

Santa Cruz Port District

PERSONNEL POLICIES HANDBOOK

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RULE I. GENERAL PROVISIONS

SEC. 1.1 PURPOSE

These Rules are intended to establish and maintain an efficient and uniform personnel program for the Santa Cruz Port District ("District").

SEC. 1.2 APPLICABILITY

A. The provisions of these Rules apply to all employees in the Represented Service.

B. Unless otherwise required by law or expressly stated herein, the applicability of these Rules to individuals in the Exempt Service (as defined in 1.4(B)(18)), is limited to the following Rules: **Rule I** (General Provisions); **Rule XII** (Outside Employment); **Rule XVIII** (Dress Code); **Rule XIX** (Policy Against Workplace Violence); **Rule XX** (Policy Against Harassment, Discrimination, Retaliation, and Abusive Conduct); **Rule XXI** (Drug-Free Workplace); **Rule XXII** (Personnel Files); **Rule XXIII** (Policy on the Use of Electronic Communications); **Rule XXIV** (Vehicle Use Policy and Accident Reporting); **Rule XXV** (Personal Telephone Use and Text Messaging); **Rule XXVI** (Employee Reimbursements and Travel); and **Rule XXVII** (Whistle Blowing Policy).

C. In addition to the Rules stated in Section 1.2.B, the following Rules will apply to Unrepresented Service employees which includes all temporary, seasonal, and part-time employees: **Sections 5.6 and 5.7 of Rule V** (Nepotism and Consensual Romantic Relationships); **Section 9.3 of Rule IX** (Sick Leave); and **Section 11.2.C of Rule XI** (Layoff/Separation/Retirement).

D. In addition to the Rules stated in Section 1.2.B., the following Rules will apply to Exempt Service employees, including the Port Director, the Harbormaster, and the Facilities Maintenance & Engineering Manager: **Rule V Sections 5.6 and 5.7** (Nepotism and Consensual Romantic Relationships); **Rule IX** (Leaves of Absence) excepting Sections 9.1.F (Hardship Holidays), 9.11 (Unpaid Leaves of Absences), 9.12 (Unauthorized Leaves of Absence and Failure to Return from Leave), **Rule X** (Family Care and Medical Leave, Pregnancy Disability Leave, and Military Family Leave); **Rule XI** (Layoff/Separation/Retirement) and **Rule XV** (Employee Benefits).

SEC. 1.3 AMENDMENT OF RULES

The Port Commission shall have authority to adopt, amend, or repeal these Rules as it deems appropriate and/or necessary. The Port Director shall have authority to prepare and recommend revisions to the Personnel Rules.

SEC. 1.4 DEFINITION OF TERMS

A. General Definition. All words and terms used in these Rules and in any resolution or ordinance dealing with personnel policies, system, or procedures shall be defined as they are normally and generally defined in the field of personnel administration unless a specific definition is provided for herein.

B. Specific Definitions.

1. Acting Appointment (also known as Temporary Upgrade Pay or Working out of Class Pay.)/ An interim appointment to temporarily perform the duties of a higher position. The person filling this position must meet the minimum standards or qualifications of the position. Acting appointments are held on an at-will basis by current District employees.
2. Advancement (also known as Step Increase). A salary increase within the limits of a pay range established for a Class.
3. Allocation. The assignment of a single Position to its proper Class in accordance with the duties performed, and the authority and responsibilities exercised.
4. Appointing Authority. The Port Director or his/her designee shall make the appointments to Positions in the Represented Service and Unrepresented Service. The Port Director or his/her designee shall make the appointments to Positions in the Exempt Service except that the Port Commission shall appoint the Port Director. . All Positions sufficiently similar in duties, authority, and responsibility, to permit grouping under a common title in the application with equity of common standards of selection, transfer, demotion and salary.
5. “At-Will” Employment. Employment for an indefinite period of time that may be terminated either by employer or employee at any time, with or without a reason or notice. At-will employees at the District include, among others, Exempt Service employees, Part-Time employees, Unrepresented Service employees, and employees who have not successfully completed their Probationary Period.
6. Compensation. The salary, wage, allowance, and all other forms of valuable consideration earned by or paid to any employee by reason of service in any Position, but does not include expenses authorized and incurred incidental to employment.
7. Continuous Service. Service in the employment of the District without a break or interruption. A severance of the employee from his/her employment initiated by either the District or the employee for periods of more than fifteen (15) days constitutes a break in continuous service, except where otherwise required by law.
8. Commission. The Santa Cruz Port District Commission.
9. Days. Calendar days unless otherwise stated.
10. Demotion. The movement of an employee from one Class to another Class having a lower maximum base rate of pay.

11. Disciplinary Action. The written reprimand, discharge, demotion, reduction in pay, or suspension of a regular or management employee for punitive reasons.
12. Domestic Partner. A person who has filed a Declaration of Domestic Partnership with the California Secretary of State pursuant to California *Family Code* section 297 *et seq.*
13. Eligibility List. The list which contains the names of successful applicants according to relative performance on the total weighted examinations.
14. Exempt Service. The Exempt Service shall include the following:
 - a. All elected officials and members of boards and commissions;
 - b. The Port Director;
 - c. Harbormaster;
 - d. Facilities Maintenance and Engineering Manager;
 - e. Voluntary personnel and personnel appointed to service without pay;
 - f. Emergency employees who are hired to meet the immediate requirements of an emergency condition, such as fire, flood or earthquake which threatens life or property;
 - g. Any new Position created, if it is specified as exempt by the Port Commission at the time of creation.
15. Full-Time Equivalent Employees (FTE). Represented Service employees whose Positions are designated by the Port Commission and work more than one thousand (1,000) hours per fiscal year. Unrepresented employees who work more than one thousand (1000) hours per fiscal year shall not be classified as FTEs, but may be subject to CalPERS enrollment.
16. Administrative Services Officer. Administrative Services Officer or his/her designee.
17. Internal Recruitment. A recruitment for a particular Position that is open to employees of the District only,
18. Lay-Off. The separation of employees from the active work force due to lack of work or funds, or to the abolition of Positions by the Port Commission for the above reasons or due to organization changes.
19. Management. Those Exempt Service employees holding the position of Department Head or higher.

20. Minimum Qualifications. The minimum requirements for an applicant to be considered for a particular District position, which vary according to the position sought.
21. Non-exempt Employees. Employees who hold Positions that, by the nature of the job requirements or the salary earned, is entitled to earn compensation at an overtime rate. Non-exempt status is based on applicable state and federal law, including, but not limited to guidelines under the Fair Labor Standards Act ("FLSA").
22. Open-Competitive Recruitment. A recruitment for a particular Position that is open to all interested applicants.
23. Part-Time Employees. Employees whose Positions are not designated as Full-Time Equivalent (FTE) status by the Port Commission, work less than full-time hours per fiscal year, are paid on an hourly basis and only receive fringe benefits that are specifically required by law, or as authorized by the Port Commission, or as may be expressly provided in these Rules. Part-time employees are employed at-will.
24. Port Director. The Port Director or his/her designee.
25. Position. A group of duties and responsibilities in the Represented and/or Unrepresented Service requiring the full-time or part-time employment of one person.
26. Probationary Period. A period to be considered an integral part of the examination, recruiting, testing and selection process during which an employee is required to demonstrate fitness for the Position to which the employee is appointed by actual performance of the duties of the Position.
27. Promotion. The movement of an employee from a Position in one Class to a vacant Position in another Class having a higher maximum base rate of pay.
28. Provisional Appointment. An appointment of a person who is not a current employee and who possesses the minimum qualifications established for a particular Class due to the absence of available eligible candidates or immediate need to fill a position on with a Temporary Employee.
29. Reduction in Pay. A temporary or permanent decrease in an employee's rate of pay for disciplinary reasons.
30. Reemployment List. A list of names of Regular Employees who have been laid off from a Position.
31. Regular Employee. An employee in the Represented Service who has successfully completed the Probationary Period and has been retained as hereafter provided in these Rules.

32. Reinstatement. The restoration without examination of a former employee or probationary employee to a classification in which the employee formerly served.
33. Rejection. The involuntary separation from the District service of an employee who has not successfully completed the Probationary Period for a Position, or the demotion of an employee who did not successfully complete the employee's promotional probationary period.
34. Represented Service. All Positions of employment in the service of the District designated by the Commission as being full-time equivalent status, excluding those in the Exempt Service and Unrepresented Service.
35. Resignation. The voluntary separation of a District employee from the District service.
36. Salary Range. The range of Salary Rates for a Class.
37. Salary Rate. The dollar amount of each step in a Salary Range, or the flat dollar amount for a Class not having a Salary Range.
38. Salary Step. The minimum through maximum salary increments of a Salary Range.
39. Seasonal Employees. Seasonal Employees are temporary employees appointed to those Positions of limited duration and not designated as Full-Time Equivalent (FTE) status by the Port Commission. Seasonal employees work less than full-time hours per fiscal year, are paid on an hourly basis and only receive fringe benefits that are specifically required by law, or as may be expressly provided in these Rules.
40. Seniority. An employee's status in relation to other employees based first on years of service in a particular Class and then on total years of service at the District.
41. Step Increase (also known as Advancement). A salary increase within the limits of a pay range established for a Class.
42. Suspension. The temporary separation from service of an employee without pay for disciplinary purposes.
43. Temporary Employee. Employees whose Positions are not designated as Full-Time Equivalent (FTE) status by the Port Commission, and are appointed for a limited period of time for a specified, limited purpose. Temporary Upgrade Pay or Working out of Class Pay (also known as Acting Appointment). An interim appointment to temporarily perform the duties of a higher position. The person filling this position must meet the minimum standards or qualifications of the position. Acting appointments are held on

an at-will basis by current District employees and will last no longer than permitted under the Public Employees Retirement Law.

44. Transfer. The movement of an employee from one Position to another vacant Position in the same Class or to a vacant Position in another Class with the same maximum base rate of pay.
45. Unrepresented Employee. Full-time or part-time employees in the Unrepresented Service and exempt from Represented Services who are working on a full-time or part-time basis. Unrepresented employees are employed at-will.
46. Unrepresented Service. All Positions of employment in the service of the District except those in the Exempt Service and Represented Service, whose Positions are not designated as full-time equivalent status by the Port Commission and are paid on an hourly or salary basis and only receive fringe benefits that are specifically required by contract, employment agreement or by law, or as authorized by the Port Director. Employees whose positions are part of the unrepresented service are employed at-will.

SEC. 1.5 NON-DISCRIMINATION

A. Equal Employment Opportunity.

The District is committed to a policy of equal opportunities for applicants and employees. The District does not discriminate against applicants or employees with respect to terms or conditions of employment based on race, religious creed, color, national origin, ancestry, sex, age, physical or mental disability, medical condition, sexual orientation, reproductive health decision-making, marital status, gender identity, gender expression, transgender status, pregnancy, childbirth, and related medical conditions, genetic characteristics or information, military and veteran status, use of cannabis off the job and away from the workplace (except as may be required by federal law), prior cannabis use, and/or any other category protected by federal and/or state law, nor does the District discriminate against applicants or employees who are perceived to have such characteristics or who associate with an individual having such characteristics. Every reasonable effort will be made to provide an accessible work environment for such employees and applicants.

B. Disabled Applicants and Employees.

Employment practices (e.g., hiring, training, testing, transfer, promotion, compensation, benefits, and discharge) will not discriminate against disabled employees or applicants. The District will engage in the interactive process, as defined by the Americans with Disabilities Act (“ADA”) and the Fair Employment and Housing Act (“FEHA”), to determine whether an applicant or employee is able to perform the essential functions of his/her position. During this process, the District will examine possible reasonable accommodations that will make it possible for the employee or applicant to so perform.

1. Request for Accommodation. An applicant or employee who desires a reasonable accommodation in order to perform essential job functions should make such a request in writing to the Administrative Services Officer. The request must identify: 1) the job-related functions at issue; and 2) the desired accommodation(s). Reasonable accommodation can include, but is not limited to job restructuring, reassignment to a vacant Position for which the employee is qualified, leaves of absence, and making facilities accessible.
2. Reasonable Documentation of Disability. Following receipt of the request, the Port Director and/or Administrative Services Officer may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee's ability to perform his/her essential functions, but will not require disclosure of diagnosis or genetic history.
3. Interactive Process. The District will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of his/her position. During this process, the District will examine potential reasonable accommodations that will make it possible for the employee or applicant to so perform. Such interactive process will include a meeting with the employee or applicant, the District, and, if necessary, the employee or applicant's health care provider.
4. Case-by-Case Determination. The District determines, in its sole discretion, whether reasonable accommodations(s) can be made, and the type of reasonable accommodations(s) to provide. The District will not provide an accommodation that would pose an undue hardship upon the District or that is not required by law. The District will inform the employee of any decisions made under this section in writing.
5. Fitness for Duty Leave. While the District is engaged in the interactive process with an employee, the District may require that the employee be placed on a fitness for duty leave in accordance with Section 9.17.
6. Medical Examinations.

Following a conditional offer of employment, prospective employees in designated classifications will be required to complete a job related pre-employment medical examination.

The District may require that employees take a psychological and/or a medical examination, as it deems necessary in order to determine employees to be mentally and physically capable of performing the essential functions of the job. Conditional offers of employment are made contingent upon passing this medical examination; however, the District will make reasonable accommodations to the special needs of any disabled individual as required by law. A licensed health care provider chosen by

the District will perform such examination without cost to the prospective employee. The prospective employee will be required to complete a medical history questionnaire and a medical records release as necessary to facilitate the examination. The health care provider will indicate the employee's fitness for employment on the examination form. In the event the examination is not completed prior to the employee's scheduled start date, only a temporary appointment may be made. Probationary appointment will be contingent on a satisfactory examination.

- a. Depending on the essential functions of a position, a medical examination may be required for:
 - (1) Applicants who have received a conditional offer of employment;
 - (2) Employees seeking a transfer from one position requiring general physical abilities to another position requiring physical abilities of a more different nature;
 - (3) Employees returning to work from a medical leave of absence, subject to any restrictions imposed by the California Family Rights Act . The physician conducting the medical examination will be supplied with a current job description indicating the essential functions of the position; or
 - (4) When a supervisor observes or receives a reliable report of an employee's possible lack of fitness for duty. Observations and reports may be based on, but are not limited to, employee's own self-report of potential unfitness, dexterity, coordination, alertness, speech, vision acuity, concentration, response to criticism, interactions with the public, co-workers, and supervisors. (See Section 9.17 - Fitness for Duty Leave)
- b. The results of all medical examinations will be kept confidential. Examination results for newly hired employees and employees transferring to another position will be kept in the employee's confidential medical file. No employee will hold any position in which the employee is not able to perform the essential functions of the job, with or without reasonable accommodation.

C. Prevention of Harassment/Discrimination/Retaliation.

1. The District policy prohibits harassment or discrimination based on an of or against our employees, job applicants, or contractors by another employee, supervisor, vendor, customer, or any third party on the basis of actual or perceived race, religious creed, color, age, sex, sexual orientation, gender, gender identity, gender expression, transgender status, reproductive health decision making, national origin, ancestry, marital status, medical condition as defined by state law (cancer or genetic characteristics), disability, military

service and veteran status, use of cannabis off the job and away from the workplace (except as may be required by federal law), prior cannabis use, pregnancy, childbirth, and related medical conditions, and/or any other category protected by federal and/or state law. In addition, District policy prohibits retaliation because of the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination or harassment or because of the employee's participation in an employment investigation, proceeding, or hearing.

2. Employees who believe they have been harassed, discriminated against, or retaliated against, should report that conduct to the District, and the District will investigate those complaints. For more information regarding the policy and complaint procedures, employees should review the District's policy against harassment, discrimination, and retaliation.

RULE II. CLASSIFICATION

SEC. 2.1 ALLOCATION OF POSITIONS

The Port Director shall allocate every Position in the Represented Service to one of the Classes established by the plan. A new Position shall not be created and filled until the classification plan has been amended by the Port Director and adopted by the Port Commission to provide therefore and an appropriate eligibility list established for such Position.

SEC. 2.2 CLASSIFICATION AND REALLOCATION

If the Port Director determines that the assigned duties for a Position have been materially changed by the District so as to warrant reclassification, to a new or already created Class, the Port Director shall determine whether to recommend that the Position be reclassified by the Port Commission and reallocated by the Port Director to a more appropriate Class following adoption of an amended classification/compensation plan by the Port Commission. Reclassifications shall not be used for the purpose of avoiding restrictions concerning demotions and promotions, nor to effect a change in salary in the absence of a significant, ongoing change in assigned duties and responsibilities.

The Port Director shall consider input from the incumbent Employee in the Position and from the supervisor but shall have sole discretion in determining whether to recommend reclassification of a Position to the Port Commission.

SEC. 2.5 CLASS SPECIFICATIONS/JOB DESCRIPTIONS

A. The Administrative Services Officer will prepare written job descriptions for each Class of positions.

B. Each job description will include the Class title, a brief description of the scope, nature, and responsibility of the Class, a description of the tasks or duties ordinarily performed in the Positions allocated to the Class; a statement of the minimum qualifications considered necessary for proficient performance of the work, including

education, experience, training, knowledge, skills, physical characteristics, and any additional factors considered pertinent. Job descriptions are not restrictive. The job descriptions, shall not be construed as an all-inclusive list of tasks performed; or be interpreted as restricting the assignment of related tasks not specifically listed therein; or as limiting the authority of supervisory personnel to assign, direct and control the work of subordinate employees. A supervisor may assign other related duties and responsibilities or otherwise direct the work of employees.

C. Substantive revisions to job descriptions that are associated with substantive changes to the duties performed by a particular Class shall be subject to approval by the Port Commission. Non-substantive changes, such as to reflect previous, gradual changes to the conditions in which work is currently performed or to improve accuracy in describing the Class or Position title or non-substantive details associated with job duties already performed, may be approved administratively by the Port Director and are not subject to approval by the Port Commission.

D. Each job description will identify the date of approval or last revision.

RULE III. COMPENSATION

SEC. 3.1 SALARY ON APPOINTMENT

- A. New Employees. New employees shall be paid at the first step of the salary range for the Position to which the employee is appointed except as provided for elsewhere in these Rules.
- B. Advanced Step Hiring. The Port Director may appoint a new employee to an advanced step of the pay range if it is determined that (1) qualified applicants cannot be successfully recruited at the first step of the salary range; or (2) an applicant's knowledge, skills, and abilities justify a higher starting pay.
- C. Reemployment. A person who previously held a Position with the District and was in good standing may, at the discretion of the Port Director, when reemployed in a Position with the same or lower pay range than held at separation, be appointed at the same salary rate which was paid at the effective date of the person's termination, or the nearest lower applicable step for the range to which the person is appointed.

SEC. 3.2 SALARY ANNIVERSARY DATES

Employees shall have a salary anniversary date of their date of hire. Employees who have been promoted or demoted since their date of hire shall have a salary anniversary date of their date of promotion or demotion, as applicable. The salary anniversary date may be modified by the action of the Appointing Authority under Section 7.6.A.5.

SEC. 3.3 INCREASES WITHIN SALARY RANGE

Employees will normally become eligible for an adjustment in pay after twelve (12) months of service in the first or starting step, though a 6-month review and adjustment may be

granted in the first year of employment. The adjustment shall be made only if recommended by the employee's supervisor, and if approved by the Department Head and Port Director. The remaining steps are incentive adjustments, based on performance evaluation, to encourage an employee to perform at his/her highest level, and to recognize seniority and increased skill on the job. Employees are normally eligible for these adjustments any time after the completion of twelve (12) months of service at the preceding step. This period may be shortened or extended in conjunction with the performance report recommendations and as approved by the Port Director.

SEC. 3.4 SALARY UPON PROMOTION

Except in instances where the granting of a full step increase would result in a salary in excess of the top step of the salary range, any employee who is promoted to a Position in a Class with a higher salary range shall be placed on the step in the new higher range which is at least equal to an advancement of 5% over his/her prior step. If the maximum of the range would be exceeded by such advancement, the employee shall receive the top step of the range. An employee thus promoted is assigned to a new salary anniversary date effective on the date of promotion.

SEC. 3.5 SALARY ON DEMOTION

Any employee who is demoted to a Position in a Class with a lower salary range shall have his/her salary reduced to a salary step in the range for the lower Class which is:

- A. If a disciplinary demotion, one or more steps less than that received in the salary range for the Class from which the employee is demoted. A new salary anniversary date shall be established on the basis of the demotion.
- B. If a non-disciplinary demotion, the step he/she would have attained in that lower Class if his/her services had been continuous in said lower Class with the same level of performance and length of service. He/she shall retain his/her salary anniversary date.

SEC. 3.6 ACTING PAY OR TEMPORARY UPGRADE PAY

An employee who is required on the basis of an acting appointment to serve in a Class with a higher salary range than that of the Class in which he/she is normally assigned, shall receive 5% above the employee's current base rate of pay or the pay rate equivalent to the first step of the salary rate of the higher salary range, whichever is greater, provided the following classifications are met:

- A. The employee shall possess the Minimum Qualifications for the higher Class, and perform all the duties and assume all the responsibilities of the higher Class on a full-time basis.
- B. Appointments may only be made where the absence or vacancy exceeds 80 cumulative hours in any one year.
- C. The Acting appointment is made in writing.

- D. Acting appointments are typically made for a 60-day period, but may be extended by the Port Director as needed and in compliance with applicable law and regulations.

An employee is entitled to acting pay immediately upon working in the higher classification.

Time served in the acting appointment of the upgraded class shall not contribute towards acquiring probationary or permanent status in the higher class.

SEC. 3.7 CALL-READY TIME, STAND-BY TIME, CALL-IN TIME, NIGHT DIFFERENTIAL

- A. Call-Ready Pay.

Non-exempt employees who are placed on "on-call" or "call-ready" status by the Port Director shall receive one-hour of pay at the employee's base rate for each consecutive 8 hours they are in "on-call" or "call-ready" status.

- B. Stand-By Time.

Peace officer employees who are placed on "stand-by" status in the event of an emergency by the Port Director shall receive one-half (1/2) of the employee's base rate of pay for the total amount of time they are in "stand-by" status.

- C. Call-In Time.

Non-exempt employees who are called back to work at an unscheduled or non-standby time shall be compensated a minimum of three (3) hours pay or time and one-half (when applicable) for the actual time worked, whichever is greater.

- D. Night Differential.

8% additional pay of the straight time rate shall apply to all hours worked between 9:00 p.m. and 7:00 a.m.

SEC. 3.8 PAY PERIODS

- A. Timing of Pay Periods.

1. The salaries and wages of all employees are paid semi-monthly, on the 20th day and the 5th day of every month.
2. The Port Director retains discretion to change the timing of future pay periods from semi-monthly to bi-weekly. Should the Port Director decide to implement this change, employees will receive written notice of the intended change before the next pay day.

3. In the event a pay day falls on one of the holidays listed in these rules, or on a Saturday or Sunday, the immediately previous working day shall become the pay day.

SEC. 3.9 ADVANCEMENT OF WAGES

- A. This Section applies to all employees.
- B. Employees requesting payment of wages in advance of scheduled pay days as defined in Section 3.8, shall submit said request to the Port Director, or his/her designated representative.
- C. The Port Director may authorize the requested advancement of wages up to 70% of the gross pay for the pay period, provided that the amount does not exceed the wages accrued (excluding applicable deductions) by the employee to the date of said request.
- D. Pre-pay day advancement of wages is not a privilege which an employee may use at his/her discretion, but may be authorized by the Port Director at his/her discretion in case of employee necessity and/or personal financial emergency. As a condition of receipt of advancement of wages, employees will be required to execute a written acknowledgement of the advancement and their obligation to repay any outstanding amounts following separation from District employment.

RULE IV. APPLICATIONS, RECRUITMENT AND EXAMINATIONS

SEC. 4.1 VACANCIES

- A. Vacant regular Positions in the Represented Service may be filled only by selection from an eligibility list, recruitment, by acting or provisional appointment, by transfer, by reinstatement or by demotion. Selection of employees for Positions in the Represented Service is made by the supervisor for the Position, subject to approval by the Port Director.
- B. When a Represented Service Position becomes vacant, the Port Director shall be notified by the Department Head responsible for the Position regarding the need to fill the vacancy, and the requested method for filling the vacancy.
- C. Announcements of all vacant Positions in the Represented Service will be posted on a bulletin board in the District Office.

SEC. 4.2 ANNOUNCEMENT OF VACANCIES / ACCEPTANCE OF APPLICATIONS

- A. If a continuing need for the Position exists, the Port Director will determine whether to conduct an initial internal recruitment or proceed directly to an open-competitive recruitment.

- B. The Port Director may conduct an internal recruitment when he or she determines, in his/her sole discretion, that doing so is in the best interest of the District.
 - 1. If the Position will be filled by open-competitive recruitment only, then the Port Director will publicly advertise the Position by a written announcement setting forth the basic requirements for the job, a closing date for acceptance of applications, and information where applications and the job description can be obtained.
 - 2. If the Port Director determines that an initial internal recruitment will be conducted, then the Port Director will limit all initial advertisement for the position to current employees only and will initiate the examination process in accordance with Section 4.3.A., ending with an interview with the responsible Department Head.
 - a. The Port Director in his or her discretion may designate the internal recruitment as a “Promotional Recruitment.” An internal Promotional Recruitment will only be open current employees for which the open position would be a promotion.
 - b. As part of an initial screening process, employees who achieved a rating of “Unsatisfactory” or “Needs Improvement” on their most recent performance report will be disqualified from further consideration at the first step of the internal recruitment.
- C. For all recruitments, applications will be available in the office of the Administrative Services Officer and online through the District’s website. Applications will be collected by the Administrative Services Officer until the closing date specified in the announcement for acceptance of applications.
- D. For all recruitments, the District will not request information from a job applicant relating to the applicant’s prior use of cannabis.

SEC. 4.3 ELIGIBILITY LIST/SELECTION TESTING

Following the closing date for applications, and completion of the examination process, an eligibility list shall be created.

- A. Examination Process.
 - 1. Criminal Conviction History.
 - a. The District shall not ask any applicant for employment to disclose, through any written form or verbally, at any time, information concerning an arrest or detention that did not result in conviction, or information concerning a referral to, and participation in, any pretrial or post-trial diversion program, or concerning a conviction that has been judicially dismissed or ordered sealed pursuant to law,

including, but not limited to, Sections 1203.4, 1203.4a, 1203.45, and 1210.1 of the Penal Code.

- b. Unless otherwise required by law, the District shall not ask an applicant for employment to disclose, orally or in writing, information concerning the conviction history of the applicant, until the District has issued a conditional offer to the applicant. The job announcement for the position in question will advise whether a lawful exception to this provision applies, such as for positions subject to the stringent requirements of Public Resources Code Section 5164.

2. Examination Process and Background Screening.

- a. Examinations shall be conducted and used to aid in the selection of qualified employees. They shall consist of recognized selection techniques that will fairly test the qualifications of candidates and shall be job-related. Examinations may include, but are not limited to, written tests, personal interviews, performance tests, physical agility tests, evaluation of daily work performance, work samples or any combination thereof. The Port Director may set minimum standards for all tests.
- b. Classifications designated by the District shall have their fingerprints submitted for clearance through the California Department of Justice and other agencies as deemed appropriate. Fingerprints will be submitted using the "LiveScan" process and in accordance with applicable state, federal, and local laws regarding the LiveScan process.
- c. The District also retains the right to conduct a thorough background check of each applicant. When conducting background checks on applicants, the District shall comply with all requirements of the Federal Fair Credit Reporting Act and the California Investigative Consumer Reporting Agencies Act.

B. Availability of Candidates. It shall be the responsibility of candidates to notify the District in writing of any change of address or other change affecting availability for consideration for appointment.

C. Disqualification based on Criminal Conviction History.

- 1. If the supplemental application or a subsequent background screening discloses a previous criminal conviction, the Port Director will take into account a number of factors in determining whether to disqualify the applicant or rescind a conditional offer, if any. Such factors may include the nature of the position, nature of the conviction, length of time since conviction and completion of any resulting incarceration or probation. If the Port Director disqualifies the candidate based on the conviction, the District

will provide written notification along with a copy of the criminal history report, if any.

2. The District will not use information obtained from a criminal history about an applicant or employee's prior cannabis use, unless the District is permitted to consider or inquire about such information under the California Fair Chance Act, or other state or federal law. This does not prevent the District from otherwise following state or federal laws requiring applicants or employees to be tested for controlled substances.

D. Conditional Offer of Employment.

Job applicants for certain positions, as required by the Port District, are required to submit to a physician's examination, and depending on the Position, may also be required to submit to a drug screen, at the District's expense, upon being made a conditional offer of employment. No job commitment shall be made until a negative drug screen result is obtained, where applicable, and a physician has certified that the applicant is medically fit to perform the essential functions of the Position, with or without reasonable accommodation. When the applicant reports to the medical facility for the scheduled examination, personal identification shall be provided to the facility in the form of a photograph and verifiable signature (for example, a driver's license).

All test results will be kept confidential. The applicant will be told whether the tests were passed or failed, but only the Port Director, the Administrative Services Officer, Harbormaster (for law enforcement positions) and their assistant(s) will have access to the test results, on a need-to-know basis.

E. Employment Oath.

All employees of the District must complete and sign the Oath or Affirmation of Allegiance for Public Officers and Employees on the first day of employment or as soon thereafter as practicable in accordance with the Constitution of the State of California. A signed copy will be included in the employee's personnel file.

RULE V. APPOINTMENTS

SEC. 5.1 APPOINTMENT OF NEW EMPLOYEE

The hire date of a new employee shall be that of the first day actually worked.

SEC. 5.2 PROVISIONAL APPOINTMENTS

- A. It shall be the policy of the District to require all Department Heads, whenever possible, to notify the Port Director of impending or anticipated vacancies in their departments sufficiently in advance. However, when the demands of the services are such that it is not practicable to give such notification and if it is not practicable to delay appointment, the Appointing Authority may make a provisional appointment to the Position. As soon as practicable, but not longer than six (6) months after a provisional appointment has been made, the Port

Director may cause an examination to be prepared, and all Positions filled provisionally shall be filled by an appointment from recruitment. Provisional appointments are not intended to be long-term. No person shall be employed by the District under provisional appointment for a total of more than six (6) months in any fiscal year except that the Port Director may, with approval of a majority of the Commission, extend the period. A person appointed to a Position on a provisional basis shall not be entitled to credit for the time served under the provisional appointment toward the completion of his/her Probationary Period and shall be entitled to the same salary and other benefits as an applicant appointed from regular recruitment except that he/she may not be employed under the provisional appointment for longer than the period authorized herein.

- B. No preference shall be allowed in any examination for an applicant who rendered service in that Position under a provisional appointment.

SEC. 5.3 ACTING APPOINTMENTS TO A HIGHER CLASS

An acting appointment may be made of a current employee to a higher Class or Position occupied by a person on temporary leave or disability. Such acting appointment shall be made in accordance with Section 3.6. Upon the return of the incumbent from leave or disability, the acting appointment shall be immediately terminated, and the appointee shall resume the duties and receive the compensation and privileges as if he/she had continued his/her duties in his/her previous classification.

SEC. 5.4 REINSTATEMENT

The Appointing Authority may, with the approval of the Port Director, reinstate any person who has resigned in good standing, provided that such reinstatement is accomplished within one (1) year of the date of resignation, or as otherwise required by law. Any person so reinstated shall be subject to a new Probationary Period of the same length as established for new appointees to a Position in the Class, unless excused by the Port Director.

SEC. 5.5 TRANSFER

- A. The Port Director may institute a voluntary or involuntary transfer of an employee from one Position to another vacant Position in the same Class or to a vacant Position in a comparable Class at the same salary level.
- B. While the Port Director retains sole discretion whether to institute voluntary and involuntary transfers, consideration will be given to the affected employee's and the supervisor's wishes.

SEC. 5.6 NEPOTISM

- A. Definitions.
 - 1. Applicant. A person who applies for a position at the District and is not a Current Employee.

2. Change of Status. A change in the legal status or personnel status of one or more Current Employees.
 - a. Changes in legal status include but are not limited to marriage, divorce, separation, or any such change through which a Current Employee becomes a Family Member or ceases to be a Family Member of another Current Employee.
 - b. Changes in personnel status include but are not limited to promotion, demotion, transfer, resignation, retirement or termination of a Current Employee who is a Family Member of another Current Employee.
3. Current Employee. A person who is presently a District employee, or an elected or appointed District official.
4. Direct Supervision. One or more of the following roles, undertaken on a regular, acting, overtime, or any other basis shall constitute Direct Supervision:
 - a. Occupying a position in an employee's direct line of supervision; or
 - b. Functional supervision, such as a lead worker, crew leader, or shift supervisor;
 - c. Participating in personnel actions including, but not limited to, appointment, transfer, promotion, demotion, layoff, suspension, termination, assignments, approval of merit increases, evaluations, and grievance adjustments.
5. Family Member. A spouse, domestic partner, parent, parent-in-law, step-parent, legal guardian, sister, step-sister, sister-in-law, brother, step-brother, brother-in-law, child, step-child, legal ward, daughter-in-law, son-in-law, grandchild, or grandparent.
6. Prohibited Conduct. Conduct by Family Members including, but not limited to, one or more of the following:
 - a. Participation directly or indirectly in the recruitment or selection process for a position for which a Family Member is an Applicant.
 - b. Direct Supervision of a Family Member that does not comply with limitations set forth in this Rule;
 - c. Conduct by one or more Family Members that has an adverse effect on supervision, safety, security or morale.

B. Guidelines for Applicants.

1. No qualified Applicant may be denied the right to file an application for employment and compete in the examination process. However, consistent with this Article, the District may reasonably regulate, condition, or prohibit the employment of an Applicant for a full-time position.
2. Disclosure. Each Applicant is required to disclose the identity of any Family Member who is a Current Employee.
3. Assessment by the Administrative Services Officer. For each Applicant who has a Family Member who is a Current Employee, the Administrative Services Officer shall assess whether any of the following circumstances exist:
 - a. Business reasons of supervision, safety, security or morale warrant the District's refusal to place the Applicant under Direct Supervision by the Family Member; or
 - b. Business reasons of supervision, security, or morale that involve potential conflicts of interest or other hazards that are greater for Family Members than for other employees, which warrant the District's refusal to permit employment of Family Members in the same department, division, or facility.
4. Decision of the Administrative Services Officer. If the Administrative Services Officer determines that either of the above circumstances exists, the Administrative Services Officer shall exercise his or her discretion to either reject the Applicant or consider the Applicant for employment in a position that does not present either of the above circumstances.
5. Following examination, if the Applicant is successful, he or she may be employed in a position for which the Administrative Services Officer has determined that neither circumstance exists pursuant to Section 5.6(B)(3).
6. When an Applicant is refused appointment by virtue of this Article, his or her name shall remain eligible for openings in the same classification. For each opening, the Administrative Services Officer shall make a determination consistent with Section 5.6(B)(3).

C. Guidelines for Current Employees.

1. Employees shall report a Change of Status to the Administrative Services Officer within a reasonable time after the effective date of the Change of Status. Wherever feasible, Employees shall report a Change of Status in advance of the effective date.
2. Within thirty days from receipt of notice, the Administrative Services Officer shall undertake a case-by-case consideration and individualized assessment of the particular work situation to determine whether the

Change of Status has the potential for creating an adverse impact on supervision, safety, security, or morale.

- a. The Administrative Services Officer shall consult with an affected supervisor to make a good faith effort to regulate, transfer, condition or assign duties in such a way as to minimize potential problems of supervision, safety, security, or morale.
 - b. Notwithstanding the above provisions, the District retains the right to exercise its discretion to determine that the potential for creating an adverse impact on supervision, safety, security, or morale cannot be sufficiently minimized and to take further action pursuant to Section 5.6(C)(3)(a).
3. Following a Change of Status or new hire of a Family Member, affected supervisors shall reasonably monitor and regulate both Family Members' conduct and performance for a period of one year from the date of the Administrative Services Officer's determination. The supervisor shall document these actions. Successive supervisors may re-visit such a determination at their discretion.
- a. If the supervisor determines, subject to any applicable requirements of due process, that an employee has engaged in Prohibited Conduct, the supervisor shall re-visit the Administrative Services Officer's determination. Depending on the severity of the Prohibited Conduct, the supervisor may recommend that the Administrative Services Officer take one or more of the following additional measures:
 - (1) Transfer one of the Family Members to a similar position that would not be in violation of this policy. The transfer will be granted provided the Family Member qualifies and there is an opening to be filled. There can be no guarantee that the new position will be within the same classification or at the same salary level.
 - (2) If the situation cannot be resolved by transfer, one of the Family Members must separate from District employment. If one of the employees does not voluntarily resign, the employee with primary responsibility for the Prohibited Conduct will be discharged.
4. Supervisors who receive complaints from other employees that one or more Family Members has engaged in Prohibited Conduct shall respond in accordance with existing complaint and disciplinary procedures, where applicable.

5. Where situations exist prior to the effective date of this Article that may be in conflict with this Article, every effort shall be made to reasonably address the situation so as to avoid any future conflict.
- D. Employee Complaints. Employees who believe that they have been adversely affected by Prohibited Conduct by one or more Family Member should submit complaints to the Administrative Services Officer.
- E. Appeal of Administrative Services Officer Determination. Current Employees and Applicants affected by the application of this Article, may appeal the action to the Administrative Services Officer within ten days of the action. The Port Director shall hear the individual's concerns and issue a written decision within 30 days of receipt of the individual's appeal. The decision of the Port Director is final, and no other appeal may be had unless the employee is entitled to further administrative appeal under other provisions of these Personnel Rules.
- F. Savings Clause. Should any provision of this Rule, or any application thereof, be unlawful by virtue of any federal, state, or local laws and regulations, or by court decision, such provision shall be effective and implemented only to the extent permitted by such law, regulation or court decision, but in all other aspects, the provisions of this Rule shall continue in full force and effect.

SEC. 5.7 CONSENSUAL ROMANTIC RELATIONSHIPS BETWEEN EMPLOYEES.

- A. General. Consensual romantic or sexual relationships between District employees can lead to misunderstandings, complaints of favoritism, adverse effects on employee morale, and possible claims of sexual harassment during or after termination of the relationship. As a result, such relationships present existing or potential conflicts that adversely affect efficient operation of the District. Relationships that present an actual conflict under this section are therefore prohibited.
- B. Application. This section shall apply to all District employees, regardless of gender or sexual orientation, who have a romantic or sexual relationship with another District employee. The provisions of Section 5.6 regarding nepotism shall govern employees who marry or become domestic partners with another District employee.
- C. Definition of Conflict. For purposes of this section, a conflict exists if business issues of supervision, safety, security, and/or morale would be impacted by a romantic or sexual relationship between two employees.
- D. Supervisor's Duty to Report. If a romantic or sexual relationship exists between a Supervisor and another employee (including another Supervisor), the Supervisor shall promptly disclose the relationship to the Administrative Services Officer and request a determination as to whether the relationship presents a conflict. The disclosure must identify the names and positions of both employees.

A Supervisor's failure to comply with this section shall be grounds for discipline up to and including dismissal.

- E. Determination by Administrative Services Officer. Within five working days, the Administrative Services Officer shall issue a written determination as to whether the relationship presents a conflict, and is thereby prohibited. The Administrative Services Officer, in consultation with the Port Director, shall have exclusive discretion in making the determination.
- F. Resolution of Conflicts. Subject to limitations imposed by law and applicable provisions of these Rules, the Administrative Services Officer will attempt in good faith to work with the Supervisor and the other employee to consider options to eliminate the conflict, including removing the Supervisory authority that created the conflict, reassignment, transfer or voluntary demotion of a Supervisory employee, or where the Administrative Services Officer determines that modification of a Supervisor's assignment is not feasible, reassignment, transfer or voluntary demotion of a non-Supervisory employee. The Administrative Services Officer retains discretion to determine that the conflict may be resolved via voluntary resignation or dismissal only.
- G. Prohibited On-Duty Conduct. All District employees are prohibited from engaging in intimate, physical, or other conduct in furtherance of a romantic or sexual relationship with another District employee at work locations during work hours. Moreover, upon termination of a sexual or romantic relationship with another District employee, employees are prohibited from engaging in behavior that adversely affects the working conditions of any District employee. In general, all employees are expected to observe appropriate standards of workplace conduct in their interactions with other District employees.
- H. Complaints. Employees who believe that they have been adversely affected by romantic or sexual relationships between District employees should follow the complaint procedures provided under the District's Policy Against Harassment, Discrimination, and Retaliation. The complaint procedures are available to all employees regardless of their past or present participation in a romantic or sexual relationship with another District employee.

RULE VI. PROBATION

SEC. 6.1 PROBATIONARY STATUS

During the Probationary Period the employee, unless subject to the terms and conditions of an employment contract, may be rejected at any time, for any lawful reason, or no reason.

SEC. 6.2 PROBATIONARY PERIODS

- A. The Probationary Period shall not include time served under a temporary, acting or provisional appointment. Periods of time on leaves longer than thirty (30) days

require that the Probationary Period be extended a period of time equal to the amount of time spent on leave.

B. Length of Probationary Period.

1. The positions of Assistant Harbormaster, Senior Deputy Harbormaster, and Deputy Harbormaster shall have a Probationary Period of one (1) year for all original and promotional appointments. All the other regular positions shall have a Probationary Period of six (6) months for all original and promotional appointments.
2. Probationary Period - Transfers. Whenever a transfer is made, at the initial request of the employee, the transfer shall be subject to the employee satisfactorily completing a six (6) month probation period in the new Position or completing the remainder of the original Probationary Period, whichever is longer.
3. Performance Reports for Probationary Employees. During the probationary period, all probationary employees will be evaluated between the 60th and 90th day of probation and again after six months. The District may in its discretion, opt to evaluate a probationary employee at any additional time.
4. Extension of Probationary Period. At the discretion of the Appointing Authority, any employee serving a Probationary Period may at the conclusion of such period have his/her Probationary Period extended for up to an additional six (6) months, but for no longer than a total of twelve (12) months unless delayed by pending legal action. The Appointing Authority shall notify the Administrative Services Officer of such contemplated extension of the Probationary Period, before taking such action. Employees shall be notified in writing of any extension of Probationary Periods.

SEC. 6.3 REGULAR STATUS

- A. An employee's status shall be considered regular upon his/her completion of the applicable Probationary Period, including any extension implemented in accordance with Section 6.2.B.4.
- B. If a probationary employee receives written notice of rejection from the Port Director prior to expiration of the applicable Probationary Period, the employee has not attained "completion" within the meaning of Section 6.3.A .

SEC. 6.4 REJECTION DURING PROBATIONARY PERIOD OF PROMOTED EMPLOYEES

- A. Regular Employees. A Regular employee who is rejected during the Probationary Period from a Position to which he/she has been promoted shall be reinstated to the Position from which he/she was promoted, if such Position is vacant and existing, unless he/she is discharged for cause, which would have been sufficient to cause his/her discharge from his/her former Position as well.

In such case, the employee shall be entitled to appeal his/her discharge as provided in these rules.

- B. Probationary Employees. Employees promoted to a higher Class while on probation in a lower Class and who subsequently fail to perform satisfactorily in the promoted Position will be entitled to return to their former Position provided the Position has not been eliminated and is vacant. Such employee shall continue to serve a Probationary Period for the length of time remaining on the Probationary Period at the time of promotion.

RULE VII. PERFORMANCE REPORTS

SEC. 7.1 POLICY

It is the policy of the District that periodic and regular reports be made as to the efficiency, competency, conduct and merit of its employees. To this end, it is the responsibility of the Port Director and management staff that these ratings be made. It is the responsibility of the Administrative Services Officer to provide and prescribe the forms and procedures to be used in such reports of performance so that the program of performance reporting will be carried on in a sound, timely, and effective manner.

SEC. 7.2 AUTHORITY TO MAKE REPORTS

Managers shall have the authority to prepare reports of performance for those employees within his/her department. The Port Director shall prepare reports of performance for the managers. The Port Director shall review and approve all personnel performance reports prior to review and signature by the employee and his/her manager.

SEC. 7.3 TIME FOR REPORTING

- A. Probationary Employees. No later than (10) days prior to the completion of the 90th day of the Probationary Period, the manager shall furnish the Administrative Services Officer with a report as to the progress and capability of the probationary employee, a copy of which shall also be furnished to the probationer.
- B. Regular Employees. A report for an employee shall be prepared and received within thirty (30) days after his/her salary anniversary date, provided that the employee may in addition be given a report of performance at any other time during the year upon his/her request or at the discretion of the Appointing Authority, and provided further that any employee who has been rated "improvement needed" or "unsatisfactory" (or equivalent i.e. "does not meet expectations") shall be reported on again three (3) months from receiving such rating and again three (3) months subsequent to that in connection with a Performance Improvement Plan, as set forth in Section 7.6.B.
- C. Lack of Opportunity to Observe Performance. If, as a result of extended absence or other circumstances resulting in a supervisor's opportunity to observe an employee's performance for fewer than three (3) months, the employee and the manager may mutually agree in writing to delay issuance of the report of

performance by up to three (3) months, with prior approval of the Administrative Services Officer. If the employee is eligible for a step advancement, and the manager determines that the employee's performance so warrants, he/she may recommend to the Port Director that the employee receive the step advancement retroactively to the salary anniversary date.

SEC. 7.4 REVIEW WITH EMPLOYEE

It is acknowledged that one of the prime benefits of a sound performance rating system is that it can bring together the employee and his/her manager in a frank and constructive discussion and appraisal of the employee's work and the specific ways in which it may be improved. Therefore, each performance report shall be thoroughly discussed with the employee with this view in mind. The employee shall sign the report to acknowledge its contents. Such signature shall not necessarily mean the employee endorses the content of the report, and an employee's refusal to sign the report does not invalidate it. The employee shall be entitled to submit a written response to his/her performance report within 10 calendar days of receipt of the performance report. Any such response will be attached to the employee's performance report and maintained in his/her regular personnel file. No administrative appeal of the rating or contents of a performance report may be had by the employee.

SEC. 7.5 DISTRIBUTION OF REPORTS

Reports shall be prepared in three (3) copies. After review and approval of the Appointing Authority, one copy shall be retained by him/her for his/her files, one copy provided to the employee, and one copy shall be transmitted to the Administrative Services Officer. The Administrative Services Officer copy, along with any response by the employee, shall be made a part of the employee's employment history and included in the employee's personnel file.

SEC. 7.6 PERFORMANCE RATINGS

A. Effects of "Improvement Needed" and "Unsatisfactory" Ratings.

1. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent "i.e. "does not meet expectations") will not be eligible to be appointed off of any eligibility list until a satisfactory rating is established.
2. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent i.e. "does not meet expectations") will not receive any merit salary increase during the period following the report, except as provided in subsection 5 below.
3. Any employee who receives an overall rating of "unsatisfactory" or of "improvement needed" (or equivalent i.e. "does not meet expectations") may be subject to a Performance Improvement Plan, as provided in subsection 7.6.B., below.

4. In any case, where an employee receives an overall rating of “unsatisfactory” on two (2) consecutive occasions or “improvement needed” (or equivalent i.e. “does not meet expectations”) on three (3) consecutive occasions, Disciplinary Action shall be taken by the Appointing Authority as provided for in these rules, if such action has not already been taken.
5. If an employee who has been denied a merit salary increase improves his/her performance to such an extent that the Appointing Authority believes a merit salary increase is now justified, the Appointing Authority shall indicate the improvement on a report of performance form and may specifically award a merit salary increase. Additionally, in awarding the merit salary increase under this subsection, the Appointing Authority may change the merit salary increase anniversary date to the date of the award of the merit salary increase or may permit the anniversary date to remain the same. Any merit salary increase awarded under this subsection shall not be made retroactive.

B. Performance Improvement Plan.

1. The Port Director may authorize the use of a Performance Improvement Plan following an employee’s receipt of an overall rating of “unsatisfactory” or “improvement needed” (or equivalent i.e. “does not meet expectations”) in his/her most recent performance report, or upon request of a supervisor whose other efforts to have an employee conform to the District’s policies and procedures or other standards of performance have not been successful.
2. A Performance Improvement Plan is not a disciplinary action, and should not be used in place of appropriate disciplinary action.
3. A Performance Improvement Plan shall detail the specific reasons that performance is deficient or non-compliant, requirements for improvement, the number of special and/or regular evaluation periods that the Plan is intended to be in place, and a schedule for review of the employee’s progress under the Plan.
4. The employee will receive an opportunity to meet with his/her supervisor or the Port Director to provide input into the terms of the Performance Improvement Plan before the Plan takes effect. However, in the Port Director’s discretion, the Performance Improvement Plan may take effect prior to expiration of the employee’s time to respond to his/her performance report; as set forth in Section 7.4.
5. The Port Director shall retain discretion to determine at any time that an employee under a Performance Improvement Plan has not demonstrated reasonable improvement and that the Plan should be discontinued.

6. The Port Director may further determine at any time that Disciplinary Action is warranted to address an employee's insufficient performance or other misconduct in accordance with Rule XII.
7. If the Port Director determines that the employee has demonstrated sufficient improvement under the terms of the Performance Improvement Plan, and the employee then maintains acceptable performance over the full period of the Performance Improvement Plan, then the Plan shall be considered "successful."
 - a. After the completion of a "successful" Performance Improvement Program, the District shall maintain a record of the Plan in the employee's personnel file.
8. If the Port Director determines that a Performance Improvement Plan has not been "successful," or that the employee's performance has regressed in the evaluation period following completion of a "successful" Performance Improvement Plan, the Port Director may determine that disciplinary measures are warranted in accordance with Rule XII.

RULE VIII. HOURS OF WORK/OVERTIME

SEC. 8.1 POLICY

It is the policy of the District that 40 hours per week shall constitute a week's work, for all Full-Time Employees, except that work days and work weeks of a different number of hours may be established in order to meet the varying needs of the District where permitted by law and Memorandum of Understandings.

SEC. 8.2 WORK WEEK

The work week shall be seven (7) consecutive twenty-four (24) hour periods starting at 7:00 a.m. on Monday and ending at 6:59 a.m. on the following Monday, or as required under the applicable operative Memorandum of Understandings or policies or procedures.

SEC. 8.3 DAILY HOURS OF WORK

Daily hours of work or shifts for regular employees shall be assigned by the Port Director as required to meet the operational requirements of the District.

SEC. 8.4 CHANGE IN WORKING HOURS

Any foreseeable absence or deviation from scheduled working hours desired by an employee shall, in advance, be cleared in writing through the office of the Port Director, and such absence shall be noted on the employee's time sheet.

SEC. 8.5 OVERTIME AND COMPENSATORY TIME OFF

- A. Overtime Compensation.

1. Employees shall not perform work outside of their regularly scheduled shifts unless requested to do so by a Department Manager. This requirement applies to, but is not limited to:
 - a. Work performed before the start of the shift;
 - b. Work performed during meal periods;
 - c. Work performed after the end of the shift; and
 - d. Any other work performed "off the clock" including work performed at home.
2. All employees shall take reasonable measures wherever feasible to avoid the need for work to be performed outside of their regularly scheduled shifts. Where required, time spent on such work shall be kept to a minimum.
3. Department Managers shall adhere to the following guidelines in requesting or assigning work outside an employee's regularly scheduled shift:
 - a. An employee who may be required to perform work outside the regular shift shall be notified of the apparent need for such work as soon as practicable prior to when the work is expected to begin.
 - b. When practicable, opportunities shall be made available on an equal basis to employees capable of performing the work.
4. Non-exempt Full-Time Equivalent Represented Employees shall be paid at one and one-half times the employee's regular rate of pay for all hours worked in excess of the employees regularly scheduled shift or in excess of forty (40) hours in a work week. Vacation, sick leave, holidays, jury duty and compensatory time off shall not be considered hours worked. Non-exempt employees shall be paid at two times the employee's regular rate of pay for all hours worked in excess of twelve (12) hours in a shift.
5. Unrepresented Non-exempt Employees, including Part-Time, Seasonal, Temporary and Provisional employees shall be paid at one and one-half times the employee's regular rate of pay for all hours worked in excess of forty (40) hours in a work week. Vacation, sick leave, holiday, jury duty and compensatory time off shall not be considered hours worked.
6. Employees shall be subject to discipline, up to and including termination, for violation(s) of this section.

B. Compensatory Time Off. Employees may elect to convert earned overtime to compensatory time off at the rate of one and one-half (1½) hours for each hour actually worked, subject to the prior approval of the Department Head.

The Port Director may require employees to take overtime earned as compensatory time off, in order to stay within the budget confines. Employees

may not accrue more than two hundred-forty (240) hours of compensatory time off for non-safety personnel and four hundred-eighty (480) hours for safety personnel (peace officers). Employees shall be permitted to use compensatory time off within a reasonable period of time after the employee makes a request, provided that it does not unduly disrupt the District's operations. "Unduly disrupt" shall mean that it would impose an unreasonable burden on the District's ability to provide services of acceptable quality and quantity for the public during the time the employee requested off.

All accrued and unused compensatory time during the calendar year will be paid out on the last pay date in December.

An employee whose employment is terminated for any reason shall be paid for all unused compensatory time off at a rate of the final hourly rate earned by the employee. An employee may also be paid for all accrued but unused compensatory time off at the rate above while being employed by the Port District, subject to the Port Director's approval.

SEC. 8.6 REST PERIODS

Non-exempt employees shall be entitled to a paid 15-minute break for every four (4) hours worked. Such time shall be considered hours worked. Breaks shall not be combined at the end of the day for purposes of leaving a shift early without the advance written approval of the Department Head.

SEC. 8.7 MEAL PERIODS

- A. Non-exempt employees are entitled to unpaid, thirty minute meal periods after working for at least 5 hours during which they shall be entirely relieved of responsibilities and restrictions. Such time shall not constitute hours worked.
- B. Supervisors shall schedule meal periods to ensure appropriate coverage.
- C. Non-exempt employees who work during their meal periods shall be paid for time worked.
- D. Employees may be permitted to waive their meal periods during certain portions of the year. The District shall only allow this waiver if agreed to in writing by the employee. Employees who waive their 30-minute meal period may be permitted to take an unpaid thirty minute meal period if the workload permits. Employees who have waived their 30-minute meal period shall not be entitled to overtime solely because of the waived meal period.

SEC. 8.8 CONDUCT DURING THE WORKDAY

During the workday, employees are expected to devote their full time in the performance of their assigned duties. Any approved outside work, part-time job, hobbies, or personal business must be performed during off duty hours. Off duty hours include unpaid lunch

break periods, but do not include other rest or break periods during which the employee continues to receive pay.

RULE IX. LEAVES OF ABSENCE

SEC. 9.1 HOLIDAYS

A. The following days shall be recognized and observed as paid holidays for regular full-time employees:

1. New Year's Day (January 1)*
2. Martin Luther King Jr.'s Birthday
3. Presidents' Day
4. Memorial Day
5. Independence Day (July 4)*
6. Labor Day
7. Veteran's Day (November 11)
8. Thanksgiving Day*
9. Day After Thanksgiving Day
10. Christmas Eve (December 24)
11. Christmas Day (December 25)*
12. Employee Floating Holiday

B. The holiday schedule will be posted annually. If a holiday falls on a Saturday or Sunday and is observed nationally the preceding Friday or following Monday, the District will observe the holiday according to the designated federal schedule.

C. Full-Time Regular and Probationary Employees shall receive eight (8) hours pay for each of the holidays listed above.

D. Employees who actually work on a holiday shall receive a commensurate amount of hours banked as holiday time. Employees may convert their banked holiday hours to compensation, or take a commensurate amount of scheduled time off with supervisor approval.

E. Hardship Holidays.

The holidays listed above with an asterisk are considered "Hardship Holidays". In addition to receiving holiday pay under subsection D. above, full-time regular and probationary non-exempt employees working on a hardship holiday will receive additional compensation as follows:

<u>Pay For:</u>	<u>Additional Pay Based on Hours Worked on the Hardship Holiday</u>
Regular Shift	1.5 X the straight time hourly rate
Working at Overtime Rate	1.5 X the over-time rate

Stand-By Time	0.5 X the straight time hourly rate
Call-in Hours	1.5 X the call-in calculation
Call-Ready Time	1.5 X the call-ready time

SEC. 9.2 VACATION

- A. Full-Time Equivalent Regular and Probationary employees in all classifications shall accrue vacation, on a pay period basis, according to the following schedule:

<u>Years of Service</u>	<u>Vacation Accrual</u>
0 – 5 years	10 days per year (3.333 hours per pay period)
6 – 10 years	15 days per year (5 hours per pay period)
11 – 20 years	20 days per year (6.666 hours per pay period)
21 years and greater	25 days per year (8.333 hours per pay period)

- B. The Port Director may in his/her sole discretion, permit a Department Head to accrue vacation on a schedule other than as specified in Section 9.2.A. The Port Director shall specify the applicable schedule in writing at the time of hire.
- C. Employees may begin using accrued vacation after completing six months of continuous employment with the District.
- D. Employees may carryover up to 80 hours of unused accumulated vacation to the next calendar year. This carryover amount shall be prorated for new hires. The Port Director may, in his/her sole discretion, increase the carryover amount.
- E. Employees may convert up to one-half (1/2) of their unused accumulated vacation hours per calendar year to compensation and shall be paid at the employee's rate of pay at the time of the conversion.
- F. At termination of employment for any reason, the District shall compensate the employee for the employee's accumulated vacation time at the employee's straight time rate of pay.
- G. The District will not require an employee to take vacation time in lieu of sick leave or leave of absence during periods of illness. However, the employee may elect to take vacation time in case of extended illness constituting a "serious health

condition" within the meaning of the District's Family Care and Medical Leave, Pregnancy Disability Leave, and Military Family Leave Policy where sick leave has been fully used.

- H. If a holiday falls on a work day during an employee's vacation period, that day shall be considered as a paid holiday and not vacation time.
- I. Vacations may be scheduled at any time during the year upon written approval of the Department Head.
- J. No more than once per year, employees may request an advance of vacation not yet accrued. Vacation advances shall be approved at the sole discretion of the Port Director. If the employee separates from District employment before accruing the advanced vacation, Any employee who is granted an advance of vacation must sign an agreement authorization authorizing the District to deduct any advanced vacation from his or her final paycheck if the employee separates from the District employment before accruing the advanced vacation.

SEC. 9.3 SICK LEAVE

A. Definitions.

1. **Family member.** Family member means a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands *in loco parentis*; biological, adoptive, or foster parent, stepparent, or legal guardian of an employee or of the employee's spouse or registered domestic partner, or a person who stood *in loco parentis* to either the employee or the employee's spouse or domestic partner as a minor; an employee's spouse, registered domestic partner; grandparent; grandchild; or sibling, including half-siblings; or a designated person.
2. **Designated Person.** A person identified by the employee at the time the employee requests paid sick days. An employee may only designated one person per 12-month period for paid sick days.
3. **Permitted Use of Sick Time.** Permitted Use of Sick Time consists of any of the following:
 - a. Diagnosis, care, or treatment of the existing health condition of an employee or a member of the employee's Family member or designated person;
 - b. Preventative care for an employee or the employee's Family member or designated person;
 - c. For employees who are victims of domestic violence, sexual assault, or stalking, leave taken for the purposes described in Sections 19.5 below.

- d. Extension of Bereavement Leave to which an employee is entitled under Section 9.4.
- e. Any other reason allowed by applicable local ordinance.

Employees have the sole discretion for designating what type of sick days they wish to take.

- 4. Full-Time Equivalent Employees. For purposes of this policy a “Full-Time Equivalent Employee” means any Regular or Probationary Full-Time Employee, as defined in Section 1.4.B.15.
- 5. Unrepresented Service Employees (i.e., Part-Time, Temporary or Seasonal Employees). For purposes of this policy an “Unrepresented Service Employee” means any employee who is not in the Represented Class and not a Full-Time Equivalent employee, including, but not limited to part-time, temporary, and seasonal employees.
- 6. Employees. For purposes of this policy the term “Employees” without further modification includes all District employees, regardless of status or hire date.

B. Eligibility.

All Employees are eligible to accrue and use paid sick leave in accordance with the applicable terms of this policy.

C. Waiting Period Prior to Use of Sick Leave by New Hires.

All New Hires must complete an initial, one-time 90-calendar day waiting period before using sick leave. Employees who leave District employment before completion of the 90-day waiting period are not entitled to use any sick leave. However, New Hires who return to District employment within 12 months of separation will have their sick leave balances restored in accordance with Section 9.3.H and need only complete the remainder of the 90-day period before becoming entitled to use available sick leave.

D. Accrual.

1. Full-Time Employees.

Full-Time Employees shall earn sick leave at the rate of 8 hours per month. There shall be no limit on sick leave accrual.

2. Unrepresented Service employees.

- a. New Unrepresented Service employees will receive a bank of 5 days or 40 hours of sick leave on the first day of the next month following their first date of employment, whichever is later. New Hires must satisfy the waiting period set forth in Section 9.3.C. before using any time from the sick leave bank.

- b. The District will provide a new bank of 5 days or 40 hours of sick leave on January 1 of each subsequent calendar year to each Unrepresented Service employee.
- c. Unrepresented Service employees shall accrue no additional sick leave beyond the 5 day or 40-hour bank and shall have no right to carry over banked hours from year to year.

E. Notice.

1. Unscheduled Time Off. An Employee shall contact his/her immediate supervisor prior to the commencement of the assigned work shift, or as soon thereafter as is practical, to report absence from work due to a Permitted Use of Sick Time. Consideration shall be given to emergency situations that restrict the employee from contacting his/her immediate supervisor prior to his/her assigned work shift, including, but not limited to accident, injury, or hospitalization.
 - a. An employee shall notify his/her immediate supervisor before the employee leaves the work site prior to completion of the work shift due to any unscheduled Permitted Use of Sick Time; however, the employee need not provide the reason that sick time is needed to the immediate supervisor.
2. Scheduled Time Off. Notice of time off for scheduled appointments involving a Permitted Use of Sick Time such as personal medical appointments must be provided to the Administrative Services Officer at least one week in advance of the appointment, whenever feasible. Every effort should be made to schedule such appointments at times that do not conflict with the District's work schedule.
 - a. The employee shall again notify his/her immediate supervisor before the employee leaves the work site prior to completion of the work shift due to the scheduled Permitted Use of Sick Time.

F. Medical Certification or Other Documentation.

Employees off work on sick leave for a period of seven or more consecutive work days may be required at any time to provide a doctor's note or other relevant documentation certifying that the reason for the employee's absence is a Permitted Use of Sick Time, and if the employee is unable to return to work, stating how long the employee is expected to be unable to do so.

G. Return to Work.

For any absence of seven or more consecutive work days due to an employee's own illness or injury, the supervisor may require that the employee provide a note from his/her physician, releasing the employee with or without restrictions, before the employee may return to work.

H. Reinstatement of Unused Sick Leave Balances.

An Employee who separates from employment with the District and returns to active employment within 12 months of his/her separation date shall have his/her unused sick leave balance reinstated, up to a maximum of 24 hours—unless the applicable operative Memorandum of Understandings permit accruing more than 24 hours per year and the employee accrued, used paid sick leave hours, prior to separation, is also more than 24 hours.

For purposes of this provision, unused sick leave is leave that was accrued, but never taken by the Employee, and that was not converted to Personal Leave under Section 9.5.

I. Retention and Inspection of Records Pertaining to Sick Leave.

The District shall keep records documenting the hours worked and paid sick leave accrued and used by an employee for three years. Upon reasonable request, and within 21 calendar days after the request, the District shall afford current and former employees the right to inspect or copy records pertaining to their hours worked and paid sick days accrued and used. Access to all other personnel records shall be governed by Rule XXII.

J. Abuse of Sick Leave.

Employees who do not comply with this policy, including providing insufficient notice of sick leave or using sick leave for reasons other than for a Permitted Use of Sick Time, are committing abuse of sick leave, which is grounds for discipline, up to and including termination. The District reserves the right to take reasonable steps to determine whether an employee is abusing sick leave, including, but not limited to, attempting in-person or electronic communication with an employee using sick leave, identifying and tracking consistent patterns of sick leave use, such as in connection with weekends, holidays, and scheduled days off, and considering social media content or other relevant evidence that is either publicly available or shared voluntarily by other employees or interested individuals.

K. Retirement Credit for Sick Leave.

When an employee retires under the California Public Employees Retirement System (CalPERS), a credit for his/her unused sick leave shall be converted to additional service credit at the rate of 0.004 years of service credit for each day of unused sick leave (i.e., 250 days of sick leave equals one additional year of service credit) per CalPERS contract with the District, or applicable law.

SEC. 9.4 BEREAVEMENT LEAVE

- A. Employees are entitled to paid bereavement leave in the event of the death of the employee's family member. Bereavement leave is a separate benefit from other paid leaves; however, sick leave may be used to supplement the bereavement period provided in Section 9.4.B.

- B. Employees may be granted up to three (3) working days (not necessarily consecutive days) of paid bereavement leave and two (2) days of unpaid bereavement leave within three months of the death of a family member. An employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee for the two (2) days of unpaid bereavement leave. Employees may be permitted to use additional two (2) working days of paid sick leave as bereavement leave, with prior approval from the Port Director. Bereavement leave is not counted as hours worked for purposes of calculating overtime.
- C. Bereavement Leave may be taken upon the death of a family member, including a spouse, child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law. Requested exceptions to this definition may be approved in advance at the sole discretion of the Port Director.
- D. If requested within 30 days of the first day of leave, employees shall provide the District with documentation of the death, such as a death certificate, published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency.

SEC. 9.5 PERSONAL NECESSITY LEAVE

- A. With prior approval from the Port Director, Full-time Employees may elect to convert sick leave to personal necessity leave in accordance with the procedure set forth in this Section. Sick leave may be deducted from an employee's accumulated sick leave balance and used as personnel necessity leave to take leave for purposes other than for recreational purposes or additional vacation. Personnel Necessity Leave may be used for the following types of activities:
 - 1. Death of a relative/friend when additional leave is required beyond bereavement leave; or the death of a friend/relative not covered by bereavement leave;
 - 2. An accident involving an employee's person or property;
 - 3. Marriage in the immediate family, including employee him/herself (maximum of three (3) days);
 - 4. Court appearances for non-work related incidents;
 - 5. Illness of a dependent.
 - 6. Additional items approved in advance by the Port Director.

SEC. 9.6 MILITARY LEAVE

Military leave shall be granted in accordance with Section 395 of the Military and Veteran's Code and the Federal Uniformed Services Employment and Reemployment Rights Act. An employee entitled to military leave shall give the Administrative Services

Officer an opportunity within the limits of military regulations to determine when such leave shall be taken. Prior to taking military leave, an employee, when possible, shall present a copy of his/her military orders to the Administrative Services Officer. In addition, leave for military exigency or military caregiver shall be granted in accordance with the Family and Medical Leave Act, as set forth in Section 10.4.

SEC. 9.7 JURY DUTY

- A. This policy shall apply to all regular and probationary employees in all classifications.
- B. An employee summoned for jury duty will immediately notify the Administrative Services Officer. While serving on a jury, he/she will be given a leave of absence, with pay, for the duration of said jury duty. Said leave of absence with pay is conditional upon the employee returning to work upon his/her dismissal each day to complete his/her normal work day. District employees who receive regular compensation and benefits while performing jury duty may be paid jury fees pursuant to the Code of Civil Procedure section 215(b).

SEC. 9.8 VOTING LEAVE

In accordance with California *Election Code* sections 14000 and 14001, if a registered voter does not have sufficient time outside normal working hours within which to vote at general direct primary or presidential elections, he/she may take off such working time as will enable him/her to vote. The scheduling of the time referenced above shall be subject to the approval of the employee's supervisor and shall normally be at the beginning or end of a work shift. A maximum of two (2) hours may be taken with pay. The employee must provide two (2) days' notice of the need for voting leave.

SEC. 9.9 ELECTION OFFICIAL LEAVE

Employees serving as an election official shall be permitted leave in order to so serve. Such leave is unpaid, but, at their option, employees may request to use vacation leave to serve as an election official. An employee taking leave to serve as an election official is required to give his/her Department Director at least ten (10) days' notice before the date of the election in which the employee is to serve as an election official. Employees serving as an election official are required to provide their Department Director with proof of service prior to taking leave.

SEC. 9.10 LACTATION BREAKS

- A. In accordance with California and federal law, the District will provide an employee with reasonable break time and an appropriate area for the purpose of the employee expressing breast milk for the employee's infant child. The break time, if possible, must run concurrently with the rest and meal periods already provided to the employee. If the break time cannot run concurrently with the rest and meal periods already provided to the employee, the break time will be unpaid if the employee is non-exempt. Exempt employees will be paid as required by law.

- B. For purposes of Section 9.10, an "appropriate area" is a place other than a bathroom that is in close proximity to the employee's work area and that is shielded from view and free from intrusion by other employees and the public, and used only for lactation purposes when the employee is using the room for such purpose. The room will be safe, clean, have a surface on which to place a breast pump and personal items, have electricity or access to electricity, and a place to sit. The room or location may be the employee's private office, if applicable. Lactation use will take precedence when a temporary area or room is used, and all employees will be provided notice that the temporary area or room has precedence over all other areas. The District will consider input from the affected employee but retains sole discretion in identifying an "appropriate area" on a case-by-case basis.
- C. In addition to providing a room or location that can be used for lactation purposes, the District will provide access to running water and a refrigerator or cooler to store the breast milk.
- D. Employees should contact the Administrative Services Officer to request lactation breaks or other accommodations, or if they have questions about this policy.
- E. Employees have a right to report violations of lactation accommodation requirements to the California Labor Commissioner.

SEC. 9.11 UNPAID LEAVES OF ABSENCE/TIME OFF AT NO PAY

With the Port Director's approval and in accordance with Section 9.11, an employee may opt to take time off at no pay. If the time off results in a work reduction of 5% or more over a 6-month period, then the employee's benefits may be reduced accordingly, to a level commensurate with the new FTE (full-time equivalent) level. The reduced benefits level will remain in effect for the next 6-month period, at which time the FTE level will be reviewed and re-adjusted.

- A. Exhaustion of Paid Leaves.
 - 1. Non-medical Leave of Absence Without Pay. An employee requesting leave under this section for nonmedical reasons is required to fully exhaust all of his/her paid leaves, except sick leave, in order to be eligible to receive a leave of absence without pay. Such leaves shall be granted only for unusual and extenuating circumstances. The Port Director shall have sole discretion to approve or deny requests for non-medical leave of absence without pay.
 - 2. Medical Leave of Absence Without Pay. An employee requesting leave under this section for medical reasons is required to fully exhaust all of his/her paid leaves, including sick leave, in order to be eligible to receive a leave of absence without pay.
- B. Accrual of Benefits. Leave of absence without pay shall not be construed as a break in service or employment, and rights accrued at the time leave is granted

shall be retained by the employee; however, vacation credits, sick leave credits, increases in salary and other similar benefits shall not accrue to a person granted such leave during the period of absence. An employee reinstated after leave of absence without pay shall receive the same step in the salary range he/she received when he/she began his/her leave of absence. Time spent on such leave without pay shall not count toward service for increases within the salary range, and the employee's salary anniversary date shall be set forward by an amount equal to the days of unpaid leave taken by the employee.

- C. Failure to Return from Leave. If an employee takes any action during his/her leave that is inconsistent with an intention to return to employment with the District, such as accepting full-time employment with another employer, he/she will be considered to have voluntarily terminated his/her employment. Failure of the employee to return to his/her employment upon the termination of any authorized leave of absence shall constitute an automatic termination from District service of that employee, unless such leave is extended.

SEC. 9.12 UNAUTHORIZED LEAVES OF ABSENCE AND FAILURE TO RETURN FROM LEAVE

- A. An employee may be considered to have voluntarily resigned from his/her employment with the District under any of the following circumstances:
1. Absence from his/her job for more than five (5) consecutive working days without compliance with applicable notice requirements under these Rules;
 2. Any action taken during a leave of absence from the District that is inconsistent with an intention to return to employment with the District, such as accepting full-time employment with another employer;
 3. Failure to return to employment following the expiration of an authorized leave of absence, unless the District permits extension of the leave.
- B. The District shall provide written notice to employees who are considered to have voluntarily resigned. The notice shall describe the facts on which the voluntary resignation is based and the right to petition the Administrative Services Officer for reconsideration.
- C. Employees who are considered to have resigned under Section 9.12.A. can petition the Administrative Services Officer for reconsideration by submitting a written statement within five (5) calendar days of the date of notice. The Administrative Services Officer shall review the employee's statement to determine if good cause is present, and shall decide whether the employee's voluntary resignation will be withdrawn.
- D. Any unauthorized absence may be cause for Disciplinary Action as provided in Rule XIII.

SEC. 9.13 ADMINISTRATIVE LEAVE

Exempt Service employees shall receive forty (40) hours of administrative leave in accordance with current Memorandum of Understanding, which may be used at the Exempt Service employees' discretion, with advance approval by the Port Director. During their first year as a District employee, Exempt Service employees shall obtain a pro rata amount of administrative leave commensurate with the time remaining in the calendar year. Administrative leave may not be carried forward from year to year. There is no cash value to Administrative Leave and exempt service employees shall not receive compensation for any unused Administrative Leave hours at the time of separation from District employment.

SEC. 9.14 SICK LEAVE DONATION POLICY

- A. Purpose. The purpose of this Policy is to establish a program and procedures for employees to volunteer to donate a portion of their accumulated sick leave time to fellow employees who meet the criteria for eligibility in Section 9.14.B. There have been occasions when an employee, due to a catastrophic illness or injury, has exhausted all forms of paid time off. Such seriously ill employees have been forced to go without compensation for a length of time. This Policy is designed to address such circumstances. Participation by donors or recipients in the Sick Leave Donation Program is entirely voluntary.
- B. Sick Leave Donation Banks. The Sick Leave Donation Program will allow an employee to request that a Sick Leave Donation Bank be established on his/her behalf. A Sick Leave Donation Bank shall not be established unless the Port Director or his or her designee has approved the employee's request. Leave donations will be credited to a particular recipient's Sick Leave Donation Bank and will be for use by that designated recipient only.
 1. Eligibility of Employee for Sick Leave Donations. To be eligible to receive approval for establishment of a Sick Leave Donation Bank on his/her behalf, an employee must meet all the following conditions:
 - a. Must meet the criteria for use of sick leave in accordance with Section 9.3; and,
 - b. Must have been employed by the District in a full-time Position for at least one year; and,
 - c. Must submit a confidential statement from a treating physician which indicates that the employee's absence is due to a qualifying reason under Section 9.14.B.2. and estimates the duration of the employee's absence from work; and,
 - d. Must have applied for long-term disability insurance, if any, or for Workers' Compensation benefits, if eligible, and have authorized the District to integrate any such awarded benefits with available leave balances; and,

- e. Must have exhausted all earned leave balances (including sick, vacation, compensatory time, and management leave). However, the Port Director may approve the solicitation and acceptance of sick leave donations prior to all balances being exhausted when the physician's statement and existing leave balances indicate that all such balances will be exhausted within the next two pay periods.

2. Qualifying Reasons to Request Donated Sick Leave.

- a. For purposes of Section 9.14 a "qualifying reason" to request donated sick leave is one of the following:

- (1) The employee has a "serious health condition" that requires the employee's absence from work for longer than two (2) pay periods, including intermittent absences that are related to the same "serious health condition"; or
- (2) The employee is caring for an "immediate family member" who has a "serious health condition" that requires the employee's absence for longer than two (2) pay periods.

- b. For purposes of this Section 9.14, a "serious health condition" has the same meaning as in the District's Family Care and Medical Leave, Pregnancy Disability Leave, and Military Family Leave Policy.

- c. For purposes of this Section 9.14, an "immediate family member" shall have the same definition as in Section 9.3.A.1.

3. Sick Leave Donation Bank Guidelines. Leave donations will be credited to a recipient's Sick Leave Donation Bank on an hour-for-hour basis, regardless of the hourly pay rate of any particular employee. While using leave from the recipient's Sick Leave Donation Bank, the recipient will be treated as though he/she was merely using the recipient's own sick leave. Thus, the recipient will accrue additional vacation or sick leave, as usual, during the use of hours from the Sick Leave Donation Bank. Any hours of donated sick leave remaining in the Sick Leave Donation Bank at the time the Bank is abolished will be returned pro rata (in proportion to the number of hours each employee donated) to all employees who donated to the Sick Leave Donation Bank. The donated hours used by the recipient are taxable to him/her in accordance with Internal Revenue Service regulations and are subject to withholdings as required by law.

C. Leave Donations. Donations of sick leave are subject to the following requirements:

- 1. Minimum Donations. Participating employees must donate a minimum of four hours from their accumulated sick leave balance. No donation from an employee will be permitted that would result in the donor's accumulated sick

leave balance, immediately after the donation, being below eighty (80) hours of accumulated sick leave.

2. Whole Hour Donations. Leave donations must be in whole hours. No fractions of hours may be donated.
 3. Maximum Donation Per Employee. No individual employee may donate more than forty (40) hours to a particular Sick Leave Donation Bank.
 4. Maximum Donation Per Sick Leave Donation Bank. The maximum cumulative amount of sick leave that may be donated to a particular Sick Leave Donation Bank is four hundred eighty (480) hours.
- D. Responsibilities Under the Policy. The development and use of a Sick Leave Donation Bank carries with it a shared responsibility between District's management and individual employees desiring to participate in the program. The respective responsibilities are set forth below:
1. The Requesting Employee. The requesting employee will prepare and submit to the Port Director a "Request to Establish a Sick Leave Donation Bank" form. Additionally, the requesting employee should submit a "Certification of Physician or Practitioner" form to the Administrative Services Officer in a sealed envelope labeled "Confidential – Request to Establish a Sick Leave Donation Bank." If the requesting employee is unable to make the request on his/her own behalf, the employee's Department Director may submit a request on the employee's behalf.
 2. The Program Administrator. The Administrative Services Officer will serve as the administrator of the Sick Leave Donation Program. The Administrator will receive the confidential statement from the requestor's physician in a manner consistent with the Federal Family and Medical Leave Act and the California Family Rights Act. The Port Director will approve or deny the establishment of a requested Sick Leave Donation Bank, in accordance with the requirements of this Policy. If the request is approved, the Bank shall be established and the Administrator will publicize the request with the statement approved by the requestor. The Administrator shall approve or deny each offered donation, if any, to the Sick Leave Donation Bank in accordance with the requirements of this Policy. The Administrator shall determine when the Sick Leave Donation Bank shall be abolished.
 3. The Donating Employee. A donating employee will prepare and submit to the Administrative Services Officer a "Request to Donate to Sick Leave Donation Bank" form.
 4. The Finance Department. The Finance Department will make the appropriate payroll and leave balance adjustments for both the recipient and any donors. The Finance Department will coordinate the usage of hours from the Sick Leave Donation Bank and the integration of any other benefit therewith, if applicable. If hours are remaining in the Sick Leave Donation

Bank at the time it is abolished, the Finance Department will credit all donors' leave balances with a pro rata share of the hours remaining in the Bank in accordance with the number of hours each donor contributed.

SEC. 9.15 LEAVE FOR VICTIMS OF CRIME OR ABUSE

- A. Employees are covered as victims and entitled to leave under this policy if they are:
- a. a victim of stalking, domestic violence or sexual assault;
 - b. a victim of a crime that caused physical injury or that caused mental injury and a threat of physical injury; or
 - c. a person whose immediate family member is deceased as the direct result of a crime.
- B. Obtaining Relief. Employees shall not be discharged or otherwise discriminated or retaliated against for taking time off from work to obtain or attempt to obtain any relief, including but is not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or their child.
- a. An employee shall give the employer reasonable advance notice of the employee's intention to take time off to obtain relief, unless the advance notice is not feasible.
 - b. When an unscheduled absence occurs, the employer shall not take any action against the employee if the employee provides a certification to the employer within a reasonable time after the absence. The following are sufficient forms of certification:
 1. A police report indicating that the employee was a victim.
 2. A court order protecting or separating the employee from the perpetrator of the crime or abuse, or other evidence from the court or prosecuting attorney that the employee has appeared in court.
 3. Documentation from a licensed medical professional, domestic violence counselor, a sexual assault counselor, victim advocate, licensed health care provider, or counselor that the employee was undergoing treatment or receiving services for physical or mental injuries or abuse resulting in victimization from the crime or abuse.
 4. Any other form of documentation that reasonably verifies that the crime or abuse occurred, such as a written statement signed by the employee, or an individual acting on the employee's behalf, certifying that the absence is for a purpose authorized in this section.
 - c. An employee may use vacation, personal leave, or compensatory time off that is otherwise available to the employee under the applicable terms of

employment, unless otherwise provided by a collective bargaining agreement, for time taken off to obtain relief.

- d. The District shall maintain confidentiality of any employee requesting leave under this section to the extent allowed by law. The employee shall be given notice before any disclosure authorized by law.
- C. Reasonable Accommodations. Victims of domestic violence, sexual assault, or stalking who requests an accommodation for their safety while at work are entitled to reasonable accommodations.
- D. Unpaid Leave. Employees who are victims of a crime or abuse, including domestic violence, sexual assault or stalking, may take unpaid leave for up to 12 weeks for the following reasons:
- a. to seek medical attention for injuries caused by crime or abuse;
 - b. to obtain services from a domestic violence shelter, program, rape crisis center or victim services organization or agency as a result of the crime or abuse;
 - c. to obtain psychological counseling or mental health services related to an experience of crime or abuse; or
 - d. to participate in safety planning and take other actions to increase safety from future crime or abuse, including temporary or permanent relocation.

Employee's may be required to provide proof of their participation in these activities. Employees must provide their supervisor reasonable notice before taking any time off under this policy when possible.

Employees may substitute any accrued vacation, sick or other time off for the leave under this policy. Leave under this policy does not extend the time allowable under the FMLA or CFRA.

No employees will be subject to discrimination or retaliation because of their status as a victim of a crime or abuse, including crime or abuse related to domestic violence, sexual assault or stalking.

SEC. 9.16 SCHOOL VISITATION LEAVE

Employees shall be permitted to take unpaid leave in accordance with *Labor Code* sections 230.7 and 230.8.

SEC. 9.17 FITNESS FOR DUTY LEAVE

- A. Purpose/Policy. Employees are expected to report to work fit for duty, which means able to perform their job duties in a safe, appropriate, and effective manner, free from adverse effects of physical, mental, emotional, and/or personal problems. This Rule is intended to provide a safe environment and protect the health and welfare of employees and the public. If an employee feels

that he/she is not fit to perform his/her duties, he/she must notify his/her supervisor immediately.

- B. Reasons for Fitness for Duty Leave. A fitness for duty examination may be ordered in any of the following situations:
1. An employee returns from a medical leave of absence of more than five (5) working days.
 2. An employee is involved in the interactive process with the District under Section 1.5 B
 3. Supervisor observes or receives a reliable report of an employee's possible lack of fitness for duty. Observations and reports may be based on, but are not limited to, employee's own self-report of potential unfitness, dexterity, coordination, alertness, speech, vision acuity, concentration, response to criticism, interactions with the public, co-workers, and supervisors.
 4. Fitness for duty examinations based on a reasonable suspicion that an employee is under the influence of illegal drugs or alcohol shall be conducted in accordance with the District's Drug-Free Workplace Policy.
- C. Procedures for Ordering a Fitness for Duty Examination. When a supervisor becomes aware of or observes behavior that makes him/her reasonably suspect that the employee may not be fit for duty, the supervisor shall refer the employee to the Port Director who will determine whether a fitness for duty examination is necessary and should be scheduled. If the circumstances warrant it, the Port Director may place the employee on a paid or unpaid leave pending the results of the employee's fitness for duty examination. The examination shall be paid for by the District.
- D. Procedure Following Receipt of Examination Results. The doctor examining the employee shall be limited to finding the employee "fit for duty" or "fit for duty with restrictions" or "unfit for duty." In the case of finding an employee fit for duty, the doctor may issue work restrictions. In no case shall the doctor reveal the underlying cause of the fit or unfitness for duty without the employee's permission.
1. Fit for Duty. If the doctor finds the employee is fit for duty, the employee shall return to work immediately and perform all duties of his/her position.
 2. Fit for Duty with Restrictions. If the doctor finds the employee is fit for duty with restrictions, the doctor shall specifically list what restrictions are necessary and for how long those restrictions are necessary. If the employee's restrictions are based on a disability as defined by the ADA and/or FEHA, the District shall engage in the interactive process as set forth in Section 1.5 B. The District shall then evaluate those restrictions and determine if the restrictions can be reasonably accommodated.

3. Unfit for Duty. If the employee is found to be unfit for duty, he/she shall not be permitted to work. He/She may request a leave of absence in accordance with the appropriate subsection of this Policy. If the employee can provide certification of fitness for duty prior to the exhaustion of all paid and unpaid leave that he/she is entitled to under these Personnel Rules, the employee shall be returned to work. However, if such certification is from the employee's own health care provider, the District may request a second opinion from a doctor of its choosing and at its cost to evaluate the employee under the requirements of this section. If the two certifications conflict, a third opinion will be sought from a doctor chosen by the District and the employee, at the expense of the District. The opinion of fit or unfit rendered by the third doctor shall be binding. If the employee's restrictions are based on a disability as defined by the ADA and/or FEHA, the District shall engage in the interactive process as set forth in Section 1.5 B.

SEC. 9.18 LEAVE FOR REPRODUCTIVE LOSS

- A. Employees who have worked at least 30 days for the District will be provided up to five (5) days of unpaid leave due to reproductive loss. For purposes of this policy, "reproductive loss" includes miscarriage, failed surrogacy, stillbirth, unsuccessful "assisted reproduction" (such as artificial insemination or embryo transfer), and failed adoption.
- B. Leave for reproductive loss can be taken on nonconsecutive days, however, the leave under this policy must be completed within three (3) months of the reproductive loss.
- C. Employees who suffer more than one reproductive loss within a 12-month period may get up to 20 days of leave within the 12-month period. Please note that employees will not be provided with more than five (5) days per reproductive loss under this policy.
- D. Leave taken under this policy is not counted as hours worked for purposes of calculating overtime.
- E. The District will not require employees to provide documentation to support their request for reproductive loss leave.
- F. Although leave under this policy is unpaid, employees may use available paid sick leave, vacation, personal leave, and/or compensatory time off that is otherwise available to the employee to cover the unpaid reproductive loss leave period.
- G. The District will maintain confidentiality relating to employee use of reproductive loss leave. The District will not retaliate against an employee who uses leave for reproductive loss or shares information related to the leave.

RULE X. FAMILY CARE AND MEDICAL LEAVE, PREGNANCY DISABILITY LEAVE, AND MILITARY FAMILY LEAVE POLICY

SEC. 10.1 POLICY

To the extent not already provided for under current leave policies and provisions, the District will provide family and medical care leave for eligible employees as required by State and federal Law. The leaves provided for in this Policy are granted under a variety of state and federal laws. Employees should be aware that leave under one Section of the Policy may also qualify for leave under another Section. For example, military caregiver leave is provided for under the FMLA, but in certain circumstances, might also qualify for CFRA leave. In such cases, the District will advise affected employees in writing which of their statutorily-protected leaves are being used and how much of that leave remains.

Additional definitions and other provisions governing employees' rights and obligations under the FMLA, CFRA, and PDL that are not specifically set forth below are set forth in the Department of Labor's FMLA regulations (29 C.F.R. § 825.00 et seq.) and the California Department of Fair Employment and Housing's CFRA regulations (2 C.C.R. § 11087 et seq.) and PDL regulations (2 C.C.R. § 11035 et seq.) This Policy is deemed to include such regulatory provisions, including subsequent revisions to such regulatory provisions, except where expressly contradicted by the terms of this Policy.

SEC. 10.2 FAMILY CARE AND MEDICAL LEAVE (FMLA/CFRA LEAVE)

A. Eligibility. To be eligible for FMLA/CFRA leave, an employee must have:

1. Been employed by the District for at least 12 months prior to the date on which the FMLA/CFRA leave is to commence, measured as of the date the leave is to start; and
2. Have worked at least 1,250 hours over the 12-month period preceding the FMLA/CFRA leave, measured as of the date the leave is to start.

For employees performing covered military service under the federal Uniformed Service Employment and Reemployment Rights Act, periods of absence due to such service shall be counted for purposes of determining whether the employee meets these eligibility requirements.

B. Qualifying Reasons for FMLA/CFRA Leave. Employees meeting the eligibility requirements under Section 10.2.A. may take FMLA and/or CFRA leave for any of the following qualifying reasons:

1. The birth of a child of the employee and in order to care for such child (counts toward FMLA and CFRA leave entitlements).
2. The placement of a child with the employee for adoption or foster care of the child by the employee and in order to care for that child (counts toward FMLA and CFRA leave entitlements).

3. Providing care for the employee's spouse, child, or parent (but not in-law) with a serious health condition (counts toward FMLA and CFRA leave entitlements).
4. Providing care for a registered domestic partner, parent-in-law, grandparent, grandchild, sibling, or designated person with a serious health condition (counts towards CFRA entitlements only, except when grandparent, grandchild, or sibling meets FMLA definition of parent or child).
5. The employee's own serious health condition (if for pregnancy, then counts toward FMLA leave entitlement only).
6. 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.

Military exigency leave and military caregiver leave, and those types of leaves are addressed under Section 10.4 of this Policy. The PDL also provides for leave for employees with a serious health condition is on account of her pregnancy, childbirth, or related medical conditions, and that leave is addressed under Section 10.3.

C. Child. Leave may be taken under Section B.1., B.2., or B.3. by an employee for a "child" who is:

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

D. Designated person. 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 employee is limited to one designated person per 12-month period for family care and medical leave.

E. In loco parentis.

1. "In loco parentis" means in the place of a parent; instead of a parent; charged with a parent's rights, duties, and responsibilities. It does not require a biological or legal relationship..
2. Whether an employee stands in loco parentis to a person for purposes of this Policy will be determined by the District on a case-by-case basis., and the District may require reasonable documentation to support an employee's status as acting "in loco parentis."

F. Serious Health Condition. A serious health condition is an illness, injury, impairment, or physical or mental condition of the employee or qualified family member of the employee that makes the employee unable to work or unable to

perform one or more of the essential functions of the employee's position, and which involves either inpatient care or continuing treatment or supervision by a health care provider, as follows:

1. "Inpatient care" means an overnight stay in a hospital, hospice, or residential medical care facility, or any subsequent treatment in connection with such inpatient care, or any resulting period of incapacity.
 - a. A person is considered to have an "overnight stay" for purposes of this provision if a health care facility formally admits him/her to the facility with the expectation that he/she will remain at least overnight and occupy a bed, even if it later develops that such person can be discharged or transferred to another facility and does not actually remain overnight.
2. "Continuing treatment or supervision by a health care provider" means and includes any one or more of the following:
 - a. In-person treatment two or more times, within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse under direct supervision of a health care provider, or by a provider of health care services (e.g. physical therapist) under orders of, or on referral by, a health care provider, with the first visit being within seven days of the first day of incapacity; or
 - b. In-person treatment by a health care provider on at least one occasion, which results in a regimen of continuing treatment under the supervision of the health care provider, with the first visit being within seven days of the first day of incapacity.
 - c. Any period of incapacity due to pregnancy, or for prenatal care, whether or not in-person treatment is received during that time, or whether the resulting absence lasts fewer than three days.
 - d. Any period of incapacity, or treatment for such incapacity, due to a chronic serious health condition, whether or not in-person treatment is received during that time, or whether the resulting absence lasts fewer than three days. A chronic serious health condition is one which:
 - (1) Requires periodic visits (defined as at least twice a year) for treatment by a health care provider, or by a nurse under direct supervision of a health care provider; and
 - (2) Continues over an extended period of time (including recurring episodes of a single underlying condition); and

- (3) May cause episodic rather than a continuing period of incapacity (e.g. , asthma, diabetes, epilepsy, etc.).
 - e. A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
 - f. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, for either:
 - (1) Restorative surgery after an accident or other injury; or
 - (2) A condition that would likely result in a period of incapacity of more than three consecutive, full calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), or kidney disease (dialysis).
 - 3. "Incapacity" means that a person is unable to work, attend school, or perform regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.
- G. Amount of Leave Entitlement. Provided that all applicable conditions of Section 10.2.A are met, an employee may take a maximum of 12 workweeks of FMLA/CFRA leave in a rolling 12-month period measured backwards from the date the employee uses any FMLA/CFRA leave.
- 1. Employees taking FMLA/CFRA leave for the birth, adoption, or foster care of their child must initiate and complete any FMLA/CFRA leave within one year of the birth of the child or placement of the child with the employee for adoption or foster care.
 - 2. Parents who are both employed by the District may take a maximum combined total of 12 workweeks of FMLA/CFRA leave in a 12-month period for the birth, adoption, or foster care of their child. Both parents or registered domestic partners (CFRA only in some circumstances) may be on leave simultaneously, provided the employees provide a certificate, from a health care provider, stating the need for both employees' participation in the care of the child.
 - 3. An employee's FMLA/CFRA leave does not need to be consecutive, but can be cumulative within a 12-month period.

4. Industrial injury leaves and all non-industrial injury leaves are FMLA/CFRA leaves if they qualify as serious health conditions.
- H. Concurrent Use of Accrued Paid Leaves. Leave taken under this Policy is unpaid. Employees may elect or may be required to use their accrued leave balances concurrently with FMLA/CFRA leave, as provided below. When an employee elects or is required to use his/her accrued leave balances, the employee may specify in writing the order in which the employee would prefer to exhaust his/her leave balances. If the employee fails to designate the order of exhaustion, the District will exhaust the leave balances in the following order: sick leave (subject to the terms of Section 10.2.G.1., below), compensatory time off, floating holiday, vacation. The paid leave shall run concurrently with the FMLA/CFRA leave, and shall not extend the employee's entitlement to FMLA/CFRA leave beyond 12 workweeks.
1. Sick leave. Employees are required to run all accumulated sick leave concurrently when FMLA/CFRA leave is taken for the employee's own serious health condition. Employees may elect to so coordinate their accumulated sick leave when FMLA/CFRA leave is taken for any other reason under Section 10.2.B. of this Policy.
 2. Other paid leaves. Employees are required to coordinate all other accrued paid leaves of absence, including but not limited to, compensatory time off, vacation, and holiday leave, when taking FMLA/CFRA leave for any reason.
 3. Coordination with Wage Replacement Plans. If an employee who is on FMLA/CFRA leave is also receiving a wage replacement payment from State Disability Insurance, Paid Family Leave, Short-Term Disability Programs, Long-Term Disability Programs, and/or Workers' Compensation, the employee and the District may mutually agree to coordinate the employee's accrued paid leaves with the amount received from the wage replacement plan, up to an amount equal to the employee's regular salary.
- I. Intermittent or Reduced Schedule Leave. Intermittent FMLA/CFRA leave is leave taken on an as-needed basis in increments of minutes, hours, or days. A reduced schedule FMLA/CFRA leave involves a reduction in the number of hours per day or per week that an employee regularly works, with the employee substituting FMLA/CFRA time substitute for hours not worked. The minimum FMLA/CFRA leave increment that can be taken by an employee is 15 minutes.
1. Calculation of Intermittent or Reduced Schedule Leave. The maximum equivalent number of hours to which an employee is entitled during the 12-week period will be based on the employee's regularly scheduled workweek. For example, an employee who is regularly scheduled to work 40 hours per workweek will be entitled to a maximum of 480 hours of FMLA/CFRA leave, whereas, an employee who is regularly scheduled to work 32 hours per workweek will be entitled to a maximum of 384 hours of FMLA/CFRA leave. In calculating this amount for employees with a varying schedule, the District will use an average of the employee's workweeks

within the 12-month period immediately preceding the intermittent or reduced schedule leave.

2. Impact on Salary. Where permitted by applicable state and federal wage and hour laws, the District may make deductions from an employee's salary for all hours of leave taken as intermittent leave, unless the employee is entitled or required to coordinate paid leave.
3. Inclusion of Scheduled Overtime. If an employee normally would be required to work overtime hours, but is unable to do so because of an FMLA/CFRA-qualifying reason that limits the employee's ability to work overtime, the hours that the employee would have been required to work may be counted against the employee's FMLA/CFRA entitlement, as the employee would be considered to be using intermittent or reduced schedule leave. For example, if an employee is normally required to work 50 hours in a particular workweek, but because of an FMLA/CFRA-qualifying reason, the employee works only 40 hours that week, the employee would use 10 hours of FMLA/CFRA-protected leave out of the 50-hour workweek.
4. Conditions for Taking Intermittent or Reduced Schedule Leave
 - a. FMLA/CFRA leave taken for the employee's own serious health condition, or the serious health condition of the employee's spouse, registered domestic partner, parent, or child, or for military caregiver leave under Section 10.4.B. of this policy, may be taken intermittently or on a reduced leave schedule when medically necessary (as distinguished from voluntary treatments and procedures).
 - b. Military exigency leave under section 10.4.A. of this Policy (FMLA only) may be taken on an intermittent or reduced schedule basis without limitation.
 - c. Leave taken following the birth, adoption, or placement or foster care of a child may be taken on an intermittent or reduced schedule basis, subject to the conditions set forth in Section 10.2.H.6., below.
5. Temporary Transfer.
 - a. Required by the District. The District may require that the employee temporarily transfer to an available alternative position for which the employee is qualified and which provides equivalent pay and benefits and that better accommodates recurring leave periods than the employee's regular position.
 - b. Requested by Employee. An employee on intermittent or reduced schedule FMLA/CFRA leave for foreseeable and planned medical treatments may request a transfer to an open and available position for which the employee is qualified, if the duties of that position

would better accommodate the employee's intermittent or reduced schedule FMLA/CFRA leave. Transfers will not be considered under this Section when the intermittent or reduced schedule FMLA/CFRA leave is unscheduled, such as in the case of chronic conditions.

6. Leave Taken for Baby Bonding. The basic minimum duration of a leave taken for the birth, adoption, or foster care of a child shall be two weeks. The District will grant two requests for shorter leave periods in the applicable one-year period.

- J. Employee Notice. Employees requesting leave under the FMLA/CFRA must notify their supervisor in accordance with the rules set forth below. Employees must provide the supervisor with sufficient information to make the District aware that the employee needs FMLA/CFRA leave, and the anticipated timing and duration of that leave. Supervisors must forward any such requests to the Port Director and Administrative Services Director for review and approval. Employees may also provide notice of requested FMLA/CFRA leave to the Financial and Administrative Services Director directly.
 1. Foreseeable Events. An employee must provide the District with at least 30 days' advance notice before the date the leave is to begin, or must provide notice as soon as is practicable, normally the same business day or next business day if the employee is off work when he/she learns of the need for leave. If the employee provides less than 30 days' advance notice, the District may require explanation of why 30 days' advance notice was not practicable.
 - a. In any case in which the need for FMLA/CFRA leave is foreseeable based on one of the circumstances listed below in sub-section b., the employee shall make a reasonable effort to schedule any planned medical treatment or supervision so as not to unduly disrupt the operations of the District. However, any such scheduling shall be subject to the approval of the health care provider of the employer or the employee's child, parent, spouse, or registered domestic partner (CFRA only).
 - b. The need for leave is considered "foreseeable" when it is taken for any of the following reasons:
 - (1) Planned medical treatment for a serious health condition of the employee.
 - (2) Planned medical treatment for a serious health condition of a family member.
 - (3) An expected birth, or placement for adoption or foster care.
 - c. If an employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay,

the District reserves the right to delay the taking of the leave by up to 30 days after the date the employee provides notice of the need for FMLA/CFRA leave.

2. Unforeseeable Events. If an employee requires FMLA/CFRA leave for an unforeseeable event, the employee is required to provide notice to the District as soon as is practicable.
 3. Notice of Intermittent/Reduced Schedule Leave. The notice requirements for foreseeable intermittent or reduced schedule leaves shall be the same as for other foreseeable leaves, and the notice requirements for unforeseeable intermittent or reduced schedule leave shall be the same as for other unforeseeable leaves.
 4. Contents of Notice. All requests for FMLA/CFRA leave should include the anticipated date(s) and duration of the leave and be sufficient to make the District aware that the employee needs leave under the FMLA/CFRA. The employee must state the reason the leave is needed, by reference to the list in Section 10.2.B. of this Policy. When the employee provides notice, it may not contain sufficient information for the District to determine whether the employee's leave could be for an FMLA/CFRA-qualifying purpose. In such cases, the District may follow up with the employee for additional information, and the employee is required to respond to the same. However, the employee shall not be required to provide the District with a diagnosis.
 5. Changes to Dates of Leave. The employee must advise the District as soon as practicable when he/she learns that the dates of the FMLA/CFRA leave may change.
 6. Requests for Extension. Any requests for extensions of an FMLA/CFRA leave must be received at least five working days before the date on which the employee was originally scheduled to return to work, where practicable, and must include the revised anticipated date(s) and duration of the FMLA/CFRA leave. If the employee has exhausted his/her leave entitlement under Section 10.2.F., the District will evaluate on a case-by-case basis whether additional leave may be available as a reasonable accommodation for the employee's own serious health condition; however, any such additional leave shall not be subject to the provisions of this Section 10.2.
- K. District Response to a Request for FMLA/CFRA Leave or Request for Extension - Eligibility Notice. Within five working days of an employee's request to take FMLA/CFRA leave, the District shall provide the employee with a written Eligibility Notice. The Eligibility Notice is not a designation of the employee being on FMLA/CFRA Leave. The Eligibility Notice shall include the following information:

1. Whether the employee is eligible to take FMLA/CFRA leave. If the employee is ineligible for FMLA/CFRA leave, the notice will include the reason(s) why the employee is ineligible.
2. Whether the employee has exhausted his/her 12-week FMLA/CFRA entitlement.
3. Whether additional information, such as a medical certification, is required from the employee in order to process the employee's request for FMLA/CFRA leave or request for extension.
4. The employee's rights and responsibilities under the FMLA/CFRA, which will include a statement of whether the employee is required to provide a medical certification or recertification. A statement requiring a medical certification will also advise the employee of the anticipated consequences of his/her failure to provide adequate notice.
5. If the employee has requested an extension of leave for his/her own serious health condition but has exhausted his/her leave entitlement under Section 10.2.F., the District will advise whether additional leave will be granted as a reasonable accommodation; however, any such additional leave shall not be subject to the provisions of this Section 10.2.

L. Medical Certification and Recertification. Any request for FMLA/CFRA leave for an employee's own serious health care condition or for FMLA/CFRA leave to care for a family member with a serious health condition must be supported by medical certification from the treating health care provider. Employees are encouraged to use the District's medical certification form to ensure that all pertinent information is obtained. Any request for an extension of FMLA/CFRA leave also must be supported by a medical certification from the treating health care provider. Again, employees are encouraged to use the District's medical certification to ensure that all pertinent information is obtained.

1. Timing of Request for Medical Certification. The District will request medical certification:
 - a. Within five business days after an employee requests foreseeable leave;
 - b. Within five business days after an employee provides notice of an unforeseeable leave, or within five business days after an unforeseeable leave commences, whichever is later;
 - c. At a later date if the District has a reason to question the appropriateness or duration of an employee's leave (FMLA only).
2. Timing for Employee's Return of the Medical Certification. All medical certifications and recertifications must be returned to the District within 15 days from the District request, regardless of whether the leave is

foreseeable or unforeseeable. Exceptions to this may be granted when it is not practicable to provide the certification or recertification within 15 days, despite the employee's diligent, good faith efforts to do so.

3. Certification for Serious Health Condition of Spouse, Registered Domestic Partner, Parent, or Child. The employee must have the patient's treating health care physician complete a medical certification form when requesting family leave to care for a family member with a serious health condition. Employees are encouraged to use the District's medical certification form to ensure that all pertinent information is obtained.

- a. Medical Recertification. If the employee requests additional leave beyond the time period which the health care provider originally estimated that the employee needed to take care of the employee's child, parent, spouse, or registered domestic partner, the District may request a recertification from the employee.

4. Certification for the Employee's Own Serious Health Condition.

- a. First Opinion. The employee must have his/her health care physician complete a medical certification form when requesting FMLA/CFRA leave for his/her own serious health condition. Employees are encouraged to use the District's medical certification form to ensure that all pertinent information is obtained.

- b. Second and Third Opinions. If the District has reason to doubt the validity of the certification provided by the employee, the District may require the employee to obtain a second opinion from a doctor of the District's choosing at the District's expense. If the employee's health care provider and the doctor providing the second opinion do not agree, the District may require a third opinion, also at the District's expense, performed by a mutually agreeable doctor who will make a final determination that shall be binding on both the District and the employee.

- c. Medical Recertification. The District may request recertification of a medical condition upon the expiration of the time period which the health care provider originally estimated, if additional FMLA/CFRA leave is requested.

5. Certification for an Employee's Return to Work.

- a. Returning from a Continuous Leave. As a condition of restoration to his/her former position, an employee taking continuous leave under the FMLA/CFRA is required to provide the District with certification from his/her health care provider stating that he/she is able to resume his/her essential work functions. An employee who fails to provide the certification may have his/her reinstatement delayed.

- b. Returning from an Intermittent or Reduced Schedule Leave. In addition to the requirement in subsection 5.a., above, if the employee is on intermittent or reduced schedule leave, the District may require a fitness for duty certification at fixed intervals not exceeding every 30 days if there are reasonable safety concerns. "Reasonable safety concerns" means a reasonable belief of significant risk of harm to the employee or others.
 - c. Contents of Certification. The District will provide the employee with a form and a copy of the employee's job description for his/her health care provider to review in completing the fitness for duty certification, and employees are encouraged to use the District's form to ensure that all pertinent information is obtained. The employee must provide a complete and sufficient fitness for duty certification. If the employee's health care provider releases the employee back to work with restrictions, the District will engage in the interactive process to determine what reasonable accommodation, if any, will permit the employee to return to work in accordance with the ADA and the FEHA.
6. Employee's Failure to Provide a Medical Certification or Recertification. If the employee fails to timely provide a complete and sufficient medical certification when requested, the request for FMLA/CFRA leave may be denied, delayed until a sufficient certification is provided. Employees will be advised of these consequences in connection with any request by the District for medical certification or recertification.
- M. District's Designation of Leave. Absent extenuating circumstances, within five working days after the District has acquired enough information to determine whether the employee's request qualifies for FMLA/CFRA leave, the District will provide the employee with a written Designation Notice.
- 1. Designating Leave as FMLA/CFRA-Qualifying. If the leave is designated as being FMLA/CFRA-qualifying, the Designation Notice will contain, but is not limited to, the following information:
 - a. A statement that the leave is being designated as FMLA and/or CFRA leave;
 - b. The amount of leave being counted as FMLA and/or CFRA leave, if known;
 - c. Whether accrued paid leave will be used during the leave, and that any paid leave used will count as FMLA/CFRA leave;
 - d. Whether a medical certification will be required to release the employee to return to work; and

- e. Whether a job description or description of essential duties is attached to the Designation Notice for the health care provider to use in completing the medical certification to release the employee to return to work.
- 2. Unable to Designate. If the District is unable to determine whether the leave requested is FMLA/CFRA-qualifying because more information is needed, the employee will be informed that
 - a. the medical certification is incomplete or insufficient, and the District will provide a list of deficiencies and explain the employee's opportunity to cure said deficiencies; or
 - b. a second or third medical opinion is being required.
 - 3. Not Designating Leave as FMLA/CFRA-Qualifying. If the District has determined that the employee's leave does not qualify as FMLA/CFRA leave, the District will notify the employee in writing that his/her leave is not being designated as FMLA/CFRA leave, and the reason for the denial.
- N. Employment Benefits and Protection.
- 1. Previously Accrued Benefits and Seniority Status.
 - a. Leave under the FMLA/CFRA will not result in the loss of any employment benefits accrued before the date the leave commenced.
 - b. Leave under the CFRA will not constitute a break in service or otherwise cause the employee to lose longevity or seniority, even if other paid or unpaid leave constitutes a break in service for purposes of establishing longevity or seniority, or for layoff, recall, promotion, job assignment, or seniority-related benefits.
 - 2. No Accrual of Leave or Seniority during Unpaid FMLA/CFRA Leave.
 - a. An employee on unpaid FMLA/CFRA leave shall not accrue any additional paid leave time. Thus, employees will not accrue vacation leave, sick leave, administrative leave, nor will they be paid for holidays during the unpaid leave.
 - b. The time off on unpaid FMLA/CFRA leave shall not count as time worked for purposes of establishing additional seniority for purposes of layoff, recall, promotion, job assignment, and other seniority-related benefits.
 - c. However, during the time that an employee supplements his/her unpaid FMLA/CFRA leave with paid leave, the employee will continue to accrue leaves and benefits in accordance with the provisions of the District's policy governing those leaves of absence

(i.e., when coordinating with sick leave, the rules governing sick leave will apply with regard to the employee's benefits).

3. Maintenance of Health Insurance of the Employee. Employees will continue to receive the same medical benefits while on FMLA/CFRA leave for up to 12 workweeks in a 12-month period. The District shall be responsible for the continued payment of the District's share of the cost of the employee's health benefits during that 12-workweek period. Benefits for absences beyond the allotted period will be handled in the same manner as benefits for employees on any other type of unpaid leave of absence. An employee who notifies the District that he/she does not intend to return to work from the FMLA/CFRA leave is not entitled to medical benefits provided by the District as if he/she were on a FMLA/CFRA leave and instead is entitled to the benefits provided to employees who are on an unpaid leave of absence for any other reason.
 - a. Employees who receive a cash stipend in lieu of District-provided medical coverage shall not receive the stipend during any period of unpaid status.

4. Maintenance of Benefits Requiring Employee Contributions.
 - a. During any period of unpaid leave, unless otherwise prohibited by applicable law, an employee may elect to discontinue health insurance coverage for the employee, a spouse, registered domestic partner, and/or any dependent(s) as well as any other benefits offered or sponsored by the District to which the employee is required to make monthly contributions. Employees must notify the District in writing of such an election.
 - b. An employee will continue to be responsible for making the payment of monthly contributions for which the District has not received advanced notice of election to discontinue. If any premium amounts are increased or decreased for other employees similarly situated, the employee will be required to pay the new premium rates.
 - c. All monthly contributions are due and payable to the District at the same time as they would be if made through payroll deduction.
 - d. If any monthly contributions are not received within 30 days of their due date, the District has the option to either discontinue said benefit(s) or continue said benefit(s) by making the monthly contributions on the employee's behalf.
 - e. Upon the employee's return to work, the District is entitled to seek reimbursement from him/her for the employee's share of any monthly contributions made on his/her behalf.

- f. Employees included in a pension or retirement plan may continue to make contributions in accordance with the terms of the plan during the period of leave. However, the District shall not be required to make plan payments for employees during the leave period which is unpaid, and the unpaid leave period shall not be counted for purposes of time accrued under the plan.
 - g. If the District provides a new health plan or benefits or changes health plans or benefits while an employee is on CFRA leave, the District will give written notice to the employee to advise that he/she is subject to the new or changed plan/benefits in the same manner, and to the same extent, as if the employee were not on leave.
5. Failure to Return from Leave. The District may recover the entire premium it paid for maintaining health insurance benefits for an employee during any period of unpaid leave if the employee fails to return to work promptly upon the expiration of a leave for a reason other than the continuation, recurrence or onset of a serious health condition that entitles the employee to leave or other circumstances beyond his/her control.

O. Reinstatement.

- 1. Restoration to Position. When an employee returns from a leave under the FMLA/CFRA, he/she will be restored to the position held when the leave began, or to a comparable position, with equivalent (i.e. virtually identical) employment benefits, pay, and other conditions of employment.
 - a. The duties of the position must be capable of being performed in the same or similar geographic location, and involve the same or substantially similar duties as the position held when leave began, with responsibilities that entail substantially equivalent skill, effort, responsibility, and authority.
- 2. Denial of Restoration Rights. The District may refuse to reinstate an employee to his/her pre-leave position at the conclusion of an FMLA/CFRA leave when either of the following conditions exists:
 - a. Key Employee (FMLA only). The employee is in the Exempt Service or a salaried eligible employee who is among the highest paid ten (10) percent of the District's employees; and the following steps take place:
 - (1) The District notifies the employee at the time the employee gives notice of the need for leave, or when leave commences, if earlier, that he/she is a key employee, and also notifies the employee of the potential consequences with respect to reinstatement and maintenance of health benefits if the District should determine that reinstatement

will result in substantial and grievous economic injury to its operations; and

- (2) As soon as the District makes a good faith determination that substantial and grievous economic injury will result if the District reinstates that key employee at the end of the requested FMLA leave period, the District notifies the employee that it intends to deny reinstatement at the end of the requested leave period.
 - i. The notice from the District will include an explanation for the basis for the District's determination and provide the key employee with a reasonable time in which to return to work, taking into account the circumstances, such as the requested duration of the leave and the urgency of the need for the employee to return.
 - (3) The key employee has already begun the FMLA leave at the time of receiving the notice, and he/she does not return to work within the specified timeframe after receiving such notice from the District.
 - i. The key employee will remain entitled to the maintenance of health benefits under Section 10.2.M.4. for the duration of the originally-requested leave, but the District will not be entitled to recover its contributions to premiums under Section 10.2.M.5.
 - ii. The key employee's rights will then continue under the FMLA unless and until the employee either gives notice that he/she will not seek to return to work, or the employee requests to return to work at the conclusion of the leave and receives notice that the District has denied that request.
 - (4) If the key employee requests to return to work upon completion of the originally-requested leave, the District again determines that substantial and grievous economic injury will result if the District reinstates the employee, based on the facts at hand, and the District provides written notice of the denial.
3. Position No Longer Exists. The employee's position and any comparable position have ceased to exist because of legitimate business reasons unrelated to the employee's FMLA/CFRA leave. In this case, the District shall reasonably accommodate the employee through alternative means that will not cause undue hardship to the District's operation. The District may offer an employee any other position that is available and suitable. The District is not required to create new employment that would not otherwise

be created, discharge or transfer another employee, or promote another employee who is not qualified to perform the job.

4. Opportunity to Fulfill Missed Requirements. If an employee is unable to attend a necessary course, renew a license, or is otherwise adversely affected in terms of fulfilling minimum requirements or qualifications for the position as a result of the FMLA/CFRA leave the employee will be given a reasonable opportunity to fulfill those requirements or qualifications upon returning to work from FMLA/CFRA leave.

SEC. 10.3 PREGNANCY DISABILITY LEAVE OR TRANSFER.

A. Eligibility and Duration.

1. Eligibility.

- a. Any employee who is disabled on account of pregnancy, childbirth, or related medical conditions may take a pregnancy-related disability leave, regardless of the number of hours worked or her length of employment with the District. However, unless an employee has met the eligibility requirements under Section III of this Policy, she shall not be subject to the additional terms and conditions that apply to an employee who is eligible for FMLA leave.
- b. An employee's pregnancy-related disability is not considered a serious health condition under the CFRA and is not counted against an employee's CFRA leave eligibility.

2. Amount of Leave Entitlement. An eligible employee may take a pregnancy-related disability leave for the period of disability, up to four months (an equivalent of 17 1/3 weeks). The pregnancy disability leave shall run concurrently with any family care or medical leave to which the employee may be entitled under the FMLA. An employee is entitled to take off the number of days or hours that the employee would normally work during 17 1/3 weeks of employment. For example, an employee, who regularly works 40 hours per week is entitled to take 693 hours of leave, and an employee who regularly works 20 hours per week, would be entitled to 346.5 hours of leave.

3. Temporary Transfer. Any employee affected by conditions related to pregnancy, childbirth, or related medical conditions is entitled to transfer temporarily to a less strenuous or hazardous position or to less strenuous or hazardous duties upon the certification of the employee's health care provider that the transfer is medically advisable, if the transfer can be reasonably accommodated.

4. Reasonable Accommodation. The District will provide reasonable accommodation to an employee who is affected by pregnancy, childbirth or related medical conditions as required by law.

B. Use of Accrued Leave. An employee taking pregnancy-related disability leave must coordinate any available sick leave with her pregnancy-related disability leave. An employee taking pregnancy-related disability leave may, at her option, coordinate any other accumulated paid leaves, including, but not limited to, vacation time, holiday pay, compensatory time off, or administrative leave with her pregnancy-related disability leave. The paid leave shall run concurrently with the pregnancy-related disability leave, and shall not extend the employee's entitlement to pregnancy-related disability leave beyond the amount specified in Section 10.3.A.2 of this Policy.

1. Coordination with Wage Replacement Plans.

- a. This provision only applies when the employee's pregnancy-related disability leave is also designated as a serious health condition under the FMLA.
- b. Pursuant to the provisions of the FMLA, if an employee is receiving a wage replacement payment from State Disability Insurance, Short-Term Disability, and/or Long-Term Disability, the employee and the District may mutually agree to coordinate the employee's accrued paid leaves with the amount received from the wage replacement plan, up to an amount equal to the employee's regular salary.
- c. If the employee is still receiving SDI benefits when her twelve workweeks of leave under the FMLA expire, she shall begin coordinating any additional accrued sick leave with the wage replacement benefits. The employee may also elect to coordinate all other accrued paid leaves with the wage replacement benefits.

C. Notice. An employee should notify her supervisor of her need for pregnancy-related disability leave or transfer as soon as she is aware of the need for such leave.

1. Foreseeable Events. Where the need for pregnancy-related disability leave or transfer is foreseeable, the employee must provide at least 30 days' advance notice to the District of the need for pregnancy-related disability leave or transfer. If the leave or transfer is required in connection with any planned, non-emergency medical treatment or supervision, the employee shall consult with the District and make a reasonable effort to schedule any such planned medical treatment or supervision to minimize disruption to the District's operations, subject to the approval of the health care provider of the employee.
2. Unforeseeable Events. For non-emergency events that are not foreseeable 30 days in advance, or when 30 days' advance notice is not practicable, the employee must notify the District as soon as practicable under the circumstances, ordinarily within two working days after the employee learns of the need for leave.

3. Notice of Intermittent Leave. In the event that an employee requires intermittent pregnancy-related disability leave, she shall notify the District of the anticipated dates for the absences as much in advance as possible.
 4. Failure to Provide Notice. If the employee fails to provide the requisite 30-day advance notice for foreseeable events without any reasonable excuse for the delay, the District reserves the right to delay the employee's right to take the FMLA/CFRA leave for up to 30 days after the date the employee provides notice of the need for pregnancy-related disability leave or transfer.
- D. Contents of Notice or Request for Extension.
1. All requests for pregnancy-related disability leave or transfer should include the anticipated timing and duration of the leave or transfer and be sufficient to make the District aware that the employee requires a pregnancy-related disability leave or transfer. Any requests for extensions of a pregnancy-related disability leave or transfer must be received at least five (5) working days before the date on which the employee was originally scheduled to return to work, where practicable, and must include the revised anticipated date(s) and duration of the pregnancy-related disability leave or transfer.
 2. If the employee has exhausted her leave entitlement under Section 10.3.A.2., the District will evaluate on a case-by-case basis whether additional leave may be available as a reasonable accommodation; however, any such additional leave shall not be subject to the provisions of this Section 10.3.
- E. Intermittent or Reduced Schedule Leave. Pregnancy-related disability leave can be taken on an intermittent or on a reduced schedule basis when medically advisable, as determined by the employee's health care provider. The minimum pregnancy-related disability leave increment that can be taken by an employee is fifteen minutes. If pregnancy-related disability is taken on an intermittent or reduced schedule basis and it is foreseeable based on planned medical treatment because of pregnancy, the District retains the discretion to temporarily transfer the employee to an alternative position, for which the employee is qualified, with equivalent pay and benefits, which better accommodates the employee's leave schedule, but need not have equivalent duties.
- F. District Response to a Request for Pregnancy-Related Disability Leave or Transfer or Request for Extension. Within five (5) working days of an employee's request for pregnancy-related disability leave or transfer, the District shall provide the employee with a written Eligibility Notice, which shall conform to the provisions of Section 10.2.J. The Eligibility Notice shall also inform the employee of her additional rights under the California PDL. If the employee has exhausted her leave entitlement under Section 10.3.A.2., the District will advise whether additional leave will be granted as a reasonable accommodation; however, any such additional leave shall not be subject to the provisions of this Section IV.
- G. Medical Certification.

1. Timing of Certification. Any request for pregnancy-related disability leave or transfer must be supported by a medical certification from a health care provider.
 - a. For foreseeable pregnancy-related disability leaves or transfers, employees must provide the required medical certification before the leave/transfer begins. When this is not possible, employees must provide the required certification within fifteen (15) days, unless it is not practicable under the circumstances to do so. Failure to provide the required medical certification may result in the denial or delay of foreseeable pregnancy-related disability leaves or transfers until such certification is provided.
 - b. In the case of unforeseeable leaves, failure to provide the required medical certification within fifteen (15) days of being requested to do so may result in a denial of the employee's continued leave until certification is eventually provided. Any request for an extension of the leave/transfer must also be supported by an updated certification.
2. Contents of the Certification for Pregnancy-Related Leave. Employees are encouraged to use the District's medical certification when requesting pregnancy-related disability leave to ensure that all pertinent information is obtained. The following information must be included: (1) date the employee became or will become disabled due to pregnancy; (2) the probable duration of the period or periods of disability; and (3) an explanatory statement that, due to the disability, the employee is unable to work at all or is unable to perform any one or more of the essential functions of her position without undue risk to herself, to the successful completion of her pregnancy, or to other persons.
3. Contents of the Certification for Pregnancy-Related Transfers. Employees are encouraged to use the District's medical certification when requesting pregnancy-related disability transfer to ensure that all pertinent information is obtained. The medical certification for pregnancy-related transfer shall include: (1) date the employee became or will become disabled due to pregnancy; (2) the probable duration of the period or periods of disability; and (3) an explanatory statement that, due to the disability, the transfer is medically advisable.
4. No Second/Third Opinions Allowed. There will not be a second or third opinion regarding pregnancy-related disability leave or transfer.
5. Return to Work Certification. As a condition of restoration to her former position, an employee taking leave under the FMLA/PDL is required to provide the District with certification from her health care provider stating that she is able to resume her original job duties.

- H. District's Designation of Leave. Once an employee requests pregnancy-related disability leave or transfer, the Administrative Services Officer shall notify the employee in writing whether the requested leave or transfer is approved and qualifies as pregnancy-related disability leave or transfer. This designation shall comply with the provisions of Section 10.3.L., and shall also inform the employee of any additional rights and obligations under the California Pregnancy Disability Leave Law.
- I. Employment and Benefits Protection. The provisions set forth in Section 10.3.M. of this Policy regarding employment and benefits protection in connection with FMLA/CFRA leave also apply to all pregnancy-related disability leaves, except that where the District's policy permits employees on paid leave and/or unpaid leave to accrue seniority, employees on paid and/or unpaid pregnancy-related disability leaves shall also accrue seniority.
- J. Reinstatement. Upon the completion of the employee's pregnancy-related disability leave or transfer period, and upon submission of the return to work notice, the employee shall be returned to the same position she previously held, or to a comparable position as permitted by law. However, for pregnancy-related disabilities, there is no reinstatement exception for key employees.

SEC. 10.4 MILITARY FMLA LEAVE.

The FMLA provides for two types of military family leave: military exigency leave, which is addressed in Section 10.4.A. of this Policy and military caregiver leave, which is addressed in Section 10.4.B. of this Policy.

- A. Military Exigency Leave. The District permits employees who have a covered military family member in the Armed Forces (including the National Guard or Reserves) to take up to twelve workweeks of FMLA leave due to a qualifying exigency resulting from the covered military family member's active military duty (or call to active duty status) in support of a contingency operation. Leave granted under this Section shall count against the FMLA leave granted under Section 10.3.
 - 1. Definitions.
 - a. Armed Forces. The Army, Navy, Air Force, Marine Corps, or Coast Guard, including the National Guard and Reserves.
 - b. Care recipient. The military member, or child or parent of the military member, who is receiving assistance, or the employee who is participating in a qualifying exigency.
 - c. Care Provider. The employee who is participating in a qualifying exigency.
 - d. Covered Active Duty or Call to Active Duty Status. One of the following:

- (1) For a member of a regular component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country; or
 - (2) For a member of a reserve component of the Armed Forces, duty during the deployment of the member with the Armed Forces to a foreign country under a federal call or order to active duty in support of a contingency operation under a provision of law referred to in section 10.1(a)(13)(B) of Title 10, United States Code.
- e. Covered Military Family Member. An employee's spouse, registered domestic partner, son, daughter, or parent who is a member of the Armed Forces and is on Covered Active Duty or Call to Active Duty Status.
- (1) For purposes of this definition only, "son" or "daughter" means the employee's biological, adopted, or foster child, stepchild, legal ward, or a child for whom the employee stood in loco parentis, within the meaning of Section 10.3.D. of this Policy, regardless of age.
- f. Covered Military Family Member's Child. The biological, adopted, or foster child, stepchild, legal ward, or child for whom the Military Family Member stands in loco parentis, within the meaning of Section 10.3.D. of this Policy, who is either under the age of 18 or who is aged 18 or older but incapable of self-care because of a physical or mental disability at the time leave under this Section 10.4.A. is to commence.
- g. Covered Military Family Member's Parent. The biological, adoptive, step, or foster father or mother, or an individual who stood in loco parentis, within the meaning of Section 10.3.D. of this Policy, to a Covered Military Family Member who was under 18 years of age.
- h. Military Member. a child, spouse, domestic partner, or parent of the employee, where the military member is on covered active duty or call to active duty in the Armed Forces of the United States.
2. Qualifying Reasons for Military Exigency Leave. Military exigency leave can be taken for the following non-medical, non-routine activities only:
- a. Short-Notice Deployment Activities. If a Covered Military Family Member receives seven (7) or less calendar days' notice prior to the date of deployment, an employee may take FMLA leave to address any issue arising from an impending call or order to active duty in support of a contingency operation. The employee may take FMLA leave for up to seven days beginning on the date the Covered

Military Family Member receives the notice of impending call or order to active duty.

- b. Military Events and Related Activities. An employee may take FMLA leave to attend any official ceremony, program, or event sponsored by the military that is related to the active duty or call to active duty status of the Covered Military Family Member. An employee may also take FMLA leave to attend family support or assistance programs and informational briefings sponsored or promoted by the military, military service organizations, or American Red Cross that are related to the active duty or call to active duty status of a Covered Military Family Member.
- c. Childcare and School Activities. An employee may take FMLA leave for the following reasons, if the reason is necessitated by the Covered Military Family Member's active duty or call to active duty status, or circumstances arising from it:
 - (1) To make alternative childcare arrangements of a Covered Military Family Member's Child;
 - (2) To provide childcare for a Covered Military Family Member's Child on an urgent, immediate need basis, but not on a regular, routine, or everyday basis;
 - (3) To enroll in or transfer a Covered Military Family Member's Child in a new school or day care facility; and/or
 - (4) To attend meetings with staff at a school or day care facility, such as regarding disciplinary measures, parent-teacher conferences, or meetings with school counselors, for a Covered Military Family Member's Child.
- d. Financial and Legal Arrangements. An employee may take FMLA leave in order to make or update financial or legal arrangements to address the Covered Military Family Member's absence while on active duty or call to active duty status; and/or to act as the Covered Military Family Member's representative before a federal, state, or local agency for purposes of obtaining, arranging, or appealing military service benefits while the Covered Military Family Member is on active duty or call to active duty status (up to a period of ninety (90) days following the termination of the Covered Military Family Member's active duty status).
- e. Counseling Activities. An employee may take FMLA leave to attend counseling, provided that:
 - (1) The need for counseling arises from the Covered Military Family Member's active duty or call to active duty;

- (2) Such counseling is provided by someone other than a health care provider; and
 - (3) The counseling is for the employee, the Covered Military Family Member, and/or the Covered Military Family Member's Child. (Note that if medical counseling is needed due to a serious health condition, the employee may be able to take FMLA/CFRA leave under Section 10.2 instead.)
- f. Rest and Recuperation Activities. If a military member is granted short-term, temporary, rest and recuperation leave during the period of deployment, an employee may take FMLA leave to spend time with the military member. An employee may take FMLA leave for this purpose for up to fifteen (15) working days for each instance of rest and recuperation, beginning on the date the Covered Military Family Member commences each instance of rest and recuperation leave.
- g. Post-Deployment Activities. An employee may take FMLA leave to attend arrival ceremonies, reintegration briefings and events, and any other official ceremony or program sponsored by the military for a period of 90 days following termination of the Covered Military Family Member's active duty status. An employee may also take FMLA leave to address issues that arise from the death of a Covered Military Family Member while on active duty status, such as meeting and recovering the body of the Covered Military Family Member.
- h. Parental Care. An employee may take FMLA leave for care of a Covered Military Family Member's Parent who is incapable of self-care.
- (1) "Incapable of self-care" means that the individual requires active assistance to provide daily self-care in three or more of the following activities: caring appropriately for one's grooming and hygiene; bathing; dressing; eating; cooking; cleaning; shopping; taking public transportation; paying bills; maintaining a residence; using telephones and directories; using a post office; or other activities or instrumental activities of daily living.
 - (2) An employee may take parental care leave for the following purposes when the need arises from the covered active duty or call to active duty of the Covered Military Family Member:
 - i. To arrange for alternative care of the Covered Military Family Member's Parent from the existing care arrangement;

- ii. To provide care for the Covered Military Family Member's Parent on an urgent, immediate need basis (as opposed to a routine, regular, or everyday basis);
 - iii. To admit to or transfer to a care facility the Covered Military Family Member's Parent; or
 - iv. To attend meetings with staff at a care facility, such as meetings with hospice or social service workers, which are not regular or routine.
- i. *Additional Activities.* An employee may take FMLA leave for another form of exigency, provided that:
- (1) The reason for the leave arises out of the Covered Military Family Member's active duty or call to active duty;
 - (2) The District and the employee mutually agree that such leave shall be considered taken for a qualifying exigency; and
 - (3) The District and employee mutually agree on the timing and duration of the leave.

3. Employee Notice of Need for Military Exigency Leave.

- a. Timing of Notice. Employees are required to give notice of the need for military exigency leave as soon as practicable under the circumstances.
- b. Content of Notice. Employees are required to provide the District with sufficient information, depending on the situation, to notify the District as to the anticipated timing and duration of the leave, that a Covered Military Family Member is on active duty or call to active duty status, and that one of the qualifying exigencies in Section 10.5.A.2. is present.
- c. Updates from Employee. The employee is required to advise the District as soon as is practicable when the dates of leave or other circumstances change.

4. District Response to Notice of Need for Military Exigency Leave. The District will request any additional, necessary information needed to process the employee's request and will also follow the procedures set forth under Section III of this Policy in responding to an employee's notice that he/she has a need for military exigency leave.

5. Certification of Need for Military Exigency Leave. The District will request certification of the employee's need for military exigency leave when it provides notice under Section 10.3., and will provide the employee with a form to complete or an explanation of the information needed. Employees

requesting military exigency leave for the first time for a particular active duty or call to active duty are also required to provide the District with a copy of the military member's active duty orders.

a. Required Information for Certification.

- (1) A signed statement or description by the employee of the facts supporting the request for leave for one or more of the reasons set forth in Section 10.5.A.2 and any available supporting written documentation, including, but not limited to, meeting announcements, appointment confirmations, or a copy of a bill for services.
- (2) The approximate date(s) on which the reason for the leave commenced, or will commence.
- (3) The applicable timeframe.
 - i. If for a single, continuous period of time, the beginning and end dates for the employee's absence from work;
 - ii. If, on an intermittent or reduced schedule basis, the estimated frequency and duration of the employee's absences.
- (4) For leave involving a meeting with a third party, appropriate contact information for the individual or entity, such as name, title, organization, address, telephone number, fax number, and email address, as well as a brief description of the purpose of the meeting.
- (5) For leave involving rest and recuperation activities, a copy of the Covered Military Family Member's Rest and Recuperation orders, or any other documentation issued by the military indicating that the Covered Military Family Member has been granted Rest and Recuperation leave and identifying the dates of that Rest and Recuperation leave.

b. Timing of District's Notice of Required Certification. The District will request the certification in accordance with the timeframes set forth in Section 10.3.K. of this Policy.

c. Insufficient or Incomplete Certification. Employees are required to provide a complete and sufficient certification. If an employee provides an incomplete or insufficient certification, the District will give the employee written notice of the deficiencies and seven (7) calendar days to cure the deficiencies, unless seven (7) days is not practicable, despite the employee's diligent, good faith efforts. The

employee's leave may be denied if he/she fails to provide a required certification timely.

- d. Verification of Certification. The District may verify the employee's certification by contacting the appropriate Department of Defense unit to verify the military member is on active duty or call to active duty status. If the exigency involves meeting with a third party, the District may contact the entity or individual with whom the employee is meeting to verify the meeting or appointment schedule and the nature of the meeting. The District will not request additional information. No permission from the employee is required for such verification.

B. Military Caregiver Leave. An employee who is the spouse, registered domestic partner, son, daughter, parent, or next of kin of a Covered Servicemember in the Regular Armed Forces, National Guard, or Reserves who has incurred a serious injury or illness in the line of duty while on active duty may take up to 26 workweeks in a single 12-month period per covered servicemember and per injury/illness of the servicemember. Leave granted under this Section shall run concurrently with the FMLA and CFRA leave granted under Section 10.3 (unless the employee is caring for his/her "next of kin" who is not covered by the CFRA). Leave granted under this Section shall be included in computing the employee's 12 weeks of leave granted under the FMLA, so that an employee may not, under any circumstances, exceed 26 total weeks of FMLA leave in a rolling 12-month period.

1. Definitions.

- a. Armed Forces. The Army, Navy, Air Force, Marine Corps, or Coast Guard, including the National Guard and Reserves
- b. Authorized Health Care Provider. For purposes of completing the certification required under Section 10.5.3.b., any one of the following:
 - (1) United States Department of Defense ("DOD") health care provider;
 - (2) A United States Department of Veterans Affairs ("VA") health care provider;
 - (3) A DOD TRICARE network authorized private health care provider;
 - (4) A DOD non-network TRICARE authorized private health care provider; or
 - (5) Any health care provider permitted to provide medical certification under Section 10.3.K. of this Policy.

c. Covered Servicemember.

- (1) A current member of the Armed Forces who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a Serious Injury or Illness; or
- (2) A veteran who is undergoing medical treatment, recuperation, or therapy, for a Serious Injury or Illness and who was a member of the Armed Forces, at any time during the period of five (5) years preceding the date on which the employee commences FMLA leave to care for the veteran. If the veteran was discharged or released under conditions other than dishonorable, the period from October 28, 2009 through February 8, 2013 shall not be counted in determining whether the veteran's last day of service falls within the five (5)-year period.

d. Next of Kin. The nearest blood relative of a Covered Servicemember (other than his/her spouse, registered domestic partner, parent, son, or daughter), in the following priority order:

- (1) A blood relative designated in writing by the servicemember as his/her nearest blood relative for purposes of military caregiver leave under the FMLA, who, if so designated, shall be the only next of kin for purposes of this Policy;
- (2) Blood relatives who have been granted legal custody of the servicemember by court decree or statutory provisions;
- (3) Brothers or sisters;
- (4) Grandparents;
- (5) Aunts or uncles; and
- (6) First cousins.

If no blood relative has been designated under section 10.5.B.1.d.i., all blood relatives at the next applicable level of priority shall be considered "next of kin" who may take FMLA leave to provide care for the Covered Servicemember, either simultaneously or not.

e. Outpatient Status. The status of a Covered Servicemember who is assigned to a military medical treatment facility as an outpatient, or a unit established for the purpose of providing command and control of members of the military receiving medical care as outpatients.

- f. Parent of a Covered Servicemember. A Covered Servicemember's biological, adoptive, step or foster father or mother, or an individual who stood in loco parentis to a Covered Servicemember, within the meaning of Section III.D. of this Policy.
- g. Son or Daughter of a Covered Servicemember. A Covered Servicemember's biological, adopted, or foster child, step child, legal ward, or child for whom the Covered Servicemember stood in loco parentis, within the meaning of Section 10.3.D. of this Policy, except that this definition shall apply regardless of the child's age.
- h. Serious Injury or Illness.
 - (1) For a current member of the Armed Forces. An injury or illness incurred by a Covered Servicemember in the line of duty on active duty (or that existed before the beginning of the member's active duty and was aggravated by service in the line of duty or active duty), and that may render the servicemember medically unfit to perform the duties of his/her office, grade, rank, or rating.
 - (2) For a veteran who is a Covered Servicemember.
 - i. An injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member's active duty and was aggravated by service in line of duty on active duty) and that manifested itself before or after the member became a veteran; and
 - ii. Is one of the following:
 - 1. A continuation of a Serious Injury or Illness that was incurred or aggravated when the veteran was a member of the Armed Forces and rendered him/her unable to perform the duties of his/her office, grade, rank, or rating; or
 - 2. A physical or mental condition for which the veteran has received a U.S. Department of Veteran Affairs Service-Related Disability Rating (VASRD) of 50 percent or greater, and the VASRD rating is based, in whole or in part, on the condition precipitating the need for the military caregiver leave; or
 - 3. A physical or mental condition that substantially impairs the veteran's ability to secure or follow a substantially gainful occupation by reason of a disability or

disabilities related to military service, or would do so absent treatment; or

4. An injury, including a psychological injury, on the basis of which the veteran has been enrolled in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.

- i. Veteran. A person who served in the Armed Forces, and who was discharged or released therefrom under conditions other than dishonorable.
2. Terms of Military Caregiver Leave. Except for the differences set forth in this Section 10.5.B., the District shall grant military caregiver leave under the same terms that FMLA/CFRA leave is granted under Section III to care for a parent, spouse, registered domestic partner, or child with a serious health condition.
 3. Required Certifications. The District will provide the employee with a form to complete that certifies the servicemember's family relationship, military status, and Serious Injury or Illness. The employee is required to ensure that this form, or an equivalent form containing the information set forth in this Section, is completely and sufficiently completed and returned within the same time periods set forth in Section 10.3.K. of this Policy. If the employee fails to provide a complete and sufficient form, the District will inform him/her of the deficiencies, and grant the employee at least seven calendar days to cure them.
 - a. Certification of Family Relationship and Military Status. The District will require proof of the servicemember's family relationship to the employee and proof of the servicemember's military status for the employee's first request of military caregiver leave for a particular illness or injury for a particular servicemember.
 - b. Certification of Serious Illness or Injury. The District will require certification from an Authorized Health Care Provider that the servicemember is suffering from a Serious Illness or Injury. However, the employee will not be required to reveal the servicemember's diagnosis.
 - (1) The Authorized Health Care Provider may base the certification upon his/her personal determination and/or may certify his/her reliance upon determination(s) made by an authorized DOD representative or an authorized VA representative. The certification must also include:
 - i. The name, address, appropriate contact information (telephone number, fax number, and/or email address) of the health care provider, the type of medical practice, the

medical specialty, and the basis on which he/she is an authorized health care provider, as set forth in Section 10.5.B.1.b, above;

- ii. The approximate date on which the injury or illness commenced, or was aggravated, and its probable duration; and
- iii. Information sufficient to establish that the Covered Servicemember is in need of care, and addressing the following matters:

1. Whether the need for care is for a single continuous period, and if so, an estimate of the beginning and ending dates, including any time needed for treatment and recovery;

2. Whether there is a medical necessity for periodic care, based on a schedule of planned medical treatment, and if so an estimate of the treatment schedule;

3. Whether there is a medical necessity for periodic care for reasons other than planned medical treatment, such as episodic flare-ups, and if so, an estimate of the frequency and duration of the periodic care.

4. Alternative Certifications.

- a. Special Automatic Certification. The DOD may issue a special invitation to a member(s) of a servicemember's family when a DOD health care provider has determined that the injury or illness is serious enough to warrant the immediate presence of a family member at the servicemember's bedside. If the DOD issues an invitational travel order ("ITO") or invitational travel authorization ("ITA") for "medical purposes" to any member(s) of the servicemember's family (even if the employee's name is not on it), the ITO or ITA constitutes automatic certification of military status and Serious Injury or Illness for the period of time specified in the ITO or ITA for the employee to take leave on either a continuous or intermittent basis, and the District will not require further certification of those matters for the specified period of time. However, in this circumstance, the District may still require proof of the covered family relationship between the employee and the servicemember. The ITO or ITA is in effect for the duration specified on it. If the employee wishes to request leave to care for a Covered Service Member beyond the period of time specified in an ITO or ITA, he/she must submit additional certification in accordance with Section 10.5.B.3.b., above.

- b. Documentation of Enrollment in Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers. As another alternative to the certification required under Section 10.5.B.3.b., the District will accept as sufficient certification documentation of the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers, whether or not the employee is the named caregiver in the enrollment documentation. However, the District may still require proof of the covered family relationship between the employee and the servicemember. The District may also require proof of the servicemember's date of discharge and proof that the servicemember's discharge was other than dishonorable.
5. Authentication and Clarification. The District may seek authentication and clarification of a certification issued under Section 10.5.B.3.d., or of an ITO or ITA, or of documentation of enrollment in the Department of Veterans Affairs Program of Comprehensive Assistance for Family Caregivers.
6. Second and Third Opinions. No second or third opinions of the servicemember's Serious Illness or Injury will be sought from an Authorized Health Care Provider who meets the criterion set forth in 10.5.B.1(a)(i)-(iv); however, the District may request a second or third opinion by an Authorized Health Provider who meets the criterion in 10.5.B.1(a)(v). No second or third opinions will be sought regarding an ITO or ITA for the period of time specified in the ITO or ITA.
7. Recertification. No recertification of the servicemember's Serious Illness or Injury will be sought.
8. Administrative Delays in Issuance of Military Documents. When an employee is unable to submit required documentation within the timeframe required under Section 10.3.K, despite his/her diligent, good faith efforts to obtain such documents, the District will not delay or deny leave on the grounds of such administrative delay.

SEC. 10.5 EMPLOYEE RESPONSIBILITIES AND DUTY TO COOPERATE

Employees are expected to fully cooperate with the District in meeting the obligations and requirements set forth under this Policy, as well as those set forth in state and federal law. An employee's cooperation includes, but is not limited to, timely completion of all requested forms and responding to all inquiries for additional information. Cooperation also requires that an employee respond to the District's inquiries for information to determine whether the employee is requesting leave under the FMLA, CFRA, and/or PDL. Employees are also required to consult with the District and make a reasonable effort to schedule foreseeable treatments so as to not unduly disrupt the District's operations. Employees on family care or medical leave must respond to the District's reasonable inquiries and keep the District updated as to the status of the employee's family care or medical leave.

Failure to cooperate with the District or failure to meet the employee's responsibilities may result in a delay in granting the employee's leave, a denial of leave, and/or a denial of the protections and benefits afforded by the FMLA, CFRA, and/or PDL. Employees who have questions about their responsibilities under this Policy should direct their inquiries to the Port Director or the Administrative Services Officer.

RULE XI. LAYOFF/SEPARATION/RETIREMENT

SEC. 11.1 ELIMINATION OF POSITIONS

Decreased public interest or changes in the District's fiscal or organizational priorities or conditions may result in the elimination or curtailment of a public service activity which may therefore require the layoff of one or more employees.

SEC. 11.2 LAYOFF PROCEDURE

Whenever, in the judgment of the Port District, it becomes necessary, due to the lack of work, lack of funds, or other economic reason, or because the necessity for a position no longer exists, the Port Commission may layoff any employee from a position. Said layoff shall not be subject to appeal.

- A. Employees laid off shall be given at least fourteen (14) calendar days' notice.
- B. Whenever there is a reduction in the work force, the Port Director shall first transfer the employee to a vacancy, if any, in any position for which the laid-off employee is qualified. In order for the employee to retreat to a lesser position, the employee must request displacement action in writing, explaining the employee's qualifications, to the Port Director within five (5) working days of receipt of the layoff notice. Employees retreating to a lesser position shall be placed at the salary step representing the least loss of pay. In no case shall the salary be increased above that received in the position from which the employee was laid off.
- C. Unrepresented Service Employees (i.e., temporary, seasonal and part-time employees) and regular full-time employees may be laid off according to the needs of the service as determined by the Port Director. If the Port District determines that staff must be laid off to meet the District's needs, temporary and seasonal employees shall be laid off first.
- D. In cases when there are two or more regular positions with the same job description from which the layoff is to be made, it shall be the Port Director's responsibility to consider the following criteria:
 - 1. Overall tenor of past evaluations (evaluations in the most recent 60 days prior to layoff are excluded);
 - 2. Seniority;
 - 3. Input from the affected department supervisor.

SEC. 11.3 RESIGNATIONS

Resigning employees shall be required to file a written resignation stating the effective date and reason(s) at least two (2) weeks prior to leaving the District's service, unless the time limit is waived by the Port Director. The resignation date should be the last day the employee actually worked.

SEC. 11.4 TERMINATIONS

The Port Director may terminate:

- A. Employees at any time while they are on probation.
- B. Employees in the Exempt Service hired on or after the effective date of these Rules at any time without cause and without right of appeal. Employees hired before the effective date of these Rules shall be terminated in the manner as required under applicable law, Memorandum of Understandings or employment agreement(s).
- C. Employees for disciplinary purposes in accordance with Rule XIII, to the extent applicable.

SEC. 11.5 RETIREMENT/DISABILITY RETIREMENT

In accordance with the District's contract with the California Public Employees' Retirement System (CalPERS), employees who meet the age and service credit minimums may qualify for a service retirement from CalPERS. Under CalPERS laws, an employee who is unable to perform his/her job because of an illness or injury which is expected to be permanent or last for an extended and uncertain period, may be entitled to receive a disability retirement. The cause of the disability need not be related to the employee's job.

SEC. 11.6 BENEFITS AT SEPARATION

When an employee is separated for any reason, all benefits shall end as of the date of termination, with the exception of the employee's health benefits, which may continue through the first day of the second month following the last date of employment. Any accrued and unused vacation and compensatory time shall be paid out at separation in accordance with sections 8.5 and 9.2. In the event an employee has received and advance of vacation and used more than he or she accrued prior to his/her separation date, the amount of the unaccrued vacation shall be deducted from the employee's final compensation.

RULE XII. OUTSIDE EMPLOYMENT/POLITICAL ACTIVITIES/CONTRACTS AND CONFLICTS OF INTEREST/CODE OF ETHICS

SEC. 12.1 OUTSIDE EMPLOYMENT

- A. During the employees' work day, they are expected to devote full attention to their prescribed duties. Employees may engage in outside employment,

enterprise or activity (collectively "outside employment") under the following circumstances only:

1. They notify the Department Head prior to beginning outside employment, providing sufficient information for the Department Head to determine whether the outside employment is consistent with this Rule.
2. The Department Head shall assess whether any of the following factors are involved in the proposed outside employment:
 - a. Receipt or acceptance by the employee of any money or other consideration from anyone other than the District for the performance of an act which the employee, if not performing such act, would be required or expected to render in the regular course or hours of employee's District employment as a part of employee's duties as a District employee; or
 - b. Performance of an act in other than the employee's capacity as a District employee which act may later be directly or indirectly subject to the control, inspection, review, audit, or enforcement by such employee or the department by which the employee is employed; or
 - c. Conditions or factors which are likely to directly or indirectly lessen the efficiency of the employee in the employee's regular District employment, or conditions in which there is a substantial danger of injury or illness to the employee; or
 - d. Use of District time, facilities, equipment, and supplies, prestige, influence, or confidential information of the employee's District office or employment for private gain or advantage; or
 - e. Solicitation of future employment with a business doing business with the District over which the employee has some control or influence in employee's official capacity at the time of the transaction.
3. The Department Head will approve proposed outside employment that he/she determines does not:
 - a. conflict with or is not incompatible or inconsistent with the employee's District responsibilities, including performance of overtime and emergency duties and any other aspect of District operations;
 - b. lessen the effectiveness of the employee; and
 - c. create a conflict of interest.
4. The Department Head shall advise the employee in writing as to whether the outside employment is approved or prohibited.

5. An employee may submit a written appeal to the Port Director within fourteen (14) days from the employee's receipt of the Department Head's written determination that a proposed outside employment is prohibited. The written appeal shall specify the grounds on which the employee challenges the Department Head's determination and shall include an attachment with all relevant documentary evidence for the appeal. The Port Director shall schedule a meeting with the employee and appointing authority to discuss the Department Head's determination. The Port Director shall issue a written decision to the employee and the Department Head within fourteen (14) days from the date of the meeting. The decision of the Port Director shall be final.
- B. An employee with approved outside employment must notify the Department Head within one (1) working day regarding any changes to the terms or conditions of the outside employment that may have a potential adverse effect on the application of one or more of the factors under Section 12.1.A.2.
- C. Employees shall be subject to disciplinary action pursuant to Rule XII for violation of this Rule, including, but not limited to, failure to disclose outside employment, failure to provide timely updates regarding changes to outside employment, and intentional inclusion of material mis-statements or exclusion of material information in the employee's description of the outside employment.

SEC. 12.2 POLITICAL ACTIVITIES

Employees may not solicit political funds or contributions from other employees while on duty or on District property, nor may any employee participate in political activities while on duty or while in any uniform which would represent the District.

SEC. 12.3 CONTRACTS AND CONFLICTS OF INTEREST

In accordance with California Government Code Title 1, Division 4, Chapter 1, Article 4, no District employee can be financially interested in any contract made by him/her in his/her official capacity, or by anybody or board of which he/she is a member. All employees of the District are required to adhere to the provisions of Article 4 of Title 1, Division 4, Chapter 1 of the Government Code.

SEC. 12.4 CODE OF ETHICS

- A. All employees shall uphold the Constitution of the United States, the Constitution of the State of California, and rules, regulations and Ordinances of the Santa Cruz Port District.
- B. All employees shall comply with all applicable provisions of California law governing public employees and officials, particularly the California Political Reform Act and its provisions on gifts and conflicts of interest.
- C. All employees shall not engage in any activity which results in any of the following:

1. Use of time, facilities, equipment, supplies, or other resources of the District for the private advantage or gain for oneself or another;
 2. Disclosure or use of official information that is not available to the general public for private advantage or gain for oneself or another; and/or
 3. Use of the authority of their position with the District to discourage, restrain, or interfere with any person who chooses to report potential violations of any law or regulation.
- D. No employee shall directly or indirectly accept:
1. Private advantage, remuneration, or reward for oneself or another as a result of the prestige or influence of the District office, employment, or appointment;
 2. Financial consideration from any source other than the District for the performance of his/her official duties, except for stipends received as representatives on boards, commissions or committees at a local, regional, or state level; or
- E. No employee shall give special treatment or consideration to any individual or group beyond that available to any other individual or group.
- F. No employee shall discriminate against or harass a citizen or co-worker on the basis of race, religious creed, color, national origin, ancestry, sex, age, physical or mental disability, medical condition, sexual orientation, marital status, gender identity, gender expression, genetic characteristics or information, military and veteran status, and/or any other category protected by federal and/or state law.
- G. All employees shall conduct themselves in a courteous and respectful manner at all times during the performance of their duties.
- H. Enforcement. Any employee found to be in violation of this Code of Ethics shall be subjected to appropriate disciplinary action, up to and including dismissal.

RULE XIII. DISCIPLINARY ACTIONS

SEC. 13.1 CAUSES

- A. Disciplinary measures may be taken for any good and sufficient cause. The extent of the Disciplinary Action taken shall be commensurate with the offense provided that the prior employment history of the employee may also be considered pertinent. Cause may include, but is not limited to, the following:
1. Violation of District Personnel Rules, ordinances, regulations, rules, and/or administrative policies and procedures; or of standards established under California or federal law;

2. Failure to maintain job performance standards or to properly perform assigned duties;
3. Theft of, harm to, or waste of District property or the personal property of another;
4. Lack of cooperation;
5. Insubordination;
6. Dishonesty;
7. Conviction of a felony, or conviction of a misdemeanor relating to the employee's fitness to perform assigned duties;
8. Unauthorized absence from employment or excessive absenteeism;
9. Tardiness;
10. Failure to maintain satisfactory working relationships with other employees or the public;
11. Reporting for work, or being at work, under the influence of or in possession of alcohol, or non-prescribed controlled substances;
12. Assault, battery, or fighting while on duty or under the guise of office;
13. Gambling on District property or during working hours;
14. Sleeping on the job or leaving the job without authorization;
15. Improper use of District funds;
16. Acceptance of bribes or extortion;
17. Unauthorized use of District property;
18. Falsification of records, including information provided on an application for employment or on time sheets;
19. Failure to properly care for District property;
20. Acceptance of any gift, (other than as provided for by written District policy) reward or other form of compensation in addition to compensation for performance of official duties;
21. Carelessness or negligence;
22. Misuse or failure to maintain any employment qualification;
23. Discourteous treatment of the public or fellow employees;

- 24. Disorderly conduct or horseplay;
 - 25. Failure to comply with safety standards;
 - 26. Interfering with the work performance of others;
 - 27. Abuse of leaves of absence, including sick leave; and/or
 - 28. Failure to immediately report any accident or incident that result in personal injury and/or damage to Port District property to a department manager and/or supervisor.
 - 29. Other failure of good behavior either during or outside of employment such that the employee's conduct causes discredit to the District.
- B. Reduction in Pay. Reductions in pay which are part of a general plan to reduce salaries and wages as an economy measure are not disciplinary measures.

SEC. 13.2 AUTHORITY FOR DISCIPLINARY ACTIONS

- A. Management staff and/or the Port Director shall have authority to take Disciplinary Action. As specified in Section 13.4, only the Port Director may terminate employees.
- B. The Administrative Services Officer shall be notified of any contemplated Disciplinary Action prior to the time it is taken, provided that in emergency situations or other instances when prior notification is not practicable, the Administrative Services Officer may be notified as soon as possible subsequent to the time the action is taken.

SEC. 13.3 TYPES OF DISCIPLINARY ACTION

- A. Lesser Disciplinary Action.
 - 1. Oral Reprimand. Oral reprimand as a Disciplinary Action means the employee is informed of his/her poor performance verbally by his/her supervisor. The employee shall have no right to prior notice and no right of appeal.
 - 2. Written Reprimand. Written reprimand as a Disciplinary Action means an official notification of the employee that there is cause for dissatisfaction with his/her services and that further disciplinary measures may be taken if said cause is not corrected. Official reprimand shall be given in the manner and on forms prescribed by the Administrative Services Officer. Reprimand notices shall be made a part of the employee's official personnel record and may be considered as pertinent evidence or information in any appeal hearing. The employee shall have no right to prior notice and no right of appeal.

3. Suspension Without Pay For Less Than Five (5) Working Days. Suspension without pay shall be a temporary separation from District service. Prior to the imposition of the suspension without pay, employees shall be provided with a Notice of Disciplinary Action which sets forth the effective date and specific reasons for the suspension without pay. The Notice of Disciplinary Action shall also include copies of all written materials supporting the suspension without pay. The employee's right of appeal is limited to the Complaint Procedure in Section 13.4.
4. Reduction In Pay. Reduction for a time period equivalent to less than a five (5) working day suspension. Reduction in step within range as a disciplinary measure is the withdrawal of increments granted for merit, efficiency and length of service. The maximum reduction in pay that may be given for any one Disciplinary Action shall be two (2) steps within the range for that Class. Reduction in pay shall become effective on the first of the month following the effective date of the Disciplinary Action. Prior to the imposition of the reduction in pay, employees shall be provided with a Notice of Disciplinary Action which sets forth the effective date and specific reasons for the reduction in pay. The Notice of Disciplinary Action shall also include copies of all written materials supporting the reduction in pay. The employee's right of appeal is limited to the Complaint Procedure in Section 13.4.

B. Serious Disciplinary Actions. Serious Disciplinary Actions require due process as set forth in Rule 13.4. Serious Disciplinary Actions include the following:

1. Reduction in range equivalent to a five (5) or more working day suspension without pay.
2. Suspension without pay for five (5) or more working days, but not more than thirty (30) working days. Suspension without pay shall be a temporary separation from District service.
3. Demotion without consent as Disciplinary Action, shall be a reduction in classification or rank, with reduction in salary.
4. Dismissal means the discharge of an employee from the District service on the initiative of the employee's supervisor. Such termination of employment shall be permanent.

SEC. 13.4 PROCEDURES FOR SERIOUS DISCIPLINARY ACTIONS

A. Notice of Proposed Disciplinary Action. In instances of serious Disciplinary Actions as defined in Section 13.3.B, employees shall receive a written notice of proposed Disciplinary Action.

1. The notice of proposed Disciplinary Action shall state the proposed Disciplinary Action and the effective date and specific reasons for the proposed Disciplinary Action.

2. The notice of proposed Disciplinary Action shall include copies of all written materials supporting the proposed action.
 3. The notice of proposed Disciplinary Action shall inform the employee of his/her right to respond, either orally or in writing, to the Port Director, as appropriate, within five (5) working days of the date of the notice of proposed Disciplinary Action if it was personally delivered, or within seven (7) working days of the date of the notice of proposed Disciplinary Action if it was delivered by United States mail. If the employee requests to respond orally to the notice of the proposed Disciplinary Action, the Port Director, as appropriate, shall schedule a meeting as soon as possible.
- B. Notice of Decision. After review of the employee's timely written response, if any, or following the conclusion of the meeting, the Department Head or Port Director, as appropriate, shall issue and deliver to the employee a Notice of Decision which shall be a written statement of the decision to uphold, modify, or reject the proposed Disciplinary Action. Such action to be taken may not include discipline more severe than that described in the notice of proposed Disciplinary Action. The Notice of Decision shall be served within seven (7) working days after the receipt of the written response or the conclusion of the meeting, whichever is later.
- C. Disciplinary Appeal Hearing.
1. Right to a Disciplinary Appeal Hearing. Any employee who has received a Notice of Decision imposing serious Disciplinary Action shall be entitled to request an evidentiary appeal of the imposition of discipline.
 2. Requesting a Disciplinary Appeal. An employee wishing to appeal the imposition of a serious Disciplinary Action shall initiate the appeal by filing a written request with the Port Director within five (5) working days of the date of the Notice of Discipline if it was personally delivered, or within seven (7) working days of the date of the notice of imposition of discipline if it was delivered by United States mail. The request shall be addressed to the Port Director, and shall identify the subject matter of the appeal, the grounds for the appeal, and the relief desired by the employee. All disciplinary appeal hearings shall be conducted in private unless the employee requests a public hearing.
 3. Scheduling the Disciplinary Appeal Hearing with the Port Commission. The Port Director shall schedule the disciplinary appeal hearing to take place at the closed personnel session at the next regular meeting of the Commission. If so desired, the Commission may meet earlier by calling a special meeting.
 4. Representation and Employee Appearance at Disciplinary Appeal Hearing. The employee is entitled to be represented by counsel or other representative at the disciplinary appeal hearing. However, an employee who requests a disciplinary appeal hearing must be present during the

disciplinary appeals hearing. Failure to be present shall constitute a waiver of the employee's right to an appeal. Waiver will not occur if the employee can demonstrate good cause for his/her failure to be present within three (3) working days from the date the employee fails to appear.

D. Conduct of Disciplinary Appeal Hearings. The proceedings before the Port Commission shall be conducted as follows:

1. All parties shall have the following rights:
 - a. To call and examine witnesses;
 - b. To introduce exhibits;
 - c. To cross examine opposing witnesses on any matter relevant to the issue, even if the matter is not covered in the direct examination;
 - d. To impeach any witness regardless of which party first called him/her to testify;
 - e. To rebut the evidence against them; and
 - f. To present oral and written arguments
2. The District shall have the burden of proof, and the burden shall be by the preponderance of the evidence.
3. The hearing shall not be conducted in accordance with the technical rules relating to evidence and witnesses, but shall be conducted in a manner most conducive to the determination of the truth. Any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rules which might make improper admission of such evidence over objection in a court of law. The Commission's decision shall not be invalidated by any informality in the proceedings.
4. Hearsay evidence may be used for the purpose of explaining any direct evidence but shall not be sufficient in and of itself to support a finding, unless it would be admissible over objections in civil actions.
5. The Commission shall not take testimony from one (1) party outside the presence of the other.
6. The rules of privilege shall be effective to the same extent that they are now or hereafter may be recognized in civil actions.
7. Irrelevant evidence and unduly repetitious evidence shall be excluded.

8. The Commission shall determine the relevancy, weight, and credibility of testimony and evidence.
 9. The Commission shall have the power to exclude any witnesses.
- E. Issuance of Decision. Within thirty (30) days after the close of the hearing, a written statement of decision, containing findings of fact and conclusions of law, shall be issued by the Commission. The Commission shall have the authority to affirm, revoke, or reduce the Disciplinary Action imposed against the employee. The Commission may not provide for discipline more stringent than that imposed by the District.

The Commission's decision constitutes a final resolution of any Disciplinary Action and no further appeal shall be permitted within the District's administrative process. A copy of the Commission decision shall be provided to the employee and shall be made public at the next public session of the Commission.

Notwithstanding the above, the Commission shall not have binding authority to add, modify, or subtract from the Personnel Rules, or any resolutions, ordinances, or policies adopted by the District. Further, the Commission shall not have the authority or power to render a binding decision that requires the District to expend additional funds, to hire additional personnel, to buy additional equipment or supplies, or to pay wages or benefits not specifically provided for in the Personnel Rules, or any resolutions, ordinances, or policies adopted by the District. The Commission shall not have the authority to require the District to perform any other action that would violate state or federal laws.

- F. Judicial Review. An employee may seek judicial review of the final decision by the Commission in accordance with Section 1094.5 of the *California Code of Civil Procedure* by filing a petition for a writ of mandate. Section 1094.5 of the *Code of Civil Procedure* requires that the petition writ of mandate must be filed not later than the ninetieth (90th) day following the date on which the Commission's decision becomes final.

SEC. 13.5 ADMINISTRATIVE LEAVE WITH PAY

An employee may be placed on an Administrative Leave with Pay to allow the District time to fully investigate the facts of an alleged violation, while the Disciplinary Action is in process, or when the Port Director determines that it is in the best interests of the District. The employee must be reasonably available by telephone during his/her normal working hours and able to report to the District within sixty (60) minutes if directed to do so. When an employee is placed on Administrative Leave with Pay during this investigation, he/she shall not discuss the alleged violation or the Disciplinary Action with anyone, except a representative of his/her choice. Failure to remain reasonably reachable by telephone or to report to the District within sixty (60) minutes of being directed to do so shall be considered insubordination, and could result in additional Disciplinary Action. The employee shall be informed that communicating with others, except a representative of his/her choice, about a pending investigation constitutes insubordination and is a

separate and independent ground for discipline. This section is not intended to prevent the employee from communicating with his/her legal counsel.

Administrative Leave with Pay under this Section applies to Represented, Unrepresented and Exempt Service employees, whereas Administrative Leave under Section 9.13 only applies to Exempt Service employees.

SEC. 13.6 TIME EXTENSIONS

Any time limitations or requirements as set forth under this Rule may be extended or changed by mutual written agreement of the parties.

SEC. 13.7 DELIVERY OF NOTICES

When notice is required under this Rule, the notice shall be given to the affected employee either by delivery of the notice to the employee in person; or if the employee is not available for personal delivery, by placing the notice in the United States mail, first Class, postage paid, and by Certified Mail, return receipt requested, in an envelope addressed to the employee's last known home address. It shall be the responsibility of the employee to inform the District, in writing, of his/her current home address and of any change in such address, and the information so provided shall constitute the employee's "last known home address". Such personal delivery or mailing shall be presumed to provide actual notice to the affected employee.

RULE XIV. EMPLOYEE BENEFITS

SEC. 14.1 HEALTH BENEFITS

Medical, dental, life insurance and long-term disability insurance to cover non-occupational injuries and sickness for probationary and Regular Full-Time Employees shall be provided by the District. The scope of coverage and the payment of premiums are subject to bargaining in accordance with current contracts and Memoranda of Understandings with regular and Exempt Service employees.

Payment-in-lieu of medical coverage benefits shall be provided to eligible employees in accordance with current Memorandums of Understanding and applicable law and regulations.

SEC. 14.2 RETIREE MEDICAL

Employees who retire under the provisions of the District's contract with CalPERS would be eligible to continue CalPERS medical coverage. The District will contribute the minimum required monthly amount for retirees to CalPERS pursuant to Government Code Section 22892 of PEMHCA. Retirees shall not be reimbursed or otherwise receive payment from the District for health insurance premiums. The retiree health benefits and the District's contribution under this section are not accrued or vested benefit entitlements. The benefits provided under this section do not create vested rights under either the federal or state constitution. The District may decide to reduce, terminate, eliminate and/or modify the retiree health benefits provided under this section.

SEC. 14.3 RETIREMENT BENEFITS

The District has contracted with the California Public Employees' Retirement System (CalPERS) to enroll all District employees who meet the terms for CalPERS membership under applicable law and terms of the District's contract ("Members"). Members shall receive CalPERS retirement benefits in accordance with the following three-tier system. Except as specifically stated in Sections 15.2(A) and 15.2(B), below, or any applicable memorandum of understanding, the District shall pay for any increase in the employer rate and shall retain any savings from a decrease in the employer rate and any contribution credits (rebates) from CalPERS.

A. Tier I – Members hired before August 1, 2010.

Section 15.2(A) (including its subsections) shall apply to Members hired before August 1, 2010.

1. 2.5% at 55 Retirement Formula.
 - a. The 2.5% at 55 retirement formula shall apply to Members covered by this Section 15.2(A).
2. Final Compensation Based on Highest Three Year Period.
 - a. For purposes of determining a retirement benefit, final compensation for Members covered by Section 15.2(A) shall mean the highest three year period of compensation earnable as set forth in the District's contract with CalPERS.
3. Required Member Contribution.
 - a. Members shall pay the full 8% required Member contribution.

B. Tier II – Members hired on or after August 1, 2010, but before January 1, 2013.

Section 15.2(B) (including its subsections) shall apply to Members hired on or after August 1, 2010, but before January 1, 2013. In addition, Section 15.2(B) (including its sub-sections) shall apply to Members who are qualified for pension reciprocity as stated in Government Code Section 7522.02(c) and related CalPERS reciprocity requirements.

1. 2% at 60 Retirement Formula.
 - a. The 2% at 60 retirement formula shall apply to Members covered by Section 15.2(B).
2. Final Compensation Based on Highest Three Year Period.
 - a. For purposes of determining a retirement benefit, final compensation for Members covered by Section 15.2(B) shall mean the highest three year period of compensation earnable as set forth in the District's contract with CalPERS.

3. Required Member Contribution.

- a. Members shall pay the full 7% required Member contribution.

C. Tier III.

Section 15.2(C) (including its subsections) shall apply to Members hired on or after January 1, 2013, who do not qualify for pension reciprocity as stated in Government Code Section 7522.02(c) and related CalPERS reciprocity requirements.

1. 2% at 62 Retirement Formula.

- a. The two percent 2% at 62 retirement formula shall apply to Members covered by Section 15.2(C).

2. Final Compensation Based on Highest 36-Month Average.

- a. For the purposes of determining a retirement benefit, final compensation for Members covered by Section 15.2(C) shall mean the highest average pensionable compensation earned during 36 consecutive months of service, as set forth in Government Code Section 7522.32(a).

3. Required Member Contribution.

- a. As required by Government Code Section 7522.04(g), Members covered by Section 15.2(C) shall pay, through payroll deductions, 50.0% of normal costs.

SEC. 14.4 DEFERRED COMPENSATION PLAN

Regular Employees may choose to participate in the District's deferred compensation plan, according to the plan's terms. Employees may choose to contribute to the deferred compensation plan with no entitlement to contribution from the District.

RULE XV. EDUCATIONAL ASSISTANCE AND CERTIFICATION PAY

SEC. 15.1 EDUCATIONAL ASSISTANCE FOR TRAINING AND ADVANCEMENT

- A. The responsibility for developing training programs for employees is with the Port Director and supervisor, jointly. When an educational course to be taken by an employee will benefit the District, the Port Director may authorize payment by the District of tuition charges and books. An "educational course" may include courses that are in furtherance of a degree, other college-credit courses, or training. In order to be eligible for educational reimbursement, the employee must obtain written approval of the Port Director prior to enrolling in any courses and must provide proof of completion of the course and obtain a passing grade of C or higher. Course must be taken during an employee's non-working hours.

- B. If an employee is entitled to additional compensation by earning a degree, as specified in his/her job description, or the applicable memorandum of understanding, it will be the employee's responsibility to pay all fees for their courses and upon completing the course and earning a grade of C or better.
- C. Non-exempt employees shall be compensated for travel time, attendance at training or meetings, and other similar time where required under applicable state and federal wage and hour laws.

SEC. 15.2 LICENSES AND CERTIFICATION ASSISTANCE

- A. In cases of enrollment for any certification which is a condition of employment, the employee may request reimbursement from the District in advance of the enrollment. Reimbursement will only be authorized with prior approval of the Port Director.
- B. With prior-approval from the Port Director, the cost of licensing fees, renewal fees, and test fees for all levels of certification may be reimbursed by the District. To obtain reimbursement an employee must seek prior approval from the Port Director and after successful completion of the test/renewal/license process, the employee is responsible for submitting proof of payment for test fees, renewal fees, and license fees, along with proof of the certification or license, to the Port Director. In unusual circumstances, the Port Director may authorize the payment of the test/renewal/license fees in advance.

RULE XVI. UNIFORMS AND EQUIPMENT

SEC. 16.1 UNIFORMS

- A. The Port District shall issue and reimburse for employee uniforms in accordance with the Memorandums of Understanding.

SEC. 16.2 SAFETY EQUIPMENT AND PROTECTIVE CLOTHING

- A. Hard Hats
 - 1. The District requires employees to wear hard hats in accordance with OSHA rules and regulations.
- B. Life Jackets/Vests.
 - 1. The District requires employees to wear U.S. Coast Guard-approved personal flotation device (PFD) or buoyant work vests whenever working on vessels, workboats or barges, and dockside when high sea and swell conditions warrant. The District shall provide employees with required PFD's or buoyant work vests.
- C. Bicycle Helmets

1. Employees who ride their personal or District-owned bicycle on site for work-related or other purposes are required to wear a helmet for their safety.
- D. Any other rule related to uniforms and equipment should be based on applicable operative Memorandum of Understandings, rules and regulations.

RULE XVII. DRESS CODE

SEC. 17.1 GENERAL POLICY

- A. The District is a professional organization, and customers, suppliers, and the general public (collectively “customers”) frequently form their initial impressions of professional credibility based solely on employee appearance. Therefore, all employees must present a professional appearance by wearing attire appropriate to their job classifications and must promote a positive image to customers.
- B. This Rule is intended to provide standards for dress and appearance and is not meant to address all situations. There may be differences in some District standards depending on the nature of the work environment, nature of work performed, involvement with the public, required uniforms under Rule XVI, or other circumstances identified by the Port Director. The standards in this Rule apply when the employee has officially reported to work. Supervisory employees shall be responsible for enforcement of this Rule and related District Policies among their employees.

SEC. 17.2 GENERAL GUIDELINES FOR ATTIRE AND FOOTWEAR

- A. Business Casual. Employees are required to dress each day in business casual dress. Business casual wear is a style of dress which projects a professional, business-like image while still permitting employees to wear more casual and relaxed clothing. Business casual does not include athletic wear, leisure wear, or beach wear. Clothing and footwear should be clean and in good repair. It may not be faded, torn, frayed, or revealing.
- B. Professional Business Attire. Employees should always consider each day’s activities when determining what to wear. If an employee is representing the District at a meeting (including Port Commission meetings), professional business attire should be worn.

SEC. 17.3 LIMITED EXCEPTIONS

- A. Supervisory employees may exercise their discretion regarding appropriate attire in light of weather conditions or requirements of special projects or assignments.
- B. The District may designate special casual days during which the dress code may be relaxed. Criteria for such casual days will be announced in advance.

SEC. 17.4 TATTOOS AND JEWELRY

- A. Tattoos on employees, visible to others, which depict violent, obscene, abusive, threatening, profane, racial or gang related images or words must remain covered at all times while on duty. The material covering the tattoo must be opaque so that the image or word covered cannot be detected. Employees who have to interact with non-District employees, face-to-face, regularly, as part of their primary job duties, are not permitted to wear facial piercing jewelry, including, but not limited to, that displayed via nose piercing, tongue piercing, eyebrow piercing, lip piercing. For all the other employees, whether facial piercing jewelry is permitted shall be evaluated by the District on a case-by-case analysis, and in general, facial piercing jewelry is not recommended to be worn while on duty to maintain employees' professional appearance.
- B. Earrings without causing safety concerns or disturbance to the workplace are permitted.
- C. Any Jewelry worn by employees, visible to others, must be appropriate and must not detract from a professional appearance.
- D. All the jewelry worn by employees on duty and/or on the District premises must not constitute a potential safety hazard for the employee or others due to its characteristics or the manner in which it is worn.
- E. Determination as to whether an employee violates the District tattoos and jewelry policy shall rest in the discretion of employees' immediate supervisor. The decision rendered by the employee's immediate supervisor can be appealed to the Administrative Services Officer, and the Administrative Services Officer's decision shall be final.

SEC. 17.5 GROOMING

- A. All employees must maintain a clean, presentable appearance.
- B. When used, perfumes, colognes, after shaves, and scented lotions shall be applied in moderation.
- C. Beards, sideburns, and moustaches must be neatly groomed. Hair must be properly restrained as required for its length and the nature of the assignment. Hair coloring shall be within the range of natural hair colors.

SEC. 17.6 VIOLATIONS

- A. Should an employee wear inappropriate attire or footwear to work, the employee shall be asked to leave the workplace and promptly return after changing into appropriate attire and footwear. Non-exempt employees may deduct the missed time from their available paid leave, or in the absence of leave, shall be required to take the missing time as leave without pay. Failure by any employee to return to work promptly may be grounds for discipline, pursuant to Rule XII.

- B. Repeated violations of this Rule may be grounds for discipline, pursuant to Rule XIII.

SEC. 17.7 ACCOMMODATION OF PROTECTED CHARACTERISTICS

The Administrative Services Officer may grant exceptions to this Rule as required by law to accommodate an employee's protected characteristic(s).

RULE XVIII. POLICY AGAINST WORKPLACE VIOLENCE

SEC. 18.1 OBJECTIVES

The District is strongly committed to ensuring the safety of all employees. Consistent with this policy, acts or threats of violence, including intimidation, harassment, and/or coercion which involve or affect employees will not be tolerated, and will be subject to appropriate Disciplinary Action pursuant to Rule XIII, up to and including termination. The following are the objectives of the District:

- A. To ensure that all workplace threats and acts of violence be addressed promptly.
- B. To ensure that the level of physical and facility security in District workplaces is sufficient to protect the health and safety of employees.
- C. To ensure that all employees are appropriately trained in workplace security, diffusing hostile situations, and steps to take during an emergency incident.
- D. To ensure that all Disciplinary Action taken for behavior prohibited under this Rule is reviewed, evaluated, and administered consistently and equitably throughout the District, and done so in a timely manner.

SEC. 18.2 THREATS OR ACTS OF VIOLENCE DEFINED

A credible threat of violence is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his/her safety, or the safety of his/her immediate family, and that serves no legitimate purpose. General examples of prohibited workplace violence include, but are not limited to, the following:

- A. Threatening to harm or harming an individual or his/her family, friends, associates, or their property.
- B. Fighting or challenging another individual to a fight.
- C. Intimidation through direct or veiled verbal threats, or through physical threats, such as obscene gestures, grabbing, and pushing.
- D. Making harassing or threatening telephone calls; sending harassing or threatening letters, emails, text messages, or other correspondence.
- E. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of the District.

- F. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, which presents a credible threat to the individual and causes the individual to fear for his/her safety, or the safety of his/her immediate family, as defined in *Civil Code* section 1708.7.
- G. Making a suggestion or otherwise intimating that an act to injure persons or property is appropriate behavior.
- H. Unrelated to one's job duties and without District's prior approval, possession of firearms (loaded or unloaded), weapons, or any other dangerous devices on District property. This includes "look-alike" weapons, such as toy guns. Weapons and dangerous devices may include, but are not limited to the following: blackjacks, slingshots, metal knuckles, explosive substances, dirks, daggers, gas- or spring-operated guns, knives having a blade longer than three and one-half (3½) inches, folding knives having a blade that locks into place, razor blades, and clubs.
- I. Use of a personal or District-issued tool or other equipment in a threatening manner toward another.

SEC. 18.3 REPORTING WORKPLACE VIOLENCE

Any employee who is the victim of a threat or act of violence, or any employee who witnesses such conduct, should immediately report the incident to his/her immediate supervisor, any other appropriate person in the chain of command, the Administrative Services Officer or the Port Director. Should the employee perceive that he/she is in immediate danger of a violent act, or has just been victimized by a violent act, or is a witness of a violent act or imminent violent act, he/she shall whenever possible:

- A. Place himself/herself in a safe location.
- B. If appropriate, call the Police Department or 911 and request immediate response of a police officer and be prepared to inform the police dispatcher of the circumstances and the exact location of where an officer is needed.
- C. Inform the Administrative Services Officer or the Port Director of the circumstances.
- D. Complete a written report as soon as possible and submit the original copy to the Administrative Services Officer.
- E. Cooperate fully in any administrative or criminal investigation, which shall be conducted within existing policy and laws.

SEC. 18.4 REPORTING POTENTIAL FUTURE WORKPLACE VIOLENCE

Employees who have reason to believe they or any employee may be the subject of a violent act in the workplace or as a result of their District employment, should immediately notify the Administrative Services Officer or the Port Director.

SEC. 18.5 VIOLATION OF RULE

The District's prohibition against threats and acts of violence applies to all persons in the District operation, including but not limited to District personnel, contract and temporary workers, customers, and anyone else on District property. Violations of this Rule by any individual may be followed by legal action as appropriate, which may include, but is not limited to, seeking a temporary restraining order and/or injunction on behalf of employees if the situation warrants such action. In addition to appropriate legal action, violations of this Rule by employees, including making a false report under this Rule, may lead to appropriate Disciplinary Action pursuant to Rule XII, up to and including termination.

RULE XIX. POLICY AGAINST HARASSMENT, DISCRIMINATION, RETALIATION, AND ABUSIVE CONDUCT

SEC. 19.1 GENERAL POLICY

The District is committed to providing a work environment that is free of discrimination, harassment, and retaliation. In keeping with this commitment, the District maintains a strict policy prohibiting harassment, including sexual harassment and takes reasonable steps to promptly correct discriminatory, harassing, and retaliatory conduct. This policy prohibits harassment in any form, including verbal, physical and visual harassment by or against any employee, intern, volunteer, applicant for employment, or vendor, or guest. This policy applies to all of the District's activities, wages, reviews, leaves, training, benefits, and all other conditions and terms of employment.

As a general guideline, harassment can be avoided if employees act professionally and treat each other with respect.

SEC. 19.2 PURPOSE OF POLICY

Federal and state law expressly prohibit discrimination and harassment of employees or applicants based upon race, religious creed, color, age, sex, sexual orientation, gender, gender identity, gender expression, transgender status, reproductive health decision making, national origin, ancestry, marital status, medical condition as defined by state law (cancer or genetic characteristics), disability, military service and veteran status, use of cannabis off the job and away from the workplace (except as may be required by federal law), prior cannabis use, pregnancy, childbirth, and related medical conditions, or any other basis protected by applicable state or federal law, including association with individuals with these protected characteristics or perception that an individual has one or more of these protected characteristics.

The purpose of this policy is to establish a means to protect employees, applicants for employment, or guests from harassment. Additionally, this policy enforces the District's long-standing policy that all employees, applicants for employment, and guests should be able to enjoy a work environment that is free from all forms of unlawful discrimination or harassment. Discrimination, harassment, and retaliation constitute misconduct that can decrease work productivity, decrease morale and cause emotional and physical damage. Incidents of discrimination, harassment, or retaliation can result in serious economic implications such as high turnover, ineffective use of time during working hours, costly

salaries paid for nonproductive work hours, and employee absences due to hearings and meetings related to discrimination, harassment, and retaliation complaints.

The further purpose of this Policy is to define and forbid discriminatory, harassing, and retaliatory conduct, to prohibit the condoning or perpetuating of such conduct, and to provide an efficient means for reporting and resolving complaints of discrimination, harassment, or retaliation against any individual who reports discrimination, harassment, or retaliation or who participates in an investigation of such reports.

SEC. 19.3 DEFINITION OF TERMS

- A. Employee. An employee refers to any individual under the direction and control of the District, under any appointment or contract of hire or apprenticeship, express or implied, oral or written. For purposes of this Policy, the term “employee” includes any individual who is an unpaid intern or volunteer of the District. The inclusion of any individual, including but not limited to unpaid interns and volunteers, in the definition of “employee” for purposes of this policy should not be interpreted to affect the applicability of any other policy or procedure of the District.
- B. Legally Protected Category/Legally Protected Characteristic. Race, religious creed, color, age, sex, sexual orientation, gender, gender identity, gender expression, transgender status, reproductive health decision making, national origin, ancestry, marital status, medical condition as defined by state law (cancer or genetic characteristics), disability, military service and veteran status, use of cannabis off the job and away from the workplace (except as may be required by federal law), prior cannabis use, pregnancy, childbirth, and related medical conditions or any other protected basis under state, federal or local law, including association with individuals with these protected characteristics or perception that an individual has one or more of these protected characteristics.
- C. Discrimination. Discrimination is any action or conduct by which an employee is treated differently or less favorably than other employees similarly situated because the employee is a member of a Legally Protected Category or Characteristic. Examples of conduct that can constitute discrimination if based on an individual’s Legally Protected Category or Characteristic include, but are not limited to the following:
1. Failing or refusing to hire an individual based on his/her Legally Protected Category or Characteristic.
 2. Terminating an individual from employment based on his/her Legally Protected Category or Characteristic.
 3. Singling out or targeting an individual for different or less favorable treatment because of his/her Legally Protected Category or Characteristic.
- D. Harassment. Harassment is any verbal, visual, or physical conduct based on an employee’s membership in a Legally Protected Category, the perception that an

employee in a member of a Legally Protected Category, or the employee's association with individuals in a Legally Protected Category, or perception that an individual has one or more of these Legally Protected Categories, that creates an intimidating, hostile or otherwise offensive working environment. Such conduct constitutes harassment when:

1. Submission to the conduct is made either an explicit or implicit condition of employment, or an unpaid internship or volunteer program;
2. Submission to or rejection of the conduct is used as the basis for an employment decision, or any decision related to an unpaid internship or volunteer program;
3. The harassment unreasonably interferes with an employee's work performance by altering the work conditions so that a reasonable person may find it more difficult to do the job, or creates an intimidating, hostile, or offensive work environment.

Harassing conduct can take many forms and includes, but is not limited to, slurs, jokes, statements, gestures, pictures, computer images, or cartoons regarding an employee's Legally Protected Characteristic.

Harassment on the job is prohibited whether it involves co-worker harassment, harassment by a supervisor or manager, or harassment by third parties doing business with or for the District.

- E. Sexual Harassment. Unwelcome sexual advances, requests for sexual favors, or visual, verbal, or physical conduct of a sexual nature all may constitute sexual harassment when: (1) submission to such conduct is made a term or condition of employment; or (2) submission to or rejection of such conduct is used as basis for employment decisions affecting the individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an employee's work performance by altering the work conditions so that a reasonable person may find it more difficult to do the job, or creating an intimidating, hostile or offensive working environment.

This definition includes potential forms of offensive behavior, such as the following:

1. Unwanted sexual advances.
2. Visual conduct, such as leering, making sexual gestures, displaying of sexually explicit jokes, derogatory images, and comments about an employee's body.
3. Verbal sexual advances or propositions.
4. Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual, suggestive or obscene letters, notes, or invitations.

5. Physical conduct, such as touching, assault, impeding, or blocking movements.
6. Retaliation for reporting harassment or threatening to report harassment.

Sexual harassment includes many forms of offensive behavior and may include harassment of a person of the same or opposite sex as the harasser.

Sexual harassment need not be motivated by sexual desire. Sexual harassment on the job is prohibited whether it involves co-worker harassment, harassment by a supervisor or manager, harassment by a subordinate, or harassment by third parties doing business with or for the District.

- F. Abusive Conduct. Conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests, even when not due to an employee's Legally Protected Category or Characteristic. It may include repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. Workplace bullying, including off-duty cyber-bullying of employees, is strictly prohibited. While abusive conduct and bullying are not per se unlawful, such conduct does violate District policy and will not be tolerated.
- G. Retaliation. Taking adverse action against any employee because of (1) the employee's opposition to a practice the employee reasonably believes to constitute employment discrimination, harassment, retaliation, or abusive conduct or (2) because of the employee's participation in an employment discrimination, harassment, or retaliation investigation, proceeding, or hearing, or (3) because of such opposition or participation by a family member or close associate of the employee.
 1. Protected Opposition. Protected opposition to perceived discrimination, harassment, retaliation, or abusive conduct includes, but is not limited to, threatening to file a discrimination, harassment, or retaliation complaint with any federal or state agency, or court, or complaining or protesting about alleged discrimination, harassment, retaliation, or abusive conduct to a supervisor, manager, co-worker, or other official. Protected opposition also includes a complaint or protest made on behalf of another employee or made by the employee's representative. The District also prohibits retaliation against somebody closely related to or associated with the employee exercising such rights. Opposition not made in good faith, or made in a manner which disrupts the workplace, or which constitutes an unlawful activity, or which includes badgering or threatening of employees or supervisors is not protected.
 2. Protected Participation. Protected participation includes, but is not limited to, filing a charge, testifying, assisting, or participating in any manner in an

investigation under this Policy, or in a proceeding, hearing or litigation under federal or state discrimination, harassment, or retaliation statutes, at other hearings regarding protected employee rights, such as unemployment compensation proceedings, and making requests for reasonable accommodation of a Legally Protected Characteristic.

3. Adverse Action. Adverse actions include, but are not limited to, the following acts: disciplinary actions, negative performance evaluations, undesirable transfer, undesirable assignments, negative comments, unwarranted criticism, actions that harm the employee outside the workplace, undesirable change in benefits, undesirable change in work schedule, unwarranted exclusion from meetings or events, or undesirable change in work duties.

- H. Supervisor (or Supervisory Employee). A supervisor or supervisory employee refers to any individual having the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or the responsibility to direct other employees, or to adjust their grievances, or to effectively recommend such action, if the exercise of that authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Employees who have questions regarding these definitions or are uncertain what constitutes discrimination, harassment, sexual harassment, retaliation, or other prohibited conduct under the District's policy should contact a supervisory employee, the Administrative Services Officer, or the Port Director.

SEC. 19.4 REPORTING DISCRIMINATION, HARASSMENT, RETALIATION, OR ABUSIVE CONDUCT

- A. In General. The District's complaint procedure provides for an immediate, thorough, impartial, and objective investigation of every discrimination, harassment, retaliation, and abusive conduct claim, appropriate disciplinary action against one found to have engaged in prohibited discrimination, harassment, retaliation, or abusive conduct, and appropriate remedies to any victim of discrimination, harassment, retaliation, or abusive conduct. The District encourages reporting of all perceived incidents of discrimination, harassment, retaliation, and abusive conduct.

- B. Complaint Procedure
 1. The District cannot resolve discrimination, harassment, retaliation, or abusive conduct unless the District is aware of the situation. The District relies upon its employees to bring those concerns to the attention of the District so that the necessary steps can be taken to correct the situation, and all employees are encouraged to do so. Accordingly, any employee, applicant, or guest who believes he or she has been harassed, discriminated or retaliated against or subjected to abusive conduct should promptly report the facts of the incident/incidents and the name(s) of the individual(s) involved to his/her immediate supervisor (or immediate

supervisory employee), any supervisor (or supervisory employee), Administrative Services Officer or to the Port Director.

2. Complaints can be made verbally or in writing and should include the following information:
 - a. The employee's name and position title.
 - b. The name of the person or persons committing the discrimination, harassment, or retaliation, including their title(s).
 - c. The specific nature of the discrimination, harassment, retaliation, or abusive conduct, how long it has been going on, and any adverse employment action, demotion, failure to promote, dismissal, refusal to hire, transfer, etc., taken against the victim as a result of the harassment, if applicable, or any other threats made against the victim as a result of the harassment.
 - d. Witnesses to the discrimination, harassment, retaliation, or abusive conduct, if any.
 - e. Whether the victim previously has reported such discrimination, harassment, retaliation, or abusive conduct and, if so, when and to whom.
 - f. Notification to the District is essential. Employees may be assured that they will not be penalized in any way for filing a good faith complaint of potential discrimination, harassment, retaliation, or abusive conduct.

ALL EMPLOYEES SHOULD NOTE THAT THE FAILURE TO USE THE DISTRICT'S COMPLAINT PROCEDURE MAY HAVE AN ADVERSE EFFECT ON ANY CLAIM UNDER THIS POLICY IF SUCH CLAIMS ARE LITIGATED.

C. Reporting Obligations

1. Any supervisor (or supervisory employee) who receives a complaint of discrimination, harassment, retaliation, or abusive conduct; witnesses discrimination, harassment, retaliation, or abusive conduct; or has any reason to believe that discrimination, harassment, retaliation, or abusive conduct may have occurred in the workplace is required to report the conduct immediately to the Administrative Services Officer or the Port Director.
2. A supervisor (or supervisory employee) will be subject to discipline for failing to report offensive conduct that potentially constitutes discrimination, harassment, retaliation, or abusive conduct if the supervisor knew or should have known of the offensive conduct in the normal course and scope of his/her supervisory duties.

3. All other employees who observe or are advised about the discrimination, harassment, retaliation, or abusive conduct involving another employee are encouraged to report the conduct to a supervisor (or supervisory employee), the Administrative Services Officer, or the Port Director.

D. The District's Response to Reports or Complaints.

1. Investigation of Complaints.

- a. All incidents of discrimination, harassment, retaliation, and abusive conduct that are reported must be investigated appropriately by the District so that corrective and preventive actions can be promptly taken if warranted. The District will promptly undertake or direct an effective, fair, timely, thorough, impartial, and objective investigation of the allegations that provides all parties appropriate due process and reaches a reasonable conclusion based on the evidence collected. The investigation will be conducted by qualified personnel.
- b. The investigation will include obtaining information from the accused and anyone who may have been a witness to the alleged misconduct. Statements made in the course of the investigation will be kept as confidential as practicable.
- c. The District will document each complaint and track each investigation to ensure reasonable progress, timely closure, and reasonable findings based on the evidence collected.

2. Intermediary Measures. Employees may be placed on a leave of absence, or subject to other intermediary measures, until the conclusion of the investigation.

3. Cooperation with the Investigation.

- a. It is important for the complaining party, the accused party, and all persons interviewed as witnesses during the investigation to understand that it is a violation of this policy to discuss any confidential investigation matters with other employees, or to conduct separate investigations at any time. The District will not tolerate any employees who interfere with its own internal investigations, or internal complaint procedures.
- b. All employees involved in a workplace investigation into alleged discrimination, harassment, retaliation, or abusive conduct are required to fully and truthfully cooperate with the investigation. Failure to fully and truthfully cooperate with the investigation is grounds for disciplinary action, up to and including termination.

- c. All employees are prohibited from engaging in retaliation, as defined in Section 20.3.G., above.

4. District Determination and Corrective Action.

- a. The District will make its determination based on the findings of the investigation and communicate that determination to the complaining employee, and to the accused. Parties are not entitled to copies of any notes or other written materials regarding the investigation, as these are considered to be confidential documents.
- b. If it is determined that the accused, or any other employee has violated District policies, appropriate corrective action will be taken. In addition, as part of the District's efforts to remedy the complaining employee's concerns, the complaining employee will be informed in general terms regarding any remedial measures and disciplinary actions imposed against the violator.

The information and definitions set forth in Section 20.3, above, are based on the legal definitions of discrimination, harassment, and retaliation. In light of the District's duty to prevent the unlawful conduct defined in Section 20.3, and in light of the District's desire to have a professional and productive work environment, the District reserves the right to take appropriate corrective action when an employee engages in inappropriate conduct that does not fully rise to the legal standards or definitions set forth in Section 20.3 of this Policy. For example, the District may take appropriate corrective action for inappropriate conduct, even if such conduct was not subjectively unwelcome or offensive to another employee of the District, or did not involve a legally protected characteristic.

5. Anonymity and Confidentiality.

- a. While the District will investigate anonymous complaints, the District strongly discourages anonymous complaints.

EMPLOYEES CHOOSING TO FILE A COMPLAINT ANONYMOUSLY MUST BE AWARE THAT ANONYMITY IN THE COMPLAINT PROCEDURE MAY COMPROMISE THE DISTRICT'S ABILITY TO COMPLETE A THOROUGH INVESTIGATION.

- b. Employees should also be aware that should the District learn of the identity of an anonymous complainant, the District cannot guarantee that his/her identity will remain confidential, if the District determines in its discretion that disclosure is necessary to complete the investigation.
- c. The District will take all reasonable steps available to maintain the confidentiality of all complaints of discrimination, harassment, retaliation, and abusive conduct, as well as all information gathered during an investigation to the extent possible. However, the District

retains sole discretion to determine whether disclosure of information is necessary to complete the investigation.

- d. All employees involved in the investigation of discrimination, harassment, retaliation, or abusive conduct complaints as either investigator(s), complainant(s), witness(es), or accused are encouraged to keep all information related to the investigation confidential.

- 6. Training. All employees of the District are required to undergo harassment prevention training as required by applicable law. For more information on this training requirement, employees can visit <https://calcivilrights.ca.gov/shpt/>

SEC. 19.5 EMPLOYEE’S DUTY TO DISCLOSE BENEFITS RECEIVED

- A. Employees are hereby informed that no supervisor (or supervisory employee), manager, or officer of the District, or other person or entity doing business with the District, is authorized to expressly or impliedly condition the receipt or denial of any benefit, compensation, or other term or condition of employment on an employee’s acquiescence to any sexual demand.
- B. To the contrary, all employees are instructed that they must refuse such demands and report them promptly either to their immediate supervisor (or immediate supervisory employee), the Administrative Services Officer, or to the Port Director. Any employee who is found to have accepted any benefit from the District because he/she submitted to an unreported sexual demand will be disciplined appropriately, including but not limited to, reimbursement for the value of any benefits received. Any employee making such a demand will be similarly disciplined.

SEC. 19.6 ADDITIONAL ENFORCEMENT INFORMATION

In addition to the District’s internal complaint procedure, employees should also be aware that the Equal Employment Opportunity Commission (“EEOC”) and the Department of Fair Employment and Housing (“DFEH”) investigate and prosecute complaints of discrimination, harassment, and/or retaliation in employment.

Employees can contact the EEOC as follows:

San Francisco District Office
450 Golden Gate Avenue
5 West P.O. Box 36025
San Francisco, CA 94102-3661
800-669-4000 | 510-735-8909 (TTY)
www.eeoc.gov

San Jose Local Office
96 N. Third St., Suite 250
San Jose, CA 95112
800-669-4000 | 800-669-6820 (TTY)
www.eeoc.gov

Employees can contact the DFEH as follows:

Bay Area Regional Office
39141 Civic Center Drive, Suite 250
Fremont, CA 94538
800-884-1684 | 800-700-2320 (TTY)
www.dfeh.ca.gov

SEC. 19.7 TRAINING AND POLICY DISSEMINATION

- 1 All employees who are hired by the District will be given a copy of this Policy, and will receive guidance from the District on its provisions and the District's commitment to provide a workplace free from discrimination, harassment, and retaliation.
- 2 All employees will be trained in accordance with applicable requirements of the Fair Employment and Housing Act (Government Code § 12950.1) and implementing regulations.

Non-Supervisory Employees: Non-Supervisory employees will receive training lasting for a minimum of one hour, within six months of their assumption of a position, and will be trained once every two years on matters relating to the prevention, reporting and correction of harassment, discrimination and retaliation. Seasonal and temporary employees may receive the above one-hour training if they are directly hired by the City.

Supervisory Employees:

- a. All supervisory employees will be trained once every two years on matters relating to the prevention, reporting, and investigation of harassment, discrimination, and retaliation. Further, individuals appointed to supervisory positions from a non-supervisory position or as a new employee shall receive training within six months of their hiring or assumption of the supervisory position.
- b. Supervisory training will last for a minimum of two hours.
- c. Supervisory training will be conducted in a classroom or other interactive setting and will, at a minimum, cover the following topics:
 - i. Information and practical guidance regarding federal and state statutory laws about sexual harassment;
 - ii. Information about the correction of sexual harassment and the remedies available to victims of sexual harassment; and

- iii. Practical examples aimed at instructing supervisors in the prevention of harassment, discrimination, and retaliation.
- iv. Information and practical guidance regarding the prevention of abusive conduct, which is defined as follows: conduct of an employer or employee in the workplace, with malice, that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interests. Abusive conduct may include, but is not limited to, repeated infliction of verbal abuse, such as the use of derogatory remarks, insults, and epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance. A single act does not constitute abusive conduct, unless especially severe and egregious.

RULE XX. DRUG FREE WORKPLACE

SEC. 20.1 PURPOSE

It is the District's goal to create a healthy and safe working environment in order to deliver the best and most efficient services to the members of the District. It is the responsibility of all employees of the District to cooperate in efforts to protect the life, personal safety, and property of co-workers and members.

Substance abuse has been found to be a contributing factor to absenteeism, substandard performance, increased potential for accidents, poor morale, and impaired public relations. It is the goal of this policy to prevent substance abuse, including alcohol abuse, in the workplace by clearly stating employee responsibilities relative to substance abuse and by providing managers and any other supervisory employee with guidelines and procedures for the detection of such abuse and the enforcement of related rules. Accordingly, employees must take all reasonable steps to abide by and cooperate in the implementation and enforcement of these policies and regulations.

The District encourages employees who believe that they may have a drug or alcohol problem to voluntarily seek counseling, assistance, and/or rehabilitation, and will be supportive of those employees who voluntarily seek help before the District discovers that the employee has a drug or alcohol problem. Employees who think they may have an alcohol or drug usage problem are urged to voluntarily seek confidential assistance through the District's Employee Assistance Program (E.A.P.) However, the District will be equally firm in identifying and disciplining those employees who are substance abusers and do not seek help before performance issues arise or other misconduct occurs.

Alcohol and/or drug abuse will not be tolerated on or off the job for any employee, and disciplinary action, up to and including termination, will be used as necessary to achieve the goal of eliminating substance abuse in the workplace. This policy does not apply to cannabis use by an employee off the job and away from the workplace, unless an exception applies. However, employee may not possess, use, or be impaired by cannabis on the job.

As required by the Drug-Free Workplace Act of 1988, this policy provides guidelines for the detection and deterrence of alcohol and drug abuse. It also outlines the responsibilities of the Port Director and employees. To that end, the District will act to eliminate any substance abuse (alcohol, illegal drugs, prescription drugs or any other substance which could impair an employee's ability to safely and effectively perform the functions of the particular job) that increases the potential for accidents, absenteeism, substandard performance, poor employee morale or damage to the District's reputation. All employees and applicants should be aware that violations of this policy may result in discipline, up to and including termination, or in not being hired.

SEC. 20.2 APPLICABILITY

This policy applies to all employees of and to all applicants for positions with the District. This policy applies to alcohol and to all substances, drugs, or medications, legal or illegal that could impair an employee's or officer's ability to effectively and safely perform the functions of the job.

Certain District employees are also subject to the Omnibus Transportation Employee Testing Act of 1991 (Pub. L. No. 102-143, 105 Stat. 952, as amended), which requires alcohol and drug testing of safety-sensitive transportation employees in aviation, trucking, railroads, mass transit, pipelines, and other transportation industries. (49 CFR Parts 40, 382, 391, 392, and 395, as amended). The U.S. DOT regulation describes the procedures for conducting the workplace drug and alcohol testing. (49 CFR Part 40.) District employees who are required to have a commercial driver's license and operate a Commercial Motor Vehicle (CMV) with a gross vehicle weight rating of 26,001 or more pounds; or is designated to transport 16 or more occupants (to include the driver); or is of any size and is used in the transport of hazardous materials that require the vehicle to be placarded are covered by this Act, except to the extent that it conflicts with any other District policy or state or federal law governing drug testing of employees required to possess a commercial driver's license. (Federal Motor Carrier Safety Administration, 49 CFR Part 382.)

SEC. 20.3 RESPONSIBILITY

It is the responsibility of all employees to understand and abide by the provisions of this policy. It is the responsibility of managers and supervisory employees to ensure that all employees and officers abide by the provisions of this policy.

SEC. 20.4 DEFINITIONS

- A. Alcohol or Alcoholic Beverage. Any liquid containing ethyl alcohol (ethanol) and/or any beverage that has alcoholic content in excess of .5% by volume.

- B. Applicant. Any person applying for employment with the District who has been extended a conditional offer of employment.
- C. Controlled Substance. Any drug that is classified by the federal Drug Enforcement Administration into the five schedules or classes on the basis of their potential for abuse, accepted use, and accepted safety under medical supervision. Examples of controlled substances include, but are not limited to, marijuana/cannabis metabolites, cocaine metabolites, opiate metabolites, amphetamines, and phencyclidine (PCP).
- D. Drug(s). Any substance (other than alcohol) or metabolite capable of altering the mood, sensory perception, cognitive abilities, motor skills, reaction time, rationality or judgment of the individual in whose body it is present. The term “drug” refers to both Legal and/or illegal drugs, as defined herein.
- E. Drug Paraphernalia. Any device or instrument used for injecting, smoking, consuming, or otherwise administering a controlled substance or legal and/or illegal drug, which includes, but is not limited to, the items set forth in California Health and Safety Code Section 11364.
- F. Administrative Services Officer. The District’s Administrative Services Officer or his/her designee.
- G. Prescription Drug. Any substance lawfully prescribed by a licensed or regulated professional for consumption or use.
- H. Illegal Drug. A controlled substance; a legal drug which has not been legally obtained; or a legal drug which was legally obtained, but that is being sold or distributed unlawfully.
- I. Legal Drug. Any drug, including any prescription drug or over the counter drug, that has been legally obtained and that is not unlawfully sold or distributed.
- J. Impaired. Diminished capacity, ability, mental acuity, or performance.
- K. Intoxicant. Any substance (including alcohol and/or alcoholic beverages) or metabolite capable of altering the mood, sensory perception, cognitive abilities, motor skills, reaction time, rationality or judgment of the individual in whose body it is present.
- L. Reasonable Suspicion. A belief based upon objective facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol so that the employee’s ability to perform the functions of the job is impaired or so that the employee’s ability to perform his/her job safely is reduced. For example, any of the following, alone or in combination, may constitute reasonable suspicion:
 - 1. Slurred speech;

2. Alcohol odor on breath, or other observed odor from an employee that is customarily associated with drug or alcohol use;
 3. Unsteady walking and movement;
 4. Physical impairment (e.g., glassy eyes, eye dilation, shaking, or erratic movement);
 5. An accident involving damage to District property or personal injury;
 6. Physical altercation;
 7. Verbal altercation;
 8. Unusual behavior;
 9. Job impairment;
 10. Possession of alcohol or drugs; or
 11. Information obtained from a reliable source with personal knowledge.
- M. Port Director. The Port Director or his/her designee.
- N. Under the Influence of Drugs or Alcohol. The use of (1) any alcoholic beverage; (2) any illegal drug or substance, or (3) the use or misuse of any legal drug, in a manner and to a degree that impairs the employee's work performance or ability to use the District's property or equipment safely.

SEC. 20.5 POLICY

- A. Employee Responsibilities. An employee must:
1. Sign and submit to his/her immediate supervisor or the Administrative Services Officer the Acknowledgement of Receipt of Drug-Free Workplace Policy, noting specifically that the employee has read, understood, and agreed to abide by the provisions of this policy as a condition of continued employment.
 2. Not report to work or be subject to duty while under the influence of alcohol and/or any alcoholic beverages. Employees shall not consume, use, possess, or be under the influence of alcohol and/or alcoholic beverages while on the District premises, on the District property, or in a District vehicle or at any time while on duty, during meal or rest periods, while on-call, while on stand-by, or while wearing a District uniform.
 3. Not report to work or be subject to duty while under the influence of drugs whenever the use of the legal drug might do any of the following:
 - a. Endanger the safety of the employee or another person;

- b. Pose a risk of significant damage to the District's property or equipment; or
- c. Substantially interfere with the employee's job performance or the safe or efficient operation of the District's business or equipment.

Also, employees shall not consume, use, possess, or be under the influence of any illegal drugs or intoxicants while on City premises, on City property, or in a City vehicle or at any time while on duty, during meal or rest periods, while on stand-by or while wearing a District uniform.

- 4. Notify his/her supervisor, Department Head, and/or the Administrative Services Officer, before beginning work when taking any medication or legal drugs, prescription or non-prescription, which may interfere with the safe and effective performance of duties or operation of District equipment. An employee who is unsure if a drug might impair his or her ability to perform the job properly and safely must advise his or her supervisor or Department Head of the potential concern before beginning work. In doing so, employees are not required to disclose the name of a medication or the medical reason for taking the drug, but may instead focus on the potential for impairment in relation to assigned job duties.
- 5. Not manufacture, possess, use, trade, offer to sell, sell, or buy drugs or alcohol during working hours or while subject to duty, on breaks, during meal periods, or anytime while on the District's property or wearing a District-issued uniform. This policy is not intended to prevent an employee from lawful possession, purchase or use of prescribed and/or over the counter drugs that do not impair the employee's work performance or ability to use the District's property or equipment safely.
- 6. Not store in a locker, desk, automobile, or other repository on the District's property, any alcohol or illegal drug. This policy is not intended to prevent an employee from possessing alcoholic beverages in sealed containers in his/her personal vehicle. Nor is this policy intended to prevent presentation of alcohol as a gift.
- 7. Not directly or through a third party sell or provide drugs or alcohol to any person, including any employee, while either employee or both employees are on duty or subject to duty. This policy is not intended to prevent an employee from possessing alcoholic beverages in sealed containers in his/her personal vehicle. Nor is this policy intended to prevent presentation of alcohol as a gift, where otherwise permitted.
- 8. Submit to an alcohol and/or drug test when requested to do so by the employee's Department Head in accordance with the guidelines set forth in this policy.
- 9. Provide, within 24 hours of a request, bona fide verification of a current, valid prescription for any potentially impairing drug or medication identified

when a drug test is positive. The prescription must be in the employee's name.

10. File an "Employee Report of Conviction for Violating Criminal Drug Statutes in The Workplace" form with the Administrative Services Officer within five days of such conviction.

B. District Responsibilities.

1. The Port Director, in consultation with Administrative Services, is responsible for reasonable enforcement of this policy.
2. The Port Director, Administrative Services Officer, or supervisor, after consulting with Administrative Services, may request that an employee submit to a drug and/or alcohol test in accordance with the guidelines set forth in this policy.
3. Whenever an employee refuses an order to submit to a drug or alcohol test upon appropriate request, the employee will be reminded of the requirements of this policy and the disciplinary consequences for his/her refusal. Such refusal may be considered insubordination and grounds for disciplinary action up to and including termination.
4. Where there is reasonable suspicion that an employee is under the influence of drugs or alcohol, the employee will be detained for a reasonable time until he/she can be safely transported home at the employee's own cost.
5. Employees must not physically search the person of another employee, nor may they search the personal possessions of another employee without that employee's consent in the presence of the Port Director or the Administrative Services Officer.
6. Supervisors must notify the Administrative Services Officer or Port Director when they have reasonable suspicion to believe that an employee may have illegal drugs in his/her possession or in an area not jointly or fully controlled by the District. If the Administrative Services Officer or Port Director concurs that there is reasonable suspicion of illegal drug possession, the Administrative Services Officer or Port Director may notify the appropriate law enforcement agency.

C. Rehabilitation.

1. General. The District encourages those employees who think that they may have a problem with abusing drugs and/or alcohol to seek assistance and rehabilitation at an early date, prior to notification of alcohol/drug testing, prior to performance issues or other misconduct associated with abuse, and prior to any other means of discovery by the District of the employee's drug and/or alcohol problem. However, the District reserves the right to discipline

employees, up to and including termination, who are discovered to have a problem with abusing drugs or alcohol, and do not come forward for help prior to the District's discovery or the District's demand that the employee submit to a drug or alcohol test.

2. Employee Assistance. The Employee Assistance Program (E.A.P.) is available to assist employees in their efforts to overcome problems with drugs and/or alcohol abuse. Information pertaining to such programs may be obtained by contacting the Administrative Services Officer.
3. Voluntary Referral. If done prior to the District's discovery of or request for a drug or alcohol test, an employee's effort to voluntarily seek treatment or rehabilitation for the first time, will not be used as the basis for disciplinary action. However, the District may in such cases require employees to comply with the provisions of the Last Chance Agreement and Follow-Up Testing.
4. Leave of Absence. If necessary, the employee may be granted a leave of absence in order to participate in treatment and rehabilitation. Such a leave of absence will be unpaid and subject to the requirements of applicable state/federal laws and the District's Personnel Rules regarding unpaid leaves of absences. An employee is required to exhaust all paid leaves prior to being granted an unpaid leave of absence for the purpose of receiving treatment and rehabilitation. Where permitted by applicable law, the District reserves the right to deny such leave if granting the leave would impose an undue hardship on the District.
5. Last Chance Agreement. Employees who undergo treatment or rehabilitation may be required to sign a Last Chance Agreement as a condition of continued employment, in which the employee promises to complete the treatment or the rehabilitation program and to comply with other specified terms. If the employee refuses to sign the Last Chance Agreement or violates the agreement, he/she may be subject to disciplinary action up to and including termination.
6. Follow-Up Testing. An employee entering a rehabilitation or treatment program may be required to submit to random testing for up to one (1) year after completion of the program. If the employee fails to comply or if further substance abuse is detected upon such testing, the employee may be subject to disciplinary action up to and including termination.

D. Drug Testing Guidelines.

1. Drug Testing. Employees subjected to a drug test will be tested by submitting to a urinalysis test. The urinalysis test will be administered by a medical facility designated by the District, according to its testing protocol. The drug test will test for the following classes of drugs: amphetamines, cocaine, tetrahydrocannabinol, methamphetamine, and opiates.

- a. Tetrahydrocannabinol (THC) is the chemical compound in cannabis that can indicate impairment and cause psychoactive effects. After THC is metabolized, it is stored in the body as a nonpsychoactive cannabis metabolite. These metabolites do not indicate impairment.
 - b. The District will not discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person based on the person's use of cannabis off the job and away from the workplace or if an employer-required drug screening test finds the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids except when the applicant or employee is hired for positions that require a federal government background investigation, security clearance in accordance with US Department of Defense regulations, or equivalent regulations.
 - c. The District retains the right to make employment-related decisions based on tests that apply to current impairment, in particular scientifically valid pre-employment drug screening conducted through methods that do not screen for non-psychoactive cannabis metabolites, such as those that test for THC.
2. Alcohol Testing. Employees subjected to an alcohol test will be tested by submitting to a breathalyzer test. The breathalyzer test will be administered by the medical facility designated by the District, according to its testing protocol.
 3. Pre-Employment Examinations.
 - a. Required. Certain pre-employment physical examinations will include drug and alcohol testing. No drug or alcohol test will be administered prior to the applicant receiving a conditional offer of employment. Only safety sensitive positions or those positions that interact with children will be subject to this section. The District will designate whether the position is safety sensitive or interacts with Children in the job announcement. For purposes of pre-employment drug/alcohol testing, this includes the following categories of positions:
 - v. Safety-Sensitive. Safety-sensitive positions include those positions with duties that are fraught with such risks to others that even a momentary lapse of attention can have disastrous consequences. Such position at the District includes harbor deputies, boat lift operators, crane operators and dredge workers.
 - vi. Interaction with Children. Positions that include interaction with children are those in which employees are directly responsible for protecting children or have continuous

interaction or supervision that puts them in a position of influence over children.

- b. Results. A positive result for a drug and/or alcohol analysis may result in the applicant not being hired. If a drug screen is positive at the pre-employment physical, the applicant may be requested to provide, within 24 hours of the request, bona fide verification of a valid current prescription for the drug identified in the drug screen. If the prescription is not in the applicant's name, or if the applicant does not provide acceptable verification, or if the drug is one that is likely to impair the applicant's ability to perform the job duties, the applicant may not be hired.

4. Alcohol/Drug Testing of Employees

- a. Cause. With the exception of the pre-employment drug and alcohol tests, employees will only be required to submit to drug and/or alcohol tests in the following circumstances:
 - i. When the Port Director, Administrative Services Officer, or supervisor has a reasonable suspicion that the employee is under the influence of drugs or alcohol while on the job or subject to being called to the job.
 - ii. When the Port Director, Administrative Services Officer, or supervisor has a reasonable suspicion that the employee is in possession of drugs and/or alcohol in a manner which is in violation of this policy.
 - iii. When an employee who suffers a work-related injury which requires medical treatment other than first aid may be required to submit to a drug and/or alcohol test at the time they receive medical treatment for their injuries.
 - iv. When the employee is subjected to Return to Duty and/or Follow-Up Testing following the employee's return from rehabilitation and/or treatment.
- b. Documentation. When the Port Director, Administrative Services Officer, or supervisor requests that an employee submit to a drug and/or alcohol test based on reasonable suspicion, that person must document in writing the facts constituting the reasonable suspicion that the employee in question is under the influence of drugs and/or alcohol. When possible, the employee's behavior should be witnessed and separately documented by another supervisor.
- c. Prerequisite. Prior to the administration of any drug or alcohol testing, the District's designated physician and/or the Port Director, Administrative Services Officer, or supervisor will attempt to obtain

from the employee to be tested a completed and signed consent form. This form will provide the employee's consent in writing to physical and/or psychological examination and testing and will authorize the release of such information by the physician to the District. Refusal by the employee to sign a consent form is considered insubordination and may be grounds for disciplinary action, up to and including termination.

- d. Results. If the drug screen is positive, the employee may be requested to provide, within 24 hours of the test results, bona fide verification of a valid current prescription for the drug identified in the drug screen. The prescription must be in the employee's name.
- E. Confidentiality. Laboratory reports and test results will not be included in an employee's general personnel file. Information of this nature will be contained in a separate confidential medical folder that will be securely kept under the control of the Administrative Services Officer. The reports or test results may be disclosed to supervisors on a strictly need-to-know basis and to the tested employee upon request.

Disclosures, without employee consent, may also occur when:

1. The information is compelled by law or by judicial or administrative process;
 2. The information has been placed at issue in a formal dispute between the District and the employee;
 3. The information is to be used in administering an employee benefit plan; or
 4. The information is needed by medical personnel for the diagnosis or treatment of the employee, when he/she is unable to authorize the disclosure.
- F. Disciplinary Action. Disciplinary action, up to and including termination, may be taken against an employee for any violation of this policy, including, but not limited to the following reasons:
1. Failure to comply with any of the Employee Responsibilities set forth in this policy.
 2. Positive results from a drug and/or alcohol test.
 3. Refusal to be tested in accordance with this policy.
 4. Violation of or refusal to enter into a Last Chance Agreement.

SEC. 20.6 CONSTITUTIONALITY

It is the intent of this policy statement to conform to state and federal constitutional guarantees. Should any provision of this policy statement not conform to statutory, constitutional or court restrictions, such non-conforming provision(s) will not be enforced.

RULE XXI. PERSONNEL FILES AND RECORDS

SEC. 21.1 IN GENERAL

The District maintains a personnel file on each employee. An employee's personnel file will contain only material that the District determines is necessary and relevant to the administration of the District's personnel program. Personnel files are the property of the District, and access to the information they contain is restricted, subject to, and in accordance with, this Policy.

A. Inspection of a Current or Former Employee's Personnel File.

1. A current or former employee wishing to inspect his/her personnel file must submit a written request to the Administrative Services Officer, along with reasonable proof of identity. A current or former employee who seeks to authorize another person to inspect copies of his or her personnel file must provide a satisfactory written authorization for inclusion with the written request along with proof of identity.
2. The District shall issue a written notice setting a date for inspection of the personnel file within thirty calendar days of receipt of the request, to take place during normal business hours. With the requesting person's written consent, the date for inspection may be extended on one occasion by up to five (5) calendar days. If the requesting person is a former employee who was terminated for violation of District policy or law involving harassment or workplace violence, the District shall have discretion to mail a copy of the personnel file at the District's expense instead of scheduling an in-person inspection.
3. A current employee may inspect his/her personnel file at the place the employee reports to work, or may instead consent to inspect his/her personnel file at District Office without loss of compensation. Inspection by former employees and authorized representatives shall take place at the Administrative Services Officer's office, unless otherwise mutually agreed in writing by the District, and may require additional reasonable proof of identity.
4. A designated District employee must be present throughout the inspection. Neither personnel files nor contents of personnel files shall be removed from the place of inspection without advance written authorization from the Administrative Services Officer.

B. Obtaining Copies of a Current or Former Employee's Personnel File.

1. A current or former employee wishing to obtain copies of documents or other materials in his/her personnel file in person or by mail must submit a written request to the Administrative Services Officer along with reasonable proof of identity. A current or former employee who seeks to authorize another person to obtain copies of his/her personnel file must provide a satisfactory written authorization for inclusion with the written request. Reasonable proof of identity may be required at the time of in-person pick up of requested documents.
2. The District shall issue a written notice setting a date on which the requested copies may be picked up in person during normal business hours and identifying the cost of reproduction that must be paid to the District at the time of pick up. The date for in-person pick up of the documents shall be no more than thirty calendar days after receipt of the request by the District. With the requesting person's written consent, that date may be extended on one occasion by up to five calendar days. If the requesting person is a former employee who was terminated for violation of District policy or law involving harassment or workplace violence, the District shall have discretion to mail a copy of the personnel file at the expense of the District instead of scheduling an in-person pick up.
3. If the requesting person chooses delivery by mail instead of in-person pick up, the notice provided by the District, under Section 22.1.B.2., shall also identify the additional actual postage expenses for which the requesting person must reimburse the District, prior to receipt of the copies.

C. Limits on Frequency of Exercise of Rights to Inspect or Receive Copies of Personnel Files.

1. Current employees shall be entitled to exercise rights under this policy to inspect and obtain copies of personnel records at reasonable intervals upon reasonable notice in accordance with this policy.
2. Former employees shall be entitled to exercise rights under this policy to inspect or receive copies of their personnel records once per year.
3. The District shall comply with a maximum of fifty (50) requests per month filed under this policy by one or more representatives of current Employees.

D. Access to Personnel Records by Supervisors.

Supervisors shall have access to all records, documents, and papers pertaining to employees in their department, if the examination shall aid in the discharge of his/her duties. All personnel records are confidential and the supervisor shall maintain this confidentiality.

- E. Each employee is responsible for keeping his/her file up to date by notifying the Administrative Services Officer of any changes to relevant personal information, including, but not limited to change of address, contact information, emergency

contact information, and number and names of dependents for health benefit maintenance.

F. Personnel Action Form.

Every appointment, transfer, promotion, demotion, termination, or any other temporary or permanent change in status of employees shall be reported to the Administrative Services Officer and Port Director in such manner as prescribed by the Administrative Services Officer. A Personnel Action Form shall include the employee's name, title of position held, the department to which assigned, salary, changes in employment status, residence data, and such other information as may be considered pertinent. The Port Director's and Administrative Services Officer's signature shall be included on Personnel Action Forms as a result of an appointment, promotion, demotion, transfer and termination. A copy of the Personnel Action Form shall be included in the employee's personnel file. A copy of the form shall be delivered to the Accounting Department before payment is made to the appointee.

RULE XXII. POLICY ON THE USE OF ELECTRONIC COMMUNICATIONS

SEC. 22.1 PURPOSE

The District is making every effort to provide its employees with the best technology available to conduct the District's business. In this regard, the District has installed, at substantial cost, equipment such as computers and advanced technological systems such as electronic mail (e-mail) for use to conduct its official business. This Policy was created to advise all users regarding the access to and the disclosure of information created, transmitted, received and stored via the use of land-line telephones, District-owned cellular phones, the Internet, District e-mail, computer systems, and Electronic Storage Systems. This policy also identifies the appropriate use of District cellular phones, ownership of District cellular phones, and address privacy of any data contained on or transmitted using District cellular phones, as outlined under this policy.

The District's Policy regarding the use of the Electronic Communications Systems, including, but not limited to, Internet, intranet, and e-mail is, among other things, intended to guide employees on the performance of their duties. This Policy is also intended to place all users on notice that they should have no expectation of privacy when using any of the District's Electronic Communications Systems.

The District reserves the right to monitor Internet use, all e-mail, and other computer transmissions, land-line telephones, District-owned cellular phones, as well as any stored information, created, or received by users within any of the District's Electronic Communications Systems. The reservation of this right is to ensure that public resources are being used appropriately and to ensure that the District's Electronic Communications Systems are operating as efficiently as possible in order to protect the public interest. All computer applications, programs, and any information, whether work-related or personal, created or stored by users on District's Electronic Communications Systems, are District Property.

This policy applies to all employees of the District and to any person who is given access to the District's Electronic Communications Systems. No person shall access the District's Electronic Communications Systems without reading and complying with the procedures set forth in this Policy.

SEC. 22.2 DEFINITIONS

- A. Cellular Phone (Mobile Phone). A type of short-wave analog or digital telecommunication in which a subscriber has a wireless connection from a mobile telephone to a relatively nearby transmitter. Types of cellular phones include Digital/Analog, satellite, Wi-Fi, as well as Smartphones such as Blackberry, iPhone, and other data-enabled phones including devices equipped with direct connect functionality.
- B. Electronic Communications. Any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or part by a wire, radio, electromagnetic, photoelectric, or photo optical system, including but not limited to telephone calls, cellular phone calls, fax machine transmissions, text messages, and e-mail.
- C. Electronic Communications Systems. All electronic equipment, devices, software, data, and/or other means of electronic communication (either furnished by the District or property of the employee used to conduct District business), including, but not limited to computer hardware and software, telephones, fax machines, cellular telephones, pagers, e-mail, Internet/World Wide Web, voice mail, personal digital assistants, and tablets. It also includes any wire, radio, electromagnetic, photo optical, photo electronic facilities for the transmission of Electronic Communications, and any computer facilities or related electronic equipment for the Electronic Storage of such communications as well as any newly created devices yet to be created.
- D. Electronic Mail (E-mail). E-mail may include non-interactive communication of text, data, images or voice messages between a sender and designated recipient(s) by systems utilizing telecommunications links. It may also include correspondence transmitted and stored electronically using software facilities called "e-mail", "facsimile" or "instant messaging" system; or voice messages transmitted and stored for later retrieval from a computer system.
- E. Electronic Storage Systems. Any stored data, wire or Electronic Communication incidental to electronic transmission thereof. It also means any stored communications by an Electronic Communications service for purposes of backup protection of such communication.
- F. Handsfree. An adjective used to describe a device that can be used without the use of hands; most commonly used with mobile phones. Handsfree devices are equipped with both a speaker and a microphone. Common examples of handsfree devices are mobile headsets and earpieces, which can be wired or wireless, as well as blue-tooth devices, which use wireless technology to exchange data over short distances.

- G. Messaging (Instant / Text (SMS) / PIN). A text-based conference over telecommunication lines such as the Internet and/or cellular frequencies between two or more people who may or may be connected at the same time.
- H. Internet. Internet refers to a worldwide network of networks, connecting informational networks communicating through a common communications language or “protocol.”
- I. Land-line. Land-line refers to Standard telephone and data communications systems that use in-ground and telephone pole cables in contrast to wireless cellular and satellite services.
- J. Smartphone. A cellular phone that is characterized as a wireless telephone set with special computer-enabled features, such as e-mail, text-messaging, Internet, Web browsing, fax, PIM, and LAN connectivity that provides computing and information storage and retrieval capabilities for personal or business use. Examples include Blackberry, iPhone, and other data-enabled devices running software such as Windows Mobile and Android.
- K. Social Networking Sites. Any web-based URL site that allows for the public or private posting of messages, photos or video. Social networking sites include, but are not limited to, Facebook, LinkedIn, Twitter, YouTube, Yelp, and Instagram.
- L. Standards. Departmental directions or instructions describing how to achieve policy.
- M. Users. Any person using the District’s Electronic Communications Systems.
- N. Vendors. Any private person or business enterprise doing business with the District.
- O. Wi-Fi cellular phone. A cellular telephone that can automatically switch between conventional cellular and Wi-Fi VoIP modes, even during the course of a conversation. A Wi-Fi LAN acts, in effect, as a cellular repeater for such a phone.

SEC. 22.3 POLICY AND PROCEDURES

- A. Access of Electronic Communications Systems.
 - 1. No regular, probationary, temporary, seasonal, or contractual District employee or volunteer shall access the District’s Electronic Communications Systems without reading and complying with the procedures set forth in this Policy.
 - 2. All employees, Commissioners, contractors and volunteers provided access to the District’s Electronic Communications Systems, Electronic Communications, and Electronic Storage shall be given a copy of this and all related technology policies and shall sign an acknowledgement of the policies recognizing the parameters for compliance.

B. No Right of Privacy.

1. The District respects the individual privacy of its employees. However, employee privacy does not extend to the employee's work-related conduct or to the use of District-provided equipment or supplies. Employees should be aware that the terms of this Policy limit their privacy in the workplace.
2. The District's Electronic Communications Systems, Electronic Communications, and Electronic Storage are District property and are intended for District business. All Electronic Communications and Electronic Storage within these systems are the property of the District, regardless of the content, including any personal communications. The District reserves the right to monitor the Electronic Communications Systems for any reason, at any time, without notice to the user(s), including the right to review, audit, and disclose all matters and content sent over and/or stored on Electronic Communications Systems.
3. As a result, employees should be aware that no Electronic Communications transmitted on the Electronic Communications Systems, or Electronic Storage contained within the systems, is private or confidential. Employees should have no expectation of privacy with respect to any use, including storage, business or personal, of the District's Electronic Communications Systems.
4. Employees should be aware that Electronic Communications and/or Electronic Storage can be copied, modified, and/or forwarded to others without the express permission of the original author. Therefore, employees must use caution in the storage, transmission, and dissemination of Electronic Communications outside of the District and must comply with all state and federal laws. Electronic Communications and/or Electronic Storage of the District may be recognized as official records in need of protection/retention in accordance with state and federal laws. All electronic communications are subject to the Personnel Rules and all state and federal laws, including but not limited to the California Public Records Act, open meeting laws, and the federal Electronic Communications Privacy Act.

C. Passwords.

All passwords created by the user or issued to the user are for the purpose of communication and are not to be shared, given, or otherwise disclosed to any other person. Passwords must not be shared and may be changed periodically by the District to ensure security. All security features contained within the District's Electronic Communications Systems such as passwords, codes, or delete functions will not prevent the District from accessing employees' business or personal Electronic Communications, stored or otherwise, on the District's Electronic Storage Systems.

D. Appropriate Use of Electronic Communications Systems.

The District's Electronic Communications Systems are designed to facilitate District business and communication through the appropriate use of the Electronic Communications Systems and Electronic Storage thereon. The District values its Electronic Communications Systems and Electronic Storage, and takes measures to safeguard them from corruption and illegal use, and to protect the District from any possible liability due to illegal use of the Electronic Communications Systems and Electronic Storage.

1. No user shall access the District's Electronic Communications Systems without reading and complying with the procedures set forth in this Policy.
2. All users requesting authorization to access the District's Electronic Communications Systems, Electronic Communications, and/or Electronic Storage shall be given a copy of all related technology policies and shall sign an acknowledgement of the policies recognizing the parameters for compliance with those policies.

E. Improper Use of Electronic Communications Systems.

It is the responsibility of each District employee to use the District's Electronic Communications Systems in a professional and courteous manner. The District forbids the use of its Electronic Communications Systems in a manner that violates any law, regulation, ordinance, or policy or procedure of the District. Electronic Communications Systems should not be used in any way that is offensive, harmful, or insulting to any person. Examples of prohibited uses include, but are not limited to:

1. Illegal activities;
2. Solicitation of funds;
3. Political messages or transmissions;
4. Messages or transmissions that violate the District's Policy Against Harassment, Discrimination, Retaliation and Abusive Conduct based on gender, genetic characteristics or information, race, color, national origin, ancestry, religion, creed, sex, physical or mental disability, medical condition, marital status, sexual orientation, gender expression or identity, age, pregnancy, childbirth, or related medical condition, military or veteran's status, or any other basis protected by applicable federal, state or local law;
5. Messages or transmissions that violate the District's personnel rules, and/or another policy of the District, including, but not limited to, policy against workplace violence or drug-free workplace policies; or
6. Any other message or transmissions which are in any way inappropriate.

F. Personal Use of Electronics Communications Systems.

The District's Electronic Communications Systems are primarily for conducting

District business. Limited, occasional, or incidental use of the electronics communications systems (either furnished by the District or property of the employee) for personal, non-business purposes is permitted only under the following circumstances:

1. Personal use may not interfere with the productivity of the employee or his/her co-workers;
2. Personal use may not involve any prohibited activity described in this Policy;
3. Personal use may not involve conduct that is prohibited under other District Policy or Rule;
4. Personal use may not disrupt or delay the performance of District business;
5. Personal use may not consume District resources or otherwise deplete system resources available for District business purposes;
6. Personal use may not be used for personal employee gain or commercial ventures;
7. Personal use may not support or advocate non-District-related business purposes.

If an employee's personal use of the District's Electronic Communications Systems results in a cost to the District, the cost must be reimbursed to the District by the employee.

G. Retention of Electronic Communication.

No electronic communication shall be considered by the District to be retained in the ordinary course of business, with the exception of electronic communication containing content required to be retained by law.

- H. It is the responsibility of the creator to determine if an electronic communication sent internally should be classified as a record that requires retention in accordance with the District's Records Retention Schedule. It is the responsibility of the recipient of an electronic communication received from outside District sources to determine if an electronic communication should be classified as a record that requires retention in accordance with the District Council approved Records Retention Schedule. Once retention status is determined, transfer of the electronic communication to a printed hard copy is required prior to deletion or purge from the electronic communication system.

I. Access of Another Person's Electronic Communications.

Employees may not intentionally intercept, eavesdrop on, record, read, alter, retrieve, receive, send, or use another person's Electronic Communications and/or Electronic Storage without proper authorization. Employees, including system administrators and Supervisors, may not, without proper authorization, peruse

Electronic Communications and/or Electronic Storage of other employees. Proper authorization may be granted as set forth in Section 23.3 J. of this policy.

J. Requests for Access to Employee's Data, Messages, and Phone Records.

Requests for access into an employee's individual data, messages, and phone records will be made to the Port Director District. The Port Director may grant such request and direct appropriate action.

K. District-Wide Website Policies.

1. The District website, including all domains owned and maintained by the District, represent a fundamental communication tool for providing critical District information to the public. The goal of the website is to encourage increased participation in District government and to help create a more vibrant community for residents and visitors alike. Toward that end, the development and use of the District's sites are guided by the Web Site Policy:
2. The Administrative Services Department is responsible for the creation and implementation of the District website, ensuring compliance with the District's policies regarding the website, and maintaining and securing the District' servers and website.
3. To preserve the public nature of the District's website and to avoid any perception that the District endorses or provides favorable treatment to any private person or business enterprise (hereinafter collectively referred to as "vendor"), no corporate or commercial logos or links to vendor sites will be allowed on the District's external website, unless such link represents a mission critical partnership and is permitted by the Port Director.
4. Vendors that create or maintain a website for the District must follow all policies established for the District's website.
5. The District's website is for "official use" only. All information disseminated through the District's website must be related to the official duties and responsibilities of employees and District departments.
6. The California Public Records Act applies to information processed, sent and stored on the Internet. Confidential information should not be posted on the District's external website. The Port Director must approve all posted information.
7. No District employee or official may use any District website for campaign-related purposes. Such campaign-related purposes include, but are not limited to, the following: statements in support or opposition to any candidate or ballot measure; requests for campaign funds or references to any solicitations of campaign funds; and references to the campaign schedule or activities of any candidate. No District official's website may be

linked to any private website related to a candidate's campaign for elective office.

L. Internet Usage Policies.

1. Authorization for Internet Access. Authorization for Internet access must be obtained through the employee's immediate supervisor or Department Head. Once authorization is approved the employee is responsible for the security of his/her account password and will be held responsible for all use or misuse of his/her account. Users must maintain secure passwords.
2. General Provisions. The District reserves the right to limit access to certain sites deemed inappropriate. Access may be monitored at the request of a supervisory employee. Should the need arise, you are obligated to cooperate with any investigation regarding the use of your computer equipment.

Questions regarding confidential or proprietary information should be directed to the Port Director. District management has the right to monitor and log all transactions in or out of the system. All security features contained within the District's Electronic Communication Systems such as passwords, codes, or delete functions will not prevent the District from accessing employees' Electronic Communications, stored or otherwise, on the systems.

3. Appropriate Use of the Internet. Employees who are granted access to the Internet are expected to use this access in a professional and courteous manner. The prohibited uses of Electronic Communications Systems described in this Policy apply to the use of the Internet. All users should be aware that appropriate use of the Internet includes, but is not limited to, the following rules:
 - a. Never use an account assigned to another user.
 - b. Never make an unauthorized attempt to enter any computer.
 - c. Never post, send, or provide access to any confidential District materials or information, unless authorized.
 - d. Never post, send or provide videos or still footage taken during working hours and/or during the course of employment to any personal social networking website.
4. Improper Use of the Internet. Employees should be aware that the improper use of the Internet also includes, but is not limited to:
 - a. Disclosing confidential information obtained in the course of employment;

- b. Accessing websites or online content that may degrade, hamper, or impede on the performance and/or capacity of the District's Electronic Communication Systems;
- c. Accessing gross, indecent, obscene, harassing, pornographic, or sexually explicit materials;
- d. Accessing gambling sites;
- e. Accessing illegal drug-oriented sites; and
- f. The representation of yourself as someone else, real or fictional.
- g. Social Networking Sites.

(1) Personal Use of Social Networking Sites. Except as is consistent with subsection Section 22.3 F of this Policy, the District does not condone the personal use of social networking sites during the workday or by using District-owned equipment. Employees are also reminded and cautioned that information posted on a social networking site may not be private or confidential. Employees are also reminded and cautioned that information posted on a social networking site may be used as evidence in administrative or legal proceedings. An employee's use of social networking sites in a manner that violates District Rules or Policies will not be tolerated by the District and may be grounds for disciplinary action, up to and including termination.

(2) Official District Use of Social Networking Sites. The District may elect to use social networking sites to communicate with the public or with coworkers. Such official use of social networking sites is regulated by the Port Director. No department in the District may establish a presence on any social networking site without the advanced approval of the Port Director.

No employee is authorized to post information on behalf of the District on any social networking site without permission of the Port Director. Unauthorized posting on behalf of the District will not be tolerated.

M. Employee Terms of Use for District-Issued Phones.

District-issued phones are provided for the conduct of District business. All telephone equipment (land-line phones and cellular phones) shall be issued to personnel according to the needs defined in their job description.

The use of phones by employees for making personal calls may be permitted,

subject to the provisions of this Policy-- if it does not interfere with the conduct of District business. The use of District's phones must be in accordance with the following procedures:

1. All calls should be limited to the shortest amount of time necessary to conduct District business.
2. All District employees must continuously strive to minimize costs.
3. Employees are not allowed to use District-issued phones in an illegal, illicit, or offensive manner.
4. Employees are not allowed to use District-issued phones to conduct personal for-profit business.
5. Safeguarding issued equipment is the responsibility of the individual employee. Misuse or abuse of equipment may be cause for disciplinary action and/or cost reimbursement.
6. Features on cellular phones such as directory assistance, busy signal confirmations, text messaging, and emergency interrupts should only be used for official District business and only when absolutely necessary. Misuse or negligent use of these features may be cause for disciplinary action and/or cost reimbursement.
7. Employees are not allowed to operate cellular telephones, tablets, PDAs, laptop computers, navigational devices or any other device that may cause driver distraction when driving a District vehicle or when driving a private vehicle being used to conduct District business. Employees shall make every attempt to properly park their vehicle prior to using such devices. The only exception to this rule is if the employee uses a hands-free device.
8. Any personal calls made from a District-issued phone will be the responsibility of the employee. Employees are responsible for identifying minutes of personal use and then reimbursing the District for additional costs incurred by the District. The reimbursement amount should be a simple calculation of the per-minute rate charged for every minute of personal usage. This reimbursement should be made payable to the "Santa Cruz Port District" and should be submitted as payment to the District within ten (10) days of receiving the bill.
9. The District may provide employees with a monthly cellular phone bill and quarterly desk phone usage report for the telephone numbers assigned to them. It is the responsibility of the employee to identify the minutes of personal use and reimburse the District. This reimbursement should be made payable to the "Santa Cruz Port District" and should be submitted as payment to the District within ten days of receiving the bill or usage report.

N. District-Issued Phone Monitoring.

The Administrative Services Officer is responsible for reviewing and monitoring staff's cell phone bills on a regularly, usually monthly, basis. The Administrative Services Officer is also responsible for distributing the cell phone bills to employees for review. If cellular phone overage is due to increased District business use, the employee should tell his/her supervisor. The supervisor may then contact the Administrative Services Officer and request that the employee's plan be altered.

On an annual basis, the Administrative Services Officer may review which employees have cell phones and whether or not they still need them.

The Administrative Services Officer is responsible for documenting the issuance of a cell phone, its accessories, and ensuring that they are returned once the employee has exited the department.

O. Violation of Policy.

Violations of this Policy shall be reported to the Port Director and/or the Administrative Services Officer. Any employee who accesses the District's Electronic Communications Systems without complying with the procedures set forth in this Policy or otherwise violated this Policy may be subject to disciplinary action, up to and including termination, as provided for in the District's Personnel Rules. In addition, misuse of the Electronic Communications Systems may, in appropriate cases, be referred for criminal prosecution.

RULE XXIII. VEHICLE USE POLICY AND ACCIDENT REPORTING

SEC. 23.1 PURPOSE

Employees may be authorized to operate District vehicles for the purpose of conducting District business, provided the employee driver is at least 18 years old, has a valid California Driver's License for the vehicle being driven, has reasonable experience driving the type of vehicle being used, could reasonably be expected to operate the vehicle in a safe and prudent manner and meets the requirements as set forth below.

Compliance with California law and these rules are required for any eligible driver to be authorized to use a District vehicle and for any driver of a non-owned, borrowed or rental vehicle being used on District business when authorized passengers will be transported.

The District is authorized to deny a vehicle to anyone if, in the sole opinion of the District, there is any reason the vehicle may not be operated safely. Department Heads may impose additional standards, restrictions, or driver education or training requirements.

This Rule is in addition to any requirements, standards, operating restrictions, or suspensions imposed by law.

SEC. 23.2 AUTHORIZED DRIVERS

Authorized drivers are District employees, and those officially authorized volunteers and agents. Volunteers or agents may be considered employees for vehicle liability coverage, provided the vehicle use is solely for the benefit of the District or to conduct District business, and the volunteer or agent is officially authorized to drive by the District.

Contractors are not eligible to be authorized drivers and may not use District vehicles without written authorization from the District.

Authorized drivers are not consultants or vendors, speakers, members of special event groups, government representatives, or members of visiting community organizations.

SEC. 23.3 AUTHORIZED PASSENGERS

Authorized passengers include those in official District-sponsored or authorized transportation programs and District employees, agents, or volunteers while on authorized District business. Authorized passengers may also include persons who are on location at the District's request, for example, for potential employment at the District, to provide contracted services, or for participation in a District event/program. Other examples of authorized passengers include launch ramp passengers needing shuttle to remote parking, visiting faculty/staff, government representatives, or community organizations. All other passengers are prohibited from traveling in a District vehicle. Examples of unauthorized passengers are employee's spouse, children, or other family members, friends, or neighbors of a District employee driver, or members of the general public.

SEC. 23.4 APPROVED USERS

District vehicles may be used solely for the purpose of conducting District business. Examples of approved uses include conducting departmental business, business errands, or a District employee on site, District-related sponsored, or approved conferences, meetings, events, and use by volunteers in programs sponsored by, directed by, or for the sole benefit of the District.

SEC. 23.5 SUPERVISORY RESPONSIBILITY

It is the responsibility of the Department Head where vehicles are assigned to see that their vehicles are in proper working condition. Each Department is responsible for instructing new employees in the proper method of fueling and servicing vehicles. Employees must ensure that each vehicle is mechanically maintained, washed and cleaned, and parked within its designated area.

Designated District employees must have District vehicles in readiness for emergency purposes. The District does not allow any employees to take District vehicles home.

Employees authorized to operate District-owned vehicles must maintain and carry a valid California Class A, B or C driver's license.

SEC. 23.6 VEHICLE OPERATOR RESPONSIBILITIES

- A. Employees must obey all State traffic laws and safe driving procedures.

- B. Employees must view a safe driving training video before driving District or personal vehicles on District business.
- C. All drivers will be subject to periodic reviews of their DMV reports. An employee that operates District vehicles or his/her own vehicles on District business are required to report suspension or revocation of his/her license to the immediate supervisor **and** to the Administrative Services Officer. Failure of an employee to report a change in license status may result in disciplinary action.
- D. Employees are not authorized to operate vehicles for which they have not been trained, including safety procedures and vehicle maintenance requirements.
- E. Employees using a personal vehicle in the performance of District work must provide proof of adequate insurance coverage for collision, personal injury, and property damage to the District. Whether coverage is adequate shall be determined in the sole discretion of the Port Director. Employees who use privately-owned vehicles for District business are responsible for bodily injury and/or property damage to others resulting from such privately-owned vehicle use.

SEC. 23.7 VEHICLE USE REQUIREMENTS

- A. District-owned vehicles are restricted to official District use.
- B. Drivers are responsible to complete appropriate paperwork prior to operating District vehicles. Thorough completion of vehicle checklists is required, including: name, department, District vehicle number, pre/post-driving checklist, odometer reading, and signature. The driver will walk around and inspect the vehicle for damage, inoperable lights, loose hardware, dirty windshields, tire condition and any other condition that may create an unsafe situation. Checklists will be reviewed by a supervisory employee and kept in the District Office.
- C. Employees must wear seatbelts at all times when in a District vehicle or in their personal vehicle on District business.
- D. District employees are prohibited from using cell phones while driving on District business and/or District time. The only exception to this rule is if the employee uses a hands-free device.
- E. As determined by District management, if an employee's duties require that he or she keep a cell phone turned on while driving, the employee must use a hands-free device. Employees are prohibited from reading/sending/composing text messages, emails, or instant messages while operating a vehicle on District business and/or District time.
- F. Pursuant to District policy and as required by law, an employee under the age of 18 years is prohibited from driving a motor vehicle while using a cell phone or other mobile service device, even if equipped with a hands-free device. This prohibition does not apply to such a person using a wireless telephone or a

mobile service device for emergency purposes. Any violation of this policy is a violation of District rules subject to disciplinary action and may be a violation of law subject to criminal penalties.

- G. Vehicles must not be parked in "No Parking" zones except in emergency situations. Employees may be personally responsible for paying parking citations received during use of District vehicles.
- H. Vehicles must not be left unattended with the key in the ignition. Employees who violate this policy shall be disciplined. Vehicles will be locked when not occupied
- I. Vehicles may not be driven out of state unless specifically authorized by the Port Director.
- J. Employees must ensure that 1) vehicle doors are locked, 2) lights are off, and 3) windows are closed and 4) the vehicle is free of debris after each use.
- K. Any deficiency encountered must be documented on vehicle checklist and reported to a supervisory employee immediately. It is the responsibility of the supervisory employee to ensure that appropriate action is taken to correct the problem. At no time shall an unsafe vehicle be driven.

SEC. 23.8 REQUIRED REPORTING OF ACCIDENTS/VIOLATIONS

- A. A District driver must promptly report to his or her supervisor all accidents, moving violations or other vehicle citations that occur while the employee is conducting District business. The driver's immediate supervisor or Department Head must immediately forward the information to the Administrative Services Officer. Failure to report accidents, convictions and violations as required may result in the loss of privilege to use District vehicles and disciplinary action.
- B. Mandatory post-accident testing for drugs and alcohol will be conducted in accordance with the District's Drug-Free Workplace policy.
- C. Hit and run and vandalism are criminal incidents and must be reported to the police and the District.
- D. District drivers must immediately report any accident, incident of damage or personal injury involving District vehicles.
- E. All drivers and employees are expected to properly safeguard the District's vehicles and use them in accordance with District policy. If it is determined that a vehicle is being misused, or is at substantially higher risk of theft or damage due to a lack of reasonable precautions by employees, employees may be required to forfeit use of the vehicle.

SEC. 23.9 INSPECTION, SERVICE AND MAINTENANCE POLICY

- A. District vehicles, including construction equipment, forklifts and any other equipment, are required to be serviced and maintained in accordance with the

manufacturers' and District guidelines, whichever is stricter. Every vehicle must undergo a monthly inspection by the driver (tires, brakes, lights, turn signals, horn, no cracked/broken glass, current registration, current insurance card, clean appearance) and a quarterly inspection by an authorized dealer/agent designated by the District.

- B. District guidelines for vehicle service and maintenance include complying with manufacturer's service recommendations, using recommended types of gasoline; maintain proper fluid levels (oil, antifreeze coolant, brake and transmission, etc.) and ensuring proper tire pressure; working signals, lights (headlamps, turn-signal lights, tail-lights, brake-lights, etc.), brakes, and other vehicle safety items.
- C. Failure to comply with the service, maintenance and inspection requirements of this program may result in suspension of driving privileges, and/or loss of the vehicle.

SEC. 23.10 ELECTRONIC TRACKING TECHNOLOGY

- A. The District, in its sole discretion may install Electronic Tracking Technology on District-owned or leased vehicles to increase efficiencies, save on fuel costs, to facilitate District business and to enhance District services. Electronic Tracking Technology means a technological method or system used to observe, monitor, or collect information, including telematics, Global Positioning System (GPS), wireless technology, or location-based technologies. Electronic Tracking Technology used for public safety greatly enhances job performance, personnel safety, situational awareness, and may provide assistance in time critical scenarios. District employees may, in the course of employment, be required to drive and/or ride in agency-owned or leased vehicles equipped with Electronic Tracking Technology.
- B. Electronic Tracking Technology may include event data recorders (EDR), sensing and diagnostic modules (SDM), or other systems that are used for the purpose of identifying, diagnosing, or monitoring functions related to the potential need to repair, service, or perform maintenance on the District vehicle and/or to capture safety systems-related data for retrieval after a collision or similar incident has occurred. The following information may be generated by the District's Electronic Tracking Technology: (1) Mileage reports; (2) information about where vehicles were located and at what time; (3) the last reported location of vehicles; (4) the path a vehicle traveled during any period of time; (5) the speed the vehicle traveled; and (6) how long a vehicle was idle or stopped for a given period of time. As such, Electronic Tracking Technology allows the District to monitor location, elevation, and velocity of its vehicles, at any time. The District may use Electronic Tracking Technology at its sole discretion, and in the ordinary course of business.
- C. Electronic Tracking Technology in District vehicles may also be used to for other business-related purposes, including, but not limited to, metrics, performance measures, locating stolen vehicles, providing aid to vehicles that break down,

increasing employee safety, managing agency resources effectively, or ensuring that routes or assignments are being followed.

- D. Additionally, the District may utilize Electronic Tracking Technology during a disciplinary investigation or discipline of its employees pertaining to the misuse or abuse of their vehicles, inappropriate use of time, speeding or other misconduct or violation of District directives, documented procedures or Personnel Rules and Regulations.
- E. Employees are prohibited from tampering with, altering or attempting to alter, disabling, or destroying any Electronic Tracking Technology equipment.

RULE XXIV. PERSONAL TELEPHONE USE AND TEXT MESSAGING

Employees are encouraged to keep all personal phone calls and text messaging to a minimum, regardless of whether the employee is using a District-owned telephone or a personal telephone. Friends and relatives should be discouraged from calling and texting during working hours unless there is an emergency. Personal calls and text messages should be made during break periods or lunch whenever possible. Personal long distance or toll calls from a District-owned telephone are to be charged to the employee's own telephone number or long distance calling card. Excessive personal phone calls or text messaging may result in disciplinary action, up to and including termination.

RULE XXV. EMPLOYEE REIMBURSEMENTS AND TRAVEL

SEC. 25.1 PURPOSE.

- A. Employees have a right to receive reimbursement for all appropriate business expenses.
- B. This Rule is to assure that District employees and officials adhere to procedures when arranging for travel, lodging, meals and other expenses, and that they are paid for reasonable expenses incurred for travel, conferences, meetings, and meals as a result of conducting authorized District business. The Rule assures that payments made by the District are for actual and necessary expenses incurred for District business. It also assures that District employees and officials will receive advances and/or reimbursements in a timely manner.
- C. This Rule assumes a mutual trust between the District and its employees and District officials. Employees are expected to use good judgment in the expenditure of public funds with which they have been entrusted.
- D. These guidelines are not intended to address every issue, exception, or contingency that may arise in the course of District travel. Accordingly, the basic standard that should always prevail is to exercise good judgment in the use and stewardship of the District's resources.

SEC. 25.2 APPLICABILITY

- A. As used in this Rule, “employee” shall refer to *all* District employees, officials, and District Commission members.

SEC. 25.3 AUTHORIZED TRAVEL EXPENSES

- A. Except as otherwise provided, all employees must seek prior authorization, pursuant to the reimbursement procedures set forth below, for reimbursement pursuant to this Section.
- B. Employee travel may be authorized for local and non-local travel activities, undertaken for the purpose of conducting District business, such as professional meetings, conferences and training sessions. Payments for travel and meeting expenses may be in the form of either advances or reimbursement, including appropriate registration fees, food, lodging, transportation costs, and reasonable incidental expenses as described in this Rule.
- C. Expenses ineligible for reimbursement under this Section shall include, but are not limited to such expenses related to the following activities:
 - 1. Attendance at political rallies;
 - 2. Events held for the purpose of supporting or opposing any ballot measure or individual candidate for public office;
 - 3. Expenses incurred by members of the employee’s families;
 - 4. Any other expenditures not involving a public or business purpose, or not necessarily incurred in the performance of a public purpose authorized by law.
- D. All reimbursements made pursuant to this Section must be approved by the employee’s Department Head, or the Administrative Services Officer. Reimbursements made to any Department Head or the Administrative Services Officer must be approved by the Port Director. An individual may not authorize or approve reimbursement for his/her own travel.
- E. Reimbursements pursuant to this Section for the Port Director, members of the District Council, Boards, or Commissions shall be subject to appropriation of funds in the annual budget and any supplemental policies adopted by ordinance or resolution.
- F. Each Department Head shall be held responsible for the administration of this Rule within his/her department, in consultation with the Administrative Services Officer and the Port Director. Administration shall be consistent with the adopted budget, as set out in the budget detail document.
- G. Employees should schedule travel so that the employee leaves at a reasonable hour and arrives at the destination on time. Employees should also return

promptly when employee business is finished, thereby minimizing the time away from work and ensuring full reimbursement of all related expenses.

SEC. 25.4 STANDARD REIMBURSEMENT PROCEDURE

- A. Upon completion of any travel for which reimbursement is sought, the following items shall be promptly submitted to the employee's Department Head, Administrative Services Officer, or the Port Director:
1. A completed Travel Request and Reimbursement Form;
 2. All receipts for expenses incurred while traveling. A receipt is required for all reimbursable expenditures, except mileage reimbursements or other expenses for which receipts are not available (i.e.: incidental parking meter expenses); and
 3. Any other supporting documents, such as conference program materials.

Employees may choose to make a copy for his/her own records.

- B. Employee travel expenses will be reviewed and, if approved, forwarded to the Administrative Services Officer for reconciliation. If employees are to receive reimbursement, the Administrative Services Officer will process a check on the next regular accounts payable run.
- C. Employees are responsible for preparing and filing employee travel request; travel advances requests, reimbursements and travel expense reports pursuant to District policy.
- D. An employee's request for reimbursement may be rejected if it was inconsistent with District policy or did not serve a District business purpose. Should any request for reimbursement be rejected, any such request and supporting documentation will be returned to the employee for correction of any errors or omissions.

SEC. 25.5 REIMBURSABLE EXPENSES

- A. Except as otherwise provided, expenses associated with the following items may be approved for reimbursement pursuant to this Section.
1. Transportation.
 - a. General. Transportation costs include, but are not limited to, airplane, train, bus and taxi fares, bridge tolls, parking and car rental. An employee should generally take the most direct and commonly traveled routes.
 - b. Air travel. The employee should take advantage of lower airfare rates by booking his/her flight as early as possible, and purchasing non-refundable tickets. An employee may sometimes avoid higher

airfare by staying over a Saturday night. In some instances, an extra night in a hotel/motel can be much less than the added cost of the airfare. Selection of carrier, reservations, and ticketing should be arranged as early as feasible to obtain the greatest discount. Also consider the use of alternative transportation methods, such as using a nearby airport and ground transportation if the total fares are lower.

- c. Private vehicles. District employees using their private vehicles for District business shall receive a per mile reimbursement at the rate established by the Internal Revenue Service. Use of any private vehicle must be approved by the employee's Department Head , or the Port Director in advance.

Actual expenses for gas, damages, needed service, depreciation, or repair to the personal vehicle occurring on the trip will be the employee's responsibility, as these costs are included in the per mile reimbursement.

- d. District vehicles. District vehicles may be used if available, subject to any limitations regarding their use. Employees must comply with the District's Vehicle use Policy.
- e. Rental vehicles. Rental vehicles may be authorized when employees are on District business and other modes of transportation are not available, too costly, or impractical.
- f. Public Transit and Carpooling. Employees are encouraged to make optimum use of available public transit services and carpooling.

2. Lodging.

- a. Lodging expenses may be authorized when associated with a meeting, conference, or any other activity greater than a driving distance of 100 miles from District Office.
- b. Lodging expenses may be authorized when associated with a meeting, conference, or any other travel activity within a driving distance of 100 miles from District Office when early-hour attendance, late hour-attendance, or some other circumstance warrants local lodging.

- 3. Meals. Authorization may be granted for either actual meal expenses, or the maximum federal per diem locality rate.

B. Cell Phone Use Reimbursement.

- 1. Represented Service employees who are required to use their personal electronic devices during the course of their employment will be entitled to

receive reimbursement in accordance with the applicable, operative Memorandums of Understanding.

2. Unpresented Service Employees or Exempt Service Employees who are required to use their personal electronic devices during the course of their employment will be entitled to receive reimbursement for the costs of actual expenses incurred in the performance of their duties. These employees must submit their cell phone bills to the Administrative Services Officer and shall identify which communications were made for work-related purposes subjected to the following two conditions:

(1) If the communications are within the allotted minutes of an employee's cellular plan, the District will identify the percentage of communications made on District business and reimburse the employee for this percentage of the cellular bill. Employees must submit a request for reimbursement within 30 calendar days of the date of the cell phone bill; or

(2) In all other circumstances, the District shall pay a reasonable percentage of the employee's cell phone bill, to be calculated on a case-by-case basis, based on information reasonably made available to the District

C. Excluded Expenses.

Expenses associated with the following items are not considered necessary expenditures or losses incurred by an employee in direct consequence of the discharge of his/her duties, and no reimbursement shall be provided pursuant to this section:

1. Personal expenses such as laundry, barbering, valet service, in-room movies, gratuities for porters, personal telephone calls, and/or alcoholic beverages.
2. Additional expenses associated with the participation of an employee's non-employee spouse or guest, including any increased room rate due to double occupancy.
3. Travel on behalf of another public agency, unless reimbursement is otherwise authorized by the Port Commission.

RULE XXVI. WHISTLE BLOWING POLICY

SEC. 26.1 DEFINITION OF "WHISTLE BLOWING"

For purposes of this provision, "whistle blowing" consists of disclosure of information that the employee reasonably believes constitutes a violation of state or federal statute, or a violation of or noncompliance with a local, state, or federal rule or regulation, regardless of whether disclosing the information is part of the employee's job duties, when that disclosure is made to one or more of the following:

1. A government or law enforcement agency;
2. A person with authority over the employee;
3. Another employee who has authority to investigate, discover, or correct the violation or noncompliance; or
4. Any public body conducting an investigation, hearing, or inquiry, including, but not limited to, information given as testimony.

SEC. 26.2 SCOPE OF POLICY

The District encourages employee complaints, reports or inquiries about practices believed to be unlawful or constitute serious violation of the District policies, including illegal or improper conduct by the District itself, by its leadership, or by others on its behalf. Other subjects for which the District has existing complaint procedures shall be addressed under those other procedures. This policy is not intended to provide a means of appeal from outcomes in those other procedures.

SEC. 26.3 PROCEDURE

Complaints, reports, or inquiries may be made under this policy on a confidential or anonymous basis. They should describe in detail the specific facts demonstrating the bases for the complaints, reports, or inquiries. They may be directed to the Administrative Services Officer or Port Director, or to the District Commission if involving the Administrative Services Officer or Port Director. The District will conduct a prompt, discreet, and objective review or investigation in response. However, Employees must recognize that the District may be unable to fully evaluate or address a report or inquiry that is made anonymously or made in a vague or general manner.

SEC. 26.4 PROTECTION FROM RETALIATION BECAUSE OF GOOD FAITH COMPLAINTS, REPORTS, OR INQUIRIES

- A. The District prohibits retaliation by or on behalf of the District against employees for making good faith complaints, reports or inquiries under this policy or by participating in a review or investigation under this policy. Any employee who makes a complaint using this procedure or otherwise engages in "whistleblowing" is protected against adverse employment actions (discharge, demotion, suspension, harassment, or other forms of discrimination) taken by the District or any person acting on behalf of the District. This protection extends to those whose allegations are made in good faith but prove to be mistaken or unsubstantiated. Employees who participate or assist in an investigation will also be protected. Every reasonable effort will be made to protect the anonymity of the "whistleblowing" employee however, there may be situations where it cannot be guaranteed.

- B. The District reserves the right to discipline persons who make bad faith, knowingly false, or vexatious complaints, reports or inquiries or who otherwise abuse this policy.

RULE XXVII. TOBACCO, E-CIGARETTE, VAPING POLICY

Employees shall not smoke, or use tobacco, e-cigarettes, or vape while on-duty and within the District's buildings, facilities, vehicles, or within twenty feet of any District facility. A violation of this policy shall result in disciplinary action.

**SANTA CRUZ PORT DISTRICT
ACKNOWLEDGEMENT OF RECEIPT OF PERSONNEL POLICY
HANDBOOK**

By signing below, I acknowledge that I have received a copy of the Santa Cruz Port District Personnel Policy Handbook (“handbook”). I understand that I am responsible for reading the contents of the handbook, and that I am expected to comply with the policies and rules outlined therein. I further acknowledge that I have read the handbook in its entirety in accordance with this responsibility. I understand it, and agree to comply with it.

I recognize that the handbook supersedes any handbook, policy statements, manuals, and/or administrative policies previously issued by the Santa Cruz Port District. I will read and abide by all Personnel Rules and regulations set forth in the handbook.

I understand that these Personnel Rules do not create a vested contractual right in the execution of the duties and responsibilities relating to these Personnel Rules.

If I have any questions about the content or interpretation of this handbook, I will contact Human Resources.

Print Name

Signature

Date

**SANTA CRUZ PORT DISTRICT
DRUG-FREE WORKPLACE POLICY
ACKNOWLEDGEMENT OF RECEIPT**

By my signature below, I acknowledge that I have received, read, and understood the Santa Cruz Port District Drug-Free Workplace Policy, and I will abide by its terms. I understand that failure to fully comply with all terms set forth in the policy may lead to disciplinary action, up to and including termination.

Print Name

Signature

Date

**SANTA CRUZ PORT DISTRICT ACKNOWLEDGMENT OF RECEIPT OF
POLICY AGAINST DISCRIMINATION, HARASSMENT,
RETALIATION, AND ABUSIVE CONDUCT**

This will acknowledge that I have received my copy of the Santa Cruz Port District's Policy Against Discrimination, Harassment, Retaliation and Abusive Conduct ("Policy") and that I have read the Policy, understand my rights and obligations under the Policy, and agree to be bound by it.

I also acknowledge that I have received a copy of the California Civil Rights Department's Publication entitled, "[Sexual Harassment Fact Sheet](#)."

My signature below further signifies that I have read this Policy and that I accept and will abide by all of its provisions.

Print Name

Signature

Date

**SANTA CRUZ PORT DISTRICT
ACKNOWLEDGEMENT OF
ELECTRONIC COMMUNICATIONS POLICY**

This will acknowledge that I have received, read, and understand the Santa Cruz Port District's Policy on the Use of Electronic Communications. I am aware that violation of this Policy may result in disciplinary action, up to and including termination. I understand this signed acknowledgement will be maintained in my personnel file.

I recognize and understand that the District's Electronic Communications Systems are to be used primarily for conducting District business. I am aware that I have no expectation of privacy or confidentiality when using the District's Electronic Communications Systems and/or Electronic Storage. I understand that the District has, and will exercise, the right to monitor, review, copy, and/or disclose all matters on the District's Electronic Communications Systems and/or Electronic Storage at any time, with or without notice to me, and that such access may occur during or after working hours. I realize that the use of a password or other security features does not restrict the District's access.

I also hereby consent that the District may monitor, review, and/or copy any information, both personal and business related, on the District's Electronic Communications Systems and/or Electronic Storage at any time, and may, without further notice, disclose that information to a third party, including law enforcement agencies.

My signature below further signifies that I have read this Policy and that I accept and agree to comply with all of its provisions.

Print Name

Signature

Date