per month. There are no established limits for sick leave accruals, and employees may carry over from one (1) year of employment to the next any unused balance.

3085.4 Accrual for Temporary and Part-Time Employees. A temporary or part-time employee will accrue sick leave at the rate of one (1) hour for every thirty (30) hours worked. The District shall provide a minimum of three (3) days, or twenty-four (24) hours of paid sick leave by the employee's 120th calendar day of employment, and a minimum of five (5) days, or forty (40) hours of paid sick leave by the employee's 200th calendar day of employment. A temporary or part-time employee may accrue a maximum of ten (10) days or eighty (80) hours, and such Part-time employees may carry over from one (1) year of employment to the next up to five (5) days or forty (40) hours. The District is not required to pay out unused sick leave upon separation from employment. If the temporary or part-time employee is rehired within one (1) year of separation, the prior unused sick leave balance will be reinstated at the time of rehire.

3085.5. Payout. The District is not required to pay-out unused sick leaves upon separation from employment, with the exception of retirement. The sick leave accrual shall also reset at the time of rehire, unless the employee is rehired within one year of separation, in which case all previously accrued and unused sick leave will be restored to the employee upon rehire.

⋮

3085.65 Waiting Period. 4- There is no waiting period before new regular, full-time new hires are eligible to use accrued sick leave. Temporary and Part-time employees have a ninety (90) day waiting period.

3085.676 Use. Sick leave shall be used in hourly increments. Each employee may use up to fifty percent (50%) of their accrued sick leave as kin care leave; to care for sick family members. It is also provided for those circumstances where the employee must take time off to care for a sick family member, regardless of the seriousness of the illness. Employees should notify their supervisor in advance to the extent feasible, or as soon as practicable, in order to avoid disruptions in work schedule as a result of use of sick leave and kin care time. Family members covered include parents, children, spouses, registered domestic partners, grandparents, grandchildren, and siblings, and designated persons for whom the employee provides care.

1. A "child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child for whom an employee stands *in loco parentis*, regardless of age or dependency status.

Adopted by Resolution 22-028, September 14, 2022

Commented [RSG1]: The front-loading method is preferable as it eliminates the administrative burden associated with the new law. The front loading approach requires providing the full five (5) days, or forty (40) hours) of paid sick leave at the time of hire for temporary and part-time employees.

Commented [RB2R1]: This may not be approved by the Personnel Committee. Most of our temps do not exceed 6 months.

Commented [RSG3]: The District may be more generous than the law provides and may eliminate the waiting period.

Commented [RSG4]: Does the District and Board intend to be more generous than the law requires related to Kin-care leave? Kin-care leave law only requires that 50% of accrued leave be provided. Kin-care leave is addressed separately in the new Misc. leave policy – it could be removed from the Misc. leave policy, since it is addressed here.

Commented [RB5R4]: We can make this an option to the Personnel Committee. However, I am sure that they will push back.

2. A "parent" means a biological, foster, or adoptive parent, a stepparent, legal guardian, or person who stood *in loco parentis* when the employee was a minor child. Mothers-in-law and fathers-in-law are also considered "parents" for the purposes of this definition.
3. The term "spouse" applies only to an individual to whom the employee is legally married.
4. A "registered domestic partnership" shall be established in California when both persons file a Declaration of Domestic Partnership and are registered with the Secretary of State.
5. A "sibling" includes any person with whom the employee shares a biological, foster, adoptive, or step parent.
6. Any other definition of "family member" that in the future the Legislature deems covered by paid sick leave law.
7. A "designated person" shall be the person for which the employee provides care. This is any individual related by blood or whose association with the employee is the equivalent of a family member.

Commented [RSG6]: The Kin-care allows for the employee to take leave to care for a designated person.

3085.8 Designated Person. An employee can only utilize sick leave to care for a "designated person" once in a 12-month period, with the roll-over commencing at the time this was used. Supervisors are not allowed to inquire as to the nature of the employee's relationship to the designated person a paid sick leave is to be used for.

6.

3085.987 Other Use. 6—An employee may also use sick leave to seek relief or services as a victim of domestic violence, sexual assault, or stalking, as described under Labor Code sections 230(c) and 230.1(a).

3085.10987 Notice. In order to receive compensation while on sick leave, the employee shall notify a supervisor prior to the time for beginning the regular workday, or as soon thereafter as practical.

3085.110 Medical Certification. For absence in excess of five (5) ~~three (3)~~ workdays due to the employee's physical or mental illness, the District ~~may shall~~ require a medical certification from a licensed medical provider prior to returning to work and must be submitted to Human Resources Department.

Commented [RTG7]: Although not explicitly required by law, I would consider changing this to 5 days.

3085.8 Evidence. ~~If absence from duty by reason of illness occurs, satisfactory evidence may be required by the employee's immediate supervisor or Human Resources. Such evidence may include but is not limited to a medical certification from a licensed physician.~~

3085.12499 No Retaliation or Discrimination. Retaliation or discrimination against employees for use of sick leave is prohibited. The District shall not treat sick leave usage as an absence to support an employee's discipline, discharge, demotion, or suspension, unless such use is found to have been an inappropriate use or abuse of the granted paid time off.

Commented [RSG8]: The Healthy Workplaces, Healthy Families Act of 2014 only requires that "an employee need only assert that the sick leave was for a covered purpose in general terms."

3085.1~~29~~ — Buy-Back.

1. **Incentive Plan A.** An employee not using any sick leave for twelve (12) consecutive months may convert his/her accrued sick hours to cash at a rate of half (.5) times his/her regular hourly rate. Sick hours may be "cashed out" at the employee's request no more than two (2) times per calendar year. Employees must maintain a balance of at least forty (-40) hours of sick leave.
2. **Incentive Plan B.** Upon retirement or death, an employee, or his/her beneficiary, shall be entitled to receive fifty percent (50%) of all accumulated sick leave not compensated for in Incentive Plan A above. The beneficiary shall be the individual indicated on the employee's Life Insurance Beneficiary Form.

Attachment 2**POLICY TITLE: SICK LEAVE****POLICY NUMBER: 3085**

3085.1 Application. This policy shall apply to employees in all classifications who work at least 30 days within a year in accordance with the Healthy Workplaces, Healthy Families Act.

3085.2 Definition. Sick leave is defined as absence from work due to mental or physical illness; non-industrial injury or health condition; or quarantine due to exposure to a contagious disease any of which prevents the employee from working; or to obtain medical diagnoses, care, or treatment, as well as preventative medical, vision and dental care.

3085.3 Accrual for Regular, Full-Time Employees. Employees shall accumulate sick leave at the rate of one (1) day, or ten (10) hours per month. There are no established limits for sick leave accruals, and employees may carry over from one (1) year of employment to the next any unused balance.

3085.4 Accrual for Temporary and Part-Time Employees. A temporary or part-time employee will accrue sick leave at the rate of one (1) hour for every thirty (30) hours worked. The District shall provide a minimum of three (3) days, or twenty-four (24) hours of paid sick leave by the employee's 120th calendar day of employment, and a minimum of five (5) days, or forty (40) hours of paid sick leave by the employee's 200th calendar day of employment. A temporary or part-time employee may accrue a maximum of ten (10) days or eighty (80) hours. Part-time employees may carry over from one (1) year of employment to the next up to five (5) days or forty (40) hours.

3085.5. Payout. The District is not required to pay-out unused sick leaves upon separation from employment, with the exception of retirement. The sick leave accrual shall also reset at the time of rehire, unless the employee is rehired within one year of separation, in which case all previously accrued and unused sick leave will be restored to the employee upon rehire.

3085.6 Waiting Period. There is no waiting period before regular, full-time new hires are eligible to use accrued sick leave. Temporary and Part-time employees have a ninety (90) day waiting period.

3085.7 Use. Sick leave shall be used in hourly increments. Each employee may use up to fifty percent (50%) of their accrued sick leave as kin care leave. It is also provided for those circumstances where the employee must take time off to care for a family member, regardless of the seriousness of the illness. Employees should notify their supervisor in advance to the extent feasible, or as soon as practicable, in order to avoid disruptions in work schedule as a result of use of sick leave and kin care time. Family members covered include parents, children, spouses, registered domestic partners, grandparents, grandchildren, siblings, and designated persons for whom the employee provides care.

1. A "child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child for whom an employee stands *in loco parentis*, regardless of age or dependency status.
2. A "parent" means a biological, foster, or adoptive parent, a stepparent, legal guardian, or person who stood *in loco parentis* when the employee was a minor child. Mothers-in-law and fathers-in-law are also considered "parents" for the purposes of this definition.

3. The term “spouse” applies only to an individual to whom the employee is legally married.
4. A “registered domestic partnership” shall be established in California when both persons file a Declaration of Domestic Partnership and are registered with the Secretary of State.
5. A “sibling” includes any person with whom the employee shares a biological, foster, adoptive, or step parent.
6. Any other definition of “family member” that in the future the Legislature deems covered by paid sick leave law.
7. A “designated person” shall be the person for which the employee provides care. This is any individual related by blood or whose association with the employee is the equivalent of a family member.

3085.8 Designated Person. An employee can only utilize sick leave to care for a “designated person” once in a 12-month period, with the roll-over commencing at the time this was used. Supervisors are not allowed to inquire as to the nature of the employee’s relationship to the designated person a paid sick leave is to be used for.

3085.9 Other Use. An employee may also use sick leave to seek relief or services as a victim of domestic violence, sexual assault, or stalking, as described under Labor Code sections 230(c) and 230.1(a).

3085.10 Notice. In order to receive compensation while on sick leave, the employee shall notify a supervisor prior to the time for beginning the regular workday, or as soon thereafter as practical.

3085.11 Medical Certification. For absence in excess of five (5) workdays due to the employee’s physical or mental illness, the District may require a medical certification from a licensed medical provider prior to returning to work and must be submitted to Human Resources Department

3085.12 No Retaliation or Discrimination. Retaliation or discrimination against employees for use of sick leave is prohibited. The District shall not treat sick leave usage as an absence to support an employee’s discipline, discharge, demotion, or suspension, unless such use is found to have been an inappropriate use or abuse of the granted paid time off.

3085.12 Buy-Back.

1. **Incentive Plan A.** An employee not using any sick leave for twelve (12) consecutive months may convert his/her accrued sick hours to cash at a rate of half (.5) times his/her regular hourly rate. Sick hours may be “cashed out” at the employee’s request no more than two (2) times per calendar year. Employees must maintain a balance of at least forty (40) hours of sick leave.
2. **Incentive Plan B.** Upon retirement or death, an employee, or his/her beneficiary, shall be entitled to receive fifty percent (50%) of all accumulated sick leave not compensated for in Incentive Plan A above. The beneficiary shall be the individual indicated on the employee’s Life Insurance Beneficiary Form.

Attachment 3

CURRENT POLICY

POLICY TITLE: SICK LEAVE
POLICY NUMBER: 3085

3085.1 **Application.** This policy shall apply to employees in all classifications who work at least 30 days within a year in accordance with the Healthy Workplaces, Healthy Families Act of 2014 (AB 1522).

3085.2 **Definition.** Sick leave is defined as absence from work due to illness, non-industrial injury, or quarantine due to exposure to a contagious disease. In addition, dentist and doctor appointments and prescribed sickness prevention measures shall be subject to sick leave when prior notice is provided to the supervisor.

3085.3 **Accrual.** Employees shall accumulate sick leave at the rate of 1 day per month. A temporary or part-time employee will accrue sick leave at the rate of 1 hour for every 30 hours worked.

3085.4 There is no waiting period before new hires are eligible to use accrued sick leave.

3085.5 **Use.** Each employee may use accrued sick leave as kin care leave, to care for sick family members. It is provided for those circumstances where the employee must take time off to care for a sick family member, regardless of the seriousness of the illness. Employees should notify their supervisor to the extent feasible in order to avoid disruptions in work schedule as a result of use of kin care time. Family members covered include parents, children, spouses, registered domestic partners, grandparents, grandchildren, and siblings.

1. A "child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child for whom an employee stands *in loco parentis*, regardless of age or dependency status.
2. A "parent" means a biological, foster, or adoptive parent, a stepparent, legal guardian, or person who stood *in loco parentis* when the employee was a minor child. Mothers-in-law and fathers-in-law are also considered "parents" for the purposes of this definition.
3. The term "spouse" applies only to an individual to whom the employee is legally married.
4. A registered domestic partnership shall be established in California when both persons file a Declaration of Domestic Partnership and are registered with the Secretary of State.
5. A sibling includes any person with whom the employee shares a biological, foster, adoptive, or step parent.
6. Any other definition of "family member" that in the future the Legislature deems covered by paid sick leave law.

3085.6 An employee may also use sick leave to seek relief or services as a victim of domestic violence, sexual assault, or stalking, as described under Labor Code sections 230(c) and 230.1(a).

3085.7 **Notice.** In order to receive compensation while on sick leave, the employee shall notify a supervisor prior to the time for beginning the regular workday, or as soon thereafter as practical.

3085.8 **Evidence.** If absence from duty by reason of illness occurs, satisfactory evidence may be required by the employee's immediate supervisor or Human Resources. Such evidence may include but is not limited to a medical certification from a licensed physician.

3085.9 Retaliation against employees for use of sick leave is prohibited.

PROPOSED POLICY

POLICY TITLE: SICK LEAVE (Revised 11/7/23)
POLICY NUMBER: 3085

3085.1— Application. This policy shall apply to employees in all classifications who work at least 30 days within a year in accordance with the Healthy Workplaces, Healthy Families Act of 2014 (AB 1522).

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3085.3— Accrual for Regular, Full-Time Employees. Employees shall accumulate sick leave at the rate of one (1) day, or ten (10) hours per month. There are no established limits for sick leave accruals, and employees may carry over from one (1) year of employment to the next any unused balance.

3085.4 Accrual for Temporary and Part-Time Employees. A temporary or part-time employee will accrue sick leave at the rate of one (1) hour for every thirty (30) hours worked. The District shall provide a minimum of three (3) days, or twenty-four (24) hours of paid sick leave by the employee's 120th calendar day of employment, and a minimum of five (5) days, or forty (40) hours of paid sick leave by the employee's 200th calendar day of employment. A temporary or part-time employee may accrue a maximum of ten (10) days or eighty (80) hours; and such Part-time employees may carry over from one (1) year of employment to the next up to five (5) days or forty (40) hours. The District is not required to pay out unused sick leave upon separation from employment. If the temporary or part-time employee is rehired within one (1) year of separation, the prior unused sick leave balance will be reinstated at the time of rehire.

3085.5. Payout. The District is not required to pay out unused sick leaves upon separation from employment, with the exception of retirement. The sick leave accrual shall also reset at the time of rehire, unless the employee is rehired within one year of separation, in which case all previously accrued and unused sick leave will be restored to the employee upon rehire.

3085.65 Waiting Period. 4— There is no waiting period before new regular, full-time new hires are eligible to use accrued sick leave. Temporary and Part-time employees have a ninety (90) day waiting period.

3085.576 Use. Sick leave shall be used in hourly increments. Each employee may use up to fifty percent (50%) of their accrued sick leave as kin care leave, to care for sick family members. It is also provided for those circumstances where the employee must take time off to care for a sick family member, regardless of the seriousness of the illness. Employees should notify their supervisor in advance to the extent feasible, or as soon as practicable, in order to avoid disruptions in work schedule as a result of use of sick leave and kin care time. Family members covered include parents, children, spouses, registered domestic partners, grandparents, grandchildren, and siblings, and designated persons for whom the employee provides care.

1. A "child" means a biological, adopted, or foster child, a stepchild, a legal ward, or a child for whom an employee stands *in loco parentis*, regardless of age or dependency status.

3085.10 **Buy-Back.**

1. **Incentive Plan A.** An employee not using any sick leave for 12 consecutive months may convert his/her accrued sick hours to cash at a rate of half (5) times his/her regular hourly rate. Sick hours may be "cashed out" at the employee's request no more than 2 times per calendar year. Employees must maintain a balance of at least 40 hours of sick leave.
2. **Incentive Plan B.** Upon retirement or death, an employee, or his/her beneficiary, shall be entitled to receive 50% of all accumulated sick leave not compensated for in Incentive Plan A above. The beneficiary shall be the individual indicated on the employee's Life Insurance Beneficiary Form.

2. A "parent" means a biological, foster, or adoptive parent, a stepparent, legal guardian, or person who stood *in loco parentis* when the employee was a minor child. Mothers-in-law and fathers-in-law are also considered "parents" for the purposes of this definition.
3. The term "spouse" applies only to an individual to whom the employee is legally married.
4. A "registered domestic partnership" shall be established in California when both persons file a Declaration of Domestic Partnership and are registered with the Secretary of State.
5. A "sibling" includes any person with whom the employee shares a biological, foster, adoptive, or step parent.
6. Any other definition of "family member" that in the future the Legislature deems covered by paid sick leave law.
7. A "designated person" shall be the person for which the employee provides care. This is any individual related by blood or whose association with the employee is the equivalent of a family member.

3085.8 Designated Person. An employee can only utilize sick leave to care for a "designated person" once in a 12-month period, with the roll-over commencing at the time this was used. Supervisors are not allowed to inquire as to the nature of the employee's relationship to the designated person a paid sick leave is to be used for.

6.

3085.987 Other Use. 6—An employee may also use sick leave to seek relief or services as a victim of domestic violence, sexual assault, or stalking, as described under Labor Code sections 230(c) and 230.1(a).

3085.10987 Notice. In order to receive compensation while on sick leave, the employee shall notify a supervisor prior to the time for beginning the regular work day, or as soon thereafter as practical.

3085.110 Medical Certification. For absence in excess of five (5) ~~three (3)~~ workdays due to the employee's physical or mental illness, the District may ~~shall~~ require a medical certification from a licensed medical provider prior to returning to work and must be submitted to Human Resources Department.

~~3085.8 Evidence. If absence from duty by reason of illness occurs, satisfactory evidence may be required by the employee's immediate supervisor or Human Resources. Such evidence may include but is not limited to a medical certification from a licensed physician.~~

3085.12499 No Retaliation or Discrimination. Retaliation or discrimination against employees for use of sick leave is prohibited. The District shall not treat sick leave usage as an absence to support an employee's discipline, discharge, demotion, or suspension, unless such use is found to have been an inappropriate use or abuse of the granted paid time off.

3085.120 — Buy-Back.

1. **Incentive Plan A.** An employee not using any sick leave for ~~twelve (12)~~ consecutive months may convert his/her accrued sick hours to cash at a rate of half (.5) times his/her regular hourly rate. Sick hours may be "cashed out" at the employee's request no more than ~~two (2)~~ times per calendar year. Employees must maintain a balance of at least ~~forty (40)~~ hours of sick leave.
2. **Incentive Plan B.** Upon retirement or death, an employee, or his/her beneficiary, shall be entitled to receive ~~fifty percent (50%)~~ of all accumulated sick leave not compensated for in Incentive Plan A above. The beneficiary shall be the individual indicated on the employee's Life Insurance Beneficiary Form.



Assembly Bill No. 1041

CHAPTER 748

An act to amend Section 12945.2 of the Government Code, and to amend Section 245.5 of the Labor Code, relating to employment.

[Approved by Governor September 29, 2022. Filed with Secretary of State September 29, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1041, Wicks. Employment: leave.

(1) Existing law, commonly known as the California Family Rights Act, makes it an unlawful employment practice for a California public employer or an employer with 5 or more employees to refuse to grant a request from an employee who meets specified requirements to take up to a total of 12 workweeks in any 12-month period for family care and medical leave, as defined.

This bill would expand the class of people for whom an employee may take leave to care for to include a designated person. The bill would define "designated person" to mean any individual related by blood or whose association with the employee is the equivalent of a family relationship. The bill would authorize a designated person to be identified at the time the employee requests the leave. The bill would authorize an employer to limit an employee to one designated person per 12-month period.

(2) Existing law, the Healthy Workplaces, Healthy Families Act of 2014, generally entitles an employee who works in California for the same employer for 30 or more days within a year to paid sick days, as specified, including the use of paid sick days for diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member. Existing law defines "family member" for this purpose to include individuals who share a prescribed relationship with the employee.

This bill would expand the definition of the term "family member" to include a designated person, which, for purposes of these provisions, would mean a person identified by the employee at the time the employee requests paid sick days, subject to limitation by the employer, as prescribed.

The people of the State of California do enact as follows:

SECTION 1. Section 12945.2 of the Government Code is amended to read:

12945.2. (a) It shall be an unlawful employment practice for any employer, as defined in paragraph (4) of subdivision (b), to refuse to grant

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a request by any employee with more than 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period or who meets the requirements of subdivision (r), to take up to a total of 12 workweeks in any 12-month period for family care and medical leave. Family care and medical leave requested pursuant to this subdivision shall not be deemed to have been granted unless the employer provides the employee, upon granting the leave request, a guarantee of employment in the same or a comparable position upon the termination of the leave. The council shall adopt a regulation specifying the elements of a reasonable request.

(b) For purposes of this section:

(1) "Child" means a biological, adopted, or foster child, a stepchild, a legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis.

(2) "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 designated person per 12-month period for family care and medical leave.

(3) "Domestic partner" has the same meaning as defined in Section 297 of the Family Code.

(4) "Employer" means either of the following:

(A) Any person who directly employs five or more persons to perform services for a wage or salary.

(B) The state, and any political or civil subdivision of the state and cities.

(5) "Family care and medical leave" means any of the following:

(A) Leave for reason of the birth of a child of the employee or the placement of a child with an employee in connection with the adoption or foster care of the child by the employee.

(B) Leave to care for a child, parent, grandparent, grandchild, sibling, spouse, domestic partner, or designated person who has a serious health condition.

(C) Leave because of an employee's own serious health condition that makes the employee unable to perform the functions of the position of that employee, except for leave taken for disability on account of pregnancy, childbirth, or related medical conditions.

(D) Leave because of a qualifying exigency related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States, as specified in Section 3302.2 of the Unemployment Insurance Code.

(6) "Employment in the same or a comparable position" means employment in a position that has the same or similar duties and pay that can be performed at the same or similar geographic location as the position held prior to the leave.

(7) "FMLA" means the federal Family and Medical Leave Act of 1993 (P.L. 103-3).

(8) "Grandchild" means a child of the employee's child.

- (9) “Grandparent” means a parent of the employee’s parent.
- (10) “Health care provider” means any of the following:
- (A) An individual holding either a physician’s and surgeon’s certificate issued pursuant to Article 4 (commencing with Section 2080) of Chapter 5 of Division 2 of the Business and Professions Code, an osteopathic physician’s and surgeon’s certificate issued pursuant to Article 4.5 (commencing with Section 2099.5) of Chapter 5 of Division 2 of the Business and Professions Code, or an individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, who directly treats or supervises the treatment of the serious health condition.
- (B) Any other person determined by the United States Secretary of Labor to be capable of providing health care services under the FMLA.
- (11) “Parent” means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.
- (12) “Parent-in-law” means the parent of a spouse or domestic partner.
- (13) “Serious health condition” means an illness, injury, impairment, or physical or mental condition that involves either of the following:
- (A) Inpatient care in a hospital, hospice, or residential health care facility.
- (B) Continuing treatment or continuing supervision by a health care provider.
- (14) “Sibling” means a person related to another person by blood, adoption, or affinity through a common legal or biological parent.
- (c) An employer shall not be required to pay an employee for any leave taken pursuant to subdivision (a), except as required by subdivision (d).
- (d) An employee taking a leave permitted by subdivision (a) may elect, or an employer may require the employee, to substitute, for leave allowed under subdivision (a), any of the employee’s accrued vacation leave or other accrued time off during this period or any other paid or unpaid time off negotiated with the employer. If an employee takes a leave because of the employee’s own serious health condition, the employee may also elect, or the employer may also require the employee, to substitute accrued sick leave during the period of the leave. However, an employee shall not use sick leave during a period of leave in connection with the birth, adoption, or foster care of a child, or to care for a child, parent, grandparent, grandchild, sibling, spouse, domestic partner, or designated person with a serious health condition, unless mutually agreed to by the employer and the employee.
- (e) (1) During any period that an eligible employee takes leave pursuant to subdivision (a) or takes leave that qualifies as leave taken under the FMLA, the employer shall maintain and pay for coverage under a “group health plan,” as defined in Section 5000(b)(1) of the Internal Revenue Code, for the duration of the leave, not to exceed 12 workweeks in a 12-month period, commencing on the date leave taken under the FMLA commences, at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. Nothing in the preceding sentence shall preclude an employer from maintaining and paying for coverage under a “group health plan”

- beyond 12 workweeks. An employer may recover the premium that the employer paid as required by this subdivision for maintaining coverage for the employee under the group health plan if both of the following conditions occur:
- (A) The employee fails to return from leave after the period of leave to which the employee is entitled has expired.
- (B) The employee’s failure to return from leave is for a reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subdivision (a) or other circumstances beyond the control of the employee.
- (2) Any employee taking leave pursuant to subdivision (a) shall continue to be entitled to participate in employee health plans for any period during which coverage is not provided by the employer under paragraph (1), employee benefit plans, including life insurance or short-term or long-term disability or accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under the same conditions as apply to an unpaid leave taken for any purpose other than those described in subdivision (a). In the absence of these conditions an employee shall continue to be entitled to participate in these plans and, in the case of health and welfare employee benefit plans, including life insurance or short-term or long-term disability or accident insurance, or other similar plans, the employer may, at the employer’s discretion, require the employee to pay premiums, at the group rate, during the period of leave not covered by any accrued vacation leave, or other accrued time off, or any other paid or unpaid time off negotiated with the employer, as a condition of continued coverage during the leave period. However, the nonpayment of premiums by an employee shall not constitute a break in service, for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan.
- For purposes of pension and retirement plans, an employer shall not be required to make plan payments for an employee during the leave period, and the leave period shall not be required to be counted for purposes of time accrued under the plan. However, an employee covered by a pension plan may continue to make contributions in accordance with the terms of the plan during the period of the leave.
- (f) During a family care and medical leave period, the employee shall retain employee status with the employer, and the leave shall not constitute a break in service, for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. An employee returning from leave shall return with no less seniority than the employee had when the leave commenced, for purposes of layoff, recall, promotion, job assignment, and seniority-related benefits such as vacation.
- (g) If the employee’s need for a leave pursuant to this section is foreseeable, the employee shall provide the employer with reasonable advance notice of the need for the leave.
- (h) If the employee’s need for leave pursuant to this section is foreseeable due to a planned medical treatment or supervision, the employee shall make

a reasonable effort to schedule the treatment or supervision to avoid disruption to the operations of the employer, subject to the approval of the health care provider of the individual requiring the treatment or supervision.

(i) (1) An employer may require that an employee's request for leave to care for a child, parent, grandparent, grandchild, sibling, spouse, domestic partner, or designated person who has a serious health condition be supported by a certification issued by the health care provider of the individual requiring care. That certification shall be sufficient if it includes all of the following:

- (A) The date on which the serious health condition commenced.
- (B) The probable duration of the condition.
- (C) An estimate of the amount of time that the health care provider believes the employee needs to care for the individual requiring the care.
- (D) A statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the individual requiring care.

(2) Upon expiration of the time estimated by the health care provider in subparagraph (C) of paragraph (1), the employer may require the employee to obtain recertification, in accordance with the procedure provided in paragraph (1), if additional leave is required.

(j) (1) An employer may require that an employee's request for leave because of the employee's own serious health condition be supported by a certification issued by the employee's health care provider. That certification shall be sufficient if it includes all of the following:

- (A) The date on which the serious health condition commenced.
- (B) The probable duration of the condition.
- (C) A statement that, due to the serious health condition, the employee is unable to perform the function of the employee's position.

(2) The employer may require that the employee obtain subsequent recertification regarding the employee's serious health condition on a reasonable basis, in accordance with the procedure provided in paragraph (1), if additional leave is required.

(3) (A) In any case in which the employer has reason to doubt the validity of the certification provided pursuant to this section, the employer may require, at the employer's expense, that the employee obtain the opinion of a second health care provider, designated or approved by the employer, concerning any information certified under paragraph (1).

(B) The health care provider designated or approved under subparagraph (A) shall not be employed on a regular basis by the employer.

(C) In any case in which the second opinion described in subparagraph (A) differs from the opinion in the original certification, the employer may require, at the employer's expense, that the employee obtain the opinion of a third health care provider, designated or approved jointly by the employer and the employee, concerning the information certified under paragraph (1).

(D) The opinion of the third health care provider concerning the information certified under paragraph (1) shall be considered to be final and shall be binding on the employer and the employee.

(4) As a condition of an employee's return from leave taken because of the employee's own serious health condition, the employer may have a uniformly applied practice or policy that requires the employee to obtain certification from the employee's health care provider that the employee is able to resume work. Nothing in this paragraph shall supersede a valid collective bargaining agreement that governs the return to work of that employee.

(k) It shall be an unlawful employment practice for an employer to refuse to hire, or to discharge, fine, suspend, expel, or discriminate against, any individual because of any of the following:

(1) An individual's exercise of the right to family care and medical leave provided by subdivision (a).

(2) An individual's giving information or testimony as to the individual's own family care and medical leave, or another person's family care and medical leave, in any inquiry or proceeding related to rights guaranteed under this section.

(l) This section shall not be construed to require any changes in existing collective bargaining agreements during the life of the contract, or until January 1, 1993, whichever occurs first.

(m) The amendments made to this section by Chapter 827 of the Statutes of 1993 shall not be construed to require any changes in existing collective bargaining agreements during the life of the contract, or until February 5, 1994, whichever occurs first.

(n) This section shall be construed as separate and distinct from Section 12945.

(o) Leave provided for pursuant to this section may be taken in one or more periods. The 12-month period during which 12 workweeks of leave may be taken under this section shall run concurrently with the 12-month period under the FMLA, and shall commence the date leave taken under the FMLA commences.

(p) Leave taken by an employee pursuant to this section shall run concurrently with leave taken pursuant to the FMLA, except for any leave taken under the FMLA for disability on account of pregnancy, childbirth, or related medical conditions. The aggregate amount of leave taken under this section or the FMLA, or both, except for leave taken for disability on account of pregnancy, childbirth, or related medical conditions, shall not exceed 12 workweeks in a 12-month period. An employee is entitled to take, in addition to the leave provided for under this section and the FMLA, the leave provided for in Section 12945, if the employee is otherwise qualified for that leave.

(q) It shall be an unlawful employment practice for an employer to interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this section.

(r) (1) An employee employed by an air carrier as a flight deck or cabin crew member meets the eligibility requirements specified in subdivision (a) if all of the following requirements are met:

(A) The employee has 12 months or more of service with the employer.

(B) The employee has worked or been paid for 60 percent of the applicable monthly guarantee, or the equivalent annualized over the preceding 12-month period.

(C) The employee has worked or been paid for a minimum of 504 hours during the preceding 12-month period.

(2) As used in this subdivision, the term “applicable monthly guarantee” means both of the following:

(A) For employees described in this subdivision other than employees on reserve status, the minimum number of hours for which an employer has agreed to schedule those employees for any given month.

(B) For employees described in this subdivision who are on reserve status, the number of hours for which an employer has agreed to pay those employees on reserve status for any given month, as established in the collective bargaining agreement or, if none exists, in the employer’s policies.

(3) The department may provide, by regulation, a method for calculating the leave described in subdivision (a) with respect to employees described in this subdivision.

SEC. 2. Section 245.5 of the Labor Code is amended to read:

245.5. As used in this article:

(a) “Employee” does not include the following:

(1) An employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for paid sick days or a paid leave or paid time off policy that permits the use of sick days for those employees, final and binding arbitration of disputes concerning the application of its paid sick days provisions, premium wage rates for all overtime hours worked, and regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate.

(2) An employee in the construction industry covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, premium wage rates for all overtime hours worked, and regular hourly pay of not less than 30 percent more than the state minimum wage rate, and the agreement either (A) was entered into before January 1, 2015, or (B) expressly waives the requirements of this article in clear and unambiguous terms. For purposes of this subparagraph, “employee in the construction industry” means an employee performing work associated with construction, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and any other work as described by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and other similar or related occupations or trades.

(3) An individual employed by an air carrier as a flight deck or cabin crew member that is subject to Title II of the federal Railway Labor Act (45 U.S.C. Sec. 151 et seq.), provided that the individual is provided with compensated time off equal to or exceeding the amount established in paragraph (1) of subdivision (b) of Section 246.

(4) An employee of the state, city, county, city and county, district, or any other public entity who is a recipient of a retirement allowance and employed without reinstatement into the employee’s respective retirement system pursuant to either Article 8 (commencing with Section 21220) of Chapter 12 of Part 3 of Division 5 of Title 2 of the Government Code, or Article 8 (commencing with Section 31670) of Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code.

(b) “Employer” means any person employing another under any appointment or contract of hire and includes the state, political subdivisions of the state, and municipalities.

(c) “Family member” means any of the following:

(1) A child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.

(2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee’s spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

(8) A designated person, which, for purposes of this article, means a person identified by the employee at the time the employee requests paid sick days. An employer may limit an employee to one designated person per 12-month period for paid sick days.

(d) “Health care provider” has the same meaning as defined in Section 12945.2 of the Government Code.

(e) “Paid sick days” means time that is compensated at the same wage as the employee normally earns during regular work hours and is provided by an employer to an employee for the purposes described in Section 246.5.

Senate Bill No. 616

CHAPTER 309

An act to amend Sections 245.5, 246, and 246.5 of the Labor Code, relating to employment.

[Approved by Governor October 4, 2023. Filed with Secretary of State October 4, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 616, Gonzalez. Sick days: paid sick days accrual and use. Existing law, the Healthy Workplaces, Healthy Families Act of 2014 (act), establishes requirements relating to paid sick days and paid sick leave, as described. The act excludes specified employees from its provisions, including an employee covered by a valid collective bargaining agreement, as described (CBA employees).

This bill would exclude railroad carrier employers and their employees from the act's provisions.

Existing law, with certain exceptions, entitles an employee to paid sick days for certain purposes if the employee works in California for the same employer for 30 or more days within a year from the commencement of employment. Existing law imposes procedural requirements on employers regarding the use of paid sick days, including by prohibiting retaliation for using paid sick days, by prohibiting the imposition of certain conditions on the use of paid sick days, and by requiring the use of paid sick days for specified health care and situations. Existing law requires the leave to be accrued at a rate of no less than one hour for every 30 hours worked, and to be available for use beginning on the 90th day of employment.

This bill would extend the above-described procedural requirements on the use of paid sick days to CBA employees.

Existing law authorizes an employer to use a different accrual method as long as an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period. Existing law also provides that an employer may satisfy the accrual requirements by providing not less than 24 hours or 3 days of paid sick leave that is available to the employee to use by the completion of the employee's 120th calendar day of employment.

This bill would modify the employer's alternate sick leave accrual method to additionally require that an employee have no less than 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment or each calendar year, or in each 12-month period. The bill would modify that satisfaction provision to authorize an employer to satisfy accrual requirements by providing, in addition to the existing criteria for satisfaction above, not less than 40 hours or 5 days of paid sick leave that is available

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to the employee to use by the completion of the employee's 200th calendar day of employment.

Existing law requires accrued paid sick days to carry over to the following year of employment. Existing law, however, authorizes an employer to limit an employee's use of accrued paid sick days to 24 hours or 3 days in each year of employment, calendar year, or 12-month period. Under existing law, this provision is satisfied and no accrual or carryover is required if the full amount of leave is received at the beginning of each year of employment, calendar year, or 12-month period. Existing law defines "full amount of leave" for these purposes to mean 3 days or 24 hours.

This bill would raise the employer's authorized limitation on the use of carryover sick leave to 40 hours or 5 days in each year of employment. The bill would redefine "full amount of leave" to mean 5 days or 40 hours.

Existing law also entitles individual providers of in-home supportive services and waiver personal care services, as defined, to paid sick days in specified amounts in accordance with minimum wage increases, up to a maximum of 24 hours or 3 days each year of employment when the minimum wage has reached \$15 per hour. Existing law authorizes the State Department of Social Services to implement and interpret these provisions.

This bill would increase the sick leave accrual rate for these providers to 40 hours or 5 days in each year of employment, beginning January 1, 2024.

Under existing law, an employer is not required to provide additional paid sick days pursuant to these provisions if the employer has a paid leave or paid time off policy, makes an amount of leave available to employees that may be used for the same purposes and under the same conditions as these provisions, and the policy satisfies one of specified conditions. Under that law, one of those conditions requires the employer to have provided paid sick leave or paid time off in a manner that results in an employee's eligibility to earn at least 3 days or 24 hours of sick leave or paid time off within 9 months of employment.

This bill would change that condition so that the employee must be eligible to earn at least 5 days or 40 hours of sick leave or paid time off within 6 months of employment.

Under existing law, an employer has no obligation under these provisions to allow an employee's total accrual of paid sick leave to exceed 48 hours or 6 days, provided that an employee's rights to accrue and use paid sick leave are not otherwise limited, as specified.

This bill would increase those accrual thresholds for paid sick leave to 80 hours or 10 days.

Existing paid sick days law sets forth provisions on, among other things, compensation for accrued, unused paid sick days upon specified employment events, the lending of paid sick days to employees, written notice requirements, the calculation of paid sick leave, reasonable advance notification requirements, and payment of sick leave taken.

This bill would provide that these provisions shall preempt any local ordinance to the contrary.

The bill would include findings that changes proposed by this bill address a matter of statewide concern rather than a municipal affair and, therefore, apply to all cities, including charter cities.

The people of the State of California do enact as follows:

SECTION 1. Section 245.5 of the Labor Code is amended to read:
245.5. As used in this article:

(a) "Employee" does not include the following:

(1) Except as provided in subdivision (d) of Section 246.5, an employee covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, and expressly provides for paid sick days or a paid leave or paid time off policy that permits the use of sick days for those employees, final and binding arbitration of disputes concerning the application of its paid sick days provisions, premium wage rates for all overtime hours worked, and regular hourly rate of pay of not less than 30 percent more than the state minimum wage rate.

(2) An employee in the construction industry covered by a valid collective bargaining agreement if the agreement expressly provides for the wages, hours of work, and working conditions of employees, premium wage rates for all overtime hours worked, and regular hourly pay of not less than 30 percent more than the state minimum wage rate, and the agreement either (A) was entered into before January 1, 2015, or (B) expressly waives the requirements of this article in clear and unambiguous terms. For purposes of this subparagraph, "employee in the construction industry" means an employee performing work associated with construction, including work involving alteration, demolition, building, excavation, renovation, remodeling, maintenance, improvement, repair work, and any other work as described by Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code, and other similar or related occupations or trades.

(3) An individual employed by an air carrier as a flight deck or cabin crew member that is subject to Title II of the federal Railway Labor Act (45 U.S.C. Sec. 151 et seq.), provided that the individual is provided with compensated time off equal to or exceeding the amount established in paragraph (1) of subdivision (b) of Section 246.

(4) An employee of the state, city, county, city and county, district, or any other public entity who is a recipient of a retirement allowance and employed without reinstatement into the employee's respective retirement system pursuant to either Article 8 (commencing with Section 21220) of Chapter 12 of Part 3 of Division 5 of Title 2 of the Government Code, or Article 8 (commencing with Section 31670) of Chapter 3 of Part 3 of Division 4 of Title 3 of the Government Code.

(5) An employee as defined in Section 351(d) of Title 45 of the United States Code.

(b) (1) "Employer" means any person employing another under any appointment or contract of hire and includes the state, political subdivisions of the state, and municipalities.

(2) "Employer" does not include any employer described in Section 351(a) of Title 45 of the United States Code.

(c) "Family member" means any of the following:

(1) A child, which for purposes of this article means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis. This definition of a child is applicable regardless of age or dependency status.

(2) A biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child.

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

(8) A designated person, which, for purposes of this article, means a person identified by the employee at the time the employee requests paid sick days. An employer may limit an employee to one designated person per 12-month period for paid sick days.

(d) "Health care provider" has the same meaning as defined in Section 12945.2 of the Government Code.

(e) "Paid sick days" means time that is compensated at the same wage as the employee normally earns during regular work hours and is provided by an employer to an employee for the purposes described in Section 246.5.

SEC. 2. Section 246 of the Labor Code is amended to read:

246. (a) (1) An employee who, on or after July 1, 2015, works in California for the same employer for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in this section. For an individual provider of waiver personal care services under Section 14132.97 of the Welfare and Institutions Code who also provides in-home supportive services in an applicable month, eligibility shall be determined based on the aggregate number of monthly hours worked between in-home supportive services and waiver personal care services pursuant to subdivision (d) of Section 14132.971.

(2) On and after July 1, 2018, a provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, the Welfare and Institutions Code, who works in California for 30 or more days within a year from the commencement of employment is entitled to paid sick days as specified in subdivision (e) and subject to the rate of accrual in paragraph (1) of subdivision (b). For an individual provider of waiver personal care services under Section 14132.97 of the Welfare and Institutions Code, entitlement to paid sick days begins on July 1, 2019.

(b) (1) An employee shall accrue paid sick days at the rate of not less than one hour per every 30 hours worked, beginning at the commencement of employment or the operative date of this article, whichever is later, subject to the use and accrual limitations set forth in this section.

(2) An employee who is exempt from overtime requirements as an administrative, executive, or professional employee under a wage order of the Industrial Welfare Commission is deemed to work 40 hours per workweek for the purposes of this section, unless the employee's normal workweek is less than 40 hours, in which case the employee shall accrue paid sick days based upon that normal workweek.

(3) An employer may use a different accrual method, other than providing one hour per every 30 hours worked, provided that the accrual is on a regular basis so that an employee has no less than 24 hours of accrued sick leave or paid time off by the 120th calendar day of employment or each calendar year, or in each 12-month period, and no less than 40 hours of accrued sick leave or paid time off by the 200th calendar day of employment or each calendar year, or in each 12-month period.

(4) An employer may satisfy the accrual requirements of this section by providing not less than 24 hours or 3 days of paid sick leave that is available to the employee to use by the completion of the employee's 120th calendar day of employment, and no less than 40 hours or 5 days of paid sick leave that is available to the employee to use by the completion of the employee's 200th calendar day of employment.

(c) An employee shall be entitled to use accrued paid sick days beginning on the 90th day of employment, after which day the employee may use paid sick days as they are accrued.

(d) Accrued paid sick days shall carry over to the following year of employment. However, an employer may limit an employee's use of accrued paid sick days to 40 hours or five days in each year of employment, calendar year, or 12-month period. This section shall be satisfied and no accrual or carryover is required if the full amount of leave is received at the beginning of each year of employment, calendar year, or 12-month period. The term "full amount of leave" means five days or 40 hours.

(e) For a provider of in-home supportive services under Section 14132.95, 14132.952, or 14132.956 of, or Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9 of, and an individual provider of waiver personal care services under Section 14132.97 of, the Welfare and Institutions Code, the term "full amount of leave" is defined as follows:

(1) Eight hours or one day in each year of employment, calendar year, or 12-month period beginning July 1, 2018.

(2) Sixteen hours or two days in each year of employment, calendar year, or 12-month period beginning when the minimum wage, as set forth in paragraph (1) of subdivision (b) of Section 1182.12 and accounting for any years postponed under subparagraph (D) of paragraph (3) of subdivision (d) of Section 1182.12, has reached thirteen dollars (\$13) per hour.

(3) Twenty-four hours or three days in each year of employment, calendar year, or 12-month period beginning when the minimum wage, as set forth

in paragraph (1) of subdivision (b) of Section 1182.12 and accounting for any years postponed under subparagraph (D) of paragraph (3) of subdivision (d) of Section 1182.12, has reached fifteen dollars (\$15) per hour.

(4) Forty hours or five days in each year of employment, calendar year, or 12-month period beginning January 1, 2024.

(f) An employer is not required to provide additional paid sick days pursuant to this section if the employer has a paid leave policy or paid time off policy, the employer makes available an amount of leave applicable to employees that may be used for the same purposes and under the same conditions as specified in this section, and the policy satisfies one of the following:

(1) Satisfies the accrual, carryover, and use requirements of this section.

(2) Provided paid sick leave or paid time off to a class of employees before January 1, 2015, pursuant to a sick leave policy or paid time off policy that used an accrual method different than providing one hour per 30 hours worked, provided that the accrual is on a regular basis so that an employee, including an employee hired into that class after January 1, 2015, has no less than one day or eight hours of accrued sick leave or paid time off within three months of employment of each calendar year, or each 12-month period, and the employee was eligible to earn at least five days or 40 hours of sick leave or paid time off within six months of employment. If an employer modifies the accrual method used in the policy it had in place prior to January 1, 2015, the employer shall comply with any accrual method set forth in subdivision (b) or provide the full amount of leave at the beginning of each year of employment, calendar year, or 12-month period. This section does not prohibit the employer from increasing the accrual amount or rate for a class of employees covered by this subdivision.

(3) Notwithstanding any other law, sick leave benefits provided pursuant to the provisions of Sections 19859 to 19868.3, inclusive, of the Government Code, or annual leave benefits provided pursuant to the provisions of Sections 19858.3 to 19858.7, inclusive, of the Government Code, or by provisions of a memorandum of understanding reached pursuant to Section 3517.5 that incorporate or supersede provisions of Section 19859 to 19868.3, inclusive, or Sections 19858.3 to 19858.7, inclusive, of the Government Code, meet the requirements of this section.

(g) (1) Except as specified in paragraph (2), an employer is not required to provide compensation to an employee for accrued, unused paid sick days upon termination, resignation, retirement, or other separation from employment.

(2) If an employee separates from an employer and is rehired by the employer within one year from the date of separation, previously accrued and unused paid sick days shall be reinstated. The employee shall be entitled to use those previously accrued and unused paid sick days and to accrue additional paid sick days upon rehiring, subject to the use and accrual limitations set forth in this section. An employer is not required to reinstate accrued paid time off to an employee that was paid out at the time of termination, resignation, or separation of employment.

(h) An employer may lend paid sick days to an employee in advance of accrual, at the employer's discretion and with proper documentation.

(i) An employer shall provide an employee with written notice that sets forth the amount of paid sick leave available, or paid time off leave an employer provides in lieu of sick leave, for use on either the employee's itemized wage statement described in Section 226 or in a separate writing provided on the designated pay date with the employee's payment of wages. If an employer provides unlimited paid sick leave or unlimited paid time off to an employee, the employer may satisfy this section by indicating on the notice or the employee's itemized wage statement "unlimited." The penalties described in this article for a violation of this subdivision shall be in lieu of the penalties for a violation of Section 226. This subdivision shall apply to employers covered by Wage Order 11 or 12 of the Industrial Welfare Commission only on and after January 21, 2016.

(j) An employer has no obligation under this section to allow an employee's total accrual of paid sick leave to exceed 80 hours or 10 days, provided that an employee's rights to accrue and use paid sick leave are not limited other than as allowed under this section.

(k) An employee may determine how much paid sick leave they need to use, provided that an employer may set a reasonable minimum increment, not to exceed two hours, for the use of paid sick leave.

(l) For the purposes of this section, an employer shall calculate paid sick leave using any of the following calculations:

(1) Paid sick time for nonexempt employees shall be calculated in the same manner as the regular rate of pay for the workweek in which the employee uses paid sick time, whether or not the employee actually works overtime in that workweek.

(2) Paid sick time for nonexempt employees shall be calculated by dividing the employee's total wages, not including overtime premium pay, by the employee's total hours worked in the full pay periods of the prior 90 days of employment.

(3) Paid sick time for exempt employees shall be calculated in the same manner as the employer calculates wages for other forms of paid leave time.

(m) If the need for paid sick leave is foreseeable, the employee shall provide reasonable advance notification. If the need for paid sick leave is unforeseeable, the employee shall provide notice of the need for the leave as soon as practicable.

(n) An employer shall provide payment for sick leave taken by an employee no later than the payday for the next regular payroll period after the sick leave was taken.

(o) The State Department of Social Services, in consultation with stakeholders, shall convene a workgroup to implement paid sick leave for in-home supportive services providers as specified in this section. This workgroup shall finish its implementation work by November 1, 2017, and the State Department of Social Services shall issue guidance such as an all-county letter or similar instructions by December 1, 2017.

(p) No later than February 1, 2019, the State Department of Social Services, in consultation with the Department of Finance and stakeholders, shall reconvene the paid sick leave workgroup for in-home supportive services providers. The workgroup shall discuss how paid sick leave affects the provision of in-home supportive services. The workgroup shall consider the potential need for a process to cover an in-home supportive services recipient's authorized hours when a provider needs to utilize their sick time. This workgroup shall finish its work by November 1, 2019.

(q) Notwithstanding the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), the State Department of Social Services may implement, interpret, or make specific this section by means of an all-county letter, or similar instructions, without taking any regulatory action.

(r) Subdivisions (g), (h), (i), (l), (m), and (n) shall preempt any local ordinance to the contrary.

SEC. 3. Section 246.5 of the Labor Code is amended to read:

246.5. (a) Upon the oral or written request of an employee, an employer shall provide paid sick days for the following purposes:

(1) Diagnosis, care, or treatment of an existing health condition of, or preventive care for, an employee or an employee's family member.

(2) For an employee who is a victim of domestic violence, sexual assault, or stalking, the purposes described in subdivision (c) of Section 230 and subdivision (a) of Section 230.1.

(b) An employer shall not require as a condition of using paid sick days that the employee search for or find a replacement worker to cover the days during which the employee uses paid sick days.

(c) (1) An employer shall not deny an employee the right to use accrued sick days, discharge, threaten to discharge, demote, suspend, or in any manner discriminate against an employee for using accrued sick days, attempting to exercise the right to use accrued sick days, filing a complaint with the department or alleging a violation of this article, cooperating in an investigation or prosecution of an alleged violation of this article, or opposing any policy or practice or act that is prohibited by this article.

(2) There shall be a rebuttable presumption of unlawful retaliation if an employer denies an employee the right to use accrued sick days, discharges, threatens to discharge, demotes, suspends, or in any manner discriminates against an employee within 30 days of any of the following:

(A) The filing of a complaint by the employee with the Labor Commissioner or alleging a violation of this article.

(B) The cooperation of an employee with an investigation or prosecution of an alleged violation of this article.

(C) Opposition by the employee to a policy, practice, or act that is prohibited by this article.

(d) Notwithstanding subdivision (a) of Section 245.5, for purposes of this section, "employee" shall include an employee described in paragraph (1) of subdivision (a) of Section 245.5.

SEC. 4. The Legislature finds and declares that establishing uniform statewide regulation of certain aspects of paid sick leave is a matter of statewide concern and is not a municipal affair as that term is used in Section 5 of Article XI of the California Constitution. Therefore, Sections 1, 2, and 3 of this act amending Sections 245.5, 246, and 246.5 of the Labor Code apply to all cities, including charter cities.

California Workers: You have the right to Paid Sick Leave

Starting January 1, 2024: 40 hours or 5 days per year

You qualify for paid sick leave from your employer if you worked:



At least 30 days with the same employer in the current year.



90 days with the same employer.



Full-time, part-time or as a temporary worker.

You can use paid sick leave:



For treatment, diagnosis or preventative care for yourself or a family member or a designated person.



By notifying your employer as soon as possible when you need to take paid sick leave. A note from the doctor is not required.



For at least 40 hours or 5 days per year, whichever is more. Employers can provide additional paid sick leave, but not less than 40 hours or 5 days per year.

Earning Paid Sick Leave: Employers can provide workers at least 1 hour of paid sick leave for every 30 hours worked, or they can provide all 5 days or 40 hours at the start of each year or 12 month period.

! Cities or regions in California may require employers to provide additional sick leave.

What is 40 hours or 5 days?

The employer must allow workers to use 40 hours or 5 days, whichever is more.

Example 1: An employee normally works 10-hour days. They have the right to 5 days, or 50 hours, of paid sick leave.

Example 2: An employee normally works 6-hour days. They have the right to 40 hours of paid sick leave.

If you were not paid for the sick leave you took, you can file a wage claim.



Keep track of your hours and pay stubs



Document communication with employer



Contact the Labor Commissioner's Office near you

It is illegal for your employer to fire you, reduce your hours or otherwise retaliate against you for asking to use paid sick leave. All workers qualify for paid sick leave, regardless of immigration status. For questions on paid sick leave, retaliation protections, filing a wage claim or retaliation complaint, call the Labor Commissioner's Office 833-LCO-INFO (833-526-4636).

For more information, visit www.dir.ca.gov/PaidSickLeave





**Beaumont-Cherry Valley Water District
Personnel Committee
March 19, 2024**

Item 6c

STAFF REPORT

TO: Personnel Committee

FROM: Ren Berioso, Human Resources Manager

SUBJECT: Policies and Procedures Manual Updates/Revisions replacing Part I, Section 40 Tobacco Use and Part I Section 41 Smoke Free Work-Place with Policy 3170 Smoke Free Workplace and Tobacco Use

Staff Recommendation

Approve the replacement of Policy Numbers 40 Tobacco Use and 41 Smoke Free Work-place as combined Policy 3170 Smoke Free Workplace and Tobacco Use and to move said policy forward to the next Board of Directors meeting with the revisions outlined in Table 1, Summary of Policy Changes, or direct staff as desired.

Executive Summary

Staff is proposing Policy Part I Sections 40 Tobacco Use and 41 Smoke Free Work-place be replaced with combined Policy 3170 Smoke Free Workplace and Tobacco Use, adding sections that include District's commitment to providing a healthy work environment free of harmful effects of smoke, and the District's program to support smoking cessation. Additionally, staff is proposing additional language that prohibits smoking in District Vehicles to promote a healthy workplace for District personnel and to mitigate potential liability resulting from illnesses due to smoking and second-hand smoke.

Background

At the July 23, 2018, Personnel Committee Meeting, former Human Resources (HR) staff was directed to review, revise and update the District's Policies and Procedures Manual. This is the first time the policy has been revisited since it was placed on the policy tracking matrix. The current policy separates Tobacco Use and Smoke Free Work-place as sections 40 and 41 respectively. Staff proposes combining the two sections into a single policy as their contents are related and similar in nature.

Staff consulted several sources about the harmful effects of first and secondhand smoke in the workplace. Research concludes that 95 percent of employees who smoke tend to take longer and more frequent breaks that result in reduced work performance and less productivity. It also increases anxiety and decreases concentration. Second-hand smoke also impacts the health of non-smokers. With this, staff is proposing adding a section that includes not allowing smoking in District vehicles, and a section that supports smoking cessation to encourage a healthy lifestyle. This proposal also legally complies with Assembly Bill 13, California Workplace Smoking Restrictions, that prohibits smoking in any place of employment and in enclosed spaces.

The proposed redline draft version was a collaboration of staff and HR Dynamics insights, based on industry standards and a review with the Employee Association, that were subsequently reviewed by Legal Counsel.



Discussion

Table 1 outlines the proposed changes to the current Tobacco Use and Smoke Free Work-place policies that are in reference to the redline draft version attached:

Table 1 – Summary of Policy Changes

Row	Policy Section	State / Federal Law	BCVWD current practice	Options to Consider	Fiscal Impact of Option
1	No Section	None	The District is committed to providing a safe and healthy work environment free of harmful effects of smoking.	Consider Section 3170.1 Commitment of the District to providing a safe and healthy work environment free of harmful effects of smoking.	No fiscal impact.
2	Section 40, Letter B	None	Application of the policy	Moved as Section 3170.2	No fiscal impact.
3	No Section	None	In practice, this policy applies to all District personnel.	Consider Section 3170.3	No fiscal impact.
4	Section 41, Letter A	AB-13 California Workplace Smoking Restrictions	Smoking is prohibited within the District building and premises. Those who smoke shall do so outdoors 20 feet away from the District building.	Moved to Section 3170.4 adding cigars, pipes, electronic cigarettes, and other vaping devices.	No fiscal impact.
5	Section 40, Letter C	AB-13 California Workplace Smoking Restrictions	District members are responsible to advise the member of the public in District property to adhere to smoke-free workplace policy.	Moved to 3170.5 and added District Managers and Supervisors shall enforce this policy in their respective areas.	No fiscal impact.



Row Number	Policy Section	State / Federal Law requirement	BCVWD current practice	Options to Consider	Fiscal Impact of Option
6	Section 41, Letter B	CalOSHA	District practices extreme caution and dispose of cigarette in a responsible and safe manner.	Moved to 3170.6	No fiscal impact.
7	No Section	AB-13 California Workplace Smoking Restrictions	In practice but not in writing, the District prohibits smoking in District Vehicles.	Consider adding 3170.7	No fiscal impact.
8	Section 40, Letter D	None	Violation of said policy will result in a disciplinary action.	Moved to 3170.8 and added that visitors who violate policy will be asked to leave the premises.	There is cost of producing No Smoking signage in key areas.
9	No Section	None	No policy that encourages smoking cessation although the District refers them to EAP.	Consider adding 3170.9 Support for Smoking Cessation	No fiscal impact.

Fiscal Impact

The only fiscal impact of this policy is the cost of producing the No Smoking signage that will be posted in the common areas of the Main Office.

Attachments

1. Redline draft version of 3170 Smoke Free Workplace and Tobacco Use
2. Clean draft version of 3170 Smoke Free Workplace and Tobacco Use
3. Side-by-side version of 3170 Smoke Free Workplace and Tobacco Use
4. AB-13 Fact Sheet - California Workplace Smoking Restrictions

Staff Report prepared by Ren Berioso, Human Resources Manager

POLICY TITLE: SMOKE FREE WORK-PLACE AND TOBACCO USE

POLICY NUMBER: 3170

3170.1 Commitment Policy Statement. Beaumont-Cherry Valley Water District is committed to providing a safe and healthy work environment for all employees and visitors . In accordance with California state laws and regulations, and recognizing the harmful effects of smoking and second-hand smoke, Beaumont-Cherry Valley Water District hereby establishes this Smoke-Free Workplace Policy.

3170.2 Application. The successful implementation of this Smoke Free Workplace Policy depends upon the thoughtfulness, consideration and cooperation of smokers and non-smokers. All individuals on District premises share in the responsibility ~~according~~adhering to this policy.

3170.32 Scope. This policy applies to all employees, contractors, visitors, and any other individuals present on Beaumont-Cherry Valley Water District premises. It covers all indoor and outdoor areas of Beaumont-Cherry Valley Water District facilities, including but not limited to offices, meeting rooms, hallways, parking lots, and grounds.

3170.43 Smoking Prohibition. Smoking is strictly prohibited within all Beaumont-Cherry Valley Water District premises. ~~Smoking is prohibited within the buildings, facilities and vehicles of the District. This includes, but is not limited to, cigarettes, cigars, pipes, electronic cigarettes, and other vaping devices. Smoking is prohibited within the buildings, facilities and vehicles of the District.~~ Those who smoke are requested to do so outdoors away from entrances or windows of buildings ~~or~~ and also a minimum of twenty feet (20') away from District buildings.

3170.5 Compliance. Managers and supervisors are responsible for enforcing the policy within their respective areas. All District employees shall be responsible for advising members of the public who are observed smoking tobacco products on District property of the District's policy on the matter. Said individuals shall be asked by staff to refrain from smoking.

3170.62 Safety. Beaumont-Cherry Valley Water District ~~Pe~~ersonnel who smoke during rest and meal periods in the field should use extreme caution and dispose of cigarettes in a responsible and safe manner, not littering or throwing residual parts on the ground or street or areas of drains, etc. Extra care should be taken when working around combustible materials, confined spaces, or out in the field near equipment or supplies. If an employee observes unsafe activity involving smoking, they should bring it to the attention of the person and attempt to gain voluntary compliance to terminate the smoking activity. If the party refuses to cooperate, employee should inform his/her supervisor to take added action.

3170.37 District Vehicles. Non-Hazardous. ~~Smoking~~Smoking is prohibited in District vehicles. ~~allowed in non-district vehicles and on district properties as long as it is not a safety hazard.~~ If employees observe unsafe activity involving smoking, they should bring it to the attention of the person and attempt to gain voluntary compliance to terminate the smoking activity. If the party refuses to cooperate, employee

~~should inform his/her supervisor to take added action.~~

~~3170.89~~ **Disciplinary Actions.** Violations of this policy may result in disciplinary action, up to and including termination of employment. Visitors who violate the policy may be asked to leave the premises.

~~3170.940~~ **Support for Smoking Cessation.** Beaumont-Cherry Valley Water District encourages employees who smoke to seek support and resources for smoking cessation. Information on available programs and resources will be made accessible to all employees through Human Resources.

~~3170.12~~ **—Commitment:** Beaumont-Cherry Valley Water District is committed to maintaining a healthy and safe workplace for everyone. Employee cooperation in adhering to this Smoke Free Workplace Policy is essential. Employees who have questions should contact Human Resources for further assistance.

POLICY TITLE: SMOKE FREE WORKPLACE AND TOBACCO USE

POLICY NUMBER: 3170

3170.1 Commitment. Beaumont-Cherry Valley Water District is committed to providing a safe and healthy work environment for all employees and visitors. In accordance with California state laws and regulations, and recognizing the harmful effects of smoking and second-hand smoke, Beaumont-Cherry Valley Water District hereby establishes this Smoke-Free Workplace Policy.

3170.2 Application. The successful implementation of this Smoke Free Workplace Policy depends upon the thoughtfulness, consideration and cooperation of smokers and non-smokers. All individuals on District premises share in the responsibility adhering to this policy.

3170.3 Scope. This policy applies to all employees, contractors, visitors, and any other individuals present on Beaumont-Cherry Valley Water District premises. It covers all indoor and outdoor areas of Beaumont-Cherry Valley Water District facilities, including but not limited to offices, meeting rooms, hallways, parking lots, and grounds.

3170.4 Smoking Prohibition. Smoking is strictly prohibited within all Beaumont-Cherry Valley Water District premises. Smoking is prohibited within the buildings, facilities and vehicles of the District. This includes, but is not limited to, cigarettes, cigars, pipes, electronic cigarettes, and other vaping devices. Those who smoke are requested to do so outdoors away from entrances or windows of buildings and a minimum of twenty feet (20') away from District buildings.

3170.5 Compliance. Managers and supervisors are responsible for enforcing the policy within their respective areas. All District employees shall be responsible for advising members of the public who are observed smoking tobacco products on District property of the District's policy on the matter. Said individuals shall be asked by staff to refrain from smoking.

3170.6 Safety. Beaumont-Cherry Valley Water District personnel who smoke during rest and meal periods in the field should use extreme caution and dispose of cigarettes in a responsible and safe manner, not littering or throwing residual parts on the ground or street or areas of drains, etc. Extra care should be taken when working around combustible materials, confined spaces, or out in the field near equipment or supplies. If an employee observes unsafe activity involving smoking, they should bring it to the attention of the person and attempt to gain voluntary compliance to terminate the smoking activity. If the party refuses to cooperate, employee should inform his/her supervisor to take added action.

3170.7 District Vehicles. Smoking is prohibited in District vehicles.

3170.8 Disciplinary Actions. Violations of this policy may result in disciplinary action, up to and including termination of employment. Visitors who violate the policy may be asked to leave the premises.

3170.9 Support for Smoking Cessation. Beaumont-Cherry Valley Water District encourages employees who smoke to seek support and resources for smoking cessation. Information on available programs and resources will be made accessible to all employees through Human Resources.

Attachment 3

CURRENT POLICY

40. TOBACCO USE

- A. Ample research exists demonstrating the health hazards of the use of tobacco products, including smoking and the breathing of second-hand smoke. Therefore, in the best interest of the health and safety of employees and the general public, the smoking of tobacco products shall be banned completely within District buildings or confined spaces, or in District vehicles.
- B. **Application.** The successful implementation of this policy depends upon the thoughtfulness, consideration and cooperation of smokers and non-smokers. All individuals on District premises share in the responsibility of adhering to this policy.
- C. **Responsibility.** All District employees will be responsible for advising members of the public who are observed smoking tobacco products on District property of the District's policy on the matter. Said individuals shall be asked by staff to refrain from smoking.

Members of the public who refuse to comply with this policy may be directed by any managerial employee to leave District property.

- D. **Disciplinary Action.** District employees who violate this policy will be subject to disciplinary action in accordance with Section 42, Disciplinary Action.

PROPOSED POLICY

POLICY TITLE: SMOKE FREE WORK-PLACE ~~AND TOBACCO USE~~

POLICY NUMBER: 3170 |

3170.1 ~~Commitment~~Policy Statement. Beaumont-Cherry Valley Water District is committed to providing a safe and healthy work environment for all employees and visitors. In accordance with California state laws and regulations, and recognizing the harmful effects of smoking and second-hand smoke, Beaumont-Cherry Valley Water District hereby establishes this Smoke-Free Workplace Policy.

3170.2 Application. The successful implementation of this Smoke Free Workplace Policy depends upon the thoughtfulness, consideration and cooperation of smokers and non-smokers. All individuals on District premises share in the responsibility ~~according~~adhering to this policy.

3170.32 Scope. This policy applies to all employees, contractors, visitors, and any other individuals present on Beaumont-Cherry Valley Water District premises. It covers all indoor and outdoor areas of Beaumont-Cherry Valley Water District facilities, including but not limited to offices, meeting rooms, hallways, parking lots, and grounds.

3170.43 Smoking Prohibition. Smoking is strictly prohibited within all Beaumont-Cherry Valley Water District premises. ~~Smoking is prohibited within the buildings, facilities and vehicles of the District. This includes, but is not limited to, cigarettes, cigars, pipes, electronic cigarettes, and other vaping devices. Smoking is prohibited within the buildings, facilities and vehicles of the District.~~ Those who smoke are requested to do so outdoors away from entrances or windows of buildings ~~or and also a minimum of twenty feet (20')~~ away from District buildings.

3170.5 Compliance. Managers and supervisors are responsible for enforcing the policy within their respective areas. All District employees shall be responsible for advising members of the public who are observed smoking tobacco products on District property of the District's policy on the matter. Said individuals shall be asked by staff to refrain from smoking.

3170.62 Safety. Beaumont-Cherry Valley Water District Personnel who smoke ~~during rest and meal periods~~ in the field should use extreme caution and dispose of cigarettes in a responsible and safe manner, not littering or throwing residual parts on the ground or street or areas of drains, etc. Extra care should be taken when working around combustible materials, confined spaces, or out in the field near equipment or supplies. If an employee observes unsafe activity involving smoking, they should bring it to the attention of the person and attempt to gain voluntary compliance to terminate the smoking activity. If the party refuses to cooperate, employee should inform his/her supervisor to take added action.

3170.37 District Vehicles. Non-Hazardous. ~~Smoking~~Smoking is prohibited in District vehicles. allowed in non-district vehicles and on district properties as long as it is not a safety hazard. If employees observe unsafe activity involving smoking, they should bring it to the attention of the person and attempt to gain voluntary compliance to terminate the smoking activity. If the party refuses to cooperate, employee

41. SMOKE FREE WORK-PLACE

- A. Smoking is prohibited within the buildings, facilities and vehicles of the District. Those who smoke are requested to do so outdoors away from entrances or windows of buildings or 20' away from building.

~~should inform his/her supervisor to take added action.~~

3170.89 Disciplinary Actions. Violations of this policy may result in disciplinary action, up to and including termination of employment. Visitors who violate the policy may be asked to leave the premises.

3170.940 Support for Smoking Cessation. Beaumont-Cherry Valley Water District encourages employees who smoke to seek support and resources for smoking cessation. Information on available programs and resources will be made accessible to all employees through Human Resources.

3170.12 —Commitment: ~~Beaumont-Cherry Valley Water District is committed to maintaining a healthy and safe workplace for everyone. Employee cooperation in adhering to this Smoke Free Workplace Policy is essential. Employees who have questions should contact Human Resources for further assistance.~~

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- B. **Safety.** Personnel who smoke in the field should use extreme caution and dispose of cigarettes in a responsible and safe manner, not littering or throwing residual parts on the ground or street or areas of drains, etc. Extra care should be taken when working around combustible materials, or out in the field near equipment or supplies.
- C. **Non-Hazardous.** Smoking is allowed in non-district vehicles and on district properties as long as it is not a safety hazard. If employees observe unsafe activity involving smoking, they should bring it to the attention of the person and attempt to gain voluntary compliance to terminate the smoking activity. If the party refuses to cooperate, employee should inform his/her supervisor to take added action.

Attachment 4

AB-13 Fact Sheet - California Workplace Smoking Restrictions

Prepared October 1997 by the Cal/OSHA Consultation Service

This fact sheet summarizes the provisions of Labor Code Section 6404.5 prohibiting smoking in places of employment. This summary information should not be relied upon as legal advice. A copy of Section 6404.5 is attached with this Fact Sheet.

Effective Date January 1, 1995

General Provision "No employer shall knowingly or intentionally permit, and no person shall engage in, the smoking of tobacco products in an enclosed space at a place of employment."

Enforcement This law will be enforced by local law enforcement agencies, including but not limited to, local health departments.

For workplaces covered by AB-13, Cal/OSHA is required to respond to complaints regarding smoking in places of employment only after the employer has been found guilty of three violations of this law within the previous year. Complaints received by Cal/OSHA regarding smoking in workplaces not covered by AB-13 smoking restrictions (see Workplace Exceptions below) will result in a letter directing the employer to investigate and correct the problem.

Workplace Exceptions See page 3 of this fact sheet for the complete list from AB-13.

In addition to workplaces specifically listed on page 3 of this fact sheet, any employer with five or fewer employees (full or part-time) may permit smoking where:

1. The smoking area is not accessible to minors.
2. All employees who enter the smoking area consent to permit smoking and no one is required as part of their job to work in an area where smoking is permitted.
3. Air from the smoking area is exhausted directly outside.

How can we help you today?





**Beaumont-Cherry Valley Water District
Personnel Committee
March 19, 2024**

Item 6d

STAFF REPORT

TO: Personnel Committee

FROM: Ren Berioso, Human Resources Manager

SUBJECT: Policies and Procedures Manual Updates/Revisions Replacing Part I Section 37 District Vehicle Usage Policy with Policy 3150 District Vehicle Usage

Staff Recommendation

Approve the replacement of Policy Part I, Section 37 District Vehicle Usage with Policy Number 3150 District Vehicle Usage Policy and to move said policy forward to the next Board of Directors Meeting with the following revisions outline in Table 1, Summary of Policy Changes, or direct staff as desired.

Executive Summary

Staff is proposing changes to the District Vehicle Usage policy to address the District vehicle and driver safety issues in the past, and to reduce the liability risk towards the District. Staff is also proposing adding sections to include the field staff's responsibility for vehicle use during their assigned work shift, employee's responsibility for tickets, expense reimbursement, safety while driving, accident and theft reporting, and driver's insurability as a condition of employment.

Background

At the July 23, 2018 Personnel Committee Meeting, former Human Resources staff was directed to review, revise and update the District's Policies and Procedures Manual. This is the first time the policy has been revisited since it was placed on the policy tracking matrix. From the year 2019, there had been reports that the District incurred fiscal liability resulting from accidents related to unsafe driving of the District vehicle and employee's driving record issue. The current policy does not cover the use of the District vehicle during the assigned work shift, and the employee's responsibility to ensure that they have a clean DMV record. To provide more clarity and completeness, the proposed policy has a divided section that covers employees who are assigned a District vehicle to and from work, and during the assigned work hours. Staff also added sections that provides clear and complete guidelines for claiming expense reimbursement in driving the District vehicle, employee's responsibility for vehicle contents and tickets incurred, safety measures while driving the District vehicle, accidents and theft reporting process, and driver's insurability as a condition of employment.

The proposed redline draft version was a collaboration of staff and HR Dynamics insights, based on industry standard, that were subsequently reviewed by Legal Counsel. Changes were made to ensure that liability is mitigated if not avoided, and to improve District's guidelines in using the assigned District vehicle.



Discussion

Table 1 outlines the proposed changes to the current District Vehicle Usage policy that are in reference to the redline draft version attached herewith.

Table 1 – Summary of Policy Changes

Row	Policy Section	State / Federal Law	BCVWD current practice	Options to Consider	Fiscal Impact of Option
1	Section A	None	District vehicle usage to and from work.	Consider Section 3150.1.A District usage vehicle policy for employees who drive assigned vehicles to and from work.	No fiscal impact.
2	Section B	None	Personal use of District vehicle to and from work is not permitted. Occasional personal errands are permitted.	Consider Section 3150.1.B Other than de minimis use of the District vehicle to and from work and emergency reasons, use of District vehicle for personal business and shall not transport anyone not conducting District Business. (legal counsel recommends)	No fiscal impact.
3	Section C	None	Limitations if pre-approved in writing.	Consider Section 3150.1.C . Limitations if pre-approved by supervisor or General Manager in writing, or if stated in employment agreement.	No fiscal impact.



Row	Policy Section	State / Federal Law	BCVWD current practice	Options to Consider	Fiscal Impact of Option
4	No Section	None	No written policy but the practice is that District vehicle is not to be used for personal business during work hours except if stopping-by to grab lunch in close proximity.	<p>Consider 3150.2.A. Use of District Vehicle during assigned work shift.</p> <p>Consider 3150.2B District Vehicle will not be used for personal business within work hours except for meal/rest breaks within close proximity. District Vehicle can also be used if there is an emergency.</p> <p>Consider 3150.2.C. Limitations if pre-approved by supervisor or General Manager in writing, or if stated in employment agreement.</p>	No fiscal impact.
5	No Section	None	No written policy but the practice is that employees are responsible for the contents of the vehicle and if they incurred a ticket	Consider 3150.3 Employees are required to practice due diligence and be responsible for the contents of the vehicle and if they incurred a ticket	No fiscal impact.
6	No Section	None	No written policy but the practice is that employees may claim reimbursement for parking fees and toll fees incurred.	Consider 3150.4 Employees may claim reimbursement for parking fees and toll fees incurred.	No fiscal impact.
7	No Section	None	No written policy but the practice is that employees are required to practice safety while driving District vehicle and ensure that they are not physically or mentally impaired.	Consider 3150.5 Employees are required to practice safety while driving District vehicle and ensure that they are not physically or mentally impaired.	No fiscal impact.



Row	Policy Section	State / Federal Law	BCVWD current practice	Options to Consider	Fiscal Impact of Option
8	No Section	None	No written policy but the practice is that employees are required to report any accident and theft occurred with the assigned District vehicle.	Consider 3150.6 Employees are required to report any accident and theft with the assigned District vehicle to supervisor and HR. They are also expected to cooperate with the law enforcement.	No fiscal impact.
9	No Section	None	No written policy and we have not had an incident in the past where we hired an uninsurable employee.	Consider 3150.7 Requiring new employees to be insurable as a condition of employment. Those that become uninsurable may be terminated or assigned to a non-driving duty.	No fiscal impact.

Fiscal Impact

There is no fiscal in the proposed changes to this policy.

Attachments

1. Redline draft version of 3150 District Vehicle Usage Policy
2. Clean draft of 3150 District Vehicle Usage Policy
3. Side-by-side version of 3150 District Vehicle Usage Policy

Staff Report prepared by Ren Berioso, Human Resources Manager

Attachment 1

POLICY TITLE: DISTRICT VEHICLE USAGE AND DRIVER'S LICENSE
POLICY NUMBER: 3150

3150.1 –~~37.~~ District Vehicle Usage Policy for Employees who Drive Assigned District Vehicles to and from Work.

A. A. Application. This policy applies to all management, supervisory and field employees who drive an assigned District vehicles to and from work.

B. B. Exceptions. Other than de minimis use or emergency where there is a threat to life or property while commuting to and from work, the employee shall not use the District vehicle for any personal business and shall not transport non-District employees not conducting District business.

During working hours, trips for personal purposes will be avoided. Occasionally, stopping at a store en route to a business destination, or going to a restaurant (within close proximity of your work location) for lunch is permitted. While going to or from work, occasionally stopping to buy groceries, pick up laundry, medications, etc., is also permitted. No alcohol shall be purchased while driving a District vehicle. Children (minors) shall not be transported in a District vehicle.

C. C. Limitations. Other than the foregoing uses, District vehicles will not be used for any other personal purposes without prior written approval from the immediate supervisor or General Manager, or if it is stipulated in the employment agreement. This means that weekend or afterhours trips to the store (regardless of how close to home), trips back to the office to retrieve forgotten personal items, or any other non-business usage will not be permitted.

3150.2 – District Vehicle Usage Policy for Employees who Drive Assigned District Vehicles During their Assigned Work Shift.

A. Application. This policy applies to all employees who drive a District vehicle during the course of their assigned duties and during their assigned work shift.

B. Exceptions. During working hours, District vehicles may not be used for personal purposes. Employees may use the assigned vehicle for the permitted meal period, or for rest breaks within close proximity of the assigned work location. District Vehicle may also be used for emergency situations where there is an imminent threat to life or property. No alcohol shall be purchased while driving a District vehicle.

C. Limitations. Other than the foregoing uses District vehicles will not be used for any other personal purposes without prior written approval from the immediate supervisor or General Manager, or if it is stipulated in the employment agreement.

Adopted by Resolution 20-XX, Date

3150.3 ~~XXXX.3~~ – Responsibility for Vehicle and Tickets. Employees who drive a vehicle on District business must exercise due diligence to drive safely and maintain the security of the vehicle and its contents. Employees are responsible for any driving infractions or fines as a result of their driving.

3150.4 ~~XXXX.4~~ – Reimbursement for Expenses. Employees driving on District business while driving a District vehicle may claim reimbursement for parking fees and tolls actually incurred.

3150~~XXXX.56~~ – Safety While Driving. Employees are not permitted, under any circumstances, to operate a District vehicle when any physical or mental impairment causes the employee to be unable to drive safely. This prohibition includes, but is not limited to, circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of illness, medication, or intoxication. Employees must follow all District rules and laws related to use of technology while driving a District vehicle.

3150.65 ~~XXXX.9~~ – Accidents and Theft. Employees must report any accident, theft, or damage involving a District vehicle to their supervisor and the Human Resources Manager, regardless of the extent of damage or lack of injuries. Employees are expected to cooperate fully with authorities in the event of an accident. However, they should not make any statements other than in reply to questions of investigating officers.

3150.76 – Insurance. All new employees required to drive District-owned vehicles shall be insurable by the District's insurance carrier, as a condition of employment. Regular full and part-time employees who become uninsurable may be terminated, or may be temporarily assigned duties which do not require the operation of a vehicle with approval of the Department Head and ~~General District~~ Manager, or designee. Refer to District policy on Driver Training and Record Review, Disciplinary Procedures for more information on this topic.

Attachment 2**POLICY TITLE: DISTRICT VEHICLE USAGE****POLICY NUMBER: 3150****3150.1 – District Vehicle Usage Policy for Employees who Drive Assigned District Vehicles to and from Work.**

- A. Application. This policy applies to all management, supervisory and field employees who drive an assigned District vehicle to and from work.
- B. Exceptions. Other than de minimis use while commuting to and from work or emergency where there is a threat to life or property, the employee shall not use the District vehicle for any personal business and shall not transport non-District employees not conducting District business. No alcohol shall be purchased while driving a District vehicle.
- C. Limitations. Other than the foregoing uses, District vehicles will not be used for any other personal purposes without prior written approval from the immediate supervisor or General Manager, or if it is stipulated in the employment agreement.

3150.2 – District Vehicle Usage Policy for Employees who Drive Assigned District Vehicles During their Assigned Work Shift.

- A. Application. This policy applies to all employees who drive a District vehicle during the course of their assigned duties and during their assigned work shift.
- B. Exceptions. During working hours, District vehicles may not be used for personal purposes. Employees may use the assigned vehicle for the permitted meal period, or for rest breaks within close proximity of the assigned work location. District Vehicle may also be used for emergency situations where there is an imminent threat to life or property. No alcohol shall be purchased while driving a District vehicle.
- C. Limitations. Other than the foregoing uses District vehicles will not be used for any other personal purposes without prior written approval from the immediate supervisor or General Manager, or if it is stipulated in the employment agreement.

3150.3 – Responsibility for Vehicle and Tickets. Employees who drive a vehicle on District business must exercise due diligence to drive safely and maintain the security of the vehicle and its contents. Employees are responsible for any driving infractions or fines as a result of their driving.

3150.4 – Reimbursement for Expenses. Employees driving on District business while driving a District vehicle may claim reimbursement for parking fees and tolls actually incurred.

3150.5 – Safety While Driving. Employees are not permitted, under any circumstances, to operate a District vehicle when any physical or mental impairment causes the employee to be unable to drive safely. This prohibition includes, but is not limited to, circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of illness, medication, or intoxication. Employees must follow all District rules and laws related to use of technology while driving a District vehicle.

Adopted by Resolution 20-XX, Date

3150.6 – Accidents and Theft. Employees must report any accident, theft, or damage involving a District vehicle to their supervisor and the Human Resources Manager, regardless of the extent of damage or lack of injuries. Employees are expected to cooperate fully with authorities in the event of an accident. However, they should not make any statements other than in reply to questions of investigating officers.

3150.7 – Insurance. All new employees required to drive District-owned vehicles shall be insurable by the District's insurance carrier, as a condition of employment. Regular full and part-time employees who become uninsurable may be terminated, or may be temporarily assigned duties which do not require the operation of a vehicle with approval of the Department Head and General Manager, or designee. Refer to District policy on Driver Training and Record Review, Disciplinary Procedures for more information on this topic.

Adopted by Resolution 20-XX, Date

CURRENT POLICY

37. DISTRICT VEHICLE USAGE

- A. Application. This policy applies to employees who drive District vehicles to and from work.
- B. Exceptions. During working hours, trips for personal purposes will be avoided. Occasionally, stopping at a store en route to a business destination, or going to a restaurant (within close proximity of your work location) for lunch is permitted. While going to or from work, occasionally stopping to buy groceries, pick up laundry, medications, etc., is also permitted. No alcohol shall be purchased while driving a District vehicle.
- C. Limitation. Other than the foregoing uses, district vehicles will not be used for any other personal purposes without prior written approval. This means that weekend or after-hours trips to the store (regardless of how close to home), trips back to the office to retrieve forgotten personal items, or any other non-business usage will not be permitted.

PROPOSED POLICY

POLICY TITLE: DISTRICT VEHICLE USAGE AND DRIVER'S LICENSE
POLICY NUMBER: 3150

3150.1 –37. District Vehicle Usage Policy for Employees who Drive Assigned District Vehicles to and from Work.

A. ~~A.~~ Application. This policy applies to all management, supervisory and field employees who drive an assigned District vehicles to and from work.

~~B. B.~~ Exceptions. Other than de minimis use or emergency where there is a threat to life or property while commuting to and from work, the employee shall not use the District vehicle for any personal business and shall not transport non-District employees not conducting District business.

~~During working hours, trips for personal purposes will be avoided. Occasionally, stopping at a store en route to a business destination, or going to a restaurant (within close proximity of your work location) for lunch is permitted. While going to or from work, occasionally stopping to buy groceries, pick up laundry, medications, etc., is also permitted. No alcohol shall be purchased while driving a District vehicle. Children (minors) shall not be transported in a District vehicle.~~

~~C. C.~~ Limitations. Other than the foregoing uses, District vehicles will not be used for any other personal purposes without prior written approval from the immediate supervisor or General Manager, or if it is stipulated in the employment agreement. ~~This means that weekend or afterhours trips to the store (regardless of how close to home), trips back to the office to retrieve forgotten personal items, or any other non-business usage will not be permitted.~~

3150.2 – District Vehicle Usage Policy for Employees who Drive Assigned District Vehicles During their Assigned Work Shift.

A. Application. This policy applies to all employees who drive a District vehicle during the course of their assigned duties and during their assigned work shift.

B. Exceptions. During working hours, District vehicles may not be used for personal purposes. Employees may use the assigned vehicle for the permitted meal period, or for rest breaks within close proximity of the assigned work location. District Vehicle may also be used for emergency situations where there is an imminent threat to life or property. No alcohol shall be purchased while driving a District vehicle.

C. Limitations. Other than the foregoing uses District vehicles will not be used for any other personal purposes without prior written approval from the immediate supervisor or General Manager, or if it is stipulated in the employment agreement.

3150.3 XXXX.3 – Responsibility for Vehicle and Tickets. Employees who drive a vehicle on District business must exercise due diligence to drive safely and maintain the security of the vehicle and its contents. Employees are responsible for any driving infractions or fines as a result of their driving.

3150.4 –XXXX.4– Reimbursement for Expenses. Employees driving on District business while driving a District vehicle may claim reimbursement for parking fees and tolls actually incurred.

3150XXXX.56 – Safety While Driving. Employees are not permitted, under any circumstances, to operate a District vehicle when any physical or mental impairment causes the employee to be unable to drive safely. This prohibition includes, but is not limited to, circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of illness, medication, or intoxication. Employees must follow all District rules and laws related to use of technology while driving a District vehicle.

3150.65 XXXX.9 – Accidents and Theft. Employees must report any accident, theft, or damage involving a District vehicle to their supervisor and the Human Resources Manager, regardless of the extent of damage or lack of injuries. Employees are expected to cooperate fully with authorities in the event of an accident. However, they should not make any statements other than in reply to questions of investigating officers.

3150.76 – Insurance. All new employees required to drive District-owned vehicles shall be insurable by the District's insurance carrier, as a condition of employment. Regular full and part-time employees who become uninsurable may be terminated or may be temporarily assigned duties which do not require the operation of a vehicle with approval of the Department Head and General District Manager, or designee. Refer to District policy on Driver Training and Record Review, Disciplinary Procedures for more information on this topic.



**Beaumont-Cherry Valley Water District
Personnel Committee
March 19, 2024**

Item 6e

STAFF REPORT

TO: Personnel Committee

FROM: Ren Berioso, Human Resources Manager

SUBJECT: Policies and Procedures Manual Updates/Revisions Replacing Part I Section 38 Personal Vehicle Usage with Policy 3151 Personal Vehicle Usage

Staff Recommendation

Approve the replacement of Policy Number 38 Personal Vehicle Usage as Policy Number 3151 Personal Vehicle Usage and to move said policy forward to the next Board of Directors Meeting with the following revisions outlined in Table 1, Summary of Policy Changes, or direct staff as desired.

Executive Summary

Staff is proposing Part I Section 38 Personal Vehicle Usage be amended as Policy Number 3151 Personal Vehicle Usage adding a section that includes "Safety When Driving" personal vehicles when authorized by their supervisor in performing District work to address safety risks and to mitigate financial impact to the District. To align with the District's current practice, staff is proposing additional language to include reimbursement of parking fee if personal vehicle was authorized to use in the performance of a District-related business.

Background

At the July 23, 2018 Personnel Committee Meeting, former Human Resources staff was directed to review, revise and update the District's Policies and Procedures Manual. This is the first time the policy has been revisited since it was placed on the policy tracking matrix. For many years, District personnel have been authorized to use their personal vehicles to perform District work such as attending workshops and seminars, or drive from one District site to another. For the past three (3) years, there has been no reported accidents from personal vehicle use during District work hours. While the District has authorized employees to use their personal vehicles to perform District business when a suitable District vehicle is not available, staff is proposing adding safety measures to mitigate, if not avoid any risks to the District. Additionally, it has been a current practice to reimburse the parking fee if a personal vehicle was authorized to use to conduct District-related business. As such, staff is also proposing adding this language to the policy draft.

The proposed redline draft version was a collaboration of staff and HR Dynamics insights, based on industry standards and a review with the Employee Association, that were subsequently reviewed by Legal Counsel.



Discussion

Table 1 outlines the proposed changes to the current Personal Vehicle Usage policy that is in reference to the redline draft version attached:

Table 1 – Summary of Policy Changes

Row Number	Policy Section	State / Federal Law requirement	BCVWD current practice	Options to Consider	Fiscal Impact of Option
1	No Section	None	It has been the District's current practice that this policy is applicable to all District employees.	Consider Section 3151.1 Application of the Personal Vehicle Usage policy to all District personnel in conducting District business.	No fiscal impact.
2	Section C	None	Personnel should coordinate work to ensure there is an available District vehicle to use if needed.	Moved as Section 3151.3	No fiscal impact.
3	No Section	None	It's been the District's current practice to ensure that employees who are authorized to drive their personal vehicles safely and to abide by traffic laws when performing District work.	Consider Section 3151.4 "Safety While Driving." Employees who are authorized to drive their personal vehicles safely and to abide by traffic laws when performing District work.	No fiscal impact.



Row Number	Policy Section	State / Federal Law requirement	BCVWD current practice	Options to Consider	Fiscal Impact of Option
4	Section D	None	Proof of insurance coverage for collision, personal injury and property damage are required when authorized to drive personal vehicle for District work performance.	Moved to Section 3151.5	No fiscal impact.
5	Section A	None	It has been a current practice in the District to claim parking fee if authorized to use personal vehicle to perform District work.	Consider 3151.6 adding claiming parking fee If authorized to use personal vehicle to conduct District business.	Fiscal impact is the cost of parking fee incurred.

Fiscal Impact

The fiscal impact is the cost of the parking fee when employee is authorized to use their personal vehicle in performing District work.

Attachments

1. Redline draft version of 3151 Personal Vehicle Usage.
2. Clean draft version of 3151 Personal Vehicle Usage
3. Side-by-side version of 3151 Personal Vehicle Usage

Staff Report prepared by Ren Berioso, Human Resources Manager

Attachment 1

POLICY TITLE: PERSONAL VEHICLE USAGE

POLICY NUMBER: 3151

3151.138. PERSONAL VEHICLE USAGE

A. – Application. This policy applies to all employees who drive a personal vehicle for the purposes of conducting District business.

3151.2 – ~~When an employee is authorized to use his/her personal vehicle in the performance of~~

~~District work, he/she shall be reimbursed for the cost of said use on the basis of total miles driven and at the rate specified in the Internal Revenue Service Guidelines in effect at the time of said usage.~~

B. Authorization. Use of personal vehicles shall not be authorized for the performance of District work if a suitable District vehicle is available and safely operational. Please refer to Policy 3150 District Vehicle Usage policy for approval guidelines.

3151.3 –

C. CCoordination. Every attempt shall be made to coordinate work so that District vehicles are available and operational for the performance of said work and used in an efficient manner.

3151.4 – Safety While Driving. Employees are expected to drive safely and abide by the traffic laws when authorized to use their personal vehicles to conduct District business. Under any circumstances, employees are not permitted to operate their personal vehicle to perform District work when any physical or mental impairment causes the employee to be unable to drive safely. This prohibition includes, but is not limited to, circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of illness, medication, or intoxication.

3151.54 – Insurance. Proof of adequate insurance coverage for collision, personal injury, and property damage shall be required by the District of any employee using a personal vehicle in the performance of District work.

31510.654 – Reimbursement for Expenses. When an employee is authorized to use his/her personal vehicle in the performance of District work, he/she shall be reimbursed for the cost of said use on the basis of total miles driven and at the rate specified in the Internal Revenue Service Guidelines in effect at the time of usage. Employees authorized in driving their personal vehicle performing District work may claim reimbursement for parking fees actually incurred.

Adopted by Resolution 20-XX, Date

Attachment 2**POLICY TITLE: PERSONAL VEHICLE USAGE****POLICY NUMBER: 3151**

3151.1 Application. This policy applies to all employees who drive a personal vehicle for the purposes of conducting District business.

3151.2 Authorization. Use of personal vehicles shall not be authorized for the performance of District work if a suitable District vehicle is available and safely operational. Please refer to Policy 3150 District Vehicle Usage policy for approval guidelines.

3151.3 Coordination. Every attempt shall be made to coordinate work so that District vehicles are available and operational for the performance of said work and used in an efficient manner.

3151.4 Safety While Driving. Employees are expected to drive safely and abide by the traffic laws when authorized to use their personal vehicles to conduct District business. Under any circumstances, employees are not permitted to operate their personal vehicle to perform District work when any physical or mental impairment causes the employee to be unable to drive safely. This prohibition includes, but is not limited to, circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of illness, medication, or intoxication.

3151.5 Insurance. Proof of adequate insurance coverage for collision, personal injury, and property damage shall be required by the District of any employee using a personal vehicle in the performance of District work.

3151.6 Reimbursement for Expenses. When an employee is authorized to use his/her personal vehicle in the performance of District work, he/she shall be reimbursed for the cost of said use on the basis of total miles driven and at the rate specified in the Internal Revenue Service Guidelines in effect at the time of usage. Employees authorized in driving their personal vehicle performing District work may claim reimbursement for parking fees actually incurred.

Adopted by Resolution 20-XX, Date

Attachment 3

CURRENT POLICY

38. PERSONAL VEHICLE USAGE

- A. When an employee is authorized to use his/her personal vehicle in the performance of District work, he/she shall be reimbursed for the cost of said use on the basis of total miles driven and at the rate specified in the Internal Revenue Service Guidelines in effect at the time of said usage.
- B. **Authorization.** Use of personal vehicles shall not be authorized for the performance of District work if a suitable District vehicle is available and safely operational.
- C. **Coordination.** Every attempt shall be made to coordinate work so that District vehicles are available and operational for the performance of said work and used in an efficient manner.

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- D. **Insurance.** Proof of adequate insurance coverage for collision, personal injury, and property damage shall be required by the District of any employee using a personal vehicle in the performance of District work.

PROPOSED POLICY

POLICY TITLE: PERSONAL VEHICLE USAGE

POLICY NUMBER: 3151

3151.138. PERSONAL VEHICLE USAGE

A. – Application. This policy applies to all employees who drive a personal vehicle for the purposes of conducting District business.

3151.2 – When an employee is authorized to use his/her personal vehicle in the performance of

District work, he/she shall be reimbursed for the cost of said use on the basis of total miles driven and at the rate specified in the Internal Revenue Service Guidelines in effect at the time of said usage.

B. Authorization. Use of personal vehicles shall not be authorized for the performance of District work if a suitable District vehicle is available and safely operational. [Please refer to Policy 3150 District Vehicle Usage policy for approval guidelines.](#)

3151.3 –

C. Coordination. Every attempt shall be made to coordinate work so that District vehicles are available and operational for the performance of said work and used in an efficient manner.

3151.4 – Safety While Driving. Employees are expected to drive safely and abide by the traffic laws when authorized to use their personal vehicles to conduct District business. Under any circumstances, employees are not permitted to operate their personal vehicle to perform District work when any physical or mental impairment causes the employee to be unable to drive safely. This prohibition includes, but is not limited to, circumstances in which the employee is temporarily unable to operate a vehicle safely or legally because of illness, medication, or intoxication.

3151.54 – Insurance. Proof of adequate insurance coverage for collision, personal injury, and property damage shall be required by the District of any employee using a personal vehicle in the performance of District work.

3151.654 – Reimbursement for Expenses. When an employee is authorized to use his/her personal vehicle in the performance of District work, he/she shall be reimbursed for the cost of said use on the basis of total miles driven and at the rate specified in the Internal Revenue Service Guidelines in effect at the time of usage. [Employees authorized in driving their personal vehicle performing District work may claim reimbursement for parking fees actually incurred.](#)



**Beaumont-Cherry Valley Water District
Personnel Committee
March 19, 2024**

Item 6f

STAFF REPORT

TO: Personnel Committee

FROM: Ren Berioso, Human Resources Manager

SUBJECT: Policies and Procedures Manual Updates/Revisions Replacing Part I, Section 51 Recruitment/Selection and Onboarding with Policy 3220 Recruitment, Selection and Onboarding

Staff Recommendation

Approve the replacement of Part I Section 51 Recruitment/Selection and Onboarding as Policy 3220 Recruitment, Selection and Onboarding and to move said policy forward to the next Board of Directors meeting with the following revisions outlined in Table 1, Summary of Policy Changes, or direct staff as desired.

Executive Summary

Staff is proposing changes to the current Recruitment/Selection and Onboarding policy to comply with the legal requirements of CA Senate Bill 700 Discrimination Against Use of Cannabis, CA Fair Chance Act (FCA), CA Fair Employment and Housing Act (FEHA) and USCIS I-9 Requirements, and to align with District's current onboarding practice. Staff is also recommending additional sections to include guidelines for internal promotions, conditional offer, evaluation of criminal background checks, credit checks, pre-employment medical examinations, reasonable accommodation, and establishment of Employment Eligibility (I-9).

Background

At the July 23, 2018, Personnel Committee Meeting, former Human Resources staff was directed to review, revise and update the District's Policies and Procedures Manual. This is the first time the policy has been revisited since it was placed on the policy tracking matrix.

CA Fair Chance Act (FCA) was implemented effective October 1, 2023 that requires employers to conduct a more in-depth analysis when evaluating employment decisions based on results of the background checks of potential hires. Staff is proposing a section that provides District guidelines when reviewing the results of the background checks of potential hires to prevent any legal risks resulting from adverse employment decisions.

CA Senate Bill 700 was implemented as of January 1, 2024 that prohibit employers from inquiring about an applicant's prior use of cannabis, or from using information obtained from pre-employment medical examination about an applicant's prior cannabis use. Staff is proposing adding a section that reflects these legal guidelines during candidate onboarding.

The California Fair Employment and Housing Act effective January 1, 2019 (FEHA) requires employers of five or more employees to provide reasonable accommodation for individuals with a physical or mental disability to apply for jobs and to perform the essential functions of their jobs unless it would cause an undue hardship. Staff is proposing adding a section to include conducting



an interactive process, and to allow prospective hire to submit confidential medical information from his/her healthcare provider to determine physical and mental fitness to the position.

The District has been following the Federal Law guidelines in establishing employment eligibility during the onboarding process. Staff is proposing adding a section to include USCIS I-9 guidelines ensuring that the District is mitigating any legal risks resulting from allowing ineligible candidates to continue being employed in the absence of work eligibility documentation.

The proposed redline draft version was a collaboration of staff and HR Dynamics insights, based on industry standards and a review with the Employee Association, that were subsequently reviewed by Legal Counsel.

Discussion

Table 1 outlines the proposed changes to the current Recruitment/Selection and Onboarding policy that is in reference to the redline draft version attached:

Table 1 – Summary of Policy Changes

Row	Policy Section	State / Federal Law	BCVWD current practice	Options to Consider	Fiscal Impact of Option
1	Section B, i.	USERRA (prevailing Federal law)	Recruiting for Personnel	Consider Section 3220.2 Adding military or veteran as part of EEO status in recruitment and selection of candidates; changing Department Head to "hiring manager".	No fiscal impact.
2	Section B, ii.	None	Selection	Consider Section 3220.3. adding the word "conditional" as part of our current practice.	No fiscal impact.
3	Section B, iii.	None	Eligibility	Consider Section 3220.4. adding "in partnership with hiring manager" as our standard practice.	No fiscal impact.
4	Section B, iv.	None	Candidate Eligibility	Consider Section 3220.5. adding "candidates possessing qualifications will be referred" and guidelines for internal promotions in the selection process.	No fiscal impact.



Row	Policy Section	State / Federal Law	BCVWD current practice	Options to Consider	Fiscal Impact of Option
5	No Section	None	Conditional Offer Letter	Consider Section 3220.8 Adding Conditional Offer Letter as standard District practice before background checks and pre-employment Medical Testing are done.	No fiscal impact.
6	No Section	None	Reference Checks	Consider Section 3220.9 Adding Reference Checks as a standard District practice to prevent negligent hiring.	No fiscal impact.
7	No Section	Fair Chance Act – CA Gov’t Code 12952 (a) (amended effective October 1, 2023)	Criminal Background Checks and Evaluation of Results	Consider Sections 3220.10 and 3220.11 Adding Criminal Background Checks as standard practice after conditional offer of employment is accepted. Legal counsel recommends guidelines to ensure District is not discriminating candidates based on their criminal background.	No fiscal impact.
8	No Section	CA Senate Bill No. 700 – Government Code 12954 (SEC 1) (effective January 1, 2024)	Pre-employment Medical Examinations (post-offer)	Consider Section 3220.12 Adding guidelines in conducting pre-employment medical examinations for new hires after conditional offer and excluding cannabis use in the pre-employment drug testing.	No fiscal impact.
9	No Section	Fair Employment Housing Act – CA Gov’t Code 12940 (1) (Effective January 1, 2019)	Reasonable Accommodation	Consider Section 3220.13 Adding guidelines in providing reasonable accommodations for employment and conduct interactive process for medical exemptions.	No fiscal impact.



Row	Policy Section	State / Federal Law	BCVWD current practice	Options to Consider	Fiscal Impact of Option
10	Section B, v.	None	Onboarding	Moved clarifier to Section 3220.14	No fiscal impact.
11	No Section	USCIS i-9 (prevailing Federal law)	Establishment of Employment Eligibility (I-9)	Consider Section 3220.15 Adding guidelines establishing a new hire's employment eligibility and required documents.	No fiscal impact.

Fiscal Impact

There is no fiscal impact in the revision of this policy.

Attachments

1. Redline draft version of 3220 Recruitment, Selection and Onboarding
2. Clean draft version of 3220 Recruitment, Selection and Onboarding
3. Side-by-side version of 3220 Recruitment, Selection and Onboarding
4. Excerpt - Fair Chance Act - CA Government Code 12940
5. California Senate Bill No. 700
6. Excerpt - Fair Employment Housing Act - CA Government Code 12940
7. USCIS Employment Eligibility Verification i-9

Staff Report prepared by Ren Berioso, Human Resources Manager

Attachment 1

POLICY TITLE: RECRUITMENT, SELECTION AND ON-BOARDING ~~POLICY~~
POLICY NUMBER: 3220

3220.1 – Purpose. To provide a fair and impartial system that will attract a diverse and highly qualified applicant pool for position vacancies, and to ensure that all positions are filled in a fair and equitable manner consistent with merit principles.

3220.2 – Recruiting for Personnel. The District is an "Equal Opportunity Employer" and all aspects of the recruitment and selection process shall occur without regard to race, religion, color, national origin, ancestry, age, disability, medical condition, marital status, sex, gender including gender identity, military or veteran status, sexual orientation and any other legally covered protections. Recruitments shall be carried out in accordance with merit principles. The District encourages promotion from within and whenever possible, shall consider internal candidates first. All tests shall be carried out in accordance with merit principles and in compliance with applicable State and Federal laws/regulations.

The District shall make every effort to provide the means by which interested and qualified candidates shall be made aware of employment opportunities. Job opportunities shall be posted on the District's website and shall specify pertinent data such as a brief description of the essential job functions, the minimum and/or special requirements, compensation, and any recruiting deadlines. Completed on-line applications must be received by Human Resources no later than the time and date indicated on the job announcement.

The hiring manager~~Department Head~~ shall assist Human Resources by developing and maintaining effective recruitment sources to ensure a successful recruitment outreach approach. Other means of communicating the opening to the public may be used, such as the use of professional or trade journal advertising, local and regional association newsletters, special mailing lists, professional websites, social media websites, online job listings, and/or personalized letters and phone calls as well as on-site recruiting at career fairs and other identified venues. All advertising will be placed by Human Resources with costs funded ~~with the department making the hire.~~ by the hiring department.

3220.3 – Selection. Human Resources shall, after consulting with the hiring manager, determine the appropriate means of examining applicants and shall administer and/or coordinate the process. All parts of any testing procedure shall be conducted in accordance with accepted merit principles, EEOC guidelines and employee selection, and applicable Federal and State law, and only as authorized by Human Resources. Human Resources shall determine the content and combinations of tests to be used, the weights assigned each test, and the passing point or qualifying score. Steps in the selection process may include any of the following:

- a. Screening of employment applications for minimum qualifications.
- b. Further screening of applications and/or supplemental questionnaires or documents for "highly desirable" job-related qualifications to further screen down the candidate pool.
- c. Administration of a job-related written examination.
- d. Administration of a job-related oral examination.

- e. Administration of a job-related performance examination.
- f. Interview of candidates.
- g. Investigation of reference checks of individual candidates.
- h. Coordination of an appropriate medical screening or examination after a conditional job offer has been made.
- i. Investigation of criminal background information of individual candidates after a conditional job offer has been made.

Human Resources may call upon subject matter experts from within or outside District employment for assistance in developing and/or administering any of the testing procedures and in serving as raters. Consideration in determining the appropriate selection device shall include cost to the District and candidates, time restraints, legality of the process and practicality.

3220.4 – Eligibility. Human Resources in partnership with the hiring manager shall determine, based upon the results of the selection process, which candidates shall be placed on the eligibility list. These lists shall also include 1) the names of candidates qualifying for reinstatement rights; and 2) candidates placed on the list by Human Resources for purposes of alternate work due to disability. Eligibility lists may be established for a pre-determined period of time; however Human Resources in partnership with the hiring manager may terminate or extend the list when circumstances dictate. Typically, lists remain active for six (6) months.

3220.5 – Candidate Eligibility. Eligible candidates shall be identified from the top candidates based on a review of rankings from the eligibility list. A screening of the training and experience qualifications of the effected candidates may be conducted by Human Resources and/or in partnership with the hiring manager, to determine the best qualified. The candidates possessing the most suitable job qualifications and characteristics shall be referred. The candidates placed on the eligibility list as a result of reinstatement rights, or alternate work due to disability, shall also be eligible.

The District encourages promotion from within, and recommends consideration of internal candidates first. For internal promotions, the list of candidates shall be at least two (2) who meet minimum qualifications. The Human Resources Manager in partnership with the hiring manager may recommend to the General Manager an exception to this rule, when less than two candidates are eligible.

Candidates shall be ranked on the eligibility list according to examination score. If no test has been administered, the eligibility list will be provided to the hiring manager in alphabetical order.

3220.6 – Rejection of Eligibility. In the event that the hiring manager~~Department Head~~ rejects an eligible candidate, a written request for additional certification may be requested ~~must be made~~ and reason provided for the rejection of each certified candidate. Human Resources reserves the right to accept or reject this request.

3220.7 – Removal of Names from the Eligibility List. Names shall be removed from the eligible list after appointment, or at the end of the eligibility period. Names shall be removed

from the promotional eligible lists upon termination of the employee's services from District. Human Resources may remove names of any person who:

- a. Fails to appear without prior notice for any job interview for which they have been appropriately notified.
- b. Has refused to be interviewed twice; who has not responded to Human Resources inquiries via email or current address.
- c. Is unable to produce or obtain the required license or related special requirement.
- d. Has falsified their application; or other job-related reasons determined appropriate by the Human Resources Manager, in conjunction with the hiring manager ~~Department Head~~.

3220.8 – Conditional Offer LetterOnboarding. Upon completion of the selection process, and approval by the General Manager to proceed with the finalist candidate, Human Resources shall prepare the conditional offer letter in coordination with the hiring manager ~~Department Head~~.

Conditional job offer letters shall include the salary placement and reference to the standard benefits for the position and classification to which assigned. Placement in the salary range for the classification to which assigned shall be made commensurate with the candidate's background and experience.

For candidates who will be serving in a non-represented position, including classifications within the Executive Management, Management and Confidential groups, a mandatory Employment Agreement with the District will be required. The District shall utilize a standardized Employment Agreement template for such positions, which shall include the terms of employment consistent with those provided to the groups and/or similar positions, and salary placement within the established range consistent with the District's Salary Schedule. The General Manager is authorized within his/her administrative capacity to negotiate the salary step based on the candidate's prior experience, and the sick or vacation hours accrual.

3220.9 – Reference Checking. Before an offer of employment is extended, Human Resources shall conduct reference checks for finalist candidates. The purpose of the reference check is to verify prior employment duties, dates of employment, performance record, attendance record, driving record, and any other pertinent information. Results of the reference check will help determine a candidate's fit for the position. The District shall not inquire during the reference check on the candidate's current or prior salary/benefits history, protected leave usage, or regarding workers' compensation claims.

3220.10 – Criminal Background Check. The Criminal Background Check policy applies to all applicants which are defined as follows:

- a. Any individual who files a written application, or indicates a specific desire to be considered for employment;
- b. Individuals who have been conditionally offered employment, even if they have commenced employment when the employer undertakes a post-conditional offer review and consideration of criminal history;

- c. Existing employees who have applied or indicated a specific desire to be considered for a different position with the District; and
- d. An existing employee who is subjected to a review and consideration of criminal history because of a change in management, policy, or practice.

The District shall not seek information about an applicant's criminal history from any source, nor inquire regarding an applicant's criminal history information on any job application, during a job interview, or otherwise consider an applicant's criminal history at any time before a conditional offer of employment has been made.

The District shall not request information from a job applicant about their prior use of cannabis. Information about an individual's prior cannabis use obtained from their criminal history shall only be considered ~~in relation to the specific and over all guidelines provided within this policy~~ when authorized by law.

Once the District has made a conditional job offer, the District may obtain a candidate's criminal background in accordance with State law. The District will take all necessary steps to ensure that the use of any criminal history information does not result in discrimination or retaliation. Any employment decision related to a candidate's criminal history, following a conditional employment offer, will be job related and consistent with business necessity.

If an investigative agency is used to obtain the criminal background check, the District shall provide the candidate with the appropriate notice required by the Fair Credit Reporting Act and the California Investigative Consumer Reports Act.

3220.11 – Evaluation of Results of Criminal Background Check. Upon receiving the results of the Criminal Background Check, the Human Resources Manager shall evaluate the findings in conjunction with the hiring manager, and General Manager. If the results do not affect the District's decision to hire the applicant, the District shall inform the applicant that the conditional offer is now an official offer, and move to the next steps of offering official employment.

If the results appear to affect the District's decision, and the District intends to consider denying the applicant the position, the District shall first conduct an individualized assessment to determine whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job that justify denying the candidate the position. The assessment shall include:

- a. The nature and gravity of the offense or conduct to include:
 - The specific personal conduct of the applicant that resulted in the conviction;
 - Whether the harm was to property or people;
 - The degree of the harm (e.g. amount of the loss in theft);
 - The permanence of the harm;
 - The context in which the offense occurred;
 - Whether a disability, including but not limited to a past drug addiction or mental impairment, contributed to the offense or conduct, and if so, whether the likelihood of harm arising from similar conduct could be sufficiently mitigated or eliminated by a reasonable accommodation, or whether the disability has been mitigated or

- eliminated by treatment or otherwise;
 - Whether trauma, domestic or dating violence, sexual assault, stalking, human trafficking, duress, or other similar factors contributed to the offense or conduct; and/or
 - The age of the applicant when the conduct occurred.
- b. The time that has passed since the offense or conduct and completion of the sentence to include:
 - The amount of time that has passed since the conduct underlying the conviction, which may significantly predate the conviction itself; and/or
 - When the conviction led to incarceration, the amount of time that has passed since the applicant's¹ release from incarceration.
- c. The nature of the job held or sought, to include:
 - The specific duties of the job;
 - Whether the context in which the conviction occurred is likely to arise in the workplace; and/or
 - Whether the type or degree of harm that resulted from the conviction is likely to occur in the workplace.
- d. The applicant's possession of a benefit, privilege, or right required for the performance of a job by a licensing, regulatory, or government agency or board, which is considered probative of the candidate's conviction history **not** being directly and adversely related to the specific duties of that job.
- e. Evidence of rehabilitation or mitigating circumstances that is **voluntarily** provided by the applicant, or by another party at the candidate's request, before or during the individualized assessment, which shall include:
 - When the conviction led to incarceration, the applicant's conduct during incarceration, including participation in work and educational or rehabilitative programming and other pro-social conduct;
 - The applicant's employment history since the conviction or completion of the sentence;
 - The applicant's community service and engagement since the conviction or completion of sentence, including but not limited to volunteer work for a community organization, engagement with a religious group or organization, participation in a support or recovery group, and other types of civic participation; and/or
 - The applicant's other rehabilitative efforts since the completion of sentence or conviction or mitigating factors.

Following the individualized assessment, the District may make a preliminary decision to deny employment. In such cases, the District shall notify the applicant in writing of the intended decision to withdraw the employment offer to include:

- a. Notice of the disqualifying conviction or convictions that are the basis for the preliminary decision to rescind the offer.

- b. A copy of the conviction history report utilized or relied on by the District (e.g. consumer reports, credit reports, public records, results of internet searches, news articles, or any other writing containing information related to the conviction history that was utilized or relied upon).
- c. Notice of the applicant's right to respond to the notice before the preliminary decision rescinding the offer of employment becomes final.
- d. An explanation informing the applicant that, if the applicant chooses to respond, the response may include submission of a) evidence challenging the accuracy of the conviction history report that is the basis for the preliminary decision to rescind the offer, or b) evidence of rehabilitation or mitigating circumstances.
- e. Notice of the deadline for the applicant to respond, if the applicant chooses to do so, which must be at least five (5) business days from the date of the original notice.
- f. Additional notice to the applicant providing an additional five (5) days to respond, when the applicant has provided timely notice that they intend to dispute the accuracy of the conviction history and is taking specific steps to obtain evidence supporting their assertion.

The District shall consider information submitted by the applicant before making a final decision about whether to deny employment. The District shall not require the applicant to provide, nor deny employment for the applicant's failure to provide evidence of rehabilitation or mitigating circumstances; and shall not require an applicant to disclose their status as a survivor of domestic or dating violence, sexual assault, stalking, or comparable statuses; and/or shall not require an applicant to produce medical records and/or disclose the existence of a disability or diagnosis.

If the applicant's information did not change the District's preliminary decision, and the District determines to deny the applicant employment, the District shall give a 'Final Notice to Revoke Job Offer' final written notice to the applicant of the final decision to deny employment because of the individual's criminal background in accordance with Federal and State law.

3220.12 – Pre-Employment (Post-Offer) Medical Examinations. All applicants being offered employment by the District shall be required to undergo a health screening in order to determine the prospective employee's fitness to perform the essential duties and functions of the position, prior to conferring appointment. Such examinations shall be consistent with the physical and mental requirements as defined within the District's classification specifications to ensure that those appointed will be fully able to discharge the duties of the position, and to safeguard against injury on the job.

- a. Employees being considered for non-safety sensitive positions will be required to take a drug test and alcohol screening consistent, based upon a position analysis establishing business necessity.
- b. Employees being considered for safety sensitive positions, consistent with the California Code of Regulations, shall be required to participate in drug testing and alcohol screening. Safety sensitive positions have the following general characteristics:
 - 1. Their duties involve a greater than normal level of trust, responsibility for or impact on the health and safety of others; and

2. Errors in judgment, inattentiveness or diminished coordination, dexterity or composure while performing their duties could clearly result in mistakes that would endanger the health and safety of others; and
 3. Employees in these positions work with such independence, or perform such tasks that it cannot be safely assumed that mistakes such as those described above could be prevented by a supervisor or another employee.
- c. The District shall not request information from a job applicant about their prior use of cannabis, and the District shall not discriminate against an employee or applicant based on the individual's use of cannabis off the job and away from the workplace.
 - d. The Human Resources Manager shall evaluate job classifications/positions, and designate those safety-sensitive positions subject to this section as it pertains to the post-offer medical examination including drug and alcohol testing, establishing fitness for duty.
 - e. A District-selected health care provider will examine the prospective employee at the District's expense. The District will notify and provide the health care provider with a written description of the essential duties and functions of the employee's job and whether the position is subject to drug testing and alcohol screening. The health care provider will examine the employee and provide the District with non-confidential information regarding whether:
 1. The applicant is fit to perform the essential job functions;
 2. There are any reasonable accommodations that would enable the applicant to perform the essential job functions; or
 3. The applicant's prospective employment poses a threat to the health and safety of him or herself, or others.
 - f. Should the health care provider exceed the scope of the District's request and provide confidential health information, or information that is unrelated to the applicant's ability to perform the job, 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.
 - g. During the course of a fitness for duty examination, the District will not seek or use information regarding a prospective employee's medical history, diagnoses, or course of treatment without written authorization from the applicant. Under the Confidentiality of Medical Information Act (CMIA), unless written authorization is received from the applicant, the District is only entitled to know whether the prospective employee can perform the essential functions of the job. The District cannot be advised of the medical cause of an employee's inability to perform.

3220.13 – Reasonable Accommodation. If a prospective employee requires a reasonable accommodation or is otherwise unable to perform the essential functions of the job, the District is entitled to know the functional limitations on the prospective employee's ability to perform the job [e.g., the employee cannot stand for extended periods of time; the employee cannot lift objects weighing more than twenty-five (25) pounds, etc.]. The District is entitled to ask for clarification

from the examiner concerning what an employee can or cannot do.

- a. A prospective employee may submit confidential medical information to the District from his/her personal health care provider. If the prospective employee provides written authorization, the Human Resources Manager shall submit the information that the prospective employee provides to the District paid health care provider who conducted the examination. The Human Resources Manager will request the District paid health care provider to determine whether the information alters the original fitness for duty assessment. The District cannot be advised of the medical cause of an employee's inability to perform.
- b. After the receipt of both the health care provider's fitness for duty report, and the analysis of the employee's personal health care information (if any), the Human Resources Manager will arrange for a discussion(s) with the employee and his/her representatives (if any). The purpose of the discussion will be in good faith to fully discuss all feasible potential reasonable accommodations.
- c. After the discussions, the Human Resources and hiring manager will review the information received, and determine if there is a reasonable accommodation that would enable the prospective employee to perform essential job functions, or if the accommodations would pose an undue hardship on the District's finances or operations. The Human Resources Manager shall recommend, and the General Manager will use his/her discretion based upon the particular facts of each case.

3220.14 – On-Boarding. Human Resources shall coordinate the on-boarding process using the prescribed On-Boarding Checklist and ensure that all documents are received and processed. The hiring manager shall complete the departmental orientation/on-boarding process.

3220.15 – Establishment of Employment Eligibility (I-9). The District is required by Federal law to verify the work eligibility of newly hired employees by obtaining a completed I-9 Form (Employment Eligibility Verification Form) for each employee hired after November 6, 1986.

- a. The District shall not discharge a current employee, refuse to appoint a new employee, or otherwise discriminate on the basis of foreign appearance, language, or name. To discriminate against an employee or applicant on the basis of national origin violates the Title VII of the Civil Rights Act and the Fair Employment and Housing Act (FEHA).
- b. An employee is required to complete their portion of the I-9 Form and to provide the document(s) verifying work eligibility on the date they are actually hired. The hire date is defined as the effective date and/or official start date of employment. Prior to the actual acceptance of an offer of employment, a prospective employee may only be advised that they will be required to complete an I-9 form and provide documentation verifying work eligibility.
- c. All new employees must provide and maintain necessary documentation to prove identity and the right to work in the United States in accordance with Federal and State Immigration and Naturalization laws (and per the I-9 Form). Failure to provide such documentation will result in disqualification from selection and/or grounds for immediate termination.
- d. A new employee should provide the required document(s) at the time they are hired. If

unable to comply with this requirement, he/she must be given three (3) business days to produce evidence proving they have applied for a specific document. For example: Evidence could be a receipt verifying application for a social security card or a driver's license. It then becomes the employee's responsibility to produce the document itself within three (3) days of hire or subject to termination. However, on or before the time employment begins, the employee must have indicated in Section 1 of the I-9 Form that they are already eligible to be employed in the United States.

- e. An employee who is rehired is required to complete a new I-9 Form.
- f. The I-9 form lists the document(s) which are acceptable as proof of work eligibility. Only the employee shall designate which document(s) they wish to present. The District may not require a specific document among those listed, nor require additional documents for completing the form, beyond those which establish identity and work authorization.
- g. If the document(s) provided by the employee appears to be genuine and related to the person, they are to be accepted. There is no requirement, on the part of the District, to verify the authenticity of documents which appear to be genuine.
- h. A completed I-9 form and all copies of the documents, which verify authorization to work, are to be submitted to the Human Resources Manager. These documents are to be used for the purpose of establishing employment eligibility, and are to be retained ONLY with the I-9 Form.
- i. Once the Human Resources Manager determines that documentation is complete and verified, the Human Resources Manager shall retain the I-9 records separate from the personnel files for all active employees. Upon an employee's separation from employment, the I-9 form will be transferred to the employee's personnel file and placed in storage.
- j. If an individual is hired with incomplete documentation, they must be given three (3) business days in which to present either: 1) the necessary documents; or 2) a receipt for the application of replacement documents which verifies application for a specific document. If neither of the above is provided, within three (3) business day, the employee must be terminated and notice of termination must be provided accordingly.
- k. If an employee's work authorization expires, the I-9 Form must be updated to continue to employ that individual. This means the employee must either present a document that show an extension of employment eligibility, or a new grant-of-work authorization prior to the expiration date.
- l. It is the responsibility of the Human Resources Manager to monitor such document(s) and to verify either renewal or extension. The Human Resources Manager shall retain a list of affected employees and advise the department and employee whose authorization is due to expire. Without an extension of employment eligibility, or a new grant-of- work authorization, the employee must be terminated immediately.

Attachment 2

POLICY TITLE: RECRUITMENT, SELECTION AND ON-BOARDING POLICY
POLICY NUMBER: 3220

3220.1 – Purpose. To provide a fair and impartial system that will attract a diverse and highly qualified applicant pool for position vacancies, and to ensure that all positions are filled in a fair and equitable manner consistent with merit principles.

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- a. Screening of employment applications for minimum qualifications.
- b. Further screening of applications and/or supplemental questionnaires or documents for "highly desirable" job-related qualifications to further screen down the candidate pool.
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- d. An existing employee who is subjected to a review and consideration of criminal history because of a change in management, policy, or practice.

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 - Whether the harm was to property or people;
 - The degree of the harm (e.g. amount of the loss in theft);
 - The permanence of the harm;
 - The context in which the offense occurred;
 - Whether a disability, including but not limited to a past drug addiction or mental impairment, contributed to the offense or conduct, and if so, whether the likelihood of harm arising from similar conduct could be sufficiently mitigated or eliminated by a reasonable accommodation, or whether the disability has been mitigated or eliminated by treatment or otherwise;
 - Whether trauma, domestic or dating violence, sexual assault, stalking, human trafficking, duress, or other similar factors contributed to the offense or conduct;

- and/or
 - The age of the applicant when the conduct occurred.
- b. The time that has passed since the offense or conduct and completion of the sentence to include:
 - The amount of time that has passed since the conduct underlying the conviction, which may significantly predate the conviction itself; and/or
 - When the conviction led to incarceration, the amount of time that has passed since the applicant's release from incarceration.
- c. The nature of the job held or sought, to include:
 - The specific duties of the job;
 - Whether the context in which the conviction occurred is likely to arise in the workplace; and/or
 - Whether the type or degree of harm that resulted from the conviction is likely to occur in the workplace.
- d. The applicant's possession of a benefit, privilege, or right required for the performance of a job by a licensing, regulatory, or government agency or board, which is considered probative of the candidate's conviction history **not** being directly and adversely related to the specific duties of that job.
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 - When the conviction led to incarceration, the applicant's conduct during incarceration, including participation in work and educational or rehabilitative programming and other pro-social conduct;
 - The applicant's employment history since the conviction or completion of the sentence;
 - The applicant's community service and engagement since the conviction or completion of sentence, including but not limited to volunteer work for a community organization, engagement with a religious group or organization, participation in a support or recovery group, and other types of civic participation; and/or
 - The applicant's other rehabilitative efforts since the completion of sentence or conviction or mitigating factors.

Following the individualized assessment, the District may make a preliminary decision to deny employment. In such cases, the District shall notify the applicant in writing of the intended decision to withdraw the employment offer to include:

- a. Notice of the disqualifying conviction or convictions that are the basis for the preliminary decision to rescind the offer.
- b. A copy of the conviction history report utilized or relied on by the District (e.g. consumer reports, credit reports, public records, results of internet searches, news articles, or any other writing containing information related to the conviction history that was

utilized or relied upon).

- c. Notice of the applicant's right to respond to the notice before the preliminary decision rescinding the offer of employment becomes final.
- d. An explanation informing the applicant that, if the applicant chooses to respond, the response may include submission of a) evidence challenging the accuracy of the conviction history report that is the basis for the preliminary decision to rescind the offer, or b) evidence of rehabilitation or mitigating circumstances.
- e. Notice of the deadline for the applicant to respond, if the applicant chooses to do so, which must be at least five (5) business days from the date of the original notice.
- f. Additional notice to the applicant providing an additional five (5) days to respond, when the applicant has provided timely notice that they intend to dispute the accuracy of the conviction history and is taking specific steps to obtain evidence supporting their assertion.

The District shall consider information submitted by the applicant before making a final decision about whether to deny employment. The District shall not require the applicant to provide, nor deny employment for the applicant's failure to provide evidence of rehabilitation or mitigating circumstances; and shall not require an applicant to disclose their status as a survivor of domestic or dating violence, sexual assault, stalking, or comparable statuses; and/or shall not require an applicant to produce medical records and/or disclose the existence of a disability or diagnosis.

If the applicant's information did not change the District's preliminary decision, and the District determines to deny the applicant employment, the District shall give a 'Final Notice to Revoke Job Offer' final written notice to the applicant of the final decision to deny employment because of the individual's criminal background in accordance with Federal and State law.

3220.12 – Pre-Employment (Post-Offer) Medical Examinations. All applicants being offered employment by the District shall be required to undergo a health screening in order to determine the prospective employee's fitness to perform the essential duties and functions of the position, prior to conferring appointment. Such examinations shall be consistent with the physical and mental requirements as defined within the District's classification specifications to ensure that those appointed will be fully able to discharge the duties of the position, and to safeguard against injury on the job.

- a. Employees being considered for non-safety sensitive positions will be required to take a drug test and alcohol screening consistent, based upon a position analysis establishing business necessity.
- b. Employees being considered for safety sensitive positions, consistent with the California Code of Regulations, shall be required to participate in drug testing and alcohol screening. Safety sensitive positions have the following general characteristics:
 - 1. Their duties involve a greater than normal level of trust, responsibility for or impact on the health and safety of others; and
 - 2. Errors in judgment, inattentiveness or diminished coordination, dexterity or composure while performing their duties could clearly result in mistakes that would

endanger the health and safety of others; and

3. Employees in these positions work with such independence, or perform such tasks that it cannot be safely assumed that mistakes such as those described above could be prevented by a supervisor or another employee.
- c. The District shall not request information from a job applicant about their prior use of cannabis, and the District shall not discriminate against an employee or applicant based on the individual's use of cannabis off the job and away from the workplace.
- d. The Human Resources Manager shall evaluate job classifications/positions, and designate those safety-sensitive positions subject to this section as it pertains to the post-offer medical examination including drug and alcohol testing, establishing fitness for duty.
- e. A District-selected health care provider will examine the prospective employee at the District's expense. The District will notify and provide the health care provider with a written description of the essential duties and functions of the employee's job and whether the position is subject to drug testing and alcohol screening. The health care provider will examine the employee and provide the District with non-confidential information regarding whether:
 1. The applicant is fit to perform the essential job functions;
 2. There are any reasonable accommodations that would enable the applicant to perform the essential job functions; or
 3. The applicant's prospective employment poses a threat to the health and safety of him or herself, or others.
- f. Should the health care provider exceed the scope of the District's request and provide confidential health information, or information that is unrelated to the applicant's ability to perform the job, 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.
- g. During the course of a fitness for duty examination, the District will not seek or use information regarding a prospective employee's medical history, diagnoses, or course of treatment without written authorization from the applicant. Under the Confidentiality of Medical Information Act (CMIA), unless written authorization is received from the applicant, the District is only entitled to know whether the prospective employee can perform the essential functions of the job. The District cannot be advised of the medical cause of an employee's inability to perform.

3220.13 – Reasonable Accommodation. If a prospective employee requires a reasonable accommodation to perform the essential functions of the job, the District is entitled to know the functional limitations on the prospective employee's ability to perform the job [e.g., the employee cannot stand for extended periods of time; the employee cannot lift objects weighing more than twenty-five (25) pounds, etc.]. The District is entitled to ask for clarification from the examiner concerning what an employee can or cannot do.

- a. A prospective employee may submit confidential medical information to the District from

his/her personal health care provider. If the prospective employee provides written authorization, the Human Resources Manager shall submit the information that the prospective employee provides to the District paid health care provider who conducted the examination. The Human Resources Manager will request the District paid health care provider to determine whether the information alters the original fitness for duty assessment. The District cannot be advised of the medical cause of an employee's inability to perform.

- b. After the receipt of both the health care provider's fitness for duty report, and the analysis of the employee's personal health care information (if any), the Human Resources Manager will arrange for a discussion(s) with the employee and his/her representatives (if any). The purpose of the discussion will be in good faith to fully discuss all feasible potential reasonable accommodations.
- c. After the discussions, the Human Resources and hiring manager will review the information received, and determine if there is a reasonable accommodation that would enable the prospective employee to perform essential job functions, or if the accommodations would pose an undue hardship on the District's finances or operations. The Human Resources Manager shall recommend, and the General Manager will use his/her discretion based upon the particular facts of each case.

3220.14 – On-Boarding. Human Resources shall coordinate the on-boarding process using the prescribed On-Boarding Checklist and ensure that all documents are received and processed. The hiring manager shall complete the departmental orientation/on-boarding process.

3220.15 – Establishment of Employment Eligibility (I-9). The District is required by Federal law to verify the work eligibility of newly hired employees by obtaining a completed I-9 Form (Employment Eligibility Verification Form) for each employee hired after November 6, 1986.

- a. The District shall not discharge a current employee, refuse to appoint a new employee, or otherwise discriminate on the basis of foreign appearance, language, or name. To discriminate against an employee or applicant on the basis of national origin violates Title VII of the Civil Rights Act and the Fair Employment and Housing Act (FEHA).
- b. An employee is required to complete their portion of the I-9 Form and to provide the document(s) verifying work eligibility on the date they are actually hired. The hire date is defined as the effective date and/or official start date of employment. Prior to the actual acceptance of an offer of employment, a prospective employee may only be advised that they will be required to complete an I-9 form and provide documentation verifying work eligibility.
- c. All new employees must provide and maintain necessary documentation to prove identity and the right to work in the United States in accordance with Federal and State Immigration and Naturalization laws (and per the I-9 Form). Failure to provide such documentation will result in disqualification from selection and/or grounds for immediate termination.
- d. A new employee should provide the required document(s) at the time they are hired. If unable to comply with this requirement, he/she must be given three (3) business days to produce evidence proving they have applied for a specific document. For example: Evidence could be a receipt verifying application for a social security card or a driver's

license. It then becomes the employee's responsibility to produce the document itself within three (3) days of hire or subject to termination. However, on or before the time employment begins, the employee must have indicated in Section 1 of the I-9 Form that they are already eligible to be employed in the United States.

- e. An employee who is rehired is required to complete a new I-9 Form.
- f. The I-9 form lists the document(s) which are acceptable as proof of work eligibility. Only the employee shall designate which document(s) they wish to present. The District may not require a specific document among those listed, nor require additional documents for completing the form, beyond those which establish identity and work authorization.
- g. If the document(s) provided by the employee appears to be genuine and related to the person, they are to be accepted. There is no requirement, on the part of the District, to verify the authenticity of documents which appear to be genuine.
- h. A completed I-9 form and all copies of the documents, which verify authorization to work, are to be submitted to the Human Resources Manager. These documents are to be used for the purpose of establishing employment eligibility and are to be retained ONLY with the I-9 Form.
- i. Once the Human Resources Manager determines that documentation is complete and verified, the Human Resources Manager shall retain the I-9 records separate from the personnel files for all active employees. Upon an employee's separation from employment, the I-9 form will be transferred to the employee's personnel file and placed in storage.
- j. If an individual is hired with incomplete documentation, they must be given three (3) business days in which to present either: 1) the necessary documents; or 2) a receipt for the application of replacement documents which verifies application for a specific document. If neither of the above is provided, within three (3) business days, the employee must be terminated and notice of termination must be provided accordingly.
- k. If an employee's work authorization expires, the I-9 Form must be updated to continue to employ that individual. This means the employee must either present a document that shows an extension of employment eligibility, or a new grant-of-work authorization prior to the expiration date.
- l. It is the responsibility of the Human Resources Manager to monitor such document(s) and to verify either renewal or extension. The Human Resources Manager shall retain a list of affected employees and advise the department and employee whose authorization is due to expire. Without an extension of employment eligibility, or a new grant-of-work authorization, the employee must be terminated immediately.

Attachment 3

CURRENT POLICY

51. Recruitment/Selection and Onboarding

- A. **Purpose.** To provide a fair and impartial system that will attract a diverse and highly qualified applicant pool for position vacancies, and to ensure that all positions are filled in a fair and equitable manner consistent with merit principles.
- B. **Policy.**

- i. **Recruiting for Personnel** - The District is an "Equal Opportunity Employer" and all aspects of the recruitment and selection process shall occur without regard to race, religion, color, national origin, ancestry, age, disability, medical condition, marital status, sex, gender including gender identity, or sexual orientation. Recruitments shall be carried out in accordance with merit principles. The District encourages promotion from within and recommends consideration of internal candidates first. All tests shall be carried out in accordance with merit principles and in compliance with applicable State and Federal laws/regulations.

The District shall make every effort to provide the means by which interested and qualified candidates shall be made aware of employment opportunities. Job opportunities shall be posted on the District's website and shall specify pertinent data such as a brief description of the essential job functions, the minimum and/or special requirements, compensation, and any recruiting deadlines. Completed on-line applications must be received by Human Resources no later than the time and date indicated on the job announcement.

The Department Head shall assist Human Resources by developing and maintaining effective recruitment sources to ensure a successful recruitment outreach approach. Other means of communicating the opening to the public may be used, such as the use of professional or trade journal advertising, local and regional association newsletters, special mailing lists, professional websites, social media websites, online job listings, and/or personalized letters and phone calls as well as on-site recruiting at career fairs and other identified venues. All advertising will be placed by Human Resources with costs funded by the department making the hire.

- ii. **Selection** - Human Resources shall, after consulting with the Department Head, determine the appropriate means of examining applicants and shall administer and/or coordinate the process. All parts of any testing procedure shall be conducted in accordance with accepted merit principles, EEOC guidelines and employee selection, and applicable Federal and State law, and only as authorized by Human Resources. Human Resources shall determine the content and combinations of tests to be used, the weights assigned each test, and the passing point or qualifying score.

Steps in the selection process may include any of the following:

- Screening of employment applications for minimum qualifications.
- Further screening of applications and/or supplemental questionnaires or documents for "highly desirable" job-related qualifications to further screen down the candidate pool.
- Administration of a job-related written examination.
- Administration of a job-related oral examination.
- Administration of a job-related performance examination.
- Interview of candidates.

PROPOSED POLICY

POLICY TITLE: RECRUITMENT, SELECTION AND ON-BOARDING **POLICY**
POLICY NUMBER: 3220

3220.1 – Purpose. To provide a fair and impartial system that will attract a diverse and highly qualified applicant pool for position vacancies, and to ensure that all positions are filled in a fair and equitable manner consistent with merit principles.

3220.2 – Recruiting for Personnel. The District is an "Equal Opportunity Employer" and all aspects of the recruitment and selection process shall occur without regard to race, religion, color, national origin, ancestry, age, disability, medical condition, marital status, sex, gender including gender identity, ~~military or veteran status~~, sexual orientation and any other legally covered protections. Recruitments shall be carried out in accordance with merit principles. The District encourages promotion from within and whenever possible, shall consider internal candidates first. All tests shall be carried out in accordance with merit principles and in compliance with applicable State and Federal laws/regulations.

The District shall make every effort to provide the means by which interested and qualified candidates shall be made aware of employment opportunities. Job opportunities shall be posted on the District's website and shall specify pertinent data such as a brief description of the essential job functions, the minimum and/or special requirements, compensation, and any recruiting deadlines. Completed on-line applications must be received by Human Resources no later than the time and date indicated on the job announcement.

The hiring manager~~Department Head~~ shall assist Human Resources by developing and maintaining effective recruitment sources to ensure a successful recruitment outreach approach. Other means of communicating the opening to the public may be used, such as the use of professional or trade journal advertising, local and regional association newsletters, special mailing lists, professional websites, social media websites, online job listings, and/or personalized letters and phone calls as well as on-site recruiting at career fairs and other identified venues. All advertising will be placed by Human Resources with costs funded ~~with the department making the hire.~~ by the hiring department.

3220.3 – Selection. Human Resources shall, after consulting with the hiring manager, determine the appropriate means of examining applicants and shall administer and/or coordinate the process. All parts of any testing procedure shall be conducted in accordance with accepted merit principles, EEOC guidelines and employee selection, and applicable Federal and State law, and only as authorized by Human Resources. Human Resources shall determine the content and combinations of tests to be used, the weights assigned each test, and the passing point or qualifying score. Steps in the selection process may include any of the following:

- Screening of employment applications for minimum qualifications.
- Further screening of applications and/or supplemental questionnaires or documents for "highly desirable" job-related qualifications to further screen down the candidate pool.
- Administration of a job-related written examination.
- Administration of a job-related oral examination.

- g. Coordination of an appropriate medical screening or examination after a job offer has been made.
- h. Investigation of reference checks of individual candidates.
- i. Investigation of criminal background information of individual candidates after a job offer has been made.

Human Resources may call upon subject matter experts from within or outside District employment for assistance in developing and/or administering any of the testing procedures and in serving as raters. Consideration in determining the appropriate selection device shall include cost to the District and candidates, time restraints, legality of the process and practicality.

- iii. **Eligibility** - Human Resources shall determine, based upon the results of the selection process, which candidates shall be placed on the eligibility list. These lists shall also include 1) the names of candidates qualifying for reinstatement rights; and 2) candidates placed on the list by Human Resources for purposes of alternate work due to disability. Eligibility lists may be established for a predetermined period; however, the Human Resources and Department Head may terminate or extend the list when circumstances dictate. Typically, lists remain active for six (6) months.
- iv. **Candidate Eligibility** - Eligible candidates shall be identified from the top candidates based on a review of rankings from the eligibility list. A screening of the training and experience qualifications of the affected candidates may be conducted by Human Resources to determine the best qualified. The candidates possessing the most suitable job qualifications and characteristics shall be referred. The candidates placed on the eligibility list as a result of reinstatement rights, or alternate work due to disability, shall also be eligible.

The District encourages promotion from within and recommends consideration of internal candidates first.

Candidates shall be ranked on the eligibility list according to examination score. If no test has been administered, the eligibility list will be provided to the Department Head in alphabetical order.

In the event that a Department Head rejects an eligible candidate, a formal written request for additional qualification must be made and reason provided for the rejection of each candidate. Human Resources reserves the right to accept or reject this request.

Names shall be removed from the eligible list after appointment, or at the end of the eligibility period. Names shall be removed from the promotional eligible lists upon termination of the employee's services from District.

Human Resources may remove names of any person who:

- a. Fails to appear without prior notice for any job interview for which they have been appropriately notified.
- b. Who has refused to be interviewed twice; who has not responded to Human Resources inquiries via email or current address.

- e. Administration of a job-related performance examination.
- f. Interview of candidates.
- g. Investigation of reference checks of individual candidates.

h. Coordination of an appropriate medical screening or examination after a conditional job offer has been made.

i. Investigation of criminal background information of individual candidates after a conditional job offer has been made.

Human Resources may call upon subject matter experts from within or outside District employment for assistance in developing and/or administering any of the testing procedures and in serving as raters. Consideration in determining the appropriate selection device shall include cost to the District and candidates, time restraints, legality of the process and practicality.

3220.4 – Eligibility. Human Resources in partnership with the hiring manager shall determine, based upon the results of the selection process, which candidates shall be placed on the eligibility list. These lists shall also include 1) the names of candidates qualifying for reinstatement rights; and 2) candidates placed on the list by Human Resources for purposes of alternate work due to disability. Eligibility lists may be established for a pre-determined period of time; however Human Resources in partnership with the hiring manager may terminate or extend the list when circumstances dictate. Typically, lists remain active for six (6) months.

3220.5 – Candidate Eligibility. Eligible candidates shall be identified from the top candidates based on a review of rankings from the eligibility list. A screening of the training and experience qualifications of the effected candidates may be conducted by Human Resources and/or in partnership with the hiring manager, to determine the best qualified. The candidates possessing the most suitable job qualifications and characteristics shall be referred. The candidates placed on the eligibility list as a result of reinstatement rights, or alternate work due to disability, shall also be eligible.

The District encourages promotion from within, and recommends consideration of internal candidates first. For internal promotions, the list of candidates shall be at least two (2) who meet minimum qualifications. The Human Resources Manager in partnership with the hiring manager may recommend to the General Manager an exception to this rule, when less than two candidates are eligible.

Candidates shall be ranked on the eligibility list according to examination score. If no test has been administered, the eligibility list will be provided to the hiring manager in alphabetical order.

3220.6 – Rejection of Eligibility. In the event that the hiring manager ~~Department Head~~ rejects an eligible candidate, a written request for additional certification may be requested must be made and reason provided for the rejection of each certified candidate. Human Resources reserves the right to accept or reject this request.

3220.7 – Removal of Names from the Eligibility List. Names shall be removed from the eligible list after appointment, or at the end of the eligibility period. Names shall be removed

- c. Who is unable to produce or obtain the required license or related special requirement.
- d. Who has falsified their application; or other job-related reasons determined appropriate by Human Resources in conjunction with the Department Head.

v. **Onboarding** - Upon completion of the selection process and approval by the General Manager to proceed with the finalist candidate, Human Resources shall prepare the conditional offer letter in coordination with the Department Head. Upon acceptance from the finalist candidate, Human Resources shall schedule the candidate(s) for a regular, full-time position for an appropriate medical exam to include drug screening for safety-sensitive positions; and for a live scan. Human Resources shall coordinate the on-boarding process using the prescribed On-Boarding Checklist and ensure that all documents are received and processed. The Department Head shall complete the departmental orientation/on-boarding process.

from the promotional eligible lists upon termination of the employee's services from District. Human Resources may remove names of any person who:

- a. Fails to appear without prior notice for any job interview for which they have been appropriately notified.
- b. Has refused to be interviewed twice; who has not responded to Human Resources inquiries via email or current address.
- c. Is unable to produce or obtain the required license or related special requirement.
- d. Has falsified their application; or other job-related reasons determined appropriate by the Human Resources Manager, in conjunction with the hiring manager ~~Department Head~~.

3220.8 – Conditional Offer Letter Onboarding. Upon completion of the selection process, and approval by the General Manager to proceed with the finalist candidate, Human Resources shall prepare the conditional offer letter in coordination with the hiring manager ~~Department Head~~.

Conditional job offer letters shall include the salary placement and reference to the standard benefits for the position and classification to which assigned. Placement in the salary range for the classification to which assigned shall be made commensurate with the candidate's background and experience.

For candidates who will be serving in a non-represented position, including classifications within the Executive Management, Management and Confidential groups, a mandatory Employment Agreement with the District will be required. The District shall utilize a standardized Employment Agreement template for such positions, which shall include the terms of employment consistent with those provided to the groups and/or similar positions, and salary placement within the established range consistent with the District's Salary Schedule. The General Manager is authorized within his/her administrative capacity to negotiate the salary step based on the candidate's prior experience, and the sick or vacation hours accrual.

3220.9 – Reference Checking. Before an offer of employment is extended, Human Resources shall conduct reference checks for finalist candidates. The purpose of the reference check is to verify prior employment duties, dates of employment, performance record, attendance record, driving record, and any other pertinent information. Results of the reference check will help determine a candidate's fit for the position. The District shall not inquire during the reference check on the candidate's current or prior salary/benefits history, protected leave usage, or regarding workers' compensation claims.

3220.10 – Criminal Background Check. The Criminal Background Check policy applies to all applicants which are defined as follows:

- a. Any individual who files a written application, or indicates a specific desire to be considered for employment;
- b. Individuals who have been conditionally offered employment, even if they have commenced employment when the employer undertakes a post-conditional offer review and consideration of criminal history;

c. Existing employees who have applied or indicated a specific desire to be considered for a different position with the District; and

d. An existing employee who is subjected to a review and consideration of criminal history because of a change in management, policy, or practice.

The District shall not seek information about an applicant's criminal history from any source, nor inquire regarding an applicant's criminal history information on any job application, during a job interview, or otherwise consider an applicant's criminal history at any time before a conditional offer of employment has been made.

The District shall not request information from a job applicant about their prior use of cannabis. Information about an individual's prior cannabis use obtained from their criminal history shall only be considered in relation to the specific and over all guidelines provided within this policy when authorized by law.

Once the District has made a conditional job offer, the District may obtain a candidate's criminal background in accordance with State law. The District will take all necessary steps to ensure that the use of any criminal history information does not result in discrimination or retaliation. Any employment decision related to a candidate's criminal history, following a conditional employment offer, will be job related and consistent with business necessity.

If an investigative agency is used to obtain the criminal background check, the District shall provide the candidate with the appropriate notice required by the Fair Credit Reporting Act and the California Investigative Consumer Reports Act.

3220.11 – Evaluation of Results of Criminal Background Check. Upon receiving the results of the Criminal Background Check, the Human Resources Manager shall evaluate the findings in conjunction with the hiring manager, and General Manager. If the results do not affect the District's decision to hire the applicant, the District shall inform the applicant that the conditional offer is now an official offer, and move to the next steps of offering official employment.

If the results appear to affect the District's decision, and the District intends to consider denying the applicant the position, the District shall first conduct an individualized assessment to determine whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job that justify denying the candidate the position. The assessment shall include:

a. The nature and gravity of the offense or conduct to include:

- The specific personal conduct of the applicant that resulted in the conviction;
- Whether the harm was to property or people;
- The degree of the harm (e.g. amount of the loss in theft);
- The permanence of the harm;
- The context in which the offense occurred;
- Whether a disability, including but not limited to a past drug addiction or mental impairment, contributed to the offense or conduct, and if so, whether the likelihood of harm arising from similar conduct could be sufficiently mitigated or eliminated by a reasonable accommodation, or whether the disability has been mitigated or

- eliminated by treatment or otherwise;
- Whether trauma, domestic or dating violence, sexual assault, stalking, human trafficking, duress, or other similar factors contributed to the offense or conduct and/or
- The age of the applicant when the conduct occurred.

b. The time that has passed since the offense or conduct and completion of the sentence to include:

- The amount of time that has passed since the conduct underlying the conviction, which may significantly predate the conviction itself; and/or
- When the conviction led to incarceration, the amount of time that has passed since the applicant's release from incarceration.

c. The nature of the job held or sought, to include:

- The specific duties of the job;
- Whether the context in which the conviction occurred is likely to arise in the workplace; and/or
- Whether the type or degree of harm that resulted from the conviction is likely to occur in the workplace.

d. The applicant's possession of a benefit, privilege, or right required for the performance of a job by a licensing, regulatory, or government agency or board, which is considered probative of the candidate's conviction history **not** being directly and adversely related to the specific duties of that job.

e. Evidence of rehabilitation or mitigating circumstances that is **voluntarily** provided by the applicant, or by another party at the candidate's request, before or during the individualized assessment, which shall include:

- When the conviction led to incarceration, the applicant's conduct during incarceration, including participation in work and educational or rehabilitative programming and other pro-social conduct.
- The applicant's employment history since the conviction or completion of the sentence.
- The applicant's community service and engagement since the conviction or completion of sentence, including but not limited to volunteer work for a community organization, engagement with a religious group or organization, participation in a support or recovery group, and other types of civic participation; and/or
- The applicant's other rehabilitative efforts since the completion of sentence or conviction or mitigating factors.

Following the individualized assessment, the District may make a preliminary decision to deny employment. In such cases, the District shall notify the applicant in writing of the intended decision to withdraw the employment offer to include:

a. Notice of the disqualifying conviction or convictions that are the basis for the preliminary decision to rescind the offer.

- b. A copy of the conviction history report utilized or relied on by the District (e.g. consumer reports, credit reports, public records, results of internet searches, news articles, or any other writing containing information related to the conviction history that was utilized or relied upon).
- c. Notice of the applicant's right to respond to the notice before the preliminary decision rescinding the offer of employment becomes final.
- d. An explanation informing the applicant that, if the applicant chooses to respond, the response may include submission of a) evidence challenging the accuracy of the conviction history report that is the basis for the preliminary decision to rescind the offer, or b) evidence of rehabilitation or mitigating circumstances.
- e. Notice of the deadline for the applicant to respond, if the applicant chooses to do so, which must be at least five (5) business days from the date of the original notice.
- f. Additional notice to the applicant providing an additional five (5) days to respond, when the applicant has provided timely notice that they intend to dispute the accuracy of the conviction history and is taking specific steps to obtain evidence supporting their assertion.

The District shall consider information submitted by the applicant before making a final decision about whether to deny employment. The District shall not require the applicant to provide, nor deny employment for the applicant's failure to provide evidence of rehabilitation or mitigating circumstances; and shall not require an applicant to disclose their status as a survivor of domestic or dating violence, sexual assault, stalking, or comparable statuses; and/or shall not require an applicant to produce medical records and/or disclose the existence of a disability or diagnosis.

If the applicant's information did not change the District's preliminary decision, and the District determines to deny the applicant employment, the District shall give a "Final Notice to Revoke Job Offer" final written notice to the applicant of the final decision to deny employment because of the individual's criminal background in accordance with Federal and State law.

3220.12 – Pre-Employment (Post-Offer) Medical Examinations. All applicants being offered employment by the District shall be required to undergo a health screening in order to determine the prospective employee's fitness to perform the essential duties and functions of the position, prior to conferring appointment. Such examinations shall be consistent with the physical and mental requirements as defined within the District's classification specifications to ensure that those appointed will be fully able to discharge the duties of the position, and to safeguard against injury on the job.

- a. Employees being considered for non-safety sensitive positions will be required to take a drug test and alcohol screening consistent, based upon a position analysis establishing business necessity.
- b. Employees being considered for safety sensitive positions, consistent with the California Code of Regulations, shall be required to participate in drug testing and alcohol screening. Safety sensitive positions have the following general characteristics:
 - 1. Their duties involve a greater than normal level of trust, responsibility for or impact on the health and safety of others; and

2. Errors in judgment, inattentiveness or diminished coordination, dexterity or composure while performing their duties could clearly result in mistakes that would endanger the health and safety of others; and

3. Employees in these positions work with such independence, or perform such tasks that it cannot be safely assumed that mistakes such as those described above could be prevented by a supervisor or another employee.

c. The District shall not request information from a job applicant about their prior use of cannabis, and the District shall not discriminate against an employee or applicant based on the individual's use of cannabis off the job and away from the workplace.

d. The Human Resources Manager shall evaluate job classifications/positions, and designate those safety-sensitive positions subject to this section as it pertains to the post-offer medical examination including drug and alcohol testing, establishing fitness for duty.

e. A District-selected health care provider will examine the prospective employee at the District's expense. The District will notify and provide the health care provider with a written description of the essential duties and functions of the employee's job and whether the position is subject to drug testing and alcohol screening. The health care provider will examine the employee and provide the District with non-confidential information regarding whether:

1. The applicant is fit to perform the essential job functions;

2. There are any reasonable accommodations that would enable the applicant to perform the essential job functions; or

3. The applicant's prospective employment poses a threat to the health and safety of him or herself, or others.

f. Should the health care provider exceed the scope of the District's request and provide confidential health information, or information that is unrelated to the applicant's ability to perform the job, 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.

g. During the course of a fitness for duty examination, the District will not seek or use information regarding a prospective employee's medical history, diagnoses, or course of treatment without written authorization from the applicant. Under the Confidentiality of Medical Information Act (CMIA), unless written authorization is received from the applicant, the District is only entitled to know whether the prospective employee can perform the essential functions of the job. The District cannot be advised of the medical cause of an employee's inability to perform.

3220.13 – Reasonable Accommodation. If a prospective employee requires a reasonable accommodation or is otherwise unable to perform the essential functions of the job, the District is entitled to know the functional limitations on the prospective employee's ability to perform the job [e.g., the employee cannot stand for extended periods of time; the employee cannot lift objects weighing more than twenty-five (25) pounds, etc.]. The District is entitled to ask for clarification

from the examiner concerning what an employee can or cannot do.

- a. A prospective employee may submit confidential medical information to the District from his/her personal health care provider. If the prospective employee provides written authorization, the Human Resources Manager shall submit the information that the prospective employee provides to the District paid health care provider who conducted the examination. The Human Resources Manager will request the District paid health care provider to determine whether the information alters the original fitness for duty assessment. The District cannot be advised of the medical cause of an employee's inability to perform.
- b. After the receipt of both the health care provider's fitness for duty report, and the analysis of the employee's personal health care information (if any), the Human Resources Manager will arrange for a discussion(s) with the employee and his/her representatives (if any). The purpose of the discussion will be in good faith to fully discuss all feasible potential reasonable accommodations.
- c. After the discussions, the Human Resources and hiring manager will review the information received, and determine if there is a reasonable accommodation that would enable the prospective employee to perform essential job functions, or if the accommodations would pose an undue hardship on the District's finances or operations. The Human Resources Manager shall recommend, and the General Manager will use his/her discretion based upon the particular facts of each case.

3220.14 – On-Boarding. Human Resources shall coordinate the on-boarding process using the prescribed On-Boarding Checklist and ensure that all documents are received and processed. The hiring manager shall complete the departmental orientation/on-boarding process.

3220.15 – Establishment of Employment Eligibility (I-9). The District is required by Federal law to verify the work eligibility of newly hired employees by obtaining a completed I-9 Form (Employment Eligibility Verification Form) for each employee hired after November 6, 1986.

- a. The District shall not discharge a current employee, refuse to appoint a new employee, or otherwise discriminate on the basis of foreign appearance, language, or name. To discriminate against an employee or applicant on the basis of national origin violates the Title VII of the Civil Rights Act and the Fair Employment and Housing Act (FEHA).
- b. An employee is required to complete their portion of the I-9 Form and to provide the document(s) verifying work eligibility on the date they are actually hired. The hire date is defined as the effective date and/or official start date of employment. Prior to the actual acceptance of an offer of employment, a prospective employee may only be advised that they will be required to complete an I-9 form and provide documentation verifying work eligibility.
- c. All new employees must provide and maintain necessary documentation to prove identity and the right to work in the United States in accordance with Federal and State Immigration and Naturalization laws (and per the I-9 Form). Failure to provide such documentation will result in disqualification from selection and/or grounds for immediate termination.
- d. A new employee should provide the required document(s) at the time they are hired. If

unable to comply with this requirement, he/she must be given three (3) business days to produce evidence proving they have applied for a specific document. For example: Evidence could be a receipt verifying application for a social security card or a driver's license. It then becomes the employee's responsibility to produce the document itself within three (3) days of hire or subject to termination. However, on or before the time employment begins, the employee must have indicated in Section 1 of the I-9 Form that they are already eligible to be employed in the United States.

e. An employee who is rehired is required to complete a new I-9 Form.

f. The I-9 form lists the document(s) which are acceptable as proof of work eligibility. Only the employee shall designate which document(s) they wish to present. The District may not require a specific document among those listed, nor require additional documents for completing the form, beyond those which establish identity and work authorization.

g. If the document(s) provided by the employee appears to be genuine and related to the person, they are to be accepted. There is no requirement, on the part of the District, to verify the authenticity of documents which appear to be genuine.

h. A completed I-9 form and all copies of the documents, which verify authorization to work, are to be submitted to the Human Resources Manager. These documents are to be used for the purpose of establishing employment eligibility, and are to be retained ONLY with the I-9 Form.

i. Once the Human Resources Manager determines that documentation is complete and verified, the Human Resources Manager shall retain the I-9 records separate from the personnel files for all active employees. Upon an employee's separation from employment, the I-9 form will be transferred to the employee's personnel file and placed in storage.

j. If an individual is hired with incomplete documentation, they must be given three (3) business days in which to present either: 1) the necessary documents, or 2) a receipt for the application of replacement documents which verifies application for a specific document. If neither of the above is provided, within three (3) business day, the employee must be terminated and notice of termination must be provided accordingly.

k. If an employee's work authorization expires, the I-9 Form must be updated to continue to employ that individual. This means the employee must either present a document that show an extension of employment eligibility, or a new grant-of-work authorization prior to the expiration date.

l. It is the responsibility of the Human Resources Manager to monitor such document(s) and to verify either renewal or extension. The Human Resources Manager shall retain a list of affected employees and advise the department and employee whose authorization is due to expire. Without an extension of employment eligibility, or a new grant-of-work authorization, the employee must be terminated immediately.

State of California

GOVERNMENT CODE

Section 12952

12952. (a) Except as provided in subdivision (d), it is an unlawful employment practice for an employer with five or more employees to do any of the following:

(1) To include on any application for employment, before the employer makes a conditional offer of employment to the applicant, any question that seeks the disclosure of an applicant's conviction history.

(2) To inquire into or consider the conviction history of the applicant, including any inquiry about conviction history on any employment application, until after the employer has made a conditional offer of employment to the applicant.

(3) To consider, distribute, or disseminate information about any of the following while conducting a conviction history background check in connection with any application for employment:

(A) Arrest not followed by conviction, except in the circumstances as permitted in paragraph (1) of subdivision (a) and subdivision (f) of Section 432.7 of the Labor Code.

(B) Referral to or participation in a pretrial or posttrial diversion program.

(C) Convictions that have been sealed, dismissed, expunged, or statutorily eradicated pursuant to law, or any conviction for which the convicted person has received a full pardon or has been issued a certificate of rehabilitation.

(4) To interfere with, restrain, or deny the exercise of, or the attempt to exercise, any right provided under this section.

(b) This section shall not be construed to prevent an employer from conducting a conviction history background check not in conflict with the provisions of subdivision (a).

(c) (1) (A) An employer that intends to deny an applicant a position of employment solely or in part because of the applicant's conviction history shall make an individualized assessment of whether the applicant's conviction history has a direct and adverse relationship with the specific duties of the job that justify denying the applicant the position. In making the assessment described in this paragraph, the employer shall consider all of the following:

(i) The nature and gravity of the offense or conduct.

(ii) The time that has passed since the offense or conduct and completion of the sentence.

(iii) The nature of the job held or sought.

(B) An employer may, but is not required to, commit the results of this individualized assessment to writing.

(2) If the employer makes a preliminary decision that the applicant's conviction history disqualifies the applicant from employment, the employer shall notify the applicant of this preliminary decision in writing. That notification may, but is not required to, justify or explain the employer's reasoning for making the preliminary decision. The notification shall contain all of the following:

(A) Notice of the disqualifying conviction or convictions that are the basis for the preliminary decision to rescind the offer.

(B) A copy of the conviction history report, if any.

(C) An explanation of the applicant's right to respond to the notice of the employer's preliminary decision before that decision becomes final and the deadline by which to respond. The explanation shall inform the applicant that the response may include submission of evidence challenging the accuracy of the conviction history report that is the basis for rescinding the offer, evidence of rehabilitation or mitigating circumstances, or both.

(3) The applicant shall have at least five business days to respond to the notice provided to the applicant under paragraph (2) before the employer may make a final decision. If, within the five business days, the applicant notifies the employer in writing that the applicant disputes the accuracy of the conviction history report that was the basis for the preliminary decision to rescind the offer and that the applicant is taking specific steps to obtain evidence supporting that assertion, then the applicant shall have five additional business days to respond to the notice.

(4) The employer shall consider information submitted by the applicant pursuant to paragraph (3) before making a final decision.

(5) If an employer makes a final decision to deny an application solely or in part because of the applicant's conviction history, the employer shall notify the applicant in writing of all the following:

(A) The final denial or disqualification. The employer may, but is not required to, justify or explain the employer's reasoning for making the final denial or disqualification.

(B) Any existing procedure the employer has for the applicant to challenge the decision or request reconsideration.

(C) The right to file a complaint with the department.

(d) This section does not apply in any of the following circumstances:

(1) To a position for which a state or local agency is otherwise required by law to conduct a conviction history background check.

(2) To a position with a criminal justice agency, as defined in Section 13101 of the Penal Code.

(3) To a position as a Farm Labor Contractor, as described in Section 1685 of the Labor Code.

(4) To a position where an employer or agent thereof is required by any state, federal, or local law to conduct criminal background checks for employment purposes or to restrict employment based on criminal history. For purposes of this paragraph, federal law shall include rules or regulations promulgated by a self-regulatory organization as defined in Section 3(a)(26) of the Securities Exchange Act of 1934,

as amended by 124 Stat. 1652 (Public Law 111-203), pursuant to the authority in Section 19(b) of the Securities Exchange Act of 1934, as amended by 124 Stat. 1652 (Public Law 111-203).

(e) The remedies under this section shall be in addition to and not in derogation of all other rights and remedies that an applicant may have under any other law, including any local ordinance.

(f) For purposes of this section:

(1) “Conviction” has the same meaning as defined in paragraphs (1) and (3) of subdivision (a) of Section 432.7 of the Labor Code.

(2) Notwithstanding paragraph (1), the term “conviction history” includes:

(A) An arrest not resulting in conviction only in the specific, limited circumstances described in subdivision (f) of Section 432.7 of the Labor Code, when an employer at a health facility, as defined in Section 1250 of the Health and Safety Code, may ask an applicant for certain positions about specified types of arrests.

(B) An arrest for which an individual is out on bail or his or her own recognizance pending trial.

(Amended by Stats. 2018, Ch. 824, Sec. 2. (AB 2845) Effective January 1, 2019.)



Senate Bill No. 700

CHAPTER 408

An act to amend Section 12954 of the Government Code, relating to employment discrimination.

[Approved by Governor October 7, 2023. Filed with Secretary of State October 7, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

SB 700, Bradford. Employment discrimination: cannabis use. Existing law, the California Fair Employment and Housing Act, prohibits various forms of employment discrimination and empowers the Civil Rights Department to investigate and prosecute complaints alleging unlawful practices. Existing law, on and after January 1, 2024, makes it unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person because of the person's use of cannabis off the job and away from the workplace, except as specified.

This bill would make it unlawful for an employer to request information from an applicant for employment relating to the applicant's prior use of cannabis, as specified. Under the bill, information about a person's prior cannabis use obtained from the person's criminal history would be exempt from the above-described existing law and bill provisions relating to prior cannabis use if the employer is permitted to consider or inquire about that information under a specified provision of the California Fair Employment and Housing Act or other state or federal law.

The people of the State of California do enact as follows:

SECTION 1. Section 12954 of the Government Code is amended to read:

12954. (a) (1) Except as specified in subdivision (c), it is unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalizing a person, if the discrimination is based upon any of the following:

(A) The person's use of cannabis off the job and away from the workplace. This paragraph does not prohibit an employer from discriminating in hiring, or any term or condition of employment, or otherwise penalize a person based on scientifically valid preemployment drug screening conducted through methods that do not screen for nonpsychoactive cannabis metabolites.

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(B) An employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids.

(2) This subdivision does not apply to an employee in the building and construction trades.

(b) Except as specified in subdivision (c), it is unlawful for an employer to request information from an applicant for employment relating to the applicant's prior use of cannabis.

(c) Information about a person's prior cannabis use obtained from the person's criminal history is subject to subdivisions (a) and (b), unless the employer is permitted to consider or inquire about that information under Section 12952 or other state or federal law.

(d) This section does not permit an employee to possess, to be impaired by, or to use, cannabis on the job, or affect the rights or obligations of an employer to maintain a drug- and alcohol-free workplace, as specified in Section 11362.45 of the Health and Safety Code, or any other rights or obligations of an employer specified by state or federal law or regulation.

(e) This section does not preempt state or federal laws requiring applicants or employees to be tested for controlled substances, including laws and regulations requiring applicants or employees to be tested, or the manner in which they are tested, as a condition of employment, receiving federal funding or federal licensing-related benefits, or entering into a federal contract.

(f) This section does not apply to applicants or employees hired for positions that require a federal government background investigation or security clearance in accordance with regulations issued by the United States Department of Defense pursuant to Part 117 of Title 32 of the Code of Federal Regulations, or equivalent regulations applicable to other agencies.

(g) This section shall become operative on January 1, 2024.

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State of California

GOVERNMENT CODE

Section 12940

12940. It is an unlawful employment practice, unless based upon a bona fide occupational qualification, or, except where based upon applicable security regulations established by the United States or the State of California:

(a) For an employer, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, reproductive health decisionmaking, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or veteran or military status of any person, to refuse to hire or employ the person or to refuse to select the person for a training program leading to employment, or to bar or to discharge the person from employment or from a training program leading to employment, or to discriminate against the person in compensation or in terms, conditions, or privileges of employment.

(1) This part does not prohibit an employer from refusing to hire or discharging an employee with a physical or mental disability, or subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee with a physical or mental disability, if the employee, because of a physical or mental disability, is unable to perform the employee's essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations.

(2) This part does not prohibit an employer from refusing to hire or discharging an employee who, because of the employee's medical condition, is unable to perform the employee's essential duties even with reasonable accommodations, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations. Nothing in this part shall subject an employer to any legal liability resulting from the refusal to employ or the discharge of an employee who, because of the employee's medical condition, is unable to perform the employee's essential duties, or cannot perform those duties in a manner that would not endanger the employee's health or safety or the health or safety of others even with reasonable accommodations.

(3) Nothing in this part relating to discrimination on account of marital status shall do either of the following:

(A) Affect the right of an employer to reasonably regulate, for reasons of supervision, safety, security, or morale, the working of spouses in the same department, division, or facility, consistent with the rules and regulations adopted by the council.

(B) Prohibit bona fide health plans from providing additional or greater benefits to employees with dependents than to those employees without or with fewer dependents.

(4) Nothing in this part relating to discrimination on account of sex shall affect the right of an employer to use veteran status as a factor in employee selection or to give special consideration to Vietnam-era veterans.

(5) (A) This part does not prohibit an employer from refusing to employ an individual because of the individual's age if the law compels or provides for that refusal. Promotions within the existing staff, hiring or promotion on the basis of experience and training, rehiring on the basis of seniority and prior service with the employer, or hiring under an established recruiting program from high schools, colleges, universities, or trade schools do not, in and of themselves, constitute unlawful employment practices.

(B) The provisions of this part relating to discrimination on the basis of age do not prohibit an employer from providing health benefits or health care reimbursement plans to retired persons that are altered, reduced, or eliminated when the person becomes eligible for Medicare health benefits. This subparagraph applies to all retiree health benefit plans and contractual provisions or practices concerning retiree health benefits and health care reimbursement plans in effect on or after January 1, 2011.

(b) For a labor organization, because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, reproductive health decisionmaking, or veteran or military status of any person, to exclude, expel, or restrict from its membership the person, or to provide only second-class or segregated membership or to discriminate against any person because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, reproductive health decisionmaking, or veteran or military status of the person in the election of officers of the labor organization or in the selection of the labor organization's staff or to discriminate in any way against any of its members or against any employer or against any person employed by an employer.

(c) For any person to discriminate against any person in the selection, termination, training, or other terms or treatment of that person in any apprenticeship training program, any other training program leading to employment, an unpaid internship, or another limited duration program to provide unpaid work experience for that person because of the race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, reproductive health decisionmaking, or veteran or military status of the person discriminated against.

(d) For any employer or employment agency to print or circulate or cause to be printed or circulated any publication, or to make any nonjob-related inquiry of an employee or applicant, either verbal or through use of an application form, that expresses, directly or indirectly, any limitation, specification, or discrimination as to

race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, reproductive health decisionmaking, or veteran or military status, or any intent to make any such limitation, specification, or discrimination. This part does not prohibit an employer or employment agency from inquiring into the age of an applicant, or from specifying age limitations, if the law compels or provides for that action.

(e) (1) Except as provided in paragraph (2) or (3), for any employer or employment agency to require any medical or psychological examination of an applicant, to make any medical or psychological inquiry of an applicant, to make any inquiry whether an applicant has a mental disability or physical disability or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.

(2) Notwithstanding paragraph (1), an employer or employment agency may inquire into the ability of an applicant to perform job-related functions and may respond to an applicant's request for reasonable accommodation.

(3) Notwithstanding paragraph (1), an employer or employment agency may require a medical or psychological examination or make a medical or psychological inquiry of a job applicant after an employment offer has been made but prior to the commencement of employment duties, provided that the examination or inquiry is job related and consistent with business necessity and that all entering employees in the same job classification are subject to the same examination or inquiry.

(f) (1) Except as provided in paragraph (2), for any employer or employment agency to require any medical or psychological examination of an employee, to make any medical or psychological inquiry of an employee, to make any inquiry whether an employee has a mental disability, physical disability, or medical condition, or to make any inquiry regarding the nature or severity of a physical disability, mental disability, or medical condition.

(2) Notwithstanding paragraph (1), an employer or employment agency may require any examinations or inquiries that it can show to be job related and consistent with business necessity. An employer or employment agency may conduct voluntary medical examinations, including voluntary medical histories, which are part of an employee health program available to employees at that worksite.

(g) For any employer, labor organization, or employment agency to harass, discharge, expel, or otherwise discriminate against any person because the person has made a report pursuant to Section 11161.8 of the Penal Code that prohibits retaliation against hospital employees who report suspected patient abuse by health facilities or community care facilities.

(h) For any employer, labor organization, employment agency, or person to discharge, expel, or otherwise discriminate against any person because the person has opposed any practices forbidden under this part or because the person has filed a complaint, testified, or assisted in any proceeding under this part.

(i) For any person to aid, abet, incite, compel, or coerce the doing of any of the acts forbidden under this part, or to attempt to do so.

(j) (1) For an employer, labor organization, employment agency, apprenticeship training program or any training program leading to employment, or any other person, because of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, reproductive health decisionmaking, or veteran or military status, to harass an employee, an applicant, an unpaid intern or volunteer, or a person providing services pursuant to a contract. Harassment of an employee, an applicant, an unpaid intern or volunteer, or a person providing services pursuant to a contract by an employee, other than an agent or supervisor, shall be unlawful if the entity, or its agents or supervisors, knows or should have known of this conduct and fails to take immediate and appropriate corrective action. An employer may also be responsible for the acts of nonemployees, with respect to harassment of employees, applicants, unpaid interns or volunteers, or persons providing services pursuant to a contract in the workplace, if the employer, or its agents or supervisors, knows or should have known of the conduct and fails to take immediate and appropriate corrective action. In reviewing cases involving the acts of nonemployees, the extent of the employer's control and any other legal responsibility that the employer may have with respect to the conduct of those nonemployees shall be considered. An entity shall take all reasonable steps to prevent harassment from occurring. Loss of tangible job benefits shall not be necessary in order to establish harassment.

(2) The provisions of this subdivision are declaratory of existing law, except for the new duties imposed on employers with regard to harassment.

(3) An employee of an entity subject to this subdivision is personally liable for any harassment prohibited by this section that is perpetrated by the employee, regardless of whether the employer or covered entity knows or should have known of the conduct and fails to take immediate and appropriate corrective action.

(4) (A) For purposes of this subdivision only, "employer" means any person regularly employing one or more persons or regularly receiving the services of one or more persons providing services pursuant to a contract, or any person acting as an agent of an employer, directly or indirectly, the state, or any political or civil subdivision of the state, and cities. The definition of "employer" in subdivision (d) of Section 12926 applies to all provisions of this section other than this subdivision.

(B) Notwithstanding subparagraph (A), for purposes of this subdivision, "employer" does not include a religious association or corporation not organized for private profit, except as provided in Section 12926.2.

(C) For purposes of this subdivision, "harassment" because of sex includes sexual harassment, gender harassment, and harassment based on pregnancy, childbirth, or related medical conditions. Sexually harassing conduct need not be motivated by sexual desire.

(5) For purposes of this subdivision, "a person providing services pursuant to a contract" means a person who meets all of the following criteria:

(A) The person has the right to control the performance of the contract for services and discretion as to the manner of performance.

(B) The person is customarily engaged in an independently established business.

(C) The person has control over the time and place the work is performed, supplies the tools and instruments used in the work, and performs work that requires a particular skill not ordinarily used in the course of the employer's work.

(k) For an employer, labor organization, employment agency, apprenticeship training program, or any training program leading to employment, to fail to take all reasonable steps necessary to prevent discrimination and harassment from occurring.

(l) (1) For an employer or other entity covered by this part to refuse to hire or employ a person or to refuse to select a person for a training program leading to employment or to bar or to discharge a person from employment or from a training program leading to employment, or to discriminate against a person in compensation or in terms, conditions, or privileges of employment because of a conflict between the person's religious belief or observance and any employment requirement, unless the employer or other entity covered by this part demonstrates that it has explored any available reasonable alternative means of accommodating the religious belief or observance, including the possibilities of excusing the person from those duties that conflict with the person's religious belief or observance or permitting those duties to be performed at another time or by another person, but is unable to reasonably accommodate the religious belief or observance without undue hardship, as defined in subdivision (u) of Section 12926, on the conduct of the business of the employer or other entity covered by this part. Religious belief or observance, as used in this section, includes, but is not limited to, observance of a Sabbath or other religious holy day or days, reasonable time necessary for travel prior and subsequent to a religious observance, and religious dress practice and religious grooming practice as described in subdivision (q) of Section 12926. This subdivision shall also apply to an apprenticeship training program, an unpaid internship, and any other program to provide unpaid experience for a person in the workplace or industry.

(2) An accommodation of an individual's religious dress practice or religious grooming practice is not reasonable if the accommodation requires segregation of the individual from other employees or the public.

(3) An accommodation is not required under this subdivision if it would result in a violation of this part or any other law prohibiting discrimination or protecting civil rights, including subdivision (b) of Section 51 of the Civil Code and Section 11135 of this code.

(4) For an employer or other entity covered by this part to, in addition to the employee protections provided pursuant to subdivision (h), retaliate or otherwise discriminate against a person for requesting accommodation under this subdivision, regardless of whether the request was granted.

(m) (1) For an employer or other entity covered by this part to fail to make reasonable accommodation for the known physical or mental disability of an applicant or employee. Nothing in this subdivision or in paragraph (1) or (2) of subdivision (a) shall be construed to require an accommodation that is demonstrated by the employer or other covered entity to produce undue hardship, as defined in subdivision (u) of Section 12926, to its operation.

(2) For an employer or other entity covered by this part to, in addition to the employee protections provided pursuant to subdivision (h), retaliate or otherwise discriminate against a person for requesting accommodation under this subdivision, regardless of whether the request was granted.

(n) For an employer or other entity covered by this part to fail to engage in a timely, good faith, interactive process with the employee or applicant to determine effective reasonable accommodations, if any, in response to a request for reasonable accommodation by an employee or applicant with a known physical or mental disability or known medical condition.

(o) For an employer or other entity covered by this part, to subject, directly or indirectly, any employee, applicant, or other person to a test for the presence of a genetic characteristic.

(p) For an employer to require, as a condition of employment, continued employment, or a benefit of employment, the disclosure of information relating to an applicant's or employee's reproductive health decisionmaking.

(q) Nothing in this section shall be interpreted as preventing the ability of employers to identify members of the military or veterans for purposes of awarding a veteran's preference as permitted by law.

(Amended (as amended by Stats. 2022, Ch. 48, Sec. 36) by Stats. 2022, Ch. 630, Sec. 7. (SB 523) Effective January 1, 2023.)



Instructions for Form I-9, Employment Eligibility Verification

Department of Homeland Security
U.S. Citizenship and Immigration Services

Attachment 7

USCIS
Form I-9
OMB No. 1615-0047
Expires 07/31/2026

Anti-Discrimination Notice: Employers must allow all employees to choose which acceptable documentation to present for Form I-9. Employers cannot ask employees for documentation to verify information entered in **Section 1**, or specify which acceptable documentation employees must present for **Section 2** or **Supplement B, Reverification and Rehire**. Employees do NOT need to prove their citizenship, immigration status, or national origin when establishing their employment authorization for Form I-9 or E-Verify. Requesting such proof or any specific document from employees based on their citizenship, immigration status, or national origin, may be illegal. Similarly, discriminating against employees in hiring, firing, recruitment, or referral for a fee, based on citizenship, immigration status, or national origin may be illegal. Employers should not reject acceptable documentation due to a future expiration date. For more information on how to avoid discrimination or how to report it, contact the Immigrant and Employee Rights Section in the Department of Justice's Civil Rights Division at www.justice.gov/ier.

Purpose of Form I-9

Employers and employees must complete their respective sections of Form I-9. The form is used to document verification of the identity and employment authorization of each new employee (both U.S. citizen and noncitizen) hired after November 6, 1986, to work in the United States. In the Commonwealth of the Northern Mariana Islands (CNMI), employers must complete Form I-9 to document the verification of the identity and employment authorization of each new employee (both U.S. citizen and noncitizen) hired after November 27, 2011.

Definitions

Employee: A person who performs labor or services in the United States for an employer in return for wages or other remuneration. The term "employee" does not include individuals who do not receive any form of remuneration (e.g., volunteers), independent contractors, or those engaged in certain casual domestic employment.

Employer: A person or entity, including an agent or anyone acting directly or indirectly in the interest thereof, who engages the services or labor of an employee to be performed in the United States for wages or other remuneration. This includes recruiters and referrers for a fee who are agricultural associations, agricultural employers, or farm labor contractors.

Authorized Representative: Any person an employer designates to complete and sign Form I-9 on the employer's behalf. Employers are liable for any statutory and regulatory violations made in connection with the form or the verification process, including any violations committed by any individual designated to act on the employer's behalf.

Preparer and/or Translator: Any individual who helps the employee complete or translates **Section 1** for the employee.

General Instructions

Form I-9 consists of:

- **Section 1:** Employee Information and Attestation
- **Section 2:** Employer Review and Verification
- Lists of Acceptable Documents
- Supplement A, Preparer and/or Translator Certification for Section 1
- Supplement B, Reverification and Rehire (formerly Section 3)

EMPLOYEES

Employees must complete and sign **Section 1** of Form I-9 no later than the first day of employment (i.e., the date the employee begins performing labor or services in the United States in return for wages or other remuneration). Employees may complete **Section 1** before the first day of employment, but cannot complete the form before acceptance of an offer of employment.

EMPLOYERS

Employers in the United States, except Puerto Rico, must complete the English-language version of Form I-9. Only employers located in Puerto Rico may complete the Spanish-language version of Form I-9 instead of the English-language version. Any employer may use the Spanish-language form and instructions as a translation tool.

All employers must:

- Make the instructions for Form I-9 and Lists of Acceptable Documents available to the employee when completing the Form I-9 and when requesting that the employee present documentation to complete Supplement B, Reverification and Rehire. See page 5 for more information.
- Ensure that the employee completes **Section 1**.
- Complete **Section 2** within three business days after the employee's first day of employment. If you hire an individual for less than three business days, complete **Section 2** no later than the first day of employment.
- Complete Supplement B, Reverification and Rehire when applicable.
- Leave a field blank if it does not apply and allow employees to leave fields blank in **Section 1**, where appropriate.
- Retain completed forms. You are not required to retain or store the page(s) containing the Lists of Acceptable Documents or the instructions for Form I-9. Do not mail completed forms to U.S. Citizenship and Immigration Services (USCIS) or Immigration and Customs Enforcement (ICE).

Additional guidance about how to complete Form I-9 may be found in the [Handbook for Employers: Guidance for Completing Form I-9 \(M-274\)](#) and on [I-9 Central](#).

Section 1: Employee Information and Attestation

Step 1: Employee completes Section 1 no later than the first day of employment.

- All employees must provide their current legal name, complete address, and date of birth. If other fields do not apply, leave them blank.
- When completing the name fields, enter your current legal name and any last names you previously used, including any hyphens or punctuation. If you only have one name, enter it in the Last Name field and then enter "Unknown" in the First Name field.
- Providing your 9-digit Social Security number in the Social Security number field is voluntary, unless your employer participates in E-Verify. See page 5 for instructions related to E-Verify. Do not enter an Individual Taxpayer Identification Number (ITIN) as your Social Security number.

Step 2: Attest to your citizenship or immigration status.

You must select one box to attest to your citizenship or immigration status.

- 1. A citizen of the United States.**
- 2. A noncitizen national of the United States:** An individual born in American Samoa, certain former citizens of the former Trust Territory of the Pacific Islands, and certain children of noncitizen nationals born abroad.
- 3. A lawful permanent resident:** An individual who is not a U.S. citizen and who resides in the United States under legally recognized and lawfully recorded permanent residence as an immigrant.

Conditional residents should select this status. Asylees and refugees should NOT select this status; they should instead select "A noncitizen authorized to work." If you select "lawful permanent resident," enter your 7- to 9-digit USCIS Number (A-Number) in the space provided.

-
- 4. A noncitizen (other than Item Numbers 2. and 3. above) authorized to work:** An individual who has authorization to work but is not a U.S. citizen, noncitizen national, or lawful permanent resident.

If you select this box, enter the date that your employment authorization expires, if any, in the space provided. In most cases, your employment authorization expiration date is found on the documentation evidencing your employment authorization. If your employment authorization documentation has been automatically extended by the issuing authority, enter the expiration date of the automatic extension in this space.

- Refugees, asylees, and certain citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, or Palau, and other noncitizens authorized to work whose employment authorization does not have an expiration date, should enter N/A in the Expiration Date field.

Employees who select "a noncitizen authorized to work" must enter **one** of the following to complete **Section 1**:

- (1) **USCIS Number/A-Number** (7 to 9 digits);
- (2) **Form I-94 Admission Number** (11 digits); or
- (3) **Foreign Passport Number and the Country of Issuance**

Your employer may not ask for documentation to verify the information you entered in **Section 1**.

Step 3: Sign and enter the date you signed Section 1. Do NOT back-date this field.

Step 4: Preparer and/or translator completes a Preparer and/or Translator Certification, if applicable.

If a preparer and/or translator assists an employee in completing Section 1, that person must complete a Certification area on Supplement A, Preparer and/or Translator Certification for Section 1, located on Page 3 of Form I-9. There is no limit to the number of preparers and/or translators an employee may use. Each preparer and/or translator must complete and sign a separate Certification area. Employers must ensure that they retain any additional pages with the employee's completed Form I-9. If the employee does not use a preparer or translator, employers are not required to provide or retain Supplement A.

Step 5: Present Form I-9 Documentation

Within three business days after your first day of employment, you, the employee, must present to your employer original, acceptable, and unexpired documentation that establishes your identity and employment authorization. For example, if you begin employment on Monday, you must present documentation on or before the Thursday of that week. However, if you were hired to work for less than three business days, you must present documentation no later than the first day of employment.

Choose which documentation to present to your employer from the Lists of Acceptable Documents. An employer cannot specify which documentation you may present from the Lists of Acceptable Documents. You may present either: 1.) one selection from List A or 2.) a combination of one selection from List B and one selection from List C. In certain cases, you may also present an acceptable receipt for List A, B, or C documents. For more information on receipts, refer to the M-274.

- List A documentations show both identity and employment authorization. Some documentation must be presented together to be considered acceptable List A documentation. If you present acceptable List A documentation, you should not be asked to present List B and List C documentation.
- List B documentation shows identity only and List C documentation shows employment authorization only. If you present acceptable List B and List C documentation, you should not be asked to present List A documentation. Guidance is available in the M-274 if you are under the age of 18 or have a disability (special placement) and cannot provide List B documentation.

Your employer must physically examine the documentation you present to complete Form I-9, or examine them consistent with an alternative procedure authorized by the Secretary of DHS. If your documentation reasonably appears to be genuine and to relate to you, your employer must accept the documentation. If your documentation does not reasonably appear to be genuine or to relate to you, your employer must reject it and provide you with an opportunity to present other documentation. Your employer may choose to make copies of your documentation, but must return the original(s) to you. Your employer may not ask for documentation to verify the information you entered in **Section 1**.

Section 2: Employer Review and Verification

Before completing **Section 2**, you, the employer, should review **Section 1**. If you find any errors or missing information in **Section 1**, the employee must correct the error, and then initial and date the correction.

You may designate an authorized representative to act on your behalf to complete **Section 2**.

You or your authorized representative must complete **Section 2** by physically examining evidence of the employee's identity and employment authorization within three business days after the employee's first day of employment. For example, if an employee begins employment on Monday, you must review the employee's documentation and complete **Section 2** on or before the Thursday of that week. However, if the individual will work for less than three business days, **Section 2** must be completed no later than the first day of employment.

Step 1: Enter information from the documentation the employee presents.

You, the employer or authorized representative, must either physically examine, or examine consistent with an alternative procedure authorized by the Secretary of DHS, the original, acceptable, and unexpired documentation the employee presents from the Lists of Acceptable Documents to complete the applicable document fields in **Section 2**. You cannot specify which documentation an employee may present from these Lists of Acceptable Documents. A document is acceptable if it reasonably appears to be genuine and to relate to the person presenting it. Photocopies, except for certified copies of birth certificates, are not acceptable for Form I-9. Employees must present one selection from List A or a combination of one selection from List B and one selection from List C.

You may use common abbreviations for states, document titles, or issuing authorities, such as: “DL” for driver's license, and “SSA” for Social Security Administration. Refer to the M-274 for abbreviation suggestions.

List A documentation shows both identity and employment authorization.

- Enter the required information from the List A documentation in the first set of document entry fields in the List A column. Some List A documentation consists of a combination of documents that must be presented together to be considered acceptable List A documentation. If the employee presents a combination of documents for List A, use the second and third sets of document entry fields in the List A column. Use the Additional Information space, as necessary, for additional documents. When entering document information in this space, ensure you record all available document information, such as the document title, issuing authority, document number and expiration date.
- If an employee presents acceptable List A documentation, do not ask the employee to present List B and List C documentation.

List B documentation shows identity only, and List C documentation shows employment authorization only.

- If an employee presents acceptable List B and List C documentation, enter the required information from the documentation under each corresponding column and do not ask the employee to present List A documentation.
- If an employee under the age of 18 or with disabilities (special placement) cannot provide List B documentation, see the M-274 for guidance.

In certain cases, the employee may present an acceptable receipt for List A, B, or C documentation. For more information on receipts, refer to the Lists of Acceptable Documents and the M-274.

Photocopies

- You may make photocopies of the documentation examined but must return the original documentation to the employee.
- You must retain any photocopies you make with Form I-9 in case of an inspection by DHS, the Department of Labor, or the Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section.

Step 2: Enter additional information, if necessary.

Use the Additional Information field to record any additional information required to complete **Section 2**, or any updates that are necessary once **Section 2** is complete. Initial and date each additional notation. See the M-274 for more information. Such notations include, but are not limited to:

- Those required by DHS, such as extensions of employment authorization or a document's expiration date.
- Replacement document information if a receipt was previously presented.
- Additional documentation that may be presented by certain nonimmigrant employees.

You may also enter optional information, such as termination dates, form retention dates, and E-Verify case numbers, if applicable.

Step 3: Select the box in the Additional Information area if you used an alternate procedure for document examination authorized by the Secretary of DHS.

You must select this box if you used an alternative procedure authorized by DHS to examine the documents. You may refer to the M-274 for guidance on implementing alternative procedures for document examination approved by the Secretary of DHS.

Step 4: Complete the employer certification.

Employers or their authorized representatives, if applicable, must complete all applicable fields in this area, and sign and date where indicated.

Reverification and Rehire

To reverify an employee's work authorization or document an employee's rehire, use Supplement B, Reverification and Rehire (formerly Section 3). Employers need only complete and retain the supplement page when employment authorization reverification is required. Employers may choose to document a rehire on the supplement as well. Enter the employee's name at the top of each supplement page you use. In the New Name field, record any change the employee reports at the time of reverification or rehire. Use a new section of the supplement for each instance of a reverification or rehire, sign and date that section when completed, and attach it to the employee's completed Form I-9. Use additional supplement pages as necessary. Use the Additional Information fields if the employee's documentation presented for reverification requires future updates.

Reverifications

When reverification is required, you must reverify the employee by the earlier of the employment authorization expiration date stated in Section 1 (if any), or the expiration date of the List A or List C employment authorization documentation recorded in Section 2. Employers should complete any subsequent reverifications, if required, by the expiration date of the List A or List C documentation entered during the employee's most recent reverification.

For reverification, employees must present acceptable documentation from either List A or List C showing their continuing authorization to work in the United States. You must allow employees to choose which acceptable documentation to present for reverification. Employees are not required to show the same type of document they presented previously. Enter the documentation information in the appropriate fields provided.

You should not reverify the employment authorization of U.S. citizens and noncitizen nationals, or lawful permanent residents (including conditional residents) who presented a Permanent Resident Card (Form I-551) or other employment authorization documentation that is not subject to reverification (such as an unrestricted Social Security card).

Reverification does not apply to List B documentation. Reverification may not apply to certain noncitizens. See the M-274 for more information about when reverification may not be required.

Rehires

If you rehire an employee within three years from the date the employee's Form I-9 was first completed, you may complete the supplement and attach it to the employee's previously completed Form I-9. If the employee remains employment-authorized, as indicated on the previously completed Form I-9, record the date of rehire and any name changes. If the employee's employment authorization or List A or C documents have expired, you must reverify the employee as described above.

Alternatively, you may complete a new Form I-9 for rehired employees. You must complete a new Form I-9 for any employee you rehired more than three years after you originally completed a Form I-9 for that employee.

Employee and Employer Instructions Related E-Verify

E-Verify uses Form I-9 information to confirm employees' employment eligibility. For more information, go to www.e-verify.gov or contact us at www.e-verify.gov/contact-us.

For employees of employers who participate in E-Verify:

- You must provide your Social Security number in the Social Security number field in **Section 1**.
 - If you have applied for, but have not yet received, your Social Security number, you should leave the field blank until you receive the number. Update this field once you receive it, and initial and date the notation.
 - If you can present acceptable identity and employment authorization documentation to complete Form I-9, you may begin working while waiting to receive your Social Security number.
- Providing your email address and telephone number in **Section 1** will allow you to receive notifications associated with your E-Verify case.
- If you present a List B document to your employer, it must contain a photograph.

For E-Verify employers:

- Ensure employees enter their Social Security number in **Section 1**.
- You must only accept List B documentation that contains a photograph. This applies to individuals under the age of 18 and individuals with disabilities.
- You must retain photocopies of certain documentation.

What is the Filing Fee?

There is no fee for completing Form I-9. This form is not filed with USCIS or any other government agency. Form I-9 must be retained by the employer and made available for inspection by U.S. Government officials as specified in the “DHS Privacy Notice” below.

USCIS Forms and Information

Employers may photocopy or print blank Forms I-9. To ensure you are using the latest version of this form and corresponding instructions, visit the USCIS website at www.uscis.gov/i-9. You may order paper forms at www.uscis.gov/forms/forms-by-mail or by contacting the USCIS Contact Center at 1-800-375-5283 or 1-800-767-1833 (TTY).

For additional guidance about Form I-9, employers and employees should refer to the [Handbook for Employers: Guidance for Completing Form I-9 \(M-274\)](#) or USCIS' Form I-9 website at www.uscis.gov/i-9-central.

You can obtain information about Form I-9 by e-mailing USCIS at I-9Central@uscis.dhs.gov. Employers may call 1-888-464-4218 or 1-877-875-6028 (TTY). Employees may call the USCIS employee hotline at 1-888-897-7781 or 1-877-875-6028 (TTY).

Retaining Completed Forms I-9

An employer must retain Form I-9, including any supplement pages, on which the employee and employer (or authorized representative) entered data, as well as any photocopies made of the documentation the employee presented, for as long as the employee works for the employer. When employment ends, the employer must retain the individual's Form I-9 and all attachments for one year from the date employment ends, or three years after the first day of employment, whichever is later. In the case of recruiters or referrers for a fee (only applicable to those that are agricultural associations, agricultural employers, or farm labor contractors), the retention period is three years after the first day of employment.

Completed Forms I-9 and all accompanying documents should be stored in a safe and secure location. Employers should ensure that the information employees provide on Form I-9 is used only as stated in the DHS Privacy Notice below.

Form I-9 may be generated, signed, and retained electronically, in compliance with Department of Homeland Security regulations at 8 CFR section 274a.2. Employers creating, modifying, or storing Form I-9 electronically are encouraged to review these and any other relevant standards for electronic signature, and the indexing, security, and documentation of electronic Form I-9 data.

Penalties

Employers may be subject to penalties if Form I-9 is not properly completed or for employment discrimination occurring during the employment eligibility verification process. See 8 U.S.C. section 1324a and section 1324b, 8 CFR section 274a.10 and 28 CFR Part 44. Individuals may also be prosecuted for knowingly and willfully entering false information, or for presenting fraudulent documentation, to complete Form I-9.

Employees: By signing **Section 1** of this form, employees attest under penalty of perjury (28 U.S.C. section 1746) that the information they provided, along with the citizenship or immigration status they select, and all information and documentation they provide to their employer, is true and correct, and they are aware that they may face penalties provided by law and may be subject to criminal prosecution for knowingly and willfully making false statements or using false documentation when completing this form. Further, falsely attesting to U.S. citizenship may subject employees to penalties or removal proceedings, and may adversely affect an employee's ability to seek future immigration benefits.

Employers: By signing **Sections 2 and 3**, as applicable, employers attest under penalty of perjury (28 U.S.C. section 1746) that they have physically examined the documentation presented by the employee, that the documentation reasonably appears to be genuine and to relate to the employee named, that to the best of their knowledge the employee is authorized to work in the United States, that the information they enter in **Section 2** is complete, true, and correct to the best of their knowledge, and that they are aware that they may face civil or criminal penalties provided by law and may be subject to criminal prosecution for knowingly and willfully making false statements or knowingly accepting false documentation when completing Form I-9.

DHS Privacy Notice

AUTHORITIES: The information requested on this form, and the associated documents, are collected under the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. 1324a).

PURPOSE: The primary purpose for providing the requested information on this form is for employers to verify the identity and employment authorization of their employees. Consistent with the requirements of the Immigration Reform and Control Act of 1986, employers use the Form I-9 to document the verification of the identity and employment authorization for new employees to prevent the unlawful hiring, or recruiting or referring for a fee, of individuals who are not authorized to work in the United States. This form is completed by both the employer and the employee and is ultimately retained by the employer.

DISCLOSURE: The information employees provide is voluntary. However, failure to provide the requested information, and acceptable documentation evidencing identity and authorization to work in the United States, may result in termination of employment. Failure of the employer to ensure proper completion of this form may result in the imposition of civil or criminal penalties against the employer. In addition, knowingly employing individuals who are not authorized to work in the United States may subject the employer to civil and/or criminal penalties.

ROUTINE USES: This information will be used by employers as a record of their basis for determining eligibility of an individual to work in the United States. The employer must retain this completed form and make it available for inspection by authorized officials of the Department of Homeland Security, Department of Labor, and Department of Justice, Civil Rights Division, Immigrant and Employee Rights Section. DHS may also share this information, as appropriate, for law enforcement purposes or in the interest of national security.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 34 minutes per response, when completing the form manually, and 25 minutes per response when using a computer to aid in completion of the form, including the time for reviewing instructions and completing and retaining the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Office of Policy and Strategy, Regulatory Coordination Division, 5900 Capital Gateway Drive, Mail Stop Number 2140, Camp Springs, MD 20588-0009; OMB No. 1615-0047. **Do not mail your completed Form I-9 to this address.**



**Beaumont-Cherry Valley Water District
Personnel Committee Meeting
March 19, 2024**

Item 6g

STAFF REPORT

TO: Personnel Committee
FROM: Dan Jagers, General Manager
SUBJECT: Policy 5095 District Residences and Facility Emergency Policy

Staff Recommendation

None. Direct staff as desired.

Executive Summary

At the September 13, 2023, Board meeting, President Covington initiated review of Policy 5095 District Residences and Facility Emergency policy and presented the following for discussion:

- Clarification on the meaning of a "Condition of Employment" to move into a District residence
- Revisit the annual escalator to the monthly maintenance fee

Background

In 2020, the Personnel Committee set a goal of assuring that the monthly maintenance fees for occupancy of the district residences were fair and equitable, comport with legal considerations, and account for the work provided by the employee-occupants (EOs).

Using sample documents from similar situations at other special districts, information gleaned from interviews of the employees then residing in the District-owned residences, and considering items identified by the Personnel Committee, staff prepared a substantial revision of the Policy. Importantly, the Policy was designed to assure that the residency does not constitute a taxable fringe benefit to the employee and is instead a working condition of employment, and does not create a legal tenancy.¹ At the same time, typical legal tenant protections were included to assure the safety and peace of mind of the employee-occupant (EO).

Across several meetings from 2019 to 2021, the Personnel Committee shaped a draft document and developed an update of the District Residences and Facility Emergency Policy. Legal Counsel reviewed and provided input. The Board adopted the revised policy on October 28, 2021 as recommended by the Personnel Committee.

After significant, substantive discussion and lengthy deliberation, the Personnel Committee determined that the amount of the monthly maintenance fee (MMF) shall be based on a common

¹ This comports with the direction of the Grand Jury for the Board to follow the IRS Publication 15B:
<https://www.irs.gov/pub/irs-prior/p15b--2021.pdf>



real estate rule of thumb for budgeting of annual residential maintenance costs.² This basis is appropriate because it:

1. Shows a logical nexus to the intent of the fee: to be collected from the employee-occupant (EO) to cover the maintenance costs of the structure
2. Comports with the findings of the 2008 Riverside County Grand Jury Report and the District's subsequent response
3. Avoids potential pitfalls with IRS Publication 15B (taxable fringe benefits) as directed by the Grand Jury

The Personnel Committee also recommended that monies collected as monthly maintenance fees accrue as restricted funds. This has been done.

The Finance Department provided a report to the Board at the January 25, 2024, meeting (herewith as Attachment 1).

Discussion

Monthly Maintenance Fee

When considering the MMF for habitation at the District residences, the following is of significance:

1. "Fair market value" or "rent" should not be a consideration. To base the MMF on any figure that is tied to rental property would likely trigger the provisions of IRS Publication 15B. Lodging for employees on District premises could be considered a taxable fringe benefit to the EO unless it is provided for the District's convenience and as a condition of employment. This treatment and these terms were carefully included in the Employment-Occupancy Agreement and in the determination of the MMF.
2. Employee labor hours should not be a consideration. The MMF is based on a common real estate rule of thumb for budgeting for maintenance of a home. This avoids not only a potential complication with the IRS, but also provides a fair and equitable basis for calculation when an EO's time and effort is difficult to predict or track.

Condition of Employment

Conditions of employment are those rules, requirements, and policies an employer and an employee agree to abide by during the employee's term of service to the employer. With the advice of legal counsel, the Employee-Occupancy Agreement and Policy 5095 were carefully worded to assure clarity that the district residences are occupied as a condition of employment.

The intent, the agreements, and the policy comport with the IRS requirements for exclusion of the housing as a taxable fringe benefit, as required by the Grand Jury Report in 2008.

² <https://www.millionacres.com/real-estate-investing/articles/how-much-money-budget-home-maintenance/#:~:text=Generally%20speaking%2C%20you%20should%20expect,to%20spend%20on%20annual%20upkeep>



In 2021, staff prepared detailed outlines of duties and responsibilities of the EOs, demonstrating that the work performed by those EOs equaled or exceeded any difference between the MMF and “fair market value / rent” of comparable properties. Staff is confident that as written and implemented, Policy 5095 and the Employee-Occupancy Agreement clearly comport with the exceptions stated in IRS publication 15B and show the residences as being provided for the District’s convenience and as a condition of employment.

Formula for Determination of the Monthly Maintenance Fee

A detailed Housing Cost Analysis for each District-owned residence was presented to the Personnel Committee at the November 23, 2020, meeting. It demonstrated estimated maintenance and repair costs for each residence over a period of 20 years. The real estate-based formula appears to generate sufficient funding to address ongoing upkeep of the District residences, accounts for inflation, and provides some coverage for upcoming anticipated expenditures for needed renovations.

Staff compiled information on average build price per square foot and assigned a current estimated house value to each District-owned residence. Using the basis of the residence value as presented to the Board at the October 13, 2021, meeting, a 2.5 percent of value recovery basis was established. This midpoint calculation takes into consideration the typical maintenance costs to be expected at the District-owned residences but is not intended to cover the costs of full renovation that may eventually be needed at one or more of the houses.

As presented at the October 13, 2021 meeting, the annual escalator is equal to the District’s annual cost of living wage adjustment or a maximum of 3 percent, whichever is less. Although the Employee-Occupancy Agreement is not a tenancy, the District desires to assure fair treatment of all EOs and looked to typical landlord-tenant norms to inform the policy, therefore the escalator is below the California 5 percent maximum allowable rent increase as established by the Tenant Protection Act of 2019³.

Implementation

The new MMF has been implemented across the four District residences as each individual agreement has come up for renewal. The MMF was applied to each residence upon the expiration of the existing term of each existing Employment and Occupancy Agreement starting February 1, 2022. The model Employee Occupancy Agreement was reviewed by the Board at the October 13, 2021, meeting, and the agreements were included in the Board Consent Calendar at the February 9, 2022, Regular Board meeting.

Adequacy of the Calculated Monthly Maintenance Fee

The October 13, 2021 staff report and the Employee-Occupancy Agreements enumerate the following procedures:

- Each Year: Review annual CPI

³ https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1482



- Every five (5) years: Audit the restricted fund balance to assure funding needs are being met
- Every 10 years: Review estimated home values to recalculate the 2.5 percent cost recovery basis
- Water Charges. Staff calculated 8 units of water consumption, with the fixed 5/8" meter fee and the pass thru charges. The same rate applies to all four houses monthly. The water charge is updated with any adjustment in rates.

The Board may adjust the MMF or the above review schedule at will.

Conclusion

The District residences have been occupied under similar agreements for more than 30 years, albeit with some snags. A Grand Jury investigation, questions, misunderstanding, and skepticism have dogged the district residences over time. However, the arrangement has continued to achieve the goal of keeping the District's rural, essential water production facilities safe, free of trespassing and vandalism, and providing 24/7 personnel readiness in case of emergency as recently demonstrated by the fires, flooding, and resultant debris flows.

In water districts with rural settings, this is not an unusual arrangement. Without use of the district residences, the District would likely end up having to pay for 24/7 security at these sites, a potentially substantial cost.

Fiscal Impact

See Attachment 1. The fiscal impact to the District should be net zero over time as the collected fees are calculated to cover ongoing housing maintenance activities. Renovation costs have been included in the FY 2024 Operating Budget.

Attachments

1. Update: Revenues and Expenses Related to District Residences (Staff Report 1/25/2024)
2. Policy 5095 District Residences and Facility Emergency Policy

Staff Report prepared by Lynda Kerney, Executive Assistant



STAFF REPORT

TO: Board of Directors

FROM: Dan Jagers, General Manager

SUBJECT: Update: Revenues and Expenses Related to District Residences

Staff Recommendation

No recommendation, informational only.

Executive Summary

Staff has calculated the 2024 Monthly Maintenance Fee based on the three components of said rate for approval:

1. Cost Recovery – Based on home value
2. Inflation Escalator – Based on cost of living index, with a 3% cap
3. Fixed Water Charge – Based on 8 units of water for a 5/8" meter

Background

On October 13, 2021, the Personnel Committee (Committee) set a goal of assuring that the monthly maintenance fees charged are fair and equitable, comport with legal considerations, and account for the work provided by the employee-occupants. The Board of Directors (Board) reviewed and approved the recommended calculation, which is to be updated annually, effective the 1st of February of the new year.

Cost Recovery

Staff presented the option of using the common real estate rule of thumb for budgeting annual residential maintenance costs¹, which recommends that a homeowner should budget between 1 to 4 percent of the home's value. The Committee discussed the appropriate amount for evaluation and recommended to the Board using a 2.5 percent recovery basis of each residence, plus 10% contingency. This would take into consideration potential renovations, which would result in lessened short-term maintenance needs, along with typical ongoing estimated maintenance needs.

Table 1, Cost Recovery, provides the calculation for this portion of the monthly fee.

¹ <https://www.millionacres.com/real-estate-investing/articles/how-much-money-budget-home-maintenance/#:~:text=Generally%20speaking%2C%20you%20should%20expect,to%20spend%20on%20annual%20upkeep>



Table 1 – Cost Recovery

Residence	Home Value (\$175/SF)	2.5% Maintenance + 10% Contingency	2022 Maintenance Fee ¹	Monthly
A	\$255,500	\$7,026.25	\$585.52	
B	\$227,500	\$6,256.25	\$521.35	
C	\$210,000	\$5,775.00	\$481.25	
D	\$362,250	\$9,961.88	\$830.16	

(1) Example: Residence A has a home value of \$255,500 and is the base rate for 2022-2031. The 2.5% maintenance charge for this is \$6,387.50. The 10% contingency charge is \$638.75. The two charges combined are \$7026.25 for the year. The monthly charge is the annual charge divided by the 12 months, rounded to the nearest penny. Note, the estimated home values to recalculate the 2.5% cost recovery are scheduled to be reevaluated on or around 2031.

Inflation Escalator

To assure that monthly maintenance fee does not fall behind the cost of living index, or inflation rate, the Committee recommended adding a clause to the District Residences and Facility Emergency Policy to provide for an annual escalator.

The recommended escalator would be equal to the District's annual Cost of Living Adjustment (COLA) or a maximum of 3 percent, whichever is less, and that has been incorporated into the Policy document for Board approval. The maximum approved is below the 5 percent maximum allowable rent increases as established by the Tenant Protection Act of 2019.

The 2023 COLA was approved at 5%, meaning a 3% maximum escalator was implemented. The 2024 COLA is 3.7%, meaning a 3% maximum escalator. Table 2, Inflation Escalator, provides the calculation for this portion of the monthly fee.

Table 2 – Inflation Escalator

Residence	2022 Monthly Maintenance Fee	2023 Escalator (2022 Maintenance + 3%)	2024 Escalator (2023 Maintenance +3%)
A	\$585.52	\$603.09	\$621.18
B	\$521.35	\$536.99	\$553.10
C	\$481.25	\$495.69	\$511.59
D	\$830.16	\$855.06	\$880.71

Fixed Water Charge

Based on the locations of the properties, a regular meter is not applicable for water service. The Board approved the Committee recommendation for an alternative calculation for a fixed water charge based on 8 hundred-cubic-feet (ccf) of water with a 5/8" meter. Table 3, Fixed Water Charge, provides the calculation for this portion of the monthly fee.

Table 3 – Fixed Water Charge

Charge	2024 Rate	2024 Billable amount
5/8" Bi-monthly Rate	\$29.63	\$14.82
Single Family – Tier 1 Rate	\$0.88	\$7.04
State Water Project (SGPWA) rate	\$0.72	\$5.76
SCE Power Charge (pumping) rate	\$0.42	\$3.36
	Total Monthly Billable	\$30.98



Total Monthly Charge

The 2024 Monthly Maintenance Fee is a combination of the costs associated with each property. The cost includes the cost recovery amounts, with the inflation escalator, for each property, with the fixed water charge applied. Table 4, 2024 Monthly Maintenance Fee, provides the calculation that combines all of the items associated with the cost, for one total charge for each property.

Table 4 – 2024 Monthly Maintenance Fee

Residence	2024 Recovery + COLA	Cost 2024 Water Charge	Fixed	2024 Maintenance Fee	Monthly	2024 Maintenance	Total
A	\$621.18	\$30.98		\$652.16		\$7,825.92	
B	\$553.10	\$30.98		\$584.08		\$7,008.96	
C	\$511.59	\$30.98		\$542.57		\$6,510.84	
D	\$880.71	\$30.98		\$911.69		\$10,940.28 ²	
				Total		\$32,286.00	

Fiscal Impact

The fiscal impact of the Monthly Maintenance Fees are up to \$32,286.00 for 2024. At the time of the report, Residence D is vacant and has the potential of having \$0 in maintenance fees. Should the property continue to be vacant from February 1, 2024, forward, the adjusted fiscal impact of the Monthly Maintenance Fees would be \$21,345.72 collected from staff.

Staff Report prepared by Sylvia Molina, Assistant Director of Finance and Administration

² Property was vacated in March 2023 and was calculated with a \$0 budget for 2024 pending review.

POLICY TITLE: DISTRICT RESIDENCES AND FACILITY EMERGENCY POLICY**POLICY NUMBER: 5095**

5095.1 **Purpose.** BCVWD owns and maintains domestic water facilities and associated structures located in Edgar Canyon and other properties within the City of Beaumont, the community of Cherry Valley, and unincorporated areas within Riverside and San Bernardino Counties.

5095.2 **Properties.** District-owned residence properties include 4 separate residence dwelling units in close proximity to water system facilities necessary for the provision of water service, including but not limited to wells, pipelines, reservoirs, and other facilities necessary for delivery of water. These facilities are located in remote locations in the District-owned watershed area.

5095.3 **Emergency Capability.** It is critical that the District have the capability to respond to emergencies or other problems which may arise at any time at the remotely located water system facilities.

5095.4 Local Emergencies include:

1. Acts of vandalism
2. Security breaches
3. Power failures
4. Operational failures
5. Floods
6. Fires
7. Earthquakes
8. Monitor damage caused by wildlife
9. Other natural or human-caused emergencies

5095.5 **Regional Emergencies.** It is also necessary to have the capability to respond to regional emergencies, in conjunction with other public agencies, in order to provide mutual response to a major and/or natural disaster.

5095.6 **Practicality.** The housing of District personnel in said residences is the most practical alternative to provide emergency and safeguarding services to remote water facilities.

5095.7 **Non-Employee Occupancy.**

1. In the event that it is determined by the General Manager that a District-owned Residence does not require occupancy by a BCVWD employee for the above-stated purposes, whether on a long- or short-term basis, a District-owned Residence may be leased to a private or public agency tenant on a 12-month basis at fair market value.

2. The District's needs shall be evaluated by the General Manager after 11 months following the date of execution of the lease, and a determination made as to whether to offer a 12-month renewal of the lease.

3. If a District-owned Residence will be leased to a private party, all of the landlord-tenant laws of the State of California will apply, and a California Association of Realtors standard Residential Lease Agreement form shall be used along with appropriate disclosures and District rules as outlined in the District's Employment and Occupancy Agreement.

5095.8 Occupancy of District-Owned Residences. Occupancy of District-owned residences is provided for the convenience of BCVWD.

1. The Employee-Occupant is required to accept this lodging as a condition of employment.
2. Management will determine which employees are eligible for occupancy of District-owned residences based on organizational criteria, such as the employee's job functions, availability of residences, and the qualifications of the employee.
3. Employment and Occupancy Agreements for District-owned residences are provided to Employees with the experience and qualifications necessary to perform required duties in order to safeguard the District's facilities and respond to emergencies or other potential problems that may arise
4. Upon selection and prior to moving into a District-owned residence, Employee shall enter into an Employment and Occupancy Agreement as provided by the District.
5. Employees residing in District-owned residences shall pay a monthly maintenance fee which will accrue to pay for major maintenance expenses of the residence. The monthly maintenance fee will contain an annual escalator equal to the District annual cost-of-living adjustment up to a 3 percent maximum to be triggered at the 12-month anniversary date of the Employment and Occupancy Agreement.
6. Upon selection and prior to moving into a District-owned residence, Employee shall furnish to the District a reasonable security deposit based on 3 times the amount of the monthly maintenance fee. The security deposit is fully refundable upon move-out, unless deductions are necessary for:
 - a. Default on payment of the monthly maintenance fee
 - b. Default on reimbursement for electric or propane service
 - c. Damage in excess of normal wear and tear
 - d. Cleaning due to excessive filth / trash / debris

5095.8 Responsibilities.

1. The General Manager or their designee will prepare a Scope of Work to be performed by Employees living in District-owned residences, to be designated Exhibit A to the Employment and Occupancy Agreement.
2. The primary responsibilities of the Employee-Occupant residing in a District-owned residence include but are not limited to:
 - a. Safeguarding property and facilities from trespassers and potential vandalism
 - b. Monitoring property and facilities daily
 - c. Responding immediately to facilities nearest the residence in the event of a natural disaster or other emergency
3. Management will provide procedures for the Employee-Occupant to follow for situations that may occur, to be included in the Scope of Work document
4. Oversight of the responsibilities of the Employee-Occupant will be assigned to the Employee-Occupant's immediate supervisor.

5095.9 Occupancy.

1. Occupancy by the Employee is not a benefit of employment but is required due to the need for oversight of BCVWD property.

2. During Employee's employment, Employee-Occupant's immediate family (spouse or Registered Domestic Partner, and their children) may occupy said Residence. Employee is required to advise the District of any updates to the list of occupants.

3. Maximum occupancy of District-owned residences is 2 persons per bedroom.

4. Employee may have guests in the residence for not more than 14 consecutive days or 30 days total in one calendar year, and no more than 2 guests at any one time. At no time may the maximum occupancy be exceeded. The same guest(s) or person(s) shall not exceed 3 stays per year.

5. Employee may have up to 2 pre-approved indoor pets in the residence. Other domestic animals may be considered if the property is appropriate (i.e., horses). Pets to be maintained indoors shall be subject to an additional Pet Deposit.

6. All animals in residence on BCVWD property are governed under Title 6 of the Riverside County Code or Title 3, Division 2 of the San Bernardino County Code and must be approved by BCVWD prior to locating them at the residence.

7. Copies of proper vaccination records must be submitted to the District for all animals prior to locating them on the premises.

8. Employee-Occupant must procure liability insurance that includes coverage of dogs or other animals on the premises and add BCVWD as an additional insured.

9. Vehicles. It is the intention of the District to limit the parking of vehicles on the properties so as to avoid aesthetic nuisance.

a. Passenger vehicles and trucks may be parked on the property.

b. All vehicles must be in operable condition, currently registered in the State of California to the Employee-Occupant, their spouse, or licensed driver residing on the property. Valid registration tags must be displayed.

c. No commercial vehicles other than the Employee-Occupant's assigned District vehicle, or other by permission of the General Manager only

d. Recreational Vehicles (RVs). One RV of any size may be parked on the property.

i. The RV may be occupied by no more than 2 persons on a temporary basis (not to exceed 14 days in a 30-day period).

ii. The RV must be in compliance with all applicable County ordinances.

iii. The RV must be in operable condition, currently registered in the State of California with current valid registration tags displayed.

e. Boats, ATVs, personal watercraft, trailers, golf carts and other vehicles are limited to one such vehicle on the property and must be parked as much as possible to be out of sight from the street.

f. Variances to the above policies may be made at the discretion of the General Manager. All variance requests must be submitted in writing to the General Manager.

5095.10 Utilities.

1. Provided by BCVWD free of charge to the residence:

a. Septic tank service and routine related maintenance (normal wear and tear)

i. Employee-Occupant must acknowledge that the residence is on a septic system and agree to properly use and care for the system including drains and laterals.

ii. Employee-Occupant must acknowledge receipt of the guide "Do's and Don'ts of the Septic System" and understanding of the information

- iii. Adverse use such as grease buildup, drainage of excessive household chemicals, or flushing of non-biodegradables are not covered by District maintenance and repairs are the responsibility of the Employee-Occupant
- b. Pest Control.
 - i. Pest control shall be provided upon request as needed for interior of residence and garage.
 - ii. Pest control shall be provided upon recommendation by annual inspection as needed.
- 2. To be reimbursed by the Employee-Occupant to the District. Employee shall be responsible for payment within 15 days of presentation of invoice or bill by the District:
 - a. Propane gas
 - b. Electricity
- 3. To be established and provided by Employee-Occupant at their discretion:
 - a. Telephone service
 - b. Internet service
 - c. Television (cable or satellite)
- 4. Trash removal. There is no trash pick-up service for the residence. Employee-Occupant will be responsible for daily removal of trash to an appropriate waste management site. Residence trash may be disposed of in dumpsters at District facilities.
- 5. Water. A charge equivalent to the cost of 8 units of water representing indoor household use, inclusive of any pass-through charges (imported water, electrical, etc.) and meter fees as adopted by the Board as current rates will be included in the calculation of the monthly maintenance fee.

5095.11 Maintenance: BCVWD responsibility:

- 1. BCVWD shall perform or cause to be performed by a qualified contractor an inspection of the Residence and property to determine any maintenance needs every three years or as determined by the General Manager.
- 2. Unless repair or replacement of property is deemed to be the result of negligence or misuse by the Employee or occupants otherwise beyond normal wear and tear (in which case, Employee will be held responsible for payment in full of all costs associated with restoration of the property), BCVWD shall be responsible for the interior, exterior and replacements as specified below:
 - i. All residence structural items including but not limited to joists, roof members and shingles, foundation, gutters and downspouts, window frames and glass, doors, and associated hardware.
 - ii. All appliances purchased and installed by BCVWD.
 - iii. All fencing, gates, locks, and associated hardware.
 - iv. Exterior maintenance: roof repair, wood trim, and siding.
 - v. All major plumbing repairs including but not limited to piping, valves, drain lines, septic system, and faucets.
 - vi. All internal and external electrical which was previously installed by BCVWD (conduit and associated hardware and switches, circuit breakers, attached lighting fixtures).

- vii. All items integral to residence or garage structure or design, including but not limited to, framing, roof, drywall, foundation, window frames and glass, and doors and associated hardware.
- viii. Maintenance, repair and/or replacement of air conditioner and/or heating unit, and associated hardware, duct work, and electrical.
- ix. Maintenance, repair and/or replacement of propane fuel tank, and associated hardware and piping.

5095.12 Insurance.

1. BCVWD shall carry and maintain, at BCVWD's sole cost and expense, at all times during the term of the Employment and Occupancy Agreement, with respect to the premises, broad form General Public Liability Insurance for Bodily Injury and Property Damage in the amount of \$1,000,000 per person, \$3,000,000 per occurrence. The policy may contain an aggregate limit not less than the occurrence limit. The required limits may be satisfied by a combination of primary policy and an excess or umbrella policy.

2. All insurance required pursuant to the express provisions of the Employment and Occupancy Agreement shall provide that coverage shall not be revised, canceled, or reduced until at least 30 days written notice of such revision, cancellation or reduction shall have been given to Employee.

3. The comprehensive general liability insurance to be maintained by BCVWD pursuant to this section shall name the Employee-Occupant as additional insured.

4. Employee-Occupant shall maintain at their sole cost and expense and provide proof of insurance including coverage for Personal Property (if possible / discretionary) and Liability which shall include coverage for dogs or other animals if applicable. Coverage should be sufficient to include household furniture and furnishings, including without limitation art, silverware, dishes, antiques, personal clothing, jewelry, and items of similar nature. Employee-Occupant understands, acknowledges and agrees that neither the foregoing assets nor any other property of Employee-Occupant shall be covered under an insurance policy held by BCVWD. The Insurance policy shall be issued under the name of the Employee-Occupant and BCVWD named additional insured.

5095.13 Termination of Employment and Occupancy

1. Employee's right to use and occupy a District-owned residence is a condition of employment, subject to review, and is on a periodic basis.

2. Upon termination of employment, the right is also terminated.

3. Occupancy of the District-owned residence may be terminated at any time by BCVWD with or without cause upon 45 days' written notice.

4. Vacation of premises will occur on the earlier of:

a. 45 days following written notice from BCVWD to vacate the residence; or

b. 30 days following the date upon which Employee's employment with BCVWD is terminated.

5. Removal of Employee-Occupant's personal property from residence: Personal property of value greater than \$700 left at the District residence after vacation of the premises will be considered abandoned and may be removed to a storage site. The Employee-Occupant will be charged a daily reasonable cost for said storage. Following 60 days after vacation of the premises, all personal property will be considered abandoned and will be disposed of. Any fixtures installed by the Employee-Occupant become the property of the District.



**Beaumont-Cherry Valley Water District
Personnel Committee Meeting
March 19, 2024**

Item 7

STAFF REPORT

TO: Personnel Committee

FROM: Ren Berioso, Human Resources Manager

SUBJECT: Policy Tracking Matrix Progress Dashboard

Staff Recommendation

Approve the policies pending review in the next one to three months identified on Table 3, Policy to Work on for Subsequent Meetings, or to direct staff as desired.

Background

At the October 17, 2023 meeting, staff was directed by the Personnel Committee to create a dashboard to outline the progress of the Policies and Procedures Manual updates since year 2021. At the November 21, 2023 meeting, the Personnel Committee approved a dashboard presented by staff which highlights the summary of all policies approved and drafted, and those policies that staff are working on for subsequent meetings.

Discussion

Table 1-Summary of Policy Approval Tracking (All Policies)

Department	On Matrix	Draft Created	Committee Reviewed Drafts	Board Approved	% Complete
HR	79	73	50	47	59.49%
Finance	13	12	4	4	30.76%
Administration	24	23	6	6	25.00%
IT	19	14	0	0	0.00%
Operations	4	2	0	0	0.00%
Engineering	3	1	0	0	0.00%
TOTALS	142	125	60	57	40.14%

Note: The sections highlighted are under the purview of the Personnel Committee. The other policies may be subject to the Finance and Audit Committee of the full Board of Directors.

Table 2 – Recommended Policies to be Added in the Worksheet

Item	Policy Subject	Policy Contents
None		



Table 3 – Policies To Work on for Subsequent Meetings

Item	Policy No.	Priorities Listed	Draft Size	Selected for Processing	Estimated Committee Presentation
1	3085	Sick Leave	2 pages	January	February
2	2015	Harassment	2 pages	January	February
3	3080	Recruitment Selection and Onboarding	15 pages	January	February
4	3155	Personal Vehicle Usage	1 page	January	February
5	3165	Tobacco Use	1 page	January	February
6	3170	Smoke Free Workplace	1 page	January	February
7	3180	District Vehicle Usage	2 pages	January	February
8	3240	Dress Code and Personal Standards	4 pages	March	April
9	3180	Personnel Action Form (PAF)	2 pages	March	April
10	3240	Reduction in Force	1 page	March	April
11	3060	Continuity of Service	1 page	March	April

Numbered for ease of selection and reference, not for level of priority.

Fiscal Impact

There is no financial impact.

Attachments

1. Policy Approval Tracking Matrix 2.8.2024

Staff Report prepared by Ren Berioso, Human Resources Manager

Policy Approval Tracking
BCVWD Policy Manual Project

Attachment 1

Policy Number	New Policy Number	Section	Policy Name	HR's Recommendation Responsible Department	Drafted by BCVWD Staff	Approved by Legal Counsel	Presented to Personnel Committee	Provisionally Approved by Personnel Committee	Presented to Board of Directors	Approved by Board of Directors	Adoption Date	Resolution Number
N/A	3225	Personnel	Employee Leave Donation Program and Policy	Human Resources	Yes	2019	2019	2019	10/9/2019	10/9/2019	10/9/2019	2019-011
1	1000	General	Definitions	Human Resources	Yes	2/16/2021	2/22/2021	2/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
2	1005	General	Contractual Provisions	Human Resources	Yes	2/16/2021	2/22/2021	2/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
N/A	1010	General	Policy Manual	Human Resources	Yes	2/16/2021	2/22/2021	2/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
3	2000	Administration	Equal Opportunity	Human Resources	Yes	3/15/2021	3/22/2021	3/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
5	2010	Administration	Access to Personnel Records	Human Resources	Yes	3/15/2021	3/22/2021	3/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
6	2015	Administration	Harassment	Human Resources	Yes	1/2/2024	1/16/2024					
7	2020	Administration	Sexual Harassment	Human Resources	Yes	3/15/2021	3/22/2021	3/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
N/A	2025	Administration	Whistleblower Protection	Human Resources	Yes	3/15/2021	3/22/2021	3/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
8	3000	Personnel	Employee Status	Human Resources	Yes	4/12/2021	7/19/2021	7/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
N/A	3001	Personnel	Employee Information and Emergency Data	Human Resources	Yes	4/12/2021	6/21/2021	6/21/2021	10/13/2021	10/13/2021	10/13/2021	21-018
N/A	3002	Personnel	Employee Groups	Human Resources	Yes	4/12/2021	5/17/2021	5/17/2021	10/13/2021	10/13/2021	10/13/2021	21-018
9	3005	Personnel	Compensation	Human Resources	Yes	7/13/2021	7/19/2021	7/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
N/A	3006	Personnel	Prevailing Wage-Public Works Contractor-Employee Relations	Human Resources	Yes	7/13/2021	9/20/2021	9/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
10 & 49	3010	Personnel	Employee Performance Evaluation	Human Resources	Yes	7/13/2021	9/20/2021	9/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
11	3015	Personnel	Performance Evaluation-General Manager	Human Resources	Yes	8/3/2021	9/20/2021	9/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
			Definitions	Human Resources	Additional Edits	6/28/2021	7/19/2021	7/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
N/A	5095	Operations	District Residences and Facility Emergency Policy	Human Resources	Yes	7/21/2020	6/21/2021	Requested edits, sent to Board for review	10/13/2021	10/28/2021	10/28/2021	2021-19
			Policy Manual	Human Resources	Additional Edits	Separate Report	N/A	N/A-directed to Board	3/9/2022	3/9/2022	3/9/2022	22-006
13	3025	Personnel	Pay Periods	Human Resources	Yes	10/12/2021	11/15/2021	11/15/2021	5/11/2022	5/11/2022	5/11/2022	22-016
14	3030	Personnel	Gift Acceptance Guidelines	Human Resources	Yes	12/10/2021	4/19/2022	4/19/2022	5/11/2022	5/11/2022	5/11/2022	22-016
15	3035	Personnel	Outside Employment	Human Resources	Yes	10/12/2021	4/19/2022	4/19/2022	5/11/2022	5/11/2022	5/11/2022	22-016
48	3205	Personnel	Substance Abuse (In Conformance with Department of Transportation Guidelines)	Human Resources	Yes	12/6/2021	4/19/2022	4/19/2022	5/11/2022	5/11/2022	5/11/2022	22-016
N/A	3206	Personnel	FMCSA Clearinghouse Registration	Human Resources	No	12/6/2021	4/19/2022	4/19/2022	5/11/2022	5/11/2022	5/11/2022	22-016
12	3020	Personnel	Health and Welfare Benefits	Human Resources	Yes	5/10/2022	5/17/2022	5/17/2022	6/8/2022	6/8/2022	6/8/2022	22-019
27	3100	Personnel	Bereavement Leave	Human Resources	Yes	5/10/2022	5/17/2022	5/17/2022	6/8/2022	6/8/2022	6/8/2022	22-019
19	3055	Personnel	Work Hours, Overtime, and Standby Program	Human Resources	Yes	6/14/2022	7/19/2022	7/19/2022 with revisions	9/14/2022	9/14/2022	9/14/2022	22-028
24	3085	Personnel	Sick Leave	Human Resources	Yes	7/14/2022	8/16/2022	8/16/2022 with revisions	9/14/2022	9/14/2022	9/14/2022	22-028
34	3135	Personnel	Occupational Certification and Education	Human Resources	Yes	6/14/2022	8/16/2022	8/16/2022	9/17/2022	9/17/2022	9/14/2022	22-028
25	3090	Personnel	Family and Medical Leave	Human Resources	Yes	8/31/2022	10/18/2022	Move to Board for discussion, w/ counsel	12/14/2022	12/14/2022	12/14/2022	22-043
26	3095	Personnel	Pregnancy Disability Leave	Human Resources	Yes	9/1/2022	9/20/2022	9/20/2022	12/14/2022	12/14/2022	12/14/2022	22-043
N/A	3096	Personnel	Lactation Accommodation	Human Resources	Yes	8/25/2022	9/20/2022	9/20/2022	12/14/2022	12/14/2022	12/14/2022	22-043
N/A	3111	Personnel	Leave for Crime Victims and Family Members	Human Resources	Yes	9/29/2022	10/18/2022	10/18/2022	12/14/2022	12/14/2022	12/14/2022	22-043
2	5010	Operations	Emergency Response Guideline for Hostile or Violent Incidents	Human Resources	Yes	11/8/2022	11/15/2022	11/15/2022	12/14/2022	12/14/2022	12/14/2022	22-043
22	3075	Personnel	Vacation	Human Resources	Yes	11/8/2022	1/17/2023	1/17/2023	2/8/2023	2/8/2023	2/8/2023	23-005
30	3115	Personnel	Return to Work Policy	Human Resources	Yes	1/11/2023	1/17/2023	1/17/2023	2/8/2023	2/8/2023	2/8/2023	23-005
31	3120	Personnel	Occupational Injury and Illness Prevention Program	Human Resources	Yes	1/11/2023	1/17/2023	1/17/2023	2/8/2023	2/8/2023	2/8/2023	23-005
N/A	3121	Personnel	Infectious Disease Control	Human Resources	Yes	2/2/2023	2/21/2023	2/21/2023	3/15/2023	3/15/2023	3/15/2023	23-09
N/A	3122	Personnel	Workplace Violence	Human Resources	Yes	1/2/2024	1/16/2024					
36	3145	Personnel	Driver Training and Record Review	Human Resources	Yes	3/14/2023	3/21/2023	3/21/2023	4/12/2023	4/12/2023	4/12/2023	23-10

Priority Legend:
Yellow Highlight = Highest Priority
Light Blue Highlight = Lowest Priority

Policy Approval Tracking
BCVWD Policy Manual Project

Policy Number	New Policy Number	Section	Policy Name	HR's Recommendation Responsible Department	Drafted by BCVWD Staff	Approved by Legal Counsel	Presented to Personnel Committee	Provisionally Approved by Personnel Committee	Presented to Board of Directors	Approved by Board of Directors	Adoption Date	Resolution Number
			Uniforms and Protective Clothing (will be in Dress Code and Personal Standards)	Human Resources	Yes	3/14/2023	3/21/2023	4/18/2023	5/10/2023	5/10/2023	5/10/2023	23-13
32	3125	Personnel										
N/A	3230	Personnel	Workers' Compensation	Human Resources	Yes	5/9/2023	5/16/2023	5/16/2023	6/14/2023	6/14/2023	6/14/2023	2023-17
N/A	3231	Personnel	Accommodations for Disability	Human Resources	No	5/9/2023	5/16/2023	5/16/2023	6/14/2023	6/14/2023	6/14/2023	2023-17
17	3045	Personnel	Executive Officer	Human Resources	Yes							
N/A	3003	Personnel	Employment Agreements	Human Resources	Yes	5/10/2022	5/17/2022	Tabled				
16	3040	Personnel	Letters of Recommendation	Human Resources	Yes							
			Volunteer Personnel Workers'									
18	3050	Personnel	Compensation Insurance	Human Resources	Yes							
20	3060	Personnel	Continuity of Service	Human Resources	Yes							
20 (incorrect numbering)												
	3065	Personnel	Reduction in Force	Human Resources	Yes							
21	3070	Personnel	Holidays	Human Resources	Yes	1/2/2024						
	3080	Personnel	Pre-Employment Physical Examination	Human Resources	Yes							
23												
28	3105	Personnel	Personal Leave of Absence	Human Resources	Yes							
29	3110	Personnel	Jury and Witness Duty	Human Resources	Yes	10/5/2023	10/17/2023	11/21/2023	12/13/2023	12/13/2023	1/10/2024	2023-31
Proposed Addition												
	3176	Personnel	Transfers and Voluntary Demotion	Human Resources								
Proposed Addition												
	3177	Personnel	Resignations and Job Abandonment	Human Resources								
33	3130	Personnel	Conferences	Human Resources	Yes							
			Succession and Workforce Planning	Human Resources	Yes							
N/A	3136	Personnel										
35	3140	Personnel	Respiratory Protection Program	Human Resources	Yes							
37	3150	Personnel	District Vehicle Usage	Human Resources	Yes	2/5/2024						
38	3151	Personnel	Personal Vehicle Usage	Human Resources		2/5/2024						
			HIPAA Compliance and Security Officer	Human Resources	Yes							
39	3160	Personnel										
40	3165	Personnel	Tobacco Use	Human Resources	Yes	2/5/2024						
41	3170	Personnel	Smoke Free Workplace	Human Resources	Yes	2/5/2024						
42	3175	Personnel	Disciplinary Action or Terminations	Human Resources	Yes							
43	3180	Personnel	Nepotism-Employment of Relatives	Human Resources	Yes							
44	3185	Personnel	Confidentiality Regarding Resignations	Human Resources	Yes							
47	3200	Personnel	Grievance Procedures	Human Resources	Yes							
50	3215	Personnel										
			Personnel Action Form (PAF)	Human Resources	Yes							
51	3220	Personnel	Recruitment, Selection and Onboarding	Human Resources	Yes	2/5/2024						
N/A	3235	Personnel	Military Leave	Human Resources	Yes	6/14/2023	8/15/2023	11/21/2023	12/13/2023	12/13/2023	1/10/2024	2023-31
N/A	3240	Personnel	Dress Code and Personal Standards	Human Resources	Yes							
N/A	3245	Personnel	Non-Solicitation	Human Resources	No							
N/A	3250	Personnel	Telecommuting	Human Resources	No							
N/A	3255	Personnel	Time off for School Activities	Human Resources	No							
N/A	3260	Personnel	Time off to Vote	Human Resources	No							
1	5005	Operations	Emergency Preparedness	Human Resources	Yes							
4	5020	Operations	Environmental Health and Safety Compliance Program	Human Resources	Yes							
5	5025	Operations	Illness and Injury Prevention Program	Human Resources	Yes							
2	6010	Miscellaneous	Adoption, Amendment of Policies	Human Resources	Yes		N/A	Direct to Full Board				

Priority Legend:
Yellow Highlight = Highest Priority
Light Blue Highlight = Lowest Priority

Policy Approval Tracking
BCVWD Policy Manual Project

Policy Number	New Policy Number	Section	Policy Name	HR's Recommendation Responsible Department	Drafted by BCVWD Staff	Approved by Legal Counsel	Presented to Personnel Committee	Provisionally Approved by Personnel Committee	Presented to Board of Directors	Approved by Board of Directors	Adoption Date	Resolution Number
3	6015	Miscellaneous	Public Complaints	Human Resources	Yes		N/A	Direct to Full Board				
4	6020	Miscellaneous	Claims Against the District	Human Resources	Yes		N/A	Direct to Full Board				

Priority Legend:
Yellow Highlight = Highest Priority
Light Blue Highlight = Lowest Priority