



Agenda Item No. 1

To: Rules, Policy and Industrial Relations Committee/Committee of the Whole
Meeting of November 18, 2005

From: Teri W. Mantony, Deputy General Manager, Administration & Development
Celia G. Kupersmith, General Manager

Subject: **APPROVE REVISIONS TO HUMAN RESOURCES POLICIES AND
AMEND THE HUMAN RESOURCES GUIDE**

Recommendation

The Rules, Policy and Industrial Relations Committee recommends that the Board of Directors approve revised versions of *Human Resources Guide* (*Guide* policies):

- a. Employment of Family Members (Nepotism)
- b. Temporary Assignment
- c. Employment Statuses
- d. Layoff
- e. Identification Card

This matter will be presented to the Board of Directors at its November 18, 2005, meeting for same day action.

Summary

Staff originally presented proposed revisions to the policies cited above at the October 14, 2005, Rules meeting. After Committee approval, the policies were sent to the Board for final approval. At the October 28 Board meeting, the items were not acted upon in light of the need for some further fine-tuning of the policy language. The attached policies show the changes made since the initial presentation of the proposals in October. Also attached for your reference is a copy of the original item.

While most of the changes are editorial in nature, there is one substantive change recommend in the Employment of Family Members policy. Staff now proposes that employees be required to report a relationship only if they marry, become domestic partners, or in the event one of the two individuals assumes supervisory responsibility over the other. In the previous version, all relationships had to be reported. After review and further discussion, staff recommends this change in an effort to better balance the needs of the organization and the privacy expectations of employees. Other changes are editorial in nature and are proposed for additional clarification.

Please note that this is now a same day action, so that employees and Unions can be notified of the policy revisions.

EMPLOYMENT OF FAMILY MEMBERS

It is the policy of the District to seek the best qualified applicants for positions and to help further the careers of current employees. The basic criteria for appointment and retention are appropriate qualifications, relevant experience and skills, and professional development. The ultimate intent of this policy is to help avoid misunderstandings, acts of favoritism, or the perception of favoritism that could arise if an employee were in a position to influence the hiring, work, or advancement of a relative.

In order to help maintain equal opportunity of employment for the general public and equal opportunity of promotion for current employees, the hiring of relatives is limited and will be reviewed in accordance with federal and state laws. This policy, insofar as it is intended to apply to spouses or to marital status, is fully intended to comply with the nondiscrimination provisions of the Fair Employment and Housing Act, Government Code Section 12940 - Marital Status Discrimination, and the regulations promulgated thereto in Subchapter 7.

Accordingly, the District will not appoint an employee to a position in the same department, division, or facility, under the direct supervision of another employee wherein his/her relationship with that other employee has the potential for creating adverse impact on supervision, safety, security, or morale, or involves a potential conflict of interest or hazard which is greater due to the relationship than it would be for other persons. The appointing authority shall have the authority and responsibility for determining if such a potential for adverse impact exists or does not exist. Final authorization will reside with the General Manager.

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For purposes of this policy, a “relative” is defined as individuals who are related by blood, marriage, or adoption including the following relationships: spouse or domestic partner, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, half-brother, half-sister, stepbrother, stepsister, aunt, uncle, niece, nephew, cousin, parent-in-law, daughter-in-law, son-in-law, brother-in-law, and sister-in-law. The relatives of a domestic partner would be considered the same as those cited above.

Examples of circumstances where the District may refuse to employ relatives of current employees are:

- Where one of the parties would have authority (or practical power) to supervise, appoint, remove, or discipline the other;
- Where one party would be responsible for auditing the work of the other;

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- Where other circumstances might lead to potential conflict among the parties or conflict between the interest of one or both parties and the best interests of the District; or
- Where one party has access to confidential information affecting the division or department of the family member.

Change in Circumstances

If two employees marry or become registered domestic partners, they will notify the District, in writing, within 30 days of such change in circumstances. If two employees begin sharing living quarters with one another, and one of the employees has or assumes supervisory responsibility for the other, the relationship must be reported immediately. If, in the District's judgment, the potential problems noted above exist or reasonably could exist, reasonable efforts will be made to assign job duties to minimize problems of supervision, safety, security, morale, or potential conflict of interest or hazard. The District reserves the right to terminate either employee in the event no reasonable accommodation is feasible. If a change in circumstances as defined above is not reported, either or both of the employees will be subject to disciplinary action up to and including termination.

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Statement of Understanding

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The General Manager may, following review by the Human Resources Department, on a case-by-case basis without any precedent, approve a formal request for a temporary exemption from the provisions of this policy. Such exemption is always temporary and may be subject to cancellation by the General Manager without notice, explanation, or justification. When a temporary exemption is made, the General Manager will require affected employees to sign a statement of understanding.

TEMPORARY ASSIGNMENT

The General Manager may appoint an employee to perform a temporary assignment for a period of up to six months, and may grant up to one additional 6-month extension for such assignment. A temporary pay increase may be granted, when warranted and as outlined in this policy. The temporary assignment may be used for such situations as special projects, special assignments, or for positions under review in anticipation of potential staffing reorganization. Further, assignments may be made to address emergency situations such as the need for heightened security requirements.

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When a pay increase is warranted, the applicable Deputy General Manager or District Officer will forward the request outlining the circumstances through the Human Resources Department which shall review the work assigned and establish an appropriate wage with final approval by the General Manager. If the temporary assignment extends beyond three months, a performance evaluation shall be conducted.

The General Manager is authorized to grant a pay increase for the entire temporary assignment if the assignment is expected to or does last 20 or more working days for administrative positions, and five or more working days for positions that fall under the purview of the Bridge Captain’s Office. The work performed during the temporary assignment must be at a higher level of job classification than that normally performed by the employee. Additionally, in the event a Memorandum of Understanding provides for increased temporary pay or a premium pay, the General Manager will approve such increases, unless specifically delegated otherwise. In order to assign an employee temporary work, the employee must be capable of performing key functions of the assignment, but not necessarily all of the work associated with a specific position.

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Credit for Temporary Assignment if Appointed to Position

When an employee is promoted to a position which he or she has performed immediately preceding the appointment, or served in a temporary capacity, the employee will be given time credit for the temporary service. However, the employee must meet the qualifications for the position before appointment can be made. Credit for time spent in that position on a temporary basis, shall be determined based on the effective date of the assignment. The employee will serve a six-month introductory period in the new position, including any time credited for the temporary assignment. The introductory period may also be extended in accordance with provisions in the District’s Employment Statutes

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policy. During this period, the employee will receive at least two performance evaluations, one after three months as noted above, and another at six months. If the employee entered the position at step one pay, a pay increase to step two will be given upon successful completion of the introductory period. Employees entering a position at a higher step will be eligible for an increase on the anniversary date of the date of appointment to the temporary assignment. (See ACTING PAY AND EMPLOYMENT STATUSES)

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Under Section 27151 of the Streets and Highways Code, employment is at the pleasure and will of the General Manager. Accordingly, by statute, either the employee or the District may at any time terminate the employment relationship for any reason not otherwise unlawful.

District employees not represented by a union generally fall into one of five employment statuses: temporary, seasonal, provisional, introductory period, and regular. From time to time, the District may employ contract employees, and in these instances, a written contract specifies the purpose, term, and particular conditions of employment. In addition, the District's employees are further classified into full-time or part-time, depending on their regularly scheduled work hours. These statuses and classifications, as well as others, are described below.

Temporary Employees

Temporary positions will be filled with the General Manager's approval, provided monies are budgeted in the affected Department and the Deputy General Manager, or District Officer demonstrates a strong need to fill the position on a temporary basis. Generally, temporary employees will be hired to fill in for a short-term absence or to help assist with a temporary excess workload. Approval for filling a position is sought by routing the Human Resources Requisition form.

Temporary employees are those employees hired directly by the District and are placed on the District's payroll for a maximum of six months or 1,000 hours actually worked, whichever is reached first. With the exception of wages for time worked and a temporary District identification card for needed work area access, temporary employees on District payroll receive no other District benefits or privileges.

Certain temporary employees are considered "casual" employees and are subject to "on call" temporary work, as needed. Casuals are primarily used in the Ferry Division and are referenced in applicable MOU's (Deckhand, Vessel Masters, Ticket Agents, and Terminal Assistants).

The District may also use outside contractors or temporary agencies as a source to fill temporary employment needs. The contractor or temporary agency worker is not on the District payroll, is the employee of another company/agency, and does not receive rights and privileges of regular District employees.

Interns are also considered temporary employees, and can work up to 1,000 hours in a fiscal year.

Individuals working in any temporary employee status will be required to sign an acknowledgement of conditions of employment upon hire.

Seasonal Employees

For all purposes, seasonal employees are considered temporary employees. These employees are selected by the District for seasonal work in the Gift Shop, but are employed by a temporary agency for a limited duration. They receive no rights or benefits of regular employment, but are enrolled in CalPERS if they work 1,000 hours in a fiscal year.

Summer hires are also considered seasonal employees but may or may not be directly on the District's payroll. Typically these youths are screened by employment counselors at the participating schools from Sonoma, Marin, and San Francisco counties and then selected for participation by District staff. The District may also participate in summer youth programs coordinated by other agencies. The youths have temporary status, but are seasonal only. They do not receive benefits or rights of a regular employee.

Introductory Period Employees

During the first six months of District employment, employees hired into a regular position serve an introductory period. The introductory period, formerly called the probationary period, is viewed as the final step in the recruitment and selection process. The initial six months of employment are used to monitor carefully and assess the newly hired employee's demonstrated technical skills and abilities, ability to work well with others, work habits, and contribution supporting the District's values and mission. While new employees are expected to need time to learn particular duties and responsibilities, the supervisor should see a pattern of increased ability and efficiency develop early during the introductory period. Supervisors are to contact the Human Resources Director as soon as performance concerns arise.

Introductory employees should not expect to use vacation accruals during the first six months, but they may be allowed to use vacation credits subject to Department Head, District Officer, or Deputy General Manager approval.

All employees, excluding temporary or seasonal employees, will serve a six-month introductory period upon initial employment with the District. Employment may be terminated at any time during this introductory period upon written notice to the employee. Supervisors will conduct a minimum of two performance evaluations during the initial six-month period. The first performance evaluation will be conducted at three months after the employee begins work. The evaluation at the end of the six-month introductory period will make the final determination as to whether: (a) the employee will be granted regular (full-time or part-time) status; (b) the introductory period will be extended for the employee; (c) the employee will be discharged; or (d) some other appropriate action will be taken. During the six months of introductory status, employees are eligible for those benefits and privileges as specified in this *Guide*.

Regular employees who obtain a promotion shall serve a six-month introductory period in the new position. Two performance evaluations shall be conducted as specified above.

Provisional Employees

The use of a provisional employee will be reserved to fill a long-term leave of absence for a regular employee. Generally, long-term shall be considered six months or more, but employees may be “provisional” for less than six months. There may be occasions when a provisional employee will fill in for consecutive employee absences and more than one employee’s leave, and these occurrences may be co-joined by one provisional employee for continued provisional status. The decision to hire a provisional employee shall be determined on a case-by-case basis and typically only for positions which require extensive training and/or difficult recruitment, and for positions where it is not practical to place an existing employee in acting pay status or on a temporary assignment. The decision to hire a provisional employee will be granted only upon review by the Deputy General Manager/Administration and Development, with final approval by the General Manager.

An individual hired as a provisional employee shall be subject to a six-month introductory period. The employee shall be required to sign a provisional employee acknowledgement letter as a condition of employment. A provisional employee shall not become a regular employee, either full-time or part-time, unless selected through the screening and interviewing procedures set forth in the District’s *Guide*. A provisional employee is considered an external candidate, and is eligible to apply only if applicants are recruited externally or according to an applicable MOU.

If a provisional employee is hired as a regular employee in the same position held during provisional status, the employee shall not be subject to a new introductory period. However, if the provisional employee has been away from the job held as a provisional employee for six months or more, the employee may be subject to another introductory period when hired as a regular employee for that same position. If the employee is hired for a different position from the one held as a provisional employee, a new introductory period will be required.

Provisional employees shall be eligible for health benefits, sick leave and vacation accruals, and holiday pay in accordance with District policies regarding benefits levels applicable to the regular full-time or part-time position which the provisional employee is filling. A provisional employee is not subject to District leave policies other than those required by law, such as the Family and Medical Leave Act and the California Family Rights Act. In the event that the period of provisional employment extends beyond six months or exceeds a total of 1,000 hours in a fiscal year period, the provisional employee will be eligible for and shall be enrolled in the California Public Employees' Retirement System (CalPERS), as prescribed by applicable law and the rules and regulations governing the District's contract with CalPERS. Once an employee is enrolled in CalPERS, the employee remains in CalPERS regardless of the number of hours worked in any subsequent fiscal year. If it is expected, based on the specific position for which the provisional employee is being hired, that the person will work more than six months, the individual will be enrolled in CalPERS upon hire. The determination to enroll an employee in CalPERS will be made by the Human Resources Director with concurrence of the Auditor-Controller.

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Provisional status will be terminated under the following circumstances: (1) unsuccessful completion of the introductory period; (2) return of the regular employee whose position was being filled; (3) successful hire as a regular employee; (4) another candidate is selected for the regular position; (5) the provisional employee is unavailable for work; or (6) the General Manager, District Officer, or Deputy General Manager of the respective Division determines s not to continue to fill the position.

Regular Full-Time or Part-Time Employees

Employees who have passed the initial introductory period are entitled to all benefits and privileges granted by the District for the applicable position, except as noted below. Regular full-time or part-time employees subject to promotion, transfer, or demotion must serve a six-month introductory period in the new position. During this introductory period, two performance evaluations will be given; one at three months after the start date and one at six months. In the event

performance is not satisfactory in the new position, the employee will be subject to extended time for appraisal, demotion, termination, or other appropriate action. All other benefits and privileges are uninterrupted by promotion, transfer, or demotion.

Employees are categorized as "part-time" if their regular work schedules entail less than a 37-1/2 hour workweek. Part-time, non-represented employees who work 30 hours or more each week are entitled to full medical benefits and prorated vacation and sick leave accrual. Part-time, non-represented employees do not receive fixed or floating holiday pay. Part-time employees working fewer than 30 hours each week are ineligible for medical benefits, vacation and sick leave accrual, and fixed and floating holidays.

Some positions may be authorized by the Board of Directors as "limited-term" positions. The positions will be authorized for a specified time period, or in some cases, for completion of a specific project. The employee receives full benefits and privileges of a regular employee, including the opportunity to apply for open positions as an internal candidate. The employee shall be required to sign a limited-term employee acknowledgement letter as a condition of employment.

Other Terms Used to Further Describe Employee Statuses

Acting Status. Appointed by the General Manager on an interim basis; employee assumes all or the great majority of the duties of the position for an extended period of time. (See **ACTING STATUS**)

Exempt Position. Federal law under the Fair Labor Standards Act sets forth criteria defining whether a position is entitled to receive overtime pay or compensatory time at time and one-half. Those positions which do not meet the criteria to receive overtime are called "exempt positions." (See **OVERTIME POLICY**)

Independent Contractors. Individuals hired for specific expertise either through a competitive procurement process, or in rare instances, through a sole source procurement. The contractor selected on a sole source basis shall perform services under a written professional services employment agreement. Procurement of independent contractors must fully comply with the District's Procurement Policy Manual. These contractors must meet the IRS "test" for such persons on an annual basis. They will be subject to review by the hiring department and Human Resources.

Interns. Positions which are for a limited number of hours and designed to give students work experience in a particular field. Interns do not receive rights or

privileges of regular employment. An intern can work up to 1,000 hours during the fiscal year. They will be required to sign an intern status acknowledgement letter upon hire.

Job-Share Positions. A position shared by two people. Benefits, vacation, and sick leave accrual are determined on a case-by-case basis depending on the total hours worked.

Non-Exempt Position. Federal law under the Fair Labor Standards Act sets forth criteria defining whether a position is entitled to receive overtime pay or compensatory time at time and one-half. Those positions which meet the criteria to receive overtime are called "non-exempt positions." (See OVERTIME POLICY)

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Non-Represented Employees. Employees who have positions that are not represented by an employee organization (Union).

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Provisional. Employment status which is designed to fill a regular employee's job on a long-term basis, usually until the regular employee returns to work.

Reclassified. When a position changes sufficiently to warrant a higher level of skills, abilities, educational and/or experience requirements, the position may need to be called a different title and may be reviewed for a wage adjustment. These situations are reviewed on a case-by-case basis.

Regular Employee. Employees who have completed their initial Introductory Period with the District. They are entitled to the rights and privileges of District employment.

Retired. An employee separates from active District employment and meets the criteria as specified in Resolution No. 2004-101 and in the section "**Retirement Benefits**" of this *Guide*. A retiree may be rehired on a regular or temporary basis, but cannot exceed the number of hours worked allowed by the respective pension plan. The pension plan must be notified of the retiree's rehire at the onset of the employment relationship.

Seasonal. Employees who work for a limited duration, specifically during the tourist season, in the District's Gift Center. Summer youth hires are also considered seasonal.

Temporary. Employees hired for a limited duration and other than wages, are not entitled to District rights or privileges. However, with the California Public Employees' Retirement System (CalPERS), if a temporary employee works 1,000 hours in a fiscal year, he/she must participate in CalPERS.

Trainee Status. On rare occasions, it may be deemed appropriate for business reasons to fill a position with an employee who, while not fully meeting the minimum qualifications for a position in terms of experience and education, is close to doing so, and where in the opinion of the Department Head and Deputy General Manager or District Officer, the employee under consideration can adequately perform the essential job functions. Human Resources will review the justification for a trainee, as well as the candidate's qualifications. (See Policy on **TRAINEE STATUS**)

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Represented employees should refer to the applicable Memorandum of Understanding.

LAYOFF

Purpose. The following section outlines the layoff policy and procedures for non-represented employees which shall apply to any reduction in the District's workforce occurring within one or more job classifications, departments, and/or Divisions at the District, as mandated by the District Board of Directors.

Scope. These layoff procedures and policy shall apply to any reduction in the District's workforce described above which affects District administrative employees. An administrative employee shall be any employee at the District who is not represented by a union, including employees with full-time or part-time positions in the following statuses: Regular, Introductory, Provisional, Temporary, Seasonal, and Casual. (See EMPLOYMENT STATUSES)

In the event a bargaining unit's Memorandum of Understanding (MOU) is silent on some of these matters, this policy may be applied to members of a bargaining unit. This is particularly applicable to employees being returned to work for temporary assignments who served in represented positions at the time of layoff.

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Notice of Prospective Layoff. When the District's Board of Directors decides to lay off a position or group of positions, the Human Resources Director and Deputy General Manager/Administration and Development, under the direction of the General Manager, shall compile a list of the designated positions. A written notice shall be sent to each potentially affected employee who is in either Regular status or Introductory status, due to a recent promotion or recent lateral transfer, of the decision to eliminate the position(s) or of the decision for a temporary layoff, and of the effective date of action at least 30 days prior to the effective date. By nature of their positions, newly hired Introductory, Provisional, Temporary, Seasonal and Casual employees can be terminated at any time without 30 days notice. In the event the employee is subject to an MOU and these matters are specifically addressed by the agreement, the MOU shall prevail, and this policy does not apply.

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Methods of Implementing Mandated Reductions in Workforce

Attrition. Wherever possible, the District initially will endeavor to implement a mandatory reduction in workforce by attrition, such that positions affected by a layoff that become vacant through resignation, termination, retirement, or death shall not be refilled.

Categorical Order of Layoffs by Employment Status. When the opportunities to reduce the workforce by attrition are insufficient to accomplish the level of reduction required, or when specific positions are designated for layoff, the order

in which layoffs within a job classification in a Division will be implemented, by employment status, is as follows:

1. **Employees who volunteer for layoff** by sending written notice thereof to the Human Resources Director within five working days of receipt of notice of prospective layoff shall be the first category of employees to be laid off;
2. **Temporary, Provisional, Seasonal, and/or Casual employees** shall be the second category of employees to be laid off; and,
3. **Introductory and Regular employees** shall be the last category of employees to be laid off.

Procedure for Layoffs within Job Classifications. Employees' past work performance and ability to contribute operationally will be considered as factors when the layoff of one or more positions within a job classification is required. An employee may be retained who is otherwise slated for layoff if it can be supported that the employee possesses the knowledge, skills, and abilities to be most successful in the classification and has demonstrated overall contribution to supporting the District's goals and operational requirements. In some circumstances, employees may be laid off in classifications not specified, so that such employee may be retained. When employee performance distinctions within a classification are not discernable, seniority will prevail.

Diversity Programs for Employment Analysis. At such time an analysis of the effects of the layoff procedure and an assessment of the affected employees have been completed, the Human Resources Director, in coordination with the Deputy General Manager/Administration and Development, will prepare a written recommendation for approval by the General Manager documenting which employees should be reassigned, displaced, and/or laid off.

The Human Resources Director shall forward this recommendation to the Employee Relations and Diversity Programs Administrator who shall analyze the effects such results shall have on the District's Diversity Program for Employment and workforce composition. The Deputy General Manager/Administration and Development shall provide an analysis of the recommendation to the General Manager.

Final Notice on Layoffs. Five working days prior to the date that the reassignments and layoff are to take effect, the Human Resources Director shall give notice to all affected employees. The effective date shall be on the date designated by the Board of Directors for the official layoff action.

Rights of Employee upon Layoff

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Vacation, Severance Pay, and Other Benefits. Each Regular status employee who is laid off shall receive two weeks severance pay and any and all vacation pay, compensatory time accrual in accordance with District policy, and floating holidays which have been earned and not used through the date of layoff. An Introductory employee who has been employed with the District in at least one other job classification, but who is serving an introductory period due to job promotion or lateral transfer, shall be considered a Regular employee for purposes of this section. A Provisional employee will receive all accrued vacation pay, compensatory time accrual, and floating holidays which have been earned and not used through the date service is terminated. Each laid off employee must return his or her employee identification card, keys, and all other District property.

Additional years of service credit will not be accrued during layoff. Accrued sick leave will remain on the books and will be restored upon recall/reinstatement.

A Regular employee with one or more years of service will receive three entire months of paid COBRA coverage for health, dental, and vision insurance coverage. The employee must be enrolled in the insurance plans as an active employee at the time of layoff.

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Each non-represented employee who is laid off is entitled to tuition reimbursement as listed below:

<u>Service in Years</u>	<u>Tuition Benefit</u>
<u>0-7 years</u>	<u>\$1,000.00</u>
8-10 years	\$2,000.00
over 10 years	\$3,000.00

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Reimbursement is made upon receipt of evidence of completion and requires a grade of "C" or better.

All employees who are laid off shall be eligible for unemployment insurance benefits in accordance with applicable state laws or regulations.

In accordance with state laws and regulations, employees who are laid off may have available to them several alternatives with respect to any benefits to which they may be entitled under the California Public Employees' Retirement System (CalPERS). Employees should consult with the Benefits Administrator in the Human Resources Department and the State of California.

Layoff List. The names of all employees who have been laid off shall be placed on a layoff list which shall document for each employee the position held, the corresponding employment status, and the date of layoff. This list shall be kept in the Human Resources Department.

Recall Status. For 24 months following layoff, the employees on the layoff list who had Introductory and Regular status shall be in a "recall status." In the event that, during this period, the position(s) eliminated by a layoff action is reestablished or a vacancy occurs in the same position/job classification within the same Division, the Human Resources Director shall notify persons in the recall status of the opportunity to be reinstated to the position. Recall shall be in the opposite order of layoff.

While on recall status, employees may respond to any District recruitment to fill vacant positions at the District as "internal" applicants.

While on recall status, employees may elect to continue at their own expense their medical benefit coverage under the District's medical plan in accordance with COBRA provisions.

Reinstatement

The right to reinstatement shall prevail for a period of 24 months from the date the layoff took effect. Employees on the layoff list who are notified of the reestablishment of their prior position, or of a vacancy in the same position/job classification within the same Division, and who resume employment with the District in that position, will accrue vacation credits based upon actual years of service with the District. This does not include time laid off. For all other employment purposes, including but not limited to opportunities for promotion and transfer, the reinstated employee shall maintain his or her original seniority date and the employee shall assume any unused sick leave credits that had accumulated at the time of layoff.

If the employee held the original position in an Introductory status, the employee shall resume such status upon reinstatement.

Employees may be reinstated to District employment in positions other than the one from which they were laid off. In the event an employee accepts another position, the employee will be reinstated with vacation accrual levels equivalent to that when laid off. No credit will be given for the time period of actual layoff. Accumulated sick leave accruals at the time of layoff will be credited to the employee. If reinstated to a full-time regular position, the employee may still apply for open positions including any opening in the job classification to which

the employee was assigned at the time of layoff. Seniority will prevail for assignment to a position only as provided by any applicable Memorandum of Understanding.

Employees also may be eligible for temporary assignments during their layoff period. In the event an employee laid off while in Regular or Introductory (other than new hires) status is returned to work for a temporary assignment, the employee will be eligible for medical benefits (health, dental, and vision only) provided the employee works the first scheduled work day of the month. This is the normal criterion for eligibility of benefits, unless provided otherwise in an MOU. The employee will receive sick and vacation accruals at the rate earned at the time of layoff. No service credit will be given for the actual layoff period or for the time spent in a temporary assignment. These employees will not be eligible for District leave policies other than as required by state or federal laws, such as the California Family Rights Act and the Family and Medical Leave Act.

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Services of Human Resources Department

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During the course of a prospective layoff, representatives in the Human Resources Department shall be available to assist and advise affected employees as to their rights under these procedures, job opportunities within the District that might be available, and other pertinent information such as medical and CalPERS benefits.

During the layoff process and the period of recall, the Human Resources Department shall provide outplacement services to affected employees, upon request. Such services shall include, but not be limited to, career counseling, assistance in résumé preparation, and notice of related job opportunities outside of the District (where available and known).

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IDENTIFICATION CARD

Eligibility

All regular Full-Time and Part-Time employees, and Provisional employees enjoy the privilege of free regularly scheduled transportation service on the District's Bus and Ferry systems and may cross the Golden Gate Bridge in an automobile as a driver or passenger without paying a toll, upon presentation of the employee's District identification card. Payment of transit fares will be required for certain special services. Identification cards are issued on the first day of employment.

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Identification cards should be displayed when an employee is on District property. District identification cards also provide security access to District property, based upon an employee's work assignment. Access to the District's property is limited to ensure safety and security. Employees who need access to areas other than their normal work sites are to contact the supervisor responsible for the area. Unauthorized access to restricted areas is forbidden. Serious breeches of security may result in disciplinary action up to and including termination of employment.

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Temporary Employees

The Human Resources Department will issue District identification cards to temporary employees when terms and conditions of employment warrant access in areas related to the job assignment. Free tolls and transportation are not granted unless specifically required to complete the assigned work. In the event an employee needs free tolls or transportation to perform assigned tasks, special arrangements will be made. The identification/security access card is good only for the duration of the temporary employment. Each card will indicate an expiration date based on the estimated period of time of temporary employment. If the employee is retained beyond the expiration date on the pass, the Department Head must request a new card. When an employee is terminated, the Supervisor/Department Head is responsible for retrieving this card from the employee and returning it to Human Resources. Casual employees who are represented will be issued cards in accordance with their Memorandum of Understanding.

Care of Card

Identification Cards are non-transferable and will be confiscated for misuse. The Employees may not "loan" the card to anyone, including family members. If the card is misused or abuse of the privilege is determined, the employee will be subject to disciplinary action up to and including termination of employment.

If a card is not reported as lost or stolen, the employee may lose toll and transportation privileges for a designated period. A reported lost or stolen card may be replaced upon payment of a \$5 fee. A second replacement will be issued only upon the General Manager's approval.

Employees who obtain a new position or are reclassified may schedule an appointment with Human Resources to obtain a new Identification/Security Access Card.

Improper care of the cards may cause them to improperly register on the toll lane computers or security access scanners. If this occurs, the card will be retained. If the card is valid, it will be repaired and returned to the cardholder. If the card is invalid, or misused, it will be confiscated and retained.

Security Access

Security access will be based upon work groups and job responsibilities. Employees will receive a Card Access Form for their records which will list the access which been determined to be appropriate for their specific job assignment.

When an employee is promoted, transferred, or otherwise requires a change to their security access, the supervisor will notify Human Resources. The employee will be required to complete a new Card Access Form acknowledging the changed security access. A new card is not required to change security access.

Card access will be deactivated during any suspension, and keys will be collected. Transportation and toll privileges will be retained during this period. Suspended or terminated employees are not permitted on any District property that is not open to the public except for pre-arranged meetings. If a suspended/terminated employee is required to report to any facility, he/she will be escorted by the supervisor or other authorized person.

ATTACHMENT 6



Agenda Item No. 2

To: Rules, Policy and Industrial Relations Committee/Committee of the Whole
Meeting of October 14, 2005

From: Teri W. Mantony, Deputy General Manager, Administration & Development
Celia G. Kupersmith, General Manager

Subject: **APPROVE POLICY REVISIONS TO THE HUMAN RESOURCES GUIDE**

Recommendation

The Rules, Policy and Industrial Relations Committee recommends that the Board of Directors approve revisions outlined herein to the *Human Resources Guide (Guide)* relative to the following policies:

- a. Employment of Family Members (Nepotism)
- b. Temporary Assignment
- c. Employment Statuses
- d. Layoff
- e. Identification Card

Summary

Staff continues to review and update the *Guide* on an ongoing basis. The *Guide* applies to non-represented employees, but is frequently used as a guideline for represented positions when the relevant Memorandum of Understanding (MOU) is silent on a particular subject. The policies brought forward at this time cover various issues which have arisen either in the normal course of business or have resulted from recent District experience with layoffs and rehire of laid off employees. The specifics follow.

A. Employment of Family Members (Nepotism)

Recently the District completed employee focus group work to address diversity and career development issues in the workplace. One of the District policies mentioned as a serious point of concern was employment of District employees' relatives. This issue also has been raised by Board members. A thorough review of the District's current policy regarding "Employment of Family Members" has shown that the District is actually restricted by California law regarding limitations it can place on the hiring of the spouse of a District employee, and some of the employee concerns raised cannot be addressed in policy. For example, California law specifically states that marital status discrimination may be established by showing that an

applicant or employee has been denied an employment benefit by reason of the employment or lack of employment of an applicant's or employee's spouse. Nonetheless, staff is recommending that the current policy be rewritten for clarification purposes as well as inclusion of more specific language and requirements in certain areas that are permissible under the law. Key changes include:

- The first two paragraphs of the proposed policy (**Attachment 1**) expand the reasons why the District believes it is important to address the employment of relatives in the workplace. This includes an expressed intent to help avoid misunderstandings, acts of favoritism, or the perception of favoritism. They also include reference to the California state statute which governs Marital Status Discrimination, including the hiring of a spouse.
- The definition of a "relative" would be expanded to include domestic partners and half brothers and sisters. The relatives of a domestic partner would be considered the same as those of a spouse (in-laws).
- Employees would be required to report a change in circumstances such as the marriage of two employees, becoming related to another employee, or when they share living quarters with one another. This must be reported in writing within 30 days of such change. This would allow the District to assess potential problems relative to supervision, safety, security, morale, or potential conflicts of interests or hazards. In the past employees were only *encouraged* to report these changes. If the proposed policy is approved, and the change in circumstances is not reported, the employee(s) would be subject to termination.
- If potential problems as cited above exist or could reasonably exist, efforts to assign job duties to minimize such problems would be made. If no reasonable accommodation is feasible, the employee(s) could be terminated. This was not the case in the past.
- Employees would be asked to sign a statement of understanding regarding the relationship and any exception made to the policy. This statement would reinforce the policy and remind employees that an exemption to the policy may be cancelled at any time by the General Manager.

Attached is a chart summarizing how other agencies/organizations in the Bay Area address nepotism and hiring of relatives (**Attachment 2**). Generally, the District's definition of a relative is similar. Other agencies typically transfer employees so that one relative is not supervising the other.

B. Temporary Assignment

Currently District policy allows the General Manager to appoint an employee to serve in a temporary assignment for a period of up to six months when situations such as special projects

occur or when positions are under review for possible reorganization. This recommended policy revision (**Attachment 3**) includes the following key changes:

- The General Manager would have authority to grant up to one additional six-month extension.
- Reasons for a temporary assignment would be expanded to include a special assignment, although not necessarily a special project. Further, assignments could be made to address emergency situations such as the need for heightened security.
- Specific language would be added to state that the work performed during the temporary assignment must be at a higher level of job classification than that normally performed. It would not be based on performing additional work.
- The policy would now state the employee must be capable of performing key functions of the assignment, although not necessarily all work associated with a specific position. (NOTE: For purposes of being placed in a position with “Acting Pay,” the individual must be qualified for the position. That would not necessarily be the case for a temporary assignment.)

C. Employment Statuses

In September 2001, the Board of Directors approved a new Employment Statuses policy which addressed temporary employees and provisional employees in particular. The policy changes recommended (**Attachment 4**) in this item reflect points of clarification and additional issues that have occurred since that time. Key changes are:

- Provisional employees, a classification which originated in some of the bargaining units, have been hired on a case-by-case basis and typically for positions which require extensive training and/or difficult recruitment. The proposed policy change would include language which specifies that these positions also will be used when not practical to place an existing employee in acting pay status or in a temporary assignment. This reinforces the District’s commitment to employee development.
- Provisional employees have been eligible for District benefits, and while this was intended to be interpreted as health benefits, sick and vacation accruals, and holiday pay, there have been circumstances when a provisional employee also has requested District leave. Since a provisional employee is usually filling in for a regular employee who is out on leave, it is not in the District’s best interest to have two employees out on leave with continued paid medical benefits for the same position. Under this proposal, the District would allow provisional employee only leaves that are mandated by law.
- Given the above, staff proposes to add language to the policy which would state that a provisional employee who is unavailable for work can be terminated.

D. Layoff

In 2003 the Board of Directors amended its layoff policy to allow an employee recall rights up to 24 months rather than 12 months, with a 12-month possible extension with the General Manager's approval. Three months of paid COBRA were also provided. Given the District's recent experience following layoffs since April 2003, it is now recommended that specific language be adopted for employees who are returned to work for temporary work either in positions which are in the same classification they left, or perhaps in a totally different classification for which they are qualified. As the Labor Advisory Committee was advised in May 2005, the District has allowed these individuals to be treated with "provisional status" in order to give them access to medical benefits and other District amenities. The "Reinstatement" section of the Layoff policy would now be modified to include specific language to address employees who return to jobs other than the classification from which they were laid off, and also for temporary work (**Attachment 5**). The key provisions which are patterned after those for an employee being recalled are:

- An employee returning to work in a position other than the one from which he/she was laid off would be reinstated with vacation accrual levels equivalent to that when laid off. No service credit would be given for the time period of actual layoff.
- Accumulated sick leave accruals at the time of layoff would be credited to the employee.
- Seniority would prevail for purposes of returning to the same classification from which the employee was laid off only when specifically provided in an MOU. It would not apply to a non-represented employee.
- An employee working a temporary assignment during layoff would be eligible for medical benefits, provided they work the first scheduled day of the month (same as other employees).
- Sick and vacation accruals would be earned at the rate at the time of layoff.
- No service credit would be given for the actual layoff period or for the time spent in a temporary assignment.
- These temporary employees would not be eligible for District leave policies other than as required by law.

E. Identification Card

The District issues an employee identification card upon hire for its regular employees, both part-time and full-time. This card allows them access to various areas throughout the District for which they are authorized, as well as free regularly scheduled transportation on the District's Bus and Ferry systems. The card also allows the employee to cross the Golden Gate Bridge in an automobile at no charge as either the vehicle's driver or passenger.

The proposed policy has been expanded to include language regarding security access (**Attachment 6**). This is increasingly important as the District moves from key access to electronic access throughout its facilities. Additionally:

- The policy clarifies that card access would be deactivated during disciplinary suspensions, and keys would be collected. Transportation and toll privileges would be retained.
- Persons abusing use of the card itself, such as loaning it to someone else, would be subject to card confiscation and disciplinary action up to and including termination. Currently, the card is only confiscated.
- The proposed policy would clearly state that temporary employees would not be granted free tolls or transportation unless it is specifically required to complete the assigned work.

All of these policy changes will be communicated to employees following Board approval. Although the policies apply to non-represented employees, those bargaining units who currently have people in layoff status who are working temporary assignments or provisional employees will also be contacted. The identification card and nepotism policy would apply to all employees, and appropriate notifications will be given to the unions as well as the employees.

Attachments: 1 - Proposed Employment of Family Members Policy
2 - Nepotism Comparison Chart
3 - Proposed Temporary Assignment Policy
4 - Proposed Employment Statuses Policy
5 - Proposed Layoff Policy
6 - Proposed Identification Card Policy