

RESOLUTION NO. 2023-23

A RESOLUTION OF THE BOARD OF DIRECTORS OF THE SAN BENITO COUNTY WATER DISTRICT ADOPTING THE SAN BENITO COUNTY WATER DISTRICT UPDATED PERSONNEL RULES AND REGULATIONS

WHEREAS, the San Benito County Water District ("District") has established Personnel Rules and Regulations ("Rules") to comply with complex federal and state laws, to ensure consistent treatment of employees in all employment practices, and to educate employees on all employment rules and requirements;

WHEREAS, the District last updated the Rules in 2017;

WHEREAS, the Rules should be periodically updated to address changes in the law, best practices, and the District's operations;

WHEREAS, the updated Rules contain revisions to make the Rules compliant with current law regarding background checks for employment candidates, anti-harassment and anti-discrimination laws, leaves of absence, disaster service workers, and random drug testing for certain employees, and makes the Rules consistent with the District's Memorandum of Understanding with SEIU where appropriate;

WHEREAS, the District has met and conferred in good faith and reached agreement with the Service Employees' International Union (SEIU) Local 521, regarding the changes to the Personnel Rules affecting the terms and conditions of employment for represented employees;

WHEREAS, these Personnel Rules superseded and replace previous Personnel Rules and Regulations, and corresponding Resolutions;

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors of the San Benito County Water District hereby approves and adopts the updated San Benito County Water District Personnel Rules and Regulations.

Furthermore, the Board of Directors of the San Benito County Water District hereby approves and adopts the updated San Benito County Water District Policy Against Substance Abuse in the Workplace for Employees in Safety Sensitive Positions.

BE IT FURTHER RESOLVED that the President of the Board is authorized to sign said Resolution, on behalf of this Board and District.

PASSED AND ADOPTED by the Board of Directors of the San Benito County Water District this 29th day of November, 2023, by the following vote:

AYES: DIRECTORS: Williams, Tonascia & Wright

NOES: DIRECTORS: None

ABSTAIN: DIRECTORS: None

ABSENT: DIRECTORS: Flores & Shelton

*(Signature of presiding Board member
Attested by Board Secretary
Resolution #2023-23)*

/s/Doug Williams
Doug Williams
Acting President

ATTEST: /s/Barbara L. Mauro
Barbara L. Mauro
Board Secretary

SAN BENITO COUNTY WATER DISTRICT

PERSONNEL RULES AND REGULATIONS

Revised November 29, 2023

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

TABLE OF CONTENTS

ARTICLE I: INTRODUCTION AND GENERAL INFORMATION POLICIES.....	3
ARTICLE II: CATEGORIES OF EMPLOYEES AND NON-EMPLOYEES	5
ARTICLE III: RECRUITMENT, SELECTION AND APPOINTMENT POLICY	7
ARTICLE IV: NEPOTISM AND FRATERNIZATION POLICY	10
ARTICLE V: LIMITATIONS ON OUTSIDE EMPLOYMENT	14
ARTICLE VI: STANDARDS OF CONDUCT	16
ARTICLE VII: DISCIPLINARY PROCEDURES.....	17
ARTICLE VIII: SALARY ADMINISTRATION	24
ARTICLE IX: HOURS OF WORK	26
ARTICLE X: SEPARATION FROM SERVICE.....	30
ARTICLE XI: PERSONNEL RECORDS	34
ARTICLE XII: PERFORMANCE EVALUATIONS.....	36
ARTICLE XIII: GRIEVANCE DEFINED.....	37
ARTICLE XIV: EQUAL EMPLOYMENT OPPORTUNITY POLICY	38
ARTICLE XV: POLICY AGAINST DISCRIMINATION, HARASSMENT AND RETALIATION; COMPLAINT PROCEDURE.....	39
ARTICLE XVI: REASONABLE ACCOMMODATION AND INTERACTIVE PROCESS.....	44
ARTICLE XVII: WHISTLEBLOWER PROTECTION	50
ARTICLE XVIII: PAID LEAVES.....	52
ARTICLE XIX: LEAVES WITHOUT PAY	61
ARTICLE XX: PROHIBITIONS ON DRUGS AND ALCOHOL IN THE WORKPLACE.....	75
ARTICLE XXI: EMPLOYEE USAGE OF DISTRICT OWNED LAPTOP COMPUTERS, TOOLS, RESOURCES AND EQUIPMENT.....	77
ARTICLE XXII: EMPLOYEE USE OF DISTRICT COMPUTER RESOURCES	81
ARTICLE XXIII: HANDS FREE COMMUNICATION DEVICE USAGE POLICY	89
ARTICLE XXIV: SOCIAL MEDIA POLICY	91
ARTICLE XXV: POLICY AGAINST VIOLENCE IN THE WORKPLACE	94
ARTICLE XXVI: EMPLOYEE TRAVEL & EXPENSE REIMBURSEMENT POLICY	96
ARTICLE XXVII: DISTRICT VEHICLE USE	98
ARTICLE XXIX: DISASTER SERVICE WORKERS.....	100

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE I: INTRODUCTION AND GENERAL INFORMATION POLICIES

SECTION 1. INTRODUCTION

These personnel policies and procedures ("Policies") shall be interpreted, applied and enforced by supervisory and managerial employees of the San Benito County Water District ("District"). It is the desire of the District to foster effective policy dealings at all levels.

SECTION 2. GENERAL POLICY

It is the policy of the District that there shall be appointed to District service those persons most competent to carry out the District's public responsibility. Appointments to District positions shall be made on an objective basis considering merit, qualifications, competency, and physical fitness where it is a bona fide occupational qualification.

SECTION 3. DELEGATION OF AUTHORITY

To ensure fairness and consistency in personnel matters, the District has designated the General Manager to be responsible for centralized personnel operations.

The District Board of Directors ("Board") delegates to the General Manager the authority to authorize employment, establish job responsibilities, and perform other personnel actions as to all subordinate employees in accordance with all federal and state laws and regulations and these Policies. The General Manager may delegate responsibility to a designee to perform personnel actions in accordance with this section.

Ultimate authority for interpretation, application and enforcement of these Policies rests with the General Manager, who will be responsible for impartially resolving matters where questions or issues arise. The General Manager may delegate any of the powers and duties conferred upon them to any other officer or management employee of the District. The General Manager or designee will be responsible for initiation of amendments and revisions to these policies and procedures at times determined by the District to be necessary or warranted; initiation or revisions to job descriptions, wage and salary schedules, benefit plan and programs, and performance evaluation systems; and other duties that may be necessary to carry out the practices and provisions of a contemporary personnel system.

As to those elected officials and employees who directly report to the District Board, if any, the District Board retains all authority over all personnel actions as authorized by law and these Policies.

SECTION 4. NO CONTRACT RIGHT; DISTRICT'S DISCRETION TO MODIFY THESE POLICIES

These Policies do not create any contract right, or any express or implied contract of employment. The District retains the full discretion to modify these Policies at any time in accordance with law.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

SECTION 5. APPLICABILITY OF POLICIES

These Policies apply to all categories of employees of the District unless a specific section or provision excludes them. Independent contractors, volunteers, and Board members are not employees. Article XV: Policy Against Discrimination, Harassment and Retaliation; Complaint Procedure specifically applies to independent contractors, volunteers, and officials, including Board members.

SECTION 6. CONFLICT BETWEEN THESE POLICIES AND A MEMORANDUM OF UNDERSTANDING

If a provision of these Policies conflicts with any provision of a valid Memorandum of Understanding between the District and a recognized employee organization, the provision of the collective bargaining agreement that is in conflict shall apply to employees covered by that collective bargaining agreement, unless otherwise agreed by the parties.

SECTION 7. EMPLOYEE ACCEPTANCE OF POLICIES AND REVISIONS TO POLICIES

As a condition of employment, all employees are required to read and request necessary clarification of these Policies. Each employee is required to sign a statement of receipt acknowledging that: a) they have received a copy, or has been provided access to, the Policies; and b) they understand that they are responsible to read and become familiar with the contents and any revisions to the Policies.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE II: CATEGORIES OF EMPLOYEES AND NON-EMPLOYEES

SECTION 1. AT-WILL EMPLOYEE

An at-will employee is one who serves at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. At-will employees include any of the following:

- A. General Manager
- B. Department heads (Manager of Administration, Finance and Business Services, District Engineer, and Operations & Maintenance Manager)
- C. Employees whose positions are funded under a state or federal employment program
- D. Employees designated as temporary
- E. Probationary employees
- F. Unrepresented Management, Confidential and Professional employees, and employees who are party to an employment agreement with the District;
- G. Retired annuitants who are employed by the District in accordance with CalPERS rules and regulations.

SECTION 2. PROBATIONARY EMPLOYEE

A probationary employee is one who is serving a probationary period at either: the outset of initial employment with the District; or at the outset of a promotion to a higher classification. During the initial probationary period, a probationary employee serves at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. A probationary employee serving in the initial probationary period is an at-will employee.

SECTION 3. FOR-CAUSE EMPLOYEE

A for-cause employee is a represented employee who has satisfactorily completed the initial probationary period. A for-cause employee has a property right in continued employment, and has the right to pre- and post-disciplinary procedural due process and an evidentiary appeal for certain types of disciplinary actions that result in a significant deprivation of property.

SECTION 4. FULL OR PART-TIME EMPLOYEE

A full time employee is one whose position is budgeted to work at least forty (40) hours per week. Full-time employees receive all benefits provided in these Policies, unless otherwise provided in an MOU, or an employment agreement approved by the District Board. A part-time employee is one whose position is budgeted to work less than forty (40) hours per week. Part-time employees may have different rights to leave and other benefits under the law or these Policies, depending on the number of hours they work.

SECTION 5. TEMPORARY EMPLOYEE

A temporary employee is an at-will employee who is appointed for a short term or seasonal basis, not to exceed six (6) months. A temporary employee serves at-will and at the pleasure of the

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS**

Revised November 29, 2023

appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal. Except as required by law, temporary employees shall not be entitled to benefits provided in these policies.

SECTION 6. VOLUNTEER

A volunteer is not an employee, but instead is an individual who provides services to the District for civic or philanthropic reasons and receives no compensation or benefits other than nominal fees and reimbursement of expenses. A volunteer serves at-will and at the pleasure of the appointing authority, has no property right in continued employment, and has no right to any pre- or post-disciplinary procedural due process or evidentiary appeal.

SECTION 7. INDEPENDENT CONTRACTOR

An independent contractor is not an employee, and serves solely pursuant to a contract that has been formed and approved as required by District purchasing policies and procedures.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE III: RECRUITMENT, SELECTION AND APPOINTMENT POLICY

SECTION 1. JOB ANNOUNCEMENT

The General Manager or designee will prepare a job announcement to announce a proposed recruitment. The announcement may be posted on the District's website and other locations the General Manager or designee deems appropriate, depending upon whether the recruitment is open to the public or current employees only. The announcement will include:

- A. The title and pay for the position;
- B. The nature of the work to be performed and essential job duties of the position;
- C. The minimum qualifications;
- D. A statement of the employment status of the position – for cause or at-will;
- E. The last date that the General Manager or designee will accept applications, if any;
- F. The time, place, and type of the examination, if known, and if a medical examination, and/or a drug screen will be required following a conditional offer of employment; and
- G. Such other information as determined in the discretion of the General Manager or designee.

SECTION 2. APPLICATION FORMS

Job applications shall require information describing an individual's training, experience, and other pertinent information as deemed necessary to assess qualifications for the job. Applicants may be required to provide supplementary information, including but not limited to: answers to job-related questions; resume; licenses; certifications; diplomas; letters of recommendation; and references. All applications must be completed in full and signed, physically or electronically, by the person applying. The General Manager or designee will not process any application which is not fully completed and signed. Should an applicant be appointed to a position, the supplemental information shall become a part of the individual's permanent employment records.

SECTION 3. DISQUALIFICATION OF APPLICATIONS

The General Manager or designee may reject any application which: is not properly completed or incomplete; received after the application deadline; or indicates that the applicant does not meet the minimum qualifications for the position. Whenever an application is rejected, notice of such rejection shall be mailed or emailed to the applicant.

SECTION 4. EMPLOYMENT EXAMINATIONS

- A. The General Manager or designee will determine the manner and methods of administering employment examinations. Examinations may consist of: written tests; oral tests; performance tests; evaluations of prior training and performance, experience and/or education; interviews; working style assessments; practical exercises; file review; or any combination thereof. The content of all examinations will be job-related and designed to test knowledge, skills or abilities that help predict successful completion of job duties.
- B. The content of all examinations will be kept confidential prior to the administration of the examination. All applicants who are invited to the examination will be notified of the nature of the examination.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- C. An applicant with a disability may request accommodation in an examination process. Following receipt of a request for accommodation, the General Manager or designee may require additional information, such as reasonable documentation of the existence of a disability.
- D. Failure in one part of the examination, or the failure to meet established standards described in the job announcement, may be grounds for declaring such applicant as failing in the entire examination or as disqualified for subsequent parts of an examination. Each applicant will be notified by mail whether they will continue in the examination process.
- E. Applicants who meet the minimum qualifications and pass all examinations may be subject to a background and/or reference check.

SECTION 5. ELIGIBILITY LISTS

- A. After completion of an open or promotional examination for a classification, the General Manager or designee will prepare an eligibility list consisting of the names of candidates who passed the examination. Eligibility lists shall become effective upon the certification by the General Manager or designee.
- B. A person placed on an eligibility list shall be removed from the list if they so request in writing or fails to respond to notification of an opening within five days after notification.

SECTION 6. CRIMINAL CONVICTION CHECK

After the District makes a conditional offer of employment, the General Manager or designee may then request information about criminal convictions, except for misdemeanor marijuana-related convictions that are over two years old, or convictions that have been judicially sealed, eradicated, or expunged. The applicant may be subject to a Department of Justice background check. Unless required by law, the District will not deny employment to any applicant solely because they have been convicted of a crime. The District may, however, consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the position.

SECTION 7. APPOINTMENTS

- A. The General Manager or designee will make all appointments except for those classifications that report directly to the governing body. The General Manager or designee has discretion to decide in what manner a vacancy shall be filled. Vacancies may be filled by reinstatement, promotion, transfer, demotion, appointment of temporary / seasonal employees, or from an appropriate eligibility list if available. No specific list shall have priority over other lists. The District Board will make appointments for those classifications that report to it.
- B. When a position is to be filled from a promotional or open eligibility list, the General Manager or designee may choose from the specified list one of the top candidates on the eligibility list. If no person among the top three candidates indicates a willingness to accept the appointment, the General Manager or designee may make the appointment from among the remaining names on the eligibility list, may request a new examination and establish a new eligibility list, or may fill the position by any other method authorized by these Policies.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS**

Revised November 29, 2023

- C. Appointment to certain positions may be made contingent upon the applicant/employee passing a drug/alcohol test, and/or a job-related medical and/or psychological examination. Such examination shall only be required after a conditional offer of employment has been made.
- D. The person accepting appointment shall report to the General Manager or designee on the date designated by the General Manager or designee. Otherwise, the applicant shall be deemed to have declined the appointment.

SECTION 8. PROBATIONARY APPOINTMENT

- A. All Employees Are Considered At-Will During the Probationary Period: The probationary period is part of the examination process and is used to determine whether work performance or work-related behavior meets the required standards of the position. A probationary employee may be released from employment at any time during the probationary period with or without cause or reason, without notice, without right to an appeal or grievance, and without any rights set forth under Article VII of these Policies entitled "Disciplinary Procedures." The probationary employee will be notified prior to the expiration of the probationary period that they have been released from employment.
- B. Length of Probation: Unless otherwise specified by memorandum of understanding or these Policies, the probationary period is the greater of twelve (12) months or 2080 hours of actual and continuous service. The probationary period is automatically extended by the length of any absence of one work week or more. To be eligible to use accrued vacation leave and personal leave, an employee must have at least six (6) months of regular employment with the District.

SECTION 9. PROBATIONARY PERIOD FOR PROMOTIONAL APPOINTMENTS

- A. At-Will Status: A promotional probationary employee may be released at any time during the promotional probationary period with or without cause or reason, without notice, without right to an appeal or grievance, and without any rights described in Article VII of these Policies entitled "Disciplinary Procedures." If the employee fails to satisfactorily complete the probationary period in the promotional position, the employee may return to the position held prior to promotion at the range and step held prior to promotion, if there is a vacancy in the prior position, unless they are terminated for cause.
- B. Length of Probation: On accepting a promotion, an employee serves a new probationary period of the greater of six (6) months or 1,040 hours of actual and continuous service. The probationary period is automatically extended by the length of any absence of a week or more.

SECTION 10. PROMOTION

Notice of all job vacancies shall be posted for no less than ten (10) working days in the break room and shop area, and shall provide a minimum of five (5) administrative work days to allow for receiving internal applications. The filling of posted vacancies shall not take place until the application deadline has passed.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE IV: NEPOTISM AND FRATERNIZATION POLICY

SECTION 1. POLICY

The District regulates the employment and placement of relatives, spouses, and domestic partners so as to avoid conflicts of interest and to promote safety, security, supervision, and morale. This policy is intended to avoid conflicts of interest between work-related and personal/family obligations; reduce favoritism or even the appearance of favoritism; prevent personal/family conflicts from affecting the workplace; and decrease the likelihood of sexual harassment and/or gender discrimination in the workplace.

SECTION 2. DEFINITIONS

- A. "Relative" means child, step-child, parent, grandparent, grandchild, sibling, half-sibling, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.
- B. A "romantic and/or sexual relationship" exists when two District employees become personally involved with each other to the point that there is dating, exchange of personal affection, sexual or physical intimacy and/or cohabitation. The term "dating" includes but is not limited to one or more social meetings under circumstances that may lead to exchange of personal affection, and sexual or physical intimacy.
- C. "Spouse" means one of two persons to a marriage, or two people who are registered domestic partners, as those terms are defined by California law.
- D. "Supervisory relationship" means one in which one employee exercises the right or responsibility to control, direct, reward, or discipline another by virtue of the duties and responsibilities assigned to their District appointment.

SECTION 3. EMPLOYMENT OF RELATIVES

The District will not appoint, promote or transfer a person to a position within the same department, division, or facility in which the person's relative already holds a position, if any of the following would result:

- A. A direct or indirect supervisory relationship between the relatives; or
- B. The two employees having job duties which require performance of shared duties on the same or related work assignment;
- C. Both employees having the same supervisor; or
- D. A potential for creating an adverse impact on supervision, safety, security, morale or efficiency.

SECTION 4. SPOUSES OR DOMESTIC PARTNERS:

The District will not appoint, promote, or transfer a person, to the same department, division, or facility in which the person's spouse or registered domestic partner already holds a position, if

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

such employment would result in any of the following:

- A. One spouse or domestic partner being under the direct supervision of the other spouse or domestic partner;
- B. A potential for creating an adverse impact on supervision, safety, security, morale or efficiency; or
- C. Potential conflicts of interest or hazards for married persons or those in domestic partnership which are greater than for those who are not married or in domestic partnerships.

SECTION 5. MARRIAGE OR DOMESTIC PARTNERSHIP AFTER EMPLOYMENT

- A. Transfer: If two District employees who work in the same department later become spouses, registered domestic partners, or otherwise related by marriage, the General Manager or designee has discretion to transfer one of the employees to a similar position in another department. Although the wishes of the two employees will be considered, the General Manager or designee retains sole discretion to determine which employee will be transferred based upon District needs for supervision, safety, security or morale. Any such transfer that results in a salary reduction is not disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.
- B. Separation: If continuing employment of both employees, who work in the same department and who later become spouses or domestic partners, cannot be accommodated in a manner the General Manager or designee finds to be consistent with the District's interest in the promotion of supervision, safety, security, or morale, then the General Manager or designee retains sole discretion to separate one employee from District employment. Absent the resignation of one employee, the General Manager or designee shall select one employee to be separated, taking into consideration qualifications, experience, performance and/or seniority with the District. Any such separation is not considered to be disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

SECTION 6. FRATERNIZATION

- A. Romantic Relationships Between Supervisors and Subordinate Employees Are Prohibited. Public trust, safety and District morale require that employees avoid the appearance of a conflict between their professional responsibilities and any involvement that they may have in a romantic or sexual relationship with other District employees. In order to promote efficient operation of the District and to avoid misunderstandings, complaints of favoritism, other problems of supervision, security, morale, and possible claims of sexual harassment and/or gender based discrimination, romantic and/or sexual relations between supervisors and their direct or indirect subordinate employees are prohibited.
- B. Romantic Relationships Between Co-Employees In The Same Department Are Prohibited. Public trust, safety and District morale require that employees avoid relations that may negatively impact the efficient operation of the District. In order to promote efficient

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

operation of the District and to avoid formation of cliques and factions, claims of sexual harassment and gender based discrimination, and the blurring of professional and personal responsibilities and relationships in the workplace, romantic and/or sexual relationships between co-employees in the same Department are prohibited.

C. Enforcement: Employees are required to report to the General Manager the development of their own romantic and/or sexual relationships between supervisors and subordinates, and between co-employees. The District reserves the right to investigate situations in the workplace to determine whether a romantic and/or sexual relationship exists and therefore presents a possible violation of this Policy. If an employee reports, or the District determines, that a proscribed relationship (as defined by this policy) exists, remedial and/or disciplinary measures, including but not limited to a transfer, reassignment, or dismissal, shall be utilized to mitigate issues that arise relevant to the enforcement of this policy.

1. The District retains the right to refuse to place employees engaged in relationships prohibited by this policy in the same department where it has the potential for creating adverse impact on supervision, safety, security or morale or involves potential conflicts of interest.
2. In order to implement such policies, and where the above circumstances exist and mandate that employees shall not work in a prohibited relationship, the District will attempt to transfer one party to the proscribed relationship to a similar classified position in another District Department, should such a position exist, be available, and should the employee possess the skills and qualifications necessary to perform the essential duties of the position.

Although the wishes of the involved parties as to which individual will be transferred will be given consideration by the District, the controlling factor in determining who is to be transferred shall be the positive operation and efficiency of the District. If any such transfer results in a reduction in salary or compensation, applicable and legally required due process procedures shall be applied.

3. In lieu of a transfer from one department to another, or in situations where no similar counterpart classification exists to which an employee in a proscribed relationship can be transferred, that employee may continue to be employed within the same District department subject to approval by the Department Manager and the General Manager or designee.

However, any such continuing employment is predicated upon both subject employees not reporting to the same immediate supervisor; not being supervised by each other; not working the same shift at the same work site; or, otherwise becoming involved in a work environment having the potential for adverse impact on supervision, safety, security or morale.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

4. If continuing employment of employees in a relationship prohibited by this Policy cannot be accommodated consistent with the District's interest in promotion of safety, security, morale and efficiency, then the District retains sole discretion to separate one of the parties from District employ. Absent the resignation of one employee, the General Manager or designee shall select one employee to be separated, taking into consideration qualifications, experience, performance and/or seniority with the District. Any such separation is not considered to be disciplinary and is not subject to any grievance or appeal, or pre- or post-disciplinary appeal due process.

The provisions of this fraternization policy are not applicable to individuals employed by the District on or before the date of adoption of this policy in their current state of marriage or cohabitation. As such, a change in marital status/cohabitation, etc. of any current employee, will result in the applicability of this policy. Furthermore, those employees are subject to any and all employment-related actions by the District, that are permissible pursuant to existing District policies and procedures to address conduct that may be negatively impacting the work environment.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS**

Revised November 29, 2023

ARTICLE V: LIMITATIONS ON OUTSIDE EMPLOYMENT

SECTION 1. NO OUTSIDE EMPLOYMENT WITHOUT PRIOR APPROVAL

An employee shall not engage in any paid or self-employment, activity, or enterprise which is inconsistent, incompatible or in conflict with their District duties, functions, responsibilities, or that of the department in which they are employed at the District. In order to avoid perceived or actual conflicts of interest that may arise from outside employment, all employees must obtain written approval from the General Manager or designee prior to undertaking any outside employment as described in this Policy.

SECTION 2. AUTHORIZATION AND APPEAL PROCESS

- A. Written Request: Any employee who wants to undertake a paid outside employment, activity, or enterprise must submit a written request to their department head. The written request must include: the work hours and/or time required; job title or the nature of the activity; the work location; and the supervisor, manager and name of the employer or activity.
- B. Analysis and Decision: The General Manager or designee will determine if the outside employment, activity, or enterprise is compatible with the employee's employment at the District. If the General Manager or designee determines such activity is compatible, or would be if any conditions or restrictions applied, they will authorize the activity and specify the conditions/restrictions in writing, give the employee the outside employment authorization, and place a copy of the written authorization in the employee's personnel file.
- C. One Year Authorization: An outside employment authorization is valid only up to one year. Should the employee continue the outside employment, activity, or enterprise for a longer duration, they must make another request following the process in this Policy.
- D. Appeal: If the General Manager or designee denies an employee's outside employment request, the employee may submit a written notice of appeal to the Board of Directors within 10 days after the date of the denial. The decision on appeal will be put in writing, provided within 10 days after the receipt of the appeal, and will be final.

SECTION 3. PROHIBITED OUTSIDE ACTIVITIES

An employee's outside employment, activity, or enterprise may be prohibited if it:

- A. Involves the use for private gain or advantage of District time, facilities, equipment, and supplies, or the badge, uniform, prestige, or influence of the District or employment at the District;
- B. Involves receipt or acceptance by the employee of any money or other consideration from anyone other than the District for the performance of an act which the employee would be required or expected to render in the regular course of their District employment;

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- C. Involves the performance of an act in other than their capacity as a District employee which act may later be subject directly or indirectly to the control, inspection, review, audit, or enforcement by such employee or the department by which they are employed; or
- D. Involves time demands that would render the employee's performance of their regular District employment less efficient or dangerous to the employee.

SECTION 4. CHANGES IN OUTSIDE EMPLOYMENT STATUS

The employee must promptly report in writing to the General Manager or designee any of the following changes that may occur during the year of an authorized outside employment: the outside employment ends; or the authorized employment changes as to the number of work hours, location, or types of duties.

SECTION 5. REVOCATION / SUSPENSION OF OUTSIDE EMPLOYMENT AUTHORIZATION

Any outside employment authorization may be revoked or suspended during the year it is granted under the circumstances listed below. An employee may appeal the revocation or suspension as provided in this Policy.

- A. The employee's work performance declines; or
- B. An employee's conduct or outside employment conflicts with the conditions of the outside work authorization or is incompatible with the employee's work for the District.

SECTION 6. USE OF DISTRICT EQUIPMENT PROHIBITED

An employee shall not use any District equipment, vehicles, tools, supplies, machines, or any other item that is District property while an employee is engaged in any outside employment, activity or enterprise, except with the written permission of the General Manager.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE VI: STANDARDS OF CONDUCT

In order for the District to conduct its business efficiently, all employees are expected to meet our standards of performance, attendance and behavior. The expected standard for all employees in the service of the District shall be to render the best possible service to the public, to reflect credit upon the District and to serve the public interest. The tenure of every employee shall be conditioned on good behavior and satisfactory performance of duties.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE VII: DISCIPLINARY PROCEDURES

SECTION 1. POLICY

The District's policy on disciplinary actions is founded on the premise that the actions are to be corrective, and any disciplinary actions should reinforce and shape employee behavior in the reasonable and necessary direction. The tenure of every employee in the District shall be based on reasonable standards of personal conduct and job performance. Failure to meet such standards shall be grounds for appropriate disciplinary action, which shall be commensurate with the seriousness of the offense and with due consideration of the employee's prior performance record. Disciplinary actions will be progressively more severe; however, the response for certain first time, serious offenses may not be the action usually prescribed as an initial step in the normal progressive discipline process.

SECTION 2. BASIS FOR DISCIPLINARY ACTIONS

The General Manager or designee shall have the power to reprimand, demote, suspend or discharge employees for cause. Alleged employee actions reported by the employee's supervisor which may result in disciplinary actions shall be investigated to their conclusion by the General Manager or designee.

- A. Paid Administrative Leave: The District has the right to place an employee on leave with full pay for non-disciplinary reasons at any time when the General Manager or designee has determined that the employee's and/or District's best interests warrant the leave. The employee does not have a right to appeal the decision to be placed on administrative leave with pay.

SECTION 3. CAUSES FOR DISCIPLINE

Employees may be disciplined for, including but not limited to, any of the following causes of discipline:

- A. Any act or omission by an employee, whether or not in their capacity as an employee, tending to bring discredit to the District, adversely affecting the performance of the employee or others in the performance of their duties, or any act or omission in their capacity as an employee which is used by the employee for their personal profit or gain.
- B. Violation of any department rule or District policy, regulation, ordinance or resolution,
- C. Insubordination, including improper conduct toward a Supervisor or refusal to perform tasks assigned by a Supervisor in the appropriate manner.
- D. Selling, distributing, possessing or using illegal drugs or alcoholic beverages on District property or appearing for work under the influence of alcohol or illegal drugs.
- E. Unauthorized release of confidential information concerning the District employees, the District or its customers.
- F. Theft or willful damage to District or another employee's property.
- G. Making any false representation or statement, or making any omission of a material fact;
- H. Willful altering or falsifying of a District record or document.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- I. Providing wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment;
- J. Possessing explosives, firearms or other lethal weapons on District property.
- K. Conduct unbecoming an employee in public service.
- L. Absence without authorized leave or tardiness.
- M. Incompetence or inefficiency.
- N. Discourteous treatment of the public or other employees.
- O. Reckless or unsafe conduct, or conduct in violation of safety rules.
- P. Excessive absenteeism and/or tardiness as defined by the employee's department head and/or these policies.
- Q. Use of leave from work in a manner not authorized or provided for under District policies.
- R. Unsatisfactory job performance.
- S. Damaging any District property, equipment, resource, or vehicle, or the waste of District supplies through negligence or misconduct.
- T. Dishonesty.
- U. Misuse or unauthorized use of any District work time or property, including, but not limited to: physical property, electronic resources, supplies, tools, equipment, District communication systems, District vehicles or intellectual property.
- V. Mishandling of public funds.
- W. Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance.
- X. Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties.
- Y. Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the District.
- Z. Working overtime without prior authorization or refusing to work assigned overtime.
- AA. Carrying firearms or other dangerous weapons while on duty when not required by job duties.
- BB. Horseplay or fighting.

SECTION 4. TYPES OF DISCIPLINE

The following are types of counseling, reprimands and discipline which the District may impose:

- A. Oral Reprimand: The oral warning verbally notifies an employee that their performance or behavior must be improved. The warning will define the areas in which improvement is required, set up goals leading to this improvement, and will inform the employee that failure to improve will result in more serious action.

To provide both the District and employee with a permanent record of a specific violation, a written memo will be given to the employee confirming the conversation; the memo will state the offense and consequences if corrective action is not taken. No record is placed in the employee's permanent personnel file unless subsequent action is necessary. An oral reprimand may be retained in the supervisor's file until the completion of the evaluation year, and then documented in the performance evaluation, as the supervisor deems

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

necessary. An oral reprimand is not subject to the discipline appeal procedures described below.

- B. Written Reprimand: A written warning is a formal notice to an employee that further disciplinary action will be taken unless the employee's behavior or performance improves. The content of the written warning will define what occurred, the date and time of the event which is the cause of the reprimand, what was violated by the employee, what the employee is expected to do to correct the situation, and the employee's rebuttal process. The written reprimand shall be signed by the General Manager countersigned by the employee. If the employee refuses to sign, such refusal shall be noted as such on the written reprimand. When the written reprimand is issued, the employee shall receive one (1) copy with both signatures affixed. One (1) copy is placed in the employee's permanent personnel file. The employee shall be granted ten (10) working days after the date of the written warning to file a written response to any facts in questions; this written answer shall also be placed in the employee's permanent personnel file, and receipt shall be acknowledged by General Manager's signature and date. A written reprimand is not subject to the discipline appeal procedures described below.
- C. Suspension: The General Manager may suspend an employee from their position, without pay, for disciplinary reasons. Employees suspended from District service without pay shall be considered to be in unpaid status and shall forfeit all rights, privileges, and benefits earned during the suspension period. A suspension is subject to the discipline appeal procedures described below.
- D. Demotion: The General Manager may demote an employee from their position to a lower paid position for cause. Documents related to a demotion shall become part of the employee's personnel file when the demotion is final and documented in the performance evaluation. A demotion is subject to the discipline appeal procedures described below.
- E. Reduction in Pay: The General Manager may reduce the pay of an employee for cause. A reduction in pay for disciplinary purposes may take one of three forms: 1) a decrease in salary to a lower step within the salary range; 2) a decrease in salary paid to an employee for a fixed period of time; or 3) reduction in future accrual of vacation or management leave. Documents related to a reduction in pay shall become part of the employee's personnel file when the reduction in pay is final and documented in the performance evaluation. A reduction in pay is subject to the discipline appeal procedures described below.

Employees who are exempt from the Fair Labor Standards Act (FLSA) overtime requirements are not subject to pay reduction, except reduction in future accrual of vacation or management leave.

- F. Termination: The General Manager may terminate an employee from their position for cause. Employees terminated shall be paid salary, vacation or paid days in lieu of holidays accumulated to the effective date of termination. Documents related to a termination shall become part of the employee's personnel file when the termination is final and documented

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

in the performance evaluation. A termination is subject to the discipline appeal procedures described below.

SECTION 5. DISCIPLINE PROCEDURES

The following discipline procedures only apply to the District's for-cause employees. All employees other than for-cause employees, namely temporary, at-will, and probationary employees, may be disciplined or separated at will, with or without cause, and without the disciplinary procedures listed below. The following discipline procedures apply only to suspension without pay, reduction in pay, demotion, or dismissal.

A. "Skelly" Notice of Intended Disciplinary Action to Employee: A written notice of the intended disciplinary action shall be given to the employee, which will include the following information:

- The level of the intended discipline;
- The specific charges that support the intended discipline;
- A summary of the facts that show the elements of each charge at issue in the intended discipline;
- A copy of all materials upon which the intended discipline is based;
- Notice of the employee's right to respond to the Department Manager regarding the intended discipline within ten (10) working days from the date of the notice, either by requesting a *Skelly* conference, or by providing a written response, or both;
- Notice of the employee's right to have a representative of their choice at the *Skelly* conference; and
- Notice that failure to respond by the time specified constitutes a waiver of the right to respond prior to final discipline being imposed.

The District will provide a copy of the *Skelly* notice to the employee's labor representative, if applicable, unless the employee opts for the labor representative to not receive the notice.

B. Response by Employee and *Skelly* Conference: If the employee requests a *Skelly* conference, the Department Manager or designee will conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to rebut the charges against them and present any mitigating circumstances. The Department Manager will consider the employee's presentation before issuing the disciplinary action. The employee's failure to attend the conference, or to deliver a written response by the date specified in the *Skelly* notice, is a waiver of the right to respond, and the intended disciplinary action will be imposed on the date specified in the *Skelly* letter.

C. Final Notice of Discipline: After the *Skelly* conference and/or timely receipt of the employee's written response, the Department Manager will: 1) take no disciplinary action; 2) modify the intended discipline; or 3) impose the intended disciplinary action. In any case, the Department Manager will provide the employee with a notice that contains the following:

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- The level of discipline, if any, to be imposed and the effective date of the discipline;
 - The specific charges upon which the discipline is based;
 - A summary of the facts that show the elements of each charge at issue in the intended discipline;
 - A copy of all materials upon which the discipline is based; and
 - A reference to the employee's appeal right and deadline to appeal.
- D. Delivery of the Final Notice of Discipline: The final notice of discipline will be sent by mail method that verifies delivery to the last known address of the employee, or delivered to the employee in person. If the notice is not deliverable because the employee has moved without notifying the District or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

SECTION 6. DISCIPLINE APPEAL PROCEDURES

The following appeal procedures only apply to the District's for-cause employees. All employees other than for-cause employees may be disciplined or separated at will, with or without cause, and without the disciplinary appeal procedures listed below. The following appeal procedures apply only to suspension without pay, demotion, reduction in pay or dismissal.

- A. Request for Appeal Hearing: An employee may submit a written request for appeal to the General Manager or designee within fourteen (14) days from: 1) receipt of the final notice of discipline; or 2) the date of attempted delivery by the post office or delivery service of the notice to the last known address of the employee. Failure to file a timely written request for an appeal waives the right to an appeal hearing and any appeal of the discipline.
- B. Appeal Hearing Officer: The appeal shall be heard by the Board of Directors, or at the discretion of the Board of Directors, by an individual designated by mutual agreement of the Board of Directors and Union. If the parties fail to reach mutual agreement over the hearing officer, the Board of Directors shall select the hearing officer through State Mediation and Conciliation Service (SMCS).
- C. Date and Time of the Appeal Hearing: Once the appeal hearing officer (defined as the Board of Directors or appointed hearing officer) has been determined, the Board of Directors or appointed hearing officer will set a date for an appeal hearing. The employee shall be notified in writing at least 21 days prior to the hearing of the scheduled date.
- D. Prehearing Notice of Witnesses and Evidence: No later than 10 days before the hearing date, each party will provide the other and the appeal hearing officer a list of all witnesses to be called (except rebuttal witnesses), and a copy of all evidence (except rebuttal evidence) to be submitted at the hearing. The District will use numbers to identify its evidence; the employee will use alphabet letters. Neither party will be permitted to call any witness or evidence that has not been listed, unless that party can show that the party

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

could not have reasonably anticipated the need for the witness or exhibit, in which case the other party shall have the right to introduce rebuttal witnesses/evidence.

- E. Subpoenas: Upon the request of either party, and upon their own motion, the hearing officer will issue subpoenas to compel attendance at the appeal hearing. Each party is responsible for serving their own subpoenas. District employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. District employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually spend testifying.
- F. Continuances: The appeal hearing officer may continue a scheduled hearing only upon good cause shown.
- G. Record of the Appeal Hearing: The hearing shall be recorded, either electronically or by a court reporter, at the option of the District. If the District orders a transcript or makes a transcript of the recording, the District will notify the employee within three days of ordering or making the transcript, and will provide a copy of the transcript upon receipt of the costs of duplication.
- H. Employee Appearance: The employee must appear personally before the hearing officer at the time and place set for the hearing. The employee may be represented by any person they may select.
- I. Conduct of the Hearing:
 - 1. Sworn Testimony: All witnesses shall be sworn in prior to testifying. The Board of Directors or hearing officer or court reporter shall request each witness to raise their hand and respond to the following: "Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth?"
 - 2. Evidence: Hearings need not be conducted according to technical rules relating to evidence and witnesses, but hearings shall be conducted in a manner that the hearing officer decides is the most conducive to determining the truth. Hearsay evidence may be used for the purpose of supplementing or explaining any direct evidence, but over timely objection shall not be sufficient in itself to support a finding, unless such evidence would be admissible over objection in civil actions. The rules dealing with privileges shall be effective to the same extent that they are recognized in civil actions. Irrelevant or unduly repetitious evidence may be excluded. The appeal hearing officer shall determine the relevance, weight and credibility of testimony and evidence.
 - 3. Exclusion of Witnesses: During the examination of a witness, all other witnesses, except the parties, shall be excluded from the hearing.
 - 4. Burden of Proof: The District has the burden of proof by the preponderance of the evidence.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

5. Authority of Hearing Officer: The Board of Directors or appeal hearing officer shall not have the power to alter, amend, change, add to, or subtract from any of the terms of these Policies.
6. Professionalism: All parties and their attorneys or representatives shall not, by written submission or oral presentation, disparage the intelligence, ethics, morals, integrity or personal behavior of their adversaries or the appeal hearing officer.
7. Presentation of the Case: The parties will address their remarks, evidence, and objections to the appeal hearing officer. The appeal hearing officer may terminate argument at any time and issue a ruling regarding an objection or any other matter. The appeal hearing officer may limit redundant or irrelevant testimony, or directly question the witness. The hearing will proceed in the following order unless the appeal hearing officer directs otherwise:
 - a. The District is permitted to make an opening statement;
 - b. The employee is permitted to make an opening statement;
 - c. The District will produce its evidence;
 - d. The employee will produce its evidence;
 - e. The District, followed by the employee, may present rebuttal evidence;
 - f. Oral closing arguments of no more than 20 minutes may be permitted at the discretion of the appeal hearing officer. The District argues first, the employee argues second, and if the District reserved a portion of its time for rebuttal, the District may present a rebuttal.
8. Written Briefs: Either party may request to submit a written brief and/or a draft decision. The appeal hearing officer will determine whether to allow written briefs or draft decisions, the deadline for submitting briefs, and the page limit for briefs.
9. Appeal Hearing Officer's Recommended Decision: Within 60 days of the conclusion of the hearing, the appeal hearing officer shall make written findings and a recommended decision as to the discipline.
10. Board Review: The Board of Directors shall review the findings and recommendations of the appeal hearing officer and may then affirm, revoke, or modify the findings, recommendations, or disciplinary action taken. The decision of the Board of Directors is final. There is no process for reconsideration.
11. Proof of Service of the Written Findings and Decision: The District will mail a copy of the final written findings and decision, along with a proof of service of mailing that confirms that each of the parties and each of the parties' representatives were mailed the final written findings and decision. It shall be the responsibility of the employee to inform the District of their address.
12. Challenge by Writ: Pursuant to Code of Civil Procedure section 1094.6, the parties have 90 days from the date of the proof of service of mailing of the written findings and decision to appeal the District's decision on the appeal to the Superior Court in and for the County of San Benito.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE VIII: SALARY ADMINISTRATION

SECTION 1. CLASSIFICATION

The General Manager or designee shall ascertain and record the duties and responsibilities of all positions and, after consulting with affected department heads, shall recommend a classification plan, including job descriptions, for such positions. The Board of Directors shall approve the establishment and revision of classification titles for all positions in the District. The basis for job classification shall include definition, typical duties and responsibilities, and the training, experience and other qualifications required for satisfactory performance. Following the approval of the classification plan, the General Manager or designee shall allocate every position to one of the classifications established by the plan.

- A. Reclassification: The General Manager or designee may initiate a job audit to determine whether the duties of a position have changed to such an extent that they necessitate reclassification of the position from the existing classification to a more appropriate classification. Upon completion of the job audit, the Manager of Administration, Finance and Business Services Assistant Manager shall make a recommendation regarding reclassification to the General Manager.

SECTION 2. SALARY SCHEDULE

The Board of Directors shall adopt a base salary schedule and classification list. The classification list assigns classification titles to salary ranges on the base schedule. The salary schedule and classification list shall not be changed without prior approval by resolution of the Board of Directors.

SECTION 3. SALARY ADJUSTMENT AND SERVICE TIME

An employee placed in the first step of a new range, or receiving a two-step or more range increase as a result of promotion or reclassification, shall receive a new salary anniversary date as of the date of promotion or reclassification for purposes of determining future step increases.

SECTION 4. STEP ADVANCEMENT

The District maintains an eight-step salary schedule which is designed to make possible periodic salary increases up to the maximum salary step for each range. The advancement of the employee through the steps in a salary range is intended as recognition of the normal and expected proficiency that comes with experience, training, and progressive improvement in job skills and performance over time.

Step advancements are subject to satisfactory performance, the favorable recommendation of the employee's supervisor and the approval of the General Manager.

- A. Annual Review for Advancement. After successful completion of the twelve month probation period an employee is eligible upon recommendation of the employee's supervisor and approval of the General Manager, to advance to the next higher step in the salary range. Thereafter, the employee is eligible to advance to the next higher step in the

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

salary range based on the time and step set forth in the salary schedule until reaching the top step for the employee's classification. An employee who receives an "exceptional" overall rating on their performance evaluation may receive a double step increase, subject to the approval of the General Manager.

- B. Withholding Step Advancements. The General Manager has the authority and responsibility to withhold step advancements if such advancements are not merited. Supervisors have the responsibility to monitor and evaluate employee performance and shall keep their supervised employees informed about their job performance, giving good performances proper recognition and any and all deficient performances practical guidance and assistance toward improvement to satisfactory levels. Employees with continuing deficient performance shall be placed in the Performance Improvement Programs and are not eligible for step advancements.

In withholding a step advancement, the General Manager shall notify the employee in writing as to the reasons and receipt of such notification shall be acknowledged by the employee.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE IX: HOURS OF WORK

SECTION 1. STANDARD WORK WEEK AND 7-DAY WORK PERIOD

Work schedules are determined at the discretion of the General Manager and are subject to change with or without notice, according to the needs of the District. An overtime-eligible employee shall be in attendance and at work during the hours specified by the supervisor.

The seven (7) day consecutive work period will be a 168-hour period beginning at 12:00 a.m. on Monday and ending at 11:59 p.m. on Sunday.

The standard work week consists of a forty (40) hour period worked on five (5) days within a seven (7) day, consecutive work period.; provided that;

- A. Office hours at the District shall be at least 8:00 a.m. to 5:00 p.m., Monday through Friday, inclusive of a meal period.
- B. Field service hours shall be at least eight and one half (8 1/2) consecutive hours between 6:30 a.m. and 6:30 p.m. inclusive of a meal period.
- C. The District shall maintain an emergency response capability 24 hours per day, seven days per week.

SECTION 2. OVERTIME

Overtime shall be defined as actual hours by FLSA non-exempt employees worked in excess of forty (40) hours in a seven (7) day work week as defined by Article XI, Section 1 entitled "Standard Work Week and 7-Day Work Period," Unless otherwise provided by the District's Memorandum of Understanding covering represented employees.

Overtime compensation shall be at one and one half (1-1/2) of the employee's base hourly rate of pay for each hour of non-FLSA overtime worked.

Overtime compensation shall be at one and one half (1-1/2) of the employee's regular hourly rate of pay for each hour of FLSA overtime worked.

FLSA non-exempt employees required to work on a holiday shall receive paid compensation at a rate of one and one-half (1-1/2) times the employee's applicable rate of pay for each hour of overtime worked, plus shall receive the employee's regular paid compensation for the holiday.

All overtime work must be pre-approved by the employee's supervisor. Working overtime without prior authorization or approval is grounds for discipline.

In exceptional or emergency circumstances where overtime is required and there is no opportunity to obtain such authorization or approval, an employee shall report the overtime hours worked and the purpose to their supervisor at the first opportunity. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working. Failure to follow

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

these overtime approval procedures may subject the employee to disciplinary action, up to and including termination, for violating the overtime approval procedures.

SECTION 3. ACCURATE TIME REPORTING

All employees must accurately report all work time to the nearest fifteen (15) minutes.

SECTION 4. NO VOLUNTEERING OF WORK TIME

All time spent for the benefit of the District must be reported as hours worked on time records so that the employee is paid for all work. Overtime-eligible employees may not "volunteer" work time to perform duties that are the same or similar as their stated or regular job duties. Employees have no authorization to work without compensation. No supervisor has authority to request overtime-eligible employees to volunteer work time.

SECTION 5. COMPENSATORY TIME OFF

- A. their Employee Request to Use CTO: For compensatory time off that was earned as of July 1, 2023, employees will request compensatory time off of three (3) days or less at least one (1) week in advance, except as approved by the General Manager. Employees will request compensatory time off of more than three (3) days at least fourteen (14) calendar days in advance, except as approved by the General Manager. The District will grant an employee's request to use accumulated CTO provided that the department can accommodate the use of CTO on the day requested without undue disruption to department operations. If the department cannot accommodate the time off without undue disruption, the District will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.
- B. Value of CTO Cash Out:
 - 1. Accrued, unused CTO earned as a result of working FLSA overtime shall be cashed out at separation from District service at the employee's current FLSA regular rate of pay, or their average FLSA regular rate for the prior three years, whichever is higher.
 - 2. Accrued, unused CTO earned as a result of working non-FLSA overtime shall be cashed out at separation, at the employee's current base rate of pay.

SECTION 6. MEAL PERIOD

A non-compensated meal period of between thirty (30) and sixty (60) minutes will be provided to all overtime-eligible full-time employees who work more than five (5) hours during the work day. Overtime-eligible employees are responsible for taking their meal period at a time designated by the supervisor.

SECTION 7. REST PERIOD

A 15-minute compensated rest period will be provided to all overtime-eligible employees for each four (4) hour period of service. The rest period shall be taken at a time designated by the

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

employee's supervisor. Rest periods may not be combined to shorten the workday or to extend the meal period.

SECTION 8. LACTATION BREAK TIME

The District will provide a reasonable amount of break time to accommodate any employee desiring to express breast milk for the employee's infant child each time the employee has a need to express milk. The break time shall, if possible, run concurrently with any break already provided to the employee. An overtime-eligible employee who wishes to express breast milk for her infant child during her scheduled work hours will receive additional unpaid time beyond the 15-minute compensated rest period, or may choose to use accrued leave. Those desiring to take a lactation break must notify a supervisor prior to taking such a break. Breaks may be reasonably delayed if they would seriously disrupt operations. Once a lactation break has been approved, the break should not be interrupted except for emergency or exigent circumstances.

- A. Private Location: The District will provide a room or other appropriate location in close proximity to the employee's worksite that is not in a bathroom to express milk in private. The room or location will meet the following requirements:
1. Be shielded from view and free from intrusion while being used to express milk;
 2. Be safe, clean, and free of hazardous materials;
 3. Contain a surface on which to place a breast pump and personal items;
 4. Contain a place to sit; and
 5. Have access to electricity needed to operate an electric battery-powered breast pump.

Employees occupying such private areas shall either secure the door or otherwise make it clear to others through signage that the area is occupied and should not be disturbed. All other employees should avoid interrupting an employee during an authorized break under this section, except to announce an emergency or other urgent circumstance. Authorized lactation breaks for employees assigned to the field may be taken at the nearest appropriate private area.

The District will provide access to a sink with running water and a refrigerator, or other cooling device, suitable for storing milk, in close proximity to the employee's work area.

- B. Storage of Expressed Milk: Any employee storing expressed milk in any authorized refrigerated area within the District shall clearly label it as such. No expressed milk shall be stored at the District beyond the employee's work day/shift.

SECTION 9. LACTATION ACCOMMODATION

An employee may make a request for lactation accommodation, either orally or in writing, to the General Manager or designee. Following receipt of a request for lactation accommodation, the District will indicate if it is unable to provide the requested break time or a requested location for the purposes of expressing breast milk.

An employee who does not believe that the District is providing an appropriate lactation accommodation should immediately inform the General Manager. An employee who does not believe that the District is providing an appropriate lactation accommodation as required by state

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

law has the right to file a complaint with the California Division of Labor Standards Enforcement/Labor Commissioner.

SECTION 10. NO REMOTE ACCESS FOR OVERTIME-ELIGIBLE EMPLOYEES

Unless the General Manager or designee specifies otherwise in writing, overtime-eligible employees may not have remote access to District equipment, resources, or email, with the exception of employees assigned to on-call status.

If overtime-eligible employees are granted remote access to District equipment, resources, or email, an employee may only use such remote access to conduct work on behalf of the District during work time that has been approved in advance by the employee's supervisor.

SECTION 11. ADVANCE REQUEST FOR PERMISSION TO DEVIATE FROM REGULAR WORK HOURS

An overtime-eligible employee is required to seek advance permission from their supervisor for any foreseeable absence or deviation from regular working, break, and meal times.

SECTION 12. NOTIFICATION OF UNFORESEEN LATE ARRIVAL OR ABSENCE

An overtime-eligible employee who is unexpectedly unable to report for work as scheduled must notify their immediate supervisor no later than the beginning of the employee's scheduled work time and report the expected time of arrival or absence. If the immediate supervisor is not available, the employee must notify the General Manager or designee.

SECTION 13. UNAUTHORIZED ABSENCE IS PROHIBITED

Arriving late to work or leaving early in connection with scheduled work times, breaks, or meal periods is prohibited, absent authorization. An overtime-eligible employee who fails to timely notify the supervisor of any absences as required by this Policy, or who is not present and ready to work during all scheduled work times will be deemed to have an unauthorized tardy or absence and will not receive compensation for the period of absence.

SECTION 14. EXCESSIVE TARDINESS/ABSENTEEISM AND ABUSE OF LEAVE

Excessive tardiness occurs when an overtime-eligible employee who, without authorization, is late to work or late to return from breaks more than three (3) times during any 30-day period. Excessive absenteeism occurs when the number of unapproved absences for reasons that are not permitted by state or federal law, exceeds three (3) days in any three-month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination.

Abuse of, or misrepresentation of, any form of accrued or unpaid leave time may be grounds for discipline, up to and including termination. Should the District suspect that there is an abuse of leave by an employee, the District may require that the employee submit a physician's certificate to support the absence.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE X: SEPARATION FROM SERVICE

SECTION 1. TYPES OF SEPARATION

All separations of employees from positions in District employment are designated as one of the following types:

- A. Probationary Release;
- B. Release of temporary employee;
- C. Resignation;
- D. Retirement;
- E. Job abandonment;
- F. Layoff;
- G. Non-disciplinary separation;
- H. Disciplinary separation.

SECTION 2. PROBATIONARY RELEASE

Probationary employees serving in their initial probationary period with the District may be released at any time during the probationary period as recommended by the General Manager or designee, without cause or reason or notice. A released probationary employee has no right to appeal or to submit a grievance regarding their release from employment.

SECTION 3. RELEASE OF TEMPORARY EMPLOYEES

A temporary employee may be separated at any time, without cause, and without right to any appeal or grievance.

SECTION 4. RESIGNATION

An employee who wishes to resign their District employment in good standing must submit written notice of resignation to the General Manager or designee at least two weeks prior to the planned separation date. The written notice must state the reasons for the resignation. Failure to follow the aforementioned procedure may be cause for denying future employment with the District. A resignation becomes final when the General Manager or designee accepts the resignation in writing. Once a resignation has been accepted, it is final and irrevocable. A resignation can be accepted by the General Manager or designee even if it is submitted less than two weeks prior to the planned resignation date.

SECTION 5. RETIREMENT

An employee planning to retire must provide a written notice to the General Manager or designee at least 30 days prior to the effective date of the retirement. A notice of retirement becomes final when the General Manager or designee accepts the notice of retirement in writing. Once a notice of retirement has been accepted, it is final and irrevocable.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

SECTION 6. JOB ABANDONMENT

An employee is deemed to have resigned from their position if they are absent for three (3) consecutive scheduled work days/shifts without prior authorization and without notification during the period of the absence. The employee will be given written notice, at their address of record, of the circumstances of the job abandonment, and an opportunity to provide an explanation for the employee's unauthorized absence. An employee who promptly responds to the District's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the General Manager or designee before final action is taken, to explain the unauthorized absence and failure of notification. An employee separated for job abandonment will be reinstated upon proof of justification for such absence, such as severe accident, severe illness, false arrest, or mental or physical impairment which prevented notification. No employee separated for job abandonment has the right to a post-separation appeal.

SECTION 7. LAYOFF

Whenever, in the judgment of the Board of Directors, a reduction in personnel is necessary due to lack of work or other legitimate reasons, any employee may be laid off or demoted for non-disciplinary purposes.

A. Order

The following procedure is established to provide an equitable and objective method of layoff for employees. Layoffs shall be by job classification and a Layoff List shall be created by the District in the following order:

1. Probationary personnel in the order as determined by the District.
2. Permanent personnel in the order of least continuous service (excluding leaves without pay) in the subject classification. If two or more employees in a classification to be laid off have the same length of employment, the employee to be laid off will be decided based on performance.

Exceptions to the order as outlined above may be made by the District on the basis of negative performance or special qualifications required by the District.

B. Employee Options

Permanent employees displaced by layoff as outlined above may have the following options:

1. Accept layoff and be placed on a Reemployment List for three (3) years.
2. Be placed in an equal paying or lower paying vacant, permanent or temporary position which the District intends to fill, and for which the individual is found to be qualified. Selection from among individuals to be laid off to fill vacant positions shall be the District's hiring procedure, with competition to be limited to personnel scheduled for layoff.
3. Displace an individual in an equal paying or lower paying classification in the same or closely related occupational position as the present classification, provided (1)

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

the displacing employee has greater total continuous service in the equal paying or lower paying class, and the class from which the individual is being laid off, than the current incumbent has in the present classification, and (2) the displacing employee is found to possess the necessary skills, license, and expertise to perform the duties of the position. Employees displaced by this option will, for the purpose of this section, be subject to layoff and will be provided the options in this paragraph B.

C. Re-Employment List

Laid off permanent employees who so choose may be placed on a Reemployment List in reverse order of their continuous service in the classification from which they were laid off and will remain on that Reemployment List for a period not to exceed three (3) years. The Reemployment List will be used to fill vacant permanent and temporary positions when the list contains the names of employees found to be qualified for vacancies. Offers of employment will be made in the order of the names on the list, and the District will appoint the first employee on the list who is found to be qualified and for whom the vacancy is equal paying or lower paying than the former position. Refusal to accept such permanent position within seven (7) days of the date of the notice of Reemployment offer shall result in the employee's name being taken off the Reemployment List. Employee's accepting lower level positions shall continue on the Reemployment List until they are appointed to a permanent position in their former job classification, or the remainder of three (3) years from the date of layoff, whichever occurs first.

D. Notice

Employees to be laid off as set forth herein shall be given thirty (30) calendar days' written notice prior to said layoff. Those so notified shall notify the District within fifteen (15) calendar days of the option the employee shall pursue under Section B, herein.

E. Appeal

A dispute raised by an employee as to the application or interpretation of this layoff procedure shall be heard by the Board of Directors.

The notice of appeal shall be in writing and filed with the District within ten (10) days of notification of layoff. The Board of Directors shall hear the appeal and render the majority opinion within ten (10) days of receipt of the written notice of appeal. The majority finding of the Board of Directors shall be final and binding on the District and the employee. The hearing by the Board of Directors of an appeal is in lieu of any other grievance procedure. The District will mail a copy of the final written findings and decision, along with a proof of service of mailing that confirms that each of the parties and each of the parties' representatives were mailed the final written findings and decision. The employee has the right to appeal the Board of Directors' decision in accordance with California Code of Civil Procedure section 1094.6. Pursuant to Code of Civil Procedure section 1094.6, the parties have ninety (90) days from the date of the proof of service of mailing of the written findings

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

and decision to appeal the District's decision on the appeal to the Superior Court in and for the County of San Benito.

F. Transfer

If the General Manager or designee determines that a for-cause employee who is subject to layoff is qualified to perform the duties in a vacant position, the employee will receive a written notice of option to transfer in lieu of layoff. An employee, who does not accept a transfer within 10 days after the date of the written notice, forfeits the option to transfer. An employee who accepts a transfer will be paid the rate applicable to the position into which they transfer.

SECTION 8. NON-DISCIPLINARY SEPARATION

Any employee separated because of an inability to accommodate after the reasonable accommodation and interactive process is concluded, will be given a written pre-separation notice of the reasons for the separation, the evidence supporting the decision to separate for non-disciplinary reasons, and an opportunity to respond before the separation takes effect. Such notice shall also be required if the District applies for a CalPERS disability retirement on behalf of a qualified employee. Any for-cause employee has the opportunity for a post-separation appeal as described in Article VII, Section 6 entitled "Discipline Appeal Procedures."

SECTION 9. DISCIPLINARY SEPARATION

A for-cause employee may be separated for disciplinary reasons pursuant to the policy and procedures in Causes for Discipline.

SECTION 10. RETURN OF DISTRICT PROPERTY

All District property in the employee's possession must be returned prior to separation, including keys, key fobs, identification cards, equipment, credit cards, gas cards, cell phones, pagers, and any other District equipment.

SECTION 11. JOB REFERENCES/VERIFICATION OF EMPLOYMENT

All reference inquiries and verifications of employment must be referred to and approved by the General Manager or designee. Unless the General Manager or designee receives a written waiver signed by the employee, the District will release only the employee's dates of employment, last position held, and final salary rate. Department heads and supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the General Manager or designee on a case-by-case basis.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XI: PERSONNEL RECORDS

SECTION 1. PERSONNEL RECORDS

The District shall maintain a service record for each employee in the service of the District, showing the name, title of the position held, the department to which assigned, salary, changes in employment status, residence data, and such other information as may be considered pertinent. A personnel file will contain only material that the District deems necessary and relevant or that is required by law. Personnel files are the property of the District, and access to the information they contain is restricted to protect employee privacy interests.

SECTION 2. CHANGE-OF-STATUS REPORT

Every appointment, transfer, promotion, demotion, change of salary rate, and other temporary and permanent changes in status of employees shall be noted in the personnel file.

SECTION 3. NOTIFICATION OF CHANGES

Each employee is responsible to promptly notify the General Manager or designee of any changes in their contact and benefits information, including: mailing address; telephone number; personal e-mail address (if applicable); persons to contact in emergency; and number and names of dependents.

SECTION 4. ACCESS TO APPLICANT OR EMPLOYEE MEDICAL INFORMATION

All medical information about an employee or applicant is kept in separate medical files and is treated as confidential. Access to employee or applicant medical information shall be strictly limited to only those with a legitimate need to have such information for District business reasons, or if access is required by law, subpoena or court order. In the case of an employee with a disability, managers and supervisors may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.

SECTION 5. EMPLOYEE ACCESS TO PERSONNEL RECORDS

- A. Inspection of File: A current employee may inspect their own personnel file, at reasonable times and at reasonable intervals, within 30 days of a written request. A former employee is entitled to inspect their personnel records one time per year. A current or former employee and/or their representative, who wishes to review their personnel file should make a written request to the General Manager or designee. For current employees, the inspection must occur in the presence of the General Manager or designee and at a location where the employee works and at a time other than the employee's work time; or 2) at another agreed upon location without loss of compensation to the employee. For former employees, the inspection must occur in the presence of the General Manager or designee and at the District office.
- B. Copies: A current or former employee is entitled to receive a copy of their personnel records within 30 days after the employer receives a written request. A current or former

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

employee who wishes to receive such a copy should contact the General Manager or designee in writing. The District may charge a fee for the actual cost of copying.

- C. Representative's Inspection: If the current or former employee wishes to have another person/representative inspect their personnel file, they must provide the General Manager or designee with written authorization. The General Manager or designee will notify the employee and/or representative of the date, time and place of the inspection in writing.
- D. No Removal of File Documents: No person inspecting a personnel file is permitted to add or remove any document or other item to/from the personnel file.
- E. Access and Photocopy Restrictions: Prior to making a copy of personnel records or allowing inspection, the District may redact the names of nonsupervisory employees. Under no circumstances will the District provide access or copying of the following categories of personnel file documents: records relating to the investigation of a possible criminal offense; letters of reference; ratings, reports, or records that were obtained prior to employment, prepared by identifiable examination committee members, or obtained in connection with a promotional examination.

SECTION 6. DESTRUCTION OF RECORDS

Roster and payroll records shall be retained permanently. Records shall be retained as prescribed by law and in accordance with the District's record retention policy.

SECTION 7. PURGING OF EMPLOYEE DISCIPLINE RECORDS

Written reprimands and suspension records may be expunged after three (3) years of sustained corrective behavior with no additional misconduct. It is the responsibility of the employee to request the purging of discipline records. The employee wishing to have disciplinary records purged shall make a written request to the General Manager. The General Manager shall consult with the employee's Supervisor to substantiate that corrective behavior has been sustained for the three (3) year period. A record of demotion shall remain permanently in the employee's personnel file.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XII: PERFORMANCE EVALUATIONS

The performance of each non-probationary employee shall be evaluated by the employee's direct Supervisor and General Manager at least annually. The evaluation shall be considered in matters of transfer, promotion, salary increase, demotion, dismissal and other personnel actions. The General Manager shall discuss employee evaluations with employees whenever an employee is rated, including discussing employee's weaknesses, strengths, and areas or methods of improvement. In the event the employee's performance falls below acceptable standards and such inadequate performance could result in adverse action to the employee, the employee shall be notified in writing including a list of corrective action. A copy of this corrective action document shall be placed in the employee's personnel file. Additional performance evaluations may be prepared at any time the General Manager or designee deems necessary.

On or about the completion of six (6) months of a probationary period, and again at any point prior to separation or the successful completion of the probationary period, the probationary employee's supervisor will endeavor to prepare and sign a performance evaluation. The purpose of the probationary performance evaluation is to chart the probationer's progress toward meeting the standards of their position.

Evaluations shall not be appealed, or grieved through the District's grievance procedure. The employee may request a review of the evaluation with the General Manager no later than ten (10) working days following the employee's receipt of the evaluation. The General Manager's decision regarding the review shall be made in writing within ten (10) working days of the meeting between the employee and the General Manager to review the evaluation. The decision of the General Manager shall be final and binding.

The employee may comment on the evaluation in a written statement which will then be placed with the evaluation in the employee's personnel file. The written statement must be submitted within ten (10) working days after the employee receives the evaluation, or within ten (10) working days of the employee's receipt of the General Manager's decision regarding the review of the evaluation, if requested by the employee.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XIII: GRIEVANCE DEFINED

For the purposes of this procedure, a grievance is defined as an alleged violation of a specific provision of these Policies that adversely affects the employee. The following procedure applies to all District employees, unless another dispute resolution or complaint procedure applies to the dispute; or unless a discipline policy and procedure applies. The grievance procedure cannot be utilized to challenge the content of a performance evaluation, discipline, or complaints of harassment, discrimination and retaliation based on a protected class.

SECTION 1. INFORMAL PROCEDURE

Within five (5) working days after an action by the District giving rise to a grievance, the employee shall notify in writing the employee's Supervisor, taking the action which directly affected the employee, and the Manager of Administration, Finance and Business Services, to request a meeting to discuss the grievance.

Within five (5) working days after receipt of the notification, the employee's Supervisor and the Assistant Manager will meet with the employee to discuss the grievance and the remedial action requested by the employee. In the event the grievance is not resolved to the employee's satisfaction, the employee may proceed to the formal procedure.

SECTION 2. FORMAL PROCEDURE

Within five (5) working days of termination of the informal procedure, the employee may initiate the formal procedure by filing a Notice of Grievance outlining the grievance in detail and the requested remedial action with the General Manager. The Notice of Grievance shall provide the date of the alleged violation; the specific provision(s) of these Policies that were allegedly violated; a description of all facts regarding how the alleged violation occurred; and a list of all persons who are witnesses or are involved. A Notice of Grievance must be signed by the employee filing the grievance to certify that it is filed in good faith.

The General Manager shall meet with the employee to discuss the grievance and review supporting information.

If the General Manager denies the grievance, within five (5) working days of the issuance of the General Manager's decision, the employee may appeal the grievance to the Board of Directors. The Board of Directors shall meet with the employee to discuss the grievance and review supporting information at the next regularly scheduled Board meeting.

Within five (5) working days of the meeting, the Board of Directors shall advise the employee in writing of the findings. The decision of the Board of Directors shall be final and binding.

Failure of the District to comply with the time limits of the grievance procedures allows the grievant to appeal to the next level of review. Failure of the grievant to comply with the time limits of the grievance procedures constitutes settlement and resolution of the grievance on the basis of the last disposition. The parties may extend time limits by mutual written agreement in advance of a deadline.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XIV: EQUAL EMPLOYMENT OPPORTUNITY POLICY

The District affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. The District prohibits discrimination against employees or applicants for employment on the basis 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 (over 40), sexual orientation, or military and veteran status or any other basis protected by law. Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Policies, or by contacting the U.S. Equal Employment Opportunity Commission, or the California Civil Rights Department.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XV: POLICY AGAINST DISCRIMINATION, HARASSMENT AND RETALIATION; COMPLAINT PROCEDURE

SECTION 1. PURPOSE

The District has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. The District has zero tolerance for any conduct that violates this Policy. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. This Policy establishes a complaint procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation. The District encourages all covered individuals to report any conduct they believe violates this Policy as soon as possible. Any retaliation against an employee because they filed or supported a complaint or because they participated in the complaint resolution process is prohibited. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

SECTION 2. COVERED INDIVIDUALS AND SCOPE OF POLICY

The individuals covered by this Policy are: applicants, employees regardless of rank or title, elected or appointed officials, interns, volunteers, and contractors. This Policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

SECTION 3. DEFINITIONS

- A. Protected Classification: This Policy prohibits harassment, discrimination or retaliation because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (over 40), sexual orientation, or military and veteran status, or any other basis protected by law. This Policy prohibits discrimination, harassment or retaliation because: 1) of an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.
- B. Protected Activity: This Policy prohibits discrimination, harassment, or retaliation because of an individual's protected activity. Protected activity includes: making a request for an accommodation for a disability; making a request for accommodation for religious beliefs; making a complaint under this Policy; opposing violations of this Policy; or participating in an investigation under this Policy.
- C. Discrimination: This Policy prohibits treating covered individuals differently because of the individual's protected classification, actual or perceived; because the individual associates with a person who is member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- D. Harassment: Harassment includes, but is not limited to, the following types of behavior that are taken because of a person's actual or perceived protected classification:
1. Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This includes inappropriate comments about appearance, dress, physical features, gender identification, or race-oriented stories and jokes.
 2. Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
 3. Visual acts, such as derogatory posters, cartoons, emails, pictures or drawings related to a protected classification.
 4. Unwanted sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment.

SECTION 4. GUIDELINES FOR IDENTIFYING HARASSMENT

Harassment includes any conduct which would be unwelcome or unwanted to an individual of the recipient's same protected classification. The following guidelines to determine if conduct is unwelcome or unwanted should be followed:

- A. It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.
- B. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one has yet complained does not preclude someone from complaining if the conduct is repeated in the future.
- C. Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
- D. Conduct can constitute harassment even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames, hugs).

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

SECTION 5. RETALIATION

Retaliation occurs when adverse conduct is taken against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" may include but is not limited to: disciplinary action; counseling; taking sides because an individual has reported harassment or discrimination; spreading rumors about a complainant or about someone who supports or assists the complainant or who participates in the investigation; shunning or avoiding an individual who reports harassment or discrimination; or making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

SECTION 6. COMPLAINT PROCEDURE

A covered individual who believes they have been subjected to discrimination, harassment or retaliation may make a complaint -- orally or in writing -- to any supervisor, manager, or department head, without regard to any chain of command. Any supervisory or management employee who receives a harassment complaint should immediately notify the General Manager or designee. Upon receiving notification of a harassment complaint, the General Manager or designee will complete and/or delegate the following steps. If the General Manager or designee is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps.

- A. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: 1) the complainant; 2) the accused; and 3) other persons who have relevant knowledge concerning the allegations in the complaint, including witnesses.
- B. Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
- C. Prepare a summary report of the determination as to whether this Policy has been violated and provide such report to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
- D. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
- E. Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

SECTION 7. PROACTIVE APPROACH

The District takes a proactive approach to potential Policy violations and will conduct an investigation if its supervisory or management employees become aware that harassment, discrimination or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

SECTION 8. OPTION TO REPORT TO OUTSIDE ADMINISTRATIVE AGENCIES

An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Civil Rights Department (CRD). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of the telephone book or employees can check the posters that are located on District bulletin boards for office locations and telephone numbers.

SECTION 9. CONFIDENTIALITY

Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate the complaint, and the duty to take effective remedial action, which may require the District to provide the subject of the complaint with their due process rights, including providing the subject of the investigation with a copy of the complaint after the initial investigatory interview, if requested. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss their interview with a designated representative. The District will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

SECTION 10. RESPONSIBILITIES

- A. Each non-manager or non-supervisor is responsible for:
 - 1. Treating all individuals in the workplace or on worksites with respect and consideration.
 - 2. Modeling behavior that conforms to this Policy.
 - 3. Participating in periodic training.
 - 4. Cooperating with the District's investigations pursuant to this Policy by responding fully and truthfully to all questions posed during the investigation.
 - 5. Taking no actions to influence any potential witness while the investigation is ongoing.
 - 6. Reporting any act they believe in good faith constitutes harassment, discrimination or retaliation as defined in this Policy, to their immediate supervisor, or department head, or General Manager or designee.

- B. In addition to the responsibilities listed above, each manager and supervisor is responsible for:
 - 1. Informing employees of this Policy.
 - 2. Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
 - 3. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS**

Revised November 29, 2023

4. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals, retaliation, or threats of reprisals or retaliation.
5. Informing those who complain of harassment or discrimination of their option to contact the EEOC or CRD regarding alleged Policy violations and to file a complaint about such activity.
6. Assisting, advising, or consulting with employees and the General Manager or designee regarding this Policy.
7. Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.
8. Implementing appropriate disciplinary and remedial actions.
9. Reporting potential violations of this Policy of which they become aware to the General Manager or designee, regardless of whether a complaint has been submitted.
10. Participating in periodic training and scheduling employees for training.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XVI: REASONABLE ACCOMMODATION AND INTERACTIVE PROCESS

SECTION 1. REASONABLE ACCOMMODATION

Absent undue hardship to the District or its operations, or the existence of a direct threat to the health and safety of the employee requesting the accommodation or others, the District provides employment-related reasonable accommodations to:

- A. Qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions; and
- B. Employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider; and
- C. Employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work; and
- D. Employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement.

SECTION 2. SUPPORTING DOCUMENTATION OR CERTIFICATION

A. **Reasonable Medical Documentation of Disability**

If the disability or the need for reasonable accommodation is not obvious, the District may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the District will: 1) explain the insufficiency; 2) allow the employee or applicant to supplement the documentation; and 3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided.

B. **Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions**

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, the District will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: a description of the requested accommodation or transfer; a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

1. Certification of Victim Status

An employee who is a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for their safety while at work must provide both of the following:

- (a) a written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and
- (b) a certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking.

SECTION 3. FITNESS FOR DUTY EXAMINATIONS

A. Applicants

After a conditional offer of employment has been extended to an applicant, the District may require the applicant to submit to a fitness for duty examination that is job-related; necessary for efficient operations of the agency; and required of all applicants for the job classification. An applicant or employee who is required to pass a medical and/or psychological examination will be notified of their right to obtain a second opinion at their expense and that they may submit such second opinions for consideration.

B. Current Employee

The General Manager or designee may require an employee to submit to a fitness for duty examination to determine if the employee has a disability and is able to perform the essential functions of their job when there is significant evidence that:

- 1. The employee's ability to perform one or more essential functions of their job has declined; or
- 2. Could cause a reasonable person to question whether an employee is still capable of performing one or more of their essential job duties, or is still capable of performing those duties in a manner that does not harm themselves or others.

C. Role of Health Care Provider

The District may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or employee, or may request a District-selected health care provider to do so at the District's expense. The District will allow an employee paid time off to attend the exam. The District will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job. The examination will be limited to determining whether the applicant

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

or employee can perform the essential functions of their position and any work restrictions and/or functional limitations that apply to the applicant or employee. The health care provider will examine the employee and provide the District with non-confidential information regarding whether:

1. The applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
2. The applicant or employee is fit to perform essential job functions;
3. Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
4. There are any reasonable accommodations that would enable the employee to perform essential job functions; and
5. The employee's continued employment poses a threat to the health and safety of themselves or others.

Should the health care provider exceed the scope of the District's request and provide confidential health information, without valid consent of the applicant or employee, the District will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that the District has requested.

D. Authorization for Use of Medical Information

During the course of a fitness for duty examination, the District will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

E. Medical Information from the Employee or Applicant

If an employee or applicant submits medical information to the District from their own health care provider, the General Manager or designee will not forward that information on to the health care provider who conducted the examination for the District, without the employee or applicant's written authorization. Upon receipt of the written authorization, the General Manager or designee will request the District-paid health care provider to determine whether the information alters the original fitness for duty assessment.

SECTION 4. INTERACTIVE PROCESS

- A.** The General Manager or designee will initiate the interactive process when:
1. An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s); or
 2. The District otherwise becomes aware of the need for an accommodation through a third party (e.g. a doctor's note requesting an accommodation), or by observation of the employee's work; or
 3. The District becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave or other leave

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS**

Revised November 29, 2023

- rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation; or
4. An employee disabled by pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider; or
 5. An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave; or
 6. An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for their safety at work; or
 7. An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement; or
 8. An employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance or practices.

SECTION 5. INTERACTIVE COMMUNICATION

After the occurrence of any of the above-stated circumstances that trigger the need to conduct an interactive process meeting, the General Manager or designee will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee and their designated representative, (if any). The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations. The General Manager or designee will document these communications in writing.

A. Potential Accommodations for Applicants or Employees with Disabilities

Depending on the facts of each case, the interactive process analysis will generally begin with a review of possible reasonable accommodations that would enable the individual to retain their current job. The process will generally then move on to possible reasonable accommodations in other vacant jobs, for which the individual is qualified, if there is no reasonable accommodation in the current job that does not cause undue hardship, or that does not present a risk of harm to the individual or others. The District will consider accommodations that the applicant or employee suggests, but has the right to select and implement any reasonable accommodation that it deems effective. The range of potential reasonable accommodations includes, but is not limited to:

- Making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including: acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, and/or the provision of qualified readers or interpreters;
- Job restructuring;
- Part-time or modified work schedules;
- Paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave;
- Preferential consideration to reassignment to a vacant, comparable position, except when such preference would violate a bona fide seniority system;

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- Reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for;
- Reassignment to a temporary position, if the individual agrees.

B. Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions

Depending on the facts of each case, the interactive process will attempt to identify and implement a reasonable accommodation that is consistent with the medical certification applicable to the applicant or employee. Whether an accommodation is reasonable is a case-by-case analysis that takes into account several factors, including, but not limited to: the employee's medical needs; the duration of the needed accommodation; and the employer's legally permissible past and current practices. The range of potential accommodations includes, but is not limited to:

- Transfer to a less strenuous or hazardous position for the duration of the pregnancy;
- Change in or restructuring of work duties, such as modifying lifting requirements;
- Providing more frequent breaks;
- Providing seating;
- Time off for medical appointments; and
- Transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform in order to accommodate reduced work schedule or intermittent leave. However, a reduction in work hours may be considered a form of pregnancy disability leave and deducted from the employee's four-month pregnancy disability leave entitlement.

C. Potential Accommodations for Employee-Victims of Domestic Violence, Sexual Assault, or Stalking

Depending on the facts of each individual case, the interactive process analysis will review all possible accommodations that would enhance the safety of the employee victim at work. In determining what accommodation is reasonable, the District will consider the exigent circumstance or danger facing the employee. The District will consider the preferences of the employee to be accommodated, but has the right to select and implement any accommodation that it deems effective. The range of potential safety measure accommodations includes, but is not limited to:

- Transfer, reassignment, modified schedule;
- Change in work telephone number;
- Change in location of work station;
- Installation of locks;
- Assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace;
- The implementation of a safety procedure(s);
- Adjustment to job structure, workplace facility, or work requirement; and
- Referral to a victim assistance organization.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

D. Potential Accommodations for Religious Creed, Religious Dress Practice, or Religious Grooming Practice

Depending on the facts of each case, the interactive process analysis will review all possible accommodations that would resolve the conflict between the religious belief or observance and any employment requirement. The District will consider the preference of the employee or applicant, but has the right to select and implement any accommodation that it deems effective. The range of potential accommodations includes, but is not limited to:

1. Job restructuring or job reassignment (but not segregation from other employees or the public);
2. Modification of work practices, including dress or grooming standards;
3. Allowing time off in an amount equal to the amount of non-regularly scheduled time the employee has worked in order to avoid a conflict with their religious observances; and
4. Allowing alternatives to union membership or payment of union dues.

SECTION 6. DETERMINATION

After the interactive process communications, the General Manager or designee will review the information received, and determine: whether all available information has been reviewed; whether all potential accommodations that the applicant or employee has suggested have been considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant's or employee's preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions without harming themselves or others; and if the accommodations would pose an undue hardship on District finances or operations. The General Manager or designee will inform the applicant or employee of their determination in writing. The General Manager or designee will use their discretion based upon the particular facts of each case.

SECTION 7. ACCESS TO MEDICAL INFORMATION REGARDING FITNESS FOR DUTY

Medical records and information regarding fitness for duty, or the need for an accommodation, will be maintained separately from non-medical records and information. Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the General Manager or designee, the District's legal counsel, first aid and safety personnel in case of emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to state and federal law.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XVII: WHISTLEBLOWER PROTECTION

SECTION 1. POLICY

The District prohibits all of the following:

- A. Taking any retaliatory adverse employment action against an employee because the employee has or is believed to have disclosed information to any government or law enforcement agency, including to the District, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation;
- B. Preventing an employee from disclosing information to a government agency, including to the District, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation;
- C. Retaliating against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation; and
- D. Retaliating against an employee because the employee's family member has, or is perceived to have engaged in any of the protected activities listed in (a)-(c) above.

SECTION 2. POLICY COVERAGE

This Policy governs and protects District officials, officers, employees, temporary/ extra help employees, and applicants for employment.

SECTION 3. DEFINITIONS

- A. "Protected activity" includes any of the following:
 - Filing a complaint with a federal or state enforcement or administrative agency that discloses any information that the employee has reasonable cause to believe violates state or federal law or a violation or noncompliance with a local, state, or federal rule or regulation.
 - Participating in or cooperating in good faith with a local, federal or state enforcement agency that is conducting an investigation in to alleged unlawful activity.
 - Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity.
 - Associating with another covered individual who is engaged in any of the protected activities enumerated here.
 - Making or filing in good faith and with reasonable cause an internal complaint with the District regarding alleged unlawful activity.
 - Providing informal notice to the District regarding alleged unlawful activity.
 - Calling a governmental agency's "Whistleblower hotline" in good faith.
 - Filing a written complaint under penalty of perjury that the District has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation.
- B. “Adverse action” may include, but is not limited to, any of the following:
- Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity.
 - Refusing to hire an individual because of actual or potential protected activity.
 - Denying promotion to an individual because of actual or potential protected activity.
 - Taking any form of disciplinary action because of actual or potential protected activity.
 - Extending a probationary period because of actual or potential protected activity.
 - Altering work schedules or work assignments because of actual or potential protected activity.
 - Condoning hostility and criticism of co-workers and third parties because of actual or perceived protected activity.
 - Spreading rumors about a person because of that person’s actual or perceived protected activity.
 - Shunning or unreasonably avoiding a person because of that person’s actual or perceived protected activity.

SECTION 4. COMPLAINT PROCEDURE

An applicant, employee, or temporary employee who feels they have been retaliated against in violation of this Policy should immediately report the conduct according to the complaint procedure in the District’s Policy against Discrimination, Harassment or Retaliation so that the complaint can be resolved fairly and quickly. Supervisors and Managers have the same responsibilities as defined in the Policy against Discrimination, Harassment or Retaliation.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XVIII: PAID LEAVES

SECTION 1. VACATION

Vacation shall be provided as described in this section. However, if vacation is otherwise allocated in the employee's employment agreement with the District, the employment agreement shall prevail.

A. Accrual

Eligible full-time and part-time employees shall accrue vacation leave while in paid status starting on the employee's date of hire and until they reach the applicable vacation accrual cap for unused vacation.

Vacation shall not be accrued in excess of the earned vacation accrual limit based on the employee's consecutive years of service with the District, listed below. When an employee reaches the equivalent of the employee's earned vacation accrual limit, they shall cease earning vacation leave until their leave balance falls below the limit. If, due to an emergency or District workload, the employee is not able to take earned vacation, such vacation may be accumulated beyond the accumulation limit upon the written approval of the General Manager. Vacation leave will not accrue during leaves of absence without pay unless required by law.

Unless otherwise established by employment agreement, employees accrue vacation time according to their full or part-time status and the number of consecutive, full time years the employee has worked for the District, as follows:

1. Full-Time Employee Accrual Rate and Limit:

Consecutive Full Time Years of Service	Vacation Hours Accrued per Pay Period of Paid Status	Vacation Hours Accrued per Year of Paid Status	Earned Vacation Accrual Limit
Less than 5 years	3.077	80 hours	120 hours
5 – 10 years	4.615	120 hours	240 hours
11 - 15 years	5.231	136 hours	280 hours
16 + years	6.154	160 hours	400 hours

2. Part-Time Employee Accrue Prorated Vacation:

Part-time employees who are budgeted to work at least twenty (20) hours per week earn vacation leave while in paid status in a pro-rated amount based upon the accrual applicable to full time employees. Once a part-time employee reaches the pro-rated

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

accrual cap based on the earned vacation accrual limit listed above, they stop earning vacation. At the end of the calendar year, the District may provide an additional prorated adjustment of vacation if the employee has worked additional hours during the year. Part time employees are required to work the equivalent of a full time year of service (i.e., two thousand eighty (2080) hours) for each one year of service counted toward the accrual level for vacation, listed in the chart above.

B. Usage

To be eligible to use accrued vacation leave or personal leave, an employee must have completed at least six (6) months of regular employment with the District.

Vacation leave may not be used until it is earned. Employees shall draw up the vacation schedule, subject to approval by the District.

Employees will request vacation of three (3) days or less at least one week in advance, except as approved by the General Manager.

Employees will request vacation of more than three (3) days at least fourteen (14) days in advance, except as approved by the General Manager.

The maximum vacation, which may be scheduled or taken in any calendar year, shall be twenty-five (25) days. Vacation requested in excess of twenty-five (25) days shall require the approval of the General Manager.

C. Payment for Earned/Accumulated Vacation

Vacation conversion shall be provided as determined by the applicable MOU or compensation resolution. A qualifying employee shall make an irrevocable election of the amount of vacation leave to be converted to payment in December the year before the vacation is earned.

Any employee separating from District employment who has unused, accrued vacation leave shall be paid for all unused, accrued vacation leave at their rate of pay at the time of separation.

SECTION 2. PAID HOLIDAYS

Full-time, regular employees of the District are eligible for paid holiday benefits for the holidays listed below, beginning on their date of hire. The District will observe the following holidays:

- A. New Year's Day
- B. Martin Luther King's Birthday
- C. President's Day
- D. Cesar Chavez Day
- E. Memorial Day
- F. Juneteenth
- G. Independence Day

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- H. Labor Day
- I. Columbus Day
- J. Veteran's Day
- K. Thanksgiving Day
- L. Day after Thanksgiving
- M. Half (1/2) Day on Christmas Eve
- N. Christmas Day

If New Year's Day, Juneteenth, Independence Day, December 24 or December 25 falls on a Sunday, the Monday following shall be treated as the holiday. If any of those four holidays falls on a Saturday, the preceding work day shall be treated as the holiday.

Part-time employees will receive designated holidays off with pay on a prorated basis.

An overtime-eligible employee who is required to work on a holiday will receive paid holiday benefits and time and half the employee's applicable hourly rate for the actual time worked on the holiday.

If one or more holidays falls within a vacation leave that an eligible full time employee is taking, such holiday shall not be charged as vacation leave.

SECTION 3. SICK LEAVE

A. Purposes for Sick Leave

Sick leave is paid leave from work that can be used for the following purposes:

1. Diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following of the employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; sibling; or "designated person;" or
2. For an employee who is a victim of domestic violence, sexual assault, or stalking to: i) obtain or attempt to obtain a temporary restraining order or other court assistance to help ensure the health safety or welfare of the employee or their child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or (iii) participate in safety planning or other actions to increase safety.

B. Terms of Sick Leave

1. Accrual & Carryover for Different Categories of Employees:
 - a. Full time employees who are not temporary employees shall be provided sick leave as determined by the applicable MOU or compensation resolution. Part-time employees who are not temporary employees accrue sick leave in an amount prorated to the lower number of hours they work each calendar month in paid status.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

At the end of the calendar year, the District may provide an additional prorated adjustment of sick leave for part time employees, if the employee has worked additional hours during the year. Accrued sick leave carries over from year to year. No accrual limit applies.

- b. A temporary employee who works 30 or more days within a year from the commencement of employment with the District accrues one hour of paid sick leave for every 30 hours worked. Accrued and unused sick leave carries over to the following year of employment but a temporary employee stops earning sick leave once they have accrued 48 hours or 6 work days/ shifts, whichever is greater. Effective January 1, 2024, a temporary employee stops earning sick leave once they have accrued 80 hours or 10 work days/shifts, whichever is greater.

C. Sick Leave Use

An employee may use accrued sick leave, in a minimum increment of one-quarter hour, beginning on the 90th day after the first day of employment with the District, subject to the limits and request provisions in this Policy.

D. Protected Sick Leave:

For temporary employees, up to 24 hours, or three days, whichever is greater, of accrued and available sick leave each calendar year is protected and may be used for any of the purposes stated in this Policy. Effective January 1, 2024, for temporary employees, up to 40 hours, or five work days, whichever is greater, of accrued and available sick leave each calendar year is protected and may be used for any of the purposes stated in this Policy.

E. Sick Leave Request:

To request to use sick leave if the need for leave is foreseeable, an employee must give the immediate supervisor reasonable advance written or oral notice. If the need for sick leave is not foreseeable, the employee shall provide written or oral notice of the need for the leave as soon as practicable. If the employee is required to be absent on sick leave for more than one day, the employee must keep the immediate supervisor informed each day as to the date the employee expects to return to work and the purpose of the leave. Failure to request sick leave as required by this Policy without good reason, may result in the employee being treated as absent without leave.

F. Certification

Employees who are not temporary employees must provide a physician's certification for any sick leave absence of more than three (3) consecutive days or twenty-four (24) consecutive work hours within a calendar year. The District may require a doctor's note for sick leave taken for more than thirty-two (32) hours in a calendar year, or if the supervisor has reasonable suspicion of abuse of sick leave. Effective January 1, 2024, employees who

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

are not temporary employees must provide a physician's certification for any sick leave absence of more than five (5) consecutive days or forty (40) consecutive work hours within a calendar year. The District may require a doctor's note for sick leave taken for more than forty (40) hours in a calendar year, or if the supervisor has reasonable suspicion of abuse of sick leave. All employees, including temporary employees, who use paid leave to address issues related to domestic violence, sexual assault or stalking, and who cannot provide advance notice of their need for leave must provide certification of the need for leave within a reasonable time thereafter.

G. Sick Leave on Separation from Employment

Sick leave payoff at separation shall be provided as determined by the applicable MOU or compensation resolution. There shall be no sick leave payoff at separation for temporary employees.

H. Sick Leave Reinstatement:

If a temporary employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of six (6) days or forty-eight (48) hours, whichever is greater, will be reinstated. Beginning January 1, 2024, if a temporary employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of ten (10) work days/shifts or eighty (80) hours, whichever is greater, will be reinstated. An employee who worked at least ninety (90) days in the initial employment with the District may immediately use reinstated sick leave. An employee who had not worked 90 days in the initial employment with the District must work the remaining amount of the 90 day-qualifying period to be able to use accrued sick leave.

If a permanent employee separates and is not entitled to sick leave payoff and is reinstated or re-employed within one (1) year from the date of separation, the employee shall have their former Sick Leave balance restored to the unpaid balance at the time of separation. All other rights to sick leave shall be canceled upon separation.

I. Sick Leave Conservation Program:

Sick leave conversion shall be provided as determined by the applicable MOU or compensation resolution. There shall be no sick leave conversion for temporary employees. Qualifying employees shall make an irrevocable election of the amount of sick leave to be converted in December the year before the sick leave is earned. The conversion evaluation period is defined as the beginning of Pay Period 26 of the previous calendar year through Pay Period 25 of the current calendar year.

SECTION 4. INDUSTRIAL INJURY LEAVE

If an employee is unable to perform assigned duties by reason of injury, sickness or disability, as defined in the Workers' Compensation Act of the State of California, the employee shall notify their Supervisor within twenty-four (24) hours from the date of discovery of such injury, sickness or disability.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS**

Revised November 29, 2023

Employees who are absent from work by reason of an injury or illness covered by Workers' Compensation, shall continue in pay status under the following provisions.

In job related cases of injury, sickness or disability, the employee shall receive the base salary for the first forty (40) hours of such disability; provided, however, that any Workers' Compensation benefits received for this initial forty (40) hour period shall be assigned to the District.

At the end of this forty (40) hour period, and if unable to resume work, the employee may authorize the difference between the amount granted pursuant to such Workers' Compensation and the employee's base pay to be deducted from the employee's accumulated sick leave, vacation, personal holidays, and compensatory time, if any. The employee will continue in pay status and receive their pay until their accumulated sick leave, and authorized compensatory time, personal holidays and vacation days, have been depleted to the nearest hour.

This election shall be made in writing and submitted to the District prior to the payment of any sick leave or vacation benefits. Prorated credit to the employee's sick leave balance at the employee's current rate of pay shall be made based upon the amount of monies assigned to the District from Workers' Compensation benefits.

During the time the employee is in fully paid status while absent from work by reason of injury or illness covered by Workers' Compensation, they shall continue to accrue sick leave and vacation benefits as though they were not on leave of absence.

Any employee subject to this Policy who depletes their accumulated sick leave, compensatory time, personal holiday time and vacation days while absent from work by reason of an injury or illness covered by Workers' Compensation may receive an unpaid leave of absence and continuation of health care benefits consistent with state and/or federal law.

The period covered by industrial injury leave shall be considered as service time in determining eligibility for salary increases, sick leave and vacation benefits. All provisions of the Workers' Compensation Act of the State of California shall be strictly adhered to.

SECTION 5. BEREAVEMENT LEAVE

In the event of a death in the immediate family (i.e. parent, parent-in-law, step-parent, grandparent, step-grandparent, grandchild, step-grandchild, step-child, sibling, step-sibling, spouse or registered domestic partner), employees who have been employed by the District for at least 30 days shall be entitled to Bereavement Leave of up to three (3) days with pay to attend a funeral.

If it is necessary for additional Bereavement Leave due to individual circumstances, the employee may extend their leave for up to two additional work days. Any additional time off in excess of three (3) days of paid Bereavement Leave will be charged against the employee's paid leave, or may be taken without pay. Additional days in excess of five (5) work days may be granted upon request and approval from the employee's supervisor.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

Upon request from the District, the employee will provide documentation verifying the death within thirty (30) days of the first day of bereavement leave. Employees may use such leave on a non-consecutive basis in the three (3) months that follow that date of death of the family member.

SECTION 6. JURY DUTY LEAVE/SUBPOENAED OR COURT-ORDERED WITNESS LEAVE

A. Jury Duty or Court Ordered Witness Leave

An employee subpoenaed as a witness, unless as a party to the action or as an expert witness, or ordered to jury duty, may be entitled to regular pay. Such entitlement to regular pay shall be extended for two (2) weeks only, provided the employee assigns any witness or jury fees for such service to the District. Further, any unemployment benefits received by the employee shall also be assigned to the District.

Any employee, including a temporary employee, who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify their supervisor or department head as soon as possible. Any employee who is released from jury service prior to the end of their scheduled work hours must report to work unless otherwise authorized by their supervisor.

1. Overtime-Eligible Employees

All overtime-eligible employees will be paid for actual work hours missed because of time spent in jury service or court. The time spent on jury duty is not work time for purposes of calculating overtime compensation. The employee will be required to give the District any amount the employee receives from the Court for jury fees.

2. Overtime-Exempt Employees

All FLSA-exempt employees will continue to receive their normal salary while on jury duty or as serving as a witness only for any work week in which they perform any work duties. The District will offset the amount from pay the employee receives from the Court for jury fees.

B. Other Court or Administrative Proceeding Appearances

1. Regarding Agency Duties

Any employee, including a temporary employee, who is subpoenaed to appear in court in a matter regarding an event or transaction in the course of their District job duties, must give their supervisor as much advance notice as is possible. The District will determine whether the matter involves an event or transaction in the course of the employee's District job duties. If so, this leave to appear in court will be without loss of compensation, and the time spent will be considered work time. The District will offset the amount from pay the employee receives for witness fees.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

2. Regarding Employee-Initiated Proceedings

Any employee, including a temporary employee, who is subpoenaed to appear, or appears in court because of civil or administrative proceedings that they initiated, is not entitled to receive compensation for time spent related to those proceedings. An employee may request to receive time off without pay, or may use any accrued leave other than sick leave for time spent related to those proceedings. The time spent in these proceedings is not considered work time. Notwithstanding the above, an employee who is testifying or appearing as the designated representative in PERB conferences or hearings, or at a personnel or merit commission is entitled to paid release time.

3. Regarding Crime Victim/ Victim Family Member Court Attendance Leave

Any employee, including a temporary employee, who is a victim of a crime that is a serious or violent felony, or a felony involving theft or embezzlement, may take leave from work to attend judicial proceedings related to that crime, if the employee provides the District a copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide the District, within a reasonable time after the leave is taken, documentation from the District Attorney, victim's rights office, or court/governing agency that shows that the judicial proceeding occurred when the leave was used. An employee who is an immediate family member of such a crime victim, including: a registered domestic partner; the child of the registered domestic partner; spouse; child; stepchild; brother; stepbrother; sister; stepsister; mother; stepmother; father; or stepfather of the crime victim is also entitled to leave from work to attend judicial proceedings relating to that crime. The leave is unpaid unless the employee elects to use accrued vacation, sick, or other paid leave, or compensatory time off.

4. Regarding Crime Victim/ Family Member Victims' Rights Proceedings Leave

Any employee, including a temporary employee, who is a victim of a crime listed in Labor Code section 230.5(a)(2)(A), may take leave from work to appear in court to be heard at any proceeding in which the right of the victim is at issue, if the employee provides the employer reasonable advance notice. If advance notice is not feasible, the employee must provide the District, within a reasonable time after the leave is taken, certification from a police report, a district attorney or court, or from a health care provider or victim advocate, that the employee was a victim of any of the crimes listed in Labor Code section 230.5(a)(2)(A). An employee who is a spouse, parent, child, sibling, or guardian of such a crime victim is also a victim who is entitled to this leave if the above notice or certification requirements are met. The leave is unpaid unless the employee elects to use accrued vacation or paid leave, or compensatory time off.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

C. Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Restraining Orders or Injunctive Relief

Any employee, including a temporary employee], who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to obtain or attempt to obtain any relief, including, but not limited to: a temporary restraining order, restraining order, or other injunctive relief to help ensure the health, safety, or welfare of the employee or their child, if the employee provides advance notice of the need for leave. If advance notice is not feasible, the employee must provide any of the following certifications within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use sick leave, accrued vacation or paid leave, or compensatory time off.

D. Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Medical Attention or Counseling or Safety Planning

Any employee, including a temporary employee, who is a victim of domestic violence, sexual assault, or stalking, may take leave from work to attend to any of the following: obtaining medical attention or psychological counseling; obtaining services from a shelter, program or crisis center; or participating in safety planning or other actions to increase safety, if the employee provides advance notice of the employee's intention to take time off for these purposes. If advance notice is not feasible, the employee must provide any of the following to the District within a reasonable time after the leave: a police report indicating that the employee was a victim; a court order protecting the employee from the perpetrator; evidence from the district attorney or court that the employee has appeared in court; or documentation from a health care provider or counselor that the employee was undergoing treatment for physical or mental injuries or abuse. The leave is unpaid unless the employee elects to use sick leave, accrued vacation or personal leave, or compensatory time off.

SECTION 8. PAID ADMINISTRATIVE LEAVE

The District has the right to place an employee on leave with full pay for non-disciplinary reasons at any time when the General Manager or designee has determined that the employee's and/or District's best interests warrant the leave. The employee does not have a right to appeal the decision to be placed on administrative leave with pay.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XIX: LEAVES WITHOUT PAY

SECTION 1. GENERAL PROVISIONS

Leaves without pay shall be granted as outlined below, provided however, that:

- A. A leave may be revoked upon evidence that the cause for granting it was misrepresented or has ceased to exist;
 - B. The period covered by a leave without pay shall not be considered as service time in determining eligibility for vacation, sick leave, salary increases, or other circumstances where service is a factor unless expressly required by law;
 - C. Leave without pay granted to a probationary employee shall not be credited toward the completion of the employee's probationary period; and
- All accrued vacation must be used or, at the option of the District, the monetary value of all accrued vacation must be paid to an employee before a leave of absence without pay can be granted, excluding leave granted for maternity or medical purposes.

SECTION 2. MATERNITY LEAVE

Pregnant employees with one (1) year or more of service shall be granted an unpaid maternity leave not to exceed six (6) months. Upon presentation of a written release to return to work, an employee on maternity leave shall be reinstated to her former or comparable level position. This leave will run concurrently with Pregnancy Disability Leave and CFRA leave.

SECTION 3. PREGNANCY DISABILITY LEAVE

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid pregnancy disability leave for up to the number of hours she would normally work within four calendar months (one-third of a year or 17 1/3 weeks). For a full-time employee who works 40 hours per week, "four months" means 693 hours of leave entitlement, based on 40 hours per week times 17 1/3 weeks. An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave.

A. **Notice & Certification Requirements**

- 1. Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. . The request must be supported by a written certification from the attending physician stating that the employee is disabled from working by pregnancy, childbirth or a related medical condition. The certification must state the date on which the employee became disabled by pregnancy, childbirth or a related medical condition and the expected duration of the disability and the expected date of return to work.
- 2. All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the General Manager or designee prior to being taken. Requests for an extension of leave must be submitted in writing to the department director prior to the agreed date of return and must be supported by a written certification of the

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS**

Revised November 29, 2023

attending physician that the employee continues to be disabled by pregnancy, childbirth, or a related medical condition.

B. Compensation During Leave

Pregnancy disability leaves are without pay. However, the employee may first use accrued sick leave, vacation leave, and then any other accrued paid time off during the leave.

C. Benefits During Leave

1. The District will continue to maintain and pay for group health insurance coverage for up to four months while the employee is out on pregnancy disability leave, at the same level and under the same conditions that coverage would have been provided if the employee had continued in employment continuously for the duration of the leave. If the employee does not return to work following pregnancy disability leave, the District may recover premiums it paid to maintain health insurance coverage during the leave unless the reason for the failure to return is a circumstance beyond her control. For example,
 - a. The employee's inability to return to work is due to the continuation, recurrence, or onset of a health condition that entitles the employee to pregnancy disability leave, unless the employee chooses not to return to work following the leave;
 - b. The employee has non-pregnancy related medical conditions requiring further leave, unless the employee chooses not to return to work following the leave; or
 - c. There are other circumstances beyond the control of the employee, including, but not limited to, circumstances where the employer is responsible for the employee's failure to return to work (e.g. the employer does not return the employee to her same position or reinstate the employee to a comparable position), or circumstances where the employee must care for a family member (e.g., the employee gives birth to a child with a serious health condition).
2. Sick and Vacation Leave Accrual: Sick leave and vacation leave do not accrue while an employee is on unpaid pregnancy disability leave.
3. Employee Status during Leave: The employee retains employee status during the leave. The leave is not a break in service for purposes of longevity or seniority under any collective bargaining agreement or employee benefit plan. Benefits will be resumed upon the employee's reinstatement in the same manner and at the same levels as provided when the leave began, without any new qualification period, physical exam, or other qualifying provisions.

D. Reinstatement

1. Upon the expiration of pregnancy leave and the District's receipt of a written statement from the health care provider that the employee is fit to return to duty, the employee

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- will be reinstated to her original or an equivalent position, so long as it was not eliminated for a legitimate business reason during the leave.
2. If the employee's original position is no longer available, the employee will be assigned to an open position that is substantially similar in job content, status, pay, promotional opportunities, and geographic location as the employee's original position.
 3. If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, the District will initiate an interactive process with the employee in order to identify a potential reasonable accommodation.
 4. An employee who fails to return to work after the termination of pregnancy disability leave loses their reinstatement rights.

SECTION 4. CALIFORNIA FAMILY RIGHTS ACT LEAVE

The District provides leave in accordance with the California Family Rights Act ("CFRA"). Unless otherwise stated in this Policy, "Leave" means leave pursuant to the CFRA.

Employees who misuse or abuse family and medical care leave may be disciplined up to and including termination. Employees who fraudulently obtain or use leave under CFRA are not protected by the statute's job restoration or maintenance of health benefits provisions.

Please see the General Manager for more information.

A. Definitions

"Child" means a child, including a child who is 18 years of age or older who is capable of self-care. An employee's child means a biological, adopted, foster, step-child, legal ward, a child of a domestic partner, or a person to whom the employee stands in loco parentis (in place of a parent).

"Covered active duty" means: (1) in the case of a member of a regular component of the Armed Forces, duty during deployment of the member with the Armed Forces to a foreign country; and (2) in the case of a member of the reserve component of the Armed Forces, duty during the deployment of members of the Armed Forces to a foreign country under a call or order to active duty under certain specified provisions.

"Covered Service Member" means: (1) a current member of the Armed Forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness; or (2) a veteran who is undergoing medical treatment, recuperation, or therapy, for a serious injury or illness and who was a member of the Armed Forces, including a member of the National Guard or Reserves, at any time during the period of five years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

"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.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

“Domestic Partner” is another adult with whom the employee has chosen to share their life in an intimate and committed relationship of mutual caring and with whom the employee has filed a Declaration of Domestic Partnership with the Secretary of State, and who meets the criteria specified in California Family Code section 297. A legal union formed in another state that is substantially equivalent to the California domestic partnership is also sufficient.

“Family member” means an employee’s child, parent, parent-in-law, spouse, domestic partner, grandchild, grandparent, and sibling.

“Grandchild” means a child of the employee’s child.

“Grandparent” means a parent of the employee’s parent.

“Health Care Provider” means:

1. A doctor of medicine or osteopathy who is authorized to practice medicine or surgery by the State of California;
2. An individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon in another state or jurisdiction, including another country, which directly treats or supervises treatment of a serious health condition;
3. A podiatrist, dentist, clinical psychologist, optometrist, and chiropractor (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California State law;
4. A nurse practitioner and nurse-midwife, or a clinical social worker who is authorized to practice under California law and who are performing within the scope of their practice as defined under California law;
5. A Christian Science practitioner listed with the First Church of Christ, Scientist in Boston, Massachusetts; and,
6. Any health care provider from whom an employer or group health plan’s benefits manager will accept certification of the existence of a serious health condition to substantiate a claim for benefits.

“Outpatient Status” means, with respect to a covered service member, the status of a member of the Armed Forces assigned to either: (1) a military medical treatment facility as an outpatient; or (2) a unit established for the purpose of providing command and control of members of the Armed Forces receiving medical care as outpatients.

“Parent” means the biological, adoptive, step or foster parent of an employee or an individual who stood in loco parentis (in place of a parent) to an employee when the employee was a child. This term does not include parents-in-law.

“Parent-in-law” means the parent of a spouse or domestic partner of the employee.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

“Serious Health Condition” means an illness, injury impairment, or physical or mental condition that involves:

1. Inpatient Care in a hospital, hospice, or residential medical care facility, including any period of incapacity (e.g., inability to work or perform other regular daily activities due to the serious health condition, treatment involved, or recovery therefrom). A person is considered “inpatient” when a health care facility admits them to the facility with the expectation that they will remain at least overnight, even if it later develops that such person can be discharged or transferred to another facility, and does not actually remain overnight; or
2. Continuing treatment by a health care provider: A serious health condition involving continuing treatment by a health care provider includes any one or more of the following:
 - a. A period of incapacity (i.e., inability to work, or perform other regular daily activities) due to serious health condition of more than three consecutive calendar days; and
 - b. Any subsequent treatment or period of incapacity relating to the same condition, that also involves:
 - i. Treatment two or more times by a health care provider, by a nurse or physician’s assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical therapist) under orders of, or on referral by a health care provider; or
 - ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider. This includes, for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regimen of continuing treatment.
3. Any period of incapacity due to pregnancy or for prenatal care. Under California law, an employee disabled by pregnancy is entitled to pregnancy disability leave.
4. Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which:
 - a. Requires periodic visits for treatment by a health care provider, or by a nurse or physician’s assistant under direct supervision of a health care provider;
 - b. Continues over an extended period of time (including recurring episodes of a single underlying condition); and
 - c. May cause episodic rather than a continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.
5. A period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

continuing supervision of, but need not be receiving active treatment by health care provider.

6. Any period of absence to receive multiple treatments (including any period of recovery therefrom) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

“Serious Injury or Illness” means: (1) in the case of a member of the Armed forces, including a member of the National Guard or reserves, means an injury or illness that a covered service member incurred in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by the service in the line of duty on active duty in the Armed Forces) and that may render the service member medically unfit to perform the duties of the member’s office, grade, rank, or rating; or (2) in the case of a veteran who was a member of the Armed Forces, including a member of the National Guard or Reserves, means an injury or illness that was incurred by the member in the line of duty on active duty in the Armed Forces (or existed before the beginning of the member’s active duty and was aggravated by service in the line of duty on active duty in the Armed Forces) and that manifested itself before or after the member became a veteran.

“Sibling” means a person related to the employee by blood, adoption, or affinity through a common legal or biological parent.

“Spouse” means one or two persons to a marriage, regardless of the sex of the persons, and includes a registered domestic partner as defined below.

“12-Month Period” means a rolling 12-month period measured backward from the date leave is taken and continuous with each additional leave day taken.

B. Eligibility

An employee is eligible for leave if:

1. The employee has been employed by the District for at least 12 months (can be nonconsecutive work for employer over a 7-year period, except that any military leave time while employed counts towards this 12 months of service); and
2. The employee has been employed by the District for at least 1,250 hours during the 12-month period immediately preceding the commencement of the leave.

C. Permissible Uses of Leave

Leave is only permitted for the reasons listed below.

1. Leave because of a serious health condition that makes the employee unable to perform the functions of their position;

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

2. Leave for the birth of a child or to care for a newborn of an employee;
3. Leave after the placement of a child with an employee in connection with the adoption or foster care of a child;
4. Leave to care for a child, parent, spouse, domestic partner, parent-in-law, grandparent, grandchild, sibling or any Designated Person who has a serious health condition; and,
5. Leave for a variety of “qualifying exigencies” arising out of the fact that an employee’s spouse, domestic partner, child, or parent is on covered active duty or been notified of an impending call or order to covered active duty in the Armed Forces.

D. Amount of Leave

Eligible employees are entitled to a total of 12 weeks of leave during any 12-month period.

E. Effect of Holidays and District Closures

If a holiday observed by the District occurs within a week taken as CFRA leave, the holiday has no effect on the amount of CFRA leave taken and the entire week is still counted as a week of CFRA leave. However, if the employee is using CFRA leave in increments of less than one week, the holiday will not count against the employee’s leave entitlement unless the employee was otherwise scheduled and expected to work during the holiday.

If for some reason the District’s activity has temporarily ceased and employees generally are not expected to report for work for one or more weeks, the days that the District’s activities have ceased do not count against the employee’s CFRA leave entitlement.

F. Minimum Duration of Leave

If leave is requested for the birth, adoption or foster care placement of a child of the employee, leave must be concluded within one year of the birth or placement of the child. In addition, the basic minimum duration of such leave is two weeks. However, an employee is entitled to leave for one of these purposes (e.g., bonding with a newborn) for less than two weeks’ duration on any two occasions.

If leave is requested to care for a child, parent, spouse, domestic partner, grandparent, grandchild, sibling or the employee himself or herself with a serious health condition, there is no minimum amount of leave that must be taken. However, compliance with the notice and medical certification provisions of this Policy is required.

G. Intermittent Leave or Leave on a Reduced Schedule

Under certain circumstances, leave may be taken intermittently or on a reduced leave schedule.

“Intermittent leave” is leave taken in separate blocks of time due to a single qualifying reason, rather than for one continuous period of time, and may include leave of periods from an hour or more to several weeks. “Reduced leave schedule” means a leave schedule that reduces the employee’s usual number of hours per workweek or workday, usually from full- to part-time.

Where leave is taken because of the birth or the placement of a child for adoption or foster care, a reduced leave schedule may only be taken if the District agrees. Employees may

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

take intermittent leave because of the birth or the placement of a child for adoption or foster care in minimum increments of two weeks' duration, with the exception that an employee is entitled to leave for this purpose in periods that are less than two weeks' duration on any two occasions.

Where leave is taken to care for a sick family member, or for the employee's own serious health condition, intermittent leave or leave on a reduced leave schedule may be taken when "medically necessary" (e.g., weekly physical therapy treatments). The employee must provide medical certification that there is a medical need for leave (as distinguished from voluntary treatments and procedures) and such medical need can be accommodated best through an intermittent leave or reduced leave schedule. Employees needing such leave must make a reasonable effort to schedule their leave so as not to disrupt the District's operations.

If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, the District may require the employee to transfer temporarily to an alternate position of equivalent pay and benefits during the period that the intermittent leave or reduced schedule leave is required. The District will not transfer employees who take unforeseeable intermittent leave.

If an employee takes leave intermittently or on a reduced leave schedule, only the amount of leave actually taken may be counted towards the 12 weeks of leave to which an employee is entitled. For example, if an employee takes one day of leave per week, he or she has used 1/5 of a week of CFRA leave. Similarly, if an employee who regularly works eight-hour days works four-hour days on a reduced leave schedule, the employee would use one-half of a week of CFRA leave.

H. Parents Both Employed by the District

In any case in which both parents of a child, adoptee, or foster child are employed by the District and are entitled to bonding leave, each parent is entitled to take 12 workweeks of CFRA bonding leave during any 12-month period.

I. Substitution of Paid Accrued Leaves and Leave's Effect on Pay

Although leave under this Policy is unpaid, an employee may elect and the District will require an employee to concurrently use paid accrued leaves as described below:

- An employee may elect and the District will require an employee to use accrued paid vacation or personal leave, if any, for all or part of any unpaid leave under this Policy.
- An employee may elect and the District will require an employee use sick leave concurrently with leave under this Policy only if the leave is for the employee's own serious health condition. If the leave is needed to care for a parent, parent-in-law, spouse, child, grandparent, grandchild, sibling, or domestic partner with a serious health condition, the employee may elect to use sick leave concurrently with leave under this Policy, but is not required to do so.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- Where an employee both qualifies for CFRA leave and is taking leave pursuant to the District's temporary disability policy, the state disability benefit plan or worker's compensation benefits, neither the employee nor the District may require substitution of paid leave. However, the employee and the District may mutually agree to have paid leave supplement the disability plan or worker's compensation benefits.

Except to the extent that accrued paid leave are substituted for family care and medical leave, as set forth above, leave under this Policy is unpaid.

Upon becoming disabled, an employee should apply for State Disability Insurance (SDI) if covered. In addition, under the Paid Family Leave (PFL) law, employees who take time off from work to care for a seriously ill child, spouse, domestic partner, parent, grandparent, grandchild, or sibling, or to bond with a new child (entering their life either by birth, adoption, or foster care placement), may receive PFL benefits through SDI. For more information, and to obtain claim forms, employees may speak with the Human Resources/Administrative Analyst, visit any SDI office, or go to EDD's website at www.edd.ca.gov. Any paid time used will be integrated so that the employee does not receive more than 100% of regular pay.

Vacation and sick leave are not earned during unpaid leaves. Employees who are eligible to accrue vacation only accrue vacation when working or when receiving another form of paid leave earned through their work (for example, when using paid vacation or sick leave), and then only for the portion of the paid leave earned through work.

J. District's Right to Require an Employee to Exhaust CFRA Leave Concurrently with Other Leaves

If an employee takes a leave of absence for any reason that also qualifies under the CFRA, the District may designate that leave as running concurrently with the employee's 12-week CFRA leave entitlement.

K. The District's and Employee's Rights if an Employee Requests Accrued Leave without Mentioning CFRA

If an employee requests to utilize accrued vacation leave, personal leave, or other accrued paid time off without reference to a CFRA qualifying purpose, the District may not ask the employee if the leave is for a CFRA qualifying purpose. However, if the District denies the employee's leave request and the employee provides information that the requested time off is for a CFRA qualifying purpose, the District may require the employee to exhaust accrued leave as described above.

L. Employee Benefits While on Leave

1. Group Health Insurance During Unpaid Leave

Leave under this Policy is unpaid. While on unpaid leave, employees will continue to be covered by the District's group health insurance (which includes health (including District contributions to CalPERS for PEMHCA participation and the Flexible Spending Account), dental and vision) and basic life insurance for up to 12 weeks each leave year to the same extent that coverage is provided while the employee is on the

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

job. If the employee is disabled by pregnancy, coverage will continue up to four months each leave year (see below for more information). If an employee disabled by pregnancy also uses leave under the CFRA for baby-bonding, the District will maintain her coverage while she is disabled by pregnancy (up to four months or 17 1/3 weeks) and during her CFRA leave (up to 12 weeks).

2. Benefit Plans Not Provided through the District's Group Health Plan During Unpaid Leave Do Not Continue

The District does not pay for benefit plans that are not part of the group health plan and basic life insurance for any employee on unpaid leave. As a result, employees will not continue to be covered under the District's benefit plans (other than the District's group health and basic life insurance plans) while the employee is on unpaid leave.

3. Payment of Premiums

Employees may make the appropriate contributions for continued coverage under the health benefits plans by payroll deductions (if the employee is using their paid leave) or direct payments (if the employee is not using their paid leave). The District will inform the employee whether the direct payments for premiums should be paid to the carrier or to the District, and the deadlines for paying premiums in order to prevent coverage from being dropped. Employee contribution rates are subject to any changes in rates that occur while employee is on leave.

4. Recovery of Premium if the Employee Fails to Return from Leave

If an employee fails to return to work after their leave entitlement has been exhausted or expires, the District shall have the right to recover its share of health plan premiums for the entire leave period, unless the employee does not return because of the continuation, recurrence or onset of a serious health condition of the employee or their family member that would entitle the employee to leave or because of circumstances beyond the employee's control.

M. Notice Requirements

Although the District recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much verbal or written notice as possible of their need for leave. If leave is foreseeable, at least thirty (30) days' notice is required. In addition, if an employee knows that he or she will need leave in the future, but does not know the exact day(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform their supervisor as soon as possible that such leave will be needed. For foreseeable leave due to a qualifying exigency, an employee must provide verbal or written notice of the need for leave as soon as practicable, regardless of how far in advance such leave is foreseeable.

N. Medical Certifications

Employees who request leave must provide a medical certification and/or recertification to support the need for the leave as described below:

SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023

1. Employee's Own Serious Health Condition

Employees who request leave for their own serious health condition must provide written certification from the health care provider that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; and a statement that, due to the serious health condition, the employee is unable to work at all or is unable to perform any one or more of the essential functions of their position. Upon expiration of the time period the health care provider originally estimated that the employee needed for their own serious health condition, the employee must obtain recertification if additional leave is requested.

2. Family Member Serious Health Condition

Employees who request leave to care for a child, parent, parent-in-law, domestic partner, spouse, grandparent, grandchild, sibling or Designated Person who has a serious health condition must provide written certification from the health care provider of the family member requiring care that contains all of the following: the date, if known, on which the serious health condition commenced; the probable duration of the condition; an estimate of the amount of time which the health care provider believes the employee needs to care for the child, parent, parent-in-law, domestic partner, spouse, grandparent, grandchild, sibling, or Designated Person and a statement that the serious health condition warrants the participation of the employee to provide care during a period of treatment or supervision of the child, parent, parent-in-law, spouse, domestic partner, grandparent, grandchild, sibling, or Designated Person. The term "warrants the participation of the employee" includes, but is not limited to, providing psychological comfort, and arranging third party care for the covered family member, as well as directly providing, or participating in, the medical care. Upon expiration of the time period the health care provider originally estimated that the employee needed to care for a covered family member, the employer must obtain recertification if additional leave is requested.

3. Qualifying Exigency

The first time an employee requests leave because of a qualifying exigency, an employee may require the employee to provide a copy of the military member's active duty orders or other documentation issued by the military which indicates that the military member is on covered active duty or call to active duty status in a foreign country, and the dates of the military member's active duty service. A copy of the new active duty orders or similar documentation shall be provided to the District if the need for leave because of a qualifying exigency arises out of a different active duty or call to active duty status of the same or a different military member. The District will verify the certification as permitted by the CFRA.

4. Time to Provide Certification

When an employee's leave is foreseeable and at least thirty (30) days' notice has been provided, if a medical certification is requested, the employee must provide it before the leave begins. When this is not possible, the employee must provide the requested certification to the District within the time frame requested by the District (which must

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

allow at least fifteen (15) calendar days after the District's request), unless it is not practicable under the particular circumstances to do so despite the employee's diligent, good faith efforts.

5. Incomplete/Invalid Medical Certification

If an employee provides an incomplete medical certification the employee will be given a reasonable opportunity to cure any such deficiency. However, if an employee fails to provide a medical certification within the time frame established by this Policy, the District may delay the taking of CFRA leave until the required certification is provided or deny CFRA protections following the expiration of the time period to provide an adequate certification.

If the District has a good faith, objective reason to doubt the validity of a certification for the employee's serious health condition, the District may require a medical opinion of a second health care provider chosen and paid for by the District. If the second opinion is different from the first, the District may require the opinion of a third provider jointly approved by the District and the employee, but paid for by the District. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is a second or third medical opinion sought.

O. Reinstatement Upon Return from Leave

Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the CFRA period.

If a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated on the date agreed upon. If the reinstatement date differs from the original agreement of the employee and the District, the employee will be reinstated within two business days, where feasible, after the employee notifies the employer of their readiness to return.

P. Employee's Obligation to Periodically Report on Their Condition

Employees may be required to periodically report on their status and intent to return to work. This will avoid any delays to reinstatement when the employee is ready to return.

Q. Fitness-for-Duty Certification

As a condition of reinstatement of an employee whose leave was due to the employee's own serious health condition, which made the employee unable to perform their job, the employee must obtain and present a fitness-for-duty certification from the health care provider that the employee is able to resume work. Failure to provide such certification will result in denial of reinstatement.

R. Required Forms

Employees must complete the applicable forms to receive family and medical care leave.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

The forms may be found at the District Office. Employees should contact the Human Resources/ Administrative Analyst for copies.

SECTION 4. UNPAID PERSONAL LEAVE

A leave without pay may be granted by the General Manager or designee, not to exceed six (6) months, for urgent or substantial personal reasons, including illness not covered by sick leave.

Such leave may be extended by the District for a further period not to exceed three (3) months in exceptional circumstances with approval of the Board of Directors.

SECTION 5. MILITARY LEAVE

Military leave will be granted in accordance with state and federal law. An employee requesting leave for this purpose shall promptly provide the department head with a copy of the military orders specifying the dates, site and purpose of the activity or mission. Within the limits of such orders, the department head may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

SECTION 6. CHILD SUSPENSION LEAVE

Any employee who is the parent or guardian of a child in grades 1 through 12 may take time off to go to the child's school in response to a request from the child's school, if the employee gives advance notice to their supervisor. A school has the authority to request that the parent attend the child's school if the child has: committed any obscene act; habitually used profanity or vulgarity; disrupted school activities; or otherwise willfully defied the valid authority of school personnel.

SECTION 7. TIME OFF TO VOTE

Any employee, if they do not have sufficient time outside of working hours to vote, may request up to two hours of paid leave either at the beginning or end of scheduled working hours to enable them to vote. The employee must request time off to vote from their supervisor at least two days prior to election day.

SECTION 8. BENEFITS DURING UNPAID LEAVE

Unless authorized by law or a District policy, an employee is not entitled to a leave of absence without pay. A legally-protected, authorized leave of absence without pay is not a break in service for purposes of calculating seniority. Unless required by law, vacation leave credits, sick leave credits, increases in salary, all other paid leaves, holidays and fringe benefits and other similar benefits do not accrue to an employee on unpaid leave.

Unless required by law, the District will not maintain contributions toward group insurance, the flexible spending account, or retirement coverage for the employee on such leave. An employee may make such payments to the District for desired insurance coverage under the conditions as may be established by the insurance carrier. During the period of authorized unpaid leave, all service and leave credits shall be retained at the levels existing as of the effective date of the leave.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS**

Revised November 29, 2023

Employees on maternity leave (inclusive of Pregnancy Disability Leave and California Family Rights Act Leave) without pay will be eligible for full District contributions toward health and welfare insurance (including District contributions to CalPERS for PEMHCA participation and the Flexible Spending Account) and basic life insurance for the first six (6) month period of such leave. After expiration of a six (6) month period of such leave, an employee may make such payments to the District for desired insurance coverage. In the event of an industrial injury or illness, the District will pay the PEMHCA and Flexible Spending Account contributions in accordance with State Workers' Compensation requirements.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XX: PROHIBITIONS ON DRUGS AND ALCOHOL IN THE WORKPLACE

SECTION 1. PURPOSE AND SCOPE

The purpose of this Policy is to promote a drug and alcohol-free workplace and to eliminate drug and alcohol-related inefficiencies and risks. This Policy applies to all District employees, whether they are on District property, or they are performing District-related business elsewhere, except as this Policy is superseded by a memorandum of understanding or federally mandated drug and alcohol policies. Compliance with this Policy is a condition of employment. Disciplinary action will be taken against those who violate this Policy.

SECTION 2. DRUG AND ALCOHOL-FREE AWARENESS PROGRAM

The District's employee assistance provider offers counseling and treatment of drug or alcohol-related problems. The employee assistance provider has information about:

- A. The dangers of drug or alcohol abuse in the workplace;
- B. The penalties that may be imposed for drug or alcohol abuse violations;
- C. The District's Policy of maintaining a drug and alcohol free workplace; and
- D. Any available drug or alcohol counseling, rehabilitation or employee assistance programs.

SECTION 3. PROHIBITED CONDUCT

- A. The manufacture, distribution, sale, dispensation, possession, or use of any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee in either District workplaces or wherever District business is performed.
- B. Working or being subject to call in if impaired by alcohol or any controlled substance, narcotic (including marijuana), or prescription drug that has not been lawfully prescribed to the employee.
- C. An employee's failure to notify their department head before beginning work when taking medications or drugs including but not limited to: prescription drugs, over the counter medications, or illegal drugs or narcotics (including marijuana) which could interfere with the safe and effective performance of duties or operation of District equipment.
- D. An employee's failure to notify the General Manager or designee of any criminal conviction for a drug violation that occurred in the workplace within five days after such conviction.
- E. An employee's criminal conviction for a drug violation that occurred in the workplace.

SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023

SECTION 4. DRUG AND ALCOHOL TESTING

The District has discretion to test applicants and employees for alcohol and drug use under the following circumstances. The District will use an outside laboratory to perform all testing.

- A. Pre-Employment Testing for External Applicants for Certain Jobs: Those external applicants who apply for certain jobs where a special need for pre-employment drug and alcohol testing exists must take and pass a drug and alcohol test following a conditional offer of employment. The categories of jobs subject to pre-employment drug and alcohol testing include, but is not limited to:
1. Safety sensitive jobs that have public safety implications, such as operating heavy trucks to transport hazardous material, protecting national security, enforcing drug laws, and/or operating natural gas pipelines; and
 2. Jobs that involve the direct influence over children.
- B. Reasonable Suspicion Testing: The District may require a blood test, urinalysis, or other drug and/or alcohol screening of those employees who are reasonably suspected of using or being under the influence of a drug or alcohol at work, under the following circumstances:
1. “Reasonable suspicion” to test exists if, based on objective factors, a reasonable person would believe that the employee is under the influence of drugs or alcohol at work. Examples of objective factors, include, but are not limited to: unusual behavior, slurred or altered speech, body odor, red or watery eyes, unkempt appearance, unsteady gait, lack of coordination, sleeping on the job, a pattern of abnormal or erratic behavior, a verbal or physical altercation, puncture marks or sores on skin, runny nose, dry mouth, dilated or constricted pupils, agitation, hostility, confused or incoherent behavior, paranoia, euphoria, disorientation, inappropriate wearing of sunglasses, tremors, an accident involving agency property or equipment, or other evidence of recent drug or alcohol use.
 2. Document and Analysis: In order to receive authority to test, the supervisor must record the factors that support reasonable suspicion in writing and analyze the matter with the department head. Any reasonable suspicion testing must be pre-approved by the General Manager or designee.
 3. Testing Protocol: If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the General Manager or designee has approved, the employee will be relieved from duty, transported to the testing facility and to their home after the test. The employee will be placed on sick or other paid leave until the test results are received.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XXI: EMPLOYEE USAGE OF DISTRICT OWNED LAPTOP COMPUTERS, TOOLS, RESOURCES AND EQUIPMENT

SECTION 1. PURPOSE

The purpose of this Policy is to establish guidelines and standards regarding employee usage of laptop computers, tools, and equipment owned by the District. District equipment and resources may only be used to conduct District business, except for incidental personal use that is consistent with this Policy. As a result, District equipment and resources are non-public forums. Every District employee is required to adhere to this Policy.

SECTION 2. DISTRICT EQUIPMENT OR RESOURCES

District equipment or resources is any District-owned or supplied item or resource, including, but not limited to: intellectual property (e.g., photographs, plans, drawings, formulas, customer lists, designs, formulas), vehicles, telephones, cell phones, pagers, tools, machines, supplies, copy machines, facsimile machines, desks, office equipment, computers (including hardware and software), file cabinets, lockers, Wi-Fi, internet, intranet, District network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through District electronic resources or equipment.

SECTION 3. NO EXPECTATION OF PRIVACY

The District periodically and without prior notice, monitors, reviews, accesses, or retrieves data from its equipment or resources, including electronic communications and content contained in or transmitted through District networks or electronic resources. District employees must provide the agency with the employee's username or password for any District issued equipment or resource. The existence of passwords or delete functions does not restrict the District's access. As a result, District employees have no expectation of privacy in their use of any District equipment or resources.

SECTION 4. APPROPRIATE USE ONLY -- NO MISUSE

Employees may only use District equipment or resources in compliance with District policies. Except as authorized by this Policy, employees are expected to avoid any use or communication which is unrelated to District business, destructive, wasteful, or illegal. The District has discretion to restrict or rescind employee access to District equipment or resources. The following are examples of misuse of District equipment or resources:

- A. Any use that violates applicable law and/or District policies, rules or procedures.
- B. Exposing others to material which is offensive, harassing, obscene or in poor taste. This includes information which could create an intimidating, offensive or hostile work environment.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- C. Any use that may create or further a hostile attitude or give offense on the basis of race, color, religion, sex, gender, gender expression, gender identity, national origin, ancestry, citizenship, age, marital status, physical or mental disability, medical condition, genetic information, sexual orientation, veteran status or any other basis protected by law.
- D. Communication of confidential District information to unauthorized individuals within or outside of District.
- E. Unauthorized attempts to access or use District data or break into any District or non-District system.
- F. Theft or unauthorized transmission or copying of paper or electronic files or data.
- G. Initiating or sustaining chain/spam letters, e-mail or other unauthorized mass communication.
- H. Misrepresentation of one's identity for improper or illegal purposes.
- I. Personal commercial or business activities (e.g. "for sale" notices, personal ads, etc.).
- J. Transmitting/accessing obscene material and/or pornography.
- K. E-Commerce.
- L. Online gambling.
- M. Installing or downloading unauthorized software or equipment.
- N. Violating terms of software licensing agreements.
- O. Using District equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
- P. Any unauthorized access to District equipment or resources, including: using keys or key cards; using or disclosing the username or password of another person or employee to gain access to their email or other electronic resources; or making District equipment or resources available to others who would otherwise have no authorized access.
- Q. Using District equipment or resources to speak on the District's behalf without authorization, including sending non-work related communications using the District logo.

SECTION 5. DISTRICT EMAIL ADDRESS MUST BE USED FOR DISTRICT BUSINESS

The District's email system is an official communication tool for District business. The District establishes and assigns official email addresses to each employee as the District deems necessary.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

Employees must send all District communications that are sent via email to and from their official District email address. Employees are prohibited from using their private email address (such as Gmail, yahoo, MSN/Hotmail, etc.) when communicating District business via email. Should an email related to District business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's District email account and responded to accordingly.

SECTION 6. INCIDENTAL PERSONAL USE

A. District Communications Equipment

Employees may use District telephones, cell phones, internet access, and e-mail for incidental personal communications provided that the use:

1. Is kept to a minimum and limited to break times or non-working hours;
2. Does not interfere or conflict with District operations or the work performance of any District employees;
3. Allows the employee to more efficiently perform District work;
4. Is not abusive, illegal, inappropriate, or prohibited by this Policy (for example, no social media use, no electronic dating, no gaming); and
5. Clearly indicates it is for personal use and does not indicate or imply District sponsorship or endorsement. Use of District e-mail for incidental personal communications should not include District logos or District signatures.

B. District Vehicles

Employees provided with access of District vehicles shall be permitted to use such vehicles for incidental personal use while commuting on District business.

SECTION 7. USE OF DISTRICT LAPTOP COMPUTERS

Employees may check out District laptop computers for use after normal working hours only to conduct District business on a limited basis per General Manager approval. Employees may not borrow or check-out District tools and equipment for use after normal working hours. District laptop computers, equipment, or tools may not be borrowed or checked out for personal use.

- A. Only District employees may operate or use District checked-out laptop computers. Neighbors, friends, spouse, relatives, etc. may not use them.
- B. District laptop computers may not be used for profit or financial gain.
- C. The employees must be qualified in and comfortable with the operation of the laptop computer they are borrowing.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS**

Revised November 29, 2023

- D. The laptop computer may be borrowed for a time limit established by the General Manager.
- E. Employees may not enter District property after normal working hours to borrow laptop computers except in case of an emergency and when the General Manager has granted permission.

SECTION 8. PROCEDURE

- A. Permission to borrow laptop computers must be obtained prior to their usage from the General Manager.
- B. Employees will sign for laptop computers on a checkout form, and thereby acknowledge that they understand and accept the responsibility and liability for lost, stolen or damaged District Property as specified below. The form will also be signed by the General Manager's designated employee who will inspect and verify the condition of the item to be borrowed, and the date the item is to be returned to the District.
- C. The description of the borrowed laptop computer and the replacement cost of the borrowed item will also be listed on the checkout form.
- D. The employees will sign and acknowledge that the description is correct, acknowledge the replacement cost, and their responsibility to return the borrowed equipment in the same working condition as when checked out.
- E. Employee must return equipment per the designated return date set by the General Manager at time of checkout.
- F. When returned, the employees must have the General Manager's designated employee that inspected the borrowed item verify that it has not been damaged and sign off on the checkout form.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XXII: EMPLOYEE USE OF DISTRICT COMPUTER RESOURCES

SECTION 1. PURPOSE

The purpose of the District's technology-based systems is to provide information and computing resources, and improve the way service is provided to the public. As modern technology provides connectivity, the actions of one person can impact the integrity and security of a telecommunications network used by many. Any employee given the privilege of using the District's computing and information resources is expected to act in a responsible manner by complying with all policies, relevant laws, and contractual agreements related to computers, networks, software, and computer information.

SECTION 2. GENERAL.

Electronic mail (E-Mail), voice mail, and Internet access capabilities are provided for the purpose of conducting District business, enhancing efficiency, and better serving the public interest. The District makes a variety of computer resources available to its employees, including desktop computers, access to local area networks and the Internet, printers, fax machines, modems, application software, data files, voice mail, electronic mail, and data imaging (collectively called the "District Information Technology System" or "System" in this Policy document). The System is the property of the District and is to be used for valid business purposes and functions. Personal use of the System shall be limited and in no event shall it interfere with, or delay the performance of an employee's work duties or functions. Internet access and e-mail is not a benefit of employment.

SECTION 3. ACCESS TO COMPUTER INFORMATION/CONFIDENTIALITY AND PRIVACY

- A. The District reserves the right to access all computer files on the System, including e-mail and voice mail files. Except as provided by law, no employee should have any expectation of privacy with respect to; internet sites visited, any information or pictures from downloads placed or stored on District computers or e-mail messages produced, sent or received by District servers. The District reserves the right to access and read any information without prior notification. The District may electronically scan messages for the presence of specific content such as viruses, or to maintain System integrity. The District will also respond to legal processes and fulfill any legal obligations to third parties.
- B. The Network Administrator maintains a list of employees' password(s) within each department. The password list is maintained in a confidential manner. The existence of a password(s) does not mean the employee should have any expectation of privacy. Each employee is responsible for providing the Network Administrator with their current password(s). The Network Administrator has the right to request such password(s) to inspect all e-mail and files of the department's employees, correct service problems, ensure System security, retrieve records and/or transition work when responsible personnel are unavailable, and for other legitimate business reasons.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- C. Immediately upon termination or lay-off, an employee's right to access the System shall cease and the employee shall have no further right to the contents of their computer files, voice mail messages, or e-mail messages, and the employee shall not be allowed access to the voice mail or e-mail Systems.
- D. The California Public Records Act requires the agency to disclose specified public records. In response to requests for such disclosure, it may be necessary to examine electronic communications records that users may consider to be personal to determine whether they are public records that are subject to disclosure. In addition, electronic communications sent by City employees on personal devices and/or accounts may be subject to disclosure under the Public Records Act. Electronic communications records may also be subject to disclosure in litigation or administrative proceedings in the same manner as other District records.
- E. All communications transmitted via the District's system, whether or not related to personal or confidential matters, are subject to monitoring, at the District's discretion. The District monitors communications transmitted via the District's System in the ordinary course of business for purposes that include ensuring their reliability and security. The existence of passwords and "message delete" functions do not restrict or eliminate the agency's ability or right to access electronic communications.
- F. Employees should not communicate their private, privileged, or confidential information, including but not limited to personal attorney client communications, financial or medical information and other privileged information, via the District's System. Employees who do communicate their private, privileged or confidential information via the District's System will be deemed to have waived any privilege or privacy rights in those communications, even where those communications are made via personal password-protected accounts using the District's System.
- G. Electronic communications sent to and received from attorneys representing the District are privileged communications. Such electronic communications shall not be distributed, copied, or blind-copied to unauthorized individuals.
- H. Additionally, the District may be required to produce information transmitted or stored on its System pursuant to a court order, subpoena, or statute.

SECTION 4. PENALTIES

Any unlawful use of the District System or use in violation of this policy may subject the employee to the termination of access rights, or other disciplinary action including termination of employment or contract. Unlawful use may also result in personal legal liability or referral for criminal prosecution.

SECTION 5. COMPUTER HARDWARE AND SOFTWARE

Computer hardware or software may only be installed, changed, removed or added by authorized

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

personnel. All hardware purchased by the District is for District use. All hardware required for networks must be configured to ensure compatibility with the existing wide area network infrastructure and must adhere to all networking standards established by the District for connectivity, security, and support. Retirement of computers or hardware shall conform to the District's Disposal of Small Equipment Policy. Any Software will remain the sole property of the District.

SECTION 6. VALID SOFTWARE REGISTRATION OR LICENSING

Each piece of proprietary software operating on the District System must have valid registration (individually for stand-alone personal computers) or must be covered by users' license (if connected to a local area network). Proprietary software and associated documentation on the System are subject to copyright laws and licensing agreements and are not to be reproduced unless authorized under a licensing agreement. The District will not condone violations of copyright laws and licenses and the employee will be personally liable for any fines or sanctions caused by the license or copyright infringement. Appropriate documentation to substantiate the legitimacy of the software is necessary. Employees shall not use unauthorized software on District computer resources.

SECTION 7. PERSONAL SOFTWARE

Installation and use of privately-owned or personal software, including screen savers and shareware, on District computers is prohibited, unless specifically authorized by the Network Administrator. Any software or publication which is downloaded to the District computer resources becomes the sole property of the District.

SECTION 8. ENTERTAINMENT SOFTWARE

The use of entertainment software on the District's System is prohibited at all times, except for authorized training purposes.

SECTION 9. COMPUTER VIRUSES

All computers must have anti-virus software installed. Anti-virus software must be active and checking all entry points that data is introduced, including but not limited to removable disk, CD, tape, and networks. The selected anti-virus software must be certified by the "International Computer Security Association." It is the Network Administrator's responsibility for keeping anti-virus software current through new releases and/or updates.

SECTION 10. E-MAIL - GENERAL GUIDELINES

- A. E-mail communication on the System is not private or confidential, and may be subject to public disclosure and monitoring by the District and its agents. District management shall designate which employees in each department shall have the privilege of e-mail. E-mail is viewed as an effective alternative to inter-office memos, suggestion boxes, or general

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

bulletins. Communication on the District's Information System should be focused on work-related information. Employees shall not pursue non-job related issues, including but not limited to commercial ventures, or religious or political causes, through e-mail or Internet access. Employees who have access to the District's email system may use District email for union communications on non-work time.

- B. The contents of any such messages must also be in keeping with the standards of conduct appropriate to the workplace and the employee must be extremely mindful of the image being portrayed of the District.
- C. E-mail communications are not private and may be monitored as allowed by law to promote the administration of the District, its business and policies, and are subject to the same ethical and legal concerns and standards of good conduct as memos, letters and other paper-based documents.
- D. All messages and/or data files on the computer network are the property of the District and may be accessed by any authorized representative of the District.
- E. Messages sent on District business or with the use of District facilities may be available for review by any authorized representative of the District.
- F. All third parties (e.g. contractors, auditors) are to be advised that the District may monitor e-mail, phone calls, software licenses, voice mail, and computer files to track the workforce's efficiency and productivity and remind them of the security issues when sending confidential electronic mail or documents through the District System.
- G. The unauthorized use of passwords and codes to gain access to other user's files or messages is prohibited.
- H. All use of voice mail and/or e-mail must comply with the District's practices and policies. Anything which is or could be construed as sexually explicit or discriminatory based on race, national origin, sex, sexual orientation, age, disability, or religious or political beliefs is not permitted on the System.

SECTION 11. RETENTION OF E-MAIL

- A. All e-mail messages are considered transitory writings and are not retained in the District's normal course of business. "Transitory writing" is writing that has no reason for retention after the purpose for which it was created, such as routing slips, telephone messages, and e-mail.
- B. E-mail is not a permanent storage medium and staff is expressly forbidden to use it as such. E-mail is not backed-up permanently. E-mail inboxes and outboxes shall be purged on a regular basis, and the District also retains the authority to purge any such mail on an automatic basis. Should staff desire to retain an e-mail message longer, the best way to ensure the retention of e-mail is to print it and to retain it in the District-wide records

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

management program. Similarly, should the e-mail have a separate digital file attached, the best way to ensure the retention of such a file is to download, print, and retain the file in the District-wide records management program.

SECTION 12. INTERNET ACCESS - GENERAL GUIDELINES

- A. The District may provide access to the Internet for selected employees upon approval of District management. This capability will be provided on an "as needed" basis and is a revocable privilege.
- B. The Internet is a worldwide communication network that can connect users with unlimited amounts of information. Aspects of the Internet--such as its openness, lack of security, and complexity--may make available materials which could be offensive to the sensitivities of some users. The District considers the value of allowing access to information resources through external networks to outweigh the potential harm from the possibility of misuse or that users may encounter materials they may find offensive. All users of District-provided networks and information resources do so at their own risk with regard to the possibility of encountering material they may find offensive.
- C. While accessing the Internet, employees represent the District. As with any other communication medium, employees should conduct themselves appropriately and exercise good judgment and common courtesy.
- D. An employee's use of the Internet shall be limited to business purposes, other than incidental use. The District reserves the right to restrict access to any non-work related web sites.

SECTION 13. INTERNET USER'S RESPONSIBILITIES

It is the responsibility of each Internet user to:

- A. Maintain the confidentiality of the user's password and other security measures.
- B. Ensure the user is in compliance with this Policy, and all District administrative policies and procedures.
- C. Scan for viruses all files that are downloaded from the internet.
- D. Comply with licensing agreements and policies of networks and on-line services accessible via the Internet.

SECTION 14. ATTORNEY-CLIENT PRIVILEGED COMMUNICATIONS

Some messages sent, received, or stored on the District e-mail system will constitute confidential, privileged communications between the District and its attorneys. Attorney-client communications should not be forwarded, copied or distributed without consulting the General Manager's Office

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

and or the District Counsel's Office.

SECTION 15. CONFIDENTIAL INFORMATION

- A. Most communications among District employees are not considered confidential. However, certain communications, such as police investigations, certain customer records, and personnel records, may be confidential or contain confidential information. Questions about whether communications are confidential should be raised with the General Manager.
- B. Employees shall exercise caution in sending confidential information on the e-mail system as compared to written memoranda, letters or phone calls, because of the ease with which such information may be re-transmitted.
- C. Confidential information should not be sent or forwarded to individuals or entities not authorized to receive that information and should not be sent or forwarded to other District employees not directly involved with the specific matter.
- D. Care should be taken in using e-mail to ensure messages are not inadvertently sent to the wrong individual. In particular, exercise care when using distribution lists to make sure all addresses are appropriate recipients of the information. Lists are not always current and individuals using lists should take measures to ensure lists are current.
- E. Employees shall not discuss confidential information outside the workplace.
- F. Confidential information should not be reproduced unnecessarily.

SECTION 16. ACCEPTABLE USE OF THE INTERNET

Specifically, acceptable uses of the Internet include:

- A. Communication and information exchange directly related to the mission, objectives, and activities of the District.
- B. Communication and exchange of professional development, to maintain currency of training or education, or to discuss issues related to the employee's District government activities.
- C. Use for advisory, standards, research, analysis, and professional society activities related to the employee's work tasks and duties.
- D. Announcement of new District laws, procedures, policies, rules, services, programs, information, or activities.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

SECTION 17. UNACCEPTABLE USE OF THE INTERNET

Specifically, unacceptable uses of the Internet include:

- A. Use of the Internet for any purpose that violates this policy, or federal or state law.
- B. Use for access to or distribution of pornographic, indecent or obscene material.
- C. The transmittal of abusive, profane or offensive language or pictures unless required by business necessity (e.g. case evidence) and authorized in writing by department directive.
- D. Any use that interferes with or disrupts the District's local area network users, services, or equipment.
- E. Use for the purpose of intentionally seeking out information on, obtaining copies of, or modifying files and other data which is private, confidential or not open to public inspection, unless specifically authorized to do so by the file owner.
- F. Copying software without determining that permission to do so has been granted by the file owner.
- G. Representing oneself electronically as another.
- H. Use of the System for personal gain or profit, or for personal reasons that would result in depleting District resources, impeding the organization's ability to conduct business, or cause any interruption or delay in service to the public.
- I. Use of the Internet for personal business during work (non-break) time.

SECTION 18. NETWORK COMMUNICATION

Each employee is responsible for the content of all text, audio or images that they may place or send over the District's System. No electronic communications may be sent which hides the identity of the sender or misrepresents the sender as someone else, unless authorized in writing by departmental directive. All messages communicated on the District's System should contain the employee's name. Any messages or information sent by an employee to another individual outside of the District are statements that reflect on the District. All communications sent by employees via the District's System must comply with this and other District policies and may not disclose any confidential or proprietary District information.

SECTION 19. MODEMS

The Network Administrator approves, manages, audits, and inventories all dial-out or dial-in modems connected to the local area network. Modems must meet all security requirements for the local network and must not pose a threat to wide area network security.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

SECTION 20. PHYSICAL ENVIRONMENT

"Acceptable use" also applies to providing the proper physical environment. Workstations, servers and network hardware have specific environmental requirements. Manufacturer specifications dictate temperature and humidity limits. Servers and network equipment require secure/locked environments for security purposes. All servers and critical network components need back-up power supplies in case the primary power fails.

SECTION 21. NETWORK DEVICE INSTALLATIONS

The Network Administrator must be notified before attaching any new devices that could affect the wide area network or other local area networks.

SECTION 22. NETWORK COPYRIGHT ISSUES

All employees obtaining access to copyrighted materials must respect all copyrights and may not copy, retrieve, modify, or forward copyrighted materials, except where expressly allowed by the copyright law or with expressed written permission from the copyright owner.

SECTION 23. NETWORK SECURITY

District networks with access to the Internet must be protected by a firewall approved by the Network Administrator. Employees must abide by departmental, local, state, federal, and Internet Service Provider (ISP) security policies as they apply to use within the District. The District routinely monitors usage patterns for its network communications for purposes of cost analysis, allocation, and managing the District's gateway to the Internet. All those using public networks such as Internet, Intranet, and electronic mail should be aware that any messages created, sent, or retrieved over the District's network are not private. Employees should use discretion when using public networks (e.g. Wi-Fi hotspots) with non-encrypted data if data security and confidentiality is an issue.

SECTION 24. OTHER ACCESS

The District's e-mail network may be made available for use by District employees for official Union or Association related business, subject to applicable law and regulations, the conditions set forth in this policy, and any agreed upon limitations regarding use.

Employees using the District's e-mail network for such purposes are required to familiarize themselves with and abide by these requirements.

Employees may not broadcast e-mail to all users without specific authorization by District Management. Employee's use of the District e-mail system for Union business shall be limited to non-work time or incidental use. Employees are prohibited from sending voluminous e-mail or burdensome attachments.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XXIII: HANDS FREE COMMUNICATION DEVICE USAGE POLICY

SECTION 1. PURPOSE

- A. The purpose of this Policy is to establish guidelines and standards regarding the business and personal use of mobile communication devices acquisition and the safe use of the devices while on District time.
- B. The purpose of this Policy is to establish District employee compliance with current local and state regulations regarding the use of hands free devices and mobile communication devices while operating a motor vehicle while on District time.

SECTION 2. GENERAL

- A. The District takes all necessary actions to ensure the highest level of safety of all District employees.
- B. In accordance with California Vehicle Code, employees are prohibited from:
 - a. Driving while using a cell phone unless it is set up in an approved, hands-free manner to allow for hands-free listening and talking, with the device mounted to the center console, dashboard or windshield; and
 - b. Driving while holding a cell phone.
- C. Effective July 1, 2008 the District's policy will require all District employees to use a hands free device when using a mobile communication device, including the walkie-talkie and phone features of the device, while operating a motor vehicle on District time.

SECTION 3. OPTIONS

- A. All District employees will be required to use a hands free device while operating a motor vehicle on District time.
- B. If an employee chooses not to use the hands free option, they may either pull off to the side of the road to make/answer a call, or return the call when they have reached their destination.
- C. If an employee is found to be in non-compliance of this policy, and is issued a fine by law enforcement, the payment of the fine is the responsibility of the individual employee.

SECTION 4. ACQUISITION OF DISTRICT OWNED DEVICE

- A. All District employees, who drive vehicles as a regular part of their job, will be issued a District owned hands free device to be used while operating a motor vehicle while on District time.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- B. It is the expectation of the District that all District employees' use the approved safety device at all times while operating a motor vehicle on SBCWD time.
- C. If the device is not in use, it must be kept free from potential damage (e.g. kept in District truck).
- D. At time of separation of employment from District, the device must be returned to the District in the working condition that it was issued in.
- E. If a District employee experiences difficulties with the device, device function, or have questions about the function or use of the hands free device they must speak with the designated safety personnel in charge of the hands free devices.

SECTION 5. EXCEPTIONS

- A. Permanently installed push-to-talk radio systems in District vehicles are excluded from this law.
- B. This policy does not apply to an employee using a wireless device for emergency purposes to contact safety and law enforcement agencies.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XXIV: SOCIAL MEDIA POLICY

SECTION 1. INTRODUCTION

The District understands that its employees use social media sites to share events in their lives, to communicate, and to discuss their opinions with others, including family, friends and co-workers. However, the use of social media may present certain risks and carries with it certain responsibilities. To assist employees in making responsible decisions about their use of social media, the District has established this policy and guidelines for appropriate use of social media. In addition to requirements listed in this policy for use of social media at work and as related to the District, the District recommends that employees consider these guidelines for off-duty social media use.

In the rapidly expanding world of electronic communication, social media can mean many things. In general, social media encompasses the various activities that integrate technology, social interaction, and content creation. Through social media, individuals can create web content, can organize, edit or comment on content, as well as combine and share content on their own web site or on someone else's. Social media uses many technologies and forms, including web feeds, blogs, wikis, photography and video sharing, web logs, journals, diaries, chat rooms, bulletin boards, affinity web sites, podcasts, social networking, fansites, mashups, and virtual worlds.

SECTION 2. UNDERSTAND EMPLOYEE RIGHTS AND RESPONSIBILITIES IN USING SOCIAL MEDIA TECHNOLOGY

Employees should use good and ethical judgment. To the extent social media use impacts District employees and customers, employees should follow District policies and regulations as applicable, including but not limited to those that protect individual privacy rights, anti-discrimination and harassment policies, and the anti-workplace violence policy.

Employees should keep in mind that if conduct adversely affects job performance, the performance of co-workers, or adversely affects members of the public served by the District, the District may take disciplinary action against an employee up to and including termination.

Employees should keep in mind that work-related complaints are more easily resolved through direct communication between co-workers or via other channels such as by speaking with the District's management, or by filing an internal complaint or grievance, if applicable.

Nevertheless, if an employee decides to post a complaint or criticism, such employees should avoid using statements, photographs, video or audio that reasonably could be viewed as unlawful harassment or discrimination or otherwise violating the law such as unlawful threatening conduct. Examples of such conduct might include offensive posts that could contribute to a hostile work environment on the basis of race, religious creed, color, national origin, ancestry, physical or

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation or any other status protected by law. Examples of unlawful threatening conduct include posting material that would make a reasonable person afraid for their safety or the safety of their family.

Employees should strive for accuracy in any blog or post. For example, employees can include a link to sources of information, and correct and promptly retract mistaken information.

Employees should never post any information or rumors that are known to be false about co-workers or District customers.

Employees should not disclose information that may violate customer or employee rights. For example, employees should not disclose another individual's social security number, medical information or financial information in a manner that violates that person's rights.

Unless instructed in writing by the General Manager, employees should refrain from commenting on any matter or issue on behalf of the District or representing that employee posts or comments represent the District's opinion on such subjects. If an employee publishes a blog or posts online related to the employee's work or subjects associated with the District, the employee should make it clear that they are not speaking on behalf of the District. It is best to include a disclaimer such as "The postings on this site are my own and do not necessarily reflect the views of the District."

If an employee desires to keep their personal life separate from professional or work life, they should use privacy settings to restrict personal information on public sites. Employees should consider who is invited to join a social network as those individuals will have access to the employee's profile, photographs, etc.

Employees should understand that even in a private setting, those invited into a network can easily, print, save, cut, paste, modify or publish anything posted. Material can be archived on the Internet even after it is removed.

SECTION 3. USING SOCIAL MEDIA AT WORK

Employees must never use working hours when not on break for personal social media use. Employees shall not use District email addresses to register on social networks, blogs or other online tools utilized for personal use.

SECTION 4. MEDIA CONTACTS

The District strives to anticipate and manage crisis situations in order to reduce disruption to our employees and the public that we service and maintain our reputation. To best serve these objectives, the District will respond to the news media in a timely and professional manner only

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

through its designated spokesperson. Employees are not authorized to comment for the District and should direct inquiries regarding the District's position to the General Manager or designee.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XXV: POLICY AGAINST VIOLENCE IN THE WORKPLACE

SECTION 1. SAFE AND SECURE WORKPLACE

The District is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace. The workplace includes any location where District business is conducted, including vehicles and parking lots. Any violation of this Policy may lead to criminal prosecution, and/or disciplinary action, up to and including termination.

SECTION 2. PROHIBITED BEHAVIOR

Employees are prohibited from participating in or promoting acts of intimidation, violence, threats, coercion, assault and/or abusive behavior toward any person while in the course of District employment. The District has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting.

SECTION 3. "WORKPLACE VIOLENCE"

"Workplace violence" is defined as any conduct that causes an individual to reasonably fear for their personal safety or the safety of their family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following:

- A. Threats or acts of physical harm directed toward an individual or their family, friends, associates, or property.
- B. The destruction of, or threat of destruction of, District property or another employee's property.
- C. Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay.
- D. Striking, punching, slapping, or assaulting another person.
- E. Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise.
- F. Harassing or threatening phone calls.
- G. Surveillance.
- H. Stalking.
- I. Possessing a weapon(s) during work hours unless the District issues the weapon(s) for performance of the job. "Weapon" is defined as a firearm, chemical agent, club or baton,

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

SECTION 4. INCIDENT REPORTING PROCEDURES

- A. Employees must immediately report to their supervisor or department director whether they have been a victim of, or have witnessed, workplace violence. The supervisor or department director will immediately report the matter to the General Manager or designee.
- B. The General Manager or designee will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.
- C. The General Manager or designee will take appropriate steps to provide security, such as:
 - 1. Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
 - 2. Asking any threatening or potentially violent person to leave the site; or
 - 3. Immediately contacting an appropriate law enforcement agency.

SECTION 5. INVESTIGATION

The General Manager or designee will see that reported violations of this Policy are investigated as necessary.

SECTION 6. PREVENTION

Each department head has authority to enforce this Policy by:

- A. Training supervisors and subordinates about their responsibilities under this Policy;
- B. Assuring that reports of workplace violence are accurately and timely documented and addressed;
- C. Notifying the General Manager or designee and/or law enforcement authorities of any incidents;
- D. Making all reasonable efforts to maintain a safe and secure workplace; and
- E. Maintaining records and follow up actions as to reports of workplace violence.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XXVI: EMPLOYEE TRAVEL & EXPENSE REIMBURSEMENT POLICY

SECTION 1. PURPOSE

The purpose of this Policy is to provide guidelines and standards to District employees regarding travel and related expenses; reimbursement of expenses related to District business, and to ensure compliance with District specified requirements.

SECTION 2. GENERAL

This policy applies to all employees and is intended to result in no personal gain or loss to an employee.

An employee must follow these guidelines and regulations in order to receive reimbursement of an amount up to the allowed limits as outlined below.

SECTION 3. PROCEDURE

The following are the specific guidelines and regulations as outlined by the District and the U.S. General Services Administration (GSA).

- A. Any travel that shall incur an expense in which reimbursement is sought must be approved in advance.
- B. Employees must submit receipts for all expenses that are being submitted for reimbursement.

SECTION 4. HOTELS

- A. If an overnight stay is required when traveling for District business, a hotel may be obtained for overnight accommodations with the pre-approval of the General Manager.
- B. Employees attending conferences must obtain prior approval from the General Manager.
- C. While traveling on District business, employees are encouraged to stay at safe, but economical hotels. Premium accommodations should be avoided unless no other suitable arrangements are available or special circumstances justify their use. If applicable, employees should seek hotel accommodations which qualify for government rates and discounts.
- D. Reimbursements for overnight accommodations are limited by GSA maximum lodging rates, unless pre-approved by General Manager.
- E. If an employee is attending a conference or such that has overnight accommodations available onsite, but exceeds the GSA maximum lodging rates, the General Manager must approve before accommodations are arranged.
- F. The District will provide reimbursement for expenses accrued by the employee only.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

- G. The District will not provide reimbursement for expenses such as, but not limited to, dry cleaning, in-room movies, and damages to hotel property.

SECTION 5. MILEAGE

Any mileage incurred by the employee when using their personal vehicle for travel to conduct District business is reimbursable at the current applicable IRS rate.

SECTION 6. MEALS

- A. While traveling on District business, employees may submit their meal expenses for reimbursement.
- B. The District uses GSA meal limits as guidelines for reimbursement for employees.
- C. The District will not provide reimbursement for alcohol or tobacco products, or items containing alcohol or tobacco.
- D. The District will provide reimbursement for expenses accrued by the employee only, unless authorized by the General Manager beforehand.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XXVII: DISTRICT VEHICLE USE

SECTION 1. PURPOSE

The purpose of this policy is to ensure that all vehicles owned or operated by the District are utilized in a safe, efficient, economical, and practical manner.

SECTION 2. POLICY

All District vehicles and equipment are to be used exclusively for the execution of District business. All vehicles are to be operated by District employees. Personal use of District vehicles is not allowed.

It is understood that, from time to time, an employee may need to make stops in order to conduct urgent personal business (e.g. stop at a store, attend a medical appointment, return home to conduct personal business). This type of vehicle use is allowed provided: 1) it does not significantly alter the business route on which the employee is operating; 2) the time used to attend to the personal business is in conjunction with approved personal leave or off-duty time, and 3) it directly contributes to the overall productivity of the employee as measured by "on-the-job" productive time and minimizes driving time and mileage. Such use is not appropriate when it creates abuse or the appearance of abuse. Use of District vehicles for transportation to group/family meals, union business, etc. is or creates the appearance of abuse.

SECTION 3. ASSIGNMENT

Vehicle assignment shall be made on the basis of task or responsibility. The District shall not assign a vehicle to an individual employee restricted solely for that individual's use.

SECTION 4. PARKING

All District vehicles shall be parked at the end of the work day/shift in designated District parking areas. Employees, who are authorized to use District vehicles after regular working hours (e.g. on-call employees), are to park vehicles at their residence and ensure that all reasonable safety precautions are taken.

SECTION 5. REIMBURSEMENT FOR USE OF PERSONAL VEHICLE

Employees, who are not assigned a District vehicle and are requested to use their personal vehicle for approved travel to conduct District business, may request reimbursement at the current Internal Revenue Service mileage reimbursement rate.

SECTION 6. MAINTENANCE

Employees are expected to assure that the vehicles are in a condition for safe use and operation. Employees who find that District vehicles need maintenance and/or repair are expected to report such conditions to the Operations and Maintenance Supervisor immediately.

SECTION 7. HOUSEKEEPING

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

At all times, vehicles are expected to be clean and neat, and are subject to inspection. Objects in the interior of the vehicle that would be subject to movement in the event of an accident are expected to be secured during travel.

SECTION 8. FUEL

Each vehicle is assigned a fuel control card that is to remain with the vehicle. Employees using the assigned vehicle for a District task are responsible for any necessary refueling. It is desirable that when a vehicle is returned at the end of a work shift, that it have at least 1/4 of a tank of fuel to ensure that vehicle's availability for emergency purposes.

SECTION 9. PASSENGERS

Passengers shall be allowed in District vehicles only for the purpose of conducting District business.

SECTION 10. OPERATION

Vehicles may be operated by non-District employees only in the case of authorized vehicle maintenance, parking or delivery.

SECTION 11. EXCEPTIONS

Exceptions to these guidelines may be granted by the General Manager including in provisions of Employment Memorandums of Agreement.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

ARTICLE XXIX: DISASTER SERVICE WORKERS

SECTION 1. POLICY

The purpose of this policy is to provide for the preparation and implementation of plans to provide services within this District in the event of an emergency, to empower certain District officials to promulgate orders and regulations necessary to provide for the coordination of the emergency service functions of this District with all other public agencies, and affected private persons, corporations and organizations.

An “emergency” means the actual or threatened existence of conditions of disaster or of extreme peril to the safety of persons and property within the District caused by such conditions as air pollution, fire, flood, storm, tsunami, drought, sudden and severe energy shortage, plant or animal infestation or disease, the Governor’s warning of an earthquake or volcanic eruption, riot, pandemic, or other conditions, except those resulting from a labor controversy, which are, or are likely to be, beyond the control of the services, personnel, equipment and facilities of the District, and the control of which requires the combined forces of this District with other political subdivisions.

Under Section 3100 of the California Government Code, all public employees in California are Disaster Service Workers who can be called upon in any emergency. This means that District employees have a responsibility to help in a disaster. During an emergency or disaster, the District may assign employees to perform disaster service work, which may be outside the employee’s normal scope of duties and regular work schedule. Employees may also be required to perform their usual duties at a different location or during different or additional hours, and/or to support emergency operations in the County’s Emergency Operations Center (EOC).

All District employees, except foreign nationals, are required to take the loyalty oath/affirmation provided by the District, as set forth in the Constitution of California.

Employees are required to fulfill disaster service worker training.

When working in the role as a Disaster Service Worker, employees are required to keep detailed records of assignments, time worked, and any reimbursable expenses such as travel expenses. Employees should remain in close communication with their assigned Disaster Service Manager.

An employee may be temporarily exempted from disaster service work for urgent personal reasons, as determined solely by the District Manager. Urgent personal reasons include, but are not limited to, caring for or securing the safety of dependent family members, or addressing other urgent personal need such as a residential evacuation.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

**SECTION 2. UNAUTHORIZED ABSENCE IS PROHIBITED IN THE EVENT OF AN
“EMERGENCY CONDITION”**

In the event of an “emergency condition,” the District designates all employees as Disaster Service Workers, and expects such employees to report to their workplace or worksite and not to leave such workplace or worksite.

As used in this policy, “emergency condition” means the existence of either of the following: (1) 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; or (2) 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.

The District will not 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 during an emergency condition.

**SAN BENITO COUNTY WATER DISTRICT
PERSONNEL RULES AND REGULATIONS
Revised November 29, 2023**

PERSONNEL POLICY ACKNOWLEDGMENT

This is to acknowledge that I have received a copy of the San Benito County Water District Personnel Policies and understand that the Policies outline my privileges and obligations as an employee of the San Benito County Water District. I further understand that I am governed by the contents of the Personnel Policy and that it is my responsibility to read and familiarize myself with all information in the Policies. Since the information, requirements, and benefits described in these Policies are subject to change, I understand and agree that such changes can be made by the District in its sole and absolute discretion, and I agree to observe these changes in all respects.

Employee's Name

Employee's Signature

Date

SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS

Revised November 29, 2023

SECTION 1. PURPOSE

The District recognizes that the use of alcohol, drugs, and controlled substances in the workplace is not conducive to safe working conditions. In order to promote a safe, healthy, and productive work environment for all employees and the public, it is the District's objective to have a work force that is free from the influence of substance abuse. This policy also is intended to comply with all applicable federal regulations governing workplace anti-drug programs and safety sensitive employees.

The federal Drug-Free Workplace Act of 1988 and similarly, the California Drug-Free Workplace Act of 1990 requires the establishment of drug free workplace policies and the reporting of certain drug-related offenses to the federal Department of Transportation (DOT). Also, the Federal Transportation Administration (FTA) and Federal Motor Carrier Safety Administration (FMSCA) of the DOT has enacted regulations that mandate urine drug testing and breathalyzer alcohol testing for safety sensitive positions and prevent performance of safety sensitive functions where there is a positive test result. The DOT also has set standards for the collection and testing of urine and breath specimens.

Employees shall be asked to sign a statement certifying that they have received a copy of this policy and understands its contents.

Any questions regarding rights and obligations under this Policy shall be referred to the General Manager or designee. This policy complies with 49 CFR Part 655, as amended, 49 CFR Part 382, as amended, and 49 CFR Part 40, as amended. Copies of Parts 655, 382, and 40 are available in the drug and alcohol program manager's office and can be found on the internet at the Department of Transportation (DOT) Office of Drug and Alcohol Policy and Compliance website <http://www.dot.gov/odapc>.

All covered employees are required to submit to drug and alcohol tests as a condition of employment in accordance with these regulations.

SECTION 2. COVERED EMPLOYEES

This policy applies to every person whose position requires the possession of a commercial driver's license (CDL); every employee performing a "safety-sensitive function" as defined below, and any person applying for such positions.

Under FMCSA (Part 382), you are a covered employee if you perform any of the following safety-sensitive functions:

- A. Driving a commercial motor vehicle which requires the driver to have a CDL.
- B. Waiting to be dispatched to operate a commercial motor vehicle.
- C. Inspecting, servicing, or conditioning any commercial motor vehicle.

SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS

Revised November 29, 2023

- D. Performing all other functions in or upon a commercial motor vehicle (except resting in a sleeper berth).
- E. Loading or unloading a commercial motor vehicle, supervising or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or giving or receiving receipts for shipments being loaded or unloaded.
- F. Repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

Under FTA (Part 655), you are a covered employee if you operate a vehicle requiring a commercial driver's license.

A safety sensitive employee is considered to be performing a safety sensitive function during any period in which that employee is actually performing, ready to perform, or immediately available to perform any safety sensitive function, including off-site lunch periods and breaks.

See Attachment A for a list of covered positions by job title.

SECTION 3. PROHIBITED CONDUCT

Use of illegal drugs is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in Part 40.

- A. marijuana
- B. cocaine
- C. phencyclidine (PCP)
- D. opiates
- E. amphetamines

In addition, all covered employees are prohibited from the following:

- A. Performing or continuing to perform safety-sensitive functions while having an alcohol concentration of 0.04 or greater;
- B. Consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. If the on-call employee claims the ability to perform their function, they must take an alcohol test with a result of less than 0.02 prior to performance;
- C. Consuming alcohol within four (4) hours prior to the performance of safety-sensitive job functions;
- D. Consuming alcohol for eight (8) hours following involvement in an accident or until they submit to the post-accident drug and alcohol test, whichever occurs first;

SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS
Revised November 29, 2023

- E. Being under the influence of alcohol, drugs, or any controlled substances while subject to being called to duty, including stand-by time;
- F. Directly or through a third party, manufacturing, selling, distributing, dispensing, otherwise attempting to manufacture, sell, or distribute alcohol, drugs, or controlled substances during work hours, including rest breaks or while on District premises;
- G. Use of District property or premises to manufacture, sell, or distribute alcohol, drugs, or controlled substances; and
- H. Absence or tardiness as a result of having been under the influence of alcohol, drugs, or controlled substances during non-work time.

SECTION 4. CONSEQUENCES FOR VIOLATIONS

A. FTA Consequences

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional.

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of the employee's next regularly scheduled duty period (but for not less than eight hours unless a retest results in the employee's alcohol concentration being less than 0.02).

B. FMCSA Consequences

Following a positive drug or alcohol (BAC at or above 0.04) test result or test refusal, the employee will be immediately removed from safety-sensitive duty and referred to a Substance Abuse Professional (SAP).

Following a BAC of 0.02 or greater, but less than 0.04, the employee will be immediately removed from safety-sensitive duties until the start of the employee's next regularly scheduled duty period, but not less than 24 hours following administration of the test.

C. Treatment/Discipline

The employee is responsible for the cost of rehabilitation services. However, the employee may use accrued paid leave for this purpose.

SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS

Revised November 29, 2023

Per the District's Disciplinary Policy (Article VII of the District's Personnel Rules), any employee who tests positive for drugs or alcohol (BAC at or above 0.04) or refuses to test may be subject to discipline up to and including termination.

SECTION 5. CIRCUMSTANCES FOR TESTING

A. Pre-Employment Testing

Pre-employment alcohol tests for safety-sensitive and covered positions are conducted after making a contingent offer of employment or transfer. All pre-employment alcohol tests will be conducted using the procedures set forth in 49 CFR Part 40.

A negative pre-employment drug test result is required before an employee can first perform safety-sensitive functions. If a pre-employment test is cancelled, the individual will be required to undergo another test and successfully pass with a verified negative result before performing safety-sensitive functions. An alcohol test result of less than 0.02 is required before an employee can first perform safety-sensitive functions. If a pre-employment alcohol test is cancelled, the individual will be required to undergo another test with a result of less than 0.02 before performing safety-sensitive functions.

If a covered employee has not performed a safety-sensitive function for 90 consecutive calendar days, and has not been in the random testing pool during that time, the employee must take and pass a pre-employment test before they can return to a safety-sensitive function.

A covered employee or applicant who has previously failed or refused a DOT pre-employment drug and/or alcohol test must provide proof of having successfully completed a referral, evaluation, and treatment plan meeting DOT requirements.

FMCSA Drug Testing Exceptions - A driver is not required to undergo a pre-employment test if:

1. The driver has participated in a DOT testing program within the previous 30 days; and
2. While participating in that program, either:
 - a. Was drug tested within the past six months (from the date of application with District), or
 - b. Participated in the random drug testing program for the previous 12 months (from the date of application with the District); and

SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS
Revised November 29, 2023

3. The District can ensure that no prior employer of the driver of whom District has knowledge has records of a violation of this part or the controlled substances use rule of another DOT agency within the previous six months.

B. Reasonable Suspicion Testing

All covered employees shall be subject to a drug and/or alcohol test when the District has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. A reasonable suspicion referral for testing will be made by a trained supervisor or other trained manager based on the basis of specific, contemporaneous, articulable observations concerning the appearance, behavior, speech, or body odors of the covered employee.

Covered employees may be subject to reasonable suspicion drug testing any time while on duty.

Covered employees may be subject to reasonable suspicion alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions.

C. Post-Accident Testing

1. FTA Procedures

Covered employees shall be subject to FTA post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an accident involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee operating the public transportation vehicle at the time of the accident. In addition, any other covered employee whose performance could have contributed to the accident, as determined by the District using the best information available at the time of the decision, will be tested.

Non-fatal Accidents

As soon as practicable following an accident not involving the loss of a human life, drug and alcohol tests will be conducted on each covered employee operating the public transportation vehicle at the time of the accident if at least one of the following conditions is met:

SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS

Revised November 29, 2023

- a. The accident results in injuries requiring immediate medical treatment away from the scene, and the covered employee may have contributed to the accident.
- b. One or more vehicles incur disabling damage and must be towed away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
- c. The vehicle is a rail car, trolley car or bus, or vessel, and is removed from operation, unless the covered employee can be completely discounted as a contributing factor to the accident.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the District using the best information available at the time of the decision, will be tested.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

2. FMCSA Procedures

Covered employees shall be subject to FMCSA post-accident drug and alcohol testing under the following circumstances:

Fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and involving the loss of a human life, drug and alcohol tests will be conducted on each surviving covered employee who was performing safety-sensitive functions with respect to the vehicle.

Non-fatal Accidents

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, an alcohol test will be conducted on each driver who receives a citation within eight (8) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- a. The accident results in injuries requiring immediate medical treatment away from the scene; or

SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS

Revised November 29, 2023

- b. One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

As soon as practicable following an occurrence involving a commercial motor vehicle operating on a public road in commerce, and not involving the loss of a human life, a drug test will be conducted on each driver who receives a citation within thirty-two (32) hours of the occurrence under State or local law for a moving traffic violation arising from the accident, if:

- a. The accident results in injuries requiring immediate medical treatment away from the scene; or
- b. One or more motor vehicles incur disabling damage and must be transported away from the scene by a tow truck or other motor vehicle.

A covered employee subject to post-accident testing must remain readily available, or it is considered a refusal to test. Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident or to prohibit a covered employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident or to obtain necessary emergency medical care.

- 3. The District reserves the right to conduct post-accident testing for non-covered employees in accordance with reasonable suspicion requirements.

D. Random Testing

Random drug and alcohol tests are unannounced and unpredictable, and the dates for administering random tests are spread reasonably throughout the calendar year. Random testing will be conducted at all times of the day when safety-sensitive functions are performed.

Testing rates will meet or exceed the minimum annual percentage rate set each year within each DOT agency. The current year testing rates can be viewed online at <http://www.dot.gov/odapc/random-testing-rates>. If a given driver is subject to random testing under the rules of more than one DOT agency, the driver will be subject to random drug and alcohol testing at the annual percentage rate established by the DOT agency regulating more than 50% of the driver's function.

The selection of employees for random drug and alcohol testing will be made by a scientifically valid method, such as a random number table or a computer-based random number generator. Under the selection process used, each covered employee will have an equal chance of being tested each time selections are made.

SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS

Revised November 29, 2023

A covered employee will only be randomly tested for alcohol misuse while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be randomly tested for prohibited drug use anytime while on duty.

Each covered employee who is notified of selection for random drug or random alcohol testing must immediately proceed to the designated testing site.

Random testing under the FTA may occur anytime an employee is on duty so long as the employee is notified prior to the end of the shift. Employees who provide advance, verifiable notice of scheduled medical or child care commitments will be random drug tested no later than three hours before the end of their shift and random alcohol tested no later than 30 minutes before the end of their shift.

E. Return to Duty Testing

Any employee who is allowed to return to safety-sensitive duty after failing or refusing to submit to a DOT drug and/or alcohol test must first be evaluated by a substance abuse professional (SAP), complete a SAP-required program of education and/or treatment, and provide a negative return-to-duty drug test result and/or alcohol test result of less than 0.02. Any return-to-duty drug testing will be directly observed. All tests will be conducted in accordance with 49 CFR Part 40, Subpart O.

F. Follow-up Testing

Employees returning to safety-sensitive duty following leave for substance abuse rehabilitation will be required to undergo unannounced follow-up alcohol and/or drug testing for a period of one (1) to five (5) years, as directed by the SAP. The duration of testing will be extended to account for any subsequent leaves of absence, as necessary. The type (drug and/or alcohol), number, and frequency of such follow-up testing shall be directed by the SAP.

A covered employee may only be subject to follow-up alcohol testing while the employee is performing safety-sensitive functions, just before the employee is to perform safety-sensitive functions, or just after the employee has ceased performing such functions. A covered employee may be subject to follow-up drug testing anytime while on duty. All follow-up drug tests will be directly observed. All testing will be conducted in accordance with 49 CFR Part 40, Subpart O.

SECTION 6. TESTING PROCEDURES

All FTA drug and alcohol testing will be conducted in accordance with 49 CFR Part 40, as amended. The procedures regarding alcohol and drug testing will be provided upon employee

SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS

Revised November 29, 2023

request to the General Manager or designee. Analytical urine controlled substance testing and breath testing for alcohol will be conducted as required under the DOT guidelines.

Dilute Urine Specimen

If there is a negative dilute test result, the District will accept the test result and there will be no retest, unless the creatinine concentration of a negative dilute specimen was greater than or equal to 2 mg/dL, but less than or equal to 5 mg/dL.

Split Specimen Test

In the event of a verified positive test result, or a verified adulterated or substituted result, the employee can request that the split specimen be tested at a second laboratory. The District will cover the cost of the split specimen test guarantees that the split specimen test will be conducted in a timely fashion.

SECTION 7. TEST REFUSALS

A covered employee refuses to test if they:

- A. Fails to appear for any test (except a pre-employment test) within a reasonable time, as determined by the District.
- B. Fails to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- C. Fails to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because they have left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- D. In the case of a directly-observed or monitored urine drug collection, fails to permit monitoring or observation of your provision of a specimen.
- E. Fails to provide a sufficient quantity of urine or breath without a valid medical explanation.
- F. Fails or declines to take a second test as directed by the collector or District for drug testing.
- G. Fails to undergo a medical evaluation as required by the MRO or District's Designated Employer Representative (DER).
- H. Fails to cooperate with any part of the testing process.
- I. Fails to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- J. Possesses or wear a prosthetic or other device used to tamper with the collection process.
- K. Admits to the adulteration or substitution of a specimen to the collector or MRO.
- L. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- M. Fails to remain readily available following an accident.

If the MRO reports that a covered employee has a verified adulterated or substituted test result, the employee has refused to take a drug test.

**SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS**

Revised November 29, 2023

If a covered employee refuses to take a drug and/or alcohol test, they incur the same consequences as testing positive and will be immediately removed from performing safety sensitive functions, and referred to a SAP.

SECTION 8. VOLUNTARY SELF-REFERRAL

FMCSA Procedures

Any covered employee who has a drug and/or alcohol abuse problem and has not been notified of the requirement to submit to reasonable suspicion, random or post-accident testing or has not refused a drug or alcohol test may voluntarily refer her or himself to the General Manager, who will refer the individual to a substance abuse counselor for evaluation and treatment.

The substance abuse counselor will evaluate the employee and make a specific recommendation regarding the appropriate treatment. Employees are encouraged to voluntarily seek professional substance abuse assistance before any substance use or dependence affects job performance.

Any safety-sensitive employee who admits to a drug and/or alcohol problem will immediately be removed from their safety-sensitive function until successful completion of a prescribed rehabilitation program. Prior to participating in a safety-sensitive function, the employee must also undergo a DOT return-to-duty drug test with a verified negative result and/or a return-to-duty alcohol test with a result indicating an alcohol concentration of less than 0.02.

SECTION 9. PRESCRIPTION DRUG USE

No prescription drug shall be possessed or used by an employee other than the employee for whom the drug is prescribed by a licensed medical practitioner. A prescription drug shall be used only in the manner, combination, and quantity prescribed. An employee must advise their supervisor of the use or influence of any prescription drug prior to beginning work, when taking the medication or drug could interfere with the safe and effective performance of duties, or the operation of a District vehicle or heavy machinery, such that the employee poses a direct threat to the health and safety of themselves or others. Medical advice should be sought, as appropriate, while taking such medication and before performing safety-sensitive duties.

An employee's failure to provide this notice in a timely manner can result in discipline, up to and including termination. In the event there is a question regarding an employee's ability to safely and effectively perform assigned duties while using such medications or drugs, clearance from a qualified physician may be required.

SECTION 9. NOTIFYING THE DISTRICT OF ANY CRIMINAL DRUG STATUTE CONVICTION

All District employees are subject to the provisions of the Drug-Free Workplace Act of 1988. The unlawful manufacture, distribution, dispensation, possession or use of a controlled substance is prohibited in the covered workplace. In accordance with the Drug-Free Workplace Act of 1988,

SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS

Revised November 29, 2023

an employee must immediately notify the District of any criminal drug statute conviction of a violation that occurred in the workplace no later than five days after such conviction. Any employee who fails to provide this notice will be subject to discipline, up to and including termination.

SECTION 10. CONSEQUENCES FOR VIOLATION OF THIS POLICY

A. Discipline

Any violation of this Policy may result in discipline, up to, and including termination. Discipline may be imposed regardless of whether or not an employee is convicted of any crime related to any violation of this Policy.

Any violation of this Policy that may constitute criminal conduct or violation of the DOT regulations may be reported to the appropriate law enforcement agencies and/or subject the employee to civil penalties.

B. Removal from Work Site

Employees reasonably believed to be under the influence of alcohol, drugs, or controlled substances shall be immediately prevented from engaging in further work and shall be detained for a reasonable time until they can be safely transported from the work site.

C. Removal of Safety Sensitive Functions

An employee whose alcohol test indicates an alcohol concentration level between .02 and .04 will be removed from their safety sensitive position for at least 24 hours. An employee whose alcohol test indicates an alcohol concentration level greater than .04 will be removed from their safety sensitive position for a period to be determined by the General Manager or designee.

If an employee tests positive for drugs or controlled substances, the employee may not perform safety sensitive functions until satisfying the following requirements:

1. The employee must be retested and receive a verified negative result; and
2. When referred to a Substance Abuse Professional, the employee must complete any course of rehabilitation and submit to a return-to-duty test, as developed with the assistance of the Substance Abuse Professional. The District is not required to pay for this type of treatment.

A Substance Abuse Professional is a licensed physician, psychologist, social worker, or addiction counselor with knowledge of and clinical experience in the diagnosis and treatment of alcohol, drug, and controlled substance abuse disorders.

**SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS**

Revised November 29, 2023

D. Termination for Inability to Perform Essential Functions

After the District has complied with any legal obligation to reasonably accommodate an employee's protected disability, the District may terminate an employee who is unable to perform the essential functions of the job.

SECTION 11. RECORDS KEEPING AND CONFIDENTIALITY

The District is obligated to maintain records of the administration, including violations, of this Policy for a period of five years.

Any laboratory reports and test results shall not appear in an employee's general personnel folder but will be contained in a separate, confidential medical folder that will be securely kept under the control of the General Manager or designee. The report or test results may be disclosed to District management on a strictly need-to-know basis and to the tested employee upon request. Disclosures, without patient consent, may also occur under the following situations:

- A. When the information is compelled by law or by judicial or administrative process;
- B. When the information has been placed at issue in a formal dispute between the employer and employee;
- C. When the information is to be used in administering an employee benefit plan; or
- D. When the information is needed by medical personnel for the diagnosis or treatment of the patient who is unable to authorize disclosure.
- E. When requested by the DOT or any state or local officials with regulatory authority over the District or any of its safety sensitive employees.

SECTION 12. REHABILITATION

The District encourages employees to use District-sponsored employee assistance programs voluntarily to assist them in resolving any alcohol, drug, or controlled substance abuse problems. Employees should contact their supervisor, General Manager or designee for additional information, including further information concerning the dangerous effects of alcohol misuse and drug use on an employee's health, work, and personal life. The District is committed to providing reasonable accommodation to those employees whose alcohol or drug abuse problem classifies them as disabled under federal and/or state law.

While the District will be supportive of those who seek help voluntarily, the District will be firm in identifying and disciplining those who continue to be substance abusers and who do not seek

**SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS**

Revised November 29, 2023

help or continue substance abuse even while enrolled in counseling or rehabilitation programs. Therefore, the District may require employees to use employee assistance programs, and in addition to mandatory referrals to a Substance Abuse Professional where applicable.

SAN BENITO COUNTY WATER DISTRICT
POLICY AGAINST SUBSTANCE ABUSE IN THE WORKPLACE FOR EMPLOYEES
IN SAFETY SENSITIVE POSITIONS
Revised November 29, 2023

ATTACHMENT A: LIST OF COVERED POSITIONS BY JOB TITLE

Water Distribution/Maintenance I

Water Distribution/Maintenance II

Water Distribution/Maintenance III