



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*

Tuesday, September 20, 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 should 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**

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 – SEPTEMBER 20, 2022

Call to Order: Chair Covington

Teleconference Verification

Roll Call

	John Covington
	Andy Ramirez

	David Hoffman (alternate)
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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. August 16, 2022 (pages 4 - 10)

ACTION ITEMS

3. **Report / Update from BCVWD Employees Association** (no staff report)
4. **Report / Update from Exempt Employees** (no staff report)
5. **Report from Human Resources Department** (pages 11 - 44)
6. **Annual Employee Engagement Survey Results** (pages 45 - 61)
7. **Update: BCVWD 2023 Operational Budget** (pages 62 - 64)
8. **Update: Workforce and Succession Planning Project** (pages 65 - 67)
9. **Policies and Procedures Manual Updates / Revisions** (page 68 - 81)
 - a. Policy 3075 Vacation

- b. Policy 3090 Family and Medical Leave
- c. Policy 3095 Pregnancy Disability Leave
- d. Policy 3096 Lactation Accommodation

10. Action List for Future Meetings

- *Employee Association topics*
- *Policy manual updates*

11. Next Meeting Date: October 18, 2022

12. 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.

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 or in writing at the Beaumont-Cherry Valley Water District, 560 Magnolia Avenue, Beaumont, California 92223.

CERTIFICATION OF POSTING

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



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

MINUTES OF THE PERSONNEL COMMITTEE MEETING
Tuesday, August 16, 2022 at 5:30 p.m.

Meeting held in-person and via teleconference pursuant to California Government Code Section 54950 et. seq. and BCVWD Resolution 2022-22

CALL TO ORDER

Chair Covington called the meeting to order at 5:33 p.m.

Announcement of Teleconference Participation

General Manager Dan Jagers clarified that this meeting is conducted pursuant to California Government Code Section 54953 and BCVWD Resolution.

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, Hoffman (alternate)</i>
<i>Directors absent:</i>	<i>Ramirez</i>
<i>Staff present:</i>	<i>General Manager Dan Jagers Director of Finance and Administration Kirene Manini, PhD Director of Information Technology Robert Rasha Human Resources Administrator Sabrina Foley Senior Management Analyst Sylvia Molina Management Analyst I Erica Gonzales Administrative Assistant Cenica Smith</i>
<i>BCVWD Employee Association reps:</i>	<i>Development Services Technician Aaron Walker</i>

PUBLIC INPUT: *None.*

ACTION ITEMS

1. Adjustments to the Agenda: None
2. Acceptance of the Meeting minutes
 - a. July 19, 2022

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

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

3. Report from Human Resources Department

Human Resources Administrator Sabrina Foley presented the report. She noted the COVID-19 measures enacted due to an outbreak; they have now been lifted.

In response to Director Hoffman, Ms. Foley explained the requirement for, and some detail of, the annual workplace violence training and General Manager Jagers confirmed it is worthwhile. Hoffman asked about cost; Foley noted that it is offered as part of the District's membership in ACWA/JPIA.

Director Hoffman asked about the status of AB 1632, the restroom access legislation. Foley advised that the bill is moving forward. Many bills are in the Appropriations suspense file.

Director Covington noted that COVID restrictions on use of restrooms is a thing of the past. Foley advised that public access to restrooms is restricted during regular operating hours as part of the District's current COVID prevention plan but does not specify they cannot be open during meetings. Covington asked staff to look into opening the restrooms during meetings.

Covington pointed to AB 2188 regarding discrimination in employment for use of cannabis. Foley noted there are some federal requirements such as the with the Department of Transportation for Class A licenses.

4. Report / Update from BCVWD Employees Association

General Manager Jagers assured that there is dialogue with field employees and acknowledged the attendance of Aaron Walker.

5. Update: BCVWD Employment Agreements

General Manager Jagers reported that the task to modernize the agreements falls to him and it is hoped that in the near future a template will be brought back to the Board.

Director Covington reminded about direction given to staff during a closed session of the Board of Directors. It is difficult to have the employment agreement out for public viewing which could raise problems, he said. There is chatter, but building blocks are not yet in place, he noted. He acknowledged the comments presented at the last Personnel Committee meeting in his absence. He advocated keeping it in closed session to avoid having too many opinions until the General Manager and the Board are aligned.

There are no changes on the agreement since the iteration presented in July, Jaggars noted.

6. Discussion of Options for Unrepresented Employee Participation and Communication

General Manager Jaggars reminded about discussion at the July meeting, and noted that there is opportunity for participation (Agenda Item 4) for the Employees Association (non-exempt staff) and whether the Committee wanted to offer opportunity for the other staff members to communicate to the Personnel Committee or just offer the public comment period.

Director Hoffman recalled prior conversation and comments from Robert Rasha. Mr. Jaggars reviewed the July 19, 2022 minutes and direction to bring this item to the next meeting. He suggested that staff members need to know where the opening for them is to talk about things which could be public comment or an item on the agenda.

Management Analyst I Erica Gonzales pointed out that there can be no discussion under public comment. Hoffman agreed and noted that the specific concern would need to be agendaized in order to provide a response. Jaggars noted that staff would understand that they could request an item on the agenda for discussion, or to include an item like Item 4.

Hoffman asked Covington if he agreed that it was important for employees to feel they have access and not a challenging way to communicate things and a way to get a response in a fairly reasonable period of time. He said he wanted to be able to know what the concerns are in order to evaluate and discuss an approach, and be responsive.

Employees not part of the Employees Association would have to come to a meeting and request an item on a future meeting which creates a time lag, Jaggars noted. Covington said he felt it was a great idea to offer exempt / unrepresented employees a placeholder on the agenda, but this is not a forum to discuss specific contract issues. The Personnel Committee is not directly charged with employees' contracts, he stated. Anything seen on a Personnel Committee or Board agenda would be great, he noted, and recommended putting bookends on conversations. The Personnel Committee wants to hear from the whole team, Covington advised, but is not here to negotiate employment contracts or go into details unless it is an agendaized item.

Director of Information Technology Robert Rasha said he appreciated consideration of the placeholder on the agenda, which adds to productive conversation, and Covington's mention of the fact that this is not the appropriate platform for discussion of employment contracts. He noted that it was during the Personnel Committee previously that employment contracts were requested to be brought back, that opened some controversial conversation and unrepresented employees felt they had no mechanism to address the Committee outside of public comment. As long as there is understanding that employment agreements are not discussed at the Personnel Committee and those are handled in closed session or with General Manager Jaggars, he is in support.

Covington reiterated that the open-to-the-public Personnel Committee meeting is not the place and time for discussion of the particulars of a contract, those discussions would be with the general manager and if necessary, with the Board in closed session.

Discussion of this employment agreement is agendaized and can be discussed but this is not the Dr. Phil session, Covington advised. Those items are for another meeting venue, he continued, but he said he wants to hear from the exempt employees.

Mr. Rasha clarified that there are items of policy that affect all staff members.

Director Covington directed staff to include this as a standing agenda item at the top of the agenda just as is done with the Employees Association: Report or Update from Exempt Employees.

7. Update: BCVWD 2023 Operational Budget

Ms. Foley reminded that the Committee had requested advance budget updates pertaining to understanding staffing and personnel changes that may be presented in the budget. There are no new positions for discussion, she said, and noted that the Workforce and Succession Planning project is parallel and underway.

Management is working on spreadsheets for Finance and goals and accomplishments, she noted. Budget numbers will be presented to the Finance and Audit Committee, then presented to the Board for adoption in December, per policy. Discussion ensued regarding the budget timeline and meeting schedule. Covington advised he will be on vacation, returning December 9, and wants to be able to discuss the draft budget with the Board. He emphasized that the goal is to go dark for December and requested a draft budget go to the Board in November.

Director Covington noted that some positions that are filled are not showing a head count. Jagers and Foley responded in detail. Covington requested an update showing how many positions are budgeted and how many persons are budgeted for each position.

8. Update: Workforce and Succession Planning Project

Human Resources Administrator Sabrina Foley reminded the Committee about the Board-approved project and contract with the Mejorando Group.

The consultant has been on site to interview management and focus groups, and prepare an initial analysis of the management team stakeholders. This month, the consultant is looking to arrange Zoom meetings with some individual Board members, she noted. Target dates will then be set for Phases 2 through 4. HR has an update meeting with the Mejorando Group every other week to go over deliverables and progress. The consultant was on site on August 4.

The project is on schedule and within budget, Foley reported. Director Covington observed that Phase 1 is 50 percent completed.

Dr. Manini confirmed that the date for Board member interviews would be August 30. The requested information would be sent to the Board members prior to that date, Jagers noted. Director Hoffman said he was looking forward to seeing the final product, information, and how the projections are made. Jagers pointed out that the workforce is an equal component of the study, including staffing levels. The goal of the project is to assure that the District is adequately sized to properly serve the community (workforce) and to provide for, plan, and understand retirements, migration, and

possible turnover (succession). Covington requested a copy of the Mejorando Group proposal.

Covington noted reference to revision of the strategic plan and Foley noted this is based on activities identified by management such as recycled water. She further detailed project expectations.

Director Hoffman pointed out that the position of Assistant General Manager (AGM) is not on the chart. Covington indicated it is on the list and reminded that the Board talked about an AGM or other title, if any at all. Things came up and other issues surfaced, he recalled. The Board's position was to hold off on the AGM and it was felt that perhaps they were getting ahead of themselves. The AGM employee would potentially be costly, and it would make more sense to do a review of the structure to find out where shortfalls are; the Board would not want to hire an AGM if that is not what is truly needed to push the District forward. The cost of the study outweighs what an AGM or other would be paid, then finding out that that was not the best way to spend money. At this point, the plan is to go through the structure of the District, so the Board and staff have a better understanding of any shortfalls. Once understood, reorganization can be considered, Covington concluded.

Hoffman asked who was performing and managing the enforcement of the water restrictions, which may be an ongoing thing. He said he is not seeing compliance. Jagers indicated this is a later discussion.

Covington invited public comment. There was none.

9. Policies and Procedures Manual Updates / Revisions

Human Resources Administrator Sabrina Foley reviewed the policies.

Policy 3135 Occupational Certification and Education: Ms. Foley reviewed changes based on discussion at the July 19 meeting. She reminded that Director Covington had requested a more robust policy.

Covington indicated that it should be clarified that this education is not tuition. It is continuing education, Foley stated.

The Committee recommended moving this policy forward to the Board for consideration by the following vote:

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

Policy 3085 Sick Leave. Ms. Foley reviewed the updates made per legal counsel and identified corrected typos.

Foley noted that there is no definition or current practice of a cap for sick leave and the policy does not propose a cap. It carries over without limitation, which is different from vacation time as it is not a liability. Jagers pointed out the buyback opportunity and the potential for movement to CalPERS upon retirement.

Covington pointed out that Incentive A is contradictory of the recently approved MOU, regarding maintaining a balance of 30 hours of sick leave. He requested keeping it consistent with the MOU at 40 hours.

Jaggers noted that for Incentive B, the beneficiary is the individual listed on the employee's life insurance beneficiary form and had been modified by the MOU but says the same thing.

Ms. Foley explained the change in terminology to "hours" instead of "days" to reflect the alternative work schedule, and updates to mirror the California Healthy Workplaces, Healthy Families Act.

Director Covington invited public comment. There was none.

The Committee recommended moving forward this policy, as amended, to the Board for consideration by the following vote:

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

Policy 3075 Vacation. Ms. Foley explained added language related to California law and updated accrual rates. An increase to the vacation accrual cap is proposed for non-exempt employees at the request of the Employees Association, she explained.

Detailed discussion regarding the vacation accrual cap and policy intent ensued. Employees have requested clarification that accrued vacation would be paid out automatically, Foley noted. Mr. Walker pointed out that District employees of longer duration and years of service almost feel that they are being punished with the accrual cap, as they accrue more hours than the cap provides. Covington noted that the accrual cap is driven by budget and by conversations regarding vacation in 2018 and 2019, indicating that the District wants employees to take vacation, not stockpile vacation hours. Mr. Jaggers explained that the accrual cap had originally been recommended by the District's auditor to limit liabilities for high payouts at the end of service, but stated that the District does not want to penalize workers. He advocated reducing the liability and compensating for vacation on a pay-as-you-go basis.

Mr. Walker discussed a tiered accrual matrix with consideration of years of service, as long-term employees now have a cap lower than their accrual rate. He suggested comparing to other agencies. Ms. Gonzales added that the original discussion was to cap the carryover at 120 hours, not have an accrual cap at 120. Jaggers agreed, provided more detail, and suggested a change in terminology. Foley pointed out that there could be a cap on both carryover and on accrual. Covington opined that this was to be a "use it or lose it" policy. Hoffman asked about the application of the cap during the year or at the end of the year, and Covington stated that the cap applies throughout, and the intent was to stop accrual at 120 hours.

Director Covington stated that he had no problem with employees carrying over accrued vacation from one year to the next; the bookend on that is the maximum amount that employees may keep on the books. He said that 320 hours would not garner his

approval; it is way too much, but he indicated willingness to consider more than 120. He reiterated that the goals are to limit liability and to have employees use their vacation.

Ms. Gonzales reminded that vacation is accrued throughout the year, but is awarded on January 1. Covington acknowledged that this is a problem, and suggested awarding the hours as they are accrued. Ms. Foley suggested striking the language regarding award of vacation.

Jaggers listed the following potential changes to the proposed policy:

1. Award vacation as it is accrued
2. Carryover (rollover) at the end of the year maximum

Mr. Rasha advised that the prior discussions of the Personnel Committee on vacation took place on November 26, 2018 and the recording can be made available.

The Committee directed staff to bring back the policy. Covington requested more robust language in section 3075.6 on carryover. He said the cap for non-exempt employees must be identified and said he was not opposed to 160 hours. There should be two opportunities to buy back vacation, he added.

Jaggers offered a scenario for buyback and noted potential hours over the cap. Covington disagreed; saying "a cap is a cap." He stated he would not buy into raising the cap for exempt employees. Use it or cash out, he said, reiterating that the District needs to put a ceiling on its liability.

Mr. Jaggers reminded that the Committee had requested bring back of a few policies at a time, but there is a policy manual that is two different styles, and the matrix must be references to know whether there is a new policy. There are still many policies to address, he said, and suggested a workshop with a person to assist with completion of the project. Covington pointed out this means more and/or longer meetings, and quality is the paramount driver.

Director Covington invited public comment. There was none.

10. Action List for Future Meetings

- *Employee Association topics (none added)*
- *Policy manual updates (ongoing)*

11. Next Meeting Date: Tuesday, September 20, 2022, at 5:30 p.m.

ADJOURNMENT: 7:50 p.m.

Attest:

DRAFT UNTIL APPROVED

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



**Beaumont-Cherry Valley Water District
Personnel Committee Meeting
September 20, 2022**

Item 5

HUMAN RESOURCES REPORT

TO: Board of Directors Personnel Committee
FROM: Sabrina Foley, Human Resources Administrator
SUBJECT: Human Resources Department Report for the Period of August 9, 2022 – September 12, 2022

Personnel

Total Current Employees (Excluding Board Members)	43
Full-Time Employees	39
Part-Time	2
Temporary	3
Interns	0
Separations	2
Retiring Employees	0

New Hires

Temporary Water Utility Worker I started on 8/22/2022.

Anniversaries*

Employee Name	Job Title	Years of Service
Daniel Baguyo	Engineering Assistant	3

**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

8/11/2022: HR Memo #22-016, Notice of Intention to Amend the Conflict of Interest Code
8/16/2022: HR announced and shared 2022 engagement survey results in TargetSolutions
8/16/2022: HR Memo #22-017, Great Place to Work Certification
8/22/2022: HR announced a new hire (Temporary Water Utility Worker I)



8/22/2022: HR announced an employee COVID exposure

8/23/2022: HR shared a flyer about the 2022 Health Fair event

8/30/2022: HR announced an employee COVID exposure

9/12/2022: HR Memo #22-018, BCVWD Open Enrollment Announcement

Pending Legislation

Bill/Legislation	Title	Description	Status
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.	Enrolled and presented to the Governor (see Attachment 1).
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.	Enrolled and presented to the Governor (see Attachment 2).
AB 1751	Workers' Compensation: COVID-19 Critical Workers	Would extend the presumption of injury resulting from COVID-19 until January 1, 2024.	Amended-In Assembly.
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.	Enrolled and presented to the Governor.



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. Enrolled and presented to the Governor (see Attachment 3).
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.	Enrollment (see Attachment 4).
AB 2188	Discrimination in employment: use of cannabis	Beginning 1/1/2024, 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, except for pre-employment drug screening as specified.	Amended and enrolled (see Attachment 5).
AB 2243	Occupational safety and health standards: heat illness and wildfire smoke	Requires Division of Occupational Safety and Health to submit a rulemaking proposal by 12/1/2025 to consider revising the heat illness standard and wildfire smoke standard.	Enrolled and presented to the Governor.
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.	Enrolled and presented to the Governor.



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 a military leave of absence.	Enrollment.
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 because the employee has a reasonable belief that the workplace or worksite is unsafe. This aspect of the bill does not apply to Disaster Service Workers, first responders, etc.	Amended, enrolled, and presented to the Governor (see Attachment 6).

Attachments:

1. Bill Text AB 1632 Restroom access: medical conditions
2. Bill Text AB 1711 Privacy: breach
3. Bill Text AB 1041 Employment: leave
4. Bill Text AB 1949 Employees: bereavement leave
5. Bill Text AB 2188 Discrimination in employment: use of cannabis
6. Bill Text SB 1044 Employers: emergency condition: retaliation

Prepared by Sabrina Foley, Human Resources Administrator



AB-1632 Restroom access: medical conditions. (2021-2022)

SHARE THIS:



Date Published: 08/25/2022 09:00 PM

ENROLLED AUGUST 25, 2022
PASSED IN SENATE AUGUST 22, 2022
PASSED IN ASSEMBLY AUGUST 23, 2022
AMENDED IN SENATE AUGUST 16, 2022
AMENDED IN SENATE AUGUST 01, 2022
AMENDED IN ASSEMBLY APRIL 21, 2022
AMENDED IN ASSEMBLY MARCH 22, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 1632

**Introduced by Assembly Member Akilah Weber
(Coauthor: Assembly Member Lee)
(Coauthor: Senator Bates)**

January 11, 2022

An act to add Article 6 (commencing with Section 118700) to Chapter 2 of Part 15 of Division 104 of the Health and Safety Code, relating to restroom access.

LEGISLATIVE COUNSEL'S DIGEST

AB 1632, Akilah Weber. Restroom access: medical conditions.

Existing law sets forth various requirements for providing restroom access in the workplace, place of public accommodation, or elsewhere, under specified circumstances, including, among others, provisions relating to employees, disabled travelers, baby diaper changing stations, and all-gender toilet facilities.

This bill would, if certain conditions are met, require a place of business that is open to the general public for the sale of goods and that has a toilet facility for its employees to allow any individual who is lawfully on the premises of that place of business to use that toilet facility during normal business hours, even if the place of business does not normally make the employee toilet facility available to the general public. A willful or grossly negligent violation of this requirement would be subject to a civil penalty, not exceeding \$100 per violation, without creating or implying a private right of action, and without applying to an employee. Under the bill, an employee would not be subject to discharge or any other disciplinary action by their employer for a violation of

this requirement, unless the employee's action is contrary to an expressed policy developed by their employer pursuant to these provisions.

Under the bill, conditions for the above requirement would include, among others, that the individual has an eligible medical condition or uses an ostomy device, that a public restroom is not immediately accessible to the individual, and that providing access would not create an obvious health or safety risk to the individual or obvious security risk to the place of business. The bill would define "eligible medical condition" as Crohn's disease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome, or another medical condition that requires immediate access to a toilet facility.

The bill would permit the place of business to require the individual to present reasonable evidence of an eligible medical condition or use of an ostomy device. The bill would authorize the individual to satisfy that evidence requirement through a signed statement by a licensed physician, nurse practitioner, or physician assistant, on a specified form to be developed by the State Department of Public Health and posted on its internet website.

¹¹_{SEP}The bill would require the department to implement these provisions in consultation with the Department of Consumer Affairs, and only to the extent not in conflict with nor construed to limit rights under civil rights law, as specified.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Article 6 (commencing with Section 118700) is added to Chapter 2 of Part 15 of Division 104 of the Health and Safety Code, to read:

Article 6. Restroom Access for Medical Conditions

118700. For purposes of this article, the following definitions apply:

(a) "Department" means the State Department of Public Health, unless otherwise specified.

(b) "Eligible medical condition" means Crohn's disease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome, or another medical condition that requires immediate access to a toilet facility.

118701. (a) The State Department of Public Health shall implement this article, in consultation with the Department of Consumer Affairs.

(b) This article shall be implemented only to the extent that it is neither in conflict with nor construed to limit rights under the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), the Unruh Civil Rights Act (Section 51 of the Civil Code), or any other civil rights law, as applicable.

(c) An employee toilet facility, as accessed pursuant to this article, shall not be construed as a place of public accommodation for purposes of state law.

118702. (a) A place of business that is open to the general public for the sale of goods and that has a toilet facility for its employees shall allow any individual who is lawfully on the premises of that place of business to use that toilet facility during normal business hours, even if the place of business does not normally make the employee toilet facility available to the general public, if all of the following conditions are met:

(1) The individual requesting use of the employee toilet facility has an eligible medical condition, as defined in Section 118700, or uses an ostomy device. The place of business may require the individual to present reasonable evidence that the individual meets the condition in this paragraph, as described in subdivision (b).

(2) Three or more employees of the place of business are working onsite at the time that the individual requests use of the employee toilet facility.

(3) The employee toilet facility is not located in an employee changing area or an area where providing access would create an obvious health or safety risk to the requesting individual or would create an obvious security risk to the place of business.

(4) Use of the employee toilet facility would not create an obvious health or safety risk to the requesting individual.

(5) A public restroom is not immediately accessible to the requesting individual.

(b) If the place of business requires the requesting individual to present reasonable evidence that the individual has an eligible medical condition or uses an ostomy device, the individual may present a signed statement issued to the individual by a physician, nurse practitioner, or physician assistant, licensed under the Business and Professions Code, on a form developed by the department pursuant to Section 118703. The signed statement is sufficient for purposes of presenting reasonable evidence, if required by the place of business.

(c) (1) Subject to paragraphs (2) to (4), inclusive, a violation of subdivision (a) is subject to a civil penalty not exceeding one hundred dollars (\$100) for each violation.

(2) A place of business is not civilly liable for a violation of subdivision (a) unless the violation is willful or grossly negligent.

(3) An employee of a place of business is not civilly liable, and shall not be subject to paragraph (1), for a violation of subdivision (a). The employee shall not be subject to discharge or any other disciplinary action by their employer for a violation of subdivision (a), unless the employee's action is contrary to an expressed policy developed by their employer pursuant to this section.

(4) This section does not create or imply a private right of action for a violation of subdivision (a).

(d) A place of business is not required to make any physical changes to an employee toilet facility for purposes of this section.

118703. (a) The department shall develop a standard electronic form that may be signed by a health care provider, as specified in subdivision (b) of Section 118702, to serve as reasonable evidence of the existence of an eligible medical condition or use of an ostomy device. The department shall post the form, in a printable format, on the department's internet website.

(b) The form shall include all of the following components:

(1) Space for the requesting individual's name.

(2) Space for the requesting individual's address.

(3) Space for the requesting individual's date of birth.

(4) Space for the health care provider's name, signature, and statement confirming the eligible medical condition or use of an ostomy device.

(5) Both of the following statements:

(A) "MEDICAL ALERT: RESTROOM ACCESS REQUIRED."

(B) "The holder of this form uses an ostomy device or suffers from Crohn's disease, ulcerative colitis, other inflammatory bowel disease, irritable bowel syndrome, or another medical condition that requires immediate access to a toilet facility."

(6) A reference to this article and to any regulations adopted to implement this article.



AB-1711 Privacy: breach. (2021-2022)

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ENROLLED AUGUST 26, 2022
PASSED IN SENATE AUGUST 23, 2022
PASSED IN ASSEMBLY AUGUST 24, 2022
AMENDED IN SENATE AUGUST 08, 2022
AMENDED IN ASSEMBLY APRIL 21, 2022
AMENDED IN ASSEMBLY MARCH 23, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 1711

Introduced by Assembly Member Seyarto

January 26, 2022

An act to amend Section 1798.29 of the Civil Code, relating to privacy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1711, Seyarto. Privacy: breach.

Existing law requires an agency or a person or business that conducts business in California that owns or licenses computerized data that includes personal information to disclose a breach of security of the system following discovery or notification of the breach in the security data to certain residents of California, as specified.

This bill would require an agency to post a notice on the agency's internet website when a person or business operating a system on behalf of the agency is required to issue a security breach notification for that system pursuant to the above-described provisions, as specified.

This bill would incorporate additional changes to Section 1798.29 of the Civil Code proposed by AB 2958 to be operative only if this bill and AB 2958 are enacted and this bill is enacted last.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 1798.29 of the Civil Code is amended to read:

1798.29. (a) Any agency that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California (1) whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person, or, (2) whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the encryption key or security credential was, or is reasonably believed to have been, acquired by an unauthorized person and the agency that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information readable or usable. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) (1) Any agency that maintains computerized data that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(2) When a person or business operating a system on behalf of an agency is required to disclose a breach of that system pursuant to this section or to Section 1798.82, the agency shall also disclose the breach by conspicuously posting, for a minimum of 30 days, the notice provided by the person or business pursuant to this section or Section 1798.82 on the agency's internet website, if the agency maintains one. The disclosure shall be posted in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. For purposes of this paragraph, conspicuously posting on the agency's internet website means providing a link to the notice on the home page or first significant page after entering the internet website that is in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the link.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) Any agency that is required to issue a security breach notification pursuant to this section shall meet all of the following requirements:

(1) The security breach notification shall be written in plain language, shall be titled "Notice of Data Breach," and shall present the information described in paragraph (2) under the following headings: "What Happened," "What Information Was Involved," "What We Are Doing," "What You Can Do," and "For More Information." Additional information may be provided as a supplement to the notice.

(A) The format of the notice shall be designed to call attention to the nature and significance of the information it contains.

(B) The title and headings in the notice shall be clearly and conspicuously displayed.

(C) The text of the notice and any other notice provided pursuant to this section shall be no smaller than 10-point type.

(D) For a written notice described in paragraph (1) of subdivision (i), use of the model security breach notification form prescribed below or use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

[NAME OF INSTITUTION / LOGO] _____ Date: [insert date]	
NOTICE OF DATA BREACH	

What Happened?	
What Information Was Involved?	
What We Are Doing.	
What You Can Do.	
<p>Other Important Information. [insert other important information]</p>	
For More Information.	Call [telephone number] or go to [internet website]

(E) For an electronic notice described in paragraph (2) of subdivision (i), use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

(2) The security breach notification described in paragraph (1) shall include, at a minimum, the following information:

(A) The name and contact information of the reporting agency subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, then any of the following: (i) the date of the breach, (ii) the estimated date of the breach, or (iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

(D) Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

(E) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

(F) The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a social security number or a driver's license or California identification card number.

(3) At the discretion of the agency, the security breach notification may also include any of the following:

(A) Information about what the agency has done to protect individuals whose information has been breached.

(B) Advice on steps that people whose information has been breached may take to protect themselves.

(e) Any agency that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General. A single sample copy of a security breach notification shall not be deemed to be within Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

(f) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(g) For purposes of this section, "personal information" means either of the following:

(1) An individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(A) Social security number.

(B) Driver's license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual.

(C) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(D) Medical information.

(E) Health insurance information.

(F) Unique biometric data generated from measurements or technical analysis of human body characteristics, such as a fingerprint, retina, or iris image, used to authenticate a specific individual. Unique biometric data does not include a physical or digital photograph, unless used or stored for facial recognition purposes.

(G) Information or data collected through the use or operation of an automated license plate recognition system, as defined in Section 1798.90.5.

(H) Genetic data.

(2) A username or email address, in combination with a password or security question and answer that would permit access to an online account.

(h) (1) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(2) For purposes of this section, "medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.

(3) For purposes of this section, "health insurance information" means an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records.

(4) For purposes of this section, "encrypted" means rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information security.

(5) For purposes of this section, "genetic data" means any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material. Genetic material includes, but is not limited to, deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom.

(i) For purposes of this section, "notice" may be provided by one of the following methods:

(1) Written notice.

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

(3) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars (\$250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

(A) Email notice when the agency has an email address for the subject persons.

(B) Conspicuous posting, for a minimum of 30 days, of the notice on the agency's internet website, if the agency maintains one. For purposes of this subparagraph, conspicuous posting on the agency's internet website means providing a link to the notice on the home page or first significant page after entering the internet website that is in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the link.

(C) Notification to major statewide media and the Office of Information Security within the Department of Technology.

(4) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (g) for an online account, and no other personal information defined in paragraph (1) of subdivision (g), the agency may comply with this section by providing the security breach notification in electronic or other form that directs the person whose personal information has been breached to promptly change the person's password and security question or answer, as applicable, or to take other steps appropriate to protect the online account with the agency and all other online accounts for which the person uses the same username or email address and password or security question or answer.

(5) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (g) for login credentials of an email account furnished by the agency, the agency shall not comply with this section by providing the security breach notification to that email address, but may, instead, comply with this section by providing notice by another method described in this subdivision or by clear and conspicuous notice delivered to the resident online when the resident is connected to the online account from an Internet Protocol address or online location from which the agency knows the resident customarily accesses the account.

(j) Notwithstanding subdivision (i), an agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part shall be deemed to be in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(k) Notwithstanding the exception specified in paragraph (4) of subdivision (b) of Section 1798.3, for purposes of this section, "agency" includes a local agency, as defined in subdivision (a) of Section 6252 of the Government Code.

(l) For purposes of this section, "encryption key" and "security credential" mean the confidential key or process designed to render the data usable, readable, and decipherable.

SEC. 1.5. Section 1798.29 of the Civil Code is amended to read:

1798.29. (a) Any agency that owns or licenses computerized data that includes personal information shall disclose any breach of the security of the system following discovery or notification of the breach in the security of the data to any resident of California (1) whose unencrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person, or, (2) whose encrypted personal information was, or is reasonably believed to have been, acquired by an unauthorized person and the encryption key or security credential was, or is reasonably believed to have been, acquired by an unauthorized person and the agency that owns or licenses the encrypted information has a reasonable belief that the encryption key or security credential could render that personal information readable or usable. The disclosure shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system.

(b) (1) Any agency that maintains computerized data that includes personal information that the agency does not own shall notify the owner or licensee of the information of any breach of the security of the data immediately following discovery, if the personal information was, or is reasonably believed to have been, acquired by an unauthorized person.

(2) When a person or business operating a system on behalf of an agency is required to disclose a breach of that system pursuant to this section or to Section 1798.82, the agency shall also disclose the breach by conspicuously posting, for a minimum of 30 days, the notice provided by the person or business pursuant to this section or Section 1798.82 on the agency's internet website, if the agency maintains one. The disclosure shall be posted in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subdivision (c), or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. For purposes of this paragraph, conspicuously posting on the agency's internet website means providing a link to the notice on the home page or first significant page after entering the internet website that is in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the link.

(c) The notification required by this section may be delayed if a law enforcement agency determines that the notification will impede a criminal investigation. The notification required by this section shall be made after the law enforcement agency determines that it will not compromise the investigation.

(d) Any agency that is required to issue a security breach notification pursuant to this section shall meet all of the following requirements:

(1) The security breach notification shall be written in plain language, shall be titled "Notice of Data Breach," and shall present the information described in paragraph (2) under the following headings: "What Happened," "What Information Was Involved," "What We Are Doing," "What You Can Do," and "For More Information." Additional information may be provided as a supplement to the notice.

(A) The format of the notice shall be designed to call attention to the nature and significance of the information it contains.

(B) The title and headings in the notice shall be clearly and conspicuously displayed.

(C) The text of the notice and any other notice provided pursuant to this section shall be no smaller than 10-point type.

(D) For a written notice described in paragraph (1) of subdivision (i), use of the model security breach notification form prescribed below or use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

[NAME OF INSTITUTION / LOGO] _____ Date: [insert date]

NOTICE OF DATA BREACH

What Happened?

What Information Was Involved?

What We Are Doing.

What You Can Do.

Other Important Information.
[insert other important information]

For More Information. Call [telephone number] or go to [internet website]

(E) For an electronic notice described in paragraph (2) of subdivision (i), use of the headings described in this paragraph with the information described in paragraph (2), written in plain language, shall be deemed to be in compliance with this subdivision.

(2) The security breach notification described in paragraph (1) shall include, at a minimum, the following information:

(A) The name and contact information of the reporting agency subject to this section.

(B) A list of the types of personal information that were or are reasonably believed to have been the subject of a breach.

(C) If the information is possible to determine at the time the notice is provided, then any of the following: (i) the date of the breach, (ii) the estimated date of the breach, or (iii) the date range within which the breach occurred. The notification shall also include the date of the notice.

(D) Whether the notification was delayed as a result of a law enforcement investigation, if that information is possible to determine at the time the notice is provided.

(E) A general description of the breach incident, if that information is possible to determine at the time the notice is provided.

(F) The toll-free telephone numbers and addresses of the major credit reporting agencies, if the breach exposed a social security number or a driver's license or California identification card number.

(3) At the discretion of the agency, the security breach notification may also include any of the following:

(A) Information about what the agency has done to protect individuals whose information has been breached.

(B) Advice on steps that people whose information has been breached may take to protect themselves.

(e) Any agency that is required to issue a security breach notification pursuant to this section to more than 500 California residents as a result of a single breach of the security system shall electronically submit a single sample copy of that security breach notification, excluding any personally identifiable information, to the Attorney General. A single sample copy of a security breach notification shall not be deemed to be within Article 1 (commencing with Section 7923.600) of Chapter 1 of Part 5 of Division 10 of Title 1 of the Government Code.

(f) For purposes of this section, "breach of the security of the system" means unauthorized acquisition of computerized data that compromises the security, confidentiality, or integrity of personal information maintained by the agency. Good faith acquisition of personal information by an employee or agent of the agency for the purposes of the agency is not a breach of the security of the system, provided that the personal information is not used or subject to further unauthorized disclosure.

(g) For purposes of this section, "personal information" means either of the following:

(1) An individual's first name or first initial and last name in combination with any one or more of the following data elements, when either the name or the data elements are not encrypted:

(A) Social security number.

(B) Driver's license number, California identification card number, tax identification number, passport number, military identification number, or other unique identification number issued on a government document commonly used to verify the identity of a specific individual.

(C) Account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account.

(D) Medical information.

(E) Health insurance information.

(F) Unique biometric data generated from measurements or technical analysis of human body characteristics, such as a fingerprint, retina, or iris image, used to authenticate a specific individual. Unique biometric data does not include a physical or digital photograph, unless used or stored for facial recognition purposes.

(G) Information or data collected through the use or operation of an automated license plate recognition system, as defined in Section 1798.90.5.

(H) Genetic data.

(2) A username or email address, in combination with a password or security question and answer that would permit access to an online account.

(h) (1) For purposes of this section, "personal information" does not include publicly available information that is lawfully made available to the general public from federal, state, or local government records.

(2) For purposes of this section, "medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional.

(3) For purposes of this section, "health insurance information" means an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual, or any information in an individual's application and claims history, including any appeals records.

(4) For purposes of this section, "encrypted" means rendered unusable, unreadable, or indecipherable to an unauthorized person through a security technology or methodology generally accepted in the field of information security.

(5) For purposes of this section, "genetic data" means any data, regardless of its format, that results from the analysis of a biological sample of an individual, or from another source enabling equivalent information to be obtained, and concerns genetic material. Genetic material includes, but is not limited to, deoxyribonucleic acids (DNA), ribonucleic acids (RNA), genes, chromosomes, alleles, genomes, alterations or modifications to DNA or RNA, single nucleotide polymorphisms (SNPs), uninterpreted data that results from analysis of the biological sample or other source, and any information extrapolated, derived, or inferred therefrom.

(i) For purposes of this section, "notice" may be provided by one of the following methods:

(1) Written notice.

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in Section 7001 of Title 15 of the United States Code.

(3) Substitute notice, if the agency demonstrates that the cost of providing notice would exceed two hundred fifty thousand dollars (\$250,000), or that the affected class of subject persons to be notified exceeds 500,000, or the agency does not have sufficient contact information. Substitute notice shall consist of all of the following:

(A) Email notice when the agency has an email address for the subject persons.

(B) Conspicuous posting, for a minimum of 30 days, of the notice on the agency's internet website, if the agency maintains one. For purposes of this subparagraph, conspicuous posting on the agency's internet website means providing a link to the notice on the home page or first significant page after entering the internet website that is in larger type than the surrounding text, or in contrasting type, font, or color to the surrounding text of the same size, or set off from the surrounding text of the same size by symbols or other marks that call attention to the link.

(C) Notification to major statewide media and the Office of Information Security within the Department of Technology.

(4) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (g) for an online account, and no other personal information defined in paragraph (1) of subdivision (g), the agency may comply with this section by providing the security breach notification in electronic or other form that directs the person whose personal information has been breached to promptly change the person's password and security question or answer, as applicable, or to take other steps appropriate to protect the online account with the agency and all other online accounts for which the person uses the same username or email address and password or security question or answer.

(5) In the case of a breach of the security of the system involving personal information defined in paragraph (2) of subdivision (g) for login credentials of an email account furnished by the agency, the agency shall not comply with this section by providing the security breach notification to that email address, but may, instead, comply with this section by providing notice by another method described in this subdivision or by clear and conspicuous notice delivered to the resident online when the resident is connected to the online account from

an Internet Protocol address or online location from which the agency knows the resident customarily accesses the account.

(j) Notwithstanding subdivision (i), an agency that maintains its own notification procedures as part of an information security policy for the treatment of personal information and is otherwise consistent with the timing requirements of this part shall be deemed to be in compliance with the notification requirements of this section if it notifies subject persons in accordance with its policies in the event of a breach of security of the system.

(k) Notwithstanding the exception specified in paragraph (4) of subdivision (b) of Section 1798.3, for purposes of this section, "agency" includes a local agency, as defined in Section 7920.510 of the Government Code.

(l) For purposes of this section, "encryption key" and "security credential" mean the confidential key or process designed to render the data usable, readable, and decipherable.

(m) Notwithstanding any other law, the State Bar of California shall comply with this section. This subdivision shall not be construed to apply other provisions of this chapter to the State Bar.

SEC. 2. Section 1.5 of this bill incorporates amendments to Section 1798.29 of the Civil Code proposed by both this bill and Assembly Bill 2958. That section of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2023, (2) each bill amends Section 1798.29 of the Civil Code, and (3) this bill is enacted after Assembly Bill 2958, in which case Section 1 of this bill shall not become operative.



AB-1041 Employment: leave. (2021-2022)

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ENROLLED AUGUST 29, 2022
PASSED IN SENATE AUGUST 24, 2022
PASSED IN ASSEMBLY AUGUST 25, 2022
AMENDED IN SENATE AUGUST 16, 2022
AMENDED IN SENATE AUGUST 08, 2022
AMENDED IN SENATE SEPTEMBER 03, 2021
AMENDED IN ASSEMBLY APRIL 22, 2021

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 1041

**Introduced by Assembly Member Wicks
(Coauthors: Assembly Members Bauer-Kahan and Ward)
(Coauthors: Senators Newman and Wiener)**

February 18, 2021

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

LEGISLATIVE COUNSEL'S DIGEST

AB 1041, Wicks. Employment: leave.

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

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

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

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

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

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

12945.2. (a) It shall be an unlawful employment practice for any employer, as defined in paragraph (4) of subdivision (b), to refuse to grant a request by any employee with more than 12 months of service with the employer, and who has at least 1,250 hours of service with the employer during the previous 12-month period or who meets the requirements of subdivision (r), to take up to a total of 12 workweeks in any 12-month period for family care and medical leave. Family care and medical leave requested pursuant to this subdivision shall not be deemed to have been granted unless the employer provides the employee, upon granting the leave request, a guarantee of employment in the same or a comparable position upon the termination of the leave. The council shall adopt a regulation specifying the elements of a reasonable request.

(b) For purposes of this section:

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

(2) "Designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. An employer may limit an employee to one designated person per 12-month period for family care and medical leave.

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

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

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

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

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

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

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

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

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

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

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

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

(9) "Grandparent" means a parent of the employee's parent.

(10) "Health care provider" means any of the following:

(A) An individual holding either a physician's and surgeon's certificate issued pursuant to Article 4 (commencing with Section 2080) of Chapter 5 of Division 2 of the Business and Professions Code, an osteopathic physician's and surgeon's certificate issued pursuant to Article 4.5 (commencing with Section 2099.5) of Chapter 5 of Division 2 of the Business and Professions Code, or an individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, who directly treats or supervises the treatment of the serious health condition.

(B) Any other person determined by the United States Secretary of Labor to be capable of providing health care services under the FMLA.

(11) "Parent" means a biological, foster, or adoptive parent, a parent-in-law, a stepparent, a legal guardian, or other person who stood in loco parentis to the employee when the employee was a child.

(12) "Parent-in-law" means the parent of a spouse or domestic partner.

(13) "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves either of the following:

(A) Inpatient care in a hospital, hospice, or residential health care facility.

(B) Continuing treatment or continuing supervision by a health care provider.

(14) "Sibling" means a person related to another person by blood, adoption, or affinity through a common legal or biological parent.

(c) An employer shall not be required to pay an employee for any leave taken pursuant to subdivision (a), except as required by subdivision (d).

(d) An employee taking a leave permitted by subdivision (a) may elect, or an employer may require the employee, to substitute, for leave allowed under subdivision (a), any of the employee's accrued vacation leave or other accrued time off during this period or any other paid or unpaid time off negotiated with the employer. If an employee takes a leave because of the employee's own serious health condition, the employee may also elect, or the employer may also require the employee, to substitute accrued sick leave during the period of the leave. However, an employee shall not use sick leave during a period of leave in connection with the birth, adoption, or foster care of a child, or to care for a child, parent, grandparent, grandchild, sibling, spouse, domestic partner, or designated person with a serious health condition, unless mutually agreed to by the employer and the employee.

(e) (1) During any period that an eligible employee takes leave pursuant to subdivision (a) or takes leave that qualifies as leave taken under the FMLA, the employer shall maintain and pay for coverage under a "group health plan," as defined in Section 5000(b)(1) of the Internal Revenue Code, for the duration of the leave, not to exceed 12 workweeks in a 12-month period, commencing on the date leave taken under the FMLA commences, at the level and under the conditions coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. Nothing in the preceding sentence shall preclude an employer from maintaining and paying for coverage under a "group health plan" beyond 12 workweeks. An employer may recover the premium that the employer paid as required by this subdivision for maintaining coverage for the employee under the group health plan if both of the following conditions occur:

(A) The employee fails to return from leave after the period of leave to which the employee is entitled has expired.

(B) The employee's failure to return from leave is for a reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to leave under subdivision (a) or other circumstances beyond the control of the employee.

(2) Any employee taking leave pursuant to subdivision (a) shall continue to be entitled to participate in employee health plans for any period during which coverage is not provided by the employer under paragraph (1), employee benefit plans, including life insurance or short-term or long-term disability or accident insurance, pension and retirement plans, and supplemental unemployment benefit plans to the same extent and under

the same conditions as apply to an unpaid leave taken for any purpose other than those described in subdivision (a). In the absence of these conditions an employee shall continue to be entitled to participate in these plans and, in the case of health and welfare employee benefit plans, including life insurance or short-term or long-term disability or accident insurance, or other similar plans, the employer may, at the employer's discretion, require the employee to pay premiums, at the group rate, during the period of leave not covered by any accrued vacation leave, or other accrued time off, or any other paid or unpaid time off negotiated with the employer, as a condition of continued coverage during the leave period. However, the nonpayment of premiums by an employee shall not constitute a break in service, for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan.

For purposes of pension and retirement plans, an employer shall not be required to make plan payments for an employee during the leave period, and the leave period shall not be required to be counted for purposes of time accrued under the plan. However, an employee covered by a pension plan may continue to make contributions in accordance with the terms of the plan during the period of the leave.

(f) During a family care and medical leave period, the employee shall retain employee status with the employer, and the leave shall not constitute a break in service, for purposes of longevity, seniority under any collective bargaining agreement, or any employee benefit plan. An employee returning from leave shall return with no less seniority than the employee had when the leave commenced, for purposes of layoff, recall, promotion, job assignment, and seniority-related benefits such as vacation.

(g) If the employee's need for a leave pursuant to this section is foreseeable, the employee shall provide the employer with reasonable advance notice of the need for the leave.

(h) If the employee's need for leave pursuant to this section is foreseeable due to a planned medical treatment or supervision, the employee shall make a reasonable effort to schedule the treatment or supervision to avoid disruption to the operations of the employer, subject to the approval of the health care provider of the individual requiring the treatment or supervision.

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

(A) The date on which the serious health condition commenced.

(B) The probable duration of the condition.

(C) An estimate of the amount of time that the health care provider believes the employee needs to care for the individual requiring the care.

(D) A statement that the serious health condition warrants the participation of a family member to provide care during a period of the treatment or supervision of the individual requiring care.

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

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

(A) The date on which the serious health condition commenced.

(B) The probable duration of the condition.

(C) A statement that, due to the serious health condition, the employee is unable to perform the function of the employee's position.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

245.5. As used in this article:

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

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

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

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

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

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

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

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

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

(3) A spouse.

(4) A registered domestic partner.

(5) A grandparent.

(6) A grandchild.

(7) A sibling.

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

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

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



AB-1949 Employees: bereavement leave. (2021-2022)

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CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 1949

Introduced by Assembly Member Low

February 10, 2022

An act to amend Sections 12945.21 and 19859.3 of, and to add Section 12945.7 to, the Government Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 1949, Low. Employees: bereavement leave.

Existing law, commonly known as the California Family Rights Act, which is a part of the California Fair Employment and Housing Act, makes it an unlawful employment practice for an employer, as defined, to refuse to grant a request by an eligible employee to take up to 12 workweeks of unpaid protected leave during any 12-month period for family care and medical leave, as specified.

This bill would additionally make it an unlawful employment practice for an employer to refuse to grant a request by an eligible employee to take up to 5 days of bereavement leave upon the death of a family member, as defined. The bill would require that leave be completed within 3 months of the date of death. The bill would require that leave be taken pursuant to any existing bereavement leave policy of the employer. Under the bill, in the absence of an existing policy, the bereavement leave may be unpaid. However, the bill would authorize an employee to use certain other leave balances otherwise available to the employee, including accrued and available paid sick leave.

This bill would require, if an existing leave policy provides for less than 5 days of bereavement leave, a total of at least 5 days of bereavement leave for the employee, as prescribed. The bill would make it an unlawful

employment practice for an employer to engage in specified acts of discrimination, interference, or retaliation relating to an individual's exercise of rights under the bill. The bill would require the employer to maintain employee confidentiality relating to bereavement leave, as specified. The bill would not apply to an employee who is covered by a valid collective bargaining agreement that provides for prescribed bereavement leave and other specified working conditions.

Existing law requires the Department of Fair Employment and Housing to create a small employer family leave mediation pilot program for alleged violations of specified family care and medical leave provisions, applicable to employers with between 5 and 19 employees.

This bill would require the Department of Fair Employment and Housing to expand the program to include mediation for alleged violations of these provisions.

Existing law grants specified permanent employees of the state up to 3 days of bereavement leave, with up to 2 additional days of bereavement leave upon request if the death is out of state. Existing law specifies that these 2 additional days are to be without pay or are to be charged against existing sick leave credits.

This bill would recast those provisions to specify that the first 3 days of bereavement leave are to be paid leave, and to remove the condition that the death be out of state for the additional 2 days.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 12945.7 is added to the Government Code, to read:

12945.7. (a) As used in this section:

(1) (A) "Employee" means a person employed by the employer for at least 30 days prior to the commencement of the leave.

(B) "Employee" does not include a person who is covered by Section 19859.3.

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

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

(B) The state and any political or civil subdivision of the state, including, but not limited to, cities and counties.

(3) "Family member" means a spouse or a child, parent, sibling, grandparent, grandchild, domestic partner, or parent-in-law as defined in Section 12945.2.

(b) It shall be an unlawful employment practice for an employer to refuse to grant a request by any employee to take up to five days of bereavement leave upon the death of a family member.

(c) The days of bereavement leave need not be consecutive.

(d) The bereavement leave shall be completed within three months of the date of death of the family member.

(e) (1) The bereavement leave shall be taken pursuant to any existing bereavement leave policy of the employer.

(2) If there is no existing bereavement leave policy, the bereavement leave may be unpaid, except that an employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee.

(3) If an existing leave policy provides for less than five days of paid bereavement leave, the employee shall be entitled to no less than a total of five days of bereavement leave, consisting of the number of days of paid leave under the existing policy, and the remainder of days of leave may be unpaid, except that an employee

may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee.

(4) If an existing leave policy provides for less than five days of unpaid bereavement leave, the employee shall be entitled to no less than five days of unpaid bereavement leave, except that an employee may use vacation, personal leave, accrued and available sick leave, or compensatory time off that is otherwise available to the employee.

(f) The employee, if requested by the employer, within 30 days of the first day of the leave, shall provide documentation of the death of the family member. As used in this subdivision, "documentation" includes, but is not limited to, a death certificate, a published obituary, or written verification of death, burial, or memorial services from a mortuary, funeral home, burial society, crematorium, religious institution, or governmental agency.

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

(1) An individual's exercise of the right to bereavement leave provided by subdivision (b).

(2) An individual's giving information or testimony as to their own bereavement leave, or another person's bereavement leave, in an inquiry or proceeding related to rights guaranteed under this section.

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

(i) The employer shall maintain the confidentiality of any employee requesting leave under this section. Any documentation provided to the employer pursuant to subdivision (f) or subdivision (g) shall be maintained as confidential and shall not be disclosed except to internal personnel or counsel, as necessary, or as required by law.

(j) An employee's right to leave under this section shall be construed as separate and distinct from any right under Section 12945.2.

(k) The section does not apply to an employee who is covered by a valid collective bargaining agreement if the agreement expressly provides for bereavement leave equivalent to that required by this section and for the wages, hours of work, and working conditions of the employees, and if the agreement provides premium wage rates for all overtime hours worked, where applicable, and a regular hourly rate of pay for those employees of not less than 30 percent above the state minimum wage.

SEC. 2. Section 12945.21 of the Government Code is amended to read:

12945.21. (a) The department shall create a small employer family leave mediation pilot program for employers with between 5 and 19 employees. Under the pilot program, when an employee requests an immediate right to sue alleging a violation of Section 12945.2 or Section 12945.7 by an employer having between 5 and 19 employees, the department shall notify the employee in writing of the requirement for mediation prior to filing a civil action if mediation is requested by the employer or employee. The employee shall contact the department's dispute resolution division prior to filing a civil action.

(b) (1) Under the pilot program, the employee shall contact the department's dispute resolution division prior to filing a civil action in the manner specified by the department. The employee shall also indicate whether they are requesting mediation.

(2) Upon contacting the dispute resolution division regarding the intent to pursue a legal action for a violation of Section 12945.2 or Section 12945.7 by an employer having between 5 and 19 employees, the department shall notify all named respondents of the alleged violation and the requirement for mediation, if mediation is requested by the employee or employer, in writing.

(3) The department shall terminate its activity if neither the employee nor the employer requests mediation within 30 days of receipt by all named respondents of the notification specified in paragraph (2).

(4) If the department receives a request for mediation from the employee or employer within 30 days of receipt by all named respondents of the notification specified in paragraph (2), the department shall initiate

the mediation within 60 days of the department's receipt of the request or the receipt of the notification by all named respondents, whichever is later.

(5) Once the mediation has been initiated, no later than seven days before the mediation date, the mediator shall notify the employee of their right to request information pursuant to Sections 226 and 1198.5 of the Labor Code. The mediator shall also help facilitate any other reasonable requests for information that may be necessary for either party to present their claim in mediation.

(c) (1) The employee shall not pursue any civil action under Section 12945.2 or Section 12945.7 unless the mediation is not initiated by the department within the time period specified in subdivision (b) or until the mediation is complete or the mediation is deemed unsuccessful.

(2) The statute of limitations applicable to the employee's claim, including for all related claims under Section 12945.2 or Section 12945.7 and not under Section 12945.2 or Section 12945.7, shall be tolled from the date the employee contacts the department's dispute resolution division regarding the intent to pursue a legal action until the mediation is complete or the mediation is deemed unsuccessful.

(d) (1) For purposes of this section, the following shall apply:

(2) A mediation is deemed complete when any of the following occur:

(A) Neither the employee nor the employer requests the mediation within 30 days of receipt by all named respondents of the notification or both parties agree not to participate in the mediation.

(B) The employer fails to respond to the notification or mediation request within 30 days of receipt.

(C) The department fails to initiate the mediation within 60 days of the department's receipt of the request for mediation or the receipt by all named respondents of the notification, whichever is later.

(D) The department notifies the parties that it has determined that further mediation would be fruitless, both parties agree that further mediation would be fruitless, one of the parties failed to submit information requested by the other party and deemed by the mediator to be reasonably necessary or fair for the other party to obtain, or the mediator determines that the core facts of the employee's complaint are unrelated to Section 12945.2 or Section 12945.7.

(3) A mediation is unsuccessful if the claim is not resolved within 30 days of the department's initiation of mediation, unless the department notifies the parties that it has determined more time is needed to make the mediation successful.

(e) A respondent or defendant in a civil action that did not receive a notification pursuant to subdivision (b) as a result of the employee's failure to contact the department's alternative dispute resolution division prior to filing a civil action, and who had between 5 and 19 employees at the time that the alleged violation occurred, shall, upon a timely request, be entitled to a stay of any pending civil action or arbitration until mediation is complete or is deemed unsuccessful.

(f) If a request for an immediate right to sue includes other alleged violations under this part, this section shall only apply to the claim alleging a violation of Section 12945.2 or Section 12945.7. Notwithstanding this subdivision, nothing in this section prohibits the parties from voluntarily choosing to mediate all alleged violations.

(g) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3. Section 19859.3 of the Government Code is amended to read:

19859.3. (a) Any permanent employee who is either excluded from the definition of state employee in subdivision (c) of Section 3513, or is a nonelected officer or employee of the executive branch of government who is not a member of the civil service, shall be granted bereavement leave with pay for the death of a person related by blood, adoption, or marriage, or any person residing in the immediate household of the employee at the time of death. The employee shall give advance notice to the employee's immediate supervisor and shall provide substantiation to support the request.

(b) For any one occurrence, the bereavement leave shall not exceed three days with pay. However, a request for two additional days of bereavement leave shall be granted, at the option of the employee, as either without pay or as a charge against any accrued sick leave credit.

(c) If additional bereavement leave is necessary, the employee may use accrued vacation, compensating time off, or take an authorized leave without pay, subject to the approval of the appointing power.

SEC. 4. The Legislature finds and declares that Section 1 of this act, which adds Section 12945.7 to the Government Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

The confidentiality provisions set forth in Section 1 further the need to protect the privacy rights of employees regarding the passing of a family member, and to protect the enforcement process related to violations of the bereavement provisions. These limitations are needed in order to strike the proper balance between the privacy interests of the employee and the employee's family, and the public's right to access.



AB-2188 Discrimination in employment: use of cannabis. (2021-2022)

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CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

ASSEMBLY BILL

NO. 2188

**Introduced by Assembly Member Quirk
(Coauthor: Assembly Member Jones-Sawyer)**

February 15, 2022

An act to add Section 12954 to the Government Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 2188, Quirk. Discrimination in employment: use of cannabis.

Existing law, the California Fair Employment and Housing Act, protects and safeguards the right and opportunity of all persons to seek, obtain, and hold employment without discrimination, abridgment, or harassment on account of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military and veteran status. The act prohibits various forms of employment discrimination and empowers the Civil Rights Department to investigate and prosecute complaints alleging unlawful practices.

This bill, on and after January 1, 2024, would also make it unlawful for an employer to discriminate against a person in hiring, termination, or any term or condition of employment, or otherwise penalize a person, if the discrimination is based upon the person's use of cannabis off the job and away from the workplace, except for preemployment drug screening, as specified, or upon an employer-required drug screening test that has found the person to have nonpsychoactive cannabis metabolites in their hair, blood, urine, or other bodily fluids. The bill would exempt certain applicants and employees from the bill's provisions, including employees in the building

and construction trades and applicants and employees in positions requiring a federal background investigation or clearance, as specified. The bill would specify that the bill does not preempt state or federal laws requiring applicants or employees to be tested for controlled substances as a condition of employment, receiving federal funding or federal licensing-related benefits, or entering into a federal contract.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The Legislature finds and declares both of the following:

(a) Tetrahydrocannabinol (THC) is the chemical compound in cannabis that can indicate impairment and cause psychoactive effects. After tetrahydrocannabinol is metabolized, it is stored in the body as a nonpsychoactive cannabis metabolite. These metabolites do not indicate impairment, only that an individual has consumed cannabis in the last few weeks.

(b) The intent of drug tests is to identify employees who may be impaired. While there is consensus that an employee should not arrive at a worksite high or impaired, when most tests are conducted for cannabis, the results only show the presence of the nonpsychoactive cannabis metabolite and have no correlation to impairment on the job.

(c) As science has improved, employers now have access to multiple types of tests that do not rely on the presence of nonpsychoactive cannabis metabolites. These alternative tests include impairment tests, which measure an individual employee against their own baseline performance and tests that identify the presence of THC in an individual's bodily fluids.

SEC. 2. Section 12954 is added to the Government Code, to read:

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

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

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

(b) Nothing in this section permits an employee to possess, to be impaired by, or to use, cannabis on the job, or affects the rights or obligations of an employer to maintain a drug- and alcohol-free workplace, as specified in Section 11362.45 of the Health and Safety Code, or any other rights or obligations of an employer specified by federal law or regulation.

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

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

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

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



SB-1044 Employers: emergency condition: retaliation. (2021-2022)

SHARE THIS:



Date Published: 08/26/2022 09:00 PM

ENROLLED AUGUST 26, 2022
PASSED IN SENATE AUGUST 24, 2022
PASSED IN ASSEMBLY AUGUST 22, 2022
AMENDED IN ASSEMBLY AUGUST 15, 2022
AMENDED IN ASSEMBLY JUNE 29, 2022
AMENDED IN ASSEMBLY JUNE 13, 2022
AMENDED IN SENATE MAY 19, 2022
AMENDED IN SENATE MARCH 23, 2022
AMENDED IN SENATE MARCH 15, 2022

CALIFORNIA LEGISLATURE— 2021–2022 REGULAR SESSION

SENATE BILL

NO. 1044

Introduced by Senator Durazo
(Coauthors: Senators Gonzalez, Leyva, and Wiener)
(Coauthors: Assembly Members Kalra and Stone)

February 15, 2022

An act to add Chapter 11 (commencing with Section 1139) to Part 3 of Division 2 of the Labor Code, relating to employment.

LEGISLATIVE COUNSEL'S DIGEST

SB 1044, Durazo. Employers: emergency condition: retaliation.

Existing law establishes within the Department of Industrial Relations the Division of Labor Standards Enforcement, under the direction of the Labor Commissioner. Existing law authorizes the division to enforce the Labor Code and all labor laws of the state the enforcement of which is not specifically vested in any other officer, board, or commission. Existing law prescribes comprehensive requirements relating to minimum wages, overtime compensation, and standards for working conditions for the protection of employees applicable to an employment relationship.

This bill would prohibit an employer, in the event of an emergency condition, as defined, from taking or threatening adverse action against any employee for refusing to report to, or leaving, a workplace or worksite within the affected area because the employee has a reasonable belief that the workplace or worksite is unsafe, except as specified. The bill would also prohibit an employer from preventing any employee, including employees of public entities, as specified, from accessing the employee's mobile device or other communications device for seeking emergency assistance, assessing the safety of the situation, or communicating with a person to confirm their safety. The bill would require an employee to notify the employer of the emergency condition requiring the employee to leave or refuse to report to the workplace or worksite, as specified. The bill would clarify that these provisions are not intended to apply when emergency conditions that pose an imminent and ongoing risk of harm to the workplace, the worksite, the worker, or the worker's home have ceased.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Chapter 11 (commencing with Section 1139) is added to Part 3 of Division 2 of the Labor Code, to read:

CHAPTER 11. Workers' Rights in Emergencies

1139. (a) As used in this chapter:

(1) (A) "Emergency condition" means the existence of either of the following:

(i) Conditions of disaster or extreme peril to the safety of persons or property at the workplace or worksite caused by natural forces or a criminal act.

(ii) An order to evacuate a workplace, a worksite, a worker's home, or the school of a worker's child due to natural disaster or a criminal act.

(B) "Emergency condition" does not include a health pandemic.

(2) "A reasonable belief that the workplace or worksite is unsafe" means that a reasonable person, under the circumstances known to the employee at the time, would conclude there is a real danger of death or serious injury if that person enters or remains on the premises. The existence of any health and safety regulations specific to the emergency condition and an employer's compliance or noncompliance with those regulations shall be a relevant factor if this information is known to the employee at the time of the emergency condition or the employee received training on the health and safety regulations mandated by law specific to the emergency condition.

(b) In the event of an emergency condition, an employer shall not do either of the following:

(1) Take or threaten adverse action against any employee for refusing to report to, or leaving, a workplace or worksite within the affected area because the employee has a reasonable belief that the workplace or worksite is unsafe. This paragraph does not apply to the following:

(A) A first responder, as defined in Section 8562 of the Government Code.

(B) A disaster service worker, as defined in Section 3101 of the Government Code.

(C) An employee required by law to render aid or remain on the premises in case of an emergency.

(D) An employee or contractor of a health care facility who provides direct patient care, provides services supporting patient care operations during an emergency, or is required by law or policy to participate in emergency response or evacuation.

(E) An employee of a private entity that contracts with the state or any city, county, or political subdivision of the state, including a special district, for purposes of providing or aiding in emergency services.

(F) An employee working on a military base or in the defense industrial base sector.

(G) An employee performing essential work on nuclear reactors or nuclear materials or waste.

(H) An employee of a company providing utility, communications, energy, or roadside assistance while the employee is actively engaged in or is being called upon to aid in emergency response, including maintaining

public access to services such as energy and water during the emergency.

(I) An employee of a licensed residential care facility.

(J) An employee of a depository institution, as defined in Section 1420 of the Financial Code.

(K) A transportation employee participating directly in emergency evacuations during an active evacuation.

(L) An employee of a privately contracted private fire prevention resource, that is subject to the regulations developed pursuant to Part 4.5 (commencing with Section 14865) of Division 12 of the Health and Safety Code and operating as a qualified insurance resource. "Qualified insurance resource" means personnel and equipment working for, or contracted by, an insurance company with a mission to mitigate risk to insured structures and operating in compliance with instruction and oversight of the incident management team of the authority having jurisdiction.

(M) An employee whose primary duties include assisting members of the public to evacuate in case of an emergency.

(2) (A) Prevent any employee from accessing the employee's mobile device or other communications device for seeking emergency assistance, assessing the safety of the situation, or communicating with a person to verify their safety.

(B) In addition to employees of private entities, this paragraph applies to any employee of the state or any city, county, or political subdivision of the state, including a special district.

(C) This paragraph shall not apply to the following:

(i) An employee of a depository institution as defined in Section 1420 of the Financial Code.

(ii) An employee of any correctional facility.

(iii) An employee who is actively operating equipment permitted under Chapter 4 (commencing with Section 7340) of Part 3 of Division 5, Part 8 (commencing with Section 7900) of Division 5, and Part 8.1 (commencing with Section 7920) of Division 5.

(c) (1) When feasible, an employee shall notify the employer of the emergency condition requiring the employee to leave or refuse to report to the workplace or worksite prior to leaving or refusing to report.

(2) When prior notice described by paragraph (1) is not feasible, the employee shall notify the employer of the emergency condition that required the employee to leave or refuse to report to the workplace or worksite after leaving or refusing to report as soon as possible.

(d) This section is not intended to apply when emergency conditions that pose an imminent and ongoing risk of harm to the workplace, the worksite, the worker, or the worker's home have ceased.

(e) In any action by a current or former employee that could be brought pursuant to the Labor Code Private Attorneys General Act of 2004 (Part 13 (commencing with Section 2698)) for violations of this chapter, the employer shall have the right to cure alleged violations as set forth in Section 2699.3.



**Beaumont-Cherry Valley Water District
Personnel Committee
September 20, 2022**

Item 6

STAFF REPORT

TO: Personnel Committee
FROM: Sabrina Foley, Human Resources Administrator
SUBJECT: **Annual Employee Engagement Survey Results**

Staff Recommendation: None.

Background

The BCVWD Human Resources department conducts an annual employee engagement survey in July each year to measure the engagement of BCVWD personnel and to facilitate discussions with leadership about Human Resources goals and objectives. In 2021, BCVWD partnered with Great Place to Work and won accreditation as a Great Place to Work for the first time. Great Place to Work certification recognizes that an organization's employees have designated the employer as a Great Place to Work, and certification advertises to potential candidates that the employer is a desirable organization with a great company culture. Certification recognizes employers who create an outstanding employee experience.

In order to attain certification, employee feedback is collected anonymously and compared with benchmark data at other organizations. Certification gives employers a recruiting advantage by providing a globally recognized and research-based verification of a great employee experience. The results of the anonymous employee engagement survey provide an in-depth analysis of the District's working culture. Certification shows that an organization has a clear purpose and reinforces the agency's mission, vision, and values.

Summary

Human Resources staff announced and implemented the anonymous employee engagement survey in the month of July, and received notification that the District has attained Great Place to Work certification for 2022, the second consecutive year of accreditation.

According to the Society for Human Resources Management (SHRM), only 34% of full- and part-time employees surveyed in the United States reported feeling engaged at work, while 16% said they were actively disengaged in their work and workplace. In comparison, 76% of BCVWD employees report feeling highly engaged, with 81% agreeing with the statement that BCVWD is a great place to work.

Strengths identified in BCVWD's workplace culture include a high level of autonomy, meaningful work and contribution to the community, workplace safety, and pride in the organization. Employees also described the District as transparent, hardworking, and family-oriented.

Attachments

1. Presentation, BCVWD 2022 Engagement Great Place to Work Survey Results



1



2

PURPOSE OF SURVEY

-  Engagement surveys are best practice for measuring key employee metrics, such as employee satisfaction and intent to stay with the organization.
-  Human Resources will use the data from the survey to determine priorities for the department for the next year.
-  Each year's survey will be compared to other surveys to measure District growth and change.

3



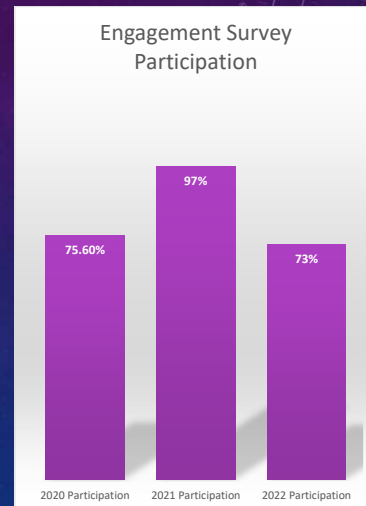
Great Place To Work[®]
Certified
AUG 2022-AUG 2023
USA TM

2ND YEAR CERTIFIED AS A GREAT PLACE TO WORK!

4

SURVEY PARTICIPATION

- 44 employees, including part-time and full-time staff were eligible to participate
- 32 survey responses (73% participation rate)
- Survey was administered online only through Great Place to Work. Due to the lower response rate, the survey window was extended by one week
- Responses were collected anonymously and reported in the aggregate. District staff were not able to see individual responses
- Response window was 36 days



5

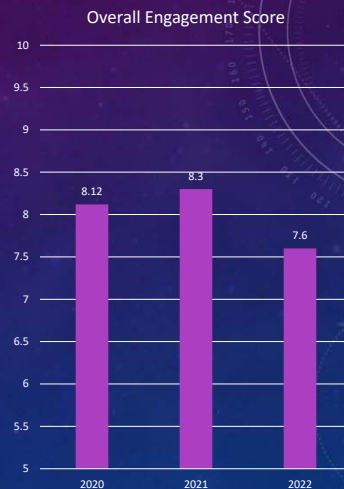
ENGAGEMENT



6

2022 OVERALL EMPLOYEE ENGAGEMENT SCORE: 7.6

- Engagement measures an employee's connection with the work, including pride in the work, level of cooperation from colleagues, psychological and emotional safety, intent to stay, and view of management.
- Engaged employees tend to yield higher productivity and outperform disengaged employees. Engagement leads to lower absenteeism, higher quality of work, and a higher level of customer satisfaction.
- High engagement is achieved with:
 - Alignment to organizational values (such as community-orientation, purpose, and mission statement).
 - Mental and physical well-being at work
 - Strong employee-manager relationships
 - Fairness and safety
 - Learning and development opportunities
 - Resources to do the work
 - Positive coworker relationships



7

CONCLUSIONS ABOUT ENGAGEMENT AT BCVWD

- Overall engagement of employees is above average when compared to other organizations, but trending down from last year.
- Employees who are strongly connected with the Purpose of the District are more likely to feel engaged and have pride in their work.
- Areas of Strength: Sense of community, camaraderie, and competence
- Areas for Growth: Equity, caring/appreciation, management/leadership

8



9




10

CONCLUSIONS ABOUT SAFETY AND CARING AT BCVWD

- Employees feel they are able to take time off of work when necessary, and that the District is a physically safe place to work.
- The majority of employees feel that management cares about them as a person, not just an employee.
- Areas of Growth: Employees do not feel that District facilities contribute to a good working environment. Statements reflect that the District is sometimes not a psychologically and emotionally healthy working environment.

11

DISTRICT LEADERSHIP

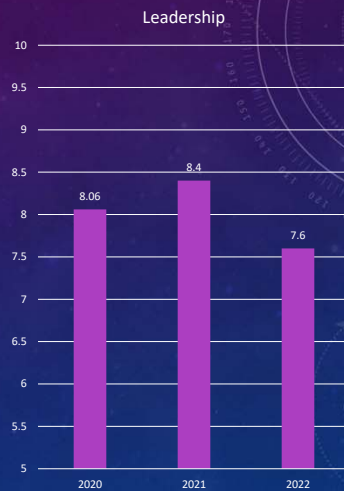


The logo for Beaumont Cherry Valley Water District is circular with a black border. Inside the circle, the text "BEAUMONT CHERRY VALLEY WATER DISTRICT" is written in a light blue arc at the top, and "EST. 1919" is at the bottom. The central graphic features a stylized cherry tree with three red cherries, a water tap with a drop of water, and silhouettes of a family (two adults and a child) standing next to a factory building.

12

OVERALL LEADERSHIP SCORE: 7.6

- Questions sought information about management’s approachability, ethics, and effectiveness.
- The leadership section focuses on how supervisors and managers affect perception of the District.



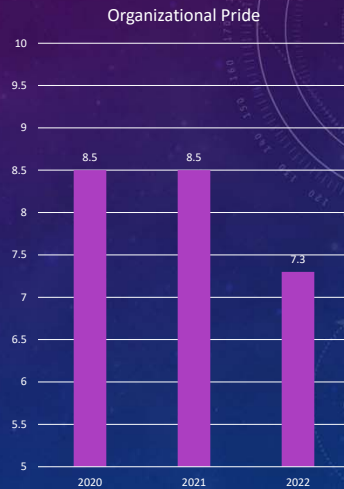
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14

ORGANIZATIONAL PRIDE: 7.3

- Questions sought information about meaningfulness of work at the District and pride in the organization.
- Employees view their work for the District as important and impactful.
- Employees feel their work makes a difference and would endorse the District as a great place to work.
- Areas of growth: appreciation of employee work, ability to adapt to changes needed for the organization's success.



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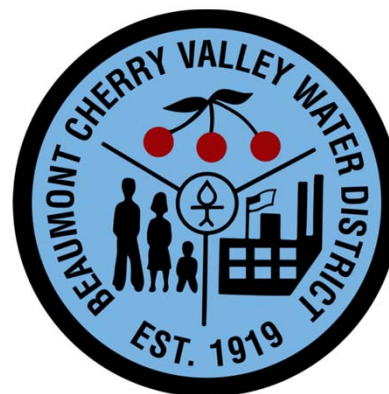
18

CONCLUSIONS ABOUT ORGANIZATIONAL CULTURE AT BCVWD

- Employees are dedicated to the mission of the District and providing water service to the community.
- Employees think the District has integrity.
- The District has a family- and community-oriented organizational culture.
- Areas of Growth: Employees believe the District is outdated and slow to make changes to improve the organization.

19

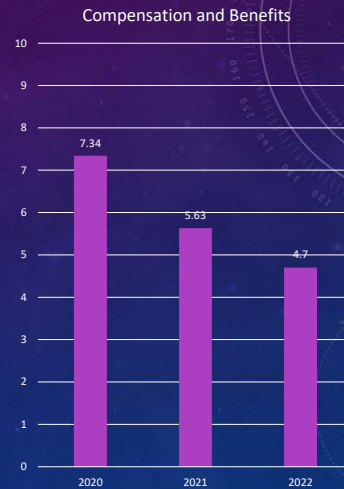
COMPENSATION AND BENEFITS



20

COMPENSATION AND BENEFITS SCORE: 4.7

- Questions in this section sought information about District compensation, whether employees are compensated relative to the District's success, and about the quality of the District's benefits.

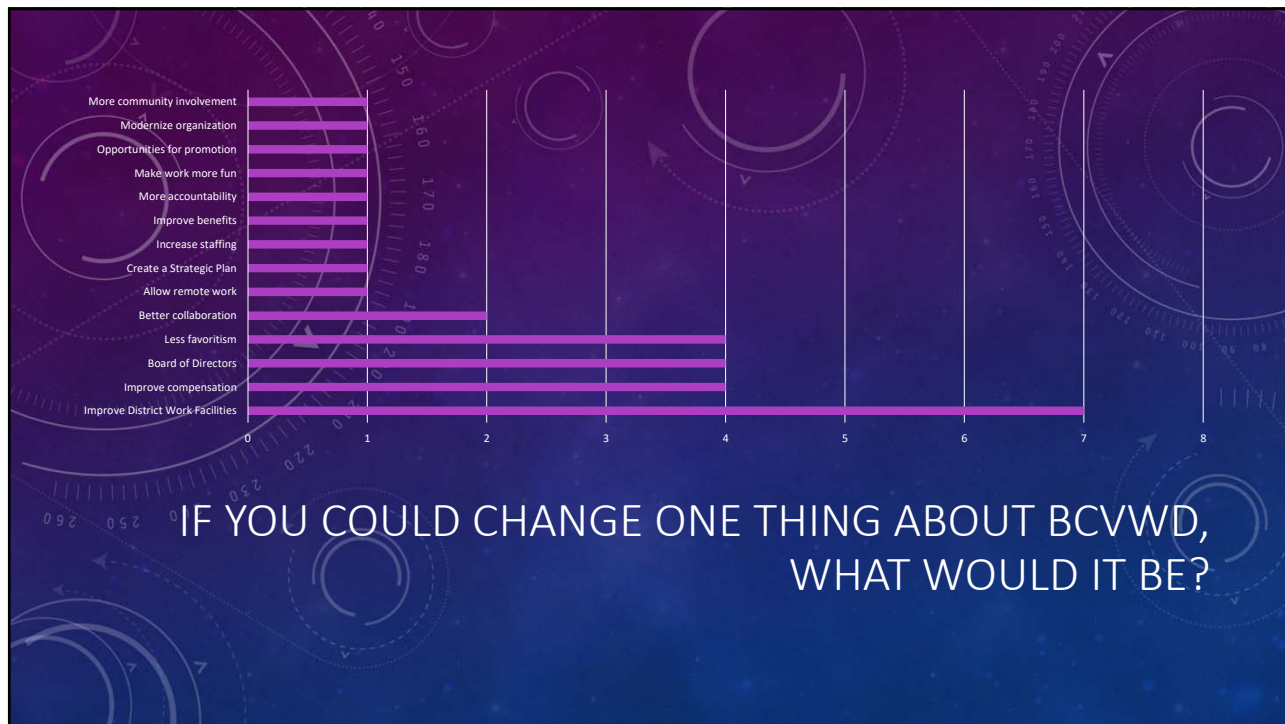


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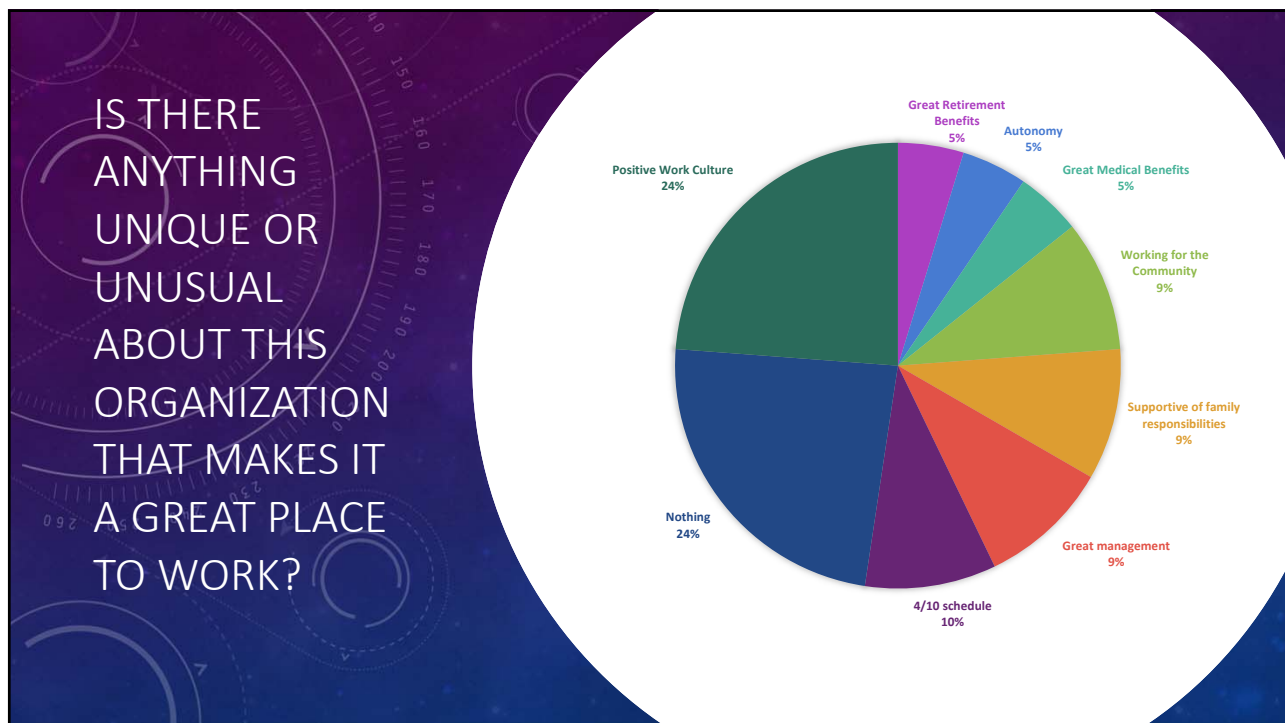
OPEN-ENDED QUESTIONS



22



23



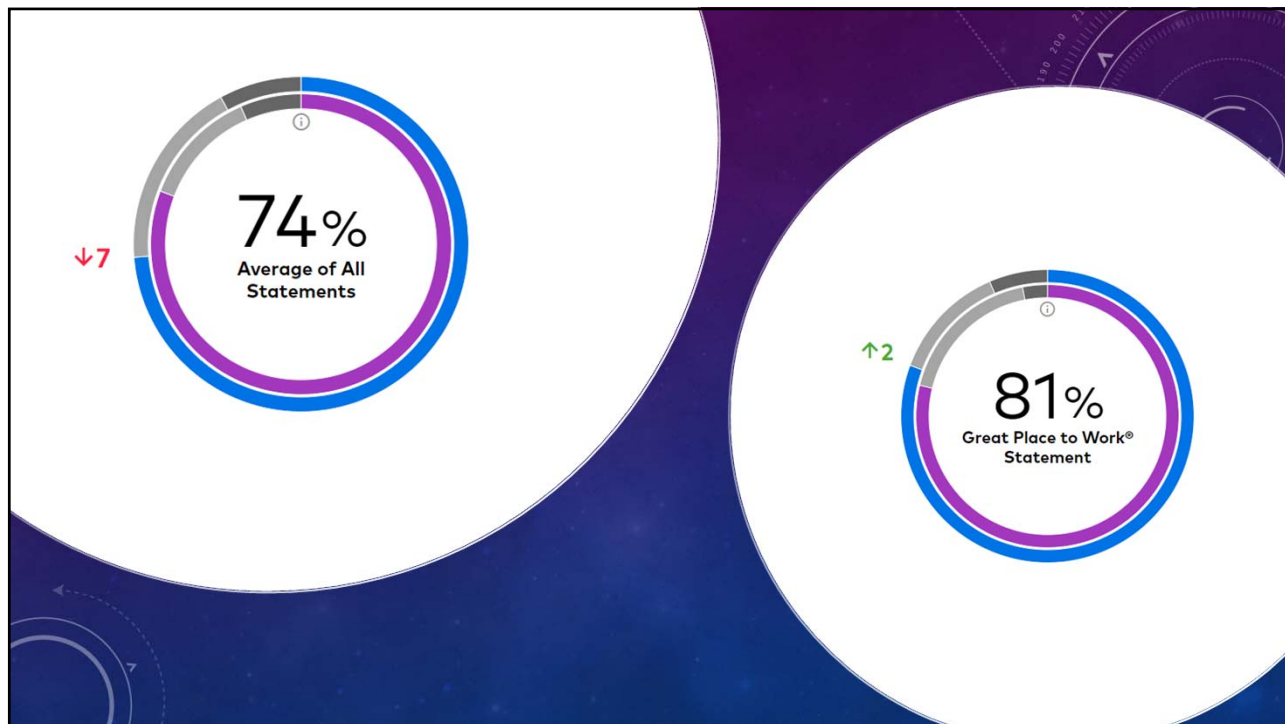
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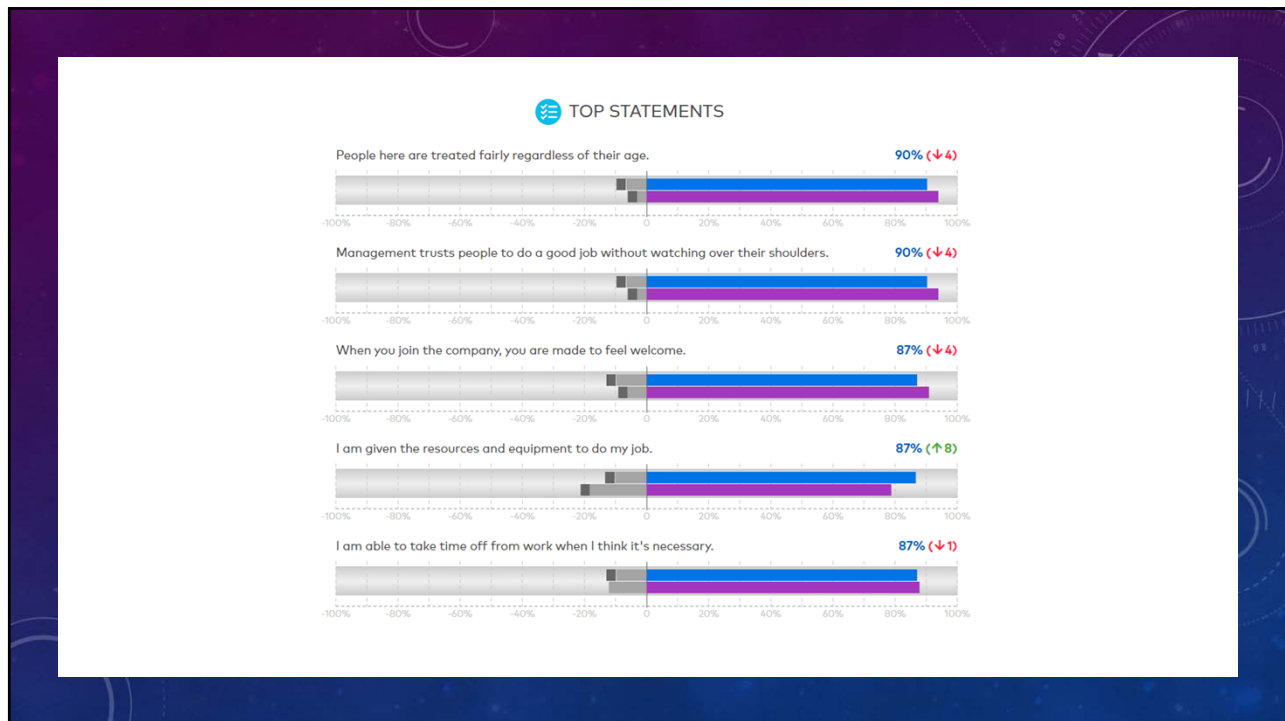
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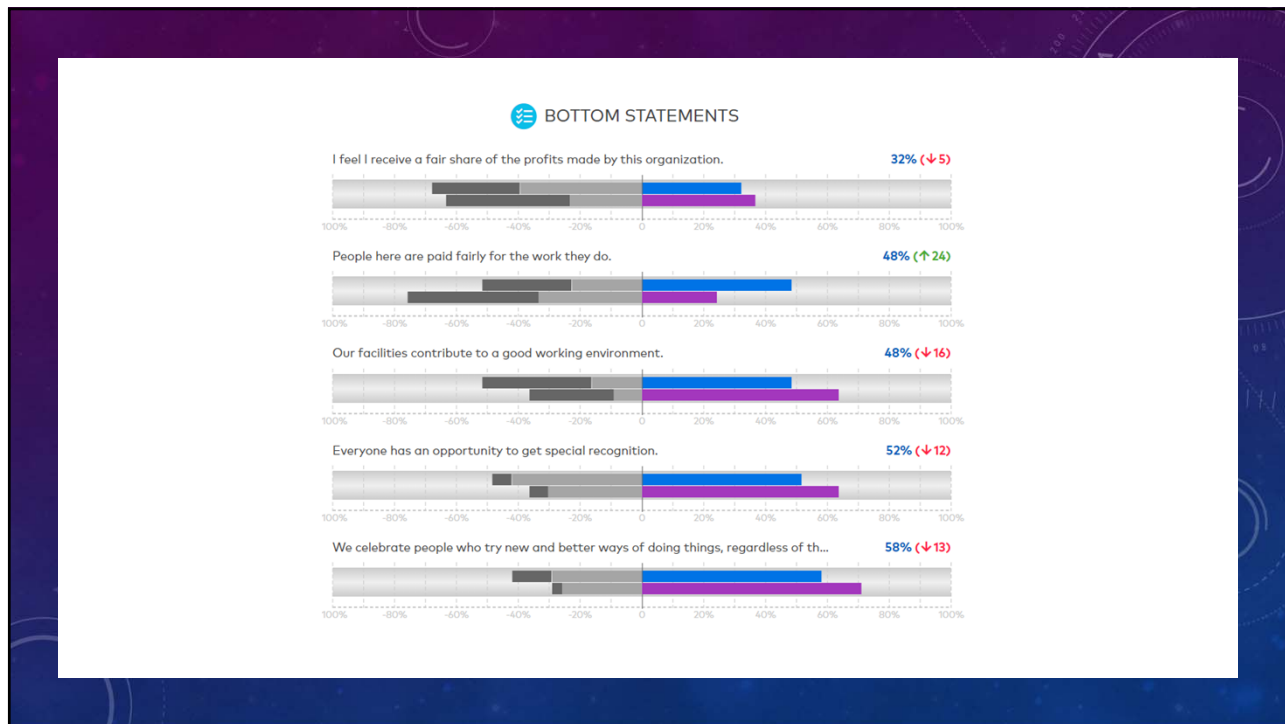
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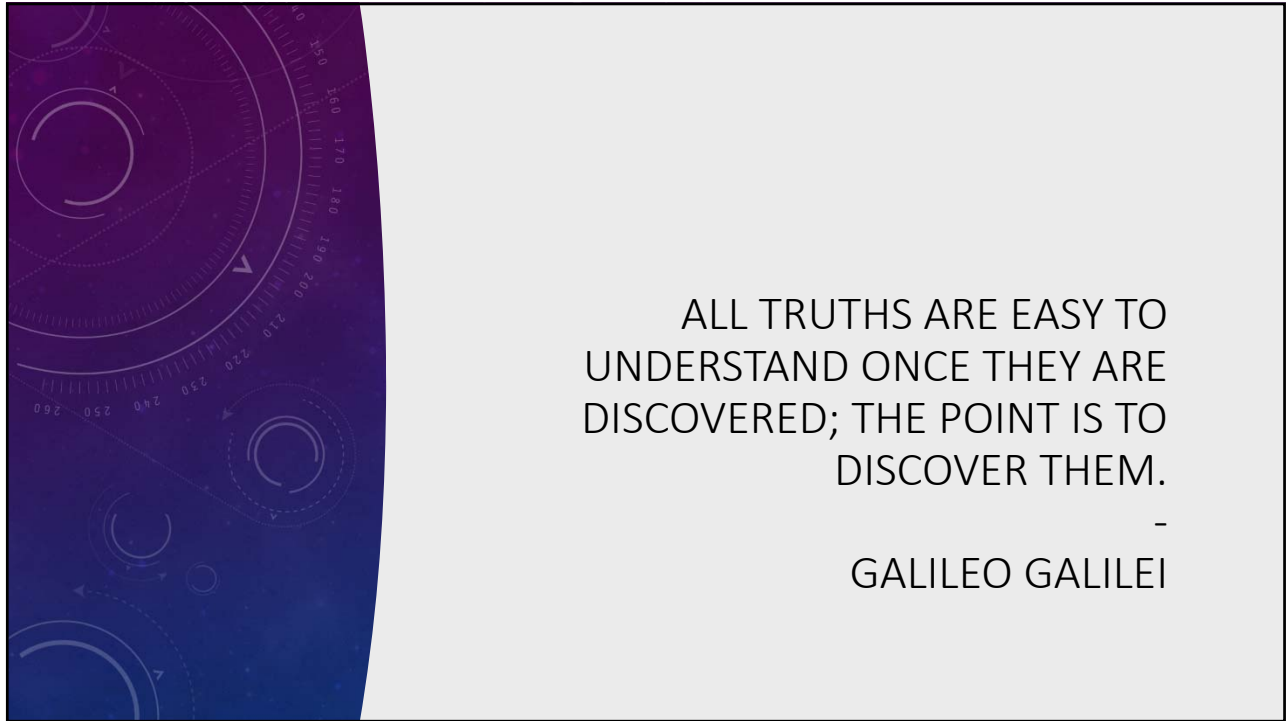
Areas of Strength

- Overall employee engagement
- Connection with District purpose and mission, and pride in the organization
- Employees have the authority and responsibility to do their jobs well
- Employees believe their work is meaningful and important
- Organizational culture is positive, family-oriented, and community-oriented

Areas of Growth

- Improve workplace facilities
- Employee appreciation and special recognition
- Encourage work/life balance
- Adapt to changes needed for organizational success (modernization of practices)

30



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**Beaumont-Cherry Valley Water District
Personnel Committee Meeting
September 20, 2022**

Item 7

STAFF REPORT

TO: Personnel Committee
FROM: Dr. Kirene Manini, Director of Finance & Administration
SUBJECT: Update: BCVWD 2023 Operational Budget

Staff Recommendation

No recommendation; for informational purposes only.

Background

The Personnel Committee requested to receive updates regarding the 2023 Budget project, staffing needs and projections, and milestones. The Committee expressed interest in understanding proposed staffing and personnel changes that may be presented in the budget.

Summary

The BCVWD Finance department has begun work on the 2023 operating budget and provides regular updates to the Finance & Audit Committee. So far, staff has commenced with a kickoff meeting with management and subsequent training sessions for the budget process. Management staff have completed an initial operations request, as well as a list of goals and accomplishments to include in the main budget document. The following is an estimated schedule of future events for the operating budget project:

10/6/2022	Finance & Audit Committee - Budget numbers only presented to Committee
10/20/2022	Special Finance & Audit Committee Meeting: present draft of Word document (meeting date pending approval)
11/3/2022	Finance & Audit Committee - Regular meeting, present changes to Word document (discussion)
11/9/2022	Board Meeting, present draft of Word document
11/17/2022	Budget Meeting, present changes to Word document
12/1/2022	Board Meeting to Adopt Budget (meeting date pending approval)
1/1/2023	New Budget effective date

Fiscal Impact

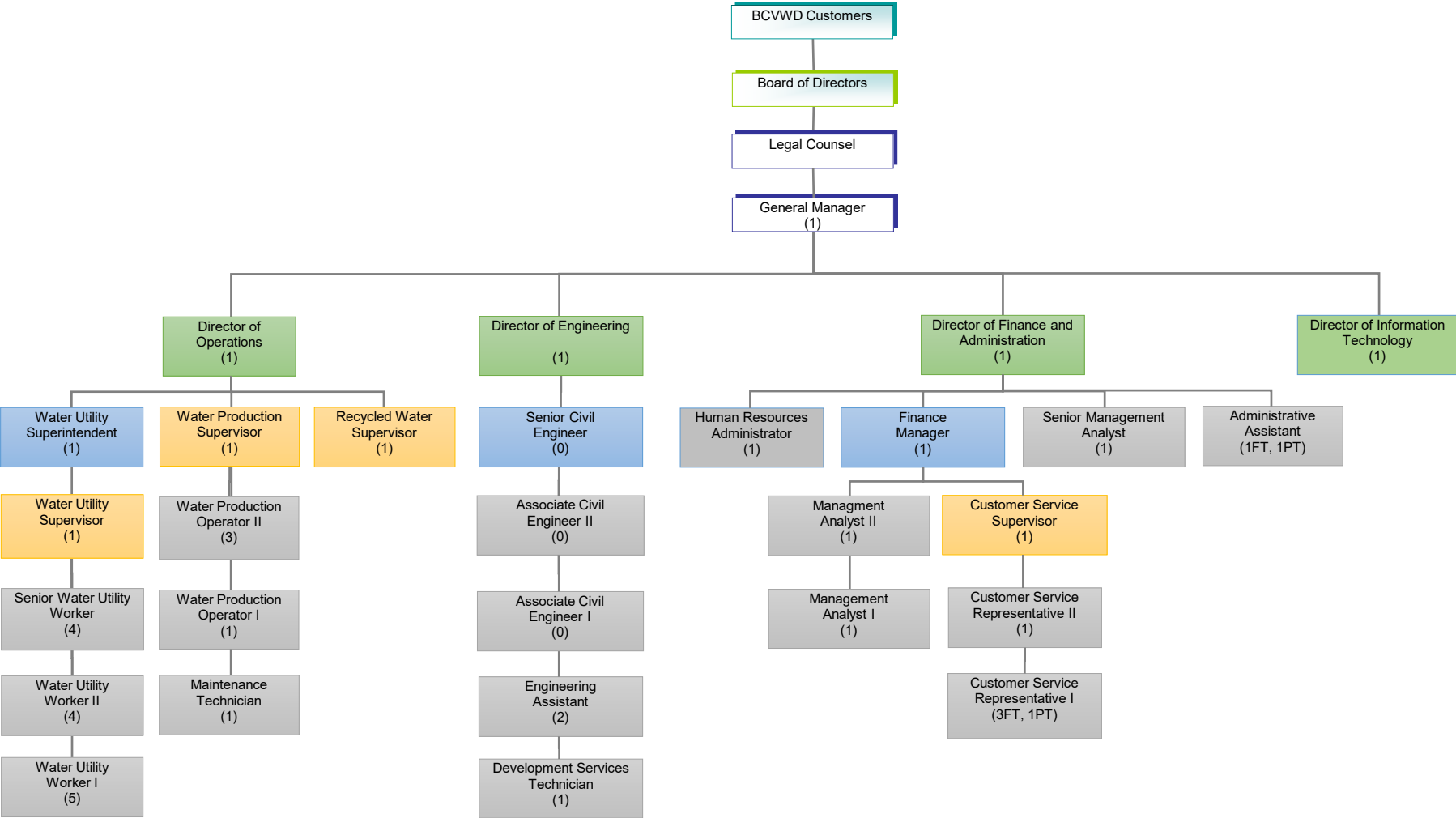
To be determined.

Attachments

1. BCVWD Organization Chart 2022
2. BCVWD Table of Positions 2022

Staff Report prepared by Sabrina Foley, Human Resources Administrator

BCVWD Organization Chart 2022



Directors
Managers
Supervisors
Staff

Effective 01/02/2022

Qty added 08/16/2022

BCVWD Personnel Positions included in 2022 Operating Budget

Positions on the Org Chart and in the Budget				
Dept	Position	FT Budget	PT Budget	NOTES
Engineering	Director of Engineering	1		
	Senior Civil Engineer	0		
	Associate Civil Engineer II	0		
	Associate Civil Engineer I	0		
	Engineering Assistant	2		
	Development Services Technician	1		
Finance and Admin	General Manager	1		
	Director of Finance and Administration	1		
	Finance Manager	1		
	Senior Management Analyst	1		
	Management Analyst II	1		
	Management Analyst I	1		
	Administrative Assistant	1		
	Administrative Assistant- Part Time (PT)			1
	Customer Service Supervisor	1		
	Customer Service Representative II	1		
	Customer Service Representative I	3		
Customer Service Rep I- Part Time (PT)			1 VACANT	
Finance and Admin- HR	Human Resources Administrator	1		
Information Technology	Director of Information Technology	1		
Operations- Source of Supply	Recycled Water Supervisor	1		VACANT
	Water Production Supervisor	1		
	Water Production Operator II	3		
	Water Production Operator I	1		VACANT
Operations- Trans and Dist	Director of Operations	1		
	Water Utility Superintendent	1		
	Water Utility Supervisor	1		
	Senior Water Utility Worker	3		
	Water Utility Worker II	2		
	Water Utility Worker I	5		
Operations- Customer Service	Senior Water Utility Worker	1		
	Water Utility Worker II	2		
Operations- Maint & Gen Plant	Maintenance Technician	1		
		41	2	

Positions not on Org Chart but included in the Budget				
Dept	Position	FT Budget	PT Budget	NOTES
Engineering	Civil Engineer (Consultant)			2 1 FILLED, 1 VACANT
Engineering	Engineering Intern			1 VACANT
Finance and Admin	Customer Service Rep I-TEMP -AMR			2
Operations- Trans and Dist	Water Utility Worker I-TEMP			4 4 VACANT
Operations- Trans and Dist	Water Utility Worker I-TEMP AMR			2
		0	11	

Summary of Positions included in 2022 Budget			
	Full Time	Part Time	Total
Engineering	4	3	7
Finance and Admin <i>(all divisions)</i>	13	4	17
Information Technology	1	0	1
Operations <i>(all divisions)</i>	23	6	29
	41	13	54



**Beaumont-Cherry Valley Water District
Personnel Committee
September 20, 2022**

Item 8

STAFF REPORT

TO: Personnel Committee
FROM: Sabrina Foley, Human Resources Administrator
SUBJECT: Update: Workforce and Succession Planning Project

Staff Recommendation

No recommendation; for informational purposes only.

Background

On June 23, 2022, the Board of Directors authorized the General Manager to enter into an agreement with The Mejorando Group for a Workforce and Succession Planning Project. The Personnel Committee requested to receive regular updates about the status and progress of the project.

Summary

The Workforce and Succession Planning Project will be conducted in four phases:

- **Phase 1 – Establish the Scope (Current Phase), July-August 2022**
 - Review the District’s Strategic Plan and goals
 - Gather and analyze attrition data and retirement projections
 - Deliverables:
 - Kickoff/Launch Meetings
 - List of “At-Risk/Critical” Positions
 - Position Inventory Data Analysis
- **Phase 2 – Create the Succession Planning Program, September-October 2022**
 - Identify staffing levels needed and related knowledge, skills, and abilities (KSAs) and competencies
 - Determine what staff members are available
 - Conduct a gap analysis and establish priorities
 - Deliverables:
 - Assessment of internal employee competencies, comparison of profiles of current and future workforce
 - Interviews with select employees and members of management
 - Conduct a Gap Analysis
 - Draft Report- Succession and Workforce Planning Analysis and Recommendations
 - Final Report – Succession and Workforce Planning Analysis and Recommendations
 - Five-year projection of District organizational chart
 - Develop a succession planning handbook
 - Evaluate industry software tools



- Phase 3 – Implement Succession Planning Program, November-December 2022
 - Communicate the Succession Planning Program
 - Implement the Succession Planning Program
 - Deliverables:
 - Career plans for employees
 - Implementation plan
- Phase 4 – Monitor, Evaluate, and Revise, Ongoing

Schedule of Events:

9/27/2022	GM Meeting with Consultant
9/28/2022	HR Check-In Meeting
TBD	On-site day, meetings with stakeholders and employee groups

Thus far, the Human Resources division has initiated the project with the consultant and established the need for regular project updates. Human Resources has provided necessary data and information for the consultant to commence analysis of attrition data and retirement projections to produce a list of At-Risk positions.

The consultant was on-site on August 4, 2022, to conduct meetings with key stakeholders, including the executive leadership team and management staff.

The status of the project is currently on schedule and within budget. Phase one is 91% complete.

Fiscal Impact

To be determined.

Attachments

1. Workforce and Succession Planning Gantt Chart

Staff Report prepared by Sabrina Foley, Human Resources Administrator

ID	Task Mode	Task Name	Duration	Start	Finish	Predecessors	Resource Names	Budget Cost	Actual Cost	Gantt Chart (Half 2, 2022 to Half 1, 2023)											
0		Workforce and Succession Planning Project 2022	104 days?	Tue 7/5/22	Mon 1/2/23		Budget	\$79,300.00	\$8,407.50	[Gantt bar for Phase 1: Establish the Scope]											
1		PHASE 1: ESTABLISH THE SCOPE	49.13 days	Tue 7/5/22	Wed 9/28/22				\$8,407.50	[Gantt bar for Phase 1: Establish the Scope]											
2	✓	Initial HR Meeting	1 hr	Tue 7/5/22	Tue 7/5/22		Human Resources,P		\$285.00	[Gantt bar for Initial HR Meeting]											
3	✓	Personnel Committee Status Update	2 hrs	Tue 7/19/22	Tue 7/19/22		BCVWD Staff,Human Resources		\$0.00	[Gantt bar for Personnel Committee Status Update]											
4	✓	GM Meeting with Consultant	1 hr	Thu 7/21/22	Thu 7/21/22		BCVWD Staff,Patrick Ibarra		\$285.00	[Gantt bar for GM Meeting with Consultant]											
5	✓	Materials List (Information Request) for Consultant	9 days	Wed 7/6/22	Wed 7/20/22		Human Resources		\$0.00	[Gantt bar for Materials List (Information Request) for Consultant]											
6	✓	Consultant Materials Review	10 hrs	Thu 7/21/22	Mon 7/25/22		Patrick Ibarra		\$2,850.00	[Gantt bar for Consultant Materials Review]											
7	✓	HR Check-In Meeting	1 hr	Wed 7/27/22	Wed 7/27/22		Human Resources,P		\$285.00	[Gantt bar for HR Check-In Meeting]											
8	✓	Consultant Interviews with Management Stakeholders	10 hrs	Thu 8/4/22	Mon 8/8/22		BCVWD Staff,Patrick Ibarra		\$2,850.00	[Gantt bar for Consultant Interviews with Management Stakeholders]											
9	✓	HR Check-In Meeting	1 hr	Mon 8/8/22	Mon 8/8/22		Human Resources,P		\$285.00	[Gantt bar for HR Check-In Meeting]											
10	✓	Consultant Interviews with Board Members	4 hrs	Thu 9/8/22	Thu 9/8/22		Patrick Ibarra		\$1,140.00	[Gantt bar for Consultant Interviews with Board Members]											
11	✓	HR Check-In Meeting	0.5 hrs	Wed 8/24/22	Wed 8/24/22		Human Resources,P		\$142.50	[Gantt bar for HR Check-In Meeting]											
12	✓	HR Check-In Meeting	1 hr	Thu 9/8/22	Thu 9/8/22		Human Resources,P		\$285.00	[Gantt bar for HR Check-In Meeting]											
13		GM Meeting with Consultant	1 hr	Tue 9/27/22	Tue 9/27/22		BCVWD Staff,Patrick Ibarra		\$0.00	[Gantt bar for GM Meeting with Consultant]											
14		Kickoff/Launch Meetings	TBD				BCVWD Staff,Human Resources		\$0.00	[Gantt bar for Kickoff/Launch Meetings]											
15		HR Check-In Meeting	1 hr	Wed 9/28/22	Wed 9/28/22		Human Resources,P		\$0.00	[Gantt bar for HR Check-In Meeting]											
16		List of "At-Risk/Critical" Positions	TBD				Patrick Ibarra		\$0.00	[Gantt bar for List of "At-Risk/Critical" Positions]											
17		Position Inventory Data Analysis	TBD				Patrick Ibarra		\$0.00	[Gantt bar for Position Inventory Data Analysis]											
18		PHASE 2: CREATE SUCCESSION PLANNING PROGRAM	49 days	Thu 8/4/22	Mon 10/31/22	1			\$0.00	[Gantt bar for Phase 2: Create Succession Planning Program]											
27		PHASE 3: IMPLEMENT SUCCESSION PLANNING PROGRAM	35 days	Mon 10/31/22	Thu 12/29/22	18			\$0.00	[Gantt bar for Phase 3: Implement Succession Planning Program]											
30		PHASE 4: MONITOR, EVALUATE, AND REVISE	1 day?	Mon 1/2/23	Mon 1/2/23	27			\$0.00	[Gantt bar for Phase 4: Monitor, Evaluate, and Revise]											

Project Workforce and Succession Date: Tue 9/13/22

Task	Summary	Inactive Milestone	Duration-only	Start-only	External Milestone	Manual Progress
Split	Project Summary	Inactive Summary	Manual Summary Rollup	Finish-only	Deadline	
Milestone	Inactive Task	Manual Task	Manual Summary	External Tasks	Progress	



**Beaumont-Cherry Valley Water District
Personnel Committee
September 20, 2022**

Item 9

STAFF REPORT

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

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.

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, 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 (**Attachments 2-8**). The District's legal counsel has reviewed and recommended the drafted policies.



Summary Table

Policy 3075 Vacation	<ul style="list-style-type: none"> • PLACEHOLDER; discussion of the financial impact of different changes. Need direction from the Committee to update this draft further.
Policy 3090 Family and Medical Leave	<ul style="list-style-type: none"> • The District has historically complied with the Family Medical Leave Act (FMLA) by policy, but is not required to do so by law with fewer than 50 employees. • However, the District is required to comply with the California Family Rights Act (CFRA), which is substantially similar. • If the District reaches 50 employees, the District must also comply with FMLA, which in many cases runs concurrently with CFRA. • The proposed changes contain significant updates from legal counsel.
Policy 3095 Pregnancy Disability Leave	<ul style="list-style-type: none"> • The proposed changes contain significant updates from legal counsel.
Policy 3096 Lactation Accommodation	<ul style="list-style-type: none"> • Proposed new policy. • California labor code (§1030 - §1034) requires every employer to provide lactation accommodation. • California labor code §1034 requires the employer to develop and implement a policy regarding lactation accommodation. • Language of the policy is largely dictated by labor code requirements.

Fiscal Impact

No fiscal impact.

Attachments

1. Policy Approval Tracking
2. Proposed Policy Vacation
3. Original Policy Vacation
4. Proposed Policy Family and Medical Leave
5. Original Policy Family and Medical Leave
6. Proposed Policy Pregnancy Disability Leave
7. Original Policy Pregnancy Disability Leave
8. Proposed Policy Lactation Accommodation

Staff Report prepared by Sabrina Foley, Human Resources Administrator

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
			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
2	1005	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
N/A	1010	General	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	2005	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
N/A	3003	Personnel	Employment Agreements	Yes	Human Resources	5/10/2022	5/17/2022	Tabled				
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
10 & 49	3010	Personnel	Employee Performance	Yes	Human Resources	7/13/2021	9/20/2021	9/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
			Evaluation									
			Performance Evaluation-General									
11	3015	Personnel	Manager	Yes	Human Resources	8/3/2021	9/20/2021	9/20/2021	10/13/2021	10/13/2021	10/13/2021	21-018
12	3020	Personnel	Health and Welfare Benefits	Yes	Human Resources	5/10/2022	5/17/2022	5/17/2022	6/8/2022	6/8/2022	6/8/2022	22-019
13	3025	Personnel	Pay Periods	Yes	Human Resources	10/12/2021	11/15/2021	11/15/2021	5/11/2022	5/11/2022	5/11/2022	
14	3030	Personnel	Gift Acceptance Guidelines	Yes	Human Resources	12/10/2021	4/19/2022	4/19/2022	5/11/2022	5/11/2022	5/11/2022	
15	3035	Personnel	Outside Employment	Yes	Human Resources	10/12/2021	4/19/2022	4/19/2022	5/11/2022	5/11/2022	5/11/2022	
16	3040	Personnel	Letters of Recommendation	Yes	Human Resources							
17	3045	Personnel	Executive Officer	Yes	Human Resources							
			Volunteer Personnel Workers'									
18	3050	Personnel	Compensation Insurance	Yes	Human Resources							
			Work Hours, Overtime, and									
19	3055	Personnel	Standby Program	Yes	Human Resources	6/14/2022	7/19/2022	7/19/2022 with revisions	9/14/2022			
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	7/14/2022	8/16/2022	Requested edits				
23	3080	Personnel	Pre-Employment Physical Examination	Yes	Human Resources							
24	3085	Personnel	Sick Leave	Yes	Human Resources	7/14/2022	8/16/2022	8/16/2022 with revisions	9/14/2022			
25	3090	Personnel	Family and Medical Leave	Yes	Human Resources	8/31/2022	9/20/2022					
26	3095	Personnel	Pregnancy Disability Leave	Yes	Human Resources	9/1/2022	9/20/2022					
N/A	3096	Personnel	Lactation Accommodation	Yes	Human Resources	8/25/2022	9/20/2022					
27	3100	Personnel	Bereavement Leave	Yes	Human Resources	5/10/2022	5/17/2022	5/17/2022	6/8/2022	6/8/2022	6/8/2022	22-019
28	3105	Personnel	Personal Leave of Absence	Yes	Human Resources							
29	3110	Personnel	Jury and Witness Duty	Yes	Human Resources							
			Leave for Crime Victims and									
N/A	3111	Personnel	Family Members	No	Human Resources							
				Yes; needs modifications from ACWA JPIA	Human Resources							
30	3115	Personnel	Return to Work Policy		Human Resources							
			Occupational Injury and Illness									
31	3120	Personnel	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							
			Occupational Certification and									
34	3135	Personnel	Education	Yes	Human Resources	6/14/2022	8/16/2022	8/16/2022	9/17/2022			
			Succession and Workforce									
N/A	3136	Personnel	Planning	Yes	Human Resources							
35	3140	Personnel	Respiratory Protection Program	Yes	Human Resources							
			Driver Training and Record									
36	3145	Personnel	Review	Yes	Human Resources							
37	3150	Personnel	District Vehicle Usage	Yes	Human Resources							
38	3151	Personnel	Personal Vehicle Usage	Yes	Human Resources							
			HIPAA Compliance and Security									
39	3160	Personnel	Officer	Yes	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
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	4/19/2022	5/11/2022	5/11/2022	5/11/2022	
N/A	3206	Personnel	FMCSA Clearinghouse Registration	No	Human Resources	12/6/2021	4/19/2022	4/19/2022	5/11/2022	5/11/2022	5/11/2022	
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	Revisions Requested on 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							
5	5025	Operations	Illness and Injury Prevention Program	Yes	HR/Operations							
6	5030	Operations	Budget Preparation	Yes	Finance							

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
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							
N/A	5046	Operations	Other Post-Employment Benefits Funding	Yes	Finance	5/10/2022	N/A	N/A	5/11/2022	5/11/2022	5/11/2022	2022-14
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	4/19/2022	5/11/2022	5/11/2022	5/11/2022	
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

Proposed Policy

Original Policy

BEAUMONT-CHERRY VALLEY WATER DISTRICT

PERSONNEL

POLICY TITLE: VACATION
POLICY NUMBER: 3075

3075.1 Application. This policy shall apply to regular and introductory employees in all classifications. Temporary and part-time employees are not eligible for vacation pay (Policy 3000.8.1).

3075.2 Accrual. Vacation shall be earned from the date of hire. Paid vacations shall be accrued according to the following schedule or on an annual basis:

- 1. 0-4 years of service, 80 hours per year;
2. 5-9 years of service, 120 hours per year;
3. 10 years of service, 130 hours per year;
4. 11 years of service, 140 hours per year;
5. 12 years of service, 150 hours per year;
6. 13 years and more, 160 hours per year;

- 1. One (1) through four (4) years of service, eighty (80) hours;
2. Five (5) through fourteen (14) years of service, one hundred twenty (120) hours; or
3. Fifteen (15) years and more, one hundred sixty (160) hours.

3075.3 First Year. An employee with less than 5 years of seniority would receive 80 hours of paid vacation per year. The first year shall be prorated and accrued per month commencing with the first full month of employment and awarded after January 1 of the following year.

3075.4 Use of Vacation. Employee shall be eligible to use vacation after it is accrued and awarded. If there is sufficient time in the remainder of the calendar year to take or reschedule vacation, and an employee elects not to take or schedule his/her vacation, the District shall have the option of requiring the employee to take a vacation or purchase unused vacation at an employee's regular hourly rate of compensation. An employee may accrue vacation hours up to the maximum allowed explained below. Vacation buy-backs are scheduled on the first pay period in the month of December. Employees are allowed one (1) additional buy-back during the calendar year. Request: The request is submitted to Payroll and will be reviewed and prepared by Human Resources.

- 1. Upon termination, the employee shall be compensated for accrued unused vacation at their current pay rate.

3075.5 Accrual Cap. The District will not allow for accrual of vacation in excess of:

- a. Non-Exempt Employees: 320/160 hrs.

The General Manager reserves the right to allow overages in special circumstances.

- b. Exempt Employees:
i. 1-5 service years 260 hrs.
ii. 6-15 service years 300 hrs.
iii. 16-20 service years 350 hrs.
iv. 21+ service years 380 hrs.

21. HOLIDAYS

- A. Full Time Employees that do not work the holiday shall be credited with eight (8) hours pay. Such eight (8) hours shall be counted as a day worked for the purposes of the computation of overtime.
B. Holidays. The following days shall be recognized and observed as paid holidays:
i. New Years Day;
ii. Martin Luther King, Jr.'s Birthday;
iii. President's Day;
iv. Memorial Day;
v. Independence Day;
vi. Labor Day;
vii. Veteran's Day;
viii. Thanksgiving Day;
ix. Day After Thanksgiving;
x. Christmas Day;
xi. Employee's Birthday; or
xii. Other holidays provided to employees subject to the discretion of the Board.
C. Compensation. An employee required to work the holiday would bank his/her 8 hours and take them at a later date with approval of the Supervisor and General Manager.
D. Exception. A holiday that occurs on a Saturday shall be granted the preceding Friday. A holiday that occurs on a Sunday shall be granted the following Monday.
E. Authorized Leave. When an employee is taking an authorized leave with pay when a holiday occurs, said holiday shall not be charged against said leave with pay.
F. Employees must work the regular business day before and after the holiday to qualify for this benefit, unless a preapproved vacation exists.

22. VACATION

- A. Application. This policy shall apply to regular and introductory employees in all classifications.
B. Accrual. Vacation shall be earned from date of hire. Paid vacations shall be accrued according to the following schedule on an annual basis:
i. One (1) through four (4) years of service, eighty (80) hours;
ii. Five (5) through fourteen (14) years of service, one hundred twenty (120) hours; or
iii. Fifteen (15) years and more, one hundred sixty (160) hours.
C. First Year. An employee with less than five years seniority would receive 80 hours vacation per year. The first year shall be prorated and accrued per month commencing with the first full month of employment and awarded after January 1 of the following year.

BEAUMONT-CHERRY VALLEY WATER DISTRICT

PERSONNEL

3075.6 Carryover. Employees may "carry over" all accrued, unused vacation into the next year.

3075.75 Vacation Buy-Back. For the additional buy-back during the year, employees who have been employed with the District for a minimum of ~~one (1)~~ year may elect to ~~buy-back~~ buy back accrued and unused vacation hours. An employee may request to ~~buy-back~~ buy back a minimum of ~~ten (10)~~ hours. To purchase vacation hours, an employee must have a minimum remaining balance of ~~forty (40)~~ hours of vacation leave accrual after the purchase of said vacation hours for the calendar year. The employee will be compensated for such purchased vacation hours at the salary pay rate in effect for that employee at the time the hours are paid.

- 1. Vacation accruals for which the employee receives compensation will be deducted from the employee's accumulated total.
- 2. All additional vacation buy-back requests during the year will be processed in the payroll cycle following the date the request was approved.

3075.86 Sick Leave. The District will not require an employee to take vacation time in lieu of sick leave during periods of illness (Policy 3085). However, the employee may elect to take vacation time in case of extended illness where sick leave has been fully depleted. ~~The District will not consider granting a leave of absence for medical reasons until all accumulated sick leave and vacation time have been used.~~

3075.97 Scheduling. Employee shall request use of vacation a reasonable time in advance, preferably ~~thirty (30)~~ days, of the proposed vacation. ~~Same day~~ Same-day requests are discouraged and will be considered on a case-by-case basis provided that District operations are not interrupted, and in emergency situations.

3075.10 At the termination of employment for any reason, the District shall compensate the employee for his/her accumulated and unused vacation time at his/her straight time rate of pay at the time of separation.

D. **Use of Vacation.** Employee shall be eligible to use vacation after it is accrued. If there is sufficient time in the remainder of the calendar year to take or reschedule a vacation, and an employee elects not to take or schedule his/her vacation, the District shall have the option of requiring the employee to take a vacation or purchase unused vacation at an employee's regular hourly rate of compensation. An employee is allowed to accrue vacation hours up to the maximum allowed explained below. Vacation buy-backs are scheduled on the first pay period in the month of December. Employees are allowed one (1) additional buy-back during the calendar year. Request is submitted to Payroll and will be reviewed and prepared by Human Resources.

- i. Upon termination, employee shall be compensated for accrued unused vacation at their current pay rate.
- ii. The District will not allow for accrual of vacation in excess of:
 - a. Non-Exempt Employees: one hundred twenty (120).
The General Manger reserves the right to allow overages in special circumstances.
 - b. Exempt Employees:

(1) 1 – 5 service years	260 hrs.
(2) 6 – 15 service year	300 hrs.
(3) 16 – 20 service years	350 hrs.
(4) 21 + service years	380 hrs.

E. **Vacation Buy-Back.** For the additional buy-back during the year, employees who have been employed with the District for a minimum of one (1) year may elect to buy-back accrued, but unused, vacation hours. An employee may request to buy-back a minimum of ten (10) hours. To purchase vacation hours, an employee must have a minimum remaining balance of forty (40) hours of vacation leave accrual after the purchase of said vacation hours for the calendar year. The employee will be compensated for such purchased vacation hours at the salary rate in effect for that employee at the time the hours are paid.

- i. Vacation accruals for which the employee receives compensation will be deducted from the employee's accumulated total.
- ii. All additional vacation buy-back requests during the year will be processed in the payroll cycle following the date the request was approved.

F. **Sick Leave.** The District will not require an employee to take vacation time in lieu of sick leave during periods of illness. However, the employee may elect to take vacation time in case of extended illness where sick leave has been fully used. The District will not consider granting a leave of absence for medical reasons until all accumulated sick leave and vacation time have been used.

G. **Scheduling.** Employee shall request use of vacation in a reasonable time in advance, preferably thirty (30) days, of the proposed vacation. Same day requests are discouraged and will be considered on a case-by-case basis provided that District operations are not interrupted, and in emergency situations.

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POLICY TITLE: FAMILY AND MEDICAL LEAVE
POLICY NUMBER: 3090

3090.1 ~~The District complies with the Family and Medical Leave Act California Family Rights Act (FMLACFRA) and will grant up to 12 weeks of leave during a 12-month period to eligible employees. The provisions of an employment agreement or MOU with union and/or employee association shall prevail, notwithstanding the contents of this policy, unless said provisions are in conflict with the FMLACFRA. In the event of any conflict between policy and the applicable law, employees will be afforded all rights required by law. The purpose of this policy is to clarify how the District will implement the Family and Medical Leave Act of 1993 (FMLA). The provisions of the contract or MOU with union and/or employee association shall prevail, notwithstanding the contents of this policy, unless said provisions are in conflict with the FMLA.~~

3090.2 **Eligibility.** To be eligible for leave under the ~~FMLA CFRA~~, an employee must have:

- 1. Been employed by the District for at least ~~twelve (12) months (the 12 months of employment do not have to be consecutive); and~~
- 2. Worked for the District at least ~~one thousand two hundred fifty (1,250) hours during the twelve (12) months immediately preceding the commencement of leave.~~

3090.3 **Leave Benefit.**

~~1. Eligible employees will be provided with up to twelve (12) weeks of unpaid leave each year to care for a newborn, adopted, or foster child or for a seriously ill child, parent, or spouse. In addition, employees who are unable to perform the functions of their position because of a serious health condition will also be entitled to twelve (12) weeks of unpaid leave. "Serious health condition" is defined as an acute illness, injury, impairment, or physical or mental condition that entails:~~

~~a. Inpatient care in a hospital, hospice, or residential medical care facility; or,~~

~~1. Continuing treatment by a health care provider, for the following reasons:~~

- ~~a. The birth of a child or placement of a child with the employee for adoption or foster care.~~
- ~~b. To care for a spouse or domestic partner, child, grandchild, grandparent, sibling, or parent who has a serious health condition.~~
- ~~c. For a serious health condition that makes the employee unable to perform the essential functions of his or her job, except for leave taken for disability related to pregnancy, childbirth, or related medical conditions.~~
- ~~d. For any qualifying exigency arising out of the fact that a spouse, domestic partner, child, or parent is a military member on covered active duty or on call to covered active duty status. To care for a covered service member with a serious injury or illness.~~

~~2. The District will measure the 12-month period as a rolling 12-month period measured backward from the date an employee uses any leave under this policy. Each time an employee takes leave, the District will compute the amount of leave the employee has taken under this policy and subtract it from the 12 weeks of available leave, and the balance remaining is the amount the employee is entitled to take at that time.~~

~~2. An eligible employee can take up to 26 weeks for the FMLA military caregiver leave during a~~

iv. A registered domestic partnership shall be established in California when both persons file a Declaration of Domestic Partnership and are registered with the Secretary of State.

v. Any other definition of Family Member as defined by the State of California.

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

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

G. **"Buy-Back."**

i. **Incentive Plan "A."** An employee not using any sick leave for twelve (12) consecutive months may convert their twelve (12) accrued days to cash at a rate of two (2) accrued days for eight (8) hours pay at their regular hourly rate.

ii. **Incentive Plan "B."** Upon retirement or death, an employee, or his/ her beneficiary, shall be entitled to receive 50% of all accumulated sick leave not compensated for in "A" above.

iii. **Note.** The beneficiary specified in the previous paragraph shall be the individual indicated on the employee's Life Insurance Beneficiary Form.

25. FAMILY AND MEDICAL LEAVE

A. The purpose of this policy is to clarify how the District will implement the Family and Medical Leave Act of 1993 (FMLA). The provisions of the contract or MOU with union and/or employee association shall prevail, notwithstanding the contents of this policy, unless said provisions are in conflict with the FMLA.

B. **Eligibility.** To be eligible for leave under the FMLA, an employee must have:

- i. Been employed by the District for at least twelve (12) months
- ii. Worked for the District at least one-thousand-two-hundred-fifty (1,250) hours during the twelve (12) months immediately preceding the commencement of leave.

C. **Leave Benefit.**

i. Eligible employees will be provided with up to twelve (12) weeks of unpaid leave each year to care for a newborn, adopted, or foster child or for a seriously ill child, parent, or spouse. In addition, employees who are unable to perform

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~~single 12-month period. FMLA leave already taken for other FMLA circumstances will be deducted from the total of 26 weeks available.~~

3. To be eligible for leave under the FMLACFRA, the employee will first be required to use applicable accrued paid leaves permitted by the District, including vacation leave and sick leave ~~for the first part of the twelve (12) week statutory leave, as permitted by law.~~
4. ~~If a husband and wife~~ ~~If both parents of a child~~ are both employed by the District, ~~the total number of workweeks of leave to which both may be entitled shall be limited to twelve (12) weeks if leave to which both may be entitled each parent may take 12 weeks of leave (if otherwise eligible) is taken for the birth, adoption, or foster placement of a child~~ ~~or for the purpose of caring for a seriously ill parent.~~
5. Employees taking FMLACFRA a "Family Care Leave" will be required to use all available paid time off (e.g. vacation, floating holidays, etc.) during any ~~"Family Care Leave"~~ FMLACFRA leave as permitted by law. Sick leave may run concurrently with FMLACFRA leave, however employees are not required to use sick leave to cover a CFRA leave in connection with the birth, adoption, or placement of a foster child, or to care for a sick family member. Vacation and sick time off do not accrue during a ~~"Family Care Leave"; an FMLACFRA leave of absence~~. If a holiday falls during a ~~"Family Care Leave," an FMLACFRA leave of absence~~, the employee will not receive holiday pay (Policy 3070).
6. Employees on leave who were previously covered by the District's health benefit shall continue to be covered at the level and under the conditions that coverage would have been provided if the employee were continuing to work. ~~While on paid leave, the District will continue to make payroll deductions as necessary to collect the employee's share of insurance premiums. While on unpaid leave, the employee must continue to make this payment, either in person or by mail.~~
7. At the end of the leave the District will ~~attempt to~~ attempt to reinstate the employee to his/her previous position (unless the position ~~is eliminated no longer exists due to layoff or reduction in force, or has been eliminated or modified due to reasons unrelated to the employee's CFRA leave~~) or to an equivalent job with equivalent pay, benefits, and working conditions. ~~However, the employee will not accrue seniority or employment benefits during the leave period. The employee will be reinstated at the same level of seniority as when the leave commenced. The~~ For employees who take leave for their own serious health condition, District will also require the employee to obtain medical certification or fitness for duty clearance from a health care provider stating that they are able to resume work.

3090.4 Employee Obligations

1. ~~In an employee requests leave for the birth, adoption, or the foster placement of a child, and the need for leave is foreseeable, if the event necessitating the leave is foreseeable, the employee must provide his or her supervisor or Human Resources with at least thirty (30) days' prior written notice. However, if the date of the birth, adoption, or foster placement requires that leave begin in less than thirty (30) days, the employee must provide the general manager with as much notice as practicable. If the employee requests leave because of a serious health condition, the employee must provide the supervisor with thirty (30) days notice, or with as much notice as practicable. If 30 days' advance notice for leave is not practicable, the employee must provide his or her supervisor with as much notice as possible.~~
2. Employees seeking leave on account of a serious health condition must provide Human Resources with a medical certification regarding their condition. ~~If the District has reason to doubt the validity of the medical certification, The~~ If the District has reason to doubt the validity of the medical certification, The General Manager, ~~or his/her designee,~~ may require employees

the functions of their position because of a serious health condition will also be entitled to twelve (12) weeks of unpaid leave. "Serious health condition" is defined as an acute illness, injury, impairment, or physical or mental condition that entails:

- a. Inpatient care in a hospital, hospice, or residential medical care facility; or,
 - b. Continuing treatment by a health care provider.
- ii. To be eligible for leave under the FMLA, the employee will first be required to use applicable accrued paid leaves permitted by the District, including vacation leave and sick leave for the first part of the twelve (12) week statutory leave. If a husband and wife are both employed by the District, the total number of workweeks of leave to which both may be entitled shall be limited to twelve (12) weeks if leave is taken for the birth, adoption, or foster placement of a child or for the purpose of caring for a seriously ill parent.
 - iii. Employees taking a "Family Care Leave" will be required to use all available paid time off (e.g. vacation, floating holidays, etc.) during any "Family Care Leave". Vacation and sick time off do not accrue during a "Family Care Leave". If a holiday falls during a "Family Care Leave," the employee will not receive holiday pay.
 - iv. Employees on leave who were previously covered by the District's health benefit shall continue to be covered at the level and under the conditions that coverage would have been provided if the employee were continuing to work.
 - v. At the end of the leave the District will attempt to reinstate the employee to his/her previous position (unless the position is eliminated) or to an equivalent job with equivalent pay, benefits, and working conditions. However, the employee will not accrue seniority or employment benefits during the leave period. The District will also require the employee to obtain medical certification that they are able to resume work.

D. Employee Obligations

- i. If an employee requests leave for the birth, adoption, or the foster placement of a child, and the need for leave is foreseeable, the employee must provide his or her supervisor with at least thirty (30) days' prior written notice. However, if the date of the birth, adoption, or foster placement requires that leave begin in less than thirty (30) days, the employee must provide the general manager with as much notice as practicable. If the employee requests leave because of a serious health condition, the employee must provide the Supervisor with thirty (30) days notice, or with as much notice as practicable.
- ii. Employees seeking leave on account of a serious health condition must provide the supervisor with medical certification regarding their condition. The General Manager may require employees to obtain, at the District's expense, a second opinion. If the second opinion differs from the first, the General Manager may require a third opinion from a mutually agreed on health care provider.

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to obtain, at the District's expense, a second opinion. If the second opinion differs from the first, the General Manager or his/her designee may require a third opinion from a mutually agreed upon health care provider.

3. Leave for childbirth or adoption can be taken intermittently (e.g. two (2) days a week or one (1) week per month). FMLACFRA may be taken intermittently if required by a medical certification. Leave for a serious illness, including a pregnancy-related illness, may be taken intermittently when medically necessary or if the employee is unable to perform his/her job intermittently. ~~this need must be included in the medical certification due to a medical condition. When leave is needed for planned medical treatment, the employee must make a reasonable effort to schedule treatment so as not to unduly disrupt the District's operations.~~
4. Employees on unpaid leave must make regular and timely payments for their share of insurance premiums. If the employee does not continue these payments, the District may discontinue coverage during the leave, as permitted by law.
5. The District may require an employee on FMLACFRA leave to report periodically on his/her status and intent to return to work.

3090.5 Designation of FMLACFRA Leave

1. Human Resources will complete and provide employees with a Notice of Eligibility within 5 business days of receipt of notice of the need for leave. Human Resources will request a medical certification or other supporting documentation as necessary.
2. Human Resources will complete and provide the employee with a written response to the employee's request for FMLACFRA leave using the FMLACFRA Designation Notice within 5 business days of receipt of the requested medical certification or other supporting documentation.

3090.6 Definitions

1. Serious health condition: an illness, injury, impairment, or physical or mental condition that involves inpatient care or continuing treatment by a health care provider. This can include conditions with short-term, chronic, long-term, or permanent periods of incapacity.
2. Child: a biological, adopted, or foster child, a stepchild, a legal ward, the child of a domestic partner, or a child of a person standing *in loco parentis*, who is either under the age of 18, or age 18 or older and "incapable of self-care because of a mental or physical disability" at the time that FMLA leave is to commence.
3. Parent: a biological, adoptive, step or foster father or motherparent, a legal guardian or any individual who stood *in loco parentis* to the employee when the employee was a child. This term does not include parents "in law."
4. Qualifying exigency: includes short-notice deployment, military events and activities, financial and legal arrangements, counseling, rest and recuperation, post-deployment activities, and additional duties that arise out of active duty, provided that the employer and employee agree, including agreement on timing and duration of the leave events related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child, or parent in the Armed Forces of the United States, as specified by Section 3302.2 of the Unemployment Insurance Code.

- iii. Leave for childbirth or adoption can be taken intermittently (e.g. two (2) days a week or one (1) week per month). Leave for a serious illness, including a pregnancy-related illness, may be taken intermittently when medically necessary or if the employee is unable to perform his/ her job intermittently, this need must be included in the medical certification.

26. PREGNANCY DISABILITY LEAVE OF ABSENCE

- A. Under the California Fair Employment and Housing Act (FEHA), if an employee is disabled by pregnancy, childbirth, or related medical conditions, she is eligible to take a Pregnancy Disability Leave (PDL). If she is affected by pregnancy or a related medical condition, she is also eligible to transfer to a less strenuous or hazardous condition or to less strenuous or hazardous duties, if this transfer is medically advisable.
- B. **Length.** The PDL is for any period(s) of actual disability caused by an employee's pregnancy, childbirth, or related medical condition up to four (4) months (or eighty-eight (88) workdays for a full-time employee) per pregnancy.
 - i. The PDL does not need to be taken in one continuous period of time, but can be taken on an as-needed basis.
 - ii. Time-off for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, and recovery from childbirth are all covered by your PDL.
- C. **Compensation.** Generally, the District is required to treat pregnancy disability the same as we treat other disabilities of similarly situated employees. The PDL will be unpaid.
 - i. At the employee's option, she can use any accrued vacation as part of her pregnancy disability leave before taking the remainder of her leave as an unpaid leave. The employee may also be eligible for State Disability Insurance for the unpaid portion of her leave.
 - ii. Taking a PDL may impact certain of the employee's benefits or her seniority date. If the employee wants more information regarding her eligibility for a leave, the impact of the leave on her senior and benefits, and our policy for other disabilities, she should contact her supervisor.
 - iii. An employee returning from an approved PDL of four months or less will be reinstated to her same position or to a comparable position under circumstances allowed by law. The only exception is if the employee's position is eliminated.
- D. **Requirements.** The employee may be required to obtain a certification from her health provider of her pregnancy disability or the medical advisability for a transfer. The certification should include:

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Covered active duty: duty during deployment of the member with the Armed Forces to a foreign country. For a member of the Reserve components of the Armed Forces, means duty during the deployment of the member with the Armed Forces to a foreign country under a federal call or order to active duty in support of a contingency operation, in accordance with 296 CR 826.102.

Covered service member: a current member of the Armed Forces, including a member of the National Guard or Reserves, who is receiving medical treatment, recuperation, or therapy, or is in outpatient status or on the temporary disability retired list for a serious injury or illness.

3. 3090.7 Leave Interactions. In most cases, FMLA and CFRA (California Family Rights Act) Leave run concurrently. Should the District offer FMLA leave at a future date, FMLA leave will in many instances run concurrently with CFRA leave.

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POLICY TITLE: PREGNANCY DISABILITY LEAVE
POLICY NUMBER: 3095

3095.1 Under the California Fair Employment and Housing Act (FEHA), if an employee is disabled by pregnancy, childbirth, or related medical conditions, ~~she-the employee~~ is eligible to take a Pregnancy Disability Leave (PDL). ~~If she-the employee~~ is affected by pregnancy or a related medical condition, ~~she-is also eligible~~ may be an option to transfer to a less strenuous or hazardous ~~condition-position~~ or to less strenuous or hazardous duties, if this transfer is medically advisable.

3095.2 **Length.** The PDL is for any period(s) of actual disability caused by an employee's pregnancy, childbirth, or related medical condition up to ~~four (4) months (or eighty-eight (88) workdays for a full-time employee)~~ per pregnancy. For the purpose of this policy, 4 months means the number of days the employee would normally work within four calendar months (one-third of a year equaling 17 1/3 weeks), if the leave is taken continuously, following the date the pregnancy leave commences.

1. The PDL does not need to be taken in one continuous period of time but can be taken on an as-needed basis.
2. Time-off for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, and recovery from childbirth are all covered by ~~your~~ a PDL.

3095.3 **Reasonable Accommodation.** The District provides reasonable accommodations, to the extent required by law, for conditions related to pregnancy, childbirth, or related medical conditions. In addition, a transfer to a less strenuous or hazardous position or duties may be available pursuant to an employee's request, if such a transfer is medically advisable. Employees requesting leave or reasonable accommodation should promptly notify Human Resources.

3095.4 **Compensation.** Generally, the District is required to treat pregnancy disability the same as ~~we treat~~ other disabilities of similarly situated employees. The PDL will be unpaid.

1. Accrued paid sick leave must be used concurrently with leave taken under this policy. At the employee's option, she can An employee may choose to use any accrued vacation as part of ~~her~~ pregnancy disability leave before taking the remainder of ~~her~~ leave as an unpaid leave. The employee may also be eligible for State Disability Insurance for the unpaid portion of ~~her~~ leave.
2. Taking a PDL may impact certain of the employee's benefits or ~~her~~ seniority date. If an employee wants more information regarding ~~her~~ eligibility for a leave, the impact of the leave on ~~her~~ seniority and benefits, and the District's policies-our policy for other disabilities, ~~she-the employee~~ should contact Human Resources~~her supervisor~~.
3. An employee returning from an approved PDL of ~~four~~ months or less will be reinstated to ~~her-the~~ same position or to a comparable position under circumstances allowed by law. The only exception is if the employee's position is eliminated.

3095.5 **Benefits.** The District will maintain health coverage during leave under this policy on the same terms as if the employees had continued to work. If applicable, the employee must make arrangements to pay ~~her-the~~ employee's share of health plan premiums while on leave.

- iii. Leave for childbirth or adoption can be taken intermittently (e.g. two (2) days a week or one (1) week per month). Leave for a serious illness, including a pregnancy-related illness, may be taken intermittently when medically necessary or if the employee is unable to perform his/ her job intermittently, this need must be included in the medical certification.

26. PREGNANCY DISABILITY LEAVE OF ABSENCE

- A. Under the California Fair Employment and Housing Act (FEHA), if an employee is disabled by pregnancy, childbirth, or related medical conditions, she is eligible to take a Pregnancy Disability Leave (PDL). If she is affected by pregnancy or a related medical condition, she is also eligible to transfer to a less strenuous or hazardous condition or to less strenuous or hazardous duties, if this transfer is medically advisable.
- B. **Length.** The PDL is for any period(s) of actual disability caused by an employee's pregnancy, childbirth, or related medical condition up to four (4) months (or eighty-eight (88) workdays for a full-time employee) per pregnancy.
 - i. The PDL does not need to be taken in one continuous period of time, but can be taken on an as-needed basis.
 - ii. Time-off for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, and recovery from childbirth are all covered by your PDL.
- C. **Compensation.** Generally, the District is required to treat pregnancy disability the same as we treat other disabilities of similarly situated employees. The PDL will be unpaid.
 - i. At the employee's option, she can use any accrued vacation as part of her pregnancy disability leave before taking the remainder of her leave as an unpaid leave. The employee may also be eligible for State Disability Insurance for the unpaid portion of her leave.
 - ii. Taking a PDL may impact certain of the employee's benefits or her seniority date. If the employee wants more information regarding her eligibility for a leave, the impact of the leave on her senior and benefits, and our policy for other disabilities, she should contact her supervisor.
 - iii. An employee returning from an approved PDL of four months or less will be reinstated to her same position or to a comparable position under circumstances allowed by law. The only exception is if the employee's position is eliminated.
- D. **Requirements.** The employee may be required to obtain a certification from her health provider of her pregnancy disability or the medical advisability for a transfer. The certification should include:

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3095.6 **Requirements.** The employee may be required to obtain a certification from ~~her~~ a health care provider ~~of her pregnancy disability that the employee is disabled due to a pregnancy-related condition~~, or the medical advisability for a transfer. The certification should include:

1. The date on which ~~the employees~~ ~~he~~ became disabled due to pregnancy or the date of the medical advisability for the transfer.
2. The probable duration for the period(s) of disability or the period(s) for the advisability of the transfer.
3. A statement that, due to the disability, ~~they are~~ ~~the employee is~~ unable to work at all or to perform any one or more of the essential functions of ~~their~~ position without undue risk to ~~herself~~ ~~oneself~~, the successful completion of ~~her~~ ~~the~~ pregnancy, ~~or to other persons~~ or a statement that, due to the pregnancy, the transfer is medically advisable.

- i. The date on which she became disabled due to pregnancy or the date of the medical advisability for the transfer.
- ii. The probable duration for the period(s) of disability or the period(s) for the advisability of the transfer.
- iii. A statement that, due to the disability, she is unable to work at all or to perform any one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons or a statement that, due to her pregnancy, the transfer is medically advisable.

27. BEREAVEMENT LEAVE

- A. Two (2) days off with pay for death of employee's/ spouse's parents. Four (4) days off with pay for death of employee's spouse or children.

28. PERSONAL LEAVE OF ABSENCE

- A. Employees may be granted leaves of absence without pay for valid and compelling personal reasons for period of up to thirty (30) days. Two (2) weeks prior notice is generally required. A written request is to be submitted to his/ her supervisor with as much advance notice as possible. Management will consider the following factors to determine if a leave is warranted:
 - i. Reason for leave of absence.
 - ii. Length of Service.
 - iii. Performance and work records and the District's legitimate business needs.
- B. **Return.** The ability to return from a personal leave of absence will be based upon the availability of an appropriate position.

29. JURY DUTY

- A. **Application.** This policy shall apply to probationary and regular employees in all classifications.
- B. **Notice.** An employee summoned for jury duty will immediately notify his/her immediate supervisor.

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POLICY TITLE: LACTATION ACCOMMODATION**POLICY NUMBER: 3096**

3096.1 The District recognizes the need to promote a work environment that is supportive of breastfeeding employees who wish to continue nursing their infant children when they return to work. This policy establishes guidelines for promoting a breastfeeding friendly work environment and supporting lactating employees.

3096.2 The District will provide an environment that will enable employees to express milk in a private, appropriate space. Such space will meet the requirements of the California Labor Code including a surface to place a breast pump and personal items, a place to sit, and access to electricity. Lactating employees will also be provided access to a sink with running water, and access to a refrigerator for storing breast milk. Multi-purpose rooms may be used as lactation space if they satisfy the requirements for space; however, the use of the room for lactation takes priority over other uses. Restrooms are prohibited from being utilized for lactation purposes.

3096.3 An employee may request an accommodation for reasonable lactation breaks by informing Human Resources and the employee's supervisor. The supervisor and the employee will discuss an appropriate break schedule for lactation. The lactation break time will, if possible, run concurrently with the employee's regular paid break time already provided. Any time in excess of a normal lunch or paid break time will not be paid. The District will respond, in writing, if lactation space or additional break time, as described in this policy, cannot be provided.

3096.4 Harassment of and/or discrimination against lactating employees is prohibited. It is also prohibited to retaliate against lactating employees who request time to express breast milk at work. Any harassment of and/or discrimination against a lactating employee should be immediately reported to Human Resources. Any incident of discrimination or harassment of a lactating employee will be addressed in accordance with Policy 2015 and in accordance with state law.

3096.5 Employees have the right to file a complaint with the Labor Commissioner for any violation of rights provided under Chapter 3.8 of the California Labor Code regarding lactation accommodations.