

MARIN LOCAL AGENCY FORMATION COMMISSION



PERSONNEL HANDBOOK

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Chapter 1 - Introduction and General Information Policies

1.1 Effect and Applicability of Personnel Policies

1.1a No Contract Right; LAFCo Discretion to Modify These Policies

These Personnel Policies (“Policies”) do not create any contract right, or any express or implied contract of employment. The Marin Local Agency Formation Commission (LAFCo) retains the full discretion to modify these Policies at any time in accordance with law.

1.1b Applicability of Policies

These Policies apply to all categories of employees of the LAFCo unless a specific section or provision excludes them. Independent contractors, volunteers, and Commissioners are not employees.

1.1c Conflict Between These Policies and Contracts for Employment

The LAFCo may, from time to time, enter into contracts with employees or contractors for specified services, such as the services of an Executive Officer. If a provision of these Policies conflicts with any provision of a valid employment agreement between the LAFCo and an employee or other contract worker, the provision of the agreement that is in conflict with these rules shall apply. The LAFCo is not otherwise bound by employment agreements, collective bargaining agreements, or other personnel rules applicable to agencies within its jurisdiction.

1.1d 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) he or she has received a copy or has been provided access to the Policies; and b) understands that he or she is responsible to read and become familiar with the contents and any revisions to the Policies.

1.2 Delegation of Authority

1.2a Delegation of Appointing and Personnel Authority to Executive Officer

The LAFCo Board delegates to the Executive Officer, 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.

1.2b Retention of Personnel Authority as to Certain Personnel

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

1.3 Categories of Employees and Non-Employees

1.3a *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) Executive Officer
- (b) General Counsel
- (c) Special Legal Counsels
- (d) Employees whose positions are funded under a state or federal employment program
- (e) Employees designated as temporary/ seasonal or extra-help, limited term, etc.
- (f) Probationary employees

1.3b *Probationary Employee*

A probationary employee is one who is serving a probationary period at either: the outset of initial employment with LAFCo; or at the outset of a promotion to a higher classification. During the initial probationary period (whether upon initial hire or promotion), 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.

1.3c *For-Cause Employee*

A for-cause employee is one who has satisfactorily completed the initial probationary period and cannot be disciplined except when LAFCo has cause to do so. 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.

1.3d *Full or Part-Time Employee*

A full-time employee is one whose position is budgeted to work at least 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 LAFCo. A part-time employee is one whose position is budgeted to work less than 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.

1.3e *Temporary / Seasonal / Extra-Help Employee*

A temporary/ seasonal or extra-help employee is an at-will employee who is appointed other than from an eligible list for a short term or seasonal basis, not to exceed six months. A temporary/ seasonal or extra-help employee 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.

1.3f Volunteer

A volunteer is not an employee, but instead is an individual who provides services to the Agency 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.

1.3g 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 LAFCo purchasing policies and procedures. An independent contractor cannot be used to perform any part of the LAFCo regular and customary work.

1.3h Regular Employee Status

As used in these policies, “regular employee” means a non-elected individual who has been appointed to a regularly allocated position. Regular employees may be full or part-time employees, but do not include probationary or temporary/seasonal/extra-help employees, volunteers, or independent contractors.

Chapter 2 Equal Employment Opportunity

2.1 Equal Employment Opportunity Policy

LAFCo 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. LAFCo prohibits discrimination against employees or applicants for employment on the basis of race (including protective hairstyles traditionally associated with race, such as locks, braids and twists), religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status or any other basis protected by law. (Gov. Code § 12940(a).) Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination 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.

2.2 Policy Against Discrimination, Harassment and Retaliation; Complaint Procedure

2.2a Purpose

LAFCo has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. LAFCo 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. LAFCo 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.

2.2a.1 Covered Individuals and Scope of Policy

The individuals covered by this Policy are applicants, employees regardless of rank or title, 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.

2.3 Definitions

2.3a Protected Classification

This Policy prohibits harassment, discrimination or retaliation because of an individual's protected classification. "Protected Classification" includes race (including protective hairstyles

traditionally associated with race, such as locks, braids and twists), religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status, or any other basis protected by law. (Gov. Code § 12940(a).) 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.

2.3b 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.

2.3c Discrimination

This Policy prohibits treating covered individuals differently and adversely 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. (Gov. Code § 12926(o).)

2.3d 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:

- (a) 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.
- (b) 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.
- (c) Visual acts, such as derogatory posters, cartoons, emails, pictures or drawings related to a protected classification.
- (d) 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. (Gov. Code §12940(j); 2 Cal.Code Regs § 11091(b)(1).)

2.3d.1 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 unwelcomed 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).

2.3e 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; 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.

2.3f Complaint Procedure

A covered individual who believes he or she has 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 Executive Officer. Upon receiving notification of a harassment complaint, the Executive Officer will complete and/or delegate the following steps. If the Executive Officer 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.
- (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) Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
- (d) After completion of the investigation, LAFCo will communicate in writing the confidential findings only (i.e., “sustained” or “not sustained”) to the complainant, the alleged harasser, and members of management with a legitimate need to know.
- (e) 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.
- (f) Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

2.3f.1 Proactive Approach

LAFCo 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.

2.3g 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. 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 and hanging in the copy room for office locations and telephone numbers.

2.3h 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 and the duty to take effective remedial action. 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 his or her interview with a

designated representative. LAFCo will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to defend itself in adversarial proceedings, or to comply with the law or court order.

2.3i 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. All employees are required to complete training on preventing sexual harassment in the workplace at least once every two years. While LAFCo will provide employees with the training module to complete, employees can also access training and materials through the Civil Rights Department's website at: <https://www.crd.ca.gov/shpt/>.
 - 4) Cooperating with LAFCo 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 he or she believes in good faith constitutes harassment, discrimination or retaliation as defined in this Policy, to his or her immediate supervisor.
- (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.
 - 4) Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
 - 5) Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or CRD regarding alleged Policy violations.

- 6) Assisting, advising, or consulting with employees and the Executive Officer 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 he or she becomes aware to the Executive Officer, regardless of whether a complaint has been submitted.
- 10) Participating in periodic training and scheduling employees for training.

2.4 Reasonable Accommodation and Interactive Process

Absent undue hardship or direct threats to the health and safety of employee(s), LAFCo provides employment-related reasonable accommodations to:

- (a) qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions (Gov. Code § 12940(m)); 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 (Gov. Code § 12945(3)(A)); and
- (c) employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work (Labor Code § 230(f)(4)); and
- (d) employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement (Gov. Code § 12940(l)).

LAFCo is committed to complying with all laws protecting qualified individuals with disabilities, as well as employees' religious beliefs and observances. This policy extends to all aspects of LAFCo's employment practices, including but not limited to, recruiting, hiring, discipline, termination, promotions, transfers, compensation, benefits, training, leaves of absence, and other terms and conditions of employment. LAFCo will provide a reasonable accommodation for any known physical or mental disability of a qualified individual and/or employees' religious beliefs and observances, provided the requested accommodation does not create an undue hardship for LAFCo and/or does not pose a direct threat to the health or safety of others in the workplace and/or to the individual.

If you require an accommodation to perform the essential functions of your job and/or for your religious beliefs or observances, you must notify the Executive Officer. Once LAFCo is aware of the need for an accommodation, LAFCo will engage in an interactive process to identify possible accommodations. You may be asked to provide medical documentation. While LAFCo will consider any and all requests you may make, LAFCo retains the discretion as to what, if any,

accommodation to provide. Available accommodations will be impacted by the size of LAFCo and the availability of alternate work.

2.5 Fitness for Duty Examinations

Fitness for duty examinations may be conducted of applicants and employees by appropriate medical professionals selected by LAFCo were warranted under applicable law and supported by LAFCo's legitimate business needs.

2.6 Whistleblower Protection

2.6a Policy

LAFCo 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 LAFCo, 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 (Labor Code § 1102.5(b));
- (b) preventing an employee from disclosing information to a government agency, including to LAFCo, 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 (Labor Code § 1102.5(a));
- (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 (Labor Code § 1102.5(c)); 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.

2.6b Policy Coverage

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

2.6c 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 LAFCo regarding alleged unlawful activity.
- Providing informal notice to the LAFCo regarding alleged unlawful activity.
- Calling a governmental agency’s “Whistleblower hotline” in good faith.
- Filing a written complaint under penalty of perjury that LAFCo has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety. (Labor Code §§ 53296(c) & 53297(d).)
- 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. (Labor Code § 1102.5(c).)

(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 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.

2.6d Complaint Procedure

An applicant, employee, or seasonal/ temporary/ extra help employee who feels he or she has been retaliated against in violation of this Policy should immediately report the conduct according to the complaint procedure in LAFCo’s Policy Against Discrimination, Harassment or Retaliation (Section 2.2) 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.

Chapter 3 Classification Policies

3.1 Classification Plan

3.1a Classification Plan

The Executive Officer 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.

3.2 Reclassification

The Executive Officer 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 Executive Officer shall report to the Commission regarding reclassification changes.

Chapter 4 Recruitment, Selection, and Appointment

4.1 Recruitment, Selection and Appointment Policy

4.1a Job Announcement

The Executive Officer will prepare a job announcement to announce a proposed recruitment. The announcement may be posted on the LAFCo's website and other locations the Executive Officer deems appropriate, depending upon whether the Executive Officer has determined that the recruitment will be open to the public or current employees only. The announcement will include:

- The title and pay for the position;
- The nature of the work to be performed and essential job duties of the position;
- The minimum qualifications, including whether the job is a promotional position;
- The last date that the Executive Officer will accept applications, if any;
- If a medical examination, and/or a drug screen will be required following a conditional offer of employment; and
- Such other information as determined in the discretion of the Executive Officer.

4.1b Application Process

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, physically or electronically, by the person applying. The Executive Officer will not process any application which is not fully completed. Should an applicant be appointed to a position, the supplemental information shall become a part of the individual's permanent employment records.

4.1c Disqualification of Applications

The Executive Officer 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.

4.1d Criminal Conviction Check

After LAFCo makes a conditional offer of employment, the Executive Officer 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. (Labor Code §§ 432.7-432.8.) Unless required by law, LAFCo will not deny employment to any applicant solely because he or she has been convicted of a crime. LAFCo may, however, consider the nature and gravity of the offense or conduct, the date and circumstances of the offense and the conviction, evidence of rehabilitation and any mitigating

circumstances, as well as the nature of the job sought and whether the offense is relevant to the duties of the position.

4.1e Employment Examinations

- (a) The Executive Officer will determine whether and how to administer 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.
- (c) An applicant with a disability may request accommodation in an examination process. Following receipt of a request for accommodation, the Executive Officer may require additional information, such as reasonable documentation of the existence of a disability. (2 Cal.Code Regs § 11069(c)(2).)
- (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 or email whether he or she 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.

4.1f Appointments

- (a) The Executive Officer will make all appointments except for those classifications that report to the governing body. The Executive Officer 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. The LAFCo Commission will make appointments for those classifications that report to it.
- (b) 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. (See Policy 2.4, Reasonable Accommodation and Interactive Process; and Policy 12.4, Prohibitions on Drugs and Alcohol in the Workplace.)

- (c) The person accepting appointment shall report to the Executive Officer or designee on the date designated by the Executive Officer. Otherwise, the applicant shall be deemed to have declined the appointment.

4.1f.1 Probationary Appointment

- (a) At-Will Status: The probationary period is part of the examination/evaluation 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 rejected at any time during the probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights set forth under Policy 10.1, Causes for Discipline and Procedures. The probationary employee will be notified prior to the expiration of the probationary period that he or she has been rejected from probation.
- (b) Length of Probation: Unless otherwise specified by memorandum of understanding or these Policies, the probationary period is 6 months of actual and continuous service. The probationary period is automatically extended by the length of any absence of one work week or more. Holidays are excluded, but other absences (which need not be consecutive) are considered and accumulated. The probationary period can also be extended by the Agency at the discretion of the Executive Officer or his/her designee.

4.1g Probationary Period for Promotional Appointments

- (a) At-Will Status: A promotional probationary employee may be rejected at any time during the promotional probationary period with or without cause or reason, without notice or appeal or grievance, and without any rights described in Policy 10.1, Causes for Discipline and 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 he or she is terminated for cause.
- (b) Length of Probation: On accepting a promotion, an employee serves a new probationary period of six months of actual and continuous service. The probationary period is automatically extended by the length of any absence of a week or more.

Chapter 5 Employment of Relatives or Spouses/ Domestic Partners

5.1 Employment of Relatives, Spouses, Domestic Partners

5.1a Policy

LAFCo 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.

5.1b Definitions

- (a) “Relative” means child, stepchild, parent, grandparent, grandchild, brother, sister, half-brother, half-sister, aunt, uncle, niece, nephew, or in-laws of those enumerated by marriage or domestic partnership.
- (b) “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. (Fam. Code § 297 & 300.)
- (c) “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 his or her LAFCo appointment.

5.1c Employment of Relatives

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

5.1d Spouses or Domestic Partners

LAFCo 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 such employment would result in any of the following:

- One spouse or domestic partner being under the direct supervision of the other spouse or domestic partner; or
- 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.

5.1e Marriage or Domestic Partnership After Employment

- (a) **Transfer:** If two LAFCo employees who become spouses or domestic partners, the Executive Officer has discretion to transfer one of the employees to an alternate position that better addresses potential issues. Although the wishes of the two employees will be considered, the Executive Officer retains sole discretion to determine which employee will be transferred based upon LAFCo 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 become spouses or domestic partners cannot be accommodated in a manner the Executive Officer finds to be consistent with the LAFCo's interest in the promotion of supervision, safety, security, or morale, then the Executive Officer retains sole discretion to separate one employee from LAFCo employment. Absent the resignation of one employee, the less senior employee will be separated. 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.

Chapter 6 Compensation and Payroll Practices

6.1 Work Schedules and Attendance

6.1a Work Schedules

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

6.1b Meal Period

A one-hour non-compensated meal period will be provided to all full-time overtime-eligible employees who work at least an eight-hour workday. A 30-minute non-compensated meal period will be provided to all overtime-eligible full-time employees who work more than five hours, but less than eight hours during the workday. Overtime-eligible employees are responsible for taking their meal period at a time designated by the supervisor.

6.1c Rest Period

A 15-minute compensated rest period will be provided to all overtime-eligible employees for each four-hour period of service. The rest period shall be taken at a time designated by the employee's supervisor. Rest periods may not be combined to shorten the workday.

6.1d Lactation Break Time & Private Location

LAFCo 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 time already provided to the employee. If the employee takes lactation breaks at times other than their provided break times, then the lactation break shall be unpaid, or the employee may choose to use accrued leave.

Those desiring to take a lactation break at times other than their provided break times 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.

LAFCo 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:

- Be shielded from view and free from intrusion while being used to express milk;
- Be safe, clean, and free of hazardous materials;
- Contain a surface on which to place a breast pump and personal items;
- Contain a place to sit; and

- Have access to electricity needed to operate an electric battery-powered breast pump.
- An employee occupying such private area 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.

LAFCo 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.

6.1d.1 Lactation Accommodation

An employee may make a request for lactation accommodation, either orally or in writing, with the Executive Officer.

Following receipt of a request for lactation accommodation, LAFCo will provide a timely written response to the employee in which LAFCo 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 LAFCo is providing an appropriate lactation accommodation should immediately inform the Executive Officer.

An employee who does not believe that the LAFCo is providing an appropriate lactation accommodation as required by state law has the right to file a complaint with the California Division of Labor Standards Enforcement/Labor Commissioner.

6.1d.2 Storage of Expressed Milk

Any employee storing expressed milk in any authorized refrigerated area within LAFCo shall clearly label it as such. No expressed milk shall be stored at LAFCo beyond the employee's workday/ shift.

6.1e Advance Request for Permission to Deviate from Regular Work Hours

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

6.1f Notification of Unforeseen Late Arrival or Absence

An overtime-eligible employee who is unexpectedly unable to report for work as scheduled must notify his or her 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 department head.

6.1g 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 notify

the supervisor of any absences as required by this Policy in a timely manner, 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.

6.1h 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 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 days in any three-month period. Excessive tardiness or absenteeism may be grounds for discipline, up to and including termination. Tardies or absences caused by protected leave are not considered when determining excessiveness.

Abuse of leave is a claim of entitlement to leave when the employee does not meet the requirements for taking the leave, and may be grounds for discipline, up to and including termination. Should the LAFCo suspect that there is an abuse of leave by an employee, the LAFCo may require that the employee submit a physician's certificate to support the absence.

6.2 Work Week, Overtime and Compensatory Time Off

6.2a Work Week

The work week begins at 12:00 a.m. on Sunday and ends at 11:59 p.m. on Saturday.

6.2a.1 Work Week for 9/80 Work Schedule

Employees working a 9/80 work schedule will have a regular day off every other week as determined by LAFCo. For employees working a 9/80 work schedule, each employee's designated work week shall begin exactly four hours after the start of his/her eight-hour shift on the day of the week that corresponds to the employee's alternating regular day off.

6.2b Overtime

Overtime is all hours an overtime-eligible employee actually works over 40 hours in his or her designated work week. Only actual hours worked will be counted toward the 40-hour threshold for purposes of calculating Fair Labor Standards Act (FLSA) overtime pay; paid leave will not be counted. Overtime-eligible employees who are directed to work overtime must do so.

6.2b.1 No Remote Access for Overtime-Eligible Employees

Unless the Executive Officer specifies otherwise in writing, overtime-eligible employees may not have remote access to LAFCo equipment, resources, or email unless the access is during normal work hours where the employee is working remotely and has received authorization to do so by the Executive Officer.

6.2b.2 Prior Approval Required for Overtime

Overtime-eligible employees are not permitted to work overtime except as directed and authorized by their supervisor, or in case of emergency, as determined by the agency. Working overtime without prior authorization or approval is grounds for discipline. In emergency situations that necessitate working overtime, the employee must notify a supervisor as soon as possible, and in no event later than the end of that day upon which the emergency occurred. If the supervisor denies the request to work overtime, the employee must obey the supervisor's directive and cease working. Failure to follow these overtime approval procedures may subject the employee to disciplinary action, up to and including termination, for violating the overtime approval procedures.

6.2c Accurate Time Reporting

All employees must accurately report all work time to the nearest five minutes.

6.2d No Volunteering of Work Time

All time spent for the benefit of the LAFCo 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.

6.2e Compensatory Time Off

An overtime-eligible employee may opt to accrue compensatory time-off (CTO) in lieu of cash payment for overtime worked if his or her supervisor agrees prior to overtime work being performed.

- (a) **Accrual Rate:** CTO accrues at the rate of 1.5 hours for each hour, or fraction thereof, worked after 40 hours of actual work within the employee's designated work week. Time in paid leave status does not count toward CTO. CTO cannot be accumulated in excess of 80 hours at any given time.
- (b) **Employee Request to Use CTO:** LAFCo will grant an employee's request to use accumulated CTO provided that: 1) the department can accommodate the use of CTO on the day requested without undue disruption to department operations; and 2) the employee makes the request in writing to the supervisor no later than five days prior to the date requested. If the employee does not provide five days' notice, or if the department cannot accommodate the time off without undue disruption, LAFCo will provide the employee the opportunity to cash out the amount of CTO requested at the end of the current pay period.
- (c) **LAFCo Cash Out:** LAFCo reserves the right to cash out accumulated CTO at any time.
- (d) **Value of CTO Cash Out:** During employment, CTO is cashed out at the employee's current FLSA regular rate of pay (including all FLSA-applicable salary differentials and

special pays). Employees separating from LAFCo service shall be compensated for all accrued, unused compensatory hours at their current FLSA regular rate of pay, or their average FLSA regular rate for the prior three years, whichever is higher. (29 USC § 207(o)(3)(B) & (4); 29 CFR § 553.27.)

Chapter 7 Performance Evaluation Policies

7.1 Performance Evaluations

7.1a Performance Evaluations

A non-probationary employee's supervisor will prepare and sign a performance evaluation on a LAFCo form for each performance evaluation period. The Executive Officer will review and approve all performance evaluations of employees under his or her supervision. Additional performance evaluations may be prepared at any time the Executive Officer deems necessary. Outside of the six-month probationary review mentioned in section 7.1b all evaluations performed by the Executive Officer will occur between the LAFCo Commission meeting where the proposed budget is approved and the meeting where the final budget is to be approved. The Executive Officer and other at-will employees appointed by the Commission will be evaluated on a date and time determined by the Commission.

7.1b Probationary Employee Performance Evaluations

On or before the completion of the six-month probationary period, the Executive Officer will prepare and sign performance evaluation(s) at the appropriate time selected by the Executive Officer. The purpose of the probationary performance evaluation is to chart the probationer's progress toward meeting the standards of his or her position.

7.1c Performance Evaluation Meeting

The supervisor will meet with the employee to discuss the evaluation. The employee shall sign the evaluation to acknowledge its contents and that he or she has met with his or her supervisor to discuss the evaluation. The employee's signature shall not mean that he or she endorses the contents of the evaluation.

7.1d No Appeal Right

An employee does not have the right to appeal or submit a grievance regarding any matter relating to the content of a performance evaluation. Instead, 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 10 days after the employee receives the evaluation.

Chapter 8 Leaves of Absences

8.1 Vacation Leave and Holidays

8.1a *Vacation Leave*

Eligible full-time and part-time employees, with the exception of temporary/ seasonal and extra help employees, earn vacation leave while in paid status until they reach the applicable vacation accrual cap. Employees accrue vacation time according to their full or part-time status and the number of consecutive years the employee has worked for LAFCo as follows:

- (a) **Full-Time Employee Accrual Rate:** Each full-time employee shall be entitled to accrue vacation credits for each hour on paid status in continuous service in accordance with the following schedule:

Months of Service	Hourly Standard Accrual	Maximum Accrued Workdays Per Year
Start through 24 months	.0385	10
Greater than 24 months through 108 Months	.0577	15
Greater than 108 months through 228 Months	.0770	20
Greater than 228 months through 348 Months	.0962	25
Greater than 348 months	.1154	30

- (b) **Part-Time Employee Accrue Pro-Rated Vacation:**

Part-time employees who are budgeted to work at least 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 annual accrual cap, they stop earning vacation.

8.1b *Limitations on Vacation Leave Accrual*

Accumulated, unused vacation time shall not exceed three hundred (300) standard duty hours for any full- or part-time employee entitled to accrue vacation leave. Thereafter, additional accumulation shall be suspended unless otherwise approved in advance by the Executive Officer, in the Executive Officer sole discretion, in cases where such is beneficial to LAFCo.

8.1c Scheduling of Vacation Leave

Vacation leave may not be used until it is earned. The employee and the Executive Officer will schedule the times when an employee may take vacation leave. The scheduling will be based on the employee's preference and LAFCo operational needs. An employee shall provide a minimum of one week's written advance notice, unless waived by the department head, when requesting vacation time off. LAFCo may, at its discretion, require an employee to use accrued vacation.

8.1d Unpaid Leave of Absence

No vacation leave will accrue during any unpaid leave of absence.

8.1e Unused Vacation Leave Upon Separation

Any employee separating from the LAFCo who has accrued vacation leave shall be paid for all accrued vacation at his or her rate of pay at the time of separation.

8.1f Holidays

Full-time employees, except temporary, seasonal, and extra help employees receive the holidays listed below with pay. If New Year's Day, Cesar Chavez Day, Juneteenth, Independence Day, Veterans Day or December 25 falls on a Sunday, the Monday following shall be treated as the holiday. If any of those holidays falls on a Saturday, the preceding workday shall be treated as the holiday. Part-time employees whose scheduled work time falls on a holiday will receive that holiday off with pay for the hours they were scheduled to work.

- New Year's Day (January 1)
- Martin Luther King's Birthday (Third Monday in January)
- President's Day (Third Monday in February)
- Cesar Chavez Day (March 31)
- Memorial Day (Last Monday in May)
- Juneteenth (June 19)
- Independence Day (July 4)
- Labor Day (First Monday in September)
- Veteran's Day (November 11)
- Thanksgiving Day (Fourth Thursday in November)
- Day After Thanksgiving Day (Fourth Friday in November)
- Christmas Day (December 25)
- December 26 through December 31 shall be deemed Holidays, any day that falls on the weekend shall not be moved as described above.

8.1g. Effect of Holiday on Vacation Leave

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

8.1h Floating Holidays

1. Each full-time employee on the payroll as of July shall be credited with two (2) floating holidays for that fiscal year (July 1 - June 30). Employees newly appointed between July 1 and December 31 shall be credited with two (2) standard workdays as floating holidays for that fiscal year. Employees newly appointed between January 1 and May 31 shall be credited with one (1) standard workday as floating holiday for that fiscal year. Employees newly appointed between June 1 and June 30 shall not be credited with any floating holidays for that fiscal year. This pro-ration shall also apply to employees who have returned from an approved leave of absence where they were in leave without pay status.
2. With the approval of the department head, floating holidays may be taken at any time or times during the year.
3. Floating holidays shall not accrue from one fiscal year to the next.
4. Upon termination, unused floating holidays shall be paid at the straight-time rate so that the total of unused floating holidays to be paid off and floating holidays used by the employee shall not exceed one (1) workday if the termination occurs between July 1 and December 31 or two (2) workdays if the termination occurs between January 1 and June 30 or per the prorated schedule for new employees.

8.1i Pay for Holidays

Employees entitled to paid holidays or floating holidays shall be paid for the number of hours the employee was scheduled to work had it not been a holiday or floating holiday. An overtime-eligible employee who is required to work on a holiday will receive holiday pay and pay for the actual time worked on the holiday.

8.1j Personal Leave

- a. Each regular (non-seasonal, non-temporary, non-extra help) employee who has passed probation and who is on the payroll as of July 1 shall be credited immediately with forty (40) personal leave hours for that fiscal year.
- b. Newly appointed employees who pass probation after July 1 and on or before October 31 shall be credited with forty (40) hours of personal leave for that fiscal year. Any such employee passing probation between November 1 and February 28 (29) shall be credited with twenty (20) hours of personal leave for the balance of that fiscal year. Any such employee passing probation between March 1 and May 31 shall be credited with eight (8) hours of personal leave for the balance of that fiscal year. Any such employee passing probation between June 1 and June 30 shall receive no personal leave for that fiscal year. This pro-ration shall also apply to employees who have returned from an approved leave of absence where they were in leave without pay status.
- c. Accrued personal leave may be taken at any time or times during the year with the approval of the Executive Officer.

- d. Personal leave shall not accrue in excess of forty (40) hours. However, on July 1 each year, employees (other than new and probationary employees described in section B above or employees on leave and in unpaid status) will have their personal leave balance restored to forty (40) hours.
- e. Upon termination of employees who have completed their initial probationary period, the employee's unused accrued personal leave shall be paid at a straight-time rate. Personal leave upon termination will not be paid to employees who have not completed their initial probationary period and thus have not accrued such leave.

8.2 Sick Leave

(a) Purpose

For the purposes of these Personnel Policies, sick leave is paid leave from work that can be used for the following purposes:

- 1) The diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or any of the following:
 - a. The employee's family members: child of any age or dependency status; parent; parent-in-law; spouse; registered domestic partner; grandparent; grandchildren; or sibling;
 - b. A "designated person," which, for purposes of this policy, means a person identified by the employee at the time the employee requests paid sick leave. An employee can designate one person per 12-month period, measured from the time the employee first designates a person.
- 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 his or her child; or ii) obtain medical attention or psychological counseling; services from a shelter; program or crisis center; or participate in safety planning or other actions to increase safety.

(b) Accrual & Carryover for Different Categories of Employees:

- 1) **Regular Employees:** Regular, full-time employees shall accrue one working day of sick leave with pay for each month or fraction thereof served. Sick leave accruals shall be pro-rated for regular employees who work less than full time (provided the employee earns at least one hour of sick leave for every 30 hours worked). Accrued and unused sick leave carries over from year to year with no upper limit.
- 2) **Seasonal and Temporary Employees:** A seasonal/ temporary or extra help employee who works 30 or more days within a year from the commencement of employment with LAFCo accrues one hour of paid sick leave for every 30 hours worked. (Labor Code § 246(a).) Accrued and unused sick leave carries over to the following year of employment but a seasonal/ temporary or extra help employee stops earning sick leave once he or she has accrued 80 hours or 10workdays/ shifts, whichever is greater. (Labor Code § 246(i).)

(c) Sick Leave Use

- 1) An employee may use accrued sick leave, in a minimum increment of two hours, subject to the limits and request provisions in this Policy. (Labor Code § 246(c) & (j).)
- 2) During the first six (6) months of employment, a full- or part-time employee who is not seasonal/ temporary or extra help, may borrow sick leave in excess of the number of hours accumulated aforesaid, not to exceed the standard workweek for the employee. However, if an employee borrows sick leave, such sick leave borrowed shall be subtracted from future accumulations as above provided until accumulations equal excess sick leave actually taken. Thereafter, sick leave shall accumulate as provided in section (b) above. An employee who separates from employment while in arrears on sick leave shall be required to agree to a repayment plan for such sick leave days.

(d) 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. (Labor Code §§ 246(l); 246.5(a).) 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. (Labor Code § 246(l).) 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.

(e) Certification

LAFCo may require that employees who are not seasonal, temporary, or extra help, must provide a physician's certification to support any absence that involves the illness of the employee or family member if LAFCo suspects that there is an abuse of sick leave by the employee. All employees, including seasonal, temporary, or extra help, 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. (Labor Code § 230(d)(2).)

(f) Sick Leave on Separation from Employment

Unused sick leave is not cashed out upon termination, resignation, retirement, or other separation from employment. (Labor Code § 246(f)(1).) Unused sick leave may be converted to retirement service credits only as may be permitted under applicable retirement system laws and regulations.

(g) Sick Leave Reinstatement:

If an employee separates and is rehired within one year from separation, accrued and unused sick leave, to a maximum of 10 days or 80 hours, whichever is greater, will be reinstated. (Labor Code § 246(f)(2).) An employee who worked at least 90 days in the initial employment with LAFCo may immediately use reinstated sick leave. An employee who had not worked 90 days in the initial employment with LAFCo must work the remaining amount of the 90 day-qualifying period to be able to use reinstated accrued sick leave. (Labor Code § 246(c).)

8.3 Family and Medical Care Leaves

LAFCo provides eligible employees with family medical leave (“Family and Medical Leave”) under the California Family Rights Act (“CFRA”).

8.3a Reasons for Leave.

Family and Medical Leave may be taken for the birth of the employee’s child, the placement of a child with the employee for adoption or foster care, to care for the employee’s spouse, domestic partner, child, parent, parent-in-law, grandparent, grandchild, sibling, or designated person who has a serious health condition, or for a serious health condition that makes the employee unable to perform his/her job. Leave can also be taken for certain military-related reasons as further detailed below. For purposes of this policy, a “serious health condition” does not include pregnancy or any related medical condition. For purposes of this policy, “designated person” means any person related by blood or whose association with the employee is the equivalent of a family relationship. An employee may identify the designated person at the time the employee requests leave. LAFCo limits an employee to one designated person per 12-month period for family care and medical leave.

8.3b Eligibility.

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

8.3c Duration.

Employees may take up to a maximum of twelve (12) workweeks of Family and Medical Leave within a 12-month period. LAFCo uses a “rolling” 12-month period to determine an employee’s eligibility for leave. The 12-month period is measured backward from the date an employee uses any Family and Medical Leave.

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

Any leave taken for the birth, adoption, or foster placement of a child must be taken within one year of the birth or placement of the child with the employee. The minimum duration for leave taken in connection with the birth, adoption, or foster care placement of a child is two weeks, except that LAFCo shall grant a request for CFRA leave of less than two weeks on any two occasions during the one-year period following the birth or placement of the child with the employee. Because pregnancy is not a “serious health condition” under CFRA, time taken on account of a pregnancy-related disability is not CFRA leave; baby bonding leave for eligible employees commences at the conclusion of any pregnancy-related disability leave.

8.3d Procedures.

Please contact the Executive Officer as soon as you become aware of the need for Family and Medical Leave. If the leave is for the birth, adoption, or foster placement of a child, or for planned medical treatment for a serious health condition of the employee or family member, the employee must provide at least 30 days’ advance notice before the leave is to begin. If 30 days’ notice is not possible, notice must be given as soon as practicable. For any planned medical treatment, employees must consult with their supervisor regarding the need for leave and must make a reasonable effort to schedule any treatment so as to minimize disruption of LAFCo’s operations. Actual scheduling is, however, subject to the approval of the patient’s health care provider.

If the leave is needed for the employee’s own serious health condition, the employee must provide a certification from the health care provider stating:

- i. the date of commencement of the serious health condition.
- ii. the probable duration of the condition; and
- iii. that the employee is unable to work at all or is unable to perform any one or more of the essential functions of his/her position because of the employee’s serious health condition.

LAFCo will require certification by the employee’s health care provider that the employee is fit to return to his/her job.

If the leave is needed to care for the serious health condition of a family member, the employee must provide certification from the health care provider stating:

- i. the date of commencement of the serious health condition;
- ii. the probable duration of the condition;
- iii. an estimate of the amount of time that the health care provider believes the employee needs to take in order to care for the child, parent, or spouse; and
- iv. confirmation that the serious health condition warrants the participation of the employee.

Recertification may be required if the employee requests an extension beyond the original certification.

8.3e Compensation.

- (1) While receiving wage replacement benefits. For any period of time that an employee is eligible for and receiving any type of wage replacement benefits (i.e., disability benefits, SDI, and/or workers' compensation benefits), the employee is not required to use accrued sick leave, vacation, floating holidays, personal leave, or CTO in connection with his or her Family and Medical Leave. The employee may, however, choose to supplement these forms of wage-replacement payments with accrued paid leave on a pro rata basis, so long as the employee's pay does not exceed their normal wage. Should an employee desire to supplement SDI benefits with accrued sick and/or vacation leave, LAFCo will integrate benefits with paid leave.
- (2) While on otherwise unpaid leave. If an employee is on Family and Medical Leave for his or her own serious health condition and is not receiving any wage replacement benefits from another source, the employee must use any available sick leave and vacation during the leave. (See Pregnancy Disability Leave policy for rule applicable to employees disabled by pregnancy). If an employee is on Family and Medical Leave to care for a family member or bond with a new baby, the employee must use all available vacation during the leave and, at the employee's choice, may use available sick leave.

Once all sick leave and vacation is exhausted (or if the employee has the choice and elects not to use it), Family and Medical Leave will continue on an unpaid basis for the remainder (if any) of the available 12-weeks. Any family and medical leave, whether paid, unpaid, or a combination thereof, will be counted toward the 12-week leave entitlement.

During any period of unpaid leave, employees will not continue to accrue sick leave, vacation, or any other forms of paid time off and will not be paid for holidays that occur during the leave.

8.3f Benefits.

An employee taking Family and Medical Leave will be allowed to continue participating in any health and welfare benefit plans in which he/she was enrolled before the first day of the leave (for up to a maximum of 12 workweeks) at the level and under the conditions of coverage as if the employee had continued in employment for the duration of such leave. LAFCo will continue to make the same premium contribution as if the employee had continued working, and the employee is expected to continue to pay his or her share of the monthly premiums (either by way of payroll deduction during any period of paid leave or by way of separate payment to LAFCo). The continued participation in health benefits begins on the date leave first begins.

Employees are eligible for a maximum of 12-weeks benefits continuation during any 12-month period, unless otherwise required by law. If leave lasts longer than 12 weeks and if the law does not otherwise require benefits to be continued, then the employee will be placed on COBRA and can opt for continued coverage at his or her own expense. An employee who does not return from leave may be required, under certain circumstances provided by the law, to reimburse

LAFCo for any employee contributions paid by LAFCo while the employee was on unpaid leave.

8.3g *Qualified Exigency Leave.*

Eligible employees with a spouse, domestic partner, child, or parent on active duty or called to active duty in the armed forces of the United States may take up to the normal 12 weeks of leave because of any “qualifying exigency.” For purposes of this policy, “qualifying exigency” includes: (1) short-notice deployment; (2) military events and related activities; (3) childcare and school activities; (4) finance and legal arrangements; (5) counseling; (6) rest and recuperation; (7) post-deployment activities; and (8) additional activities agreed to by the employer and the employee.

- (1) Amount of Leave. For a qualifying exigency, an employee is entitled to a maximum of 12 weeks leave (when combined with leave for any other qualifying reason) in accordance with the rolling 12-month period measured backward.
- (2) Procedures. Please contact the Executive Officer as soon as you become aware of the need for any type of qualified exigency leave. Except in the case of exigency leave for short-notice deployment, LAFCo requires certification of the need for leave.

8.3h *Reinstatement.*

Upon return from a Family and Medical Leave, an employee will be reinstated to his/her original position or to an equivalent position with equivalent pay, benefits, and other employment terms and conditions. However, an employee has no greater right to reinstatement than if the employee had been continuously employed rather than on leave.

For example, if an employee on Family and Medical Leave would have been laid off had he/she not gone on leave, or if the employee’s position has been eliminated during the leave, then the employee would not be entitled to reinstatement. An employee’s use of Family and Medical Leave will not result in the loss of any employment benefit that the employee earned or was entitled to before the leave.

As stated above, when an employee takes leave on account of the employee’s own serious health condition, LAFCo requires certification, prior to reinstatement, by the employee’s health care provider that the employee is fit to return to his/her job.

If an employee fails to report to work promptly at the end of the Family and Medical Leave and fails to obtain approval for an additional personal leave of absence, LAFCo will treat the failure to return as a voluntary resignation.

8.4 Leave Because of Pregnancy, Childbirth, or Related Medical Condition

8.4a Amount of Leave

An employee who is disabled because of pregnancy, childbirth, or a related medical condition is entitled to an unpaid 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). (Gov. Code § 12945(a).) For a full-time employee who works 40 hours per week, “four months” means 693 hours of leave entitlement, based on 40 hour per week times 17 1/3 weeks. (2 Cal. Code Regs § 11042(a)(1).) An employee who works less than 40 hours per week will receive a pro rata or proportional amount of leave. (2 Cal. Code Regs § 11042(a)(2).)

8.4b Notice & Certification Requirements

- (a) **Notice:** Requests for pregnancy disability leave must be submitted in writing with reasonable advance notice of the medical need for the leave. (2 Cal.Code Regs § 11042(c)(1).) All leaves must be confirmed in writing, have an agreed-upon specific date of return, and be submitted to the Executive Officer. (2 Cal.Code Regs § 11042(a).)
- (b) **Certification:** The request for pregnancy disability leave must be supported by a written certification from the attending physician stating that: 1) the employee is disabled from working by pregnancy, childbirth or a related medical condition; 2) the date on which the employee became disabled by pregnancy, childbirth or a related medical condition; and 3) the estimated duration or end date of the leave. (2 Cal.Code Regs §§11050(b)(7); 11050(e).)

8.4c Compensation During Leave

Pregnancy disability leaves are without pay. However, the employee must first use sick leave, if any. (2 Cal.Code Regs § 11044(b)(1).) Once sick leave is depleted, the employee may elect to use vacation leave or any other accrued paid time off during the leave. (2 Cal.Code Regs § 11044(b)(2).)

8.4d Benefits During Leave

- (a) **Group Health Insurance:** An employee on pregnancy disability leave may continue to receive any group health insurance coverage that was provided before her leave, beginning on the date the pregnancy disability leave begins and continuing for up to four months in a 12-month period, 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. (Gov. Code § 12945(a)(2)(A); 2 Cal. Code Regs § 11044(c).) LAFCo may recover premiums it paid to maintain health coverage if an employee does not return to work following pregnancy disability leave, unless the reason for the failure to return is a circumstance beyond her control or the use of the separate right to 12 weeks of bonding leave under the California Family and Medical Leave Act. (Gov. Code § 12945(a)(2)(A); 2 Cal.Code Regs § 11044(c)(3).)

- (b) *Sick and Vacation Leaves:* Sick and vacation leaves do not accrue while an employee is on unpaid pregnancy disability leave. (See 2 Cal. Code Regs § 11044(d)(1).)
- (c) *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. (2 Cal.Code Regs § 11044(e).)

8.4e Reinstatement

- (a) Upon the expiration of pregnancy leave, the employee will be reinstated to her original or a comparable position, so long as it was not eliminated for a legitimate business reason during the leave. (2 Cal.Code Regs § 11043(c).)
- (b) If the employee's original position is no longer available, the employee will be assigned to a comparable, open position. (2 Cal.Code Regs § 11043(c)(2).)
- (c) If upon return from leave an employee is unable to perform the essential functions of her job because of a physical or mental disability, LAFCo will initiate an interactive process with the employee in order to identify a potential reasonable accommodation in accordance with these Policies. (See Policy 206, Reasonable Accommodation and Interactive Process.)

8.5 Other Leaves

8.5a Reproductive Loss Leave

LAFCo provides Reproductive Loss Leave to eligible employees.

8.5a.1 Reproductive Loss Event

A reproductive loss event is any of the following:

- Miscarriage
- Stillbirth
- Failed adoption
- Failed surrogacy
- Unsuccessful assisted reproduction

8.5a.2 Eligibility

To be eligible for Reproductive Loss Leave, an employee must have worked for LAFCo for at least 30 days prior to the start of the leave. An employee can take leave following their own reproductive loss event or that of another person – such as a spouse or domestic partner – if the employee would have been the parent of the child born or adopted. Employees are not required to submit documentation in support of their leave request.

8.5a.3 Timing and duration of leave

An eligible employee may take up to five days' leave for each reproductive loss event. Reproductive Loss Leave does not need to be taken on consecutive days but must be completed within three months of the date of the event. This means employees can choose to take all five days at once or break up the days over a longer period, as long as their leave is completed within three months. Reproductive Loss Leave is separate from, and in addition to, other types of leave to which employees are entitled (such as leave under the California Family Rights Act (CFRA) or California's Pregnancy Disability Leave law (PDL)). If an eligible employee is taking leave under any other state or federal leave entitlement, prior to or immediately following the reproductive loss, then the employee shall complete their Reproductive Loss Leave within three months after the end of their other leave. If an employee experiences more than one reproductive loss event within a 12-month period, reproductive loss leave time is limited to a total of 20 days within a 12-month period.

8.5a.4 Pay during Reproductive Loss Leave

Employees can use any available vacation time, sick days, or personal days to cover their Reproductive Loss Leave. Otherwise, reproductive loss leave is unpaid.

8.5a.5 Confidentiality and No Retaliation

LAFCo will maintain the confidentiality of any employee requesting Reproductive Loss Leave. LAFCo will not retaliate against an individual for exercising any rights regarding Reproductive Loss Leave.

8.5b Jury Duty Leave/Subpoenaed or Court-Ordered Witness Leave

Any employee, who is summoned to serve on a jury, or subpoenaed or ordered to be a witness, must notify his or her supervisor as soon as possible. Any employee who is released from jury service prior to the end of his or her scheduled work hours must report to work unless otherwise authorized by his or her supervisor. (Gov. Code § 1230; Labor Code § 230; 28 USC § 1875(c).)

8.5b.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. LAFCo will offset from pay the amount the employee receives from the Court for jury fees (but not amounts received for parking and/or mileage).

8.5b.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. (29 CFR § 541.602(a) & (b)(3).) LAFCo will offset the amount from pay the employee receives from the Court for jury fees (but not amounts received for parking and/or mileage). (29 CFR § 541.602(b)(3).)

8.5c Other Court or Administrative Proceeding Appearances

8.5c.1 Regarding Agency Duties

Any employee, including a temporary, seasonal, or extra help employee, who is subpoenaed to appear in court in a matter regarding an event or transaction in the course of his or her LAFCo job duties, must give his or her supervisor as much advance notice as is possible. LAFCo will determine whether the matter involves an event or transaction in the course of the employee's LAFCo 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. LAFCo will offset the amount from pay the employee receives for witness fees (but not amounts received for parking and/or mileage).

8.5c.2 Regarding Employee-Initiated Proceedings

Any employee, including a temporary, seasonal, or extra help employee who is subpoenaed to appear or appears in court because of civil or administrative proceedings that he or she 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.

8.5c.3 Regarding Crime Victim/ Victim Family Member Court Attendance Leave

Any employee, including a temporary, seasonal, or extra help 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 LAFCo a copy of the notice of the scheduled proceeding in advance. If advance notice is not feasible, the employee must provide LAFCo, 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. (Labor Code § 230.2.)

8.5c.4 Regarding Crime Victim/ Family Member Victims' Rights Proceedings Leave

Any employee, including a temporary, seasonal, or extra help 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 LAFCo, 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.

8.5d Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Restraining Orders or Injunctive Relief

Any employee, including a temporary, seasonal, or extra help 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 his or her 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 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or paid leave, or compensatory time off. (Labor Code § 230.5(f).)

8.5d.1 Leave for Victims of Domestic Violence, Sexual Assault, or Stalking to Obtain Medical Attention or Counseling or Safety Planning

Any employee, including a temporary, seasonal, or extra help 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 LAFCo 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 2014 Healthy Workplaces sick leave (Labor Code § 246.5(a)(2)), accrued vacation or personal leave, or compensatory time off.

8.5e Bereavement Leave

All employees, including temporary, seasonal, or extra help employees, may utilize paid bereavement leave to attend a funeral or memorial service, or to take care of family matters, that are related to the death of a member of immediate family. "Immediate family" consists of the following: employee's spouse, domestic partner, child, stepchild, parent, grandparent, grandchild, brother, sister, mother/father-in-law, son or daughter-in-law, brother or sister-in-law, legal guardian, or custodial child, or the same relatives of a domestic partner. Employees are entitled to up to five days for each death in the immediate family (the first three of which are

paid). An employee who utilizes bereavement leave shall notify his/her supervisor or department head of the intent to use such leave. Leave can be taken intermittently but must be concluded within ninety (90) days of the death. The employee can substitute any available paid leave for the two otherwise unpaid days.

8.5f *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 Executive Officer 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 Executive Officer may determine when the leave is to be taken and may modify the employee's work schedule to accommodate the request for leave.

8.5g *School-Related Leave*

8.5g.1 *School or Licensed Day Care Activity Leave*

Any employee who is a parent, guardian, stepparent, foster parent, grandparent, or person who stands in loco parentis to one or more children who are in kindergarten or grades 1 through 12, or who are in a licensed child care facility, shall be allowed up to 40 hours each school year, not to exceed eight hours in any calendar month of the school year, to: participate in activities of their child's school or licensed child care facility; find, enroll, or re-enroll a child in a school or with a licensed childcare provider; or to pick up a child due to a childcare provider or school emergency. The employee must provide reasonable advance notice to his/her supervisor of the planned absence. The leave is unpaid unless the employee uses vacation, personal leave or compensatory time off. The employee must provide documentation from the school or licensed childcare facility as verification that the employee participated in school or childcare facility activities on a specific date and at a particular time. If both parents, guardians, or grandparents having custody work for LAFCo at the same LAFCo work site, only the first parent requesting will be entitled to leave under this provision. (Labor Code § 230.8.)

8.5g.2 *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 his or her 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.

8.5h *Paid Administrative Leave*

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

8.5i Leave of Absence Without Pay Must Be Authorized by Law or These Policies

Unless authorized by law or a LAFCo policy, an employee is not entitled to a leave of absence without pay. An 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, LAFCo will not maintain contributions toward group insurance or retirement coverage for the employee on such leave. 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.

8.5j Industrial Injury Leave

8.5j.1 Pay Status of Employees on Workers' Compensation Leave

Employees shall continue in pay status under the following provisions.

8.5j.1.A Coordination of Benefits

When the employee authorizes, the difference between the amount granted pursuant to such Workers' Compensation and the employee's regular pay will be deducted from the employee's accumulated sick leave, vacation, floating holidays, personal leave, and compensatory time, if any. The employee will continue in pay status and receive his or her pay until his/her accumulated sick leave, and authorized compensatory time, personal holidays and vacation days, have been depleted to the nearest hour.

8.5j.1.B Accrual of Sick and Vacation Leave Continues While on Paid Leave

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

8.5j.1.C Unpaid Leave and Continuation of Health Care Benefits

Any employee subject to this Policy who depletes his or her 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. During any unpaid leave, the employee will not continue to accrue sick leave, vacation, or any other paid leave.

8.5k Time Off to Vote

Any employee, if he or she does 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 him or her to vote. The employee must request time off to vote from his or her supervisor at least two days prior to election day.

Chapter 9 Resignation, Job Abandonment, Layoff, and Separation

9.1 Resignation, Job Abandonment, Layoff and Separation

9.1a Types of Separation

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

- Probationary Release;
- Release of temporary/ seasonal/ extra help employee;
- Resignation;
- Retirement;
- Job abandonment;
- Layoff;
- Non-disciplinary separation; or
- Disciplinary separation.

9.1b Probationary Release

Probationary employees serving in their initial (or extended) probationary period with LAFCo may be released at any time during the probationary period as recommended by the Executive Officer, without cause or reason or notice. A released probationary employee has no right to appeal or to submit a grievance regarding their release.

9.1c Release of Temporary/Seasonal/Extra Help Employees

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

9.1d Resignation

An employee who wishes to resign his or her LAFCo employment in good standing must submit written notice of resignation to the Executive Officer 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 LAFCo. A resignation becomes final when the Executive Officer accepts the resignation in writing. Once a resignation has been accepted, it is final and irrevocable. A resignation can be accepted by the Executive Officer even if it is submitted less than two weeks prior to the planned resignation date.

9.1e Retirement

An employee planning to retire may provide a written notice to the Executive Officer prior to the effective date of the retirement. A notice of retirement becomes final when the Executive Officer accepts the notice of retirement in writing. Once a notice of retirement has been accepted, it is final and irrevocable.

9.1f Job Abandonment

An employee is deemed to have resigned from his/her position if he or she is absent for five consecutive scheduled workdays/shifts without prior authorization and without notification during the period of the absence. The employee will be given written notice, at his or her 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 agency's written notice, within the timeframe set forth in the written notice, can arrange for an appointment with the Executive Officer 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.

9.1g. Layoff

Whenever, in the judgment of LAFCo Commission, a reduction in personnel is necessary for economic or operational reasons, any employee may be laid off or demoted for non-disciplinary reasons.

9.1g.1 Selection

The Executive Officer shall prepare a layoff list, giving consideration to all applicable factors, including operational needs, business necessity, job performance, competence and skill set of individual employees, and longevity of service with LAFCo (where practical). Longevity will not dictate layoff choice where other relevant factors apply.

9.1g.2 Notice

Employees to be laid off shall be notified as soon as practicable and given at least fourteen (14) calendar days prior notice. A layoff is not subject to appeal or any other challenge.

9.1h 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. Any for-cause employee has the opportunity for a post-separation appeal as described in Chapter 10 of these rules, Causes for Discipline and Procedures.

9.1i Disciplinary Separation

A for-cause employee may be separated for disciplinary reasons pursuant to the policy and procedures in Chapter 10 of these rules, Causes for Discipline and Procedures.

9.1j Return of LAFCo Property

All LAFCo 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 LAFCo equipment.

9.1k Job References/Verification of Employment

All reference inquiries and verifications of employment must be referred to and approved by the Executive Officer. Unless the Executive Officer receives a written waiver signed by the employee, LAFCo will release only the employee's dates of employment and last position held. Supervisors should not provide information in response to requests for reference checks or verification of employment, unless specifically approved by the Executive Officer on a case-by-case basis.

Chapter 10 Discipline

10.1 Causes for Discipline and Procedures

10.1a Causes for Discipline

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

- 1) Violation of any employment policy, department rule, LAFCo policy or LAFCo regulation, ordinance or resolution
- 2) Absence without authorized leave or tardiness
- 3) Excessive absenteeism and/or tardiness as defined by the employee's department head, and/or these Policies;
- 4) Use of leave from work in a manner not authorized or provided for under LAFCo policies;
- 5) Making any false representation or statement, or making any omission of a material fact;
- 6) Providing wrong or misleading information or other fraud in securing appointment, promotion or maintaining employment;
- 7) Unsatisfactory job performance;
- 8) Inefficiency;
- 9) Damaging any LAFCo property, equipment, resource, or vehicle, or the waste of LAFCo supplies through negligence or misconduct.
- 10) Insubordination; or insulting or demeaning the authority of a supervisor or manager;
- 11) Dishonesty;
- 12) Theft;
- 13) Violation of the LAFCo's or a department's confidentiality policies, or disclosure of confidential LAFCo information to any unauthorized person or entity;
- 14) Misuse or unauthorized use of any LAFCo property, including, but not limited to physical property, electronic resources, supplies, tools, equipment, LAFCo communication systems, LAFCo vehicles or intellectual property;
- 15) Mishandling of public funds;

- 16) Falsifying or tampering with any LAFCo record, including work time or financial records;
- 17) Discourteous or offensive treatment of the public or other employees;
- 18) Abusive conduct, including malicious verbal, visual or physical actions, or the gratuitous sabotage or undermining of a person's work performance.
- 19) Conviction, meaning any judicial determination of guilt, of a crime that has a nexus to the employee's job duties;
- 20) Unapproved outside employment or activity, or other enterprise that constitutes a conflict of interest with service to the LAFCo;
- 21) Any conduct that impairs, disrupts or causes discredit to the LAFCo, to the public service, or other employee's employment;
- 22) Reckless or unsafe conduct;
- 23) Working overtime without prior authorization or refusing to work assigned overtime
- 24) Carrying firearms or other dangerous weapons while on duty when not required by job duties.
- 25) Horseplay or fighting.

10.1b Types of Counseling, Reprimands and Discipline

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

- (a) **Counseling Memo:** A counseling memo will be provided to an employee to identify: a failure of appropriate conduct or performance issue; the performance the employee is to demonstrate in the future; and consequences for failure to correct the behavior or problem. A counseling memo will 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 necessary. A counseling memo is not subject to the discipline or discipline appeal procedures described below.
- (b) **Verbal Reprimand:** A verbal reprimand is a verbal direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A verbal reprimand will be documented in writing and retained in the supervisor's file until the completion of the evaluation year and then documented in the performance evaluation, as the supervisor deems necessary. A verbal reprimand is not subject to the discipline or discipline appeal procedures described below.
- (c) **Written Reprimand:** A written reprimand is written direction from a supervisory employee to discontinue inappropriate conduct or to correct a performance issue. A written reprimand will be retained in the employee's personnel file and documented in

the performance evaluation. Unless required by law, a written reprimand is not subject to the discipline or discipline appeal procedures described below. The employee has the right to have his or her written rebuttal attached to the reprimand in the employee's personnel file, if the employee submits the rebuttal to the Executive Officer within 14 days after the reprimand is received.

- (d) **Suspension Without Pay:** LAFCo may suspend an employee from his/her position without pay for cause. Documents related to a suspension shall become part of the employee's personnel file when the suspension is final and documented in the performance evaluation. A suspension without pay is subject to the discipline and discipline appeal procedures described below. Employees who are exempt from Fair Labor Standards Act (FLSA) overtime will only be suspended as authorized by the FLSA.
- (e) **Reduction in Pay:** LAFCo may reduce an employee's pay 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; or 2) a decrease in salary paid to an employee for a fixed period of time. 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 and discipline appeal procedures described below. Employees who are exempt from the Fair Labor Standards Act (FLSA) overtime requirements are not subject to pay reduction below the minimum salary requirements.
- (f) **Demotion:** LAFCo may demote an employee from his or her position to a lower 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 and discipline appeal procedures described below.
- (g) **Dismissal:** LAFCo may dismiss an employee from his or her position for cause. Documents related to the dismissal shall become a part of an employee's personnel file when the dismissal is final. A dismissed employee is entitled to the discipline and discipline appeal procedures described below.

10.1c Discipline Procedures

The following discipline procedures only apply to the LAFCo's for-cause employees. All employees other than for-cause employees, namely temporary, seasonal, extra-help, at-will, 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 that 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 Executive Officer or designee regarding the intended discipline within seven calendar 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 his or her 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.

(b) Response by Employee and *Skelly* Conference: If the employee requests a *Skelly* conference, the Executive Officer will select an individual outside LAFCo to act as the *Skelly Officer* and conduct an informal meeting with the employee. During the informal meeting, the employee shall have the opportunity to rebut the charges against him or her and present any mitigating circumstances. The *Skelly Officer* will consider the employee's presentation and will provide a written decision to the Executive Officer, which can consist of a recommendation that the discipline be imposed as proposed, that the discipline be modified, or that no discipline be imposed. The employee's failure to attend the *Skelly* conference, or to deliver a written response by the date specified in the *Skelly* notice, is a waiver of the right to respond, and LAFCo will proceed with issuing a final notice of discipline.

(c) Final Notice of Discipline: After the *Skelly* conference and receiving and considering the *Skelly Officer's* written decision (or if the employee failed to appear for the *Skelly* conference or provide any written response), the Executive Officer will: 1) take no disciplinary action; 2) modify the intended discipline; or 3) impose the intended disciplinary action. In any case, the Executive Officer will provide the employee with a notice that contains the following:

- 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 that 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 LAFCo or the employee refuses to accept delivery, the effective date of discipline will be the date the post office or delivery service attempted delivery.

10.1d Discipline Appeal Procedures

The following appeal procedures only apply to LAFCo's for-cause employees. All employees other than for-cause employees, namely temporary, seasonal, extra-help, at-will, probationary 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 Executive Officer within 14 calendar 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. The Executive Officer shall forward a timely request for appeal to the Personnel Committee for further action.

Appeal Hearing Officer: LAFCo will designate an individual selected through the State Medication and Conciliation Service (SMCS) to serve as the Hearing officer for the disciplinary appeal.

- (b) Date and Time of the Appeal Hearing:** Once the appeal hearing officer has been designated, the Executive 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.
- (c) 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) at the hearing. Neither party will be permitted to call any witness that has not been listed, unless that party can show that the party could not have reasonably anticipated the need for the witness.
- (d) Subpoenas:** Upon the request of either party, and upon his or her own motion, the hearing officer will issue subpoenas to compel attendance at the appeal hearing. Each party is responsible for serving his/her/its own subpoenas. LAFCo employees who are subpoenaed to testify during working hours will be released with pay to appear at the hearing. LAFCo employees who are subpoenaed to testify during non-working hours will be compensated for the time they actually spend testifying.
- (e) Continuances:** The appeal hearing officer may continue a scheduled hearing only upon good cause shown.
- (f) Record of the Appeal Hearing:** The hearing shall be recorded, either electronically or by a court reporter, at the option of LAFCo. If LAFCo orders a transcript or makes a transcript of the recording, LAFCo 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.

(g) **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 he or she may select, provided the selected individual is not involved in the underlying matter giving rise to the disciplinary action.

(h) **Conduct of the Hearing:**

- 1) **Sworn Testimony:** All witnesses shall be sworn in prior to testifying. The hearing officer or court reporter shall request each witness to raise his or her 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. 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:** LAFCo has the burden of proof by the preponderance of the evidence.
- 5) **Authority of Hearing Officer:** The 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.

(i) **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:

- 1) LAFCo is permitted to make an opening statement;
- 2) The employee is permitted to make an opening statement;
- 3) LAFCo will produce its evidence;

- 4) The employee will produce its evidence;
 - 5) LAFCo, followed by the employee, may present rebuttal evidence;
 - 6) Oral closing arguments of no more than 20 minutes may be permitted at the discretion of the appeal hearing officer. LAFCo argues first, the employee argues second, and if LAFCo reserved a portion of its time for rebuttal, LAFCo may present a rebuttal.
- (j) **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.
- (k) **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. That decision shall be provided to both parties.

The LAFCo Commission shall review the findings and recommendations of the appeal hearing officer and will allow arguments on behalf of each party to be submitted in writing, and may then affirm, revoke, or modify the recommendation of the Hearing Officer as to the disciplinary action taken. The decision of the LAFCo Commission is final. There is no process for reconsideration before the Commission.

- (l) **Proof of Service of the Written Findings and Decision:** LAFCo 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 LAFCo of his/her address. A copy of the decision shall also be provided to the Executive Officer.
- (m) **Right To Further Challenge.** The decision of the LAFCo Commission shall be final. As provided by the California Code of Civil Procedure §§ 1094.5 and 1094.6, the parties shall have ninety (90) days from the date of mailing the final written findings and decision to appeal the decision to the Superior Court in and for the County of Marin.

Chapter 11 Grievances

11.1 Grievance Procedures

11.1a Definition of a Grievance

A grievance is an alleged violation of a specific provision of these Policies that adversely affects the employee and that contains all of the information listed in the “Statement of the Grievance” below. The following procedure applies to all LAFCo employees, unless: another dispute resolution procedure applies to the dispute; or a discipline policy and procedure applies. The grievance procedure cannot be utilized to challenge the content of a performance evaluation or any form of discipline.

11.1b Statement of the Grievance

A concern is not a grievance unless the affected employee is able to state each of the following: 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. The grievant may use a LAFCo form to make the Statement of the Grievance. A Statement of the Grievance must be signed by the employee filing the grievance to certify that it is filed in good faith.

11.1c Timelines

Failure of the LAFCo 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.

11.1d Procedures

- (a) Step I Informal Resolution with Supervisor:** The employee must first work in good faith to resolve the grievance informally through discussion with his/her immediate supervisor no later than 14 calendar days after the grievant first became aware of the facts or circumstances resulting in the filing of the grievance.
- (b) Step II Formal Resolution:** If the employee believes that the grievance has not been resolved through Step I, the employee may submit a written Statement of the Grievance to the Executive Officer. The employee must submit the Statement of the Grievance within 28 calendar days after he or she first became aware that a grievance has occurred. The Executive Officer shall consider, discuss the grievance with the grievant, and/or investigate as he/she deems appropriate, and shall, within 14 days of receipt of the written Statement of the Grievance, submit his/her decision in writing to the grievant. The decision of the Executive Officer on the grievance shall be final.

Chapter 12 Miscellaneous Policies

12 Personnel Files

12.1a Confidential LAFCo Files

LAFCo maintains a personnel file on each employee. Files are kept for at least three years after separation of employment. (Labor Code § 1198.5(c)(1).) A personnel file will contain only material that LAFCo deems necessary and relevant or that is required by law. Personnel files are the property of LAFCo, and access to the information they contain is restricted to protect employee privacy interests.

12.1b Notification of Changes

Each employee is responsible to promptly notify the Executive Officer of any changes in his or her contact and benefits information, including mailing address; telephone number; persons to contact in emergency; and number and names of dependents.

12.1c Access to Applicant or Employee Medical Information

All medical information about an employee or applicant is kept in a separate medical file 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 LAFCo 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. (2 Cal.Code Regs § 11069(g)(1).)

12.1d Employee Access to Personnel File

- (a) Inspection of File:** A current employee may inspect his or her own personnel file, at reasonable times and at reasonable intervals, within 30 days of a written request. A former employee is entitled to inspect his or her personnel records one time per year. (Labor Code § 1198.5(d).) A current or former employee and/or his or her representative, who wishes to review his or her personnel file should make a written request to the Executive Officer. (Labor Code § 1198.5(b)(2)(A).) The inspection must occur in the presence of the Executive Officer or designee and: 1) at a location where the employee works and at a time other than the employee's work time (Labor Code § 1198.5(b)(1)); or 2) at another agreed upon location without loss of compensation to the employee. (Labor Code § 1198.5(c)(2).)
- (b) Copies:** A current or former employee is entitled to receive a copy of his or her personnel records within 30 days after the employer receives a written request. (Labor Code § 1198.5(b)(1).) A current or former employee who wishes to receive such a copy should contact the Executive Officer in writing. LAFCo may charge a fee for the actual cost of copying. (Labor Code § 1198.5(b)(1); 1198.5 (b)(2)(A).)

(c) Representative's Inspection: If the current or former employee wishes to have another person/representative inspect his or her personnel file, he or she must provide the person/representative with written authorization. (Labor Code § 1198.5(e).) The Executive Officer 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.

12.1e Limitations on Access or Copying of Personnel File

Prior to making a copy of personnel records or allowing inspection, LAFCo may redact the names of nonsupervisory employees. (Labor Code § 1198.5(g).) Under no circumstances will LAFCo 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. (Labor Code § 1198.5(h).)

12.2 Limitations on Outside Employment

By accepting employment with LAFCo, every employee commits to provide his or her best efforts and working time to LAFCo. No employee shall be permitted to accept employment in addition to or outside of LAFCo service if any of the following circumstances exist:

- The employee works in the additional or outside employment while on a leave of absence from LAFCo, and the nature of the work is inconsistent with the employee's medical restrictions;
- The additional or outside employment leads to a conflict of interest, or potential conflict of interest, for the employee;
- The nature of the additional or outside employment is such that it will reflect unfavorably on LAFCO or on the employee's status as a LAFCo employee;
- The duties to be performed by the employee in the additional or outside employment are in conflict with the duties involved in LAFCo service; and
- The timing of the outside employment conflicts with the employee's regularly scheduled hours, and it has been determined that schedule adjustments are not possible.

Any employee who seeks to obtain outside employment shall first obtain the approval of the Executive Officer. In seeking approval, the employee shall disclose the outside position to the Executive Officer, so LAFCo can determine whether the outside employment is compatible with the employee's position with LAFCo and to determine if any conflict exists. If the timing of outside employment conflicts with an employee's regularly scheduled working hours, LAFCo can (but is not obligated to) consider whether schedule adjustments can reasonably be made without adversely impacting LAFCo business or other employees. An employee who does have outside employment shall not be permitted to use LAFCo records, materials, equipment,

facilities, or other LAFCo resources in connection with outside employment. An employee shall not devote any of his or her working time with LAFCo to any outside employment.

Approval of outside employment can be revoked at any time. The Executive Officer's decision not providing or revoking approval is final and not subject to appeal or challenge.

12.3 Limitations on Political Activity

12.3a No Solicitation During Work Hours or LAFCo Offices

LAFCo employees or officers may not solicit or receive political funds or contributions to promote the passage or defeat of any ballot measure that would affect working conditions during the working hours of its officers and employees, or in LAFCo offices. (Gov. Code § 3209.)

12.3b No Targeted Solicitation of LAFCo Officers or Employees

Officers or employees of LAFCo, or candidates for elective office of LAFCo, may not directly or indirectly solicit political contributions from other officers or employees of LAFCo unless the solicitation is part of a solicitation made to a significant segment of the public which may incidentally include officers from and employees of LAFCo. (Gov. Code § 3205(c).)

12.3c No Political Activity in Uniform

No LAFCo employee or official shall participate in political activities of any kind while in a LAFCo uniform or other LAFCo -issued clothing. (Gov. Code § 3206.)

12.3d No Political Activity on LAFCo Property or Work Hours

LAFCo employees and officials are prohibited from engaging in political activity during working hours or on LAFCo property. (Gov. Code § 3207.)

12.4 Prohibitions on Drugs and Alcohol in the Workplace

12.4a 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 LAFCo employees, whether they are on LAFCo property, or they are performing LAFCo 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.

12.4b Drug- and Alcohol-Free Awareness Program

LAFCo's employee assistance provider (EAP) 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 LAFCo's Policy of maintaining a drug- and alcohol-free

workplace; and (d) any available drug or alcohol counseling, rehabilitation or employee assistance programs. (41 USC § 701(a)(1)(B) – federal contractors; 41 USC § 702(a)(1)(B) – federal grant recipients; Gov. Code § 8355(a)(2).)

12.4c Prohibited Conduct

- (a) The manufacture, distribution, sale, dispensation, possession, or use of any controlled substance in either LAFCo workplaces or wherever LAFCo business is performed. (41 USC §§ 701-702; Gov. Code § 8355(a)(1).)
- (b) Working or being subject to call in if impaired by alcohol or any controlled substance.
- (c) An employee’s failure to notify his/her department head before beginning work when taking medications or drugs which could interfere with the safe and effective performance of duties or operation of LAFCo equipment.
- (d) An employee’s failure to notify the Executive Officer of any criminal conviction for a drug violation that occurred in the workplace within five days after such conviction. (41 USC § 701-702.)
- (e) An employee’s criminal conviction for a drug violation that occurred in the workplace.

12.4d Drug and Alcohol Testing

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

- (a) **Reasonable Suspicion Testing:** LAFCo 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, or other evidence of recent drug or alcohol use. If LAFCo suspects drugs or alcohol may have played a role in an accident involving LAFCo property or equipment, that will also constitute reasonable suspicion.
 - 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 Executive Officer. Any reasonable suspicion testing must be pre-approved by the Executive Officer.

- 3) **Testing Protocol:** If the documentation and analysis show that there is a reasonable suspicion of drug or alcohol abuse at work, and the Executive Officer has approved, the employee will be relieved from duty, transported to the testing facility and to his or her home after the test. The employee will be placed on sick or other paid leave until the test results are received. The method of testing will be consistent with applicable law. When testing is done, testing for marijuana-related substances will occur only if the testing facility can test only for psychoactive metabolites of THC (and exclude the non-psychoactive metabolites of THC).

(c) **Authorized and Unauthorized Conduct.** LAFCo adheres to the following:

- 1) Customary Use of Over-the-Counter Drugs. Nothing in this policy is intended to prohibit the customary and ordinary purchase, use, possession, or dispensation of over-the-counter drugs, so long as that activity does not violate any law or result in an employee being impaired by the use of such drugs in violation of this policy.
- 2) Off-the-Job Conduct. This policy is not intended to regulate off-the-job conduct, so long as the employee's off-the-job use of alcohol or legal drugs does not result in the employee being under the influence of or impaired by the use of alcohol or drugs in violation of this policy. Employees can be subject to drug testing as described below.

(d) **Counseling/Employee Assistance.** Employees who suspect they may have alcohol or drug problems, even in the early stages, are encouraged voluntarily to seek diagnosis and to follow through with the treatment as prescribed by qualified professionals. Employees who wish to voluntarily enter and participate in an approved alcohol or drug rehabilitation program are encouraged to contact the Executive Director, who will determine whether the LAFCo can accommodate the employee by providing leave for the time necessary to complete participation in the program. LAFCo abides by all applicable laws and regulations regarding providing leaves of absence to employees who are addicted to drugs. Employees should be aware that participation in a rehabilitation program will not necessarily shield them from disciplinary action for a violation of this policy, particularly if discipline is imposed for a violation occurring before the employee seeks assistance. The time to request assistance is before any misconduct or violation of policy occurs, as LAFCo is not obligated to overlook or ignore any policy violations.

(e) **Accommodations.** Nothing in this Policy is intended to diminish LAFCo's commitment to employ and reasonably accommodate qualified disabled individuals. LAFCo will reasonably accommodate qualified disabled employees who must take legal drugs because of their disability and who, because of their appropriate use of such drugs, cannot perform the essential functions of their

positions without reasonable accommodation. In addition, LAFCo will provide a leave of absence to eligible employees who wish to seek treatment for drug and alcohol dependency.

To this end, employees desiring such assistance should request a treatment or rehabilitation leave. LAFCo is not obligated, however, to continue to employ any person whose performance of essential job duties is impaired because of current drug or alcohol use, nor is LAFCo obligated to re-employ any person who has participated in treatment and/or rehabilitation if that person's job performance remains impaired as a result of dependency. LAFCo is not obligated to accommodate current usage of illegal drugs or alcohol.

Additionally, employees who are given the opportunity to seek treatment and/or rehabilitation, but fail to successfully overcome their dependency or problem, will not automatically be given a second opportunity to seek treatment and/or rehabilitation. This policy on treatment and rehabilitation is not intended to affect LAFCo's treatment of employees who violate the regulations described above. Rather, rehabilitation is an option for an employee who acknowledges a chemical dependency and voluntarily seeks treatment to end that dependency.

Violation of the above standards of conduct will not be tolerated. An employee who violates this policy is subject to discipline, up to and including immediate discharge, even for a first violation. Where appropriate, LAFCo also may bring the matter to the attention of appropriate law enforcement authorities.

12.5 Use of LAFCo Equipment or Resources

12.5a Policy and Applicability

LAFCo equipment and resources may only be used to conduct LAFCo business, except for incidental personal use that is consistent with this Policy. As a result, LAFCo equipment and resources are non-public forums. Every LAFCo employee is required to adhere to this Policy.

12.5b Agency Equipment or Resources

LAFCo equipment or resources is any LAFCo-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, LAFCo network, data systems, routers, voice mail, servers, and email or voice mail communications stored in or transmitted through LAFCo electronic resources or equipment.

12.5c No Expectation of Privacy

LAFCo 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 LAFCo networks or electronic resources. LAFCo employees must provide

the agency with the employee's username or password for any LAFCo issued equipment or resource. The existence of passwords or delete functions does not restrict the LAFCo's access. As a result, LAFCo employees have no expectation of privacy in their use of any LAFCo equipment or resources.

12.5d Appropriate Use Only -- No Misuse

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

- (a) Any use that violates applicable law and/or LAFCo 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.
- (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 LAFCo information to unauthorized individuals within or outside of LAFCo.
- (e) Unauthorized attempts to access or use LAFCo data or break into any LAFCo or non-LAFCo 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 LAFCo equipment or resources to access and/or use dating web resources, personal social media, or games of any type.
- (p) Any unauthorized access to LAFCo 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 his or her email or other electronic resources; or making LAFCo equipment or resources available to others who would otherwise have no authorized access.
- (q) Using LAFCo equipment or resources to speak on the LAFCo's behalf without authorization.

12.5e LAFCo Email Address Must be Used for LAFCo Business

LAFCo's email system is an official communication tool for LAFCo business. LAFCo establishes and assigns official email addresses to each employee as LAFCo deems necessary. Employees must send all LAFCo communications that are sent via email to and from his or her official LAFCo email address. Employees are prohibited from using their private email address (such as Gmail, yahoo, MSN/Hotmail, etc.) when communicating LAFCo business via email. Should an email related to LAFCo business be sent to an employee's personal email account, the email should be immediately forwarded to the employee's LAFCo email account and responded to accordingly.

12.5f Incidental Personal Use of LAFCo Communications Equipment Permitted

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

- (a) Is kept to a minimum and limited to break times or non-working hours;
- (b) Does not interfere or conflict with LAFCo operations or the work performance of any LAFCo employees;
- (c) Allows the employee to more efficiently perform to LAFCo work;
- (d) Is not abusive, illegal, inappropriate, or prohibited by this Policy (for example, no social media use, no electronic dating, no gaming); and
- (e) Clearly indicates it is for personal use and does not indicate or imply LAFCo sponsorship or endorsement.

12.6 Policy Against Violence in the Workplace

12.6a Safe and Secure Workplace

LAFCo is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace. (Labor Code § 6400.) The workplace includes any location where LAFCo 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.

12.6b 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 LAFCo employment. LAFCo 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.

12.6c “Workplace Violence”

“Workplace violence” is defined as any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her 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 his/her family, friends, associates, or property.
- (b) The destruction of, or threat of destruction of LAFCo 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 LAFCo issues the weapon(s) for performance of the job. “Weapon” is defined as a firearm, chemical agent, club or baton, 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.

12.6d Incident Reporting Procedures

- (a) Employees must immediately report to their supervisor or Executive Officer whether they have been a victim of, or have witnessed, workplace violence. The supervisor or Executive Officer will immediately report the matter to the Executive Officer.
- (b) The Executive Officer 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 Executive Officer 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.

12.6e Investigation

The Executive Officer will see that reported violations of this Policy are investigated as necessary.

12.6f Prevention

The Executive Officer or any department head has the 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 Policy and Personnel Committee, Executive Officer 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.

12.7 Appearance Standards

12.7a Basis for Standards

These dress code, tattoo, and body piercing appearance standards are designed to promote LAFCo's legitimate and non-discriminatory goals to promote workplace safety and a professional image that is consistent with the employee's job duties and level of public contact.

12.7b Dress Code

Employees are required to dress appropriately for the jobs they are performing. The following dress code regulations shall apply to all LAFCo employees. If an employee has questions about how these standards apply, the matter should be immediately raised with the employee's supervisor for consideration and determination.

- (a) All clothing and footwear must be neat, clean, in good repair, and appropriate for the work environment and functions performed.
- (b) Employees must present themselves in a manner that is neat, clean and well-groomed.
- (c) Jewelry is acceptable except where it constitutes a health or safety hazard.
- (d) Good personal hygiene is required.
- (e) Dress must be professionally appropriate to the work setting, particularly if the employee has contact with the public at work.

12.7c Tattoos

Employees are expected to project a professional appearance while at work. If an employee has questions about how these standards apply, the matter should be immediately raised with the employee's supervisor for consideration and determination.

12.7d Piercing

Employees are expected to project a professional appearance while at work and not endanger themselves or others with excessive body piercing. If an employee has questions about how these standards apply, the matter should be immediately raised with the employee's supervisor for consideration and determination.

12.8 Remote Work

LAFCo provides employees with the privilege of working remotely when appropriate. LAFCo considers remote work to be a viable alternative work arrangement in cases where the employee and the employee's position are well-suited to working remotely on a hybrid basis. Remote work allows employees to work offsite for part of their regular work week. Remote work is a voluntary work alternative that may be appropriate for some employees and some jobs. It is not a guarantee or an entitlement and it in no way changes the terms and conditions of employment with LAFCo. Employees are not required to work remotely. Remote work needs to be requested by the employee and approved by the Executive Officer and may be revoked at any time by the Executive Officer when they have determined it is in the Commission's best interests. Staff is expected to be in the office on day(s) that LAFCo is conducting Open Office hours so the general public can drop in without an appointment unless special circumstances (i.e. illness) warrant the person working remotely.

- 1) All remote work employees are expected to:
 - (a) Maintain consistent work hours during LAFCo's hours of operation.
 - (b) Establish a routine of periodic reports to the Executive Officer.
 - (c) Be readily available for impromptu video, email, and phone conversations. Communicate effectively and be responsive to requests (whether by phone, e-mail, or video).
 - (d) Maintain a dedicated home office environment free of distractions and background noise.
 - (e) Devote 100% attention when working remotely as if you were in the office.
 - (f) Store all work products on the LAFCo network and do not store them in any local storage of the home computer or laptop.
 - (g) Report to LAFCo's offices and/or other work locations in person for meetings or other activities as required by the employee's manager.
 - (h) Managers may require additional methods of communication and reporting to ensure employees are accessible and reliable.
 - (i) Follow all requirements that would be expected if at the office including:
 - (i) Dress code during video meetings.
 - (ii) Anti-discrimination/Equal opportunity/anti-harassment.
 - (iii) All LAFCo policies must be followed as if they were working onsite or on LAFCo property. This includes policies governing appropriate conduct in the workplace and towards one's fellow employees, regardless of working location. Any employee who violates any of LAFCo's policies while working remotely shall be subject to revocation of their remote arrangement, in addition to any disciplinary measures that would be taken if the employee was working onsite.
 - (iv) Any request to work overtime, take vacation, or use other leave must be approved by the Executive Officer in the same manner as when working onsite.
 - (v) Remote work is not a substitute for childcare dependent care. A remote working employee is expected to make alternative arrangements for childcare or other dependent care obligations when working remotely.
- 2) LAFCo is committed to ensuring a safe worksite in compliance with the rules and guidelines set forth by the Division of Occupational Safety and Health (Cal/OSHA). Employees who work remotely are responsible for designating one area in their home as the worksite. The employee must also certify in writing that, should any condition arise at the remote worksite where the health and safety requirements are no longer met or if any other hazardous condition occurs, the employee will notify their supervisor immediately and cease working at the remote worksite until the condition has been remediated. The employee shall not be permitted to resume remote working from the remote worksite without the express authorization of the Executive Officer. The Executive Officer may request photos of the employee's remote worksite at any time. If the employee refuses

such a request, they may not be allowed to continue remote work. The Executive Officer reserves the right to refuse or rescind a remote work agreement based on the employee's failure to adhere to the guidelines, or they make the reasonable assessment that the employee's worksite poses a health or safety risk. If an employee incurs an injury or illness in the course or scope of employment while remote work, Workers' Compensation requirements apply. Employees must immediately notify their supervisor and complete all necessary paperwork as required by LAFCo. Actions that the remote worker may take during break periods from working and actions not directly related to the approved remote work are not covered under Workers' Compensation. These non-covered actions include, but are not limited to, all actions that the employee would not be able to perform in their LAFCo workspace, such as caring for children or pets, domestic tasks, yard work, retrieving the mail, cooking, exercising, and interacting with non-LAFCo employees for non-business purposes. LAFCo shall in no instance be liable for injuries to third persons, including members of the employee's family, who enter the employee's worksite or otherwise interact with the employee or use their home office equipment. Remote work employees with disabilities shall be entitled to the same rights and accommodations they would be entitled to under all applicable state and federal laws and LAFCo policy. Remote work may be provided as a reasonable accommodation, and such arrangement is addressed in a separate reasonable accommodation policy. Should an employee need any type of accommodation arising out of a disabling condition, the employee should refer to the reasonable accommodation policy and make an appropriate request.

- 3) Employees are not required to work remotely. Expenses incurred as a result of remote work will not be reimbursed by LAFCo unless they are normally reimbursable pursuant to LAFCo policies, or pre-approved in advance at the sole discretion of the Executive Officer. Such non-reimbursable expenses include, but are not limited to, utility costs, purchase of office equipment or furniture, and travel to and from the LAFCo office if required to be onsite. Remote work employees may use LAFCo office equipment and supplies at any time, according to need. For example, a remote work employee is allowed to come to the LAFCo office to use printing and copying equipment, administrative assistance, or other office resources to which the employee would have access if they were working onsite. With the advance approval of the employee's supervisor, a remote work employee may be permitted to take LAFCo office supplies to their remote worksite to facilitate productivity. Such supplies may include printer paper, pens and pencils, or other miscellaneous office-related or ergonomic-related items. Employees using LAFCo-provided equipment must be able to independently transport and set-up the equipment at their own telework site. All LAFCo policies and procedures involving LAFCo equipment apply to employees using LAFCo equipment at the remote worksite. LAFCo will provide for repairs to LAFCo equipment through an authorized vendor. An employee may be subject to disciplinary action for intentional or willful damage caused by the employee. Employees should not remove any item from LAFCo property to use offsite without the

express permission of the Executive Officer. Please note that the LAFCo will not provide for repairs to non-LAFCo equipment even if it has been approved for use by the LAFCo.

- 4) Remote work employees shall only use LAFCo approved computers when accessing LAFCo resources and files. Remote work employees using internet connections, smart phones and other technology are responsible for ensuring and certifying that they meet the same security standards as if they were using LAFCo technology. Those standards are set forth by our independent IT provider. The Executive Officer, with support as needed from our IT provider, shall assess whether the employee's remote worksite ensures the level of security required by LAFCo. At the supervisor's discretion, the remote work employee may be required, as a condition of remote work, to establish a secure internet connection, install enhanced password protection or encryption software, keep confidential materials in a locked or otherwise secured location, restrict non-employees' (such as family members') usage of computers or smart phones used for LAFCo business, and any other measure required to maintain LAFCo's information security standards. Any and all policies governing employee usage of LAFCo approved computers, internet connections and mobile devices shall apply to remote work employees when they are using their personal equipment in the course and scope of employment, and when they are using LAFCo technology at any time. Employees using LAFCo technology or conducting LAFCo business on personal devices have no expectation of privacy.

- 5) Working from a remote location adds challenges to effective communication, teamwork, and collaboration. The remote employee is responsible for ensuring effective communication and participation while working remotely and for ensuring that coworkers and the Executive Officer feel informed and confident about the work results being produced.

Instructions: Separate form and return to executive officer.

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ACKNOWLEDGMENT

I, _____ [*print name*], acknowledge that I have received a copy of the Marin Local Agency Formation Commission (“LAFCo”) Personnel Handbook, and that LAFCo has provided me with instructions about how to access the document electronically. I further acknowledge and understand that I am responsible for reading and becoming familiar with the contents of the Handbook, and any of its revisions.

EMPLOYEE SIGNATURE

DATE