

4080 - LEAVE OF ABSENCE

1. VOLUNTARY LEAVES OF ABSENCE WITHOUT PAY
 - A. With the written approval of the General Manager or other responsible managing employee, an employee may request a leave of absence without pay for a period of up to 30 days. Any voluntary leaves greater than 30 days must be recommended by the General Manager and pre-approved by the Board of Directors.
 - B. Voluntary leaves of absence may be taken in conjunction with, and at the conclusion of, an authorized use of vacation.
 - C. Voluntary leaves of absence without pay will only be authorized once all available vacation time has been used by the employee. The leave of absence without pay will be without any accrual of pay and/or other benefits available to regular employees of the District.
 - D. Due to the District's limited work force, maintenance of job classifications for the term of a voluntary authorized leave of absence without pay cannot be guaranteed beyond the date of the end of the leave period.
 - E. Neither sick leave nor vacation will accrue during any period of absence. Employees on leave also do not receive holiday pay. Medical and other insurance benefits will continue during any period of absence provided, however, that (1) the employee must pay his/her proportionate share of the premiums, including the District's share, and (2) such continuation coverage is allowed under the terms of the particular insurance plans.

2. Employee Obligations
 - A. 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/her immediate supervisor with at least 30 days' notice, if possible. However, if the date of the birth, adoption, or foster placement requires that leave begin in less than 30 days, the employee must provide his/her immediate supervisor with as much notice as practicable. If the employee requests leave because of a serious health condition, the employee must provide his/her immediate supervisor with 30 days' notice or with as much notice as practicable.
 - B. Employees seeking leave on account of a serious health condition must provide his/her immediate supervisor with medical certification regarding his/her condition. The General Manager may require employees to obtain a second medical opinion at a medical facility of the District's choosing, at the expense of the District. If the second medical opinion differs from the

first, the General Manager may require a third medical opinion from a mutually agreed on health care provider.

- C. For most leaves, an employee will not be permitted to take his/her leave intermittently or on a reduced-leave schedule without the General Manager's approval. However, intermittent leave or a reduced-leave schedule may, if medically necessary, be taken by the employee because of a serious health condition. An employee who seeks intermittent leave or leave on reduced-leave schedule because of planned medical treatment may, at the discretion of the General Manager, be required to transfer temporarily to a different position, with equivalent working conditions, that accommodates recurring periods of leave better than the employee's regular job.

4090 - INJURED ON DUTY

1. All on-the-job injuries shall be reported to the Supervisor, no matter how minor. The Supervisor shall make an immediate report to the General Manager where appropriate documentation shall be made.
2. All minor injuries should be treated with first aid as soon as possible, then a "first aid" report should be completed and turned in to the Assistant Administrator.
3. Exposure forms are to be completed for exposure to hazardous materials or infectious blood borne pathogens and turned in to the Assistant Administrator.
4. In addition to immediately reporting on-the-job injuries to the Supervisor, employees must complete an injury, accident, and damage report within twenty-four hours of occurrence, (unless a damaged vehicle is out of town or accident occurs on the weekend, then immediately upon arrival back in the District or first thing Monday morning). These reports must be filed in ink; no pencil written reports will be accepted. Upon completion of report, turn in to the Assistant Administrator. Accident Report Non-Vehicular located at Appendix "H", Accident Report, Vehicular and Moving Equipment at Appendix "I"

CHAPTER FOUR – BENEFITS

4100 - EARLY RETURN TO WORK

Nipomo Community Services District recognizes the need to provide temporary modified/alternative work to an employee who is unable to perform regular duties due to industrial illness or injury. In this regard, it is our intent, whenever possible to implement an Early-Return-to-Work Program designed to return the injured employee to work in a physically appropriate job as soon as the treating physician deems it medically feasible.

This policy applies to all employees. Due to the limited amount of modified/alternative work available, employees are assigned on a "first come, first served" basis, to appropriate positions as available.

1. The purpose of this program is:
 - A. To assist employees in the transition from disability to full recovery while continuing to be a productive part of the work force, while minimizing the deterioration of the employee's work skills, health and attitude that may result from prolonged work absence; and
 - B. To provide management with a constructive program to reduce the cost of Worker's Compensation and to minimize the loss of productivity.
2. The General Manager will determine the employee's eligibility for the program, placement in modified/alternative work, record keeping, and monitoring the progress and full return to work of the employee(s) in the Early Return to Work program.
3. The modified/alternative work will be implemented immediately to avoid lost time and wages. The temporary/modified/alternative work assignment is not considered to be part of the regular staffing pattern. The employee must have a medical clearance authorization slip from the attending physician specifying work restrictions and abilities.
4. An Early-Return-To-Work Program participant is encouraged to schedule physical therapy and doctor's appointments around his/her work schedules to avoid loss of earning power and to prevent disruption of business. If this cannot be arranged, appointments should be scheduled at the beginning or end of the work day. All appointments requiring time away from work must have written verification of time in and out of the facility to present to his/her supervisor.

5. If employee's health status changes, it must be reported immediately to his/her supervisor and the General Manager. The employee's medical condition, including limitations and restrictions given by the treating physician, will be considered as a priority when identifying the modified/alternative work.
6. While on the temporary modified/alternative work program, an employee who has experienced an on-the-job-injury, will be evaluated every thirty (30) days and when his/her medical condition has been determined to be permanent and stationary.
7. As long as work can be provided, there is no right of refusal without jeopardizing benefits and entitlements.
8. Hours worked under modified/alternative work assignments will be considered "productive hours" in the computation and eligibility for receiving benefit pay and accruals and will be considered hours worked in determining service credit. The time spent on personal sick or another absence will be treated in the same manner as when on regular duty.
9. A modified/alternative job offer will be made only when the work is available and of benefit to the District. The modified/alternative work, if offered, will end with the date the employee receives a regular release, and may be ended at any time if there is no longer a need for modified/alternative work. Each case will be assessed individually based on need. Wages and hours will not necessarily be the same as that of the regular job. If the treating physician determines that an employee is permanently prevented from returning to his/her former and available regular position, the modified/alternative work assignment will be terminated.

4110 - BENEFIT CONTRIBUTIONS

The District has the right to change medical and/or dental providers after consultation with affected employees.

1. Medical Expense Insurance - Accident, health, and hospital insurance to cover non-occupational injuries and sickness for introductory and full-time employees and their dependents (working more than 20 hours per week pursuant to PERS rules) in all job classifications, shall be provided by the District. The scope of coverage and the payment of premiums may be subject to annual review and revision by the Board of Directors.
2. Dental insurance shall be provided for regular employees and their dependents upon completion of six months of continuous employment. The scope of coverage and the payment of premiums may be subject to annual review and revision by the Board of Directors.
3. Vision Insurance shall be provided for regular employees and their dependents upon completion of six months of continuous employment. The scope of coverage and the payment of premiums may be subject to annual review and revision by the Board of Directors.
4. Workers' Compensation Insurance - All District employees will be insured against injuries received while on the job as required by State law.
5. Retirement Plan - The District is a member of PERS (Public Employees Retirement System). The District contributes the required percentage of gross wages (excluding overtime) to PERS on behalf of each eligible employee.
6. Deferred Compensation Plan - The District offers an IRS 457 Deferred Compensation Plan to its employees who are PERS members. This plan is provided as an optional PERS benefit. The District does not contribute to this plan.
7. 1959 Survivor Benefit Allowance - This benefit provides for a monthly allowance to eligible survivors of members who were covered for this benefit program and dies before retirement. The cost to each employee is \$2.00 per month. The District contributes \$3.20 per month on behalf of each employee.

4120 - EDUCATION AND TRAINING

EDUCATION NOT REQUIRED AS A CONDITION OF EMPLOYMENT

1. Time spent in Seminars, Conferences and/or Training Sessions beyond regular working hours is for the employee's benefit and is not required as a condition of employment. Any time used by employees traveling to and from Seminars, Conferences and/or Training Sessions outside of regular working hours will not be compensated as time worked, and shall not be used to compute overtime unless specifically authorized by the General Manager or his/her designee in advance of travel.
2. Attendance at Seminars, Conferences and/or Training Sessions must be pre-approved by the Supervisor. The General Manager may require modified work schedules of individual employees to provide for employee attendance at Seminars, Conferences and/or Training Sessions during working hours.
3. When appropriate, travel and per diem costs will be paid in accordance with the Business Travel and Reimbursement Policy as set forth in Section 6000.
4. If an authorized Seminar, Conference and/or Training Session is offered in several locations, the closest location to Nipomo Community Services District is preferred.

EDUCATION REQUIRED AS A CONDITION OF EMPLOYMENT OR ATTENDANCE DIRECTED BY SUPERVISOR OR GENERAL MANAGER

1. Attendance at Seminars, Conferences and/or Training Sessions must be pre-approved by the General Manager fifteen (15) calendar days in advance.
2. The General Manager is authorized to compensate, individual employees for attendance at Seminars, Conferences and/or Training Sessions outside regular working hours when:
 - A. Attendance is required to maintain certification for the current job classification of the employee or when attendance is directed by the General Manager or his/her designee; and
 - B. The Seminar, Conference and/or Training Session is not offered during regular working hours.
3. When authorized, travel time and attendance time outside of regular working hours will be compensated at the overtime rate.
4. The General Manager may require modified work schedules of individual employees to provide for employee attendance at Seminars, Conferences and/or Training Sessions during working hours.
5. When appropriate, travel and per diem costs will be paid in accordance with the Business Travel and Reimbursement Policy as set forth in Section 6000.
6. If an authorized Seminar, Conference and/or Training Session is offered in several locations, the closest location to Nipomo Community Services District is preferred.

4130 - FAMILY AND MEDICAL LEAVE

The District provides Family and Medical Leave in accordance with state (CFRA) and federal (FMLA) leave laws.

1. Basis for Family and Medical Leave:

Family and Medical Leave may be taken for the birth of the employee's child, the placement of a child with the employee for adoption or foster care, to care for the employee's spouse, child or parent who has a serious health condition, or for a serious health condition that makes the employee unable to perform his/her job.

2. Eligibility:

To be eligible for Family and Medical Leave, you must have at least 12 months of service with the District and must have worked at least 1,250 hours during the 12-month period preceding the date the leave is to begin.

3. Duration:

A. Employees may take up to a maximum of 12 workweeks of Family and Medical Leave within a 12-month period. The 12-month period within which the 12 workweeks of leave must be taken begins on the date the employee's leave begins and concludes 12 months after that date.

B. Leave may be taken intermittently (in blocks of time or on a reduced-time schedule) if the leave is for the serious health condition of the employee or the employee's family member and if such intermittent leave is medically necessary as determined by the health care provider of the person with the serious health condition. The smallest increment of time that can be used for such leave is 0.25 of an hour.

C. Intermittent leave may be taken in two-week increments for the birth or placement of a child. Intermittent leave for a shorter period (at least one day) may be taken on a maximum of two occasions. Any leave taken for the birth, adoption, or foster placement of a child must be taken within one year of the birth or placement of the child with the employee. If both parents are employees of the District, the parents are eligible for a combined total of twelve weeks leave for the birth or placement of a child.

4. Procedures:

A. Please contact the General Manager as soon as you become aware of the need for family and medical leave.

- B. If the leave is for the birth, adoption, or foster placement of a child, or for planned medical treatment for a serious health condition of the employee or family member, the employee must provide at least 30 days' advance notice before the leave is to begin. If 30 days' notice is not possible, notice must be given as soon as practicable.
- C. If the leave is needed for the employee's own serious health condition, the employee must provide a certification from the health care provider stating:
 - (a) The date of commencement of the serious health condition;
 - (b) The probable duration of the condition;
 - (c) That the employee is unable to work at all or is unable to perform any one or more of the essential functions of his/her position because of the employee's serious health condition.
- D. The District will require certification by the employee's health care provider that the employee is fit to return to his/her job.
- E. If the leave is needed to care for the serious health condition of a family member, the employee must provide certification from the health care provider stating:
 - (a) The date of commencement of the serious health condition;
 - (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 take in order to care for the child, parent, or spouse; and
 - (d) Confirmation that the serious health condition warrants the participation of the employee.
- F. If the Family and Medical Leave request is for the employee's own serious health condition, the District may require, at its expense, a second opinion from a health care provider designated by the District. The health care provider designated by the District will not be one who is employed on a regular basis by the District. If the second opinion differs from the first opinion, the District may require, at its expense, that the employee obtain a third opinion by a health care provider approved jointly by the District and the employee. The third opinion shall be considered final and binding on the District and the employee.
- G. Recertification may be required if the employee requests an extension beyond the original certification.

5. Compensation and Benefits:

- A. Family and Medical Leave is unpaid. An employee taking family and medical leave due to the employee's serious health condition must substitute all accrued sick leave, unused paid vacation, personal leave, paid time off, and short-term salary continuation, if applicable, before continuing leave on an unpaid basis. An employee taking leave for reasons other than an employee's own serious health condition must exhaust all accrued unused paid vacation, personal leave, and paid time off before continuing leave on an unpaid basis. Any family and medical leave, whether paid, unpaid, or a combination thereof, will be counted toward the 12-week leave entitlement. Employees on leave will not continue to accrue vacation time or sick time and will not be paid for holidays during the leave.
- B. An employee taking Family and Medical Leave will be allowed to continue participating in any health and welfare benefit plans in which he/she was enrolled before the first day of the leave (for up to a maximum of 12 workweeks) at the level and under the conditions of coverage as if the employee had continued in employment for the duration of such leave. The District will continue to make the same premium contribution as if the employee had continued working. The continued participation in health benefits begins on the date leave first begins. An employee who does not return from leave may be required, under certain circumstances provided by the law, to reimburse the District for any employee contributions paid by the District while the employee was on unpaid leave. A payment schedule for employee premiums will be set up with the General Manager at the time the leave commences.

6. Reinstatement:

- A. Upon return from a Family and Medical Leave, an employee will be reinstated to his/her original position or to a comparable position with equivalent pay, benefits, and other employment terms and conditions. However, an employee has no greater right to reinstatement than if the employee had been continuously employed rather than on leave. For example, if an employee on Family and Medical Leave would have been laid off had he/she not gone on leave, or if the employee's position has been eliminated during the leave, then the employee would not be entitled to reinstatement. An employee's use of Family and Medical Leave will not result in the loss of any employment benefit that the employee earned or was entitled to before the leave.
- B. Reinstatement may be denied to certain salaried "key" employees. Such employees will be notified of this possibility at the time the leave is requested.
- C. If an employee fails to report to work promptly at the end of the leave, the District will assume that the employee has resigned.

4140 - PREGNANCY RELATED LEAVES AND TRANSFER PRIVILEGES

1. Eligibility for Leave:
 - A. The District provides pregnancy disability leaves of absence without pay to eligible employees who are temporarily unable to work due to a disability related to pregnancy, childbirth, or related medical conditions.
 - B. Employees who are affected by pregnancy or a related medical condition are also eligible to transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties, if such a transfer is medically advisable and can be reasonably accommodated. Where transfers are made based on the employee's health needs, the employee will receive the pay that accompanies the alternative position.
2. Procedures for Requesting Leave:
 - A. An employee should make requests for pregnancy disability leave to his/her supervisor at least 30 days in advance of foreseeable events and as soon as possible for unforeseeable events.
 - B. A health care provider's statement must be submitted verifying the need for pregnancy disability leave and stating:
 - (a) The date on which the employee became disabled due to pregnancy, childbirth or related medical condition or the date on which the need for a transfer became medically advisable;
 - (b) The probable duration of the period or periods of disability or the need for transfer; and
 - (c) A statement that, due to the disability, the employee is unable to perform 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 that the transfer is medically advisable.
 - C. Re-certification may be required if the employee requests an extension beyond the original certification.

- D. Any changes in this information contained in the health care provider's statement should be promptly reported to the General Manager.
3. Length of Leave:
- A. Full-time employees are normally granted unpaid leave for the period of the disability, up to a maximum of four months (or 88 working days). Part-time employees are granted unpaid leave on a pro-rata basis.
 - B. The pregnancy disability leave does not need to be taken in one continuous period of time, but can be taken on an as-needed basis. In other words, leave may be taken intermittently or on a reduced work schedule when determined medically advisable by the employee's health care provider. The smallest increment of time that can be used for such leave is 0.25 of an hour. The District may transfer the employee to an alternative position or alter the existing job to accommodate intermittent leave or a reduced work schedule. The employee will receive the same pay and benefits in the alternative position.
 - C. An employee taking pregnancy leave must substitute all accrued sick leave before continuing on an unpaid basis. The employee may substitute all accrued paid vacation, personal leave, paid time off, and short-term salary continuation, if applicable, before continuing leave on an unpaid basis. Substituted paid leave time will be counted toward the four-month entitlement.
4. Benefits During Leave:
- A. Employees on leave will not continue to accrue vacation time and will not be paid for holidays during the leave.
 - B. If an employee taking a Pregnancy Leave would be entitled to continuation of health benefits under the District's Family and Medical Leave Policy, the District will allow the employee to continue participating in any health and welfare benefit plans in which he/she was enrolled before the first day of the leave (for up to a maximum of 12 workweeks) at the level and under the conditions of coverage as if the employee had continued in employment for the duration of such leave. The District will continue to make the same premium contribution as if the employee had continued working. The continued participation in health benefits begins on the date leave first begins. An employee who does not return from leave may be required, under certain circumstances provided by the law, to reimburse the District for any employee contributions paid by the District while the employee was on unpaid leave. A payment schedule for employee premiums will be set up with the Personnel Manager at the time the leave commences.

- C. An employee taking a Pregnancy Leave who is not eligible for benefits continuation under the Family and Medical Leave Policy will receive continued benefits on the same terms and conditions as other medical leaves.
5. Return to Work:
- A. So that an employee's return to work can be properly scheduled, an employee on pregnancy disability leave is requested to provide the General Manager with at least two weeks' advance notice of the date she intends to return to work.
 - B. When a pregnancy disability leave ends, an employee will be reinstated to her original position or to a comparable position with equivalent pay, benefits, and other employment terms and conditions. However, an employee has no greater right to reinstatement than if the employee had been continuously employed rather than on leave. For example, if an employee on Pregnancy Leave would have been laid off had she not gone on leave, or if the employee's position has been eliminated during the leave and there is no comparable position available, then the employee would not be entitled to reinstatement. An employee's use of Pregnancy Leave will not result in the loss of any employment benefit that the employee earned or was entitled to before the leave.
 - C. An employee returning from pregnancy disability leave must submit a health care provider's verification of his/her fitness to return to work.
 - D. If an employee fails to report to work promptly at the end of the pregnancy disability leave, the District will assume that the employee has resigned.

CHAPTER FIVE - EMPLOYEE RELATIONS

5000 - UNAUTHORIZED VOLUNTARY ABSENCE

1. Voluntary absence from work without written permission is grounds for termination.
2. Voluntary absence from work without written permission for three (3) consecutive working days shall be considered an automatic resignation, unless overturned by the General Manager based on the finding that the failure to notify the District was beyond the employee's control.

5010 - GRIEVANCE PROCEDURE

1. Definition

A grievance is the subject of a written request or complaint initiated by an employee, arising out of a specific application of a policy or rule that results in an alleged injury or damage to the employee, the solution of which is wholly or partially within the province of the District to rectify and will involve the interpretation or application of existing rules, regulations, policies or procedures administered by the employee's Supervisor concerning wages, hours, and other terms and conditions of employment. A grievance does not include:

- A. Matters reviewable under some other District administrative procedure;
- B. Requests or complaints the solutions of which would require the exercise of authority, such as the adoption or amendment of a resolution, rule, regulation or policy established by the Board of Directors;
- C. Requests or complaints involving the termination of an introductory or temporary employee, or the termination, suspension or demotion of a regular employee;
- D. Requests or complaints involving the denial or granting of merit increases, performance evaluations, suspension of education assistance, verbal and/or written reprimands.

2. Grievance Procedure Steps.

A. Level I, Preliminary Informal Resolution

Any employee who believes he/she has a grievance shall present the evidence thereof orally to his/her immediate supervisor within five (5) working days after the employee knew, or reasonably should have known, of the circumstances which form the basis for the alleged grievance. The immediate supervisor shall hold discussions and attempt to resolve the matter within three (3) working days after the presentation of such evidence. It is the intent of this informal meeting that at least one personal conference be held between the employee and the immediate supervisor.

B. Level II, General Manager

If the grievance has not been resolved at the Level I, the grievant must present his/her grievance in writing on a form provided by the District (attached hereto as Appendix "A") to the General Manager within ten (10) working days after the occurrence of the act or omission giving rise to the grievance.

The statement shall include the following:

- (a) A concise statement of the grievance including specific reference to any law, policy, rule, regulation and/or instruction deemed to be violated, misapplied or misinterpreted;
- (b) The circumstances involved;
- (c) The decision rendered by the immediate supervisor at Level I;
- (d) The specific remedy sought.

The General Manager shall communicate his/her decision within five (5) working days after receiving the grievance. Decisions will be in writing setting forth the decision and the reasons therefore and will be transmitted promptly to all parties in interest. If the General Manager does not respond within the time limits, the grievant may appeal to the next level. Time limits for appeal shall begin the day following receipt of written decision by the General Manager. Within the above time limits either party may request a personal conference with the other

C. Level III, Board of Directors.

Only in grievances against the General Manager (excluding performance evaluations) may the grievant appeal the decision in writing on a form provided by the District (attached hereto as Appendix "A") to the District's President of the Board of Directors within five (5) working days. The statement shall include a copy of the original grievance; and a clear, concise statement of the reasons for the appeal to Level III.

The President as soon as possible at a regular monthly meeting of the Board, shall review the grievance with legal counsel and schedule a hearing to formally receive the written grievance and the answers thereto at each step and to hear evidence regarding the issue or issues. The Board of Directors shall thereafter issue a written decision.

D. Basic Rules

If an employee does not present the grievance, or does not appeal the decision rendered regarding the grievance within the time limits specified above, the grievance shall be considered resolved.

By agreement in writing, the parties may extend any and all time limitations of the grievance procedure.

The General Manager may temporarily suspend grievance processing on a District-wide basis in an emergency situation. If so, Directors shall be notified within one working day. Employees covered by this policy may appeal this decision to the Board of Directors.

A copy of all formal grievance decisions shall be placed in the employee's permanent personnel file.

Prior to pursuing remedies provided by law, employees shall first comply with the District's grievance policies.

**DISCIPLINE AND APPEALS PROCEDURE
CHAPTER FIVE – EMPLOYEE RELATIONS**

**NUMBER: 5020
EFFECTIVE: 05/23/07**

- Q. Private use of District equipment, vehicles, tools and materials without approval of the General Manager
 - R. Violation of safety rules or unsatisfactory driving record
 - S. Conviction for a felony or misdemeanor
 - T. Refusal to take and subscribe any oath or affirmation which is required by law in connection with his/her employment.
 - U. Violation of District rules, regulations or policies
5. Types of Discipline - Minor
- A. Corrective Counseling: Corrective counseling may be conducted with an employee whose conduct or performance must be improved and which details the areas for improvement, the degree of improvement required, and notice that failure to improve will result in more serious disciplinary action. The supervisor shall document the verbal warning (corrective counseling) and place a dated copy in the employee's personnel file with a copy to the employee with said document being expunged from the file if, within a 12-month period, no other disciplinary action occurs.
 - B. Written Reprimand: A formal written notice to an employee which summarizes previous related disciplinary action, if any, which details conduct subject to discipline and which advises that continued conduct at such levels may result in suspension, pay reduction, demotion or dismissal. The notice will advise the employee of the right to appeal, pursuant to Section 8, below. The employee must acknowledge receipt of the reprimand by signing the letter at the time of presentation; this signature signifies only receipt of the document, not necessarily agreement to the contents. The employee may, before the conclusion of the next regular working day, respond in writing to the contents of the letter of reprimand to be included in his/her file.
6. Types of Discipline - Major
- A. Suspension: The temporary removal of an employee from the service of the District without pay. A suspension of this type does not include suspension pending an investigation of alleged misconduct.
 - B. Pay Reduction: The reduction in pay of one or more pay steps where performance falls short of normal established standards or where performance is clearly inadequate in one or more of the critical job duties for the position.
 - C. Demotion: The removal of an employee from a position to one of lower grade or classification.
 - D. Dismissal: The removal of an employee from the service of the District.
7. Disciplinary Procedures for Major Discipline.
- A. Notice of Intent- to-Discipline for Suspension, Pay Reduction, Demotion or Dismissal. Where the proposed discipline is major, as defined, a Notice of Intent to Discipline, signed by a Supervisor, supporting the

discipline shall be served on the employee. Service of the Notice of Intent-to-Discipline shall be made at least five (5) days before a hearing pursuant to Section 7(C) is held to discuss the charges. The Notice shall include:

- (a) The proposed discipline.
- (b) The effective date of the discipline.
- (c) The reasons for the discipline.
- (d) The names of witnesses to the incident(s) precipitating the discipline.
- (e) Attachment of, or reference to, any written documents pertinent to the discipline.

An employee may, where circumstance warrant, be placed on administrative leave pending the hearing held pursuant to Section 9(C).

B. Notice. Notice of Intent-to-Discipline shall be served on the affected employee by:

- (a) Personal service; or
- (b) If service under 7(B)(a) is not feasible, by first class certified mail, return receipt requested, to the last known mailing address of the employee.

Service is deemed complete when any one of the preceding steps is taken.

C. Informal Hearing Procedure (Skelly hearing). The employee shall be given an opportunity at an informal hearing to show why the proposed major discipline should not be imposed prior to its imposition.

- (a) The hearing will be conducted by a Reviewing Officer who shall be the General Manager or a responsible person designated by the General Manager. The hearing shall include the employee, the employee's representative, if the employee so wishes, and others as directed by the Reviewing Officer.
- (b) At the hearing, the employee shall be given an opportunity, either orally, in writing, or both, to bring forward facts or circumstances which may cause the proposed discipline to be revised or cancelled.
- (c) The Reviewing Officer shall issue his/her decision within ten (10) working days of the hearing. The decision may uphold the disciplinary action, modify the discipline, reduce the level of discipline to a minor status, or cancel the proposed discipline.
- (d) The decision will contain a synopsis of the informal hearing, and shall be served on the employee as provided in Section 7 (B). The decision shall also inform the employee of his/her right of appeal as provided in Section 9, below.

8. Appeal from Minor Discipline. Corrective counseling are not subject to appeal, except as provided by applicable State law. A written reprimand may be

- G. The hearing officer shall determine the relevancy, weight, and credibility of testimony and evidence. The hearing officer shall base his/her findings on the preponderance of the evidence.
- H. Each side shall be permitted an opening statement and closing argument. The District shall first present witnesses and evidence to sustain the discipline and the appellant will then present his/her witnesses and evidence in defense.
- I. Each side will be allowed to examine and cross-examine witnesses.
- J. The District shall bear the cost of the hearing officer and each side shall bear its own cost of representation.
- K. The hearing officer, upon a request by either party, may subpoena witnesses and/or require production of other records or material evidence.
- L. The hearing officer may, prior to or during a hearing, grant a continuance for any reason he/she believes may be important to reaching a fair and proper decision.
- M. The hearing officer shall prepare a written decision and serve it on the appellant pursuant to Section 7(B), above, and forward it to the General Manager not later than thirty (30) calendar days after the matter of appeal was taken under submission. The written decision shall set forth the hearing officer's findings of fact and shall state reasons why the discipline is recommended to be sustained, reduced, or cancelled. If the hearing officer recommends that the discipline be reduced or cancelled, the hearing officer shall make recommendations concerning payment of back pay, if applicable, during pendency of the appeal.
- N. Decisions of the hearing officer on matters properly before him/her shall be final and binding on the parties to the extent permitted by law and these policies.
- O. No hearing officer shall have the power to amend or modify these Policies or a law, ordinance, resolution, regulation or rule which is the authority of the District Board of Directors, or to establish any new terms or conditions of employment.
- P. If the appellant is dissatisfied with the hearing officer's decision and wishes to seek judicial review, the limitations period provided in Code of Civil Procedure Section 1094.6, shall apply. The time shall run from the service of the decision of the hearing officer and the Notice shall reference the applicable time limit in which to seek judicial relief.
- Q. No employee shall be penalized in any way for availing him/herself of the disciplinary appeal process.

5020 - DISCIPLINARY AND APPEALS PROCEDURES

1. Purpose. The purpose of this procedure is to establish the types of actions for which an employee can be disciplined and the disciplinary measures that may be used.
2. Exclusive Remedy. The procedure set forth in this Procedure shall be exclusive, and the failure of an employee to utilize the provisions herein shall constitute a waiver of any claim to relief.
3. Application. These Procedures apply only to Regular Employees. Regular Employees do not include Introductory Employees, the General Manager, the District Legal Counsel, any employee employed by contract, or any employee hired on a temporary, special, provisional, seasonal, emergency basis, or any independent contractor. An employee not covered by these Procedures may be disciplined without reference to these provisions.
4. Grounds for Discipline. Discipline may be taken against an employee for "good cause." Good cause exists where any fact or set of facts, based upon relevant circumstances, may be reasonably relied upon in the exercise of discretion as a basis for disciplinary action. The following are set forth as examples only and shall not be construed as an exclusive list:
 - A. Fraud in securing employment
 - B. Abuse of sick leave
 - C. Violation of any lawful or reasonable regulation or order made and given by an employee's supervisor; insubordination
 - D. Theft
 - E. Misuse of District credit cards and/or violation of purchasing policies
 - F. Negligence in the performance of duties
 - G. Incompetence
 - H. Tardiness
 - I. Violation of Sick Leave Policy
 - J. Unexcused absences
 - K. Use, possession, being under the influence of, sale/purchase or offer to sell/purchase illegal drugs and narcotics or alcohol during working hours or after working hours on District property
 - L. Falsification of records
 - M. Fighting or other abusive conduct toward employees or the public
 - N. Negligent or reckless operation of District vehicles and equipment
 - O. Deliberate destruction or damage to District property, public property or the property of another employee
 - P. Possessing unauthorized firearms on District property or during hours when the employee is employed by the District

filed with the General Manager within five (5) working days after the reprimand is served on the employee. The General Manager will conduct an investigation of the facts as warranted. The General Manager shall issue a decision in writing and may affirm, cancel or modify the written reprimand. The decision of the General Manager is final. If the employee is dissatisfied with the General Manager's decision and wishes to seek judicial review, the limitations period provided in Code of Civil Procedure Section 1094.6. The time shall run from the service of the General Manager's decision. The General Manager's written decision shall be served on the employee as provided in Section 7 (B), above, and shall include notice to the employee that the time within which judicial review must be initiated is governed by Code of Civil Procedure Section 1094.6

9. Appeal from Major Discipline. If an employee desired to appeal the decision issued pursuant to Section 7 (C), above, then the following procedures shall apply.
 - A. The appeal must be in writing and filed with the General Manager within ten (10) working days after service on the employee of the decision of the Reviewing Officer.
 - B. Within ten (10) days of filing the appeal, the District and the employee (or the employee's representative) shall attempt to mutually agree on an impartial hearing officer. Should the parties fail to reach agreement on the selection of a hearing officer, each party, within five (5) days, shall designate and serve the other party three (3) hearing officer candidates along with a statement of their respective qualifications. Each party shall then have three (3) days to disqualify up to two (2) of the qualified candidates offered by the other party. The hearing officer shall be selected from the remaining candidates by chance.
 - C. The hearing officer shall be an attorney or other person with experience in hearing and deciding personnel matters. A designated hearing officer who is not qualified shall be automatically disqualified.
 - D. The hearing shall be conducted within thirty (30) days of the selection of the hearing officer, unless the General Manager, the hearing officer and the appellant agree in writing that the date of the hearing be extended for a specified time.
 - E. The hearing shall be conducted in the manner most conducive to determination of the truth, and the hearing officer shall not be bound by technical rules of evidence. The proceedings shall be tape recorded or stenographically reported at the request of either party, and said requesting party shall pay for those costs. The decisions of the hearing officer shall not be invalidated by any informality in the proceedings.
 - F. The appellant shall personally attend all sessions of the hearing, unless specifically excused by the hearing officer for proper cause. Unexcused failure of the appellant to appear at a hearing shall be deemed a withdrawal of the appeal.

5030 - SAFETY

1. Smoking in the Workplace

No smoking will be permitted in the District office or other District workspaces, District buildings, or while in or operating District vehicles or equipment.

2. Accident Prevention

The District is concerned about the health and safety of all employees. Employees are expected to share that concern by practicing safe working habits for their own benefit, as well as that of their fellow employees. District policy and federal law requires that employees be provided places of employment free from recognized safety hazards and with proper tools and equipment necessary to accomplish their work assignment in as safe a manner as possible. Employees are expected to notify their Supervisor immediately whenever they have a question that concerns safety.

3. Injury & Illness Prevention Plan (IIPP)

Employees should review and follow the District's plan with the Safety Coordinator.

4. Accident Reporting

All job-related injuries and illnesses, regardless of severity, must be reported immediately to the Supervisor to provide prompt and trained evaluation and medical attention, if necessary. Refer to Section 4090.

5040 - USE OF DISTRICT VEHICLES & PROPERTY

1. District vehicles, equipment, tools and other property shall only be used for District business and operations. No District employee, Board member or member of the public shall use any such District property or vehicle for any personal or non-District use.
2. Transportation in District vehicles of persons other than Directors, officers, employees, agents of the District, or unauthorized guest, is prohibited.
3. Exemptions must be pre-approved by the General Manager or his/her designee and may be allowed for general public good will and the general benefit of the District.
4. Employees who are required to use District vehicles shall:
 - A. Be aware they are on public display when driving a District vehicle and must conduct themselves accordingly.
 - B. Be aware that if any violation results in a citation, it is the employee's responsibility and the employee will be subject to further disciplinary action.
 - C. Fasten seat belts at all times and see to it that passengers do the same.

5050 - ELECTRONIC MAIL / INTERNET USE

E-mail is a business tool, which is to be used in accordance with generally accepted business practices and current law reflected in the California Public Records Act to provide an efficient and effective means of communications for the District.

The District respects the individual privacy of its employees. However, an employee cannot expect privacy rights to extend to work-related conduct or the use of District-owned equipment or supplies. Consequently, E-mail users shall have no reasonable expectation of privacy in communications sent over the E-mail network as E-mail communications are not confidential. For purposes of this policy, E-mail shall also include all messages transmitted on the Internet.

1. APPLICATION

The policy and guidelines shall apply to all District employees, consultants and other non-employees utilizing electronic communications with the District (hereinafter "E-mail users").

2. GUIDELINES

- A. The System and the contents thereof are the sole property of the District and therefore not considered personal. Communications sent over the System may be subject to disclosure under the Public Records Act or litigation.
- B. Communications transmitted over the System are restricted to business activities of the District or communications that contain information related to the accomplishment of District business, administration or practices.
- C. Generally, E-mail messages are restricted to transitory communications which are not required or intended to be kept for future reference.
- D. E-mail messages which are intended to be retained in the ordinary course of the District's business are recognized as official records that require protection/retention in accordance with the California Public Records Act. Because the E-mail system is not designed for long-term storage, E-mail communications, which are intended to be retained as an official record, shall be printed out and the hard copy filed in the appropriate subject file.
- E. E-mail messages which are responsive to existing public record requests, subpoena or production demand, or which are otherwise relevant to pending litigation or claim, shall be printed out and the hard copy shall be retained.
- F. Use of the System for transmitting any information that is discriminatory, harassing, or obscene, including but not limited to, comments based on race, national origin, gender, sexual orientation, age, disability, religion, or political beliefs, is strictly prohibited.

- G. Use of the System for transmitting any information that counsels insubordination, harms close working relationships, publicizes a personal dispute, undermines the District's ability to provide public services through its employees or harms the integrity of the System or network is strictly prohibited.
- H. Use of the System to solicit, promote or proselytize others for non-job related commercial ventures, religious or political causes, or other non-job-related activities is strictly prohibited.
- I. E-mail messages transmitted to or from District Legal Counsel and/or his/her employees and agents are considered to be confidential work product communications and subject to the attorney/client privilege.
- J. All materials – diskettes, applications, documents, downloaded materials, etc. – brought into the workplace from external source must be approved by the General Manager or Administrative Assistant before being installed or used on the District's computer system.
- K. The District reserves the right to monitor the System including reviewing, auditing, and disclosing all matters sent over and/or stored in the System.
- L. No messages from Directors shall be referred to another Director in such a way as to violate the Ralph M. Brown Act.

3. DISCIPLINE

Anyone found to have engaged in any of the prohibited practices mentioned above will be subject to termination of System access, disciplinary action up to and including termination of employment, and/or criminal prosecution.

5060 - APPEARANCE AND CONDUCT

Conduct, dress and appearance is important to the success of both the employee and the District. Each employee is expected to be neat in appearance and dress. All employees shall conduct themselves in a manner that will reflect creditably and favorably on the District. In dealing with the public, all employees will maintain a polite and helpful attitude.

5070 - SUBSTANCE ABUSE

The Board of Directors for the District is concerned with the physical safety of all employees, potential damage to property and equipment, mental and physical health of employees, productivity and work quality, medical insurance costs, and the harm done to employees and their families by the inappropriate use of controlled substances. The District is equally committed to protecting the health and safety of customers and the public from hazards relating to substance abuse.

1. Prohibited Conduct

VIOLATION OF ANY OF THE FOLLOWING RULES WILL RESULT IN DISCIPLINARY ACTION UP TO AND INCLUDING TERMINATION OF EMPLOYMENT:

- A. Possessing, using, manufacturing, distributing, dispensing, selling or purchasing illegal drugs or other controlled substances while on the job or off the job.
- B. Conviction or a plea or "no contest" to any of the offenses stated in subparagraph A above.
- C. Possessing or drinking alcoholic beverages while on duty and/or on the premises of the District.
- D. Driving a vehicle on District business while under the influence of alcohol (as defined by the California Vehicle Code) or illegal drugs.
- E. Reporting to work while under the influence of alcohol or any illegal drug.

For the purposes of applying this policy:

- (a) Being under the influence of drugs and/or other controlled substances means being impaired in any way from fully and proficiently performing job duties and/or having a detectable amount of said substance in one's body.
- (b) Being under the influence of alcohol means being impaired in any way from fully and proficiently performing job duties, and/or having a 0.04 percent or more, by weight, of alcohol in one's blood.

2. Voluntary Assistance

Employees with substance abuse (i.e., alcohol/drug abuse) problems are encouraged to seek assistance. An employee will not be disciplined because he/she voluntarily requests assistance for substance abuse problem and information gathered from employees seeking voluntary assistance will be treated as confidential and will only be provided to those persons who, for business reasons, have the need to know such information. This would include providing information necessary for management to administer disability benefits, apply for work restrictions, assure compliance with treatment, or administer discipline consistent with the terms of this policy.

However, seeking assistance or raising any claim related to substance abuse does not relieve an employee of his/her responsibility to meet the District's performance, safety or attendance standards, does not relieve an employee of his/her responsibility to adhere to this policy and does not insulate the employee from discipline for reasons other than seeking assistance for a substance abuse problem.

Employees who have a problem with alcohol or drugs and who decide to enroll voluntarily in an alcohol rehabilitation program will be given unpaid time off to participate in the program. The employee may use any accrued sick leave or vacation benefit while on leave. However, additional benefits will not be earned during the leave of absence unless the employee is eligible for benefits applicable to other medical leaves as provided in District policies.

An employee convicted of Driving-Under-the-Influence (DUI), who is required to use District vehicles in performing his/her job duties, shall report this and any driving restrictions before returning to work. Failure to do so shall be grounds for termination.

3. Required Notice of Prescription or Over-the-Counter Drug Use.

The use of either prescription or over-the-counter drugs or medication may impair an employee's ability to work safely and efficiently and create an unsafe work environment. In order to assure that employee performance on the job is not misconstrued and to assure a safe and efficient work environment, an employee using either prescription or over-the-counter drugs or medication which may impair his/her ability to work safely and efficiently must inform his/her supervisor prior to his/her first work assignment after taking the drug or medication. By fulfilling this obligation, employees will avoid disciplinary action for failure to notify supervision.

4. Applicant Testing.

- A. All offers of employment will be contingent upon an applicant's passing a test to determine whether alcohol, illegal drugs or controlled substances are present in his/her body.
- B. If an applicant is found to have falsified, substituted, or tampered with any sample of a body fluid (urine/blood/saliva) associated with testing for substances, he/she will not be offered employment or if he/she has already been offered employment, he/she will be terminated.
- C. Applicants whose final results are positive for substance abuse will not be allowed to re-apply for employment or be offered employment at the District for a period of 24 months.

5. Medical Evaluation where Work Performance is Impaired.

- A. When management believes an employee's work performance is impaired by drug or alcohol use, including when an employee appears at work in an impaired condition even though no work has been performed, management may require the employee to submit to a medical evaluation by a qualified physician at District's expense.

- B. An employee who refuses to submit to the medical evaluation will be subject to discipline for such refusal. However, in the circumstances specified in this Section 5, an employee who refuses to substance abuse testing as part of the medical evaluation will not be subject to discipline for that refusal.
 - C. If a qualified physician, as part of the examination specified in paragraph A, above, determines that an employee is not capable of working safely, said employee will be transported to his/her home by a supervising employee and not allowed to drive himself or herself home.
 - D. In the cases specified in this Section 5(A), management may, with or without a medical evaluation, relieve the employee of work without pay until the employee furnishes satisfactory medical evidence to the District that he/she is capable of work.
6. Drug and Alcohol Testing under Specific Circumstances.
- A. Where management has reasonable grounds to believe that the employee's faculties are impaired on the job due to drug or alcohol abuse and such impairment presents a clear and present danger to the physical safety of the employee, co-workers or the public, management will require the employee to submit a medical evaluation, including substance abuse testing.
 - B. Where an employee is directly involved in an accident on the job and management has reasonable grounds to believe that the employee's faculties were impaired due to drug or alcohol abuse, management will require the employee to submit to a medical evaluation, including substance abuse testing, as part of the accident investigation or benefit plan administration process.
 - C. In the circumstances specified in Section 6(A) and (B), an employee who refuses to submit to a medical evaluation, including substance abuse testing, or who tests positive for substance abuse will be subject to discipline up to and including termination.
7. Scope of Medical Testing and Evaluations.
- A. Employees shall submit to all medical examinations and testing required by this policy within four (4) hours of the District's request for an evaluation.
 - B. Immediately prior to reporting for a drug/alcohol testing, all employees shall complete a Consent and Release Form to be kept on file in the District office, which shall conform to the general format as shown on Appendix B.
 - C. The scope of tests performed shall be for the purpose of detecting and identifying the presence of alcohol and/or drugs and not for the purpose of detecting and identifying any other medical condition.

8. Employee's Right to Challenge the Results of a Positive Substance Abuse Test

In all cases where an employee is tested for substance abuse, and the test is positive, he/she has the right to challenge the results of the test at a qualified facility of his/her choice at District expense if an adequate quantity of body fluid is provided. This second test is a confirmatory test that must be performed with the same sample of body fluid utilized for the first test.

9. Discipline

Discipline procedures will comply with Section 5020.

10. Searches

Management reserves the right, in accordance with applicable state and federal law, to conduct searches of District premises and property for the purpose of protecting the safety and well-being of its employees, customers and the public, and for the purpose of preventing criminal activity on District premises. The District has a right to place in custody of law enforcement authorities any suspected illegal or controlled substances or contraband discovered on the District's premises.

11. Overview of Alcohol/Drug Testing Protocol

Laboratory Certification:

All laboratories used to perform urine testing pursuant to this program will be certified under the National Institute on Drug Abuse guidelines developed for the Department of Health and Human Services.

Testing:

In testing samples, the testing laboratory will test specifically for alcohol and/or those drugs and classes of drugs required by Nipomo Community Services District Alcohol and Drug Testing Guidelines. The current panel of drugs which will be tested for are as follows:

- Alcohol
- Amphetamines
- Barbiturates
- Benzodiazepines
- Cannabinoids (Marijuana)
- Cocaine
- Methadone
- Methaqualone
- Opiates
- Phencyclidine
- Propoxyphene

Split Sample:

If the employee provides enough urine for a second sample, there will be a split sample option available. When a test kit is received by the laboratory with two samples, one sealed urine specimen bottle shall be removed immediately for testing. The remaining urine sample shall be immediately placed in secure refrigerated storage.

Confirmatory Test:

All Specimens which test positive on the initial test will be confirmed using a second more specific gas chromatography/mass spectrometry (GC/MS) test.

Medical Review Officer Involvement:

After a laboratory confirmed positive test, an employee, where appropriate, will be afforded an opportunity to have a Medical Review Officer review his/her medical history and other relevant medical data at the employee's expense. The Medical Review Officer will be a licensed physician, knowledgeable in drug pharmacology and drug abuse disorders, and may be an employee or independent contractor. The interview with the Medical Review Officer may be conducted by telephone.

If the Medical Review Officer determines and reports that a test is positive, upon request of the employee, an aliquot of the remaining urine specimen or the second sealed bottle will be forwarded to another NIDA approved laboratory of the party's choice for GC/MS confirmatory testing of the presence of the drug.

Reporting of Results:

All specimens which test negative on either the initial test or the GC/MS confirmation test shall be reported only as negative. Only specimens that test positive on both the initial and the confirmation test shall be reported as positive.

In reporting a positive test result, the laboratory will state the specific substance(s) for which the test is positive and will, when requested by the Medical Review Officer, provide the quantitative results of both the screening and the GC/MS confirmation test, in terms of nanograms per milliliter. All positive test results must be reviewed by the certifying scientist or laboratory director and certified as accurate.

Specimen Retention:

All specimens deemed positive must be retained by the laboratory for a period of one year in a secure storage facility.

12. Non-Smoking Policy

The District is committed to a philosophy of good health and a safe workplace. In keeping with this philosophy, it is important that the workplace and office environment reflect the District's concern for good health. Smoking is therefore not permitted inside District offices, enclosed work areas, within twenty five (25) feet outside of an exit, or in District vehicles or equipment.

5080 - SEXUAL HARASSMENT

1. Purpose

It is legally mandated by State and Federal laws that employees have a right to work in an environment that is free from all forms of discrimination, including sexual harassment. Sexual harassment is a form of discrimination that is prohibited by Title VII of the Civil Rights Act of 1964 and California Government Code Section 12940. Sexual harassment is a costly form of discrimination that can result in expensive litigation that may result in back pay or punitive damage awards, withdrawal of Federal support funds and/or other adverse actions. District employees have a responsibility for maintaining high standards of honesty, integrity, impartiality and conduct to assure proper performance of the District's business and the maintenance of confidence of the people it serves. It is, therefore, the policy of the District that sexual harassment is unacceptable and will not be tolerated.

2. Definition

Sexual harassment is defined as "unwelcome sexual advances, request for sexual favors, and other verbal or physical conduct of a sexual nature", that usually occur when:

- A. Submission to that conduct or communication is made either explicitly or implicitly a term or condition of employment;
- B. Submission to or rejection of that conduct or communication by an employee is used as a basis for employment decisions affecting the employee; or
- C. Such conduct or communication has the potential to affect an employee's work performance negatively and/or create an intimidating, hostile or otherwise offensive work environment.

3. Definition Examples

Sexual harassment manifests itself in many forms. The following are a few examples of sexual harassment:

- A. Written: Sexually suggestive or obscene letters, notes or invitations.
- B. Verbal: Sexually derogatory comments, slurs, jokes, remarks or epithets.
- C. Visual: Leering, making sexual gestures, or displaying sexually suggestive objects, pictures, cartoons or posters.
- D. Physical: Assault, attempted rape, impeding or blocking movement, or touching.
- E. Sexual advances which are unwanted (this may include situations which began as reciprocal attractions, but later ceased to be reciprocal).

- F. Employees in nontraditional work environments who are subjected to hazing (this may include being dared or asked to perform unsafe work practices, having tools and equipment stolen, etc.) if requests for sexual favors are not met.
 - G. Implying or actually withholding support for appointment, promotion, transfer or change of assignment; or initiating a rejection on probation or adverse action; or suggesting that a poor performance report will be prepared if requests for sexual favors are not met.
 - H. Reprisals or threats after negative response to sexual advances.
4. Publication of Policy
- All employees shall be informed of the District's sexual harassment policy and complaint process. Also, said policy and complaint process shall be readily available to all employees and members of the general public utilizing the District's facilities and services.
- A. All new employees shall be given a copy of the sexual harassment policy at the time of hiring. A signed acknowledgement of receipt is required and will be placed in the employee's personnel manual. Appendix J
 - B. The General Manager shall be available to answer questions of District employees regarding District policy on sexual harassment.
5. Complaint Process
- Any employee who believes they are the victim of sexual harassment may file a formal or informal confidential complaint without fear of reprisal or embarrassment.
- A. An informal complaint is made verbally by the employee to the employee's supervisor or the General Manager. In the event the General Manager is personally involved in said complaint, the informal complaint can be lodged with the President of the Board of Directors.
 - B. A formal complaint is made in writing, using the "Employee Grievance Form," attached hereto as "Appendix A", and made a part hereof. Said complaint should be submitted by the employee to the employee's supervisor or the General Manager. In the event the General Manager is personally involved in said complaint, the formal complaint can be lodged with the President of the Board of Directors.

6. Complaint Response Process

The District will take all practical means available to it to maintain both the sexual harassment complaint and the identity of the complainant confidential.

- A. Within twenty-four (24) hours of the filing of a formal or informal complaint, even if it is withdrawn, an investigation shall be commenced by the employee's supervisor or the General Manager. In the event the General Manager is personally involved in said complaint, then the investigation shall be conducted by the President of the Board of Directors or his/her designee.
- B. A written record of the investigation of an alleged sexual harassment shall be maintained by the District as confidential.
- C. The person initiating the complaint has the right to be accompanied by an advocate(s) when discussing alleged incidents. Said person shall be advised of this right prior to the commencement of such discussions.

7. Disciplinary Procedures and Sanctions

Upon a finding that a sexual harassment has occurred, disciplinary action up to and including dismissal shall be taken by the District against the harasser. The victim shall be made aware of disciplinary action taken by the District.

- A. Appropriate action shall be taken to remedy the victim's loss, if any, resulting from the harassment.
- B. Action taken to remedy a sexual harassment situation shall be done in a manner so as to protect potential future victims.
- C. Employees complaining of sexual harassment shall be protected thereafter from any form of reprisal and/or retaliation.

5090 - HARASSMENT

1. The District is committed to providing a work environment for its employees that is free of harassment. The District prohibits sexual harassment and harassment because of race, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, marital status, age, sexual orientation or any other basis protected by federal, state or local law, ordinance or regulation. This policy applies to all persons involved in the operation of the District and prohibits harassment by any employee of the District, supervisors, and co-workers.
2. Harassment because of race, religious creed, color, national origin or ancestry, physical or mental disability, medical condition, marital status, age, sexual orientation or any other protected basis is prohibited, including, but not limited to the following behavior:
 - A. Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations or comments;
 - B. Visual conduct such as derogatory and/or sexually-oriented posters, photography, cartoons, drawings or gestures;
 - C. Physical conduct such as assault blocking normal movement or interfering with work; and
 - D. Retaliation for having reported or threatened to report harassment.
3. If any employee of the District believes that he/she has been harassed, he/she should provide a written complaint to his/her supervisor or the General Manager as soon as possible after the incident. His/Her complaint should include details of the incident(s), name(s) of the individual(s) involved, together with the name(s) of any witness(es). Staff receiving harassment complaints will refer him/her immediately to the General Manager or the President of the Board of Directors (in the event the complaint involves the General Manager) who will undertake an immediate, thorough and objective investigation of the harassment allegation(s).
4. If it is determined that harassment has occurred, effective remedial action will be taken in accordance with the circumstances involved. Any employee determined to be responsible for harassment will be subjected to appropriate disciplinary action, up to and including termination.
 - A. Whatever action is taken against the harasser will be made known to the employee lodging the complaint, and appropriate action will be taken to remedy any loss to the employee resulting from the harassment. Retaliation by management or co-workers against anyone filing a complaint will not be permitted or tolerated.
 - B. Employees are encouraged to immediately report any incident of harassment so that complaints can be quickly and fairly resolved.

5100 - FITNESS FOR DUTY

Continued employment is conditioned on an employee being fit and able to perform the duties specified in the applicable job description.

1. If, in the opinion of the General Manager, an employee is having difficulty performing the reasonable duties of his/her position due to suspected physical or mental health problems, the employee may be required to submit to and pass a medical examination designated or approved by the General Manager to assure fitness for continued employment. If the examination finds the employee to be in an unfit condition to perform the position duties, the General Manager may either require that the employee take a leave of absence to correct the condition or transfer or demote the employee to a more medically suitable position, if one is available.
2. Failure to submit to a medical examination when requested by the General Manager pursuant to subparagraph 1, above, shall be grounds for termination.
3. The General Manager may require an employee to submit to and pass a medical examination as a prerequisite to returning to work. Failure to submit to the medical examination and/or pass the medical examination shall be grounds for termination.

5110 - WORKPLACE VIOLENCE

1. The safety and security of employees and customers are very important to the District. Threats, threatening behavior, acts of violence, or any related conduct which disrupts another's work performance or the District's ability to execute its daily business will not be tolerated.
2. Any person who makes threats, exhibits threatening behavior, or engages in violent acts on District property may be removed from the premises pending the outcome of an investigation. Threats, threatening behavior or other acts of violence off District property, but directed at District employees, District Board members or the public while conducting business for the District, is a violation of this policy.
3. Off-site threats include but are not limited to threats made via telephone, fax, electronic or conventional mail, or any other communication medium. Violations of this policy will lead to disciplinary action that may include dismissal, arrest, and prosecution. In addition, if the source of such inappropriate behavior is a member of the public, the response may also include barring the person(s) from District property, termination of business relationships with that individual, and/or prosecution of the person(s).
4. Employees are responsible for notifying the General Manager or any other Supervisor of any threats which they have witnessed, received, or have been told that another person has witnessed or received. Employees should also report any behavior they have witnessed which they regard as threatening or violent when that behavior is job related or might be carried out on District property or in connection with employment.
5. Each employee who receives a protective or restraining order which lists District premises as a protected area is required to provide the General Manager with a copy of such order.