



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

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

*This meeting is hereby noticed pursuant to  
California Government Code Section 54950 et. seq., and  
under the provisions of Assembly Bill 361 and BCVWD Resolution 2022-09*

**Tuesday, April 19, 2022 - 5:30 p.m.**  
**560 Magnolia Avenue, Beaumont, CA 92223**

**COVID-19 NOTICE**

**This meeting of the Personnel Committee is open to the public who would like to attend in person. COVID-19 safety guidelines are in effect pursuant to the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards and the California Department of Public Health Recommendations**

- **Face coverings are recommended for vaccinated and unvaccinated persons and must be properly worn over the nose and mouth at all times**
- **Maintain 6 feet of physical distancing from others in the building who are not in your party**
- **There will be no access to restrooms in the building**

**TELECONFERENCE NOTICE**

*The Members of the Personnel Committee will attend via  
Zoom Video Conference and/or in person in the Board Room*

*To access the Zoom conference, use the link below:*

<https://us02web.zoom.us/j/85792068838?pwd=cFArZHZ4aHRSumJLeTBCZVpnUGRmdz09>

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

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

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

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

## PERSONNEL COMMITTEE MEETING – APRIL 19, 2022

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**Call to Order: Chair Covington**

**Teleconference Verification**

**Roll Call**

	<b>John Covington</b>
	<b>Andy Ramirez</b>

	<b>David Hoffman (alternate)</b>
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**Public Comment**

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

1. **Adjustments to the Agenda:** In accordance with Government Code Section 54954.2, additions to the agenda require a 2/3 vote of the legislative body, or if less than 2/3 of the members are present, a unanimous vote of those members present, which makes the determination that there is a need to take action, and the need to take action arose after the posting of the agenda.
  - a. Item(s) to be removed or continued from the Agenda
  - b. Emergency Item(s) to be added to the Agenda
  - c. Changes to the order of the agenda
  
2. **Acceptance of Personnel Committee Meeting minutes:**
  - a. December 20, 2021 (pages 5 - 9)
  - b. February 15, 2022 (pages 10 - 12)

### **ACTION ITEMS**

3. **Report from Human Resources Department** (pages 13 - 17)
4. **Annual Workplace Demographics vs. Community Demographics Report** (pages 18 - 20)
5. **Update on the Status of the Memorandum of Understanding (MOU) with the Employee Association** (pages 21 - 40)
6. **Report / Update from BCVWD Employees Association** (no staff report)
7. **Update: 2021 Performance Evaluation Compliance** (pages 41 - 42)

8. **Update: BCVWD Employment Agreements** (page 43)
9. **Review Policy Manual Project Priorities** (pages 44 - 48)
10. **Policies and Procedures Manual Updates / Revisions** (pages 49 - 76)
  - a. Policy 3030 Gift Acceptance Guidelines
  - b. Policy 3035 Outside Employment
  - c. Policy 3205 Substance Abuse (in conformance with Department of Transportation Guidelines)
  - d. Policy 3206 Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse Registration
  - e. Policy 5100 Press Relations and Social Media
11. **Action List for Future Meetings**
  - *Employee Association topics*
  - *Policy manual updates*
  - *Standardized employment contracts*
12. **Next Meeting Date: May 17, 2022**

## **Adjournment**

**AVAILABILITY OF AGENDA MATERIALS** - Agenda exhibits and other writings that are disclosable public records distributed to all or a majority of the members of the Beaumont-Cherry Valley Water District Board of Directors in connection with a matter subject to discussion or consideration at an open meeting of the Personnel Committee of the Board of Directors are available for public inspection in the District's office, at 560 Magnolia Avenue, Beaumont, California ("District Office"). If such writings are distributed to members of the Board less than 72 hours prior to the meeting, they will be available from the District Office at the same time as they are distributed to Committee Members, except that if such writings are distributed one hour prior to, or during the meeting, they will be made available on the District website: [www.bcvwd.org](http://www.bcvwd.org).

**REVISIONS TO THE AGENDA** - In accordance with §54954.2(a) of the Government Code (Brown Act), revisions to this Regular Meeting Agenda may be made up to 72 hours before the Committee Meeting, if necessary, after mailings are completed. Interested persons wishing to receive a copy of the set Agenda may pick one up at the District's Main Office, located at 560 Magnolia Avenue, Beaumont, California, up to 24 hours prior to the Committee Meeting.

**REQUIREMENTS RE: DISABLED ACCESS** - In accordance with §54954.2(a), requests for a disability related modification or accommodation, including auxiliary aids or services, in order to attend or participate in a meeting, should be made to the District Office, at least 48 hours in advance of the meeting to ensure availability of the requested service or accommodation. The District Office may be contacted by

telephone at (951) 845-9581, email at [info@bcvwd.org](mailto:info@bcvwd.org) or in writing at the Beaumont-Cherry Valley Water District, 560 Magnolia Avenue, Beaumont, California 92223.

### **CERTIFICATION OF POSTING**

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





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

**MINUTES OF THE PERSONNEL COMMITTEE MEETING**  
**Monday, December 20, 2021 at 5:30 p.m.**

***Meeting held via teleconference pursuant to  
California Government Code Section 54950 et. seq. and  
BCVWD Resolution 2021-23***

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**CALL TO ORDER**

*Director Covington called the meeting to order at 5:45 p.m.*

**Announcement of Teleconference Participation**

Director of Finance and Administrative Services Kirene Manini, PhD, clarified that this meeting is conducted pursuant to BCVWD Resolution 2021-23.

Due to the danger of COVID-19, the teleconference locations are not publicly accessible. The public's right to comment and participate in the meeting is being assured via teleconference capabilities.

*Attendance*

<i>Directors present:</i>	<i>Covington, Ramirez</i>
<i>Directors absent:</i>	<i>None</i>
<i>Staff present:</i>	<i>General Manager Dan Jagers Director of Finance and Administrative Services Kirene Manini, PhD Human Resources Coordinator Sabrina Foley Administrative Assistant Cenica Smith Director of Information Technology Robert Rasha</i>
<i>BCVWD Employee Association reps:</i>	<i>Julian Herrera Dustin Smith Erica Gonzales</i>

**PUBLIC INPUT:** *None.*

**ACTION ITEMS**

1. Adjustments to the Agenda: None.
2. Acceptance of the November 15, 2021 Meeting minutes

*The Committee accepted the minutes of the November 15, 2021 Personnel Committee meeting by consensus.*

### **3. Report from Human Resources Department**

Human Resources Coordinator Sabrina Foley presented the report.

### **4. Update on the status of the Memorandum of Understanding (MOU) with the Employee Association**

Human Resources Coordinator Sabrina Foley advised that the initial job descriptions for the classification study have been reviewed by management and job titles have been recommended to the Board. If the classification study and the compensation study move forward, employees will be given the opportunity to review the draft job descriptions and provide feedback.

Dr. Manini reported that preliminary financial information has been received for the compensation study.

Pre-bargaining analysis has been concluded, Foley continued, and bargaining is ongoing. She pointed to an updated tentative calendar of events with proposed special Board meetings in January and February for the Koff and Associates (Koff) presentation, budget amendment, and adoption of a new MOU. In response to Covington, Dr. Manini noted that this is subject to results from Koff.

Director Covington noted that any recommended changes to the MOU should be presented in redline. He requested that the draft Koff studies be provided to directors ahead of the meeting.

### **5. Report / Update from BCVWD Employees Association**

Mr. Julian Herrera reminded that the vacation policy on rollover hours was changed in 2019, and advised the policy language did not get correctly transferred into the MOU. Employees were unable to roll over vacation hours – it had to be used, or cashed out, he noted.

Director Covington opined that policy as adopted by the Board trumps the MOU language. He pointed out the accrual caps.

Ms. Foley pointed out that upon examination of the meeting minutes, it was clear the intention of the policy was one thing, but interpretation hinges on one word: accrual rather than rollover. She suggested prioritizing revision of the vacation policy to match the intention.

Mr. Jagers indicated this would be investigated and any correction would come to the Board.

### **6. Policies and Procedures Manual updates / revisions**

Human Resources Coordinator Sabrina Foley presented proposed changes to the following policies:

- Policy 3030 Gift Acceptance Guidelines.

Ms. Foley reminded about previous discussion at the November 15, 2021 meeting and the Board's request for a more robust policy in line with the requirements of the Fair Political Practices Commission (FPPC). Legal counsel and the Finance Department have provided more significant edits, she added.

Foley outlined the policy sections and noted the link to the FPPC guideline, currently limited to \$520 per year from a single source. Covington requested addition of reference to the FPPC source and removal of references to current year.

In response to Director Ramirez, Ms. Foley explained that the policy applies to all employees. Specific employees designated in the Conflict-of-Interest Code are required to file the annual Statement of Economic Interests, as are the Board of Directors, she noted.

Director Covington pointed to the list of exceptions, and Ms. Foley reviewed them.

- Policy 3035 Outside Employment

Ms. Foley noted the changes made in response to discussion at the November 15, 2021 meeting including the requirement to disclose outside employment.

After discussion, the Committee agreed that disclosure was appropriate to be made to the employee's supervisor; and notification shall be made to Human Resources by the supervisor. The determination of conflict will be made by the supervisor, with confirmation by Human Resources. HR will notify the general manager of any outside employment situations.

The Committee acknowledged the intent to allow outside employment and agreed with Dr. Manini's suggestion about including a definition.

The Committee requested this policy come back with the changes as indicated.

- Policy 3205 Substance Abuse

Ms. Foley introduced the policy and reviewed all changes. Mr. Jagers noted that the members of the MOU had some concerns.

In response to Committee comments, Mr. Jagers suggested that some of the items included in the appendices be moved forward into the main body of the policy. Director Covington also recommended inclusion of further definitions to clean up gray areas.

Mr. Jagers pointed out that prohibited conduct does not apply to legal activity at District residences. This is addressed in the residences policy, he noted.

Director Covington pointed out that the Alcohol Use section should not allow any acceptable level of alcohol. Staff will consult with legal counsel. Covington indicated that the "safety-sensitive" designation in section 3205.6 - 3 should be removed to make it applicable to all employees, and the reference to four hours should be removed.

Ms. Foley read proposed new section 3205.8 applicable to safety-sensitive employees and regarding suspension of driving licenses, and Mr. Jagers indicated this generated some concern at the field level. Mr. Herrera noted that procedure in the past has been different.

In response to Director Covington, Ms. Foley will consult legal counsel regarding Department of Transportation language defining accident.

Sections 3205.13 and 14 were discussed and Mr. Jagers made recommendations consistent with earlier discussion. Covington suggested clarification of alcohol levels and testing. Mr. Smith suggested a maximum number of days to be sent home; Covington indicated this should be undefined and left to the situation.

Director Ramirez pointed to the insertion of gender-neutral language and recommended revising the adopted policy convention to eliminate it if it is not a point of law. Ms. Foley explained the best practice and non-discrimination. Mr. Jagers reminded that the Board will need to make the decision on changing holistically, dependent on legal counsel's determination.

Regarding post-accident testing, Mr. Smith advised that testing not to exceed eight hours should be a shorter time frame. Covington suggested elimination of the time frames; Director Ramirez suggested "immediately" or "as soon as possible." Dr. Manini suggested legal counsel guidance. Mr. Jagers suggested seeking an after-hours clinic to perform the required test.

Director Covington added that all testing costs will be paid by the District.

Chair Covington continued the remainder of the policy items to the next Personnel Committee meeting.

## **7. Review Policy Manual Project Priorities**

Chair Covington continued this item to the next meeting.

## **8. District Water Certification**

Ms. Foley reminded that this report was requested by Director Ramirez. She explained the certification requirements for water distribution and treatment operators and presented the report.

Director Covington noted that the classification study in progress discusses moving most of these positions down with the exception of taking the Director of Operations from a 4 to a 5.

**9. Action List for Future Meetings**

- *Employee Association topics (none added)*
- *Policy manual updates (ongoing)*
- *Closure of the office on Thursday, Dec. 30 in observance of New Year's Day*

**10. Next Meeting Date:** Tuesday, January 18, 2022 at 5:30 p.m.

Mr. Jagers advised that the 2022 proposed Personnel Committee schedule will be on Tuesdays.

**ADJOURNMENT:** 8:07 p.m.

Attest:

*DRAFT UNTIL APPROVED*

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

DRAFT



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

**MINUTES OF THE PERSONNEL COMMITTEE MEETING**  
**Tuesday, February 15, 2022 at 5:30 p.m.**

***Meeting held via teleconference pursuant to  
California Government Code Section 54950 et. seq. and  
BCVWD Resolution 2022-04***

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**CALL TO ORDER**

*Director Ramirez called the meeting to order at 5:39 p.m.*

**Announcement of Teleconference Participation**

Director of Finance and Administrative Services Kirene Manini, PhD, clarified that this meeting is conducted pursuant to BCVWD Resolution 2022-02.

Due to the danger of COVID-19, the teleconference locations are not publicly accessible. The public's right to comment and participate in the meeting is being assured via teleconference capabilities.

*Attendance*

<i>Directors present:</i>	<i>Ramirez, Hoffman (alternate)</i>
<i>Directors absent:</i>	<i>None</i>
<i>Staff present:</i>	<i>General Manager Dan Jagers Human Resources Coordinator Sabrina Foley Administrative Assistant Cenica Smith Director of Information Technology Robert Rasha</i>
<i>BCVWD Employee Association reps:</i>	<i>None present</i>

**PUBLIC INPUT:** *None.*

**ACTION ITEMS**

1. Adjustments to the Agenda: None
2. Acceptance of the December 20, 2021 Meeting minutes

*The minutes were tabled to the next meeting.*

### **3. Report from Human Resources Department**

Human Resources Coordinator Sabrina Foley presented the report. She advised that the District currently has 44 employees, not including Board members. Two temporary employees have been hired.

Foley advised the Committee about new and pending legislation. Director Hoffman pointed to AB 1632 and asked if the District's restrooms were ADA compliant; Foley said the facilities visited by customers are ADA compliant.

Director Ramirez asked if any grievances were safety related; Ms. Foley replied no.

### **4. Update on the status of the Memorandum of Understanding (MOU) with the Employee Association**

Human Resources Coordinator Sabrina Foley updated the Committee on activity related to the MOU. Once a tentative agreement is reached, a draft will be presented to the Board for consideration, she advised.

Foley reminded the Committee about upcoming special meetings regarding the classification and compensation studies.

### **5. Report / Update from BCVWD Employees Association**

None.

### **6. Annual report: 2021 Performance Evaluation Compliance**

Human Resources Coordinator Sabrina Foley presented the report and noted overall compliance in 2021 of 85 percent, an improvement over 2020.

In response to Director Ramirez, Mr. Jagers acknowledged that some of the missing reports were at the executive level. Ms. Foley noted that the Transmission and Distribution department was short only one evaluation due to an employee extended absence. Jagers assured he is working on getting the remaining evaluations scheduled.

Ramirez requested a progress update at the next meeting.

Director Hoffman indicated appreciation for staff.

### **7. Action List for Future Meetings**

- *Employee Association topics (none added)*
- *Policy manual updates (ongoing)*
- *Standardized employment contracts*
  
- *Review of Policy 1010 on gender neutral language (pronouns) to be moved forward to the full Board*

8. **Next Meeting Date:** Tuesday, March 15, 2022 at 5:30 p.m.

**ADJOURNMENT:** 6:09 p.m.

Attest:

*DRAFT UNTIL APPROVED*

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

DRAFT





**Beaumont-Cherry Valley Water District  
Personnel Committee Meeting  
April 19, 2022**

Item 3

**HUMAN RESOURCES REPORT**

**TO: Board of Directors Personnel Committee**  
**FROM: Sabrina Foley, Human Resources Coordinator**  
**SUBJECT: Human Resources Department Report for the Period of March 8, 2022 – April 12, 2022**

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**Personnel**

Total Current Employees (Excluding Board Members)	42
Part-Time	2
Temporary	2
Interns	0
Separations	2
Retiring Employees	0

**New Hires**

N/A

**Anniversaries\***

<b>Employee Name</b>	<b>Job Title</b>	<b>Years of Service</b>
Dustin Smith	Production Maintenance II	5

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

**Promotions**

N/A

**Employee Communications**

3/10/2022: HR sent out a Daylight Saving Time reminder.

3/14/2022: HR reshared memo #22-005, reminding employees to respond to an optional benefits satisfaction survey.

3/17/2022: HR sent a reminder to employees about the optional benefits satisfaction survey.

3/17/2022: HR shared two articles about BCVWD which were published by local news sources.



3/24/2022: HR sent a reminder about Active Assailant training, scheduled for the following Monday.

3/29/2022: HR shared information about the Employee Assistance Program (EAP).

3/30/2022: HR shared an invitation to a Lunch and Learn event about Emotional Intelligence.

3/31/2022: HR shared the aggregated results of the optional Benefits Satisfaction Survey with all employees.

4/5/2022: HR sent a reminder about an All-Hands Safety Meeting.

4/12/2022: HR thanked the customer service department for 100% compliance with a random audit of the District's COVID Prevention Plan (CPP).

### **Pending Legislation**

<b>Bill/Legislation</b>	<b>Title</b>	<b>Description</b>	<b>Status</b>
AB 399	Workers' Compensation	Would require employers to provide the medical provider network name and identification number to the injured employee within 5 days of the request.	Referred to Committee
AB 1632	Restroom Access: Medical Conditions	Would require a place of business open to the general public that has a toilet facility for employees to allow any individual who is lawfully on the premises to use that facility during normal business hours, even if the business does not normally make the toilet facility available to the general public.	Re-referred to Committee
AB 1711	Privacy: Breach	Would require an agency to post a notice on the agency's website to disclose a breach of security of the system to certain residents of CA.	Re-referred to Committee.
AB 1751	Workers' Compensation: COVID-19 Critical Workers	Would extend the presumption of injury resulting from COVID-19 until January 1, 2025.	CSDA opposes. Re-referred to Committee.



AB 1761	Employment: Flexible Work Schedules	Would allow an employer to implement a 4/10 work schedule without the obligation to pay overtime compensation except as specified.	CSDA supports. Referred to Committee.
AB 386	Public Employees' Retirement Fund: investments, confidentiality	Would exempt from disclosure under the act specified records regarding an internally managed private loan made directly by the Public Employees' Retirement Fund. Would include financial statements of the borrower. Will allow CalPERS to place greater investments in private equity and manage investments internally.	CSDA Supports. Failed deadline in 2021 and may be acted upon in 2022. No action taken so far this year.
AB 857	Labor Commissioner: required disclosures	Would require an employer to include in their written notice to all employees, specified information required in the event of a federal or state declared disaster or applicable to the county in which the employee will be employed.	Failed deadline in 2021 and may be acted upon in 2022. No action taken so far this year.
AB 1041	Employment: leave (CFRA)	Would expand the population that an employee can take leave to care for to include a "designated person" identified by the employee at the time of request for leave. Bill would authorize employers to limit the designation of a person.	CSDA opposes. Failed deadline in 2021 and may be acted upon in 2022. No action taken so far this year.
AB 1949	Employees: bereavement leave	Would allow eligible employees under CFRA to take up to 5 days of unpaid bereavement leave upon the death of a family member.	Re-referred to Committee.
AB 1993	Employment: COVID-19 vaccination requirements	Would require employees and independent contractors who are eligible to receive the COVID vaccine to show	In Committee.



		proof to their employer of vaccination. Exceptions are established for medical and religious exemptions. Employers must affirm compliance with the Dept. of Fair Employment and Housing.	
AB 2182	Discrimination: family responsibilities	Would prohibit employment discrimination on account of defined family responsibilities. Would make it unlawful for an employer to fail to make reasonable accommodation for known family responsibilities.	Referred to Committee.
AB 2188	Discrimination in employment: use of cannabis	Would make it unlawful for an employer to discriminate against an individual based upon the person's use of cannabis off the job and away from the workplace, or upon an employer-required drug screening test.	CSDA opposes. Amended and re-referred to Committee.
AB 2243	Occupational safety and health standards: heat illness and wildfire smoke	Would require a stricter revision of heat illness and air quality standards at temperatures higher than 105 degrees.	CSDA opposes. Re-referred to Committee.
AB 2932	Workweek: hours and overtime	For employers with more than 500 employees, would require that work in excess of 32 hours in a workweek be compensated as overtime. Prohibits an employer from reducing the rate of pay as a result of this reduced hourly workweek requirement.	Re-referred to Committee.
SB 335	Workers' Compensation: liability	Would reduce 90 day time period to reject liability for workers' compensation claims.	CSDA opposes. Failed deadline in 2021 and may be acted upon in 2022. No action taken



			so far this year.
SB 931	Deterring union membership: violations	Would authorize an employee organization to bring a claim before PERB alleging that a public employer violated current law prohibiting the employer from deterring or discouraging employees from becoming or remaining members of an employee organization.	Set for hearing.
SB 984	Military service: leave of absence pay and benefits	Would repeal the provision that employee members of reserve military units and the National Guard required to attend scheduled reserve drill periods or perform other inactive duty reserve obligations to be granted military leave of absence.	Set for hearing.
SB 1044	Employers: natural disasters, retaliation	Would prohibit an employer from taking or threatening adverse action against any employee for refusing to report to, or leaving, a workplace within the affected area because the employee feels unsafe.	CSDA opposes. Set for hearing.

*Prepared by Sabrina Foley, Human Resources Coordinator*



**Beaumont-Cherry Valley Water District  
Personnel Committee Meeting  
April 19, 2022**

Item 4

STAFF REPORT

**TO:** Personnel Committee  
**FROM:** Sabrina Foley, Human Resources Coordinator  
**SUBJECT: Annual Report: Workforce Demographics and Community Demographics**

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**Staff Recommendation**

No staff recommendation; for informational purposes only.

**Background**

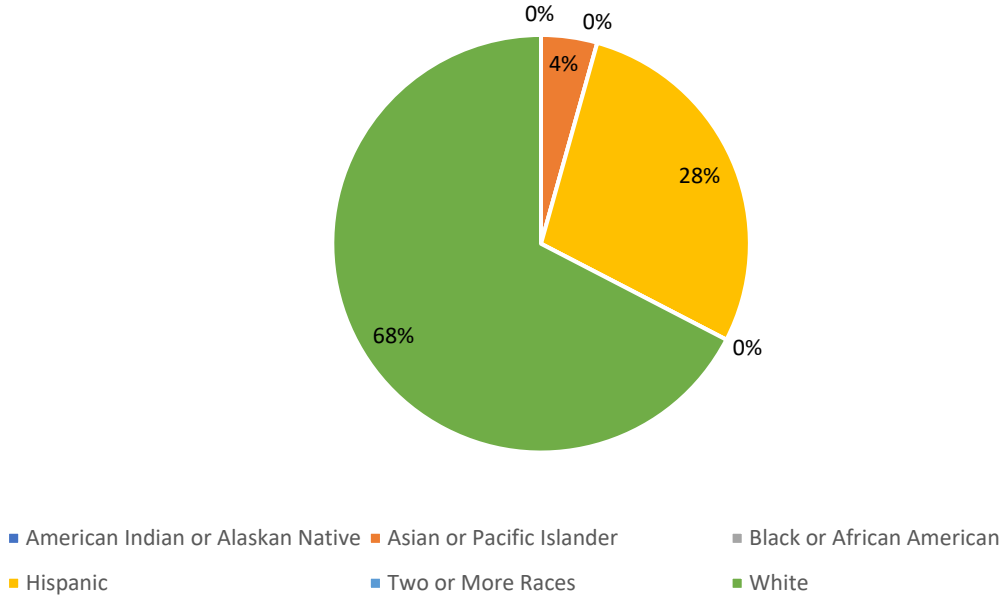
At the recommendation of the District's Human Resources consultant, HR Dynamics, staff will present an annual report to the Personnel Committee comparing the District's workforce demographics with the community's demographics. This report is intended to provide the Personnel Committee with data to represent the District's efforts toward diversity, inclusion, and transparency. Ideally, the District's demographics will parallel the community which it serves, since the District is a public entity.

**Summary**

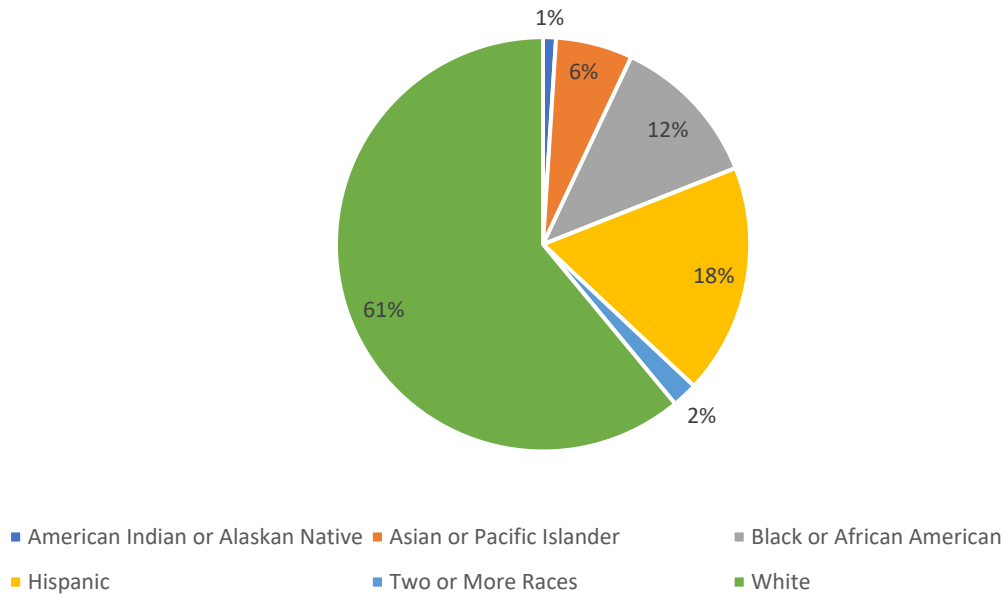
The data presented in this report is approximate. Since the Beaumont-Cherry Valley Water District has fewer than 50 employees, the District is not currently required to submit a federal Form EEO-1 to the Equal Employment Opportunity Commission (EEOC) or the Department of Labor. Therefore, the District does not formally collect data on employee demographics and District data is limited. Additionally, the District's service area comprises both the City of Beaumont and the Community of Cherry Valley but does not match the boundaries exactly for the purposes of collecting census information.



### BCVWD Employee Demographics

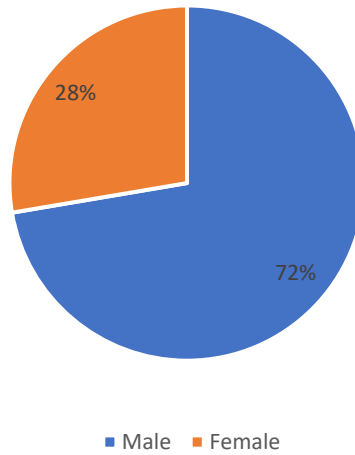


### Beaumont and Cherry Valley Population Demographics

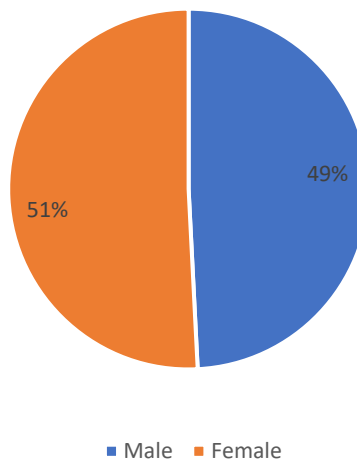




### BCVWD Employee Gender



### Beaumont and Cherry Valley Population Gender



### **Fiscal Impact**

There is no fiscal impact.

Staff Report prepared by Sabrina Foley, Human Resources Coordinator





**Beaumont-Cherry Valley Water District  
Personnel Committee  
April 19, 2022**

Item 5

STAFF REPORT

**TO:** Board of Directors Personnel Committee

**FROM:** Sabrina Foley, Human Resources Coordinator

**SUBJECT: Update on the Status of the Memorandum of Understanding (MOU) with the Employee Association**

**Staff Recommendation**

No recommendation, for informational purposes and discussion only.

**Background**

The District adopted the existing Memorandum of Understanding (MOU) with the Employee Association on December 13, 2017, and the MOU is effective from January 1, 2018, until December 31, 2021. Since this MOU has expired, the District is in the process of renegotiating a new MOU.

**Summary**

District staff have identified several projects to be completed prior to negotiations, and during negotiations with the Employee Association for the purpose of drafting an updated MOU. These projects are ongoing and in various stages of completion:

<b>Project Name</b>	<b>Current Status Description</b>	<b>Next Step(s)</b>
Classification Study	Board will review report in consent calendar during regular meeting on April 13, 2022.	Human Resources will work with management to make final edits and finalize the updated job descriptions. Pending effective date, to be determined by an amended budget.
Compensation Study	Board will review report in consent calendar during regular meeting on April 13, 2022.	Results will need to be incorporated into a budget amendment by Finance and Accounting staff.
Pre-Bargaining Analysis	Complete and presented in Closed Session.	Staff will follow up with Board requests and present regular updates on negotiations progress in Closed Session.
Bargaining	MOU Association and management reached tentative agreement. New MOU has been drafted and undergone preliminary review by legal counsel.	MOU will be finalized and presented to the Board for consideration and possible adoption.



### **Fiscal Impact**

To be determined.

### **Attachments**

1. 2018-2021 Memorandum of Understanding between BCVWD and BCVWD Employee Association
2. 2022-2026 MOU Draft Version 7

*Staff Report prepared by Sabrina Foley, Human Resources Coordinator.*

MEMORANDUM OF UNDERSTANDING  
BETWEEN  
BEAUMONT-CHERRY VALLEY WATER DISTRICT  
AND  
BEAUMONT-CHERRY VALLEY WATER DISTRICT  
EMPLOYEE ASSOCIATION

2018-2021

**This memorandum of Understanding (MOU) entered effective the 1<sup>st</sup> Day of January, 2018 is by and between the Beaumont-Cherry Valley Water District, hereinafter referred to as the "District", and the Beaumont- Cherry Valley Water District Employees Association, Hereinafter referred to as the "Association".**

### **Duration**

This Memorandum of Understanding hereinafter referred to as (MOU) shall become effective the 1<sup>st</sup> Day of January, 2018 and shall remain in full force and effective the 31<sup>st</sup> Day of December 2021.

### **Article 1**

#### Recognition

The District hereby recognizes The Association as the sole and exclusive bargaining agent for the following classifications:

- Customer Service Representative Trainee
- Customer Service Representative I
- Customer Service Representative II
- Customer Service Representative III
- Production Maintenance I
- Production Maintenance II
- Water Utility Person I
- Water Utility Person II
- Water Utility Person III
- Transmission & Distribution Supervisor
- Production Supervisor
- Recycled/Non-Potable Water Supervisor

Should additional classifications be added during the term of this agreement, the District and the Association shall meet to ascertain if added classifications should be included in the bargaining unit.

### **Article 2**

#### Provisions of Law

It is understood and agreed upon, that this MOU is subject to all current and future applicable and state law, and federal and state regulations. If any part of the provisions of this MOU is in conflict or inconsistent with such above applicable laws, rules and regulations, or is otherwise held to be invalid or unenforceable by any tribunal of competent jurisdiction, such part of the provision shall be suspended and superseded by such applicable law or regulations, and the remainder of this MOU shall not be affected thereby.

### **Article 3**

#### **Management Rights**

The Association recognizes that the District and its representatives have the responsibility and authority to manage and direct, on behalf of the public, all of the operations and activities of the District to the full extent authorized by law.

The District is conceded to have the right to make technological improvements, to assign work not expressly covered by the job descriptions, to determine normal working hours, and to schedule accordingly.

Except as expressly limited by the provisions of this MOU, all managements rights, including the control, direction, and supervision of all BCVWD operations and personnel are vested in the District. Such functions include, but are not limited to, the right to hire new employees; direct staff; determine the types and the services to be provided; hire outside companies and/or vendors to perform services; increase and/or decrease the amount of work available; schedule and assign work; determine the number of work shifts and hours of work; sub contract work; determine the types of work to be performed; establish and enforce jobs standards and qualifications; conduct and implement safety regulations; determine job content; change materials, processes, services, equipment, jobs, operations, locations and the number and types of facilities. The District also retains the right to hire, transfer, promote, demote, lay off, recall, discharge, suspend and discipline for just cause.

### **Article 4**

#### **Employee Rights**

Employees shall be free of restraint, intimidations and coercion as a result of the exercise of their rights as guaranteed by this agreement.

### **Article 5**

#### **No Strike or Lock Out**

During the term of this MOU, the employees and representatives, including but not limited to, BCVWD employees will not instigate, promote, sponsor, engage in or condone any strike (including sympathy strikes), slow down, concerted stoppage of work, sick out, or any disruption of the operations of the District, regardless of the reason for doing so. Any employee engaging in such activity prohibited by this MOU, or who instigates or gives leadership to such activity, shall be subject to disciplinary action up to and including termination. During the term of this MOU, the District will not institute lockout over dispute with the employees so long as there is no breach of the above no-strike provisions.

Each employee who is an officer of the Association occupies a position of special trust and responsibility in maintaining the bringing about of compliance with the provisions of this MOU. Accordingly, such employees agree to inform District employees of their obligations under this agreement and to direct them to return to work in the event of any work stoppage, slow down, sick out, or other disruption of District operations.

## **Article 6**

### Agendas

Agendas of BCVWD will be furnished to Association at no charge.

## **Article 7**

### Americans with Disabilities Act

The parties recognize that they are subject to the Americans with Disabilities Act (ADA) and Fair Employment and Housing Act ("FEHA"), and that these laws may require, among other things, that the District provides reasonable accommodation to employees with disabilities. Accordingly, the District is permitted to take all actions necessary to comply with the ADA and FEHA.

## **Article 8**

### Non Discrimination

The provisions of this agreement shall apply to all persons covered by this agreement without discrimination on account of sex, race, color, political affiliation, age, national origin or creed, nor, will there be discrimination in respect to hiring and retention.

## **Article 9**

### Employee Evaluation

Performance evaluations shall be in writing on forms prescribed by the General Manager or his/her designee. Said evaluations shall provide recognition for effective performances and also identify areas that need improvement. In addition to providing scaled scores in each performance and characteristic category, the evaluator will also provide a narrative explanation of the reason for each score. Performance evaluations shall be signed by the evaluator and shall be discussed with the employee. The employee will be provided an opportunity to prepare a written response to the evaluation that will be attached to the evaluation for inclusion in his/her personnel file. Employee responses are to be filed within 30 calendar days, unless an extension for unusual circumstances is granted by the General Manager.

## **Article 10**

### Normal Work Day

1. The District may establish alternate work schedules for Association employees in the following manner:

Production Operators (On Call): In order to provide for the monitoring of system facilities, respond to system failures and customer service calls after hours and during weekends and holidays the alternate schedule for designated production operators will continue, subject to Option B Work Schedule, Standard, described below. The Option B Work Schedule begins at 6:30 A.M. continuing to 3:00 P.M. Tuesday through the following Thursday (10 consecutive days) followed by three (3) consecutive days (Friday through Sunday) off.

Upon returning to work after the on-call rotation (Option B Work Schedule), the employee shall work two consecutive weeks subject to the Option A Work Schedule (4/10) until his/her next scheduled stand-by. Employees are assigned different starting weeks to provide weekend coverage.

Option A Work Schedule (4/10): The normal work day is defined as ten (10) hours of work plus an unpaid one half (1/2) hour lunch break followed by thirteen and one half (13 1/2) hours of rest for all employees. Employees would work four (4) ten (10) hour days and be off for three (3) days.

Option B Work Schedule: The on-call work day is defined as eight (8) hours of work plus an unpaid one-half (1/2) hour lunch break. 10 consecutive days, as described above.

Overtime shall be in accordance with Article 12, herein.

Paid Time Off: Employees scheduled under Option A above shall be charged at the rate of ten (10) hours per day for vacation and sick leave.

2. Effective January 1, 2018, Option A will be implemented for all staff except for designated production operators, with the understanding that any one of the options listed above may be implemented with fourteen (14) calendar days' notice to all affected employee(s).

## **Article 11**

### Normal Work Week

The normal work week shall consist of 168 consecutive hours beginning at 12:00 A.M. Sunday and ending the following Saturday at 11:59 PM.

## **Article 12**

### Overtime

Non-exempt employees will receive overtime as required by the Fair Labor Standards Act of 1938, at the rate of time and one half for all hours actually worked in excess of 40 hours in a work week. All overtime is to be approved in advance by the employee's supervisor. Employees shall accurately record all hours worked, neither over reporting nor under reporting. If a non-exempt employee is asked or directed to work hours without accurately reporting them, the employee shall notify the General Manager as soon as possible. All overtime shall be paid on the payday immediately following the pay period in which overtime is worked. Holidays shall not count as timed worked for the purposes of computing overtime.

During normal work week schedules (non-standby period) Non-exempt employees will receive overtime, at the rate as set forth above. All hours in excess of twelve (12) hours worked in a single workday shall be paid at double the employee's normal hourly rate. In the event that an employee works overtime that goes beyond a single work day (i.e. after midnight, in excess of 12 hours in a single day), that employee shall continue to be paid overtime for all consecutive hours worked and shall not return to normal hourly rates until they return to work after a period of rest, no less than

eight (8) hours. If an employee is required to return to work before the minimum rest period of eight (8) hours, that employee shall start the next work shift at time and one half his/her hourly rate for all hours worked until a minimum rest period of eight (8) hours is achieved.

Employee shall accurately record all hours worked, neither over reporting nor under reporting. If a non-exempt employee is asked or directed to work hours without accurately reporting them, the employee shall notify the General Manger as soon as possible. All overtime shall be paid on the payday immediately following the pay period in which overtime is worked. Holidays shall not count as time worked for the purposes of computing overtime. An employee working on a holiday, that is not scheduled to work said holiday, as part of normal work schedule, shall be paid time and one half their normal hourly rate for hours worked. Any additional hours worked in excess of (12) hours shall be paid at double their normal hourly rate. Employees who are scheduled to work on a District recognized Holiday, shall be paid their regular rate of pay for the holiday and their regular rate of pay for all hours worked and shall also be eligible for overtime as stated above.

It is the intent of the District to make honest efforts to ensure that all full time employees are given the opportunity to work forty (40) hours per week at the employee's normal hourly rate. In the event that an employee's eight (8) hour rest period, between work shifts, interferes with the employee's ability to achieve the working hours of a Normal Work Day, as stated in Article 10, the District reserves the right to:

- A. Schedule the employee to work hours outside of a Normal Work Day, as stated in Article 10, providing there is a need and available work to do so.
- B. Authorize the employee to use vacation time to make up the deficit
- C. Compensate the employee for all hours worked, including overtime, and allow the deficit, without an adverse effect to the employee's full time status and/or benefit compensation.

An eight (8) hour rest period shall not be required when a "Call-Out", for stand-by personnel can be achieved in less than one hour of actual time away from the employee's home.

### **Article 13**

#### **Standby and On-Call Duties**

Production Operator:

A Production Operator(s) assigned to standby duty for the purposes of being on-call to handle emergency situations arising at times other than normal scheduled working hours, and not as an extension of a regularly scheduled shift, shall be paid a flat fee of one hundred seventy-five dollars (\$175) per on call shift (ten consecutive eight hour days inclusive of the weekend beginning on Tuesday and ending on the next Thursday).

A "standby day" for purposes of calculating standby compensation shall be the period of time when an employee has been assigned to be available for purposes of handling emergency situations arising at times other than normally scheduled working hours and not as an extension of a regularly scheduled shift.



It is understood that standby duty for Production Operator(s) will be provided by qualified and available employees as assigned by the supervisor and/or Director of Operations. Standby rotation for Production Operator(s) shall be, at a planned minimum, four (4) operators in rotation. A single Production Operator shall be on standby from Thursday to the following Thursday (one week). The intent of the rotation is to provide, a planned minimum, three (3) weeks off of standby rotation before reporting for another standby shift. In the event it is not possible to accommodate a 3 week lapse in on-call duty, the District shall reserve the right to fill the vacancy with appropriate Production Operators. Employee supervisors and/or the Director of Operations reserve the right to assign any employee they deem fit to standby rotation to provide the District with the planned minimum of four (4) operators in standby rotation (this is the District planned rotation period but in no way guarantee's this rotation cycle period will always be able to be maintained). While on standby, the operator shall be provided with a District vehicle to drive home after normal working hours for use during after-hours emergencies. The District vehicle shall be taken home to provide a reasonable response time of twenty minutes to any actual emergency. It is understood that District Vehicles are for official District business only. District vehicles shall only be used to drive to and from work and/or to and from an actual emergency. Any misuse of District vehicles (i.e. using a District vehicle to run personal errands) shall be subject to disciplinary action as deemed fit by the employee's supervisor and/or the Director of Operations. The District shall pay any fuel, or additional charges, associated with standby vehicles. The District will establish a fringe benefit commuting valuation for the commuting benefit of each one way commute at the current rate allowed by the IRS.

The employee shall pay applicable taxes associated with the use of standby vehicles.

Distribution Operator:

In addition to Production Operators, One (1) Distribution Operator and one (1) Distribution Helper shall also be on standby rotation. It is understood that standby duty for distribution operations will be provided by qualified and available employees as assigned by the supervisor and/or Director of Operations.

Standby rotation for Distribution Operators shall be, at a planned minimum, four (4) Distribution Operators in rotation. A single Distribution Operator shall be on standby with a single standby helper assigned to back up the Distribution Operator on call.

Standby rotation for Distribution Helpers shall be, at a planned minimum, eight (8) Distribution Helpers in rotation. A single Distribution Helper shall be on standby with a single Standby Operator assigned to supervise the Distribution Helper on call.

Employee supervisors and/or the Director of Operations reserve the right to assign any employee they deem fit to Distribution standby rotation. . . The rotation shall provide, a planned minimum, three (3) weeks off of standby rotation for Distribution Operators and seven (7) weeks off of standby rotation for Distribution Helpers before reporting for another standby shift. In the event it is not possible to accommodate the planned lapse in on-call duty, the District shall reserve the right to fill the vacancy with appropriate distribution operators.

Distribution Operators shall be compensated at One hundred seventy-five dollars (\$175) per on call shift (one week) for the standby employee, and one hundred twenty-five (\$125) for the standby helper per on call shift (one week).

While on standby, the distribution Operator and possibly the Distribution Helper shall be provided with a District vehicle to drive home after normal working hours for use during after-hours emergencies. The District vehicle shall be taken home to provide a reasonable response time of Twenty minutes to any actual emergency. It is understood that District Vehicles are for official District business only. District vehicles shall only be used to drive to and from work and/or to and from an actual emergency. Any misuse of District vehicles (i.e. using a District vehicle to run personal errands) shall be subject to disciplinary action as deemed fit by the employee's supervisor and/or the Director of Operations Manager. The District vehicle will only be provided to the standby Distribution Operator. The District shall pay any fuel, or additional charges, associated with standby vehicles. The employee shall pay applicable taxes associated with the use of standby vehicles. The District will establish a fringe benefit commuting valuation for the commuting benefit of each one way commute at the current rate allowed by the IRS.

The employee shall pay applicable taxes associated with the use of standby vehicles.

All Standby Employees shall:

1. Be ready to respond immediately to a call for service.
2. Be readily available at all hours by telephone or other agreed upon communication equipment.
3. Refrain from activities which might impair their assigned duties upon call.
4. Respond to the emergency caller within Five (5) minutes of receiving the call.
5. Ensure that the assigned cell phone and/or personal cell or home phone devices are in working order.

Failure to reply to an emergency call within five (5) minutes of receipt and response to the actual emergency within twenty (20) minutes from receiving the call shall be grounds for forfeiture of standby pay for that 24 hour period, and may be cause for further disciplinary action.

#### **Article 14**

##### **Call Out Time**

Employees shall be paid a minimum of two (2) hours at the regular overtime rate as defined in Article 12, when called out to work during their normal off duty hours, other than his/her regular shift. No other compensation shall be provided during the initial call-out period in the event other calls for service are received during that period.

A "call-out" occurs when an employee on assigned standby duty is required to return to a District-designated worksite or is otherwise required to commence work following completion of the employee's regularly scheduled work shift and following the employees departure from the worksite at the end of that regular scheduled work shift. Therefore, a "call-out" is not an extension of a regular

scheduled work shift. Where a “call-out” requires the employee to leave their residence and respond to a designated worksite, computation of compensable work hours shall commence with and include travel time to and from the residence and the worksite. Compensable work hours shall also include the time spent on the telephone or other electronic device whereby the “call-out” is assigned and/or efforts by telephone or other electronic device are undertaken to address the subject of the “call-out” (this telephone or electronic device activity shall be included as part of the call out time calculation for any particular item and does not represent a separate call out time period).

#### **Article 15**

##### Equitable Distribution of Call Out Overtime

There will be equitable distribution of call out overtime.

#### **Article 16**

##### Pay Period

The pay period shall commence on Sunday at 12:00 A. M., and continue until 11:59 PM the second Saturday following. Payday shall occur on the Thursday following the end of pay period.

#### **Article 17**

##### Promotions

When the District has an opening in a classification above the entry level for employees covered under the MOU, a notice shall be posted in the break room, located at the District Headquarters and Field Office, five (5) days prior to closing the position. Positions shall be filled on the following basis:

These positions will be filled based on merit, ability to perform in the vacant position and, where applicable, possession of certification/education that is required or desirable for the position. Where the District determines that all other factors are equal, seniority will be the final consideration.

Employees receiving promotions shall serve a six (6) month introductory period in the higher classification. The introductory period will extend from the date of promotion, rather than date of hire. The District reserves the right to hire outside the present workforce.

#### **Article 18**

##### Introductory and Temporary Employees

**Introductory Employee.** All newly hired employees covered under the MOU serve an introductory period. The introductory period is intended to give new employees the opportunity to demonstrate their ability to achieve a satisfactory level of performance and to determine whether the new position meets their expectations. The District uses this period to evaluate employee capabilities, work habits, and overall performance. Either the employee or the District may end the employment relationship at-will at any time during or after the introductory period, with or without cause or advance notice.

All new (Including rehired) employees work on an introductory basis for the first six (6) months after their date of hire. Any significant absence will automatically extend the introductory period by the length of the absence. If the District determines that the designated introductory period does not allow sufficient time to thoroughly evaluate the employee's performance, the introductory period may be extended one or more times.

Upon satisfactory completion of the introductory period, full-time employees enter the "regular" employment classification. Successful completion of the introductory period does not guarantee employment for any specific duration or change the at-will status of regular employment.

**Temporary Employee.** A temporary employee is defined as anyone covered under the MOU who is hired for a period of 999 hours or less.

- i. Employees hired to replace a regular employee covered under the MOU who is on a leave of absence shall be hired as temporary employees unless said leave of absence is in excess of one-hundred- eighty (180) days.

A temporary employee will not be eligible for any fringe benefits including sick leave pay, holiday pay, vacation pay, insurance coverage, jury duty pay, bereavement pay or items of a similar nature, nor will he/she accrue seniority or leave of absence rights.

## **Article 19**

### Performing Work Out of Classification

Employees required by their supervisor to work a normal shift in a temporary classification higher than their current classification will be paid a step increase equivalent to five percent (5%) of his/her base pay rate for those hours worked performing the duties of the higher classification. This out of class work shall be clearly identified by the supervisor which will require authorization by the supervisor at the beginning of the normal work shift in which said out of class work is performed.

Should an employee be required to work temporarily in a classification paying less than his/her established rate, he/she will be paid at their normal rate.

## **Article 20**

### Layoff and Recall

Should the District be required to reduce the bargaining unit work force for any reason, the following shall be the layoff procedure:

1. Temporary bargaining unit employees shall be laid off first.
2. Should a further reduction be necessary, full-time probationary bargaining unit employees shall be laid off next.
3. Full-time employees shall be laid off last.

The District shall notify an employee of their intention to lay him/her off at least ten (10) working days prior to the date the layoff is to take effect. Recall to work shall be in reverse order of layoff based on

a Re-Employment list that shall expire six (6) months from the date of layoff.

## Article 21

### Grievance Procedure

A grievance is any alleged violation, or major difference of opinion, as to the interpretation or application of any negotiated agreement, or any law, rule or regulation governing personnel matters.

An employee is entitled to representation in the preparation and presentation of his grievance at any step in the grievance procedure. The grievant is entitled to be released from work for a reasonable period of time in order to present the grievance.

An employee and any representation will be unimpeded and free from restraint, discrimination, interference, or reprisal in seeking appropriate adjustment of a grievance.

**Step 1:** A grievance, as defined above, shall be presented to the immediate supervisor within seven (7) business days of the event giving rise to the grievance. If not presented within the said time requirement, the grievance will be deemed to have been waived. Prior to filing a written grievance, an employee will first discuss the matter with his/her immediate supervisor. The immediate supervisor shall respond, either orally or in writing, within three (3) days of the discussion with the employee concerning the matters giving rise to the grievance.

**Step 2:** In the event the problem is not resolved through informal discussion as outlined in Step 1, the grievance shall be reduced to writing, and submitted to the General Manager, within five (5) days of receipt of the immediate supervisor's answer. Upon receipt of a written grievance, the General Manager shall meet with the employee and his/her representative. The General Manager shall render a written decision no later than three (3) days after the Step 2 meeting.

**Step 3:** Should the grievance not be resolved in step 2, it may then be appealed to the Personnel Committee of the Board of Directors within three (3) days. The Personnel Committee shall meet with the grievant, and his representative, within ten (10) days of submission for review, and render a written decision ten (10) days thereafter, which decision shall be final.

A grievance will be considered resolved based on the last determination if it is not advanced by the grievant within the time limits provided. If a supervisor or manager fails to respond within the time limit provided, the employee may advance the grievance to the next step within the time limits provided.

## Article 22

### Progressive Discipline

- i. The General Manager in presence of a witness (Supervisor) has the authority to discipline or terminate any employee. The following is a nonexclusive list of the types of disciplinary action which may be imposed.
  - A. Oral or written warnings.

- B. Probation - the placing of an employee in a position wherein his/her past and current performance is being reevaluated. Failure to improve his/her performance during the probationary period will result in further disciplinary action.
  - C. Suspension - an involuntary leave without pay.
  - D. Demotion - reduction from a position in one class to a position in another class having a lower salary range, affected for disciplinary purposes (demotions resulting from organizational changes and layoffs are not disciplinary).
  - E. Termination - discharge from service with the District.
- ii. It is intended that discipline be imposed primarily for corrective purposes and to address deficiencies in work performance. All disciplinary actions should be kept confidential. The following is a nonexclusive and illustrative list of the more common causes for disciplinary action, provided however, these provisions are not intended nor shall they change or modify the at-will status of employees:
- A. Action contrary to the Personnel Rules and Regulations of the District.
  - B. Inefficiency or incompetence.
  - C. Disobedience or insubordination.
  - D. Dishonesty.
  - E. Consumption of alcoholic beverages or drugs - employees shall not use, carry or transport alcoholic beverages or narcotics during work shift or on District property nor report for work while under the influence of alcohol or narcotics. Employees who reside in District housing may utilize legal substances in the confines of their respective residential spaces when off duty and not on standby.
  - F. Disorderly or immoral conduct.
  - G. Discourteous treatment of the public.
  - H. Accepting gratuities or tips offered in exchange for District services rendered a customer or prospective customer.
  - I. Conviction of a felony.
  - J. Tardiness.
  - K. Absenteeism.
  - L. Neglect of duty.
  - M. Failure to follow safe working practices or failure to report promptly any injury.
- iii. Upon termination, the employee shall return all District property.

These disciplinary action procedures and any other provided in this MOU are not intended to change the at-will nature of the employment relationship with the District. Either an employee or the District may end the employment relationship at any time with or without cause and with or without prior notice. The District reserves the right to terminate the employment relationship, to demote or to

otherwise take disciplinary and corrective action without resort to these disciplinary procedures. Nothing in these procedures or in this MOU is intended to create a property interest in employment with the District except in significant situations such as theft, fighting, drunkenness, drug use, etc. as determined by District Management, the District agrees to the following order of discipline:

1. First offenders shall be counseled and given a verbal warning. Verbal warning shall be documented.
2. Should the misconduct continue, a written warning will be issued to the employee, along with notification that further misconduct could be grounds for more severe disciplinary action.
3. If, after 1 and 2, the employee still persists in the conduct giving rise to the disciplinary action, the district may take whatever action it deems appropriate, up to and including discharge.

After each twelve (12) months of corrective conduct, resulting from the imposition of 1, 2, or 3 above, the disciplinary action will remain in the employees file but a letter of clearance showing the District recognizes that the employee has worked to correct the issue resulting in the disciplinary action shall be added to the employee's record, in reverse order in which it was imposed.

All progressive discipline violations shall be documented in the employee's employment file.

All disciplinary actions, other than verbal warning, shall be subject to the grievance procedures.

### **Article 23**

#### Step Increases

Employees below Step 5 in his/her classification shall be eligible for a step increase based on individual performance evaluations conducted by the District. Evaluations shall be conducted annually by the District, based on anniversary date.

### **Article 24**

#### Employee Compensation

All Full-time employees covered under the MOU shall receive compensation in accordance with the provisions of this MOU, District Policies and Procedure manual, and adjusted ranges in the Salary Schedule (as defined herein exhibit A attached).

### **Article 25**

#### Incentive Pay

Full-Time continuous employees with 3 years of service or more (at time of application) receiving education certification one step or higher above their existing job classification (Step 4 or below) will be eligible to receive a one time step increase up to the Salary Schedule Step 5 Limit increase. Any Grade III employees at Salary Schedule Step 4 or below may receive an additional one time step increase if they obtain a certification two steps above their existing job classifications (i.e. Grade III Operator with a Distribution V certification) as approved by the General Manager. Employees must first make application to their supervisors to be eligible to participate in the Incentive Pay program

including employees whose job classification may not have corresponding education certification. All applications are subject to approval of the General Manager.

## **Article 26**

### Sick Leave

Bargaining Unit employees shall accumulate sick leave at the rate of 3.70 hours per pay period.

#### Incentive Plan "A"

An employee not using any sick leave for twelve (12) consecutive months may convert their ninety-six (96) accrued hours to cash at a rate of sixteen (16) accrued hours for eight (8) hours pay at their regular hourly rate.

#### Incentive Plan "B":

Upon retirement or death, and employee, or his/her beneficiary, shall be entitled to receive 50% of all accumulated sick leave not compensated for in "A" above, at the employee's Life Insurance Beneficiary Form.

NOTE: Beneficiary shall be the individual indicated on the employee's Life Insurance Beneficiary Form.

## **Article 27**

### Insurance

The District shall provide to Bargaining Unit members health insurance coverage through the Public Employees Retirement System (PERS) for all members of the Bargaining Unit and their eligible dependents. Insurance will cover maternity for employee and spouse only.

#### State Disability Insurance:

Employees shall pay the cost of the premiums associated with State Disability Insurance.

#### Life Insurance:

Life Insurance shall be provided at the employee's current regular rate of pay, at the time of death, equal to one year's salary.

## **Article 28**

### Holidays

Employees shall be entitled to the following paid holidays:

January 1 (New Year's Day)  
Martin Luther King Jr. Day, Third Monday in January  
Third Monday in February (Presidents' Day)



Last Monday in May (Memorial Day)  
July 4 (Independence Day)  
First Monday in September (Labor Day)  
November 11 (Veteran's Day)  
Thanksgiving Day  
Friday after Thanksgiving  
December 25 (Christmas)  
Employee Birthday

Unless required as part of the District required rotation schedule set forth under Articles 13, an employee required to work the holiday shall be paid one and one-half (1/2) times his/her rate of pay.

A holiday that occurs on a normally scheduled day off shall be credited to the employee as a paid floating holiday to be used later in the fiscal year.

Unless excused due to pre-approved vacation, jury duty, hospitalization, or the death of an immediate family member, employees must work a full shift the regular scheduled business day before and after the holiday to qualify for this benefit. Holiday pay shall not be counted for the purposes of computing overtime.

**Article 29**

Vacations

Employees shall accrue vacation in the following manner:

Years of Service	Vacation Earned
One (1) through four (4) years	80 hours
Five (5) through fourteen (14) years	120 hours
Fifteen (15) years and more	160 hours

Vacation shall be earned from date of hire.

An employee with less than five (5) years seniority would receive 80 hours vacation per year. The first year shall be prorated and accrued at a rate of 6.667 hours per month commencing with the first full month of employment, and awarded after January 1 of the following year. Vacations shall be scheduled in advance with District Management on a first come, first serve basis and be coordinated to minimize disruption to District operations.

The District agrees that an employee may carry over, to the following year, his/her previously approved vacation when the District requires an employee to work said scheduled vacation due to an emergency.

If an employee elects not to schedule his/her vacation, the District agrees to purchase unused vacation at an employee's regular hourly rate of compensation. The purchase shall occur at the first pay period in the month of December.

**Article 30**

Retirement Plan

The retirement plan for all bargaining unit members shall be the public Employees Retirement System (PERS) of the State of California.

- Benefit Description: Section 21354.5  
The PERS plan will be the "2.7% @ 55 formula with all prior years of service recognized" for employees hired before January 1, 2013. Employees hired after January 1, 2013 who are new to PERS, will receive benefits under the Public Employees' Pension Reform Act (PEPRA) 2% at 62 plan.
- Benefit Description: Section 20042  
One-Year Final Compensation
- Benefit Description: Section 21624, 21626, & 21628  
Post Retirement Survivor Allowance

The District and the employees agree that the District will pay the entire 8% for all employees hired prior to 2001. Employees hired after January 1, 2001 and on or before January 1, 2012 shall pay 7%. Employees hired after January 1, 2012 shall pay their entire employee contribution.

### **Article 31**

#### Uniforms and Safety Equipment

The District shall provide, as an employee benefit, all full-time field operational personal with uniforms to be worn while on duty and District owned safety equipment. The district will reimburse full-time operational personnel, upon date of hire and annually thereafter, up to a maximum amount of \$200 for the purchase of steel-toe shoes or boots. Field operational personnel may purchase a second pair of shoes if field personnel can do so within the allotment of \$200 or boots; the employee shall contribute the additional funds required if the cost exceeds the \$200 allotment. Employees will be allowed to use this amount to also purchase other uniform related items such as belts, shoe or boot inserts, laces, etc.

### **Article 32**

#### Job Related Instruction

The District agrees to reimburse the full cost of any District approved work related course of instruction or study that bargaining unit members may attend. Reimbursement will only occur upon successful completion of the course with a passing grade and appropriate certification if applicable.

Pursuant to Article 2 of the MOU the District retains the right to approve any and all courses of study prior to attendance by the Bargaining Unit Employee.

### **Article 33**

#### Bereavement Leave

Two regular working days of paid leave for the death of an employee's/spouse's parents. Forty (40) hours of paid leave for the death of an employee's spouse or child. Employees may utilize accumulated vacation and sick leave to supplement bereavement leave in the case of the death of an immediate family member not specified above.

### **Article 34**

#### Cost of Living Adjustments

Salaries to be adjusted on January 1, 2018 in accordance with the Salary Schedule for 2018 attached as Exhibit A. , Salaries for 2019, 2020 and 2021 shall be adjusted beginning on January 1, 2019 based on the August to August Unadjusted Consumer Price Index, U.S. Cities average.

### **Article 35**

#### Negotiation Preparation Time Off

The Association may use District facilities to hold general membership meetings with employees. The District agrees to allow up to three (3) members of the Association employee representatives up to three (3) hours of paid leave prior to each scheduled meeting with District representatives to prepare for negotiation discussions. Said time off shall not interfere with District operations and be coordinated with the District in advance.

### **Article 36**

#### Total Agreement

This Memorandum of Understanding represents the total agreement of the parties as required by California Government Code § 3505.1 and supersedes all prior Memoranda of Understanding and verbal agreements between the parties. This Memorandum of Understanding is not binding until duly approved and adopted by the District's Board of Directors. It is also recognized that the District Personnel and Policies & Procedures Manual applies to all District employees, including unit members, except where there is a direct conflict with this Memorandum of Understanding. In the event of a direct conflict, this Memorandum of Understanding shall prevail while in force.

### **Article 37**

#### Full Understanding, Modification and Waiver

It is intended that this MOU sets forth the full and entire understanding of the parties regarding the matters set forth herein, and any other prior or existing understanding or agreements by the parties, whether formal or informal, regarding any such matters are hereby suspended or terminated in its entirety.

Except as specifically provided herein, it is agreed and understood that the Association hereto voluntarily and unequivocally waives its rights, and agrees that the District will not be required to negotiate with respect to any subject matter covered herein during the term of this agreement. Except in cases of emergency as provided by Government Code Section 3504.5, the District shall provide reasonable written notice to the Association of any ordinance, resolution; rule of regulation directly related to the matters within the scope of the representation proposed to be adopted by the District and shall give Association the opportunities to meet with the District representatives.

Any agreement, alteration, understanding, variation, waiver or modifications of any terms of provisions contained in writing signed by both parties and approved and implemented by the District. The Waiver of any breach, term or condition of this Agreement by either party shall not constitute a precedent in the future enforcement of all its terms and provisions.

**Article 38**

Term Agreement

This agreement shall remain in full force and effect from January 1, 2018 until December 31, 2021. The District agrees to conduct a compensation survey prior to expiration of this agreement to facilitate salary range discussions to be considered for the next term.

**Article 39**

Savings Clause

Should any provision of this agreement or any application thereof, be unlawful by virtue of any federal, State or Local Laws and regulations, such provision of this agreement shall be effective and implemented only to the extent permitted by such laws and regulations. In all other respects, the provisions of this agreement shall continue in full force and effect for the life thereof.

BEAUMONT- CHERRY VALLEY WATER DISTRICT

By: \_\_\_\_\_  
Mr. John Covington, President of the Board of Directors

By: \_\_\_\_\_  
Daniel Jagers, General Manager

EMPLOYEE REPRESENTATIVES

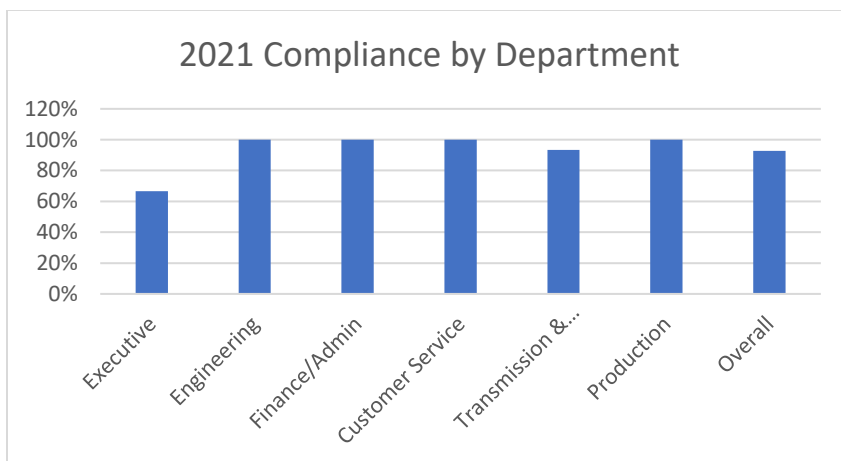
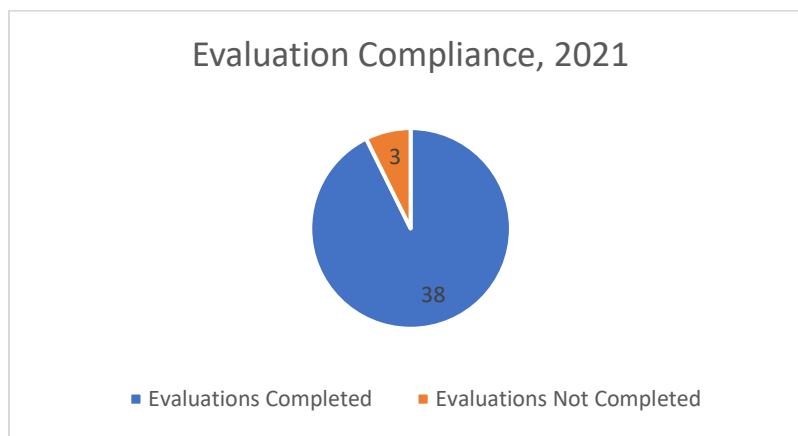
By: \_\_\_\_\_

By: \_\_\_\_\_

By: \_\_\_\_\_

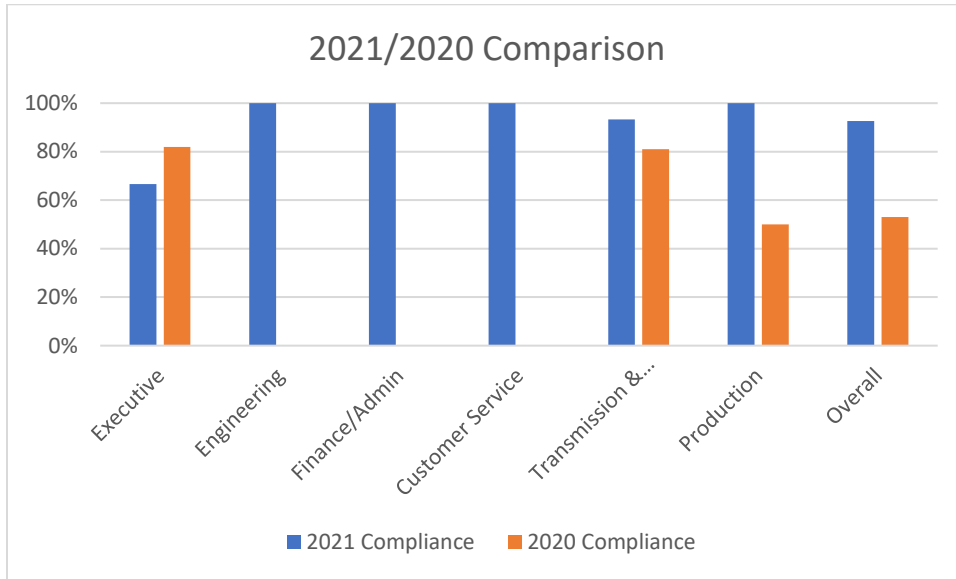
# 2021 Performance Evaluation Compliance Report

*Updated March 8, 2022*



Department	2021 Compliance
Executive	67%
Engineering	100%
Finance/Admin	100%
Customer Service	100%
Transmission & Distribution	93%
Production	100%
Overall	93%

*Prepared by Sabrina Foley, Human Resources Coordinator*



*Prepared by Sabrina Foley, Human Resources Coordinator*



**Beaumont-Cherry Valley Water District  
Personnel Committee  
April 19, 2022**

Item 8

STAFF REPORT

**TO:** Board of Directors Personnel Committee  
**FROM:** Sabrina Foley, Human Resources Coordinator  
**SUBJECT: Update: BCVWD Employment Agreements**

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**Staff Recommendation**

No recommendation, for informational purposes and discussion only.

**Background**

The Personnel Committee requested information on the status of renegotiation for BCVWD Employment Agreements (salaried and management personnel). The District intends to update the employment agreements due to title and FLSA (Fair Labor Standards Act) status changes that may occur as a result of the District's completed classification study. Additionally, many existing agreements are a few years old.

**Summary**

This project is in progress and pending the final implementation of an amended 2022 Salary Schedule and the conclusion of negotiations with the Employee Association (MOU group). There are nine (9) individuals who are currently employed under an employment agreement (excluding the General Manager), and if the results of the Classification study are implemented, there will be eleven (11) to be negotiated due to FLSA status changes.

Thus far, Human Resources has worked with the District's legal counsel and consultant HR Dynamics to update the standard template for the Employment Agreements. Additionally, Human Resources has analyzed all existing employment agreements to identify opportunities for standardization, which promotes administrative efficiency and equity.

After an updated salary schedule with the titles recommended by the Classification study is adopted, the General Manager will act as the District's Chief Negotiator to negotiate directly with affected employees.

**Fiscal Impact**

To be determined.

**Attachments**

N/A

*Staff Report prepared by Sabrina Foley, Human Resources Coordinator.*



**Beaumont-Cherry Valley Water District  
Personnel Committee  
April 19, 2022**

Item 9

STAFF REPORT

**TO:** Board of Directors Personnel Committee  
**FROM:** Sabrina Foley, Human Resources Coordinator  
**SUBJECT:** Review Policy Manual Project Priorities

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**Staff Recommendation**

No recommendation, for informational purposes and discussion only.

**Background**

At the November 15, 2021 meeting of the Personnel Committee of the Board of Directors, the Committee discussed that it might be pertinent to review the policy manual project to work on the policies in order of priority. The Committee directed Staff to indicate which policies were proposed to be of higher importance for discussion.

This item was continued at the December 20, 2021 and January 18, 2022 meetings of the Personnel Committee. At the request of the Board, no policy-related items were presented at the February 15, 2022 Personnel Committee meeting.

**Summary**

District staff have identified higher priority policies for review in the Policy Approval Tracking spreadsheet (**Attachment 1**) in yellow and the lower priority policies in light blue.

Staff have identified the following policies as having a high priority for review:

<b>Policy Name</b>	<b>Explanation/Notes</b>
3085 Sick Leave	Add legal updates and limits to buy-back to leave a certain balance.
3090 Family and Medical Leave	Add legal updates
3095 Pregnancy Disability Leave	Add legal updates
3096 Lactation Accommodation	No existing policy
3100 Bereavement Leave	Employee Association priority, TBD post-negotiations
3111 Leave for Crime Victims and Family Members	No existing policy, required CA leave
3115 Return to Work Policy	ACWA JPIA recommended updates
3120 Occupational Injury and Illness Prevention Program	Safety-related policy
3121 Infectious Disease Control	No existing policy





3122 Workplace Violence	No existing policy
3123 Theft	No existing policy
3125 Uniforms and Protective Clothing	Differentiate uniforms from dress code; Employee Association priority
3145 Driver Training and Record Review	Add FMCSA Clearinghouse requirements, legal updates, HR functions
3205 Substance Abuse (In Conformance with DOT Guidelines)	Safety-related policy, and at the request of Director Ramirez. Currently under review
3206 FMCSA Clearinghouse Registration	Legal updates
3230 Workers' Compensation	No existing policy
3231 Accommodations for Disability	No existing policy
3235 Military Leave	No existing policy
3240 Dress Code and Personal Standards	No existing policy; differentiate from Uniforms and Protective Clothing policy, Employee Association priority
4030 Board Meeting Agendas	Legal counsel advised revision-two directors to request an item on an agenda
5005 Emergency Preparedness	Safety-related policy
5010 Emergency Response Guideline for Hostile or Violent Incidents	Safety-related policy; possibly combine with Workplace Violence policy for clarity.
5055 Employment of Consultants and Professional Services	Finance & Administration priority; provide clarification regarding professional services agreements and requirements
5060 Employment of Outside Contractors	Finance & Administration priority; provide clarification for which projects, consultants, etc. are covered by the policy
5080 Purchasing	Finance priority at the recommendation of District's auditors
5081 Contract Review Policy	No existing policy
5100 Press Relations and Social Media	At the request of Director Ramirez

**Fiscal Impact**

To be determined.

**Attachments**

1. Policy Approval Tracking – BCVWD Policy Manual Project

*Staff Report prepared by Sabrina Foley, Human Resources Coordinator.*

Policy Approval Tracking  
BCVWD Policy Manual Project

Policy Number	New Policy Number	Section	Policy Name	Drafted by BCVWD Staff	Responsible Staff	Approved by Legal Counsel	Presented to Personnel Committee	Provisionally Approved by Personnel Committee	Presented to Board of Directors	Approved by Board of Directors	Adoption Date	Resolution Number
1	1000	General	Definitions	Yes	Human Resources	2/16/2021	2/22/2021	2/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
2	1005	General	Definitions	Additional Edits	Human Resources	6/28/2021	7/19/2021	7/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
N/A	1010	General	Contractual Provisions	Yes	Human Resources	2/16/2021	2/22/2021	2/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
			Policy Manual	Yes	Human Resources	2/16/2021	2/22/2021	2/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
			Policy Manual	Additional Edits	Human Resources	Separate Report	N/A	N/A-directed to Board	3/9/2022	3/9/2022	3/9/2022	22-006
3	2000	Administration	Equal Opportunity	Yes	Human Resources	3/15/2021	3/22/2021	3/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
4	2605	Administration	Affirmative Action	Yes	Human Resources	Recommend to Remove	3/22/2021	3/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
5	2010	Administration	Access to Personnel Records	Yes	Human Resources	3/15/2021	3/22/2021	3/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
6	2015	Administration	Harassment	Yes	Human Resources	3/15/2021	3/22/2021	3/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
7	2020	Administration	Sexual Harassment	Yes	Human Resources	3/15/2021	3/22/2021	3/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
N/A	2025	Administration	Whistleblower Protection	Yes	Human Resources	3/15/2021	3/22/2021	3/22/2021	4/14/2021	4/14/2021	4/14/2021	21-006
8	3000	Personnel	Employee Status	Yes	Human Resources	4/12/2021	7/19/2021	7/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
			Employee Information and									
N/A	3001	Personnel	Emergency Data	Yes	Human Resources	4/12/2021	6/21/2021	6/21/2021	10/13/2021	10/13/2021	10/13/2021	21-018
N/A	3002	Personnel	Employee Groups	Yes	Human Resources	4/12/2021	5/17/2021	5/17/2021	10/13/2021	10/13/2021	10/13/2021	21-018
9	3005	Personnel	Compensation	Yes	Human Resources	7/13/2021	7/19/2021	7/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
			Prevailing Wage-Public Works									
N/A	3006	Personnel	Contractor-Employee Relations	Yes	Human Resources	7/13/2021	9/20/2021	9/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
			Employee Performance									
10 & 49	3010	Personnel	Evaluation	Yes	Human Resources	7/13/2021	9/20/2021	9/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
			Performance Evaluation-General									
11	3015	Personnel	Performance Evaluation-General Manager	Yes	Human Resources	8/3/2021	9/20/2021	9/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
								Requested edits, bring back after MOU Negotiations				
12	3020	Personnel	Health and Welfare Benefits	Yes	Human Resources	10/12/2021	11/15/2021					
13	3025	Personnel	Pay Periods	Yes	Human Resources	10/12/2021	11/15/2021					
14	3030	Personnel	Gift Acceptance Guidelines	Yes	Human Resources	12/10/2021	4/19/2022		Continued to 4/19/2022 Meeting			
15	3035	Personnel	Outside Employment	Yes	Human Resources	10/12/2021	4/19/2022		Continued to 4/19/2022 Meeting			
16	3040	Personnel	Letters of Recommendation	Yes	Human Resources							
17	3045	Personnel	Executive Officer	Yes	Human Resources							
18	3050	Personnel	Volunteer Personnel Workers' Compensation Insurance	Yes	Human Resources							
19	3055	Personnel	Work Hours, Overtime, and Standby Program	Yes	Human Resources							
20	3060	Personnel	Continuity of Service	Yes	Human Resources							
20 (incorrect numbering)	3065	Personnel	Reduction in Force	Yes	Human Resources							
21	3070	Personnel	Holidays	Yes	Human Resources							
22	3075	Personnel	Vacation	Yes	Human Resources							
			Pre-Employment Physical Examination	Yes	Human Resources							
23	3080	Personnel	Pre-Employment Physical Examination	Yes	Human Resources							
24	3085	Personnel	Sick Leave	Yes	Human Resources							
25	3090	Personnel	Family and Medical Leave	Yes	Human Resources							
26	3095	Personnel	Pregnancy Disability Leave	Yes	Human Resources							
N/A	3096	Personnel	Lactation Accommodation	No	Human Resources							
27	3100	Personnel	Bereavement Leave	Yes	Human Resources							
28	3105	Personnel	Personal Leave of Absence	Yes	Human Resources							
29	3110	Personnel	Jury and Witness Duty	Yes	Human Resources							
N/A	3111	Personnel	Leave for Crime Victims and Family Members	No	Human Resources							
				Yes; needs modifications from ACWA JPIA	Human Resources							
30	3115	Personnel	Return to Work Policy		Human Resources							
31	3120	Personnel	Occupational Injury and Illness Prevention Program	Yes	Human Resources							
N/A	3121	Personnel	Infectious Disease Control	Yes	Human Resources							
N/A	3122	Personnel	Workplace Violence	Yes	Human Resources							
N/A	3123	Personnel	Theft	No	Human Resources							
32	3125	Personnel	Uniforms and Protective Clothing	Yes	Human Resources							
33	3130	Personnel	Conferences	Yes	Human Resources							
34	3135	Personnel	Occupational Certification Assistance	Yes	Human Resources							
N/A	3136	Personnel	Succession and Workforce Planning	Yes	Human Resources							
35	3140	Personnel	Respiratory Protection Program	Yes	Human Resources							
36	3145	Personnel	Driver Training and Record Review	Yes	Human Resources							
37	3150	Personnel	District Vehicle Usage	Yes	Human Resources							
38	3151	Personnel	Personal Vehicle Usage		Human Resources							

Priority Legend:  
Yellow Highlight = Highest Priority  
Light Blue Highlight = Lowest Priority

Policy Approval Tracking  
BCVWD Policy Manual Project

Policy Number	New Policy Number	Section	Policy Name	Drafted by BCVWD Staff	Responsible Staff	Approved by Legal Counsel	Presented to Personnel Committee	Provisionally Approved by Personnel Committee	Presented to Board of Directors	Approved by Board of Directors	Adoption Date	Resolution Number
39	3160	Personnel	HIPAA Compliance and Security Officer	Yes	Human Resources							
40	3165	Personnel	Tobacco Use	Yes	Human Resources							
41	3170	Personnel	Smoke Free Workplace	Yes	Human Resources							
42	3175	Personnel	Disciplinary Action or Terminations	Yes	Human Resources							
43	3180	Personnel	Nepotism-Employment of Relatives	Yes	Human Resources							
44	3185	Personnel	Confidentiality Regarding Resignations	Yes	Human Resources							
45	3190	Personnel	Internet, E-Mail, and Electronic Communication Ethics, Usage and Security	Yes	Information Technology							
N/A	3191	Personnel	Electronic Signature Policy	No	Information Technology							
46	3195	Personnel	Cellular Telephone Usage	Yes	Information Technology							
47	3200	Personnel	Grievance Procedures	Yes	Human Resources							
48	3205	Personnel	Substance Abuse (In Conformance with Department of Transportation Guidelines)	Yes	Human Resources	12/6/2021	4/19/2022	Continued to 4/19/2022 Meeting				
N/A	3206	Personnel	FMCSA Clearinghouse Registration	No	Human Resources	12/6/2021	4/19/2022	Continued to 4/19/2022 Meeting				
50	3215	Personnel	Personnel Action Form (PAF)	Yes	Human Resources							
51	3220	Personnel	Recruitment, Selection and Onboarding	Yes	Human Resources							
N/A	3225	Personnel	Employee Leave Donation Program and Policy	Yes	Human Resources							
N/A	3230	Personnel	Workers' Compensation	Yes	Human Resources							
N/A	3231	Personnel	Accommodations for Disability	No	Human Resources							
N/A	3235	Personnel	Military Leave	Yes	Human Resources							
N/A	3240	Personnel	Dress Code and Personal Standards	Yes	Human Resources							
N/A	3245	Personnel	Non-Solicitation	No	Human Resources							
N/A	3250	Personnel	Telecommuting	No	Human Resources							
N/A	3255	Personnel	Time off for School Activities	No	Human Resources							
N/A	3260	Personnel	Time off to Vote	No	Human Resources							
1	4005	Board of Directors	Basis of Authority	Yes	HR/Administration							
2	4010	Board of Directors	Members of the Board of Directors	Yes	HR/Administration							
3	4015	Board of Directors	Committees of the Board of Directors	Yes	HR/Administration							
4	4020	Board of Directors	Board President	Yes	HR/Administration							
5	4025	Board of Directors	Board Meetings	Yes	HR/Administration	Verbal Review during meeting	N/A	Directed to Full Board	12/8/2021	12/8/2021	12/8/2021	2021-24
6	4030	Board of Directors	Board Meeting Agendas	Yes	HR/Administration							
7	4035	Board of Directors	Board Meeting Conduct	Yes	HR/Administration							
8	4040	Board of Directors	Board Actions and Decisions	Yes	HR/Administration							
9	4045	Board of Directors	Attendance at Meetings	Yes	HR/Administration							
10	4050	Board of Directors	Minutes of Board Meetings	Yes	HR/Administration							
11	4055	Board of Directors	Rules of Order for Board and Committee Meetings	Yes	HR/Administration							
12	4060	Board of Directors	Training, Education and Conferences	Yes	HR/Administration	6/30/2021	N/A	Directed to Full Board	7/14/2021	7/14/2021	7/14/2021	2021-12
13 & 16	4065	Board of Directors	Remuneration, Director Per Diem Fees	Yes	HR/Administration	6/30/2021	N/A	Directed to Full Board	7/14/2021	7/14/2021	7/14/2021	2021-12
14	4070	Board of Directors	Payment of Expenses Incurred on District Business	Yes	HR/Administration							
15	4075	Board of Directors	Expenditure Reimbursement	Yes	HR/Administration							
17	4080	Board of Directors	Membership in Associations	Yes	HR/Administration							
18	4085	Board of Directors	Ethics Training	Yes	HR/Administration							
N/A	4086	Board of Directors	Anti-Harassment Training	No	HR/Administration							
19	4090	Board of Directors	Code of Ethics	Yes	HR/Administration							
20	4095	Board of Directors	Ethics Policy	Yes	HR/Administration							
N/A	4100	Board of Directors	Electronic Communications and Data Devices at Dais	Yes	HR/Administration	6/28/2021	N/A	Directed to Full Board	7/14/2021	7/14/2021	7/14/2021	2021-11
1	5005	Operations	Emergency Preparedness	Yes	Human Resources							
2	5010	Operations	Emergency Response Guideline for Hostile or Violent Incidents	Yes	Human Resources							
3	5015	Operations	Computer and Business Continuity Security	Yes	Information Technology							
4	5020	Operations	Environmental Health and Safety Compliance Program	Yes	HR/Operations							

Priority Legend:  
Yellow Highlight = Highest Priority  
Light Blue Highlight = Lowest Priority

Policy Approval Tracking  
BCVWD Policy Manual Project

Policy Number	New Policy Number	Section	Policy Name	Drafted by BCVWD Staff	Responsible Staff	Approved by Legal Counsel	Presented to Personnel Committee	Provisionally Approved by Personnel Committee	Presented to Board of Directors	Approved by Board of Directors	Adoption Date	Resolution Number
5	5025	Operations	Illness and Injury Prevention Program	Yes	HR/Operations							
6	5030	Operations	Budget Preparation	Yes	Finance							
7	5035	Operations	Fixed-Asset Accounting Control	Yes	Finance							
8	5040	Operations	Fixed-Asset Capitalization	Yes	Finance							
9	5045	Operations	Investment of District Funds	Yes	Finance							
10	5050	Operations	Customer Payment Arrangements	Yes	Finance/Customer Service							
11	5055	Operations	Employment of Consultants and Professional Services	Yes	Finance/HR							
12	5060	Operations	Employment of Outside Contractors	Yes	Finance/Administration							
13	5065	Operations	Easement Abandonment	Yes	Administration							
14	5066	Operations	Easement Acceptance	No	Administration							
15	5070	Operations	Encroachment Permits	Yes	Administration							
16	5075	Operations	Credit Card Usage	Yes	Finance							
17	5080	Operations	Purchasing	Yes	Finance							
N/A	5081	Operations	Contract Review Policy	No	Finance/Administration							
18	5085	Operations	Disposal of Surplus Property or Equipment	Yes	Finance							
19	5090	Operations	Records Retention	Yes	Administration							
N/A	5095	Operations	District Residences and Facility Emergency Policy	Yes	HR/Administration	7/21/2020	6/21/2021	Requested edits, sent to Board for review	Requested Edits 10/13/2021	10/28/2021	10/28/2021	2021-19
N/A	5100	Operations	Press Relations and Social Media	Yes	Administration	1/11/2022	4/19/2022					
1	6005	Miscellaneous	Purpose of Board Policies	Yes	Human Resources							
2	6010	Miscellaneous	Adoption, Amendment of Policies	Yes	Human Resources							
3	6015	Miscellaneous	Public Complaints	Yes	Human Resources							
4	6020	Miscellaneous	Claims Against the District	Yes	Human Resources							
5	6025	Miscellaneous	Copying Public Documents	Yes	HR/Administration							
6	6030	Miscellaneous	District Standards for the Furnishing of Materials	Yes	HR/Administration							
7	6035	Miscellaneous	Environmental Review Guidelines	Yes	Engineering							
8	6040	Miscellaneous	Annexation	No	Engineering							
9	6045	Miscellaneous	Construction Requirements	No	Engineering							
N/A	7000	Information Technology	Acceptable Use	Yes	Information Technology							
N/A	7005	Information Technology	Accessibility	Yes	Information Technology							
N/A	7010	Information Technology	Electronic Communications	Yes	Information Technology							
N/A	7015	Information Technology	Passwords	Yes	Information Technology							
N/A	7020	Information Technology	Remote Access/VPN	Yes	Information Technology							
N/A	7025	Information Technology	Datacenter Physical Security	Yes	Information Technology							
N/A	7030	Information Technology	Wireless Communications	Yes	Information Technology							
N/A	7035	Information Technology	Mobile Device Security	Yes	Information Technology							
N/A	7040	Information Technology	Internet Use	Yes	Information Technology							
N/A	7045	Information Technology	Information Systems Backup & Data Retention	Yes	Information Technology							
N/A	7050	Information Technology	Personally Identifiable Information	Yes	Information Technology							
N/A	7055	Information Technology	Drones Use	No	Information Technology							
N/A	7060	Information Technology	Security and Technology Access for Independent Contractors	No	Information Technology							

Priority Legend:  
Yellow Highlight = Highest Priority  
Light Blue Highlight = Lowest Priority



**Beaumont-Cherry Valley Water District  
Personnel Committee  
April 19, 2022**

Item 10

STAFF REPORT

**TO:** Personnel Committee of the Board of Directors  
**FROM:** Sabrina Foley, Human Resources Coordinator  
**SUBJECT:** Policies and Procedures Manual Updates/Revisions

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**Staff Recommendation**

Recommend the updated policies to the Board of Directors for adoption, or provide direction regarding edits to the proposed policies.

**Background**

At the July 23, 2018 Personnel Committee Meeting, Committee members directed staff to review, revise and update the District's Policies and Procedures. At the July 27, 2020 meeting, an overview of the proposed changes to the organization of the document was presented. The Committee requested "redlined" versions of changes to review each item thoroughly. Policy Approval Tracking (**Attachment 1**) is provided as an overview of the project thus far. At the November 15, 2021 meeting, the Committee requested an indication of priority policies in the attachment, and staff added highlighting to indicate the highest priority and lowest priority policy updates.

On the January 18, 2022 meeting of the Personnel Committee, the following policies were presented: Policy 3030 Gift Acceptance, Policy 3035 Outside Employment, Policy 3205 Substance Abuse, Policy 3206 FMCSA Clearinghouse Registration. These policies were continued.

**Summary**

Staff have consulted several sources to update the content and verbiage of the District's Policy Manual, including sample policies from the California Special Districts Association, articles published by the California League of Cities and Institute for Local Government, the District's HR Consultant, and recently updated manuals of other special districts. The aim of reorganization of the Policy Manual is to introduce consistency and modernize the document to align with the organizational goals of the District.

Revised policies are drafted using the APA (American Psychological Association) Style for writing style and grammar. The APA style emphasizes continuity, flow, conciseness, bias-free language, and clarity. These objectives parallel the District's goals for transparency in our public documents and promote clear and enforceable policies.

The proposed policies are presented side-by-side with the current versions, with redline edits shown for clarity (see **Attachments**). The District's legal counsel has reviewed and recommended the drafted policies.



## Summary Table

<p>Policy 3030 Gift Acceptance Guidelines</p>	<ul style="list-style-type: none"> <li>• Based on feedback from the Committee during the November 15, 2021 meeting, staff have aligned the policy more closely with FPPC requirements and elaborated for a more detailed policy.</li> <li>• Legal counsel has provided extensive language suggestions to align with FPPC requirements.</li> <li>• Highlights show edits requested during the December 20, 2021 meeting and January 18, 2022 meeting of the Personnel Committee.</li> </ul>
<p>Policy 3035 Outside Employment</p>	<ul style="list-style-type: none"> <li>• Staff updated the disclosure to a requirement.</li> <li>• This draft allows an employee to disclose outside employment to either their supervisor or Human Resources and then appeal to the General Manager if desired.</li> <li>• The policy now explains how a conflict of interest is determined.</li> <li>• Highlights show edits requested during the December 20, 2021 meeting and January 18, 2022 meeting of the Personnel Committee.</li> </ul>
<p>Policy 3205 Substance Abuse (In Conformance with Department of Transportation Guidelines)</p>	<ul style="list-style-type: none"> <li>• This policy was prioritized at the request of the Committee.</li> <li>• Minor updates for grammar and consistency; addition of Human Resources department to policy.</li> <li>• New Sections: 3205.4-5 regarding Medical Marijuana and CBD Oil.</li> <li>• Updated Section 3205.6.6: leave taken for participation in a rehabilitation program will be unpaid.</li> <li>• New Section: 3205.8 Safety-sensitive employees convicted of a DUI/DWI and unable to perform essential driving duties will be placed on unpaid leave.</li> <li>• Updated Section 3205.10: Elaborated definition of “accident” and addition of near-miss testing.</li> <li>• Updated Section 3205.14: Permits disciplinary action for a confirmed positive prohibited substance or alcohol test.</li> <li>• Updated Section 3205.15.11: removed documentation requirements for logbooks, calibration devices, etc. as these are kept at the testing site.</li> <li>• Updated Section 3205.17: Added language that participation in a rehabilitation program is not eligible for the Employee Leave Donation Program.</li> </ul>



	<ul style="list-style-type: none"> <li>• New Section 3205.19: FMCSA Clearinghouse.</li> <li>• Staff recommends removing sections 3205.21-28 from this policy since Procedures are not typically included with District policies.</li> <li>• Highlights show edits requested during the December 20, 2021 meeting and January 18, 2022 meeting of the Personnel Committee.</li> </ul>
Policy 3205 Appendix A	<ul style="list-style-type: none"> <li>• Updates to reflect current job titles</li> <li>• Highlights show edits requested during the December 20, 2021 meeting of the Personnel Committee.</li> </ul>
Policy 3205 Appendix B	<ul style="list-style-type: none"> <li>• Minor edits proposed</li> <li>• Committee may desire to remove this Appendix so that it can be more easily updated based on feedback from legal counsel.</li> </ul>
Policy 3206 FMCSA Clearinghouse Registration	<ul style="list-style-type: none"> <li>• This is a new proposed policy based on updated regulations.</li> </ul>
Policy 5100 Press Relations and Social Media	<ul style="list-style-type: none"> <li>• This is a new proposed policy recommended by the District's consultant CV Strategies and the Ad Hoc Communications Committee.</li> </ul>

**Fiscal Impact**

No fiscal impact.

**Attachments**

1. Policy Approval Tracking
2. Proposed Policy 3030, Gift Acceptance Guidelines
3. Current Policy #14, Gift Acceptance Guidelines
4. Proposed Policy 3035, Outside Employment
5. Current Policy #15, Outside Employment
6. Proposed Policy 3205, Substance Abuse (In Conformance with Department of Transportation Guidelines)
7. Current Policy #48, Substance Abuse (In Conformance with Department of Transportation Guidelines)
8. Proposed Policy 3205 Appendix A
9. Current Policy #48 Appendix A
10. Proposed Policy 3205 Appendix B
11. Current Policy #48 Appendix B
12. Proposed Policy 3206 FMCSA Clearinghouse Registration
13. Proposed Policy 5100 Press Relations and Social Media

*Staff Report prepared by Sabrina Foley, Human Resources Coordinator*



Proposed Policy

Current Policy

BEAUMONT-CHERRY VALLEY WATER DISTRICT

PERSONNEL

**POLICY TITLE: GIFT ACCEPTANCE GUIDELINES**  
**POLICY NUMBER: 3030**

3030.1 An employee or his or her immediate family may not accept from, or provide to, individuals of companies seeking to do business with the District, gifts, entertainment, services, or benefits unless the transaction meets all of the following guidelines:

1. Is customary and does not give the appearance of impropriety.
2. Does not impose any sense of obligation on either the giver or the receiver.
3. Does not result in any kind of special or favored treatment.
4. Cannot be viewed as extravagant, excessive, or too frequent considering all the circumstances including the ability of the recipient to reciprocate at District expense, and
5. Is given and received with no effort to conceal the full facts by either the giver or receiver.

3030.2 A gift is considered anything that confers a personal benefit, including a rebate or discount not given to the public, for which an employee does not provide payment or services of equal or greater value. An employee or his/her immediate family (as defined in Fair Political Practices Commission (FPPC) Regulation 18943) may not accept from, or provide to, individuals or companies doing or seeking to do business with the District, gifts, entertainment, and/or other services, or benefits from any single source totaling more than the calendar year maximum published by the FPPC, of greater than a \$25 or more value.

3030.3 Employees of the District who are designated in the District's conflict of interest code (and therefore are required to file a Statement of Economic Interests Form 700 annually), may not accept gifts from any single source totaling more than the calendar year maximum published by the FPPC in a calendar year (Gov. Code §89503(ac)).

3030.4 Gift Exceptions. The following are exceptions to the definition of gift and are not considered gifts or income under this policy.

1. Return or Reimbursement of Gift. Items that are returned unused or reimbursed to the donor within 30 days of receipt.
2. Donation of Gift to Nonprofit Group. Items that are donated unused to a non-profit, tax-exempt organization or a government agency within 30 days of receipt, without a tax deduction claim.
3. Gifts from Family. Gifts from the public official or employee's spouse, child, parent, grandparent, grandchild, brother, sister, current or former parent-in-law, brother-in-law, sister-in-law, aunt, uncle, niece, nephew, or first cousin or the spouse of any such person, great grandparents, great uncles and aunts, great-nieces and nephews, and first cousins once removed.
4. Informational Material. Informational material provided to assist the public official or employee in the performance of their duties, including books, reports, pamphlets, calendars, periodicals, videotapes, or free admission or discounts to informational conferences or seminars.
5. Inheritance.
6. Plaques. Personalized plaques and trophies with an individual value of less than \$250 (Gov. Code §82028(b)(6); Regulation 18942(a)(6)).
7. Items Provided to District. Items provided to the District and used by employees for District business, such as a vendor sample or demonstration.
8. Ceremonial Role. Free admission to a ticketed event for the public official or employee and one guest, where the public official or employee performs a ceremonial role.
9. Event Where Official Makes a Speech. Free admission, food, and nominal items available to all attendees, at an event where the public official or employee makes a speech.
10. Attending Wedding Reception. Benefits received as a guest to a wedding reception where the

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C. **Life Insurance.** Life Insurance shall be provided at the regular employee's current regular rate of pay, at the time of death, equal to one year's salary.

**13. PAY PERIODS**

A. The pay period shall commence on Sunday at 12:01 A.M., and continue until 12:00 Midnight the second Saturday following. Payday shall occur on the Thursday following the end of the pay period.

**14. GIFT ACCEPTANCE GUIDELINES**

A. Policy. An employee or his/her immediate family may not accept from, or provide to, individuals or companies doing or seeking to do business with the District, gifts, entertainment, and/or other services or benefits of or greater than a \$25 value.

**15. OUTSIDE EMPLOYMENT**

A. No District employee shall be permitted to accept employment in addition to or outside of District service if:

- i. The additional or outside employment leads to a conflict or potential conflict of interest for said employee;
- ii. The nature of the additional or outside employment is such that it will reflect unfavorably on the District; or,
- iii. The duties to be performed in the additional or outside employment are in conflict with the duties involved in District service.

B. **District Resources.** An employee who does have additional or outside employment shall not be permitted to use District assets including records, materials, equipment, facilities, vehicles or other District resources in connection with said employment.

**16. LETTERS OF RECOMMENDATION**

A. Requests. The General Manager shall process all requests for references and letters of recommendation.



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- benefits are the same as those received by the other guests.
11. Bereavement Offerings. Bereavement offerings received in memory of a close family member.
  12. Acts of Neighborliness. Benefits received as an act of neighborliness.
  13. Campaign or Nonprofit Fundraiser. Two tickets for admission to attend a fundraiser for a campaign committee, candidate, or nonprofit organization.
  14. Unused Passes or Tickets. Passes or tickets that are unused and not given to another person.
  15. Emergency Leave Credits. Leave credits (e.g., sick leave or vacation credits) received under the District's Employee Leave Donation Program (Policy 3225).
  16. Disaster Relief. Benefits received from a disaster relief program available to the general public.
  17. Agency Raffle. Items awarded in a raffle received by the District from an employee who is not acting as an intermediary for another donor. Alternatively, when the District holds an employee raffle and the item awarded in the raffle has been obtained with District funds.
  18. Employee Gift Exchange. Items received by an employee during an employee gift exchange.

3030.5 District employees are required to follow all regulations of the California Fair Political Practices Commission (FPPC). Information and advice regarding the regulations can be found at [fppc.ca.gov](http://fppc.ca.gov). Failure to comply with the laws related to gifts, honoraria, loans, and travel payments may, depending on the violation, result in criminal prosecution and substantial fines, or in administrative or civil monetary penalties for as much as \$5,000 per violation or three times the amount illegally obtained. (See Gov. Code §§ 83116, 89520, 89521, 91000, 91004 and 91005.5.)

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**POLICY TITLE: OUTSIDE EMPLOYMENT**  
**POLICY NUMBER: 3035**

3035.1 No District employee shall be permitted to accept employment in addition to or outside of District service if:

1. The additional or outside employment leads to a conflict or potential conflict of interest for said employee;
2. The nature of the additional or outside employment is such that it will reflect unfavorably on the District; ~~or~~;
3. The duties to be performed in the additional or outside employment ~~are in~~ conflict with the duties involved in District service; ~~or~~;
4. The additional or outside employment adversely affects the employee's performance of his or her job for the District, including by causing absenteeism, tardiness, or less attention paid to District-related responsibilities.

3035.2 **District Resources.** An employee who does have additional or outside employment shall not be permitted to use District assets including records, materials, equipment, facilities, vehicles, technology, electronic resources such as e-mail or District servers, or other District resources in connection with said employment.

3035.3 **Disclosure.** Employees are required/encouraged to disclose outside employment to his or her immediate supervisor to prevent a potential conflict of interest. The supervisor shall notify Human Resources. The determination of a conflict of interest may be appealed to the General Manager or their designee. A conflict of interest will be determined based on the following non-exclusive criteria:

1. The other employer is a current vendor, contractor, or consultant of the District.
2. The other employer is a partner agency.
3. The other employment does not meet the requirements of section 3035.1 above.

C. **Life Insurance.** Life Insurance shall be provided at the regular employee's current regular rate of pay, at the time of death, equal to one year's salary.

### 13. PAY PERIODS

A. The pay period shall commence on Sunday at 12:01 A.M., and continue until 12:00 Midnight the second Saturday following. Payday shall occur on the Thursday following the end of the pay period.

### 14. GIFT ACCEPTANCE GUIDELINES

A. Policy. An employee or his/her immediate family may not accept from, or provide to, individuals or companies doing or seeking to do business with the District, gifts, entertainment, and/or other services or benefits of or greater than a \$25 value.

### 15. OUTSIDE EMPLOYMENT

A. No District employee shall be permitted to accept employment in addition to or outside of District service if:

- i. The additional or outside employment leads to a conflict or potential conflict of interest for said employee;
- ii. The nature of the additional or outside employment is such that it will reflect unfavorably on the District; or,
- iii. The duties to be performed in the additional or outside employment are in conflict with the duties involved in District service.

B. **District Resources.** An employee who does have additional or outside employment shall not be permitted to use District assets including records, materials, equipment, facilities, vehicles or other District resources in connection with said employment.

### 16. LETTERS OF RECOMMENDATION

A. Requests. The General Manager shall process all requests for references and letters of recommendation.

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**POLICY TITLE: SUBSTANCE ABUSE (IN CONFORMANCE WITH DEPARTMENT OF TRANSPORTATION GUIDELINES)**

**POLICY NUMBER: 3205**

3205.1 **Purpose.** The purpose of this policy is to ensure worker fitness for duty and to protect District employees and the public from risks posed by the use of alcohol and other prohibited substances. This policy is also intended to comply with all applicable Federal regulations governing workplace ~~anti~~~~drug~~~~anti~~~~drug~~ programs in the transportation industry. The Federal Highway Administration (FHWA) of the Department of Transportation (DOT) has enacted 49 CFR Part 382 that mandates urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result. The Department of Transportation has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine and breath specimens. In addition, the Department of Transportation has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which is applicable to certain employees, requiring the establishment of ~~drug-free~~~~drug-free~~ workplace policies and the reporting of certain drug-related offenses to the Department of Transportation. This policy incorporates those requirements of safety-sensitive employees and others when so noted.

3205.2 The District recognizes that the use of alcohol and/or other prohibited substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy, and productive work environment for all employees, it is the objective of the District to have a ~~work-force~~~~workforce~~ that is free from the influence of drugs and alcohol.

3205.3 Any terms or procedures not defined within the District's policy shall be defined by the Department of Transportation regulations, which are incorporated by reference herein, and as follows: 49 CFR Part 382, 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," and 49 CFR Part 40.

3205.4 **Applicability.** This policy applies to all employees when ~~they are present~~ on District property, including in a District vehicle, or when performing any ~~District-related~~~~District-related~~ business. ~~This policy applies to all tasks that involve the operation of heavy equipment, use of hand tools, and any function in which the employee's performance, reflexes, and/or judgment impact the safety of the employee or others.~~ Certain provisions, where identified, will apply only to safety-sensitive employees. It also applies to off-site lunch periods and breaks when an employee is scheduled to return to work. Any employee ~~which~~~~who~~ may be required to complete the "return-to-duty" process with a Substance Abuse Professional (SAP) shall not be compensated for time off and shall pay all costs associated with the "return-to-duty" process. A ~~safety-sensitive~~~~safety-sensitive~~ employee is generally any employee who, in the normal course of business, is required to operate District vehicles or heavy equipment, or performs any function in which the employee's performance, reflexes, and/or judgment impact the safety of him- or herself or others. Additionally, a safety-sensitive employee is:

1. One in any classification requiring the use of a Class "A" or Class "B" commercial driver's license, as listed in Appendix A;
2. One who desires in the future to voluntarily drive a District vehicle requiring a commercial license, or may be required to operate a District vehicle requiring a commercial license on an emergency basis; or,
3. One who performs safety-sensitive functions as specified in Appendix A. A safety-sensitive employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.

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supervisor's answer. Upon receipt of a written grievance, the General Manager shall meet with the employee and his representative. The General Manager shall render a written decision no later than three (3) days after the Step 2 meeting.

iii. **Step 3.** Should the grievance not be resolved in Step 2, it may then be appealed to the Personnel Committee of the Board of Directors within three (3) days. The Personnel Committee shall meet with the grievant and his/her representative, within ten (10) days of submission for review, and render a written decision ten (10) days thereafter, which decision shall be final.

E. **Personnel Committee.** The Personnel Committee shall, as soon as possible, schedule a hearing in closed session to formally receive the written grievance and the answers thereto at each step and to hear evidence regarding the issue or issues. The Committee's decision shall be announced in open session immediately after the closed session in which it was made. Contrary terms of this procedure notwithstanding, closed sessions will only be conducted in compliance with requirements of applicable law, including California's open meeting law, the Brown Act.

F. **Basic Rules.**

- i. If an employee does not present the grievance, or does not appeal the decision rendered regarding the grievance within the time limits specified above, the grievance shall be considered resolved.
- ii. By agreement in writing, the parties may extend any and all time limitations specified above.
- iii. The General Manager may temporarily suspend grievance processing on a District-wide basis in an emergency situation. Employees covered by this policy may appeal this decision to the Board of Directors.
- iv. A copy of all formal grievance decisions shall be placed in the employee's permanent personnel file.

**48. SUBSTANCE ABUSE (In Conformance with Department of Transportation Guidelines)**

A. **Purpose.** The purpose of this policy is to ensure worker fitness for duty and to protect District employees and the public from risks posed by the use of alcohol and other prohibited substances. This policy is also intended to comply with all applicable Federal regulations governing workplace antidrug programs in the transportation industry. The Federal Highway Administration (FHWA) of the Department of Transportation (DOT) has enacted 49 CFR Part 382 that mandates urine drug testing and breathalyzer alcohol testing for safety-sensitive positions and prevents performance of safety-sensitive functions when there is a positive test result. The Department of Transportation has also enacted 49 CFR Part 40 that sets standards for the collection and testing of urine and breath specimens. In addition, the Department of Transportation has enacted 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," which is applicable to certain employees, requiring the establishment of drug free workplace policies and the reporting of certain drug-related offenses to the Department of Transportation. This

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3205.5 **Prohibited Substances.** "Prohibited Substances" addressed by this policy include, but are not limited to, the following:

1. **Drugs.** Marijuana, amphetamines, opiates, phencyclidine (PCP), cocaine, and all other substances that are illegal under state or federal law.
2. **Alcohol.** The use of beverages or substances, including any medication, containing alcohol, such that it is present in the body at a level in excess of that stated in DOT guidelines while actually performing, ready to perform, or immediately available to perform, any District business is prohibited. "Alcohol" is defined as: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol.
3. **Controlled Substances.** The Drug Enforcement Agency (DEA) has classified certain medications as controlled substances. While certain controlled substances may be legal if taken in accordance with a medical doctor's prescription and instructions for proper use, any misuse or abuse of controlled substances is prohibited under the District's policy. Additionally, if proper use of a controlled substance impacts an employee's ability to perform his or her job, the employee is required to inform a supervisor. The District will comply with all state and federal laws.
4. **Legal Medications.** Using or being under the influence of any legally prescribed medication(s), or non-prescription medication(s) while performing district business or while on District property is prohibited to the extent that such use of influence affects job safety or effective and efficient job performance. An employee who feels his/her performance of work-related duties may be impaired by the use of any legal substance which carries a warning label that indicates that mental functioning, motor skills, and/or judgment may be adversely affected shall report it to his/her supervisor, and medical advice shall be sought before performing work-related duties.
5. **Medical Marijuana.** The District, as well as the DOT, views marijuana as a Schedule I controlled substance and prohibits employees from having any detectable level in his or her system while working for the District, despite an employee's possession of a "Medical Marijuana" card or prescription from a physician, which causes marijuana to be detected in a urine sample. The operation of a motor vehicle is prohibited while using marijuana.
- 4-6. **CBD Oil.** The labeling of many CBD Oil, or Cannabidiol, products may be misleading because the products could contain higher levels of THC, or Tetrahydrocannabinol, than the product label states. The Food and Drug Administration (FDA) does not currently certify the levels of THC in CBD products, so there is no federal oversight to ensure that the labels are accurate. The DOT's Drug and Alcohol Testing Regulation, Part 40, does not authorize the use of Schedule I drugs, including marijuana, for any reason. Furthermore, CBD use is not a legitimate medical explanation for a laboratory-confirmed marijuana positive result. Therefore, Medical Review Officers will verify a drug test confirmed at the appropriate cutoffs as positive, even if the employee claims he or she only used a CBD product.

3205.6 **Prohibited Conduct.** Engaging in unlawful possession or use of a prohibited substance or alcohol on District premises, in a District vehicle, or while conducting District business off the premises is absolutely prohibited. Violation will result in removal from duty and referral to a certified Substance Abuse Professional (SAP), and may result in discipline, up to and including termination of employment.

1. **Manufacture, Trafficking, Possession, and Use.** Engaging in unlawful manufacture, distribution, or

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policy incorporates those requirements of safety-sensitive employees and others when so noted.

The District recognizes that the use of alcohol and/or other prohibited substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy and productive work environment for all employees, it is the objective of the District to have a work force that is free from the influence of drugs and alcohol.

Any terms or procedures not defined within the District's policy shall be defined by the Department of Transportation regulations, which are incorporated by reference herein, and as follows: 49 CFR Part 382, 49 CFR Part 29, "The Drug-Free Workplace Act of 1988," and 49 CFR Part 40

- B. **Applicability.** This policy applies to all employees when they are on District property, including in a District vehicle, or when performing any District related business. Certain provisions, where identified, will apply only to safety-sensitive employees. It also applies to off-site lunch periods and breaks when an employee is scheduled to return to work. Any employee which may be required to complete the "return-to-duty" process with a Substance Abuse Professional (SAP) shall not be compensated for time off and shall pay all costs associated with the "return-to-duty" process. A safety-sensitive employee is generally any employee who, in the normal course of business, is required to operate District vehicles or heavy equipment, or performs any function in which the employee's performance, reflexes, and/or judgment impact the safety of him- or herself or others. Additionally, a safety-sensitive employee is:
  - i. One in any classification requiring the use of a Class "A" or Class "B" commercial driver's license, as listed in Appendix A;
  - ii. One who desires in the future to voluntarily drive a District vehicle requiring a commercial license, or may be required to operate a District vehicle requiring a commercial license on an emergency basis; or,
  - iii. One who performs safety-sensitive functions as specified in Appendix A. A safety-sensitive employee is considered to be performing a safety-sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety-sensitive functions.
- C. **Prohibited Substances.** "Prohibited substances" addressed by this policy include, but are not limited to the following:
  - i. **Drugs.** Marijuana, amphetamines, opiates, phencyclidine (PCP) cocaine and all other substances illegal under state or federal law.
  - ii. **Alcohol.** The use of beverages or substances, including any medication, containing alcohol, such that it is present in the body at a level in excess of that stated in DOT guidelines while actually performing, ready to perform, or immediately available to perform, any District business is prohibited. "Alcohol" is defined as: the intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohol, including methyl or isopropyl alcohol.

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dispensing of a prohibited substance or alcohol on District premises, in a District vehicle, or while conducting District business off the premises is strictly prohibited. Violation may result in termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.

2. **Impaired/Not Fit for Duty.** Any employee who is reasonably suspected of being impaired, under the influence of a prohibited substance, or not fit for duty shall be removed from job duties and be required to undergo a reasonable suspicion prohibited substance or alcohol test. Employees failing to pass this reasonable suspicion prohibited substance or alcohol test shall remain off duty and be referred to an SAP. A prohibited substance or alcohol test is considered positive (failed) if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in the DOT guidelines (49 CFR Part 40).
3. **Alcohol Use.** No safety-sensitive employee may report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol, or when his/her breath alcohol concentration is 0.04 or greater. No employee shall use alcohol during working hours. No safety-sensitive employee shall use alcohol within four (4) hours of reporting for duty. Violations of this provision are prohibited and will subject the employee to disciplinary action, up to and including termination, and may include removal from safety-sensitive duty and referral to an SAP.
4. **Compliance with Testing Requirements.** All safety-sensitive employees are subject to randomized prohibited substance testing and breath alcohol testing. Any safety-sensitive employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately and be referred to an SAP. Refusal to submit to a test can include an inability to provide a urine specimen or breath sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior, or physical absence resulting in the inability to conduct the test.
5. **Treatment/Rehabilitation Program.** An employee who tests positive for a prohibited substance and/or alcohol will be afforded an opportunity for treatment in accordance with the following provisions:
  - a. **Positive Substance and/or Alcohol Test.** The option to attend a Rehabilitation Program is available for employees who have tested positive for a prohibited substance on a one-time basis only. Employees will be terminated immediately on the occurrence of a second event with a verified positive test result. Program costs and subsequent prohibited substance and/or alcohol testing costs will be paid by the employee. When recommended by the SAP, participation and completion of the rehabilitation program is mandatory. Failure of an employee to attend and complete a prescribed program will result in termination from employment. Prior to return-to-duty testing, an employee must follow the rehabilitation program recommended by the SAP and agree to and sign a Return-To-Duty Agreement. The duration and frequency of follow-up testing will be determined by the SAP but will not be shorter than one (1) year or longer than five (5) years.
  - b. **Voluntary Admittance.** All employees who feel he or she they requires treatment for use of prohibited substances and/or alcohol may request voluntary admission to a rehabilitation program. Requests must be submitted to the General Manager Human Resources or his/her designee for review. Program costs and subsequent prohibited substance and/or alcohol testing costs will be paid by the employee. An employee completing a rehabilitation program must agree to and sign a Return-To-Duty Agreement, pass a return-to-duty prohibited substance and/or alcohol test and be subject to unannounced follow-up testing for thirty-six (36) months following return to duty. A positive result on the return-to-duty test or on the unannounced follow-up tests

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- iii. **Controlled Substances.** The Drug Enforcement Agency (DEA) has classified certain medications as controlled substances. While certain controlled substances may be legal if taken in accordance with a medical doctor's prescription and instructions for proper use, any misuse or abuse of controlled substances is prohibited under the District's policy. Additionally, if proper use of a controlled substance impacts an employee's ability to perform his or her job, the employee is required to inform a supervisor. The District will comply with all state and federal laws.
  - iv. **Legal Medications.** Using or being under the influence of any legally prescribed medication(s), or non-prescription medication(s) while performing district business or while on District property is prohibited to the extent that such use or influence affects job safety or effective and efficient job performance. An employee who feels his/her performance of work-related duties may be impaired by use of any legal substance which carries a warning label that indicates that mental functioning, motor skills and/or judgment may be adversely affected shall report it to his/her supervisor, and medical advice shall be sought before performing work-related duties.
- D. **Prohibited Conduct.** Engaging in unlawful possession or use of a prohibited substance or alcohol on District premises, in a District vehicle or while conducting District business off the premises is absolutely prohibited. Violation will result in removal from duty and referral to a certified Substance Abuse Professional (SAP), and may result in discipline up to and including termination of employment.
- i. **Manufacture, Trafficking, Possession and Use.** Engaging in unlawful manufacture, distribution or dispensing of a prohibited substance or alcohol on District premises, in a District vehicle or while conducting District business off the premises is absolutely prohibited. Violation may result in termination. Law enforcement shall be notified, as appropriate, where criminal activity is suspected.
  - ii. **Impaired/Not Fit for Duty.** Any employee who is reasonably suspected of being impaired, under the influence of a prohibited substance, or not fit for duty shall be removed from job duties and be required to undergo a reasonable suspicion prohibited substance or alcohol test. Employees failing to pass this reasonable suspicion prohibited substance or alcohol test shall remain off duty and be referred to an SAP. A prohibited substance or alcohol test is considered positive (failed) if the individual is found to have a quantifiable presence of a prohibited substance in the body above the minimum thresholds defined in the DOT guidelines (49 CFR Part 40)
  - iii. **Alcohol Use.** No safety-sensitive employee may report for duty or remain on duty when his/her ability to perform assigned functions is adversely affected by alcohol or when his/her breath alcohol concentration is 0.04 or greater. No employee shall use alcohol during working hours. No safety-sensitive employee shall use alcohol within four (4) hours of reporting for duty. Violations of this provision are prohibited and will subject the employee to disciplinary action, including removal from safety-sensitive duty and referral to an SAP.
  - iv. **Compliance with Testing Requirements.** All safety-sensitive employees are

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may result in discipline up to and including termination of employment. The District will comply with its obligations under state and federal law.

6. **Leave Time.** Participants in the rehabilitation program may use accumulated sick leave, vacation, and floating holidays, if any. If no time is available, any leave granted will be unpaid participants will not be paid by the District, and participants will not accumulate vacation or sick time while on leave, and will not be paid for District Holidays, under any circumstance.

3205.7 **Notifying the District of Criminal Drug Conviction.** Pursuant to the "Drug-Free Workplace Act of 1988," any employee subject to the Act who fails to immediately notify the District of any criminal drug or alcohol statute conviction shall be subject to disciplinary action, up to and including termination of employment.

3205.8 Safety-sensitive employees who are convicted of driving under the influence of or while impaired by drugs or alcohol, or otherwise have his or her driving license suspended and are unable to perform his or her regular essential duties, will be removed from duty and placed on unpaid leave until the employee is able to perform his or her regular essential duties. Employees who are unable to return to his or her regular essential duties under this section due to permanent loss of license, or refusal to complete requirements to return to work, shall be subject to disciplinary action, up to and including termination of employment.

3205.9 **Proper Application of the Policy.** The District is dedicated to ensuring the fair and equitable application of this Substance Abuse Policy. Therefore, supervisors and management personnel are required to administer all aspects of the policy in an unbiased and impartial manner. Any supervisor, manager, or human resources employee who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy with respect to his/her subordinates, shall be subject to disciplinary action, up to and including termination of employment.

3205.10 **Testing for Prohibited Substances.** Analytical urine prohibited substance testing and breath testing for alcohol will be conducted as required under DOT guidelines. All employees shall be subject to testing prior to a final offer of employment and for reasonable suspicion, and in some instances, following an serious accident or near-miss to which the employee might have contributed. All safety-sensitive employees shall be subject to testing randomly following an accident, as defined in the DOT guidelines. An accident is defined as an event leading to a fatality, a citation issued by a law enforcement official to the driver, bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident, or one or more vehicles incurs disabling damage as a result of the accident that renders the vehicle unable to be legally driven or requires the vehicle to be transported away from the scene by a tow truck or another vehicle. In addition, all safety-sensitive employees will be tested prior to returning to duty after failing a prohibited substance and/or alcohol test. Employees who have returned to duty will be subject to unannounced follow-up tests for up to five (5) years, as determined by an SAP. Safety-sensitive employees who perform safety-sensitive functions as defined in Appendix A and in the DOT guidelines (49 CFR Part 40) shall also be subject to testing on a randomly selected and unannounced basis.

3205.11 Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which that have been approved by the Department of Health and Human Services (DHHS), including split-sample testing. All testing will be conducted consistent with the procedures put forth in the DOT guidelines.

3205.12 An initial prohibited substance screen will be conducted on each specimen. For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the prohibited substance levels present are above the minimum thresholds

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subject to randomized prohibited substance testing and breath alcohol testing. Any safety-sensitive employee who refuses to comply with a request for testing, who provides false information in connection with a test or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be removed from duty immediately and be referred to an SAP. Refusal to submit to a test can include an inability to provide a urine specimen or breathe sample without a valid medical explanation, as well as a verbal declaration, obstructive behavior or physical absence resulting in the inability to conduct the test.

- v. **Treatment/Rehabilitation Program.** An employee who tests positive for a prohibited substance and/or alcohol will be afforded an opportunity for treatment in accordance with the following provisions:
- a. **Positive Substance and/or Alcohol Test.** The option to attend a Rehabilitation Program is available for employees who have tested positive for a prohibited substance on a one-time basis only. Employees will be terminated immediately on the occurrence of a second event with a verified positive test result. Program costs and subsequent prohibited substance and/or alcohol testing costs will be paid by the employee. When recommended by the SAP, participation and completion of the rehabilitation program is mandatory. Failure of an employee to attend and complete a prescribed program will result in termination from employment. Prior to return-to-duty testing, an employee must follow the rehabilitation program recommended by the SAP and agree to and sign a Return-To-Duty Agreement. The duration and frequency of follow-up testing will be determined by the SAP but will not be shorter than one (1) year or longer than five (5) years.
- b. **Voluntary Admittance.** All employees who feel they require treatment for use of prohibited substances and/or alcohol may request voluntary admission to a rehabilitation program. Requests must be submitted to the General Manager or his/her designee for review. Program costs and subsequent prohibited substance and/or alcohol testing costs will be paid by the employee. An employee completing a rehabilitation program must agree to and sign a Return-To-Duty Agreement, pass a return-to-duty prohibited substance and/or alcohol test and be subject to unannounced follow-up testing for thirty-six (36) months following return to duty. A positive result on the return-to-duty test or on the unannounced follow-up tests may result in discipline up to and including termination from employment. The District will comply with its obligations under state and federal law.
- vi. **Leave Time.** Participants in the rehabilitation program may use accumulated sick leave, vacation and floating holidays, if any. If no time is available, participants will not be paid by the District and will not accumulate vacation or sick time while on leave under any circumstance.
- E. **Notifying the District of Criminal Drug Conviction.** Pursuant to the "Drug Free Workplace Act of 1988," any employee subject to the Act who fails to immediately notify the District of any criminal drug or alcohol statute conviction shall be subject

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established in the DOT guidelines.

3205.13 Tests for alcohol concentration will be conducted utilizing an approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). If the initial test indicated an alcohol concentration of 0.02 or greater, a confirmation test will be performed to confirm the result of the initial test. A safety-sensitive employee who has a confirmed alcohol concentration of 0.02, but less than 0.04, will be removed from his/her position ~~for at least twenty-four (24) hours under the provisions of Section 3205.14 below~~, unless a retest results within 15-20 minutes ~~results in an alcohol concentration of 0.02 or less less than 0.02~~. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of DOT guidelines and this policy.

3205.14 Any employee who has a confirmed positive prohibited substance or alcohol test ~~as defined in Section 3205.13~~ will be removed from his/her position, ~~placed on unpaid leave~~, informed of educational and rehabilitation programs available, and must obtain and submit an evaluation by an SAP. ~~Employees with a confirmed positive prohibited substance or alcohol test may be subject to disciplinary action, up to and including termination.~~ The District affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. However, the District may be obligated under certain circumstances to divulge information to authorized recipients, and complete confidentiality is not guaranteed.

#### 3205.15 Circumstances Under Which Employees May be Tested.

1. **Pre-Employment Testing.** All job applicants who have been offered District employment requiring the regular performance of safety-sensitive tasks, as well as current employees who promote, demote, or transfer to safety-sensitive positions, shall undergo urine prohibited substance testing prior to employment. Receipt of satisfactory test results is required prior to his or her employment and failure of a prohibited substance test will disqualify the candidate from further consideration for employment. Current employees who promote, demote, or transfer to safety-sensitive positions shall be required to test negative prior to ~~his or her~~ their assignment. The District will obtain records from previous employers of new employees to conform to DOT guidelines. Probationary employees who receive a positive alcohol and/or substance abuse test, or who fail to provide "clean" records from previous employers, will fail to complete the District's probationary period.
2. **Reasonable Suspicion Testing.** All employees will be subject to urine and/or breath testing when there is a reason to believe that the employee is under the influence of prohibited substances or alcohol while performing his or her job duties or on District property. A reasonable suspicion referral for testing will be made on the basis of documented, objective facts and circumstances which are consistent with the effects of substance abuse.
3. Reasonable suspicion determinations will be made by a supervisor or other designated individual who is trained to detect the signs and symptoms of prohibited substance and alcohol use and reasonably concludes that an employee may be using a prohibited substance while performing his or her job duties or on District property. Examples of reasonable suspicion include, but are not limited to, the following:
  - a. Adequate documentation of unsatisfactory work performance or on-the-job behavior that indicates the use of prohibited substances.
  - b. Physical signs and symptoms, including appearance, behavior, speech, or body odors, consistent with prohibited substance use.
  - c. Occurrence of a serious or potentially serious ~~(near-miss)~~ accident that appears to have been caused by a lapse in judgment or reflexes by the employee, or

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to disciplinary action, up to and including termination of employment.

- F. **Proper Application of the Policy.** The District is dedicated to ensuring fair and equitable application of this Substance Abuse Policy. Therefore, supervisors are required to administer all aspects of the policy in an unbiased and impartial manner. Any supervisor who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy with respect to his/her subordinates, shall be subject to disciplinary action, up to and including termination of employment.
- G. **Testing for Prohibited Substances.** Analytical urine prohibited substance testing and breath testing for alcohol will be conducted as required under DOT guidelines. All employees shall be subject to testing prior to a final offer of employment and for reasonable suspicion, and in some instances, following a serious accident to which the employee might have contributed. All safety-sensitive employees shall be subject to testing randomly following an accident, as defined in the DOT guidelines. In addition, all safety-sensitive employees will be tested prior to returning to duty after failing a prohibited substance and/or alcohol test. Employees who have returned to duty will be subject to unannounced follow-up tests for up to five (5) years, as determined by an SAP. Safety-sensitive employees who perform safety-sensitive functions as defined in Appendix A and in the DOT guidelines (49 CFR Part 40) shall also be subject to testing on a randomly selected and unannounced basis.

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

An initial prohibited substance screen will be conducted on each specimen. For those specimens that are positive, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) test will be performed. The test will be considered positive if the prohibited substance levels present are above the minimum thresholds established in the DOT guidelines.

Tests for alcohol concentration will be conducted utilizing an approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). If the initial test indicated an alcohol concentration of 0.02 or greater, a confirmation test will be performed to confirm the result of the initial test. A safety-sensitive employee who has a confirmed alcohol concentration of 0.02, but less than 0.04, will be removed from his/her position for at least twenty-four (24) hours unless a retest results within 15-20 minutes in an alcohol concentration of 0.02 or less. An alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of DOT guidelines and this policy.

Any employee who has a confirmed positive prohibited substance or alcohol test will be removed from his/her position, informed of educational and rehabilitation programs available, and must obtain and submit an evaluation by a SAP. The District affirms the need to protect individual dignity, privacy and confidentiality throughout the testing process. However, the District may be obligated under certain circumstances to divulge information to authorized recipients, and complete confidentiality is not guaranteed.

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that otherwise appears to have been caused by the use of a prohibited substance by the employee.

- d. Fights (i.e., physical contact), assaults, and flagrant disregard or violations of established safety, security, or other operational procedures.
- 4. **Post-Accident Testing.** All employees, whether or not in a position classified as safety-sensitive, will be required to undergo prohibited substance and/or breath alcohol testing if he or she is involved in an accident while operating or assisting in the operation of a motor vehicle for District business that results in a fatality, injury to any person requiring transport to a medical facility, or damage to a vehicle requiring towage from the site. In addition, if the employee is operating a commercial motor vehicle for District business and receives a citation for a moving traffic violation arising from the incident, the employee will be required to undergo testing, regardless of the nature of the incident. An employee may also be required to undergo prohibited substance and/or breath alcohol testing if he or she is involved in a "near miss" accident which leads to a Reasonable Suspicion determination (see Section 3205.14.3) or if he or she is involved in multiple "near-miss" accidents within a short duration.
- 5. Following an accident in which testing is required, all employees whose performance could have contributed to the accident will be tested for prohibited substances as soon as possible, preferably within 2 hours of the incident, but not to exceed eight (8) hours for alcohol and thirty-two (32) hours for prohibited substances. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to prohibited substance and alcohol testing will be considered to have refused the test and be subject to termination of employment. Post-accident testing covers not only the operation personnel, but any other employees whose performance could have contributed to the accident.
- 6. **Random Testing.** Employees working in safety-sensitive classifications will be subjected to randomly selected, unannounced testing. The random selection will be by a scientifically valid method. Each safety-sensitive employee will have an equal chance of being tested each time selections are made. Safety-sensitive employees will be tested either just before departure, or during duty, or just after the safety sensitive employee has ceased performing his/her duty during working hours and will be paid for the time taken to test. All testing will be paid by the District.
- 7. When safety-sensitive employees are off work due to long-term layoffs, illness, injury, or vacation, the employee's name will be placed back into the pool and another ~~employee~~ employee's name selected.
- 8. The number of safety-sensitive employees selected for random testing will be the amount required by DOT guidelines. Currently, ~~(February 2018) ten percent (10%)~~ of the employee pool is tested for alcohol and ~~twenty five percent (25%)~~ for substance abuse. The employee pool will either be all District safety-sensitive employees, or, if the District participates in a consortium of employers, all safety-sensitive employees within the consortium.
- 9. **Return-to-Duty Testing.** All employees who previously tested positive for a prohibited substance or alcohol test must test negative and be evaluated and released to duty by the SAP before returning to duty. Employees will be required to undergo unannounced follow-up prohibited substance and/or alcohol breath testing following returning to duty. The SAP will

i. **Circumstances Under Which Employees May be Tested.**

- a. **Pre-Employment Testing.** All job applicants who have been offered District employment requiring the regular performance of safety-sensitive tasks, as well as current employees who promote, demote or transfer to safety-sensitive positions, shall undergo urine prohibited substance testing prior to employment. Receipt of satisfactory test results is required prior to their employment and failure of a prohibited substance test will disqualify the candidate from further consideration for employment. Current employees who promote, demote or transfer to safety-sensitive positions shall be required to test negative prior to their assignment. The District will obtain records from previous employers of new employees to conform to DOT guidelines. Probationary employees who receive a positive alcohol and/or substance abuse test, or who fail to provide "clean" records from previous employers, will fail to complete the District's probationary period.
- b. **Reasonable Suspicion Testing.** All employees will be subject to urine and/or breath testing when there is a reason to believe that the employee is under the influence of prohibited substances or alcohol while performing his or her job duties or on District property. A reasonable suspicion referral for testing will be made on the basis of documented, objective facts and circumstances which are consistent with the effects of substance abuse.  
  
Reasonable suspicion determinations will be made by a supervisor or other designated individual who is trained to detect the signs and symptoms of prohibited substance and alcohol use and reasonably concludes that an employee may be using a prohibited substance while performing his or her job duties or on District property. Examples of reasonable suspicion include, but are not limited to, the following:
  - (1) Adequate documentation of unsatisfactory work performance or on-the-job behavior that indicates the use of prohibited substances.
  - (2) Physical signs and symptoms, including appearance, behavior, speech or body odors, consistent with prohibited substance use.
  - (3) Occurrence of a serious or potentially serious accident that appears to have been caused by a lapse in judgment or reflexes by the employee, or that otherwise appears to have been caused by the use of a prohibited substance by the employee.
  - (4) Fights (i.e., physical contact), assaults and flagrant disregard or violations of established safety, security, or other operational procedures.
- c. **Post-Accident Testing.** All employees, whether or not in a position classified as safety-sensitive, will be required to undergo prohibited



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determine the duration and frequency. However, it shall not be less than six tests during the first ~~twelve (12)~~ months, nor longer than ~~sixty (60)~~ months in total, following return to duty.

10. **Employee Requested Testing.** Any employee who questions the result of a required prohibited substance or alcohol test may request that an additional test be conducted. This additional test may be conducted at the same laboratory or at a different ~~DHHS-certified~~DHHS-certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are to be paid by the employee unless the second test invalidates the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in the DOT guidelines. The employee's request for a retest must be made to ~~his or her~~the supervisor ~~or to Human Resources~~ within ~~seventy-two (72)~~ hours of notice of the initial test result. Requests after ~~seventy-two (72)~~ hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

11. **Records Retention.** The District shall maintain complete records of alcohol and/or prohibited substance test results for each employee in a secure location with controlled access. Employee records are confidential and will be available only to the DOT or any government or law enforcement agency authorized by law to access the records. Records will be kept for a minimum of ~~five (5)~~ years regarding the following: driver alcohol tests; positive prohibited substance tests; documentation on refusals to take alcohol or prohibited substance tests; and, employee evaluations and referrals. Records will be kept for a minimum of ~~two (2)~~ years regarding the alcohol and prohibited substance collection process. ~~Records will be kept for a minimum of one (1) year regarding the following: collection process; collection logbooks; documents of random selection process; calibration documents for breath testing device; and, documentation of breath alcohol technician training. Documentation of the random selection process will be kept for a minimum of 1 year.~~

3205.16 **Employee Assessment.** Any employee who tests positive for the presence of prohibited substances or whose breath alcohol concentration is above the minimum thresholds set forth in the DOT guidelines will be assessed by an SAP. An SAP is a District selected licensed physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinically experienced in the diagnosis and treatment of drug and ~~alcohol-related~~alcohol-related disorders. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance or alcohol abuse or misuse. If an employee is returned to duty following rehabilitation, he/she must agree to and sign a Return-to-Duty Agreement, pass a return-to-duty prohibited substance and/or alcohol test and be subject to unannounced follow-up tests for a period of ~~one (1)~~ to ~~five (5)~~ years, as determined by the SAP. The cost of any rehabilitation and subsequent prohibited substance and/or alcohol testing is borne by the employee and is on a one-time basis only. Subject to applicable state and federal laws, an employee may be terminated from employment on the occurrence of a second verified positive test result. Employees may use accumulated sick leave, vacation, administrative leave, ~~personal necessity leave~~, and/or floating holidays, if any, to participate in the prescribed rehabilitation program.

3205.17 **Test Related Time-Off Work Provisions.** Any employee who is relieved from duty due to a positive alcohol or prohibited substance test must use accumulated compensated leave (i.e., vacation, sick leave, ~~and~~ administrative leave ~~and/or personal necessity leave~~) during the regularly scheduled work time missed. If the employee has insufficient accumulated compensated leave to cover the regularly scheduled work time missed due to a positive alcohol or prohibited substance test, such time shall be without pay. ~~Leave taken to participate in the prescribed rehabilitation program is not eligible for the Employee Leave Donation~~

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substance and/or breath alcohol testing if they are involved in an accident while operating or assisting in the operation of a motor vehicle for District business that results in a fatality, injury to any person requiring transport to a medical facility, or damage to a vehicle requiring towage from the site. In addition, if the employee is operating a commercial motor vehicle for District business and receives a citation for a moving traffic violation arising from the incident, the employee will be required to undergo testing, regardless of the nature of the incident.

Following an accident in which testing is required, all employees whose performance could have contributed to the accident will be tested as soon as possible, but not to exceed eight (8) hours for alcohol and thirty-two (32) hours for prohibited substances. Any employee who leaves the scene of the accident without appropriate authorization prior to submission to prohibited substance and alcohol testing will be considered to have refused the test and be subject to termination of employment. Post-accident testing covers not only the operation personnel, but any other employees whose performance could have contributed to the accident.

- d. **Random Testing.** Employees working in safety-sensitive classifications will be subjected to randomly selected, unannounced testing. The random selection will be by a scientifically valid method. Each safety-sensitive employee will have an equal chance of being tested each time selections are made. Safety-sensitive employees will be tested either just before departure, or during duty, or just after the safety-sensitive employee has ceased performing his/her duty.

When safety-sensitive employees are off work due to long-term layoffs, illness, injury, or vacation, the employee's name will be placed back into the pool and another employee name selected.

The number of safety-sensitive employees selected for random testing will be the amount required in the DOT guidelines. Currently, (February 2018) ten percent (10%) of the employee pool is tested for alcohol and twenty five percent (25%) for substance abuse. The employee pool will either be all District safety-sensitive employees or, if the District participates in a consortium of employers, all safety-sensitive employees within the consortium.

- e. **Return-to-Duty Testing.** All employees who previously tested positive for a prohibited substance or alcohol test must test negative and be evaluated and released to duty by the SAP before returning to duty. Employees will be required to undergo unannounced follow-up prohibited substance and/or alcohol breath testing following returning to duty. The SAP will determine the duration and frequency. However, it shall not be less than six tests during the first twelve (12) months, nor longer than sixty (60) months in total, following return to duty.
- f. **Employee Requested Testing.** Any employee who questions the result of a required prohibited substance or alcohol test may request that an

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Program (Policy 3225). In the event there is a false positive test the District, upon verification, will compensate the employee for any regularly scheduled work time missed as a result thereof.

3205.18 **Contact Person.** Any questions regarding this policy should be directed to Human Resources or to the General Manager.

3205.19 **FMCSA Clearinghouse.** The District is prohibited from allowing any driver with a Class "A" or Class "B" Commercial Driver's License that has committed a testing violation and has not completed the return-to-duty process as outlined in this policy to perform safety-sensitive functions. Drivers will be notified by the Federal Motor Carrier Safety Administration (FMCSA) when the District obtains information from the Clearinghouse regarding the violation, or when information concerning the commercial driver is added, revised, or removed (Policy 3206).

1. The following violations or milestones will be reported to the Clearinghouse for any drivers who are subject to the Clearinghouse rules. The District, its service providers, its Medical Review Officer(s), and/or its Substance Abuse Professional(s) (SAPs) are required by FMCSA directed to report:
  - a. Any verified positive, adulterated, or substituted DOT drug test
  - b. Any validated DOT alcohol test of 0.04 or higher
  - c. Any refusal to submit to a DOT required drug or alcohol test
  - d. Any confirmed and recorded "actual knowledge" that the driver violated the DOT drug or alcohol rules, including:
    1. Any on-duty alcohol use, including any citation for during under the influence of alcohol (DUI/DWI) while driving a commercial motor vehicle
    2. Any alcohol use within 4 hours before going on duty
    3. Any alcohol use within 8 hours of an accident or before a post-accident test is complete (whichever is first)
    4. Any prohibited drug use while on duty
  - e. Successful completion of the return to duty process following treatment
  - f. Any negative DOT return-to-duty test
  - a-g. Successful completion of follow-up testing
2. Commercial Drivers must grant consent for the District to purchase Clearinghouse reports:
  - a. Prior to employment with the District, all commercial drivers must create a Clearinghouse account and log in to permit the District consent to acquire a "full" query report.
  - b. Commercial drivers must sign a separate Consent "for Limited Queries" form allowing the District access to "limited" queries each year.
  - c. The District will notify the commercial driver that he or she must immediately log in to the Clearinghouse to provide permission so that the District may obtain the driver's full Clearinghouse record if a limited query exposes information about the driver.
  - d. A commercial driver who refuses to grant the consent described above will not be allowed to perform any safety-sensitive duties as defined in §382.107. The commercial driver will not be allowed to resume the safety-sensitive duties until the driver has granted the mandatory consent, the District then obtains the report, and the Clearinghouse query shows that the driver is eligible to carry out safety-sensitive duties. If the commercial driver is not allowed to perform any safety-sensitive duties as a result of refusal to grant consent as described, the employee may be eligible for disciplinary action, up to and including termination of employment.
3. Notice of Violations. Commercial drivers are required to notify the District in writing if he or she has violated the drug and/or alcohol prohibitions of 49 CFR Parts 40 or 382 while employed with the District. The statement must be received before the end of the business day the day after the

additional test be conducted. This additional test may be conducted at the same laboratory or at a different DHHS certified laboratory. The test must be conducted on the split sample that was provided at the same time as the original sample. All costs for such testing are to be paid by the employee unless the second test invalidates the original test. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in the DOT guidelines. The employee's request for a retest must be made to the supervisor within seventy-two (72) hours of notice of the initial test result. Requests after seventy-two (72) hours will only be accepted if the delay was due to documentable facts that were beyond the control of the employee.

- ii. **Records Retention.** The District shall maintain complete records of alcohol and/or prohibited substance test results for each employee in a secure location with controlled access. Employee records are confidential and will be available only to the DOT or any government or law enforcement agency authorized by law to access the records. Records will be kept for a minimum of five (5) years regarding the following: driver alcohol tests; positive prohibited substance tests; documentation on refusals to take alcohol or prohibited substance tests; and, employee evaluations and referrals. Records will be kept for a minimum of two (2) years regarding the alcohol and prohibited substance collection process. Records will be kept for a minimum of one (1) year regarding the following: collection process; collection logbooks; documents of random selection process; calibration documents for breath testing device; and, documentation of breath alcohol technician training.
- H. **Employee Assessment.** Any employee who tests positive for the presence of prohibited substances or whose breath alcohol concentration is above the minimum thresholds set forth in the DOT guidelines will be assessed by an SAP. An SAP is a District selected licensed physician, psychologist, social worker, employee assistance professional, or addiction counselor with knowledge of and clinically experienced in the diagnosis and treatment of drug and alcohol related disorders. The SAP will evaluate each employee to determine what assistance, if any, the employee needs in resolving problems associated with prohibited substance or alcohol abuse or misuse. If an employee is returned to duty following rehabilitation, he/she must agree to and sign a Return-to-Duty Agreement, pass a return-to-duty prohibited substance and/or alcohol test and be subject to unannounced follow-up tests for a period of one (1) to five (5) years, as determined by the SAP. The cost of any rehabilitation and subsequent prohibited substance and/or alcohol testing is borne by the employee and is on a one-time basis only. Subject to applicable state and federal laws, an employee may be terminated from employment on the occurrence of a second verified positive test result. Employees may use accumulated sick leave, vacation, administrative leave, personal necessity leave, and/or floating holidays, if any, to participate in the prescribed rehabilitation program.
- I. **Test Related Time-Off Work Provisions.** Any employee who is relieved from duty due to a positive alcohol or prohibited substance test must use accumulated compensated leave (i.e., vacation, sick leave, administrative leave and/or personnel necessity leave) during the regularly scheduled work time missed. If the employee has insufficient accumulated compensated leave to cover the regularly scheduled work time missed due to a positive alcohol or prohibited substance test, such time shall be without pay. In the event there is a false positive test the District, upon verification, will compensate the

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commercial driver received notification of the violation or prior to performing any safety-sensitive duties, whichever comes first.

4. Use of Information. The District will only use the information obtained from the Clearinghouse to determine if the commercial driver is prohibited from performing safety-sensitive duties. The District will not divulge, nor permit any other person to divulge, any driver-specific information from the Clearinghouse to any person or entity not directly involved in making such determination.

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employee for any regularly scheduled work time missed as a result thereof.

J. **Contact Person.** Any questions regarding this policy should be directed to the General Manager.

**PROCEDURES**

A. **Reasonable Suspicion Testing.**

i. An employee who displays objective signs indicating he or she may be under the influence of alcohol and/or prohibited substances, according to a supervisor trained to detect such signs, or other designated, trained individual (for convenience, referred to hereinafter as "supervisor").

Any employee may identify someone suspected of alcohol and/or prohibited substance abuse to any supervisor (employees should realize, however, that it is against District policy to make false or malicious statements about other employees and doing so can result in disciplinary action). The supervisor must witness first-hand the employee's signs and symptoms.

ii. The supervisor is then obligated to ensure that the matter is immediately investigated.

iii. When the supervisor(s) reasonably suspect and believe that the employee may be under the influence of alcohol and/or prohibited substances, the employee is then immediately suspended from duty (with pay) and driven by a designated District employee (or others designated) to the District 's specified collection site. Testing facilities require the employee in question to show proof of identification, such as a driver's license photo or state-issued photo identification card.

Whenever practical, the General Manager (or his/her designee) should be notified in advance of the employee being taken to the collection site.

iv. At the collection site, the employee will be required to submit a urine sample in the event that prohibited substances are suspected, or a breath sample in the event that alcohol intoxication is suspected by the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.

v. The District will take precautions to prevent the employee being tested from going back to work and driving their own car home if any of the tests are positive. Instead, the employee will be taken home from the collection by a District employee (or others designated).

vi. The employee whose test results are negative (0.02 alcohol concentration or less, and no indication of prohibited substances) will be reinstated immediately. The employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for twenty-four (24) hours after administration of the test. The employee whose confirmation test result

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**PROCEDURES (Staff recommends removing the procedures from the policy)**

**3205.21 Reasonable Suspicion Testing.**

1. An employee who displays objective signs indicating he or she may be under the influence of alcohol and/or prohibited substances, according to a supervisor trained to detect such signs, or other designated, trained individual (for convenience, referred to hereinafter as "supervisor"), ~~shall be subject to reasonable suspicion testing.~~

Any employee may identify someone suspected of alcohol and/or prohibited substance abuse to any supervisor. ~~(employees should realize, however, that it is against District policy to make false or malicious statements about other employees and doing so can result in disciplinary action).~~ The supervisor must witness first-hand the employee's signs and symptoms. Note: Employees should consider that it is against District policy to make false or malicious statements about other employees and that doing so can result in disciplinary action.

2. The supervisor is then obligated to ensure that the matter is immediately investigated. An incident report is written and signed by the supervisor and submitted to Human Resources.
3. When the supervisor(s) reasonably suspect and believe that the employee may be under the influence of alcohol and/or prohibited substances, the employee is then immediately suspended from duty (with pay) and driven by a designated District employee (or others designated) to the District's specified collection site. Testing facilities require the employee in question to show proof of identification, such as a driver's license photo or state-issued photo identification card.

Whenever practical, Human Resources and the General Manager (or his/her designee) should be notified in advance of the employee being taken to the collection site.

4. At the collection site, the employee will be required to submit a urine sample in the event that prohibited substances are suspected, or a breath sample in the event that alcohol intoxication is suspected by the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
5. The District will take precautions to prevent the employee being tested from going back to work and driving ~~his or her~~their own car home if any of the tests are positive. Instead, the employee will be taken home from the collection by a District employee (or others designated).
6. The employee whose test results are negative (0.02 alcohol concentration or less, and no indication of prohibited substances) will be reinstated immediately. The employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for ~~twenty-four (24)~~ hours after administration of the test. The employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater, the presence of any illegal substance, or the presence of any legal, controlled substance (medication) for which there is no valid medical explanation provided in writing by a medical doctor<sup>1</sup>, will be referred to a District specified SAP

indicates an alcohol concentration of 0.04 or greater, the presence of any illegal substance, or the presence of any legal, controlled substance (medication) for which there is no valid medical explanation provided in writing by a medical doctor,<sup>1</sup> will be referred to a District specified SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination of employment.

- vii. The employee whose prohibited substance test results are verified negative will be reinstated immediately. The employee whose prohibited substance test is verified positive by the Medical Review Officer<sup>2</sup> will be referred to a District specified SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination of employment.

**B. Random Testing.**

- i. The compliance company notifies the General Manager (or his/her designee), who in turn notifies the supervisor to send the safety-sensitive employee to the collection site for alcohol and/or prohibited substance testing.
- ii. The supervisor notifies the safety-sensitive employee to go to the collection site for alcohol and/or prohibited substance testing immediately. Because of a testing facility requirement, the safety-sensitive employee sent to the collection site must have proof of identification, such as a driver's license photo or state-issued photo identification card.
- iii. At the collection site, the safety-sensitive employee will be required to submit a urine sample (in the event that prohibited substances are to be tested for) or a breath sample (in the event that alcohol is being tested for) to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
- iv. The safety-sensitive employee whose test results are negative (0.02 alcohol concentration or less and no indication of prohibited substances) will be released to return to work. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for twenty-four (24) hours after administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater, the presence of any illegal substance, or the

<sup>1</sup> In the event that an employee is found to be using a legally prescribed medication, the justification for which is provided in writing by a medical doctor, the District will evaluate whether the use of the legal controlled substance

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<sup>1</sup> In the event that an employee is found to be using a legally prescribed medication, the justification for which is provided in writing by a medical doctor, the District will evaluate whether the use of the legal controlled substance impairs the employee's ability to safely perform his or her job, and reserves the right to reassign, suspend, or terminate the employee, if appropriate, in accordance with applicable state and federal laws.

<sup>2</sup> A Medical Review Officer is a licensed physician responsible for analyzing laboratory results generated by the District's substance abuse policy testing program.

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who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. In the case of a reported negative dilute result, the District will accept this result as a verified negative. No second collection will be required unless specifically requested by the Medical Review Officer. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination of employment.

7. The employee whose prohibited substance test results are verified negative will be reinstated immediately. The employee whose prohibited substance test is verified positive by the Medical Review Officer<sup>2</sup> will be referred to a District specified SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination of employment.

#### 3205.22 Random Testing.

1. The compliance company or consortium notifies ~~the General Manager (or his/her designee)~~ Human Resources, who in turn notifies the supervisor to send the safety-sensitive employee to the collection site for alcohol and/or prohibited substance testing.
2. The supervisor notifies the safety-sensitive employee to go to the collection site for alcohol and/or prohibited substance testing immediately. Because of a testing facility requirement, the safety-sensitive employee sent to the collection site must have proof of identification, such as a driver's license photo or state-issued photo identification card.
3. At the collection site, the safety-sensitive employee will be required to submit a urine sample (in the event that prohibited substances are to be tested for) or a breath sample (in the event that alcohol is being tested for) to the on-duty technician. Care will be taken to provide the safety-sensitive employee with maximum privacy without compromising the integrity of the sample.
4. The safety-sensitive employee whose test results are negative (0.02 alcohol concentration or less and no indication of prohibited substances) will be released to return to work. The safety-sensitive employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for ~~twenty-four~~ (24) hours after administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater, the presence of any illegal substance, or the presence of any legal, controlled substance (medication) for which there is no valid medical explanation provided in writing by a medical doctor<sup>3</sup>, will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. In the case of a reported negative

impairs the employee's ability to safely perform his or her job, and reserves the right to reassign, suspend, or terminate the employee, if appropriate, in accordance with applicable state and federal laws.

<sup>2</sup> A Medical Review Officer is a licensed physician responsible for analyzing laboratory results generated by the District's substance abuse policy testing program.

<sup>3</sup> See footnote 1.

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presence of any legal, controlled substance (medication) for which there is no valid medical explanation provided in writing by a medical doctor,<sup>3</sup> will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination of employment.

- v. The safety-sensitive employee whose prohibited substance test results are verified negative will be released to return to work. The safety-sensitive employee whose prohibited substance test is verified positive by the Medical Review Officer will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination of employment.

#### C. Post Accident.

- i. The employee performing a safety-sensitive function, including operating a motor vehicle, notifies a supervisor that an accident has occurred.
- ii. The supervisor determines that the circumstances of the accident warrant a post-accident test in accordance with DOT guidelines. Thereafter, the supervisor directs the employee to immediately go to the collection site for alcohol and prohibited substance testing. The testing facility requires the employee in question to have proof of identification, such as a driver's license photo or state-issued photo identification card.
- iii. At the collection site, the employee will be required to submit a urine sample for prohibited substances and a breath sample for alcohol testing to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
- iv. The General Manager (or his/her designee) will be notified that an accident has occurred and that the employee was instructed to go to the collection site.
- v. The employee whose tests results are negative (0.02 alcohol concentration or less and no indication of prohibited substances) will be released to return to work. The employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for twenty-four (24) hours after administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater, or the presence of any illegal substance or controlled, legal substance for which there is no valid medical explanation provided in writing by a medical doctor,<sup>4</sup>

<sup>3</sup> See footnote 1.

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dilute result, the District will accept this result as a verified negative. No second collection will be required unless specifically requested by the Medical Review Officer. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination of employment.

5. The safety-sensitive employee whose prohibited substance test results are verified negative will then be released to return to work. The safety-sensitive employee whose prohibited substance test is verified positive by the Medical Review Officer will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the safety-sensitive employee. In the case of a reported negative dilute result, the District will accept this result as a verified negative. No second collection will be required unless specifically requested by the Medical Review Officer. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the safety-sensitive employee's termination of employment.

#### 3205.23 Post Accident.

1. The employee performing a safety-sensitive function, including operating a motor vehicle, notifies a supervisor that an accident or a near-miss has occurred.
2. The supervisor determines that the circumstances of the accident or near-miss warrant a post-accident test in accordance with DOT guidelines. The supervisor may confer with Human Resources and/or the General Manager to determine whether a post-accident test is warranted. Thereafter Then, the supervisor directs-drives the employee or designates someone to drive the employee immediately ~~go~~ to the collection site for alcohol and prohibited substance testing. The testing facility requires the employee in question to have proof of identification, such as a driver's license photo or state-issued photo identification card.
3. An incident report is written and signed by the supervisor and submitted to Human Resources.
4. At the collection site, the employee will be required to submit a urine sample for prohibited substances and a breath sample for alcohol testing to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
5. The General Manager (or his/her designee), and Human Resources will be notified that an accident has occurred and that the employee was instructed to go to the collection site.
6. The employee whose test results are negative (0.02 alcohol concentration or less and no indication of prohibited substances) will be released to return to work. The employee whose confirmation test results indicate an alcohol concentration greater than 0.02 but less than 0.04 will not be permitted to return to duty or perform a safety-sensitive function for ~~twenty-four (24)~~ hours after administration of the test. The safety-sensitive employee whose confirmation test result indicates an alcohol concentration of 0.04 or greater, or the presence of any illegal substance or controlled, legal substance for which there is no valid medical explanation provided in writing by a medical doctor<sup>4</sup>, will be referred to a District specified SAP who will

<sup>4</sup> See footnote 1.

will be referred to a District specified SAP who will assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination.

- vi. The employee whose prohibited substance test results are verified negative will be released to return to work. The employee whose prohibited substance test is verified positive by the Medical Review Officer will be referred to a District specified SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination of employment.

#### D. Return to Work and Follow Up.

- i. The compliance company notifies the District to send the employee to the collection site for alcohol and prohibited substance testing.
- ii. The supervisor notifies the employee to immediately go to the collection site for alcohol and prohibited substance testing. The testing facility requires the employee in question to have proof of identification, such as a driver's license photo or state-issued photo identification card.
- iii. At the collection site, the employee will be required to submit a urine sample for prohibited substances and a breath sample for alcohol testing to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
- iv. The employee whose confirmation test results indicate an alcohol concentration greater than 0.02, or whose prohibited substance test is verified positive,<sup>5</sup> will be terminated from employment.

#### E. Chain of Custody for Specimens.

- i. At the time a specimen is collected, the employee will be given a copy of the specimen collection procedures.
- ii. Urine will be in a wide-mouthed clinic specimen container which will remain in full view of the employee until split, transferred to, sealed and initialed in two tamper-resistant urine bottles.
- iii. Immediately after the specimens are collected, the urine bottles will, in the presence of the employee, be labeled and then initialed by the employee. If the sample must be collected at the site other than the prohibited substance and/or alcohol testing laboratory, the specimens will be placed in the transportation container. The container will be sealed in the employee's presence and the employee will be asked to initial or sign the container. The container will be sent

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assess the safety-sensitive employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. In the case of a negative dilute result, the District will accept this result as a verified negative. No second collection will be required unless specifically requested by the Medical Review Officer. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination.

7. The employee whose prohibited substance test results are verified negative will be released to return to work. The employee whose prohibited substance test is verified positive by the Medical Review Officer will be referred to a District specified SAP who will assess the employee's condition and make a recommendation for treatment which, if accepted by the District, must be followed by the employee. In the case of a reported negative dilute result, the District will accept this result as a verified negative. No second collection will be required unless specifically requested by the Medical Review Officer. Failure to follow the accepted recommendations or refusal to submit to return-to-duty and unannounced follow-up testing will result in the employee's termination of employment.

#### 3205.24 Return to Work and Follow Up.

1. The compliance company or consortium notifies the District to send the employee to the collection site for alcohol and prohibited substance testing.
2. The supervisor notifies the employee to immediately go to the collection site for alcohol and prohibited substance testing. The testing facility requires the employee in question to have proof of identification, such as a driver's license photo or state-issued photo identification card.
3. At the collection site, the employee will be required to submit a urine sample for prohibited substances and a breath sample for alcohol testing to the on-duty technician. Care will be taken to provide the employee with maximum privacy without compromising the integrity of the sample.
4. The employee whose confirmation test results indicate an alcohol concentration greater than 0.02, or whose prohibited substance test is verified positive<sup>5</sup>, will be terminated from employment.

#### 3205.25 Chain of Custody for Specimens.

1. At the time a specimen is collected, the employee will be given a copy of the specimen collection procedures.
2. Urine will be in a wide-mouthed clinic specimen container which will remain in full view of the employee until split, transferred to, sealed and initialed in two tamper-resistant urine bottles.
3. Immediately after the specimens are collected, the urine bottles will, in the presence of the employee, be labeled and then initialed by the employee. If the sample must be collected at the site other than the prohibited substance and/or alcohol testing laboratory, the specimens will be placed in the transportation container. The container will be sealed in the employee's

<sup>5</sup> See footnote 1.

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to the designated testing laboratory on that day or the earliest business day by the fastest available method.

- iv. A chain of custody form will be completed by the on-duty technician during the specimen collection process and attached to and mailed with specimen.

#### F. Specimen Collection of Strange and/or Unrecognizable Substances.

- i. An employee is observed with a strange and/or unrecognizable substance reasonably suspected to be a prohibited substance.
- ii. The supervisor, in the presence of a witness, places the strange and/or unrecognizable substance in a clear plastic bag. The bag is sealed, labeled and signed by both the supervisor and the witness.
- iii. An incident report is written by the supervisor and signed by both the supervisor and the witness.
- iv. The plastic bag containing the specimen and a copy of the incident report is taken to the collection site for transportation to the laboratory for analysis.

#### G. Alcohol Concentration.

- i. The employee and the on-duty Breath Alcohol Technician (BAT) at the testing facility complete the alcohol testing form to ensure that the results are properly recorded.
- ii. After an explanation of how the breathalyzer works, an initial breath sample is taken.
- iii. If the results of the initial test show an alcohol concentration of 0.02 or greater, a second or confirmation test must be conducted. The confirmation test must not be conducted less than fifteen (15) minutes after, nor more than twenty (20) minutes after the screening test.
- iv. The confirmation test will utilize Evidential Breath Testing (EBT) devices that print out the results, date and time, a sequential test number, and the name and serial number of the EBT device to ensure that reliability of the results.

#### H. Deviations from Procedures.

Unless otherwise provided in DOT guidelines, deviations from the foregoing procedures shall not invalidate the results of any prohibited substance tests verified positive by the Medical Review Officer.

References: DOT 49 CFR Part 382  
<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&ty=HTML&h=L&mc=true&=PART&n=pt49.5.382>

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presence and the employee will be asked to initial or sign the container. The container will be sent to the designated testing laboratory on that day or the earliest business day by the fastest available method.

4. A chain of custody form will be completed by the on-duty technician during the specimen collection process and attached to and mailed with specimen.

#### 3205.26 Specimen Collection of Strange and/or Unrecognizable Substances.

1. An employee is observed with a strange and/or unrecognizable substance reasonably suspected to be a prohibited substance.
2. The supervisor, in the presence of a witness, places the strange and/or unrecognizable substance in a clear plastic bag. The bag is sealed, labeled, and signed by both the supervisor and the witness.
3. An incident report is written by the supervisor and signed by both the supervisor and the witness.
4. The plastic bag containing the specimen and a copy of the incident report is taken to the collection site for transportation to the laboratory for analysis.

#### 3205.27 Alcohol Concentration.

1. The employee and the on-duty Breath Alcohol Technician (BAT) at the testing facility complete the alcohol testing form to ensure that the results are properly recorded.
2. After an explanation of how the breathalyzer works, an initial breath sample is taken.
3. If the results of the initial test show an alcohol concentration of 0.02 or greater, a second or confirmation test must be conducted. The confirmation test must not be conducted less than ~~fifteen~~(15) minutes after, nor more than ~~twenty~~(20) minutes after the screening test.
4. The confirmation test will utilize Evidential Breath Testing (EBT) devices that print out the results, date and time, a sequential test number, and the name and serial number of the EBT device to ensure the reliability of results.

3205.28 **Deviations from Procedures.** Unless otherwise provided in DOT guidelines, deviations from the foregoing procedures shall not invalidate the results of any prohibited substance tests verified positive by the Medical Review Officer.

References: DOT 49 CFR Part 382  
<https://www.ecfr.gov/cgi-bin/retrieveECFR?gp=1&ty=HTML&h=L&mc=true&=PART&n=pt49.5.382>

DOT 49 CFR Part 40  
<https://www.ecfr.gov/cgi-bin/text-idx?SID=44edbc0e557a4cc5ff03365810ee5b1c&mc=true&node=pt49.1.40&rgn=div5>  
OR

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DOT 49 CFR Part 40  
<https://www.ecfr.gov/cgi-bin/text-idx?SID=44edbc0e557a4cc5ff03365810ee5b1c&mc=true&node=pt49.1.40&rgn=div5>  
OR  
<https://www.gpo.gov/fdsys/pkg/FR-2017-11-13/pdf/2017-24397.pdf>

DOT 49 CFR Part 29  
<https://www.gpo.gov/fdsys/granule/CFR-1999-title49-vol1/CFR-1999-title49-vol1-part29>

Drug-Free Workplace Act of 1988  
<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title41/pdf/USCODE-2009-title41-chap10.pdf>



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<https://www.gpo.gov/fdsys/pkg/FR-2017-11-13/pdf/2017-24397.pdf>

DOT 49 CFR Part 29

<https://www.gpo.gov/fdsys/granule/CFR-1999-title49-vol1/CFR-1999-title49-vol1-part29>

Drug-Free Workplace Act of 1988

<https://www.gpo.gov/fdsys/pkg/USCODE-2009-title41/pdf/USCODE-2009-title41-chap10.pdf>

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APPENDIX A

SAFETY SENSITIVE CLASSIFICATIONS AND FUNCTIONS

~~Water Division~~ Safety-Sensitive Classifications

~~Water Utility Worker Person I II III~~  
~~Production Operator Maintenance I II~~  
~~Production Supervisor~~  
~~Field Superintendent~~  
~~Heavy Equipment Operator~~  
~~Grade Checker~~  
~~Maintenance Utility Worker~~  
Recycled Water Supervisor  
Transmission and Distribution Supervisor

Safety-Sensitive Functions

- Operating any vehicle where a Class A or Class B driver's license would be required.
- All tasks that involve the operation of heavy equipment, **use of hand tools**, and any function in which the employee's performance, reflexes, and/or judgment impact the safety of the employee or others.

APPENDIX A

SAFETY SENSITIVE CLASSIFICATIONS AND FUNCTIONS

Water Division Safety-Sensitive Classifications

Utility Worker I II III  
Production Operator / Supervisor  
Field Superintendent  
Heavy Equipment Operator  
Grade Checker  
Recycled Water Supervisor  
Transmission and Distribution Supervisor

Safety-Sensitive Function

Operating any vehicle where a Class A or Class B driver's license would be required.

All tasks that involve the operation of heavy equipment, and any function in which the employee's performance, reflexes, and/or judgment impact the safety of the employee or others.

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APPENDIX B

VOLUNTARY PARTICIPATION IN RANDOM TESTING

Although my classification is not considered safety-sensitive, I may volunteer at various times to perform a safety-sensitive function. In adherence to the District's policy on random alcohol and controlled substance testing of employees performing safety-sensitive functions, I hereby agree to be included in the pool of employees selected for such testing. I further agree that my voluntary submission to alcohol and controlled substance testing requires that I will follow all related procedures as described in the Employee HandbookPolicy Manual, and that a positive test result will be handled in the same way it would for an employee regularly in a safety-sensitive classification. This agreement is valid for one year from the date signed.

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Name Printed

APPENDIX B

VOLUNTARY PARTICIPATION IN RANDOM TESTING

Although my classification is not considered safety-sensitive, I may volunteer at various times to perform a safety-sensitive function. In adherence to the District's policy on random alcohol and controlled substance testing of employees performing safety-sensitive functions, I hereby agree to be included in the pool of employees selected for such testing. I further agree that my voluntary submission to alcohol and controlled substance testing requires that I follow all related procedures as described in the Employee Handbook, and that a positive test result will be handled in the same way it would for an employee regularly in a safety-sensitive classification. This agreement is valid for one year from the date signed.

\_\_\_\_\_  
Employee's signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Employee's Name Printed

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**POLICY TITLE: FMCSA CLEARINGHOUSE REGISTRATION**  
**POLICY NUMBER: 3206**

3206.1 **FMCSA Clearinghouse.** The Federal Motor Carrier Safety Administration (FMCSA) Clearinghouse is a secure, online database that provides employers and other authorized users real-time information about commercial driver's license (CDL) and commercial driver's permit (CLP) holder's drug and alcohol program violations.

3206.2 Any driver who holds a CDL, such as a California Class "A" or Class "B" license and meets the requirements of the CDL standards (49 CFR Part 383), and the FMCSA Drug and Alcohol Testing Program (Part 382), and CLP holders are "covered drivers" under the Clearinghouse.

3206.3 Covered drivers who are employed by the District are required to have an online account at clearinghousefmcsa.dot.gov and are highly encouraged to provide a personal email address so that he or she can be contacted. Covered drivers are permitted to see his or her own Clearinghouse records free of charge and may challenge the accuracy of the information reported to the Clearinghouse, but not the accuracy of test results or refusals using the procedures listed in §382.717 (Policy 3205). Covered drivers must register with the FMCSA Clearinghouse within 48 hours upon being notified to register by the District.

3206.4 Candidates for employment with a conditional offer of employment with the District and meet the requirements of a "covered driver" as defined in section 3206.2, are required to have an online account at clearinghousefmcsa.dot.gov and are highly encouraged to provide an email address so that he or she can be contacted. Candidates for employment are permitted to see his or her own Clearinghouse records free of charge and may challenge the accuracy of information reported to the Clearinghouse, but not the accuracy of test results or refusals using the procedures listed in §382.717 (Policy 3205).

3206.5 **Use of Information.** The District will only use the information obtained from the Clearinghouse to determine if the driver is prohibited from performing safety-sensitive duties. The District will not divulge, nor permit any other person or entity to divulge, any driver-specific information from the Clearinghouse to any person or entity not directly involved in making such determination.

3206.6 **Designated Employer Representative.** The Human Resources Coordinator serves as the District's Designated Employer Representative (DER). The DER is responsible for conducting the District's Annual Queries, Pre-Employment Queries, Violation Reporting, and Return-to-Duty Reporting in the FMCSA Clearinghouse. The DER also serves as the custodian for all records required by the Department of Transportation (DOT).

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OPERATIONS

**POLICY TITLE: PRESS RELATIONS AND SOCIAL MEDIA POLICY**  
**POLICY NUMBER: 5100**

5100.1 **Purpose.** The purpose of the press relations and social media policy is to work supportively with press relations (media) and to disseminate information of public interest and concern in an accurate, complete, and timely manner. Public Relations and Social Media are vital in outreach efforts that help engage the community quickly and relevantly. It allows stakeholders to communicate with the District and quickly access important information. The District currently manages social media activities across several platforms, such as Facebook, Twitter, and YouTube. This policy will establish clear guidelines for the appropriate use of current policies, which may be updated from time to time and future press relations and social media activities.

5100.2 **Press Relations and Social Media Use.** The District will use press relations and social media to share timely, relevant information that keeps stakeholders up to date on what is happening in the District and with water in his or her community. The goal of social media activity will be to share information about District subjects, events, reminders, District updates, or other District press relations and informal notices. Social media shall also share critical information that needs to reach stakeholders quickly. The use of social media is to complement but not replace other communication methods regarding District activities and business.

1. The General Manager or his/her designee is designated as the District's Public Information Officer (PIO) and is responsible for implementing this policy. When the PIO is unavailable, he or she shall select an authorized designee.
2. The PIO shall coordinate District responses with the Board President to ensure the District meets the Board of Director's communications goals.
3. Employees and elected officials who engage with consumers or members of the Press shall use courtesy, politeness, and professionalism. Any media inquiries received by district staff will be referred immediately to Department Directors or the General Manager (if any Department Director is unavailable), who shall directly forward the media inquiry and contact information to the PIO and Board President (as necessary) for a response.
4. The General Manager, the Board President, or his/her designee will prioritize inquiries from the news media and respond as efficiently as possible.
5. When contacted by the PIO for information needed to respond to a media inquiry, all staff shall provide the PIO with accurate and complete information available for the response. The General Manager or Designee will identify if additional time is needed to address a media inquiry.
6. At the discretion of the PIO and the Board President, if it is determined that a District response is best achieved by having staff or a consultant speak on behalf of the District on a particular topic, he or she may designate an authorized spokesperson to assist with the District's response.
7. To assure that all members of the Board of Directors have accurate, complete, and timely information to fulfill responsibilities to represent the District affairs, members of the Board of Directors shall inform the PIO by email of the substance of significant media inquiries and for an official response.
8. The General Manager must approve official BCVWD social media accounts before being established. The PIO and the assigned social media administrators will manage or post on social media platforms.

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9. Content shared on District social media platforms shall comply with Section 5100.6 below. "Content" includes, but is not limited to, posts, shares, comments, likes, intentions, and reactions.
10. While an informal tone is appropriate, communication via social media represents the District and shall remain professional. Official District social media shall not be used for political purposes, conduct private commercial transactions, engage in private business activities, or other personal use. Inappropriate use of official District social media may result in disciplinary action, up to and including termination of employment.
11. Assigned staff and management shall monitor and evaluate social media platforms on an ongoing basis.

**5100.3 Personal Use of Social Media.**

1. District employees and the Board of Directors may have personal accounts on any social media platform of his or her choice. These accounts shall remain private and shall not be used to share work-related information.
2. District employees and the Board of Directors shall avoid using personal accounts to comment on posts regarding official District business.
3. District email accounts and passwords shall not be used with personal social media accounts.

**5100.4 General Policies.**

1. All District accounts shall clearly state they are maintained by the District and include the official logo. The assigned social media administrator will fully understand and comply with user agreements for each social media platform. Administrators will also comply with state and federal regulations and District policies.
2. Social media content shall reflect the District's mission, vision, values, and initiatives. The BCVWD assigned consultant or the assigned social media administrator should monitor social media accounts, content, and conversations on a frequent, ongoing basis. Images may not include photos of a person or private property without written consent.
3. Model releases shall be used to obtain the permission of identifiable people. Images, videos, and graphics that do not belong to the District must be vetted to ensure copyright laws do not protect him or her or that the intended use falls within fair-use standards.
4. The District shall cite the source of any image, graphic, or video not owned by the District. Free-use photos can be found using stock photography sites or advanced search engine features.
5. Social Media accounts, including the administrative account access, shall be established, controlled, and managed by BCVWD Information Technology Department with the direction and approval of the General Manager or his/her designee.

**5100.5 Correcting Misinformation.**

Responding to public comments or questions and diffusing potentially harmful conversations is a critical component of social media management. The social media administrator shall conduct frequent reviews of social media accounts, correct any misinformation, and notify the General Manager or designee immediately in the event

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of an adverse situation. If the situation cannot be resolved, the social media administrator will publicly provide District contact information or other resources and follow up with stakeholders privately regarding his or her concerns.

5100.6 **Content Policies.** Social media content shall be posted consistently, regularly, and with timely and relevant information. Posts shall be scheduled in advance while also allowing flexibility to implement changes and share urgent information quickly and efficiently.

1. Posts can include but are not limited to: emergencies; water supply and conservation information; District updates on initiatives, objectives, and projects; community engagement; leaks, service outages, maintenance/repairs; press releases, holiday closures, and more.
2. Social media administrators shall use the best judgment when posting or engaging on platforms and determining what is suitable to share on behalf of the District. Topics to avoid include legal claims or lawsuits, personnel matters, controversial issues, personal opinions, and political issues.
3. When applicable, content shall be explicitly tailored to each platform's audience and user experience. For example, platforms such as Nextdoor provide an opportunity to engage with a population interested in safety, events, and community. In contrast, platforms such as Instagram provide a way to connect with stakeholders in a fun, visually-based manner. Facebook allows an image with more detail than platforms like Twitter, but both enable linking to additional information.
4. Information shall be relevant to the District's intended audience, presented clearly, and easily understood. Content shall always include proper grammar, spelling, and appropriate tone. The social media administrator will always check facts before posting any information.

5100.7 **Prohibited Content.** Responses from the public that include prohibited content will be removed at the discretion of the General Manager or his/her designee. District staff and representatives of BCVWD who violate this policy and any social media accounts that violate this policy may be subject to disciplinary action, up to and including termination of employment. Content containing any of the following material will be removed immediately. Inappropriate content includes, but is not limited to:

1. Violence, profanity, obscenity, nudity, or pornographic content or language,
2. The content is found to discriminate against any creed, race, gender, sexual orientation, age, religion, or national origin, as well as any other category protected by state or federal laws,
3. Threats, slander, or defamation of any kind,
4. Illegal acts of any kind or encouragement thereof,
5. Information that compromises the security or well-being of any District staff member, partner, resident, or stakeholder,
6. Comments, links, posts, advertisements, or articles soliciting business or commerce,
7. Content that violates copyright laws, or

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8. Content that violates local, state, or federal laws.

5100.8 **Emergency Response.** Social media use shall be limited to the District's PIO, Board President, or as authorized, Board members or designated spokespeople in an emergency or crisis scenario. Social media activities shall occur to announce an emergency, provide updates during the emergency, and share when the emergency is resolved. The District's emergency updates are not intended to take responsibility for emergency communications for regional emergencies; rather, the District will communicate information specifically relating to the District and water service.

5100.9 **State Regulations.** All District content, including social media posts, comments, messages, and other interactions, shall be mindful of and comply with the following state regulations:

1. **California Public Records Act.** All social media content found on BCVWD accounts may be subject to the California Public Records Act. Content posted-- including prohibited and non-prohibited content, responses to comments, and messages from the public-- shall be monitored, tracked, and retained so that it can be easily retrieved if necessary, according to Public Record Act laws.
2. **Ralph M. Brown Act.** The Brown Act protects the public's right to attend and participate in meetings of local legislative bodies, such as meetings held by a Board of Directors. All Brown Act rules shall be followed when engaging online, including on social media. Interactions between Board members on social media platforms, including comments and messages, can be regarded as a meeting. The Board of Directors is encouraged to follow the Brown Act when engaging in posts or discussions.
3. **Fair Political Practices Commission (FPPC).** The Fair Political Practices Commission (FPPC) is designed to ensure the fairness and integrity of California's political process by enforcing the Political Reform Act. Regulations state that all Board members must be represented equally regarding public outreach, media relations, and social media. Use of pictures, quotes, or other social media content involving Board members must comply with FPPC regulations.

5100.10 **Ongoing Evaluation.** The District shall continuously review social media accounts to ensure alignment with the District Board of Directors' policy direction and District-defined mission, vision, directives, and policies and procedures. District issues identified by staff that are not aligned with the said mission, vision, directives, and policies and procedures shall be corrected, deleted, or adjusted.

5100.11 **Personal Opinion.** The Board of Directors members and District Employees have the right to express an opinion regarding matters of public concern. Members of the Board of Directors and District employees who write correspondence to media or post on social media platforms may not use official district stationary or items symbolizing a direct connection to BCVWD. If a member of the Board of Directors or BCVWD employee identifies as a district representative on a Personal Opinion correspondence, email, or social media posts, he or she shall state that his or her outlined views do not represent the views of the District but of the individual's opinion.

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