

MENDOCINO CITY COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS 12-12-2022 MEETING AGENDA

MENDOCINO CITY COMMUNITY SERVICES DISTRICT  
P. O. BOX 1029  
MENDOCINO, CA 95460  
Business Phone (707) 937-5790 Treatment Plant (707) 937-5751 Fax (707) 937-3837

AGENDA

REGULAR MEETING

Monday, December 12, 2022

5:00 PM

Wastewater Treatment Plant, 10500 Kelly Street, Mendocino

Per California Governor Gavin Newsom's Executive Orders N-25-20 and N-29-20, and AB 361 the meeting will be held via teleconference. MCCSD meetings are open to the public, and the District encourages public participation either in the office or on Zoom. To participate by ZOOM call 1 (669)-900-6833, Meeting ID: 931 3833 6051, Passcode: 750084 or log in online URL:

<https://us06web.zoom.us/j/93138336051?pwd=ZDVkRndkZmc0ZWsyYTJTTFFacmxtQT09>

Meeting ID: 931 3833 6051

Passcode: 4Bezsr

1. CALL TO ORDER
2. APPROVAL OF AGENDA
3. PUBLIC COMMENT: non agenda items
4. COMMUNICATIONS
5. FINANCIAL REPORT  
Discussion and Possible Action to Approve District Disbursements/Expenditures.
6. CONSENT AGENDA  
All matters on the Consent Agenda are to be approved by one action without discussion unless a Board Member requests separate action on a specific item.
  - a. APPROVAL OF MINUTES
    - a-1. 11-28-22
    - a-2. 12-5-22
  - b. APPROVAL OF RES 2022-306: RESOLUTION OF THE MENDOCINO CITY COMMUNITY SERVICES DISTRICT TO CONTINUE THE AUTHORITY TO HOLD VIRTUAL MEETINGS PURSUANT TO AB 361
7. DISCUSSION AND POSSIBLE ACTION REGARDING ANY CONSENT AGENDA ITEM NEEDING SEPARATE ACTION
8. GROUNDWATER MANAGEMENT  
Monthly Groundwater Management Report
9. NEW BUSINESS
  - a. Discussion and Possible Action to adopt Ordinance 2022-1: Ordinance of Mendocino City Community Services District Monthly Sewer Service Charges
  - b. Discussion and Possible Action to adopt Ordinance 2022-2: Ordinance of Mendocino City Community Services District Monthly Groundwater Management Charges
  - c. Discussion and Possible Action on Board member roles and responsibilities
  - d. Discussion and Possible Action to appoint Officers and Committee Assignments
10. OLD BUSINESS  
Discussion and Possible Action related to reviewing and updating the Personnel Manual

MENDOCINO CITY COMMUNITY SERVICES DISTRICT BOARD OF DIRECTORS 12-12-2022 MEETING AGENDA

11. DISTRICT SUPERINTENDENT'S REPORT  
Monthly Report.
12. COMMITTEE UPDATES
13. MATTERS FROM BOARD MEMBERS
14. ADJOURNMENT

STANDING COMMITTEES: For 2022

Finance:----- Dennak Murphy  
Personnel:----- Dennak Murphy  
Plant Operations:----- Dennak Murphy and Jim Sullivan  
Safety:-----  
Street Lighting:-----  
Groundwater Management:----- Jim Sullivan and Donna Feiner

*Pursuant to Americans with Disability Act (ADA Title II), MCCSD will make reasonable arrangements to ensure accessibility to the meeting. If you need special assistance to participate in this meeting, please contact the business office at 707- 937-5790.*

Cash Disbursements (Checking)  
 For the Period End November 2022

|   |                          |
|---|--------------------------|
|   | 11/30/2022               |
| <b>Balance Forward</b>                        | \$ 59,502                |
| Monthly Fees (Current and Past Due) Collected | \$ 270,447               |
| Interest Income                               | \$ 15                    |
| Service to Read Water Meters                  | \$ 380                   |
| Hills Ranch Service                           | \$ 250                   |
| Parts Sales (inventory)                       | \$ 1,098                 |
| Golden State Risk Mgmt Authority              | \$ -                     |
| General Property Taxes                        | \$ -                     |
| <b>Revenue</b>                                | <u>\$ 272,190</u>        |
| <b>Total Inflows</b>                          | <u>\$ 331,692</u>        |
| Disbursements (Check Register)                | \$ (133,772)             |
| Balance Checking                              | <u><u>\$ 197,920</u></u> |
| General Ledger Operating Checking             | \$ 197,920               |
| Difference                                    | \$ (0)                   |

**APPROVAL OF THE BOARD OF DIRECTORS**

The undersigned Directors of the Mendocino City Community Service District, do hereby certify total disbursements, including checks, online CalPers, State and Federal Tax Deposits.

Print and Sign

Date

|       |       |
|-------|-------|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |



# Mendocino City Community Services District

Distribution Report by Bank Account

November 2022

| DATE                   | NUM   | NAME  | AMOUNT     |
|------------------------|-------|---|------------|
| Cash and Equivalents   |       |   |            |
| Cash in Checking #2837 |       |   |            |
| 11.07.2022             | 20614 | Alpha Analytical Laboratories                               | -550.00    |
| 11.07.2022             | 20615 | MENDES SUPPLY COMPANY                                       | -2,264.54  |
| 11.07.2022             | 20616 | California State Lands Commission/ Land Management Division | -637.29    |
| 11.09.2022             | 20617 | Waste Management  | -241.92    |
| 11.09.2022             | 20618 | Harvest Market  | -14.01     |
| 11.09.2022             | 20619 | Pace Supply Corp.   | -1,136.42  |
| 11.09.2022             | 20620 | MENDOCINO HIGH SCHOOL                                       | -200.00    |
| 11.09.2022             | 20621 | REDWOOD COAST FUELS   | -2,115.67  |
| 11.09.2022             | 20622 | USA Bluebook  | -27.40     |
| 11.09.2022             | 20623 | Deep Valley Security  | -32.95     |
| 11.09.2022             | 20624 | Jackson Law Offices   | -2,068.00  |
| 11.09.2022             | 20625 | LAKEPORT CAMPER AND TRUCK                                   | -4,933.91  |
| 11.16.2022             | 20626 | Golden State Risk Management Authority                      | -7,132.00  |
| 11.16.2022             | 20627 | PG&E  | -5,895.69  |
| 11.16.2022             | 20628 | Alpha Analytical Laboratories                               | -195.00    |
| 11.22.2022             | 20629 | Willits Power Equipment                                     | -41,909.41 |
| 11.22.2022             | 20630 | REDWOOD WASTE SOLUTIONS                                     | -143.06    |
| 11.22.2022             | 20631 | A T & T Mobility  | -83.56     |
| 11.22.2022             | 20632 | Harvest Market  | -16.17     |
| 11.22.2022             | 20633 | Alpha Analytical Laboratories                               | -195.00    |
| 11.29.2022             | 20634 | STOKES, HAMER, KIRK & EADS, LLP                             | -38,913.77 |
| 11.29.2022             | 20635 | Quill   | -187.49    |
| 11.29.2022             | 20636 | Dave Mathews  | -84.00     |
| 11.10.2022             | DD    | Keith D. Linden   | -1,625.94  |
| 11.10.2022             | DD    | Robert Ryan Rhoades   | -2,324.28  |
| 11.10.2022             | DD    | Katharine L. Bates  | -1,624.09  |
| 11.10.2022             | DD    | Dylan M. Cooper   | -1,109.98  |
| 11.25.2022             | DD    | Dylan M. Cooper   | -907.68    |
| 11.25.2022             | DD    | Katharine L. Bates  | -1,624.10  |
| 11.25.2022             | DD    | Keith D. Linden   | -1,468.86  |
| 11.25.2022             | DD    | Robert Ryan Rhoades   | -2,324.27  |
| 11.01.2022             |       | K. Mckee & Company, Inc.                                    | -160.00    |
| 11.01.2022             |       | QuickBooks Payments   | -62.39     |
| 11.02.2022             |       | IRS   | -2,154.17  |
| 11.02.2022             |       | CA EDD  | -397.58    |
| 11.02.2022             |       | K. Mckee & Company, Inc.                                    | -300.00    |
| 11.09.2022             |       |   | 4,933.91   |
| 11.14.2022             |       | CAL PERS  | -997.69    |
| 11.14.2022             |       | CAL PERS  | -291.76    |
| 11.16.2022             |       | CA EDD  | -410.28    |



# Mendocino City Community Services District

Distribution Report by Bank Account

November 2022

| DATE                                     | NUM | NAME                              | AMOUNT               |
|--|-----|-----------------------------------|----------------------|
| 11.16.2022                               |     | IRS                               | -2,198.47            |
| 11.18.2022                               |     | Bank of America                   | -2,363.53            |
| 11.22.2022                               |     |                                   | 173,188.08           |
| 11.22.2022                               |     |                                   | 41,909.41            |
| 11.23.2022                               |     | Savings Bank of Mendocino Co. (1) | -10.00               |
| 11.30.2022                               |     | IRS                               | -2,061.91            |
| 11.30.2022                               |     | CA EDD                            | -378.21              |
| <b>Total for Cash in Checking #2837</b>  |     |                                   | <b>\$86,258.95</b>   |
| Cash in Savings #4276                    |     |                                   |                      |
| 11.09.2022                               |     |                                   | -4,933.91            |
| 11.22.2022                               |     |                                   | -41,909.41           |
| <b>Total for Cash in Savings #4276</b>   |     |                                   | <b>\$ -46,843.32</b> |
| Construction Acct #9364                  |     |                                   |                      |
| 11.01.2022                               |     | USDA                              | -56,171.56           |
| <b>Total for Construction Acct #9364</b> |     |                                   | <b>\$ -56,171.56</b> |
| <b>Total for Cash and Equivalents</b>    |     |                                   | <b>\$ -16,755.93</b> |

**MENDOCINO CITY COMMUNITY SERVICES DISTRICT**

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mccsd@mcn.org

Per California Governor Gavin Newsom's Executive Orders N-25-20 and N-29-20, the meeting is being held via teleconference.

**MENDOCINO CITY COMMUNITY SERVICES DISTRICT SPECIAL BOARD MEETING**

**ACTION MINUTES – November 28, 2022**

**BEFORE THE BOARD OF DIRECTORS  
FAIR STATEMENT OF PROCEEDINGS  
(PURSUANT TO CALIFORNIA COMMUNITY SERVICES DISTRICT LAW  
Government Code §61000)**

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**AGENDA ITEM NO. 1 – CALL TO ORDER – OPEN SESSION 11:00 a.m.**

**Present:** Directors Donna Feiner, Harold Hauck, Maggie O'Rourke, Vice President Jim Sullivan, and presiding was President Dennak Murphy

**Staff Present:** Mr. Ryan Rhoades, District Superintendent, Katie Bates, Board Secretary.

**Legal Counsel Present:** Jim Jackson

**Public Present:** Michelle Blackwell, Robert Schmitt, Ishvi Aum, Tina Aranguren, Matthew Miksak, Anthony Elowski, Judy Steele, Liz Helenchild, Tony Graham, Colin Morrow, Bill Zimmer, Robert Cimmiyotti, Jeremy Isenberg, Matt Kennedy, Cameron Yarborough, Michael Moreland, Jimmy Greg

**AGENDA ITEM NO. 2. – APPROVAL OF AGENDA**

**Board Action:** Upon motion by Director O'Rourke seconded by Director Feiner. IT IS ORDERED to approve the agenda. The Motion carried by the following vote:

AYE: 3

NO: 0

**AGENDA ITEM NO. 3 –ADJOURN TO CLOSED SESSION**

**AGENDA ITEM NO. 4 – RETURN FROM RECESS 5:31 p.m.**

**AGENDA ITEM NO. 5- REPORT OUT FROM CLOSED SESSION**

President Murphy reported Board evaluation of the Superintendent

**AGENDA ITEM NO. 6- PUBLIC COMMENT: non agenda items**

**Public Comment: Michelle Blackwell**

**Board Comment: President Murphy**

**AGENDA ITEM NO. 7 – NEW BUSINESS**

- a) **Public Hearing in compliance with California Proposition 218 regarding MCCSD's Proposed Sewer Rate Increase and Proposed Groundwater Management Rate Increase**  
**Board Comment: President Murphy**

**A1) Presentation by Anthony Elowski of RDN, and Cal Rural Water**

**Public Comment: Robert Schmitt**

**A2) Discussion and Public Comment**

**Board Comment: Directors Hauck, O'Rourke, and President Murphy**

**Staff Comment: Superintendent Rhoades, District Secretary Bates**

**Legal Comment: Jim Jackson**

**Public Comment: Robert Schmitt, Liz Helenchild, Colin Morrow, Tony Graham, Cameron Yarborough, Bob Cimmiyotti, Matt Kennedy, Bill Zimmer, Ishvi Aum, Jimmy Greg**

**b) Adjournment of Public Hearing**

- c) Introduction of Ordinance 2022-1: Ordinance of Mendocino City Community Services District Monthly Sewer Service Charges**

- d) Introduction of Ordinance 2022-2: Ordinance of Mendocino City Community Services District Monthly Groundwater Management Charges**

**Public Comment: Michelle Blackwell, Liz Helenchild**

**Board Comment: President Murphy**

**AGENDA ITEM NO. 8- OLD BUSINESS**

**8a) Update from GHD**

**Presenter: Matt Kennedy**

**Board Comment: Director O'Rourke**

**Public Comment: Tina Aranguren**

**AGENDA ITEM NO. 9- COMMUNICATIONS**

**Staff Comment: Ryan Rhoades mentions communications re: Prop 218 that have been discussed in item 7**

**AGENDA ITEM NO. 10: CONSENT AGENDA**

**a. APPROVAL OF MINUTES**

**a1) 11-7-22**

**Board Action: Upon motion by Director O'Rourke, seconded by VP Sullivan. IT IS ORDERED to approve the consent agenda. The Motion carried by the following vote:**

**AYE: 5**

**NO: 0**

**AGENDA ITEM NO. 11: DISCUSSION AND POSSIBLE ACTION REGARDING ANY CONSENT AGENDA ITEM NEEDING SEPARATE ACTION**

None

**AGENDA ITEM NO. 12: FINANCIAL REPORT**

**12a) Discussion and Possible Action to Approve District Disbursements/ Expenditures**

**Presenter: Katie Bates**

**Board Action:** Upon motion by Director Feiner seconded by VP Sullivan. IT IS ORDERED to approve the October disbursements and expenditures. The Motion carried by the following vote:

AYE: 5

NO: 0

**AGENDA ITEM No. 13 – SUPERINENDENT’S REPORT**

**a) Monthly Superintendent’s Report**

**Presenter: Ryan Rhoades**

**Public Comment: Michelle Blackwell**

**AGENDA ITEM NO. 14- SECRETARY’S REPORT**

**a) Monthly Secretary’s Report**

**Presenter: Katie Bates**

**AGENDA ITEM NO. 15- GROUNDWATER MANAGEMENT**

**Presenter: Ryan Rhoades**

**AGENDA ITEM NO. 16: COMMITTEE UPDATES**

**Personnel Committee met 11/28/22 to evaluate Superintendent**

**AGENDA ITEM NO. 17: MATTER FROM BOARD MEMBERS**

**Harold Hauck acknowledged the honor it has been to serve the District. He mentioned the importance of the District providing local representation when it comes to GWM.**

**Both Harold Hauck and Maggie O’Rourke were acknowledged for their service.**

**Board Comment: President Murphy, VP Sullivan**

**Staff Comment: Ryan Rhoades**

**AGENDA ITEM NO. 18: ADJOURNMENT**

**IT IS ORDERED to approve adjourning the meeting at 7:20 p.m.**



**NOTICE: PUBLISHED MINUTES OF THE MENDOCINO CITY COMMUNITY SERVICES DISTRICT MEETINGS**

- *Effective May 11, 2020, the Board of Directors' minutes will be produced in "action only" format.*
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- *Please reference the District's website to obtain additional resource information for the Board of Directors: [www.mccsd.com](http://www.mccsd.com).*

*Thank you for your interest in the proceedings of the Mendocino City Community Services District*

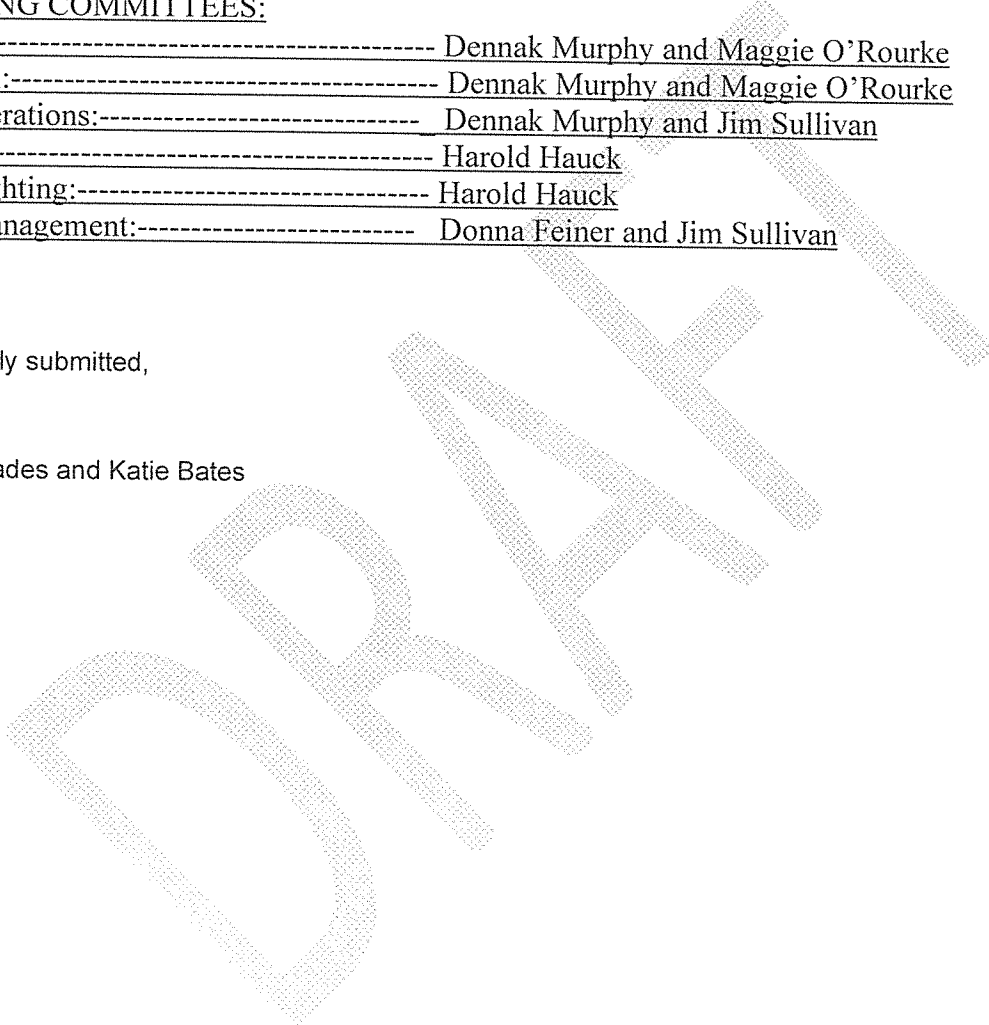
*Board of Directors*

STANDING COMMITTEES:

- Finance:----- Dennak Murphy and Maggie O'Rourke
- Personnel:----- Dennak Murphy and Maggie O'Rourke
- Plant Operations:----- Dennak Murphy and Jim Sullivan
- Safety: ----- Harold Hauck
- Street Lighting:----- Harold Hauck
- Water Management:----- Donna Feiner and Jim Sullivan

Respectfully submitted,

Ryan Rhoades and Katie Bates



**MENDOCINO CITY COMMUNITY SERVICES DISTRICT**

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**MENDOCINO CITY COMMUNITY SERVICES DISTRICT SPECIAL BOARD MEETING**

**ACTION MINUTES – December 5, 2022**

**BEFORE THE BOARD OF DIRECTORS  
FAIR STATEMENT OF PROCEEDINGS  
(PURSUANT TO CALIFORNIA COMMUNITY SERVICES DISTRICT LAW  
Government Code §61000)**

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**AGENDA ITEM NO. 1 – CALL TO ORDER – OPEN SESSION 5:01 p.m.**

**Present:** Directors Donna Feiner, Ishvi Aum, Matthew Miksak, and presiding was President Dennak Murphy

**Staff Present:** Mr. Ryan Rhoades, District Superintendent, Katie Bates, District Secretary

**Legal Counsel Present:** None

**Public Present:** Tina Aranguren, Andrea Shepard, Dan Potash, Steven Gomes

**AGENDA ITEM NO. 2. – APPROVAL OF AGENDA**

**Director Feiner moves to approve the agenda. Director Miksak 2<sup>nd</sup>.**

**AYES: 4 NOES: 0 ABSENT: 1**

**AGENDA ITEM NO. 3 – PUBLIC COMMENT: non agenda items**

None

**AGENDA ITEM NO. 4 – COMMUNICATIONS**

**Staff Comment:** Superintendent Rhoades

**AGENDA ITEM NO. 5: NEW BUSINESS**

None

**AGENDA ITEM NO. 6: OLD BUSINESS**

- a. Introduction of Ordinance 2022-1: Ordinance of Mendocino City Community Services District Monthly Sewer Service Charges

**Presenter:** Katie Bates, District Secretary

**Staff Comment:** Superintendent Rhoades

**Board Comment:** President Murphy,

**Public Comment:** Tina Aranguren

**Board Action:** Upon motion by Director Feiner, seconded by Director Miksak. IT IS ORDERED to waive the reading of exhibits A and B. The Motion carried by the following vote:

AYE: 4

NO: 0

ABSENT: 1

d. Introduction of Ordinance 2022-2: Ordinance of Mendocino City Community Services District Monthly Groundwater Management Charges

**Presenter:** Katie Bates, District Secretary

**Staff Comment:** Superintendent Rhoades

**Board Comment:** President Murphy, Director Aum

**Public Comment:** Steven Gomes

**Board Action:** Upon motion by Director Hauck, seconded by President Murphy. IT IS ORDERED to waive the reading of Exhibit A. The Motion carried by the following vote:

AYE: 4

NO: 0

ABSENT: 1

#### **AGENDA ITEM NO. 7: COMMITTEE UPDATES**

Board Comment: President Murphy

#### **AGENDA ITEM NO. 8: MATTER FROM BOARD MEMBERS**

Board Comment: Directors Aum, Miksak, and President Murphy

#### **AGENDA ITEM NO. 7 8: ADJOURNMENT**

IT IS ORDERED to approve adjourning the meeting at 5:37 p.m.

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*Thank you for your interest in the proceedings of the Mendocino City Community Services District*

*Board of Directors*

STANDING COMMITTEES:

- Finance:----- Dennak Murphy
- Personnel:----- Dennak Murphy
- Plant Operations:----- Dennak Murphy and Jim Sullivan
- Safety: -----
- Street Lighting:-----
- Water Management:----- Donna Feiner and Jim Sullivan

Respectfully submitted,

Ryan Rhoades and Katie Bates

DRAFT

**RESOLUTION NO. 2022-306**

**RESOLUTION OF THE MENDOCINO CITY COMMUNITY SERVICES DISTRICT  
TO CONTINUE THE AUTHORITY TO HOLD VIRTUAL MEETINGS**

**PURSUANT TO AB 361**

**WHEREAS**, on March 4, 2020, pursuant to California Gov. Code Section 8625, Governor Gavin Newsom declared a Statewide emergency arising from the Coronavirus (COVID-19); and

**WHEREAS**, on September 17, 2021, Governor Newsom signed AB 361 as urgency legislation, effective immediately, which provides that legislative bodies may continue to meet remotely during a declared State of Emergency subject to certain conditions; and

**WHEREAS**, social distancing measures decrease the chance of spread of COVID-19; and

**WHEREAS**, Government Codes 54954 (E)(3) authorizes the Board of Directors to continue to conduct remote, virtual meetings provided that it has timely make the findings specified therein;

**THEREFORE, IT IS RESOLVED**, by the Board of Directors of the MCCSD as follows:

1. This Board of Directors declares that it has considered the circumstances of the state of emergency declared by the Governor and at least one of the following is true:
  - a. the state of emergency continues to directly impact the ability of the members of this Board to meet safely in person; and/or
  - b. state or local officials continue to impose or recommend measures to promote social distancing.
2. The Mendocino City Community Services District will continue to hold virtual meetings pursuant to AB 361

**PASSED AND ADOPTED** by the Board of Directors of the Mendocino City Community Services District at a Regular Meeting on December 12, 2022 by the following vote:

**ROLL CALL VOTE: AYES:**

**NOES:**

**ABSENT:**

**ATTEST:**

\_\_\_\_\_  
Katie Bates, Board Secretary

\_\_\_\_\_  
Dennak Murphy, Board President

## Memo

**To:** MCCSD Board of Directors  
**From:** District Superintendent  
**cc:** Jim Jackson  
**Date:** December 7, 2022  
**Re:** Groundwater Management Report

### The 2022-23 Rain Year

October 1, 2022 was the beginning of the 2022-23 rain year. Average annual precipitation in Mendocino is 39.72 inches, and average rainfall in December is 7.15" inches. 0.83" inches of rainfall has been measured in the District for the month as of December 7, 2022 (Figure 1, Table 1).

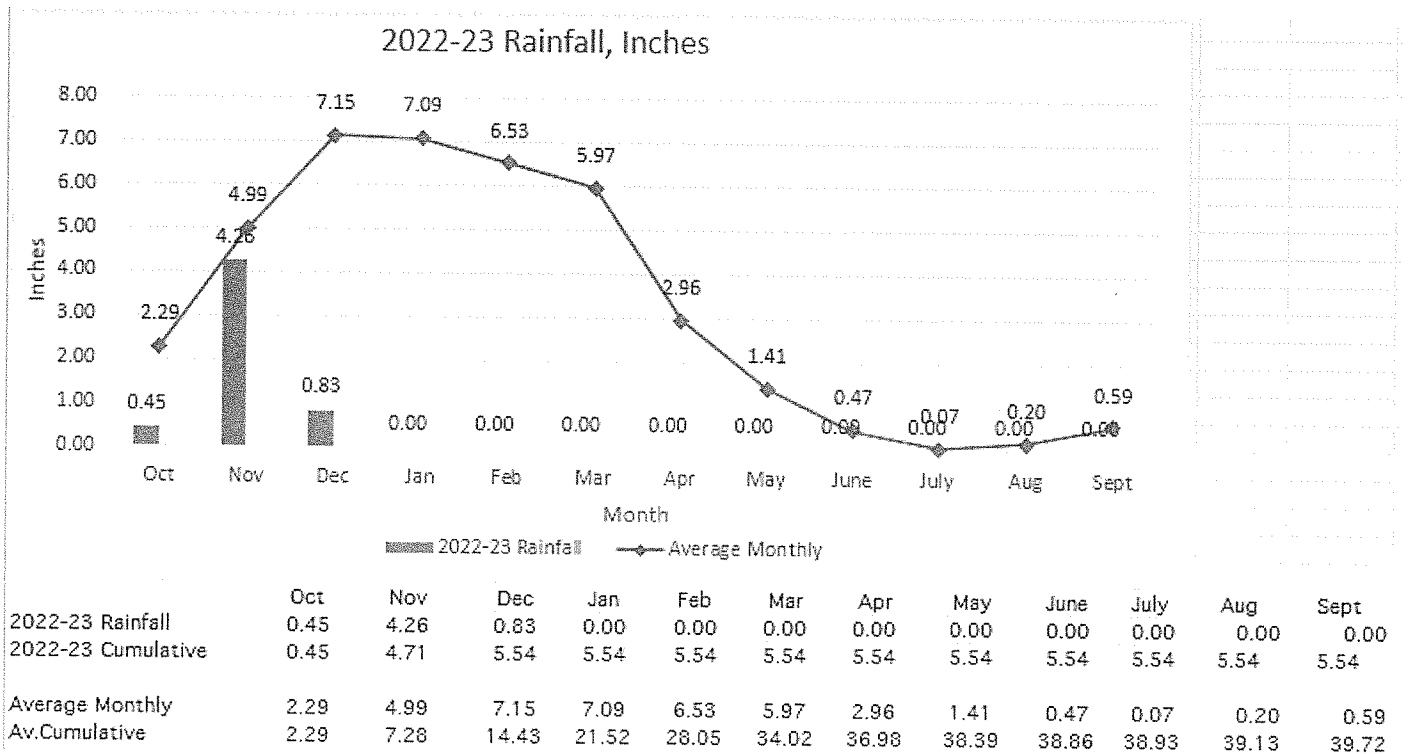


Figure 1, Table 1

Table 1 2022-23 Rainfall Record

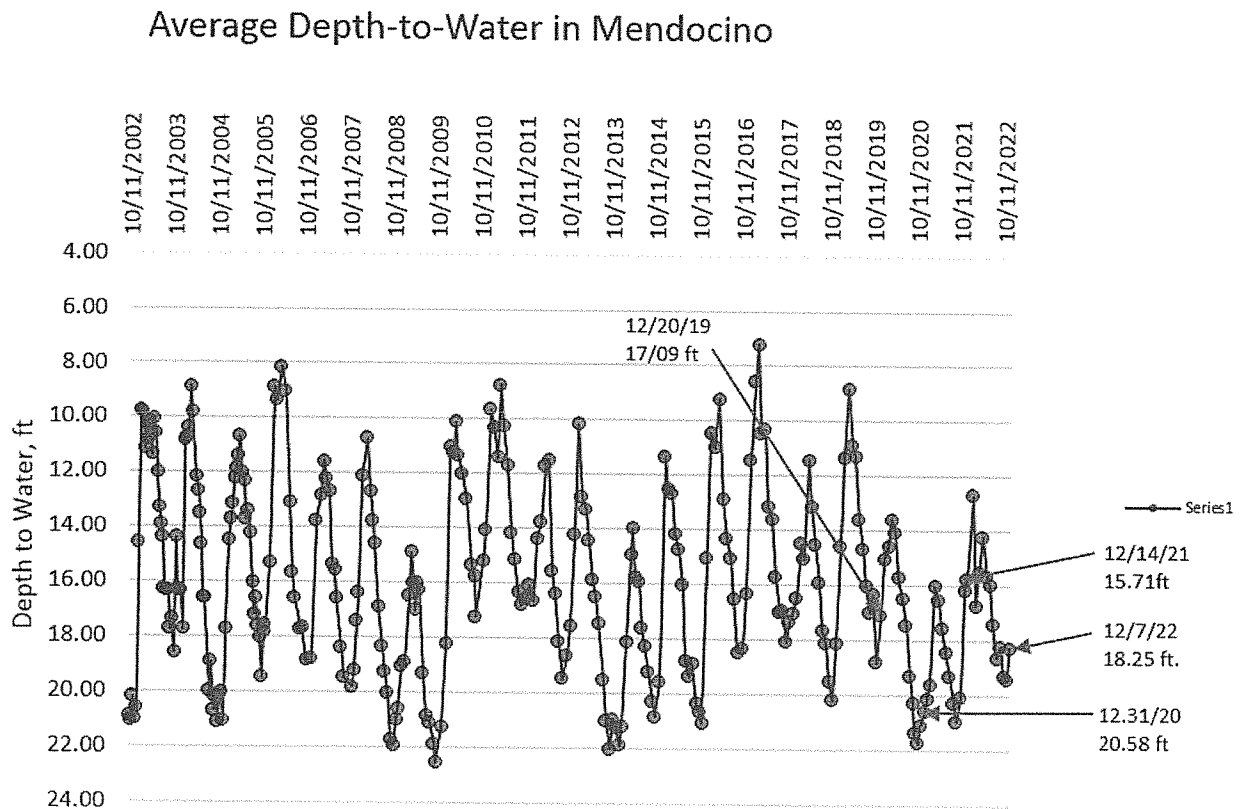
Total Rainfall for Rain Year 2021-22 was 33.82 inches. Mendocino received 85% of normal annual rainfall during the last water year. By December 7, 2022, total rainfall since October 1, 2022 was 5.54 inches, 13.9% of average annual rainfall.

| <b>DAILY TOTAL RAINFALL</b>            |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
|--|------|------|------|------|------|------|---------------------------|------|------|------|------|--------------------------|----------------------------|
| 2022-23                                |      |      |      |      |      |      |                           |      |      |      |      | <i>Elevation 72 Feet</i> |                            |
| Data From : Community Service District |      |      |      |      |      |      |                           |      |      |      |      | <i>Latitude 39.306°</i>  |                            |
| Day                                    | Oct  | Nov  | Dec  | Jan  | Feb  | Mar  | Apr                       | May  | Jun  | Jul  | Aug  | Sep                      | <i>Longitude -123.000°</i> |
| 1                                      |      | 0.05 | 0.03 |      |      |      |                           |      |      |      |      |                          |                            |
| 2                                      |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 3                                      |      | 0.02 | 0.19 |      |      |      |                           |      |      |      |      |                          |                            |
| 4                                      | 0.02 | 0.68 | 0.30 |      |      |      |                           |      |      |      |      |                          |                            |
| 5                                      | 0.01 | 0.07 | 0.31 |      |      |      |                           |      |      |      |      |                          |                            |
| 6                                      | 0.01 | 0.53 |      |      |      |      |                           |      |      |      |      |                          |                            |
| 7                                      |      | 0.83 |      |      |      |      |                           |      |      |      |      |                          |                            |
| 8                                      |      | 0.13 |      |      |      |      |                           |      |      |      |      |                          |                            |
| 9                                      |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 10                                     | 0.03 | 0.01 |      |      |      |      |                           |      |      |      |      |                          |                            |
| 11                                     | 0.02 | 0.11 |      |      |      |      |                           |      |      |      |      |                          |                            |
| 12                                     | 0.02 | 0.03 |      |      |      |      |                           |      |      |      |      |                          |                            |
| 13                                     | 0.02 | 0.04 |      |      |      |      |                           |      |      |      |      |                          |                            |
| 14                                     |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 15                                     |      | 0.02 |      |      |      |      |                           |      |      |      |      |                          |                            |
| 16                                     | 0.01 |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 17                                     | 0.01 |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 18                                     | 0.02 |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 19                                     |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 20                                     |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 21                                     | 0.05 |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 22                                     |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 23                                     |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 24                                     | 0.02 |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 25                                     |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 26                                     |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 27                                     |      | 0.04 |      |      |      |      |                           |      |      |      |      |                          |                            |
| 28                                     |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 29                                     |      |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| 30                                     |      | 1.70 |      |      |      |      |                           |      |      |      |      |                          |                            |
| 31                                     | 0.21 |      |      |      |      |      |                           |      |      |      |      |                          |                            |
| Sum                                    | 0.45 | 4.26 | 0.83 | 0.00 | 0.00 | 0.00 | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00                     | 0.00                       |
| Count                                  | 13   | 14   | 4    | 0    | 0    | 0    | 0                         | 0    | 0    | 0    | 0    | 0                        | 0                          |
| Max                                    | 0.21 | 1.70 | 0.31 | 0.00 | 0.00 | 0.00 | 0.00                      | 0.00 | 0.00 | 0.00 | 0.00 | 0.00                     | 0.00                       |
| Rainy Days                             |      | 31   |      |      |      |      |                           |      |      |      |      |                          |                            |
| Maximum Daily Rainfall                 |      |      |      | 1.70 |      |      |                           |      |      |      |      |                          |                            |
|  |      |      |      |      |      |      | Water year Total Rainfall |      |      |      |      | 5.54                     |                            |

December 2022 Depth-to-Water (DTW)

The average DTW measurements District-wide in the 24 monitoring wells on December 6, 2022 was 18.25 ft; about 1.2 ft better than November 2022, about 2.5 ft worse than December of 2021, and about 2.25 ft. better than December of 2020. Compared to a good rain year like 2019, which received 45.64" inches, the average depth to water is currently about 1.14 ft. below normal for the month.

Figure 2 December 2022, Depth-To-Water Chart



The average depth-to-water reported from the five drought monitoring wells on November 30, as an interim evaluation date in WSCP was reported at 22.97 ft.

The MCCSD Board declared that a State 2 water shortage existed within its boundaries on September 26, 2022, based the Water Shortage Contingency Plan and average depth to water recorded in the five drought monitoring wells as of August 31, 2022. November 30 represents the next Water Shortage evaluation date. At that time depth to water measurements showed an average of 22.97ft. and rainfall totals were 3.01" inches. Based on these measurements, the water shortage contingency plan recommends maintaining the Stage 2 Water Shortage at this time. December 31, 2022 represents the next evaluation date.



## ORDINANCE NO. 2022-1

### ORDINANCE OF MENDOCINO CITY COMMUNITY SERVICES DISTRICT MONTHLY SEWER SERVICE CHARGES

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**WHEREAS**, the monthly sewer service charges as set forth in Ordinance No. 74-1, have been amended by Ordinances 75-2, 78-1, 79-2, 81-1, 87-1, 88-1, 88-3, 88-6, 91-4, 91-5, 93-1, 95-1, 97-3, 00-3, 03-1, 04-2, 05-1, 08-1, 11-2, 15-1; and

**WHEREAS**, 40 CFR 35.929-1(a) requires that the District's user charge system is based on actual or estimated wastewater volume per user or user group, and that each user group shall pay its proportionate share of operation and maintenance (including replacement) costs of the treatment works based on the proportionate contribution to the total wastewater loading from each user group; and

**WHEREAS**, in accordance with the Federal Clean Water Act, all users in the MCCSD are required to pay their proportionate cost of operation and maintenance (including replacement) of any waste treatment services provided by the District; and

**WHEREAS**, the District is required to share the costs of operating and maintaining the District's wastewater treatment facilities equitably among each user group within the District; and

**WHEREAS**, the District has adopted the concept of the Equivalent Single-Family Dwelling (ESD), which is based on a 1-or 2- bedroom residential unit placing a theoretical load on the District wastewater treatment system of 200 gallons per unit per day or one ESD; and

**WHEREAS**, other uses are rated a fraction or multiple of one ESD based on their estimated load on the District's wastewater treatment system; and

**WHEREAS**, the Board of Directors believes that treating user groups the same for treating the same volume of usage is equitable and brings parity to the system; and

**WHEREAS**, to distinguish among user groups, the District has established Sewer Service Charge Definitions (as attached in Exhibit A, which is hereby incorporated by reference); and

**WHEREAS**, to equitably distribute the District's operation and maintenance costs among user groups, the District has developed a User Category Index, which lists various types of uses and their estimated impact on the District's facilities (as attached in Exhibit B, which is hereby incorporated by reference); and

**WHEREAS**, the District may amend the User Category Index to establish the impact of a new use or to clarify the impact on loading by an existing user group on the District's wastewater treatment facilities, and to calculate new and existing user groups' monthly sewer service charges.

The Board of Directors of the Mendocino City Community Services District hereby **ORDAINS AS FOLLOWS:**

1. The \$50.60 baseline residential or Equivalent Single-Family Dwelling (ESD) Monthly Sewer Service Charge as established in Ordinance No. 15-1, shall be increased to \$67.30 for the remainder of Fiscal Year (FY) 2022-23 (Feb 1 to June 30, 2023), \$77.39 for FY 2023-24, \$86.68 for FY 2024-25, \$91.88 for FY 2025-26, and \$97.39 for FY 2026-27 following adoption of Ordinance 2022-1.

2. The District shall have the same enforcement powers and remedies for the collection of these fees as it has for the collection of other monthly fees.

3. This Ordinance shall be published once in the Mendocino Beacon, a newspaper of general circulation published within the District. This ordinance shall take effect thirty (30) days from the date of adoption.

This Ordinance was first introduced at a regular meeting of the Board of Directors on November 28, 2022, reintroduced at a Special Meeting held December 5, 2022, and finally adopted by the Board of Directors on \_\_\_\_\_ by the following vote:

AYES:

NOES:

ABSENT:

ATTEST:

\_\_\_\_\_  
Katie Bates, District Secretary

\_\_\_\_\_  
Dennak Murphy, Board President

## Exhibit A

### Sewer Service Charge Definitions

**Additional Residence** shall mean occupancy, by non-transient residents, of a second dwelling unit on a parcel, attached to or detached from the primary residence or commercial business, with provisions for, sleeping, eating, cooking, and sanitation. Typical uses include an apartment or studio.

**Bar** shall mean an establishment or place of business primarily engaged in the sale of prepared food or beverages for on-premises consumption.

**Bed & Breakfast** shall mean any building or portion thereof or group of buildings containing no more than four (4) dwelling units or sleeping units, which are designed or intended to be used, let, or hired out for occupancy by transient guests for compensation or profit, with the express permission of the owner, wherein breakfast may be provided for compensation or profit.

**Cottage Industry** shall mean a secondary use of a parcel containing a Single Family Residence, which is the primary residence of the owner or operator of the Cottage Industry. No Cottage Industry may occupy more than 640 square feet of area within any building or buildings on the same parcel and not more than 10 customers or clients shall come to the parcel for service or products during any one-day. Specific standards are:

1. Not more than one (1) outside person may be employed on the premises in addition to the members of the family residing on the premises;
2. The Cottage Industry shall be a secondary use of a parcel containing a Single Family Residence or Dwelling Unit as a principal residence of the owner or operator of the Cottage Industry.
3. No Cottage Industry permitted pursuant to the Ordinance may occupy more than 640 square feet of area within any building or buildings on the same parcel.
4. Not more than ten (10) customers or clients shall come to the residence for service or products during any one day.

**Detached Bedroom** shall mean a living space for family members of the regular occupants of the primary residence, and that has independent provisions for sleeping within the detached structure, but lacks provisions for cooking and eating or sanitation.

**Dwelling Unit** shall mean a living space, which provides independent living facilities for one or more persons, including provisions for sleeping, eating, cooking, and sanitation.

**Equivalent Single-Family Dwelling (ESD)** shall mean the theoretical load from a 1-2 bedroom single-family residence on the District's wastewater treatment system of 200 gallons per day or one ESD.

**Food and Beverage Establishments** shall mean:

- 1) Full Service w/ Bar Eating and drinking establishments or places of business engaged in the sale of prepared food and beverages for on-premises consumption with a bar and full service.
- 2) Full Service w/o Bar: Eating and drinking establishments or places of business engaged in the sale of prepared food and beverages for on-premises consumption without a bar and with full service.
- 3) No Service: Eating and drinking establishments or places of business engaged in the sale of prepared food and beverages for on-premises consumption with seating and no dish washing and no service.
- 4) No On-Premise Consumption: Eating and drinking establishments or places of business engaged in the sale of prepared food and beverages, and in which no consumption of the product occurs on the premises.

**Gallery** shall mean an establishment that engages in the retail sale of art or specialty items.

**Guest Cottage** shall mean a living space without provisions for cooking, with provisions for sleeping, and sanitation, and where the person or persons are guest(s) of the regular occupants of the primary residence.

**Home Occupation** shall mean an accessory use within a Single Family Residence for gainful employment, which involves the manufacture, provision or sale of goods and /or services, where such uses are clearly incidental and secondary to the use of the Single Family Residence for residential purposes, and must not change the character thereof, or adversely affect the residential or rural nature of its surroundings. Specific Standards are:

1. No person other than members of the family residing on the premises shall be engaged in such occupation;
2. No additional water or sewer demands will be created by the use;
3. The Home Occupation shall be incidental and subordinate to its use for residential purposes and not more than 25 % of the floor area of the residence shall be used for such occupation. Use of any accessory building or garage for these purposes shall be prohibited.
4. No more than ten (10) customers or clients shall come to the residence for service or products in any one day.

**Hotel** shall mean any building or portion thereof containing five (5) or more dwelling units or sleeping units each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit wherein meals may be provided for compensation or profit.

**Inn** shall mean any building or portion thereof or group of buildings containing five (5) or more dwelling units or sleeping units each used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit, and where regular meals may be provided for compensation or profit.

**Motel** shall mean any building or portion thereof or group of buildings containing five (5) or more dwelling units or sleeping units where such units are directly accessible from an outdoor parking area and where each is used, designed or intended to be used, let or hired out for occupancy by transient guests for compensation or profit.

**Office** shall mean private firms or organizations, which are primarily used for the provision of professional, executive, management, or administrative services.

**Personal Services** shall mean an establishment or place of business primarily engaged in the provision of services of a personal nature. Typical uses include: beauty salon, barbershop, massage studio, or dance studio.

**Retail Store** shall mean a business that is engaged in the sale or rental of commonly used goods and merchandise for personal or household use.

**Single Family Residence** shall mean the occupancy of the primary residential unit of a parcel on a non-transient basis, and the dwelling unit shall provide provisions for sleeping, eating, cooking, and sanitation.

**Single Unit Rental** shall mean the rental of an attached or detached structure (not the primary residence or business) on a parcel for Visitor Accommodations for transient guests for compensation or profit (30 days or less), and shall provide provisions for sleeping, sanitation, and with or without eating and cooking.

**Sleeping Unit** shall mean a living space, which provides living facilities for one or more persons, but does not include provisions for cooking and eating within the unit.

**Vacation Home Rental** shall mean the rental of Single Family Residence for 30 days or less where the only use on the property is for Visitor Accommodations, to be let or hired as an entire unit for occupancy by transient guests for compensation or profit, and limited to one unit per parcel.

**Veterinary Clinic** shall mean an establishment or place of business primarily engaged in the provision of medical, diagnostic, surgical, dental, and therapeutic services to pet, companion, domestic, exotic, wildlife, and livestock animals.

**Visitor Accommodations** shall mean establishments engaged in the provision of lodging services on a less than monthly basis, which may provide incidental food and drink intended for the convenience of the guests.

## Exhibit B User Category Index

1-2 Bedroom Residential ESD = 200 gal/day

| Category number | User Category                            | ESD/Unit | Gal/Unit Loading | Unit Description                          |
|-----------------|--|----------|------------------|---|
|                 | <b>Residential:</b>                      |          |                  |   |
| 1               | Residence w/ 1-2 bedrooms                | 1.0      | 200              | gal/d per 1-2 bdr. residence              |
|                 | Each additional bedroom                  | 0.3      | 60               | gal/d per additional bedroom              |
| 2               | Apartment                                | 1.0      | 200              | gal/d per 1-2 bdr. residence              |
| 3               | Guest Cottage                            | 0.5      | 100              | gal/d per unit                            |
| 4               | Sleeping Unit                            | 0.6      | 120              | gal/d per unit                            |
|                 | <b>Commercial Visitor Accommodation:</b> |          |                  |   |
| 5               | Vac. Home or Single Unit Rental          | 1.0      | 200              | gal/d per unit                            |
|                 | <b>Inns, Hotels, B&amp;B's, Motel</b>    |          |                  |   |
| 6               | Dwelling Unit, w/ kit.                   | 0.8      | 160              | gal/d per unit                            |
| 7               | Dwelling Unit, w/ kit., laundry          | 1.0      | 200              | gal/d per unit                            |
| 8               | Sleeping Unit w/o kit.                   | 0.6      | 120              | gal/d per unit                            |
| 9               | Sleeping Unit w/o kit., laundry          | 0.8      | 160              | gal/d per unit                            |
|                 | <b>Commercial Business:</b>              |          |                  |   |
|                 | <b>Cottage Ind./Home Occupation</b>      |          |                  |   |
| 10              | Residence                                | 1.0      | 200              | gal/d per residence                       |
| 11              | Business Portion of Residence            | 0.00075  | 0.15             | gal/d/ft <sup>2</sup>                     |
| 12              | <b>Retail Store/Gallery/Office</b>       | 0.00075  | 0.15             | gal/ft <sup>2</sup>                       |
| 13              | <b>Library</b>                           | 1.0      | 200              | gal/d per unit                            |
|                 | <b>Food and Beverage Establishments</b>  |          |                  |   |
| 14              | Full Service w/ bar                      | 0.017    | 3.4              | gal/d/ft <sup>2</sup> dining area         |
| 15              | Full Service w/o bar                     | 0.0145   | 2.9              | gal/d/ft <sup>2</sup> dining area         |
| 16              | No Service, w/seats, no dish washing     | 0.0105   | 2.1              | gal/d/ft <sup>2</sup> dining area         |
| 17              | No On-Premise Consumption                | 0.0105   | 2.1              | gal/d/ft <sup>2</sup> work area           |
|                 | <b>Bar</b>                               |          |                  |   |
| 18              | Bar area, per linear foot                | 0.0335   | 6.7              | gal/d/linear ft of bar                    |
| 19              | Patron area                              | 0.007    | 1.4              | gal/d/ft <sup>2</sup> patron area         |
| 20              | <b>Laundromat</b>                        | 2        | 400              | gal/d/machine                             |
| 21              | <b>Service Station/Garage</b>            | 5.0      | 1,000            | gal/d/service station                     |
| 22              | <b>Grocery Store</b>                     | 0.001    | 0.2              | gal/d/ft <sup>2</sup> display & work area |

| Exhibit B User Category Index |                                     |          |                  |   |
|-------------------------------|-------------------------------------|----------|------------------|---|
| Category number               | User Category                       | ESD/Unit | Gal/Unit Loading | Unit Description                          |
|                               | <b>Commercial Business:</b>         |          |                  |   |
|                               | <b>Churches</b>                     |          |                  |   |
| 23                            | Church w/ kit.                      | 0.025    | 5                | gal/d/seat                                |
| 24                            | Church w/o kit.                     | 0.015    | 3                | gal/d/seat                                |
|                               |                                     |          |                  |   |
| 25                            | <b>Hall/ Auditorium</b>             | 0.015    | 3                | gal/d/seat                                |
| 26                            | <b>Theater</b>                      | 0.025    | 5                | gal/d/seat                                |
|                               |                                     |          |                  |   |
|                               | <b>School:</b>                      |          |                  |   |
| 27                            | MUSD/ Rainbow School                | 0.075    | 15               | gal/d/student                             |
|                               |                                     |          |                  |   |
| 28                            | <b>Government Office/ Building</b>  | 0.00075  | 0.15             | gal/d/ft <sup>2</sup> office or work area |
|                               |                                     |          |                  |   |
|                               | <b>Personal Services</b>            |          |                  |   |
| 29                            | <b>Hair Salons</b>                  | 0.005    | 1                | gal/d/ft <sup>2</sup> work area           |
| 30                            | <b>Hot Tubs</b>                     | 0.0075   | 1.5              | gal/d/ft <sup>2</sup> work area           |
|                               |                                     |          |                  |   |
|                               | <b>Miscellaneous:</b>               |          |                  |   |
|                               |                                     |          |                  |   |
| 32                            | <b>Ballpark</b>                     | 4        | 800              | gal/d per unit                            |
| 33                            | <b>Mendo. Coast Park &amp; Rec.</b> | 0.00075  | 0.15             | gal/d/ft <sup>2</sup>                     |
| 34                            | <b>State Park</b>                   | 40.00    | 8,000            | gal/d                                     |
| 35                            | <b>MFPD Station</b>                 | 1        | 200              | gal/d per station                         |
| 36                            | <b>Veterinary Clinic</b>            | 0.0039   | 0.77             | gal/d/ft <sup>2</sup>                     |

Other uses not defined herein shall be determined by the Board of Directors.

**ORDINANCE NO. 2022-2**

**ORDINANCE OF MENDOCINO CITY COMMUNITY SERVICES DISTRICT  
MONTHLY GROUNDWATER MANAGEMENT CHARGES**

**WHEREAS** the Mendocino City Community Services District (District) has legal responsibility to manage groundwater resources (GWM) within the District pursuant to California Water Code Section 10700 et seq.; and

**WHEREAS** the District incurs costs for groundwater management activities; and

**WHEREAS** the District has imposed a Charge for Groundwater Management that shall apply to all developed parcels within the District that extract groundwater from privately owned well(s) or receive water extracted from mutual water company well(s); and

**WHEREAS**, the Charge for Groundwater Management is based on parcel use as established by the Sewer Service Charge Definitions, and calculated from the User Category Index as set forth in the Monthly Sewer Service Charges Ordinance; and

**WHEREAS**, the District has adopted the equivalent single-family dwelling (ESD) concept for calculating both parcel sewer service and groundwater management charges; and

**WHEREAS**, one (1) ESD of sewer use and one (1) ESD of water demand are equivalent to an estimated flow of 200 gallons per day; and

**WHEREAS**, other parcel uses are rated a fraction or multiple of the one (1) ESD baseline water demand for a two-bedroom single-family residence; and

**WHEREAS**, the Board of Directors believes that the ESD concept for determining groundwater management charges is a reasonable and equitable method for establishing proportionate groundwater management charges for all District parcel uses; and

**WHEREAS**, total groundwater management costs per year have ranged from \$218,500 to \$426,000, and \$3.5 million in upgrades are also needed. Staff time spent on groundwater management over the past 3 years has been approximately \$176,000 per year, as 80% of staff time is spent on groundwater management. Recycled water costs add an average of \$20,000 per year, bringing this total to \$196,000. In addition, groundwater management requires \$3.5 million in necessary upgrades which have not yet been made. In addition, the yearly cost of professional consultants such as hydrologists, engineers, and lawyers ranges from \$20,000 to \$200,000 per year, bringing the total, without the 3.5 million in necessary upgrades, to \$216,000-\$396,000. Publications, mailings, and educational material costs range from \$2,500-\$30,000 per year, bringing the total, not including the \$3.5 million in upgrades needed, to \$218,500--\$426,000/year. Currently MCCSD generates only \$130,000 from GWM fees. The proposed



increase would bring the total generated to approximately \$260,000 per year after 5 years, which will still be less than the actual estimated total cost of groundwater management.

**WHEREAS**, the sum of all groundwater management charges Districtwide does not collectively exceed the cost for regulating the District’s groundwater resources, and the charges bear a fair and reasonable relationship to the benefits received by property owners for groundwater management activities.

The Board of Directors of the Mendocino City Community Services District hereby **ORDAINS AS FOLLOWS**:

1. The monthly one (1) ESD single-family residence baseline Charge for Groundwater Management as established in Ordinance 18-3 and listed in Fee Schedule Ordinances 19-1 and 20-03 shall be increased to \$15.09 for the remainder of Fiscal Year (FY) 2022-23 (February 1 to June 30, 2023), \$17.35 in FY 2023-24, \$19.43 in FY 2024-25, \$20.60 in FY 2025-26, and \$21.84 by FY 2026-27. The Charge for Groundwater Management shall be computed for other parcel uses as a fraction or multiple of the one (1) ESD baseline Charge for Groundwater Management. The Charge for Groundwater Management shall apply to all developed parcels located within the District boundary that extract groundwater from privately owned well(s) or receive water extracted from mutual water company well(s).

2. The Charge for Groundwater Management for a developed parcel shall be based on the estimated water demand for all parcel uses as established by the Water Use Standard Definitions and calculated from the Water Use Standard (as attached in Exhibit A, which is hereby incorporated by reference) and as set forth in the Groundwater Extraction Permit Ordinance, 2020-01.

3. The District shall have the same enforcement powers and remedies for the collection of these fees as it has for the collection of other monthly fees.

4. This Ordinance shall be published once in the Mendocino Beacon, a newspaper of general circulation published within the District. This charge shall take effect thirty (30) days from the date of adoption.

This Ordinance was first introduced at a regular meeting of the Board of Directors on November 28, 2022, reintroduced at a Special Meeting held December 5, 2022, and finally adopted by the Board of Directors on \_\_\_\_\_ by the following vote:

- AYES:
- NOES:
- ABSENT:

ATTEST:

\_\_\_\_\_  
Katie Bates  
District Secretary

\_\_\_\_\_  
Dennak Murphy  
Board President

## Exhibit A Water Use Standard

1-2 Bedroom Residential ESD = 200 gal/day

| Category number | User Category                            | ESD/Unit | Gal/Unit | Unit Description                          |
|-----------------|--|----------|----------|---|
|                 | <b>Residential:</b>                      |          |          |   |
| 1               | Residence w/ 1-2 bedrooms                | 1.0      | 200      | gal/d per 1-2 bdr. residence              |
|                 | Each additional bedroom                  | 0.3      | 60       | gal/d per additional bedroom              |
| 2               | Apartment                                | 1.0      | 200      | gal/d per 1-2 bdr. residence              |
| 3               | Guest Cottage                            | 0.5      | 100      | gal/d per unit                            |
|                 | <b>Commercial Visitor Accommodation:</b> |          |          |   |
| 4               | Sleeping Unit                            | 0.6      | 120      | gal/d per unit                            |
| 5               | Vac. Home or Single Unit Rental          | 1.0      | 200      | gal/d per 1-2 bdr unit                    |
|                 | Each additional bedroom                  | 0.3      | 60       | gal/d per additional bedroom              |
|                 | <b>Inns, Hotels, B&amp;B's, Motel</b>    |          |          |   |
| 6               | Dwelling Unit, w/ kit.                   | 0.8      | 160      | gal/d per unit                            |
| 7               | Dwelling Unit, w/ kit., laundry          | 1.0      | 200      | gal/d per unit                            |
| 8               | Sleeping Unit w/o kit.                   | 0.6      | 120      | gal/d per unit                            |
| 9               | Sleeping Unit w/o kit., laundry          | 0.8      | 160      | gal/d per unit                            |
|                 | <b>Commercial Business:</b>              |          |          |   |
|                 | <b>Cottage Ind./Home Occupation</b>      |          |          |   |
| 10              | Residence                                | 1.0      | 200      | gal/d per residence                       |
| 11              | Business Portion of Residence            | 0.00075  | 0.15     | gal/d/ft <sup>2</sup>                     |
| 12              | <b>Retail Store/Gallery/Office</b>       | 0.00075  | 0.15     | gal/ft <sup>2</sup> work or display area  |
| 13              | <b>Library</b>                           | 1.0      | 200      | gal/d per unit                            |
|                 | <b>Food and Beverage Establishments</b>  |          |          |   |
| 14              | Full Service w/ bar                      | 0.017    | 3.4      | gal/d/ft <sup>2</sup> dining area         |
| 15              | Full Service w/o bar                     | 0.0145   | 2.9      | gal/d/ft <sup>2</sup> dining area         |
| 16              | No Service, w/seats, no dish washing     | 0.0105   | 2.1      | gal/d/ft <sup>2</sup> dining area         |
| 17              | No On-Premise Consumption                | 0.0105   | 2.1      | gal/d/ft <sup>2</sup> work area           |
|                 | <b>Bar</b>                               |          |          |   |
| 18              | Bar area, per linear foot                | 0.0335   | 6.7      | gal/d/linear ft of bar                    |
| 19              | Patron area                              | 0.007    | 1.4      | gal/d/ft <sup>2</sup> patron area         |
| 20              | <b>Laundromat</b>                        | 2        | 400      | gal/d/machine                             |
| 21              | <b>Service Station/Garage</b>            | 5.0      | 1,000    | gal/d/service station                     |
| 22              | <b>Grocery Store</b>                     | 0.001    | 0.2      | gal/d/ft <sup>2</sup> display & work area |

| Exhibit A Water Use Standard |                                     |          |          |   |
|------------------------------|-------------------------------------|----------|----------|---|
| Category number              | User Category                       | ESD/Unit | Gal/Unit | Unit Description                          |
|                              | <b>Commercial Business:</b>         |          |          |   |
|                              | <b>Churches</b>                     |          |          |   |
| 23                           | Church w/ kit.                      | 0.025    | 5        | gal/d/seat                                |
| 24                           | Church w/o kit.                     | 0.015    | 3        | gal/d/seat                                |
|                              |                                     |          |          |   |
| 25                           | <b>Hall/ Auditorium</b>             | 0.015    | 3        | gal/d/seat                                |
| 26                           | <b>Theater</b>                      | 0.025    | 5        | gal/d/seat                                |
|                              |                                     |          |          |   |
|                              | <b>School:</b>                      |          |          |   |
| 27                           | <b>Rainbow School</b>               | 0.075    | 15       | gal/d/student                             |
|                              |                                     |          |          |   |
| 28                           | <b>Government Office/ Building</b>  | 0.00075  | 0.15     | gal/d/ft <sup>2</sup> office or work area |
|                              |                                     |          |          |   |
|                              | <b>Personal Services</b>            |          |          |   |
| 29                           | <b>Hair Salons</b>                  | 0.005    | 1        | gal/d/ft <sup>2</sup> work area           |
| 30                           | <b>Hot Tubs</b>                     | 0.0075   | 1.5      | gal/d/ft <sup>2</sup> work area           |
|                              |                                     |          |          |   |
|                              | <b>Miscellaneous:</b>               |          |          |   |
| 31                           |                                     |          |          |   |
| 32                           | <b>Ballpark</b>                     | 4        | 800      | gal/d per unit                            |
| 33                           | <b>Mendo. Coast Park &amp; Rec.</b> | 0.00075  | 0.15     | gal/d/ft <sup>2</sup>                     |
| 34                           | <b>Headlands State Park</b>         | 10.00    | 2,000    | gal/d                                     |
| 35                           | <b>MFPD Station</b>                 | 1        | 200      | gal/d per station                         |
| 36                           | <b>Veterinary Clinic</b>            | 0.0039   | 0.77     | gal/d/ft <sup>2</sup>                     |

Other uses not defined herein shall be determined by the Board of Directors.

## Memo

**To:** MCCSD Board  
**From:** District Superintendent  
**cc:** Jim Jackson  
**Date:** December 7, 2022  
**Re:** Board Member Roles and Responsibilities

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As we finish the calendar year with the start of a new Board it is important that we review the roles and responsibilities of Directors and those of staff.

One of the most important roles of a Director is understanding that the Board is a team and you need to work together as such.

Effective Board members recognize that the board, not the individual board member, govern the District –the authority of any one board member rests only with the board as a whole not the individual Director. Establishing trust and treating other Directors and staff with respect is very important. Operating in a transparent fashion, while keeping confidential information confidential, is important.

The Board hires, supports, and evaluates the Superintendent. The Superintendent is the executive officer of the District and the Board, responsible for day to day management, and maintains exclusive management and control of the operations within state law and policies of the Board.

Every District Board member is required by law to complete ethics training and sexual harassment prevention training within one year of your first day, and at least once every two years thereafter.

We also recommend and highly encourage a Brown Act training and conflict of interest training. All Directors are required to complete form 700 on an annual basis.

The District has a set of Governance Guidelines which outline the mission of the Board, and can be used as reference in guiding your actions. One duty of the Board is to set direction for the District and this can be done by creating and updating documents such as the governance guidelines.

According to the California Special District Association, the five primary responsibilities of the Board include

- 1) Setting direction for the District. Current District direction, authority, and responsibility is to effectively manage the sewer treatment and collections system, to manage groundwater extraction to prevent aquifer overdraft, and to manage the street lighting. Recently the District

has added a commitment to build water resiliency and continue to engage the community in the discussion on water resiliency.

- 2) Reviewing and creating District policies, such as financial policies, personnel policies, etc.
- 3) Overseeing the financial resources of the District. To that end, after more than a year of hard work, studies, debate, and public input, the Board will be voting tonight on two proposed ordinances to set rates for monthly sewer service and groundwater management charges. It is vital that the District plan for the financial future, and raise rates to meet operating expenses and create reserves. The previous Board started the process and it is the duty of this board to continue it. The recent protest vote and public hearing has shown that 90% of District property owners support both proposed rate increase. Financial planning and oversight a primary function and duty of the Board.
- 4) Guiding employee relations by supporting and assessing the Superintendent. Reviewing, updating, and approving personnel policies as needed. The Board completed part of this duty by reviewing and assessing the Superintendent's performance in November of 2022. Future evaluations should have a target date near the end of September or early October. Staff started working on updates to the Personnel Manual in September of 2020 but the progress stalled in Committee. It is important that we resume the process and continue with proposed updates.
- 5) Serve as community leaders who communicate effectively on behalf of the District. The actions and conduct of Board members reflects on the District and the community. It is important to distinguish in public when you are speaking as an individual or on behalf the Board. Even in your personal lives, the behaviors of Directors can impact the perception of the District. Directors need to lead by example in following District rules and regulations.

Your understanding of roles and responsibilities played by Directors will continue to develop with time and training, but this is meant as a guide to help you get started.



## Summary of the Major Provisions and Requirements of the Ralph M. Brown Act

The Ralph M. Brown Act is California's "sunshine" law for local government. It is found in the California Government Code beginning at Section 54950. In a nutshell, it requires local government business to be conducted at open and public meetings, except in certain limited situations. The Brown Act is based upon state policy that the people must be informed so they can keep control over their government.

### A. Application of the Brown Act to "Legislative Bodies"

The requirements of the Brown Act apply to "legislative bodies" of local governmental agencies. The term "legislative body" is defined to include the governing body of a local agency (e.g., the city council) and any commission, committee, board or other body of the local agency, whether permanent or temporary, decision-making or advisory, that is created by formal action of a legislative body (Section 54952).

Standing committees of a legislative body, which consist solely of less than a quorum of the body, are subject to the requirements of the Act. Some common examples include the finance, personnel, or similar policy subcommittees of the city council or other city legislative body that have either some "continuing subject matter jurisdiction" or a meeting schedule fixed by formal action of the legislative body. Standing committees exist to make routine and regular recommendations on a specific subject matter, they survive resolution of any one issue or matter, and are a regular part of the governmental structure.

The Brown Act does not apply to *ad hoc* committees consisting solely of less than a quorum of the legislative body, provided they are composed solely of members of the legislative body and provided that these *ad hoc* committees do not have some "continuing subject matter jurisdiction," and do not have a meeting schedule fixed by formal action of a legislative body. Thus, *ad hoc* committees would generally serve only a limited or single purpose, they are not perpetual and they are dissolved when their specific task is completed.

Standing committees may, but are not required to, have regular meeting schedules. Even if such a committee does not have a regular meeting schedule, its agendas should be posted at least 72 hours in advance of the meeting (Section 54954.2). If this is done, the meeting is considered to be a regular meeting for all purposes. If not, the meeting must be treated as a special meeting, and all of the limitations and requirements for special meetings apply.

The governing boards of private entities are subject to the Brown Act if either of the following applies: (i) the private entity is created by an elected legislative body to exercise lawfully delegated authority of the public agency, or (ii) the private entity receives funds from the local agency and the private entity's governing body includes a member of the legislative body who was appointed by the legislative body (Section 54952).

The Brown Act also applies to persons who are elected to serve as members of a legislative body of a local agency who have not yet assumed the duties of office (Section 54952.1). Under this provision, the Brown Act is applicable to newly elected, but not-yet-sworn-in councilmembers.

### B. Meetings

The central provision of the Brown Act requires that all "meetings" of a legislative body be open and public. The Brown Act definition of the term "meeting" (Section 54952.2) is a very broad definition that encompasses almost every gathering of a majority of Council members and includes:

"Any congregation of a majority of members of a legislative body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the legislative body or the local agency to which it pertains."

In plain English, this means that a meeting is any gathering of a majority of members to hear or discuss any item of city business or potential city business.



There are six specific types of gatherings that are *not* subject to the Brown Act. We refer to the exceptions as: (1) the individual contact exception; (2) the seminar and conference exception; (3) the community meeting exception; (4) the other legislative body exception; (5) the social or ceremonial occasion exception; and (6) the standing committee exception. Unless a gathering of a majority of members falls within one of the exceptions discussed below, if a majority of members are in the same room and *merely listen* to a discussion of city business, then they will be participating in a Brown Act meeting that requires notice, an agenda, and a period for public comment.

#### 1. The individual contact exception

Conversations, whether in person, by telephone or other means, between a member of a legislative body and any other person do not constitute a meeting (Section 54952.2(c)(1)). However, such contacts may constitute a "serial meeting" in violation of the Brown Act if the individual also makes a series of individual contacts with other members of the legislative body serving as an intermediary among them. An explanation of what constitutes a "serial meeting" follows below.

#### 2. The seminar and conference exception

The attendance by a majority of members at a seminar or conference or similar educational gathering is also generally exempt from Brown Act requirements (Section 54952.2 (c)(2)). This exception, for example, would apply to attendance at a California League of Cities seminar. However, in order to qualify under this exception, the seminar or conference must be open to the public and be limited to issues of general interest to the public or to cities. Finally, this exception will not apply to a conference or seminar if a majority of members discuss among themselves items of specific business relating to their own city, except as part of the program.

#### 3. The community meeting exception

The community meeting exception allows members to attend neighborhood meetings, town hall forums, chamber of commerce lunches or other community meetings sponsored by an organization other than the city at which issues of local interest are discussed (Section 54952.2(c)(3)). However, members must observe several rules that limit this exception. First, in order to fall within this exception, the community meeting must be "open and publicized." Therefore, for example, attendance by a majority of a body at a homeowners association meeting that is limited to the residents of a particular development and only publicized among members of that development would not qualify for this exemption. Also, as with the other exceptions, a majority of members cannot discuss among themselves items of city business, except as part of the program.

#### 4. The other legislative body exception

This exception allows a majority of members of any legislative body to attend meetings of other legislative bodies of the city or of another jurisdiction (such as the county or another city) without treating such attendance as a meeting of the body (Section 54952.2(c)(4)). Of course, as with other meeting exceptions, the members are prohibited from discussing city business among themselves except as part of the scheduled meeting.

#### 5. The social or ceremonial occasion exception

As has always been the case, Brown Act requirements do not apply to attendance by a majority of members at a purely social or ceremonial occasion provided that a majority of members do not discuss among themselves matters of public business (Section 54942.2(c)(5)).

#### 6. The standing committee exception

This exception allows members of a legislative body, who are not members of a standing committee of that body, to attend an open and noticed meeting of the standing committee without making the gathering a meeting of the full legislative body itself. The exception is only applicable if the attendance of the members of the legislative body who are not standing committee members would create a gathering of a majority of the legislative body; if not, then there is no "meeting." If their attendance does establish a quorum of the parent legislative body, the members of the legislative body who are not members of the standing committee may only attend as "observers" (Section 54952.2(c)(6)). This means that members of the legislative body who are not members of the standing committee should not speak at the meeting, sit in their usual seat on the dias or otherwise participate in the standing committee's meeting.



With a very few exceptions, all meetings of a legislative body must occur within the boundaries of the local governmental agency (Section 54954). Exceptions to this rule which allow the City Council to meet outside the City include meeting outside the jurisdiction to comply with a court order or attend a judicial proceeding, to inspect real or personal property, to attend a meeting with another legislative body in that other body's jurisdiction, to meet with a state or federal representative to discuss issues affecting the local agency over which the other officials have jurisdiction, to meet in a facility outside of, but owned by, the local agency, or to visit the office of the local agency's legal counsel for an authorized closed session. These are meetings and in all other respects must comply with agenda and notice requirements.

"Teleconferencing" may be used as a method for conducting meetings whereby members of the body may be counted towards a quorum and participate fully in the meeting from remote locations (Section 54953(b)). The following requirements apply: the remote locations may be connected to the main meeting location by telephone, video or both; the notice and agenda of the meeting must identify the remote locations; the remote locations must be posted and accessible to the public; all votes must be by roll call; and the meeting must in all respects comply with the Act, including participation by members of the public present in remote locations. A quorum of the legislative body must participate from locations within the jurisdiction, but other members may participate from outside the jurisdiction. No person can compel the legislative body to allow remote participation. The teleconferencing rules only apply to members of the legislative body; they do not apply to staff members, attorneys or consultants who can participate remotely without following the posting and public access requirements.

All actions taken by the legislative body in open session and the vote of each member thereon must be disclosed to the public at the time the action is taken. (Section 54953(c)(2)).

### C. Serial Meetings

In addition to regulating all gatherings of a majority of members of a legislative body, the Brown Act also addresses some contacts between individual members of legislative bodies. On the one hand, the Brown Act specifically states that nothing in the Act is intended to impose Brown Act requirements on individual contacts or conversations between a member of a legislative body and any other person (Section 54952.2(c)(1)). However, the Brown Act also prohibits a series of such individual contacts if they result in a "serial meeting" (Section 54952.2(b)).

Section 54952.2(b)(1) prohibits a majority of members of a legislative body outside of a lawful meeting from directly or indirectly using a series of meetings to discuss, deliberate or take action on any item of business within the subject matter jurisdiction of the body. Paragraph (b)(2) expressly provides that substantive briefings of members of a legislative body by staff are permissible, as long as staff does not communicate the comments or positions of members to any other members.

A serial meeting is a series of meetings or communications between individuals in which ideas are exchanged among a majority of a legislative body (i.e., three council members) through either one or more persons acting as intermediaries or through use of a technological device (such as a telephone answering machine, or e-mail or voice mail), even though a majority of members never gather in a room at the same time. Serial meetings commonly occur in one of two ways; either a staff member, a member of the body, or some other person individually contacts a majority of members of a body and shares ideas among the majority ("I've talked to Councilmembers A and B and they will vote 'yes.' Will you?") or, without the involvement of a third person, member A calls member B, who then calls member C, and so on, until a majority of the body has reached a collective concurrence on a matter.

We recommend the following guidelines be followed to avoid inadvertent violation of the serial meeting rule. These rules of conduct apply **only** when a majority of a legislative body is involved in a series of contacts or communications. The types of contacts considered include contacts with local agency staff members, constituents, developers, lobbyists and other members of the legislative body.





### 1. Contacts with staff

Staff can inadvertently become a conduit among a majority of a legislative body in the course of providing briefings on items of local agency business. To avoid an illegal serial meeting through a staff briefing:

a. Individual briefings of a majority of members of a legislative body should be “unidirectional,” in that information should flow from staff to the member and the member's participation should be limited to asking questions and acquiring information. Otherwise, multiple members could separately give staff direction thereby causing staff to shape or modify its ultimate recommendations in order to reconcile the views of the various members, resulting in an action outside a meeting.

b. Members should not ask staff to describe the views of other members of the body, and staff should not volunteer those views if known.

c. Staff may present its viewpoint to the member, but should not ask for the member's views and the member should avoid providing his or her views unless it is absolutely clear that the staff member is not discussing the matter with a quorum of the legislative body.

### 2. Contacts with constituents, developers and lobbyists

As with staff, a constituent or lobbyist can also inadvertently become an intermediary who causes an illegal serial meeting. Constituents' unfamiliarity with the requirements of the Act aggravate this potential problem because they may expect a member of a legislative body to be willing to commit to a position in a private conversation in advance of a meeting. To avoid serial meetings via constituent conversations:

a. First, state the ground rules “up front.” Ask if the constituent has or intends to talk with other members of the body about the same subject; if so, make it clear that the constituent should not disclose the views of other members during the conversation.

b. Explain to the constituent that you will not make a final decision on a matter prior to the meeting. For example: “State law prevents me from giving you a commitment outside a meeting. I will listen to what you have to say and give it consideration as I make up my mind.”

c. Do more listening and asking questions than expressing opinions.

d. If you disclose your thoughts about a matter, counsel the constituent not to share them with other members of the legislative body.

### 3. Contacts with fellow members of the same legislative body

Direct contacts concerning local agency business with fellow members of the same legislative body, whether through face-to-face or telephonic conversations, notes or letters, electronic mail or staff members, are the most obvious means by which an illegal serial meeting can occur. This is not to say that a member of a legislative body is precluded from discussing items of agency business with another member of the body outside of a meeting; as long as the communication does not involve a quorum of the body, no “meeting” has occurred. There is, however, always the risk that one participant in the communication will disclose the views of the other participant to a third or fourth member, creating an illegal serial meeting. Therefore, we recommend you avoid discussing local agency business with a quorum of the body or communicating the views of other members outside a meeting.

These suggested rules of conduct may seem unduly restrictive and impractical, and may make acquisition of important information more difficult or time-consuming. Nevertheless, following them will help assure that your conduct comports with the Brown Act's goal of achieving open government. If you have questions about compliance with the Act in any given situation, please ask for advice.



#### D. Notice and Agenda Requirements

Two key provisions of the Brown Act that ensure that the public's business is conducted openly are the requirements that legislative bodies post agendas prior to their meetings (Sections 54954.2, 54955 and 54956) and that no action or discussion may occur on items or subjects not listed on the posted agenda (Section 54954.2(a)(2)). Limited exceptions to the rule against discussing or taking action on an item not on a posted agenda are discussed below.

Legislative bodies, except advisory committees and standing committees, are required to establish a time and place for holding regular meetings (Section 54954(a)). Meeting agendas must contain a brief general description of each item of business to be transacted or discussed at the meeting (Section 54954.2(a)). The description need not exceed 20 words. Each agenda must be posted in a place that is freely accessible to the public and must be posted on the agency's website, if it has one. After January 1, 2019, additional online posting requirements apply. Agenda posting requirements differ depending on the type of meeting to be conducted.

If the meeting is a "regular meeting" of the legislative body (i.e., occurs on the body's regular meeting day, without a special meeting call), the agenda must be posted 72 hours in advance of the meeting (Section 54954.2(a)). For "special meetings," the "call" of the meeting and the agenda (which are typically one and the same) must be posted at least 24 hours prior to the meeting (Section 54956). Each member of the legislative body must personally receive written notice of the special meeting either by personal delivery or by "any other means" (such as fax, electronic mail or U.S. mail) at least 24 hours before the time of the special meeting, unless they have previously waived receipt of written notice. Members of the press (including radio and television stations) and other members of the public can also request written notice of special meetings and if they have, that notice must be given at the same time notice is provided to members of the legislative body. A special meeting may not be held to discuss salaries, salary schedules or compensation paid in the form of fringe benefits of a local agency "executive" as defined in Government Code section 3511(d). However, the budget may be discussed in a special meeting. Section 54956(b).

Both regular and special meetings may be adjourned to another time. Notices of adjourned meetings must be posted on the door of the meeting chambers where the meeting occurred within 24 hours after the meeting is adjourned (Section 54955). If the adjourned meeting occurs more than five days after the prior meeting, a new agenda for that adjourned meeting must be posted 72 hours in advance of the adjourned meeting (Section 54954.2(b)(3)).

The Brown Act requires the local agency to mail the agenda or the full agenda packet to any person making a written request no later than the time the agenda is posted or is delivered to the members of the body, whichever is earlier. The agency may charge a fee to recover its costs of copying and mailing. Any person may make a standing request to receive these materials, in which event the request must be renewed annually. Failure by any requestor to receive the agenda does not constitute grounds to invalidate any action taken at a meeting (Section 54954.1).

If materials pertaining to a meeting are distributed less than 72 hours before the meeting, they must be made available to the public as soon as they are distributed to the members of the legislative body. Further, the agenda for every meeting of a legislative body must state where a person may obtain copies of materials pertaining to an agenda item delivered to the legislative body within 72 hours of the meeting. (Section 54957.5).

A legislative body that has convened a meeting and whose membership is a quorum of another legislative body (for example, a city council that also serves as the governing board of a housing authority) may convene a meeting of that other legislative body, concurrently or in serial order, only after an oral announcement of the amount of compensation or stipend, if any, that each member will receive as a result of convening the second body. No announcement need be made if the compensation is set by statute or if no additional compensation is paid to the members. (Section 54952.3(a)).



## E. Public Participation

### 1. Regular Meetings

The Brown Act mandates that agendas for regular meetings allow for two types of public comment periods. The first is a general audience comment period, which is the part of the meeting where the public can comment on any item of interest that is within the subject matter jurisdiction of the local agency. This general audience comment period may come at any time during a meeting (Section 54954.3).

The second type of public comment period is the specific comment period pertaining to items on the agenda. The Brown Act requires the legislative body to allow these specific comment periods on agenda items to occur prior to or during the City Council's consideration of that item (Section 54954.3).

Some public entities accomplish both requirements by placing a general audience comment period at the beginning of the agenda where the public can comment on agenda and non-agenda items. Other public entities provide public comment periods as each item or group of items comes up on the agenda, and then leave the general public comment period to the end of the agenda. Either method is permissible, though public comment on *public hearing* items must be taken during the hearing. Caution should also be taken with consent calendars. The body should have a public comment period for consent calendar items before the body acts on the consent calendar, unless it permits members of the audience to "pull" items from the calendar.

The Brown Act allows a body to preclude public comments on an agenda item in one situation, where the item was considered by a committee of the body which held a meeting where public comments on that item were allowed. So, if the body has standing committees (which are required to have agendaized and open meetings with an opportunity for the public to comment on items on that committee's agenda) and the committee has previously considered an item, then at the time the item comes before the full body, the body may choose not to take additional public comments on that item. However, if the version presented to the body is different from the version presented to, and considered by, the committee, the public must be given another opportunity to speak on that item at the meeting of the full body (Section 54954.3).

### 2. Public Comments at Special Meetings

The Brown Act requires that agendas for special meetings provide an opportunity for members of the public to address the body concerning any item listed on the agenda prior to the body's consideration of that item (Section 54954.3). Unlike regular meetings, in a special meeting the body does not have to allow public comment on any non-agenda matter.

### 3. Limitations on the Length and Content of the Public's Comments

A legislative body may adopt reasonable regulations limiting the total amount of time allocated to each person for public testimony. For example, typical time limits restrict speakers to three or five minutes. A legislative body may also adopt reasonable regulations limiting the total amount of time allocated for public testimony on legislative matters, such as a zoning ordinance or other regulatory ordinance (Section 54954.3(b)). However, we do not recommend setting total time limits per item for any quasi-judicial matter such as a land use application or business license or permit application hearing. Application of a total time limit to a quasi-judicial matter could result in a violation of the due process rights of those who were not able to speak to the body during the time allotted.

The Act precludes the body from prohibiting public criticism of the policies, procedures, programs, or services of the agency or the acts or omissions of the city council (Section 54954.3 (c)). This does not mean that a member of the public may say anything. If the topic of the public's comments is not within the subject matter jurisdiction of the agency, the member of the public can be cut off.

The body also may adopt reasonable rules of decorum for its meetings which preclude a speaker from disrupting, disturbing or otherwise impeding the orderly conduct of public meetings. Also, the right to publicly criticize a public official does not include the right to slander that official, though the line between criticism and slander is often difficult to determine in the heat of the moment. Care must be given to avoid violating the speech rights of speakers by suppressing opinions relevant to the business of the body.



The use of profanity may be a basis for stopping a speaker. However, it will depend upon what profane words or comments are made and the context of those comments in determining whether it rises to the level of impeding the orderly conduct of a meeting. While terms such as “damn” and “hell” may have been disrupting words thirty years ago, today’s standards seem to accept a stronger range of foul language. Therefore, if the chair is going to rule someone out of order for profanity, the chair should make sure the language is truly objectionable *and* that it causes a disturbance or disruption in the proceeding before the chair cuts off the speaker.

#### 4. Discussion of Non-Agenda Items

A body may not *take action or discuss* any item that does not appear on the posted agenda (Section 54954.2).

There are two exceptions to this rule. The first is if the body determines by majority vote that an emergency situation exists. The term “emergency” is limited to work stoppages or crippling disasters (Section 54956.5). The second exception is if the body finds by a two-thirds vote of those present, or if less than two-thirds of the body is present, by unanimous vote, that there is a need to take immediate action on an item and the need for action came to the attention of the local agency subsequent to the posting of the agenda (Section 54954.2 (b)). This means that if four members of a five-member body are present, three votes are required to add the item; if only three are present, a unanimous vote is required.

In addition to these exceptions, there are several *limited* exceptions to the no discussion on non-agenda items rule. Those exceptions are:

- Members of the legislative body or staff may briefly respond to statements made or questions posed by persons during public comment periods;
- Members or staff may ask questions for clarification and provide a reference to staff or other resources for factual information;
- Members or staff may make a brief announcement, ask a question or make a brief report on his or her own activities;
- Members may, subject to the procedural rules of the legislative body, request staff to report back to the legislative body at a subsequent meeting concerning any matter; and
- The legislative body may itself as a body, subject to the rules of procedures of the legislative body, take action to direct staff to place a matter of business on a future agenda.

The body may not discuss non-agenda items to any significant degree under these exceptions. The comments *must* be brief. These exceptions do not allow long or wide-ranging question and answer sessions between the public and city council or between legislative body and staff.

When the body is considering whether to direct staff to add an item to a subsequent agenda, these exceptions do not allow the body to discuss the merits of the matter or to engage in a debate about the underlying issue.

To protect the body from problems in this area, legislative bodies may wish to adopt a rule that any one member may request an item to be placed on a subsequent agenda, so that discussion of the merits of the issue can be easily avoided. If the legislative body does not wish to adopt this rule, then the body’s consideration and vote on the matter must take place with virtually no discussion.

It is important to follow these exceptions carefully and interpret them narrowly because the city would not want to have an important and complex action tainted by a non-agendized discussion of the item.

#### 5. The public’s right to photograph, videotape, tape-record and broadcast open meetings

The public has the right to videotape or broadcast a public meeting or to make a motion picture or still camera record of such meeting (Section 54953.5). However, a body may prohibit or limit recording of a meeting if the body finds that the recording cannot continue without noise, illumination, or obstruction of a view that constitutes, or would constitute, a disruption of the proceedings (Section 54953.5). These grounds would appear to preclude a finding based on nonphysical grounds such as breach of decorum or mental disturbance.



Any audio or video tape record of an open and public meeting that is made, for whatever purpose, by or at the direction of the city is a public record and is subject to inspection by the public consistent with the requirements of the Public Records Act. The city must not destroy the tape or film record of the open and public meeting for at least 30 days following the date of the taping or recording. Inspection of the audiotape or videotape must be made available to the public for free on equipment provided by the city (Section 54953.5).

If a member of the public requests a duplicate of the audio or videotape, the city must provide such copy. If the city has an audiotape or videotape duplication machine, the city must provide the copy on its own machine. If the city does not have such a machine, the city must send it out to a business that can make a copy. The city may charge a fee to cover the cost of duplication.

The Brown Act requires written material distributed to a majority of the body by *any person* to be provided to the public without delay. If the material is distributed during the meeting and prepared by the local agency, it must be available for public inspection at the meeting. If it is distributed during the meeting by a member of the public, it must be made available for public inspection after the meeting (Section 54957.5).

One problem in applying this rule arises when written materials are distributed directly to a majority of the body without knowledge of City staff, or even without the members knowing that a majority has received it. The law still requires these materials to be treated as public records. Thus, it is a good idea for at least one member of the body to ensure that staff gets a copy of the document so that copies can be made for the city's records and for members of the public who request a copy.

#### F. Closed Sessions

The Brown Act allows a legislative body during a meeting to convene a closed session in order to meet privately with its advisors on specifically enumerated topics. Sometimes people refer to closed sessions as "executive sessions," a holdover term from the Brown Act's early days. Examples of business which may be conducted in closed session include personnel evaluations or labor negotiations, pending litigation, and real estate negotiations (See Sections 54956.7 through 54957 and Sections 54957.6 and 54957.8). Political sensitivity of an item is not a lawful reason for a closed session discussion.

The Brown Act requires that closed session business be described on the public agenda. And, there is a "bonus" of sorts for using prescribed language to describe litigation closed sessions in that legal challenges to the adequacy of the description are precluded (Section 54954.5). This so-called "safe harbor" encourages cities to use a very similar agenda format. The legislative body must identify the City's negotiator in open session before going into closed session to discuss either real estate negotiations or labor negotiations.

The legislative body must reconvene the public meeting after a closed session and publicly report specified closed session actions and the vote taken on those actions (Section 54957.1). There are limited exceptions for certain kinds of litigation decisions, and to protect the victims of sexual misconduct or child abuse.

Contracts, settlement agreements or other documents that are finally approved or adopted in closed session must be provided at the time the closed session ends to any person who has made a standing request for all documentation in connection with a request for notice of meetings (typically members of the media) and to any person who makes a request within 24 hours of the posting of the agenda, if the requestor is present when the closed session ends (Section 54957.1).

The Brown Act also includes detailed requirements describing when litigation is considered "pending" for the purposes of a closed session (Section 54956.9). These requirements involve detailed factual determinations that will probably be made in the first instance by the City Attorney.

*Roberts v. City of Palmdale*, 5 Cal.4th 363 (1993), a California Supreme case, affirms the confidentiality of attorney-client memoranda. See also Section 54956.9(b)(3)(F) with respect to privileged communications regarding pending litigation.

Closed sessions may be started in a location different from the usual meeting place as long as the location is noted on the agenda and the public can be present when the meeting first begins. Moreover, public comment on closed session items must be allowed before convening the closed session.



One perennial area of confusion is whether a body may discuss salary and benefits of an individual employee (such as a city manager) as part of an evaluation session under Section 54957. It may not. However, the body may designate a negotiator to negotiate with that employee and meet with its negotiator in closed session under Section 54957.6 to provide directions. The employee in question may not be present in such a closed session.

### G. Enforcement

There are both civil remedies and criminal misdemeanor penalties for Brown Act violations. The civil remedies include injunctions against further violations, orders nullifying any unlawful action, and orders determining the validity of any rule to penalize or discourage the expression of a member of the legislative body (Section 54960.1). The provision relating to efforts to penalize expression may come up in the context of measures by the legislative body to censure or penalize one of its members for breaching confidentiality or other violations. This area of law is charged with difficult free speech and attorney-client privilege issues. The tape recording of closed sessions is not required unless the court orders such taping after finding a closed session violation (Section 54960).

Prior to filing suit to invalidate an action taken in violation of the Brown Act, the complaining party must make a written demand on the legislative body to cure or correct the alleged violation. The written demand must be made within 90 days after the challenged action was taken in open session unless the violation involves the agenda requirements under Section 54954.2, in which case the written demand must be made within 30 days. The legislative body is required to cure or correct the challenged action and inform the party who filed the demand of its correcting actions, or its decision not to cure or correct, within 30 days. A suit must be filed by the complaining party within 15 days after receipt of the written notice from the legislative body, or if there is no written response, within 15 days after the 30-day cure period expires.

Any person may also seek declaratory and injunctive relief to find a past practice of a legislative body to constitute a violation of the Brown Act (Section 54960). In order to do so, the person must first send a "cease and desist" letter to the local agency, requesting that the practice cease. If the agency replies within a designated time, and disavows the practice, no lawsuit may be initiated. However, if the agency fails to reply or declares its intent to continue the practice, the lawsuit seeking to declare the practice a violation of the Brown Act may be filed, and attorney fees will be granted in the event the practice is found to violate the Act.

A member of a legislative body will not be criminally liable for a violation of the Brown Act unless the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled under the Brown Act (Section 54959). This standard became effective in 1994 and is a different standard from most criminal standards. Until it is applied and interpreted by a court, it is not clear what type of evidence will be necessary to prosecute a Brown Act violation.

Under Section 54963, it is a violation of the Brown Act for any person to disclose confidential information acquired in a closed session. This section enumerates several nonexclusive remedies available to punish persons making such disclosures and to prevent future disclosures.

### H. Conclusion

The Brown Act contains many rules and some ambiguities; it can be confusing and compliance can be difficult. In the event that you have any questions regarding any provision of the law, you should contact your City Attorney.

Please contact either of today's presenters if you would like more details on these issues and how your agency can address them:



**Lauren Langer**  
 (310) 643-8448  
 Lauren.Langer@bbklaw.com



**Trevor Rusin**  
 (310) 643-8448  
 Trevor.Rusin@bbklaw.com



**California Special  
Districts Association**  
*Districts Stronger Together*

1/6/2022

Whether the members of your Board of Directors are newly elected, re-elected or appointed, they'll be looking for resources to help them best serve their community in the coming year. CSDA has been providing special districts with those resources – educational opportunities, information sharing and advocacy services – for over 50 years.

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We note that your district is not currently a member of CSDA and invite you to participate in our risk-free trial membership. Access members-only content for your entire district staff and board including:

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Sincerely,

Eric Spencer  
Member Services Specialist  
[erics@csda.net](mailto:erics@csda.net)



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**Mendocino City Community Services District Board of Directors**

# **Governance Guidelines**

August 27, 2008

## Table of Contents

|  |       |
|--|-------|
| Preamble.....  | 3.    |
| Formation and Powers of Mendocino City Community Services District ..... | 3 1.  |
| Mission of the Board.....  | 3 2.  |
| Actions that May be Taken .....  | 4 3.  |
| Principles of Negotiation and Communication.....                         | 4 4.  |
| Size of the Board .....  | 4 5.  |
| Conduct and Organization of the Board of Directors.....                  | 5 6.  |
| Selection of Agenda Items for Board Meetings .....                       | 5 7.  |
| Board Materials Distributed in Advance.....                              | 5 8.  |
| Public Notice of Meetings.....   | 5 9.  |
| Mailed Notice of Meeting .....   | 6 10. |
| Board Meetings Open to the Public.....                                   | 6 11. |
| Closed Sessions of the Board.....  | 6 12. |
| Board Participation.....   | 6 13. |
| Public Testimony.....  | 6 14. |
| Board Committees.....  | 6 15. |
| Board Access.....  | 7 16. |
| Election of Directors. ....  | 7 17. |
| Filling of Vacancies .....   | 8 18. |
| Conflict of Interest Code. ....  | 8 19. |
| Continuing Education.....  | 8 20. |
| Term Limits.....   | 8 21. |
| Annual Board Evaluations.....  | 8 22. |
| At Termination of Duties.....  | 8 23. |
| Publication of Guidelines.....   | 8 24. |
| Changes to Guidelines.....   | 8 25. |
| Appendix A.....  | 9     |

# MCCSD Governance Guidelines

## Preamble

The purpose of these Governance Guidelines for the MCCSD Board of Directors is to present a general overview of policies and procedures to assist the Board Members in carrying out their duties. The laws governing community services districts contain additional requirements. The Guidelines are not to be interpreted in a manner that is inconsistent with the law.

## 1. Formation and Powers of Mendocino City Community Services District

The purpose of the Mendocino City Community Services District is to provide sewer treatment services, groundwater management, and street lighting. The MCCSD, established July 19, 1971, provides services as approved by the electorate under Community Services District Law, Title 6, Division 3 of the Government Code of California, Section 61000 et seq.

The original governing powers of the District were wastewater treatment and street lighting. In 1987, the District received groundwater management authority within its boundaries (California Water Code Section 10700 – 10717). The current groundwater withdrawal program limits groundwater extraction to prevent aquifer overdraft.

## 2. Mission of the Board

The Board of Directors of the Mendocino City Community Services District has the ultimate responsibility for the well being of the District. This includes the monitoring and support of the District in providing services to the public, including sewer, groundwater management, and street lighting.

Duties and Responsibilities of the Board of Directors include:

- a) Select, evaluate the performance, compensate and plan for the succession of the District Superintendent and staff.
- b) Advise and counsel the Superintendent of the District in managing the affairs of the District. The President of the Board is responsible for day-to-day coordination with the District Superintendent, representing the board in such matters. However, the setting of policy and other responsibilities of the Board shall be in accordance with the provisions of these Governance guidelines.
- c) Identify appropriate board candidates, nominate and evaluate the performance and plan for succession of directors.
- d) Serve as stewards of the assets of the District and ensure that proper internal controls are in place.
- e) Review and approve/disapprove agreements and contracts with third parties, including professional service agreements and consulting contracts.
- f) Review and approve major District strategies and financial objectives.

- g) Ensure that the District has effective budgets and plans in place on or before July 1 of each year, and monitor the District's performance against these budgets and plans.
- h) Approve the capital spending plan of the District and ensure that it is consistent with District financial resources.
- i) Review the adequacy of systems for compliance with all applicable laws, regulations and standards of appropriate behavior.

### **3. Actions that May be Taken**

A majority of the total membership of the board of directors shall constitute a quorum for the transaction of business (a minimum of three (3) board members).

The responsibilities of the Board of Directors include the following:

- a) The Board of Directors shall act only by ordinance, resolution, or motion.
- b) Except as otherwise specifically provided by law, a majority vote of the total membership of the board of directors is required for the Board of Directors to take action.
- c) The minutes of the Board of Directors shall record the aye and no votes taken by the members of the Board of Directors for the passage of all ordinances, resolutions and motions, except if unanimous and so stated.
- d) The Board of Directors shall keep a record of all its actions, including financial transactions.
- e) The Board of Directors shall adopt rules or bylaws for its proceedings.
- f) The Board of Directors shall adopt policies for the operation of the district, including, but not limited to, administrative policies, fiscal policies, personnel policies and the purchasing policies required.

### **4. Principles of Negotiation and Communication**

Members of the Board will, from time to time, engage in negotiation and communication with developers, consultants, government agencies and others having substantial business dealings with the District. It is the policy of the Board that, to the extent reasonable and practical, a second Board member should be present for such dealings.

While routine filings and correspondence with government agencies are normally handled by the District Superintendent and/or his/her designated individual, matters of significant impact on the District shall be handled by the Board of Directors, working with the District Superintendent.

### **5. Size of the Board**

The Board of Directors shall consist of 5 members, elected by the public and/or appointed by the Board (in case of vacancies.)

## **6. Conduct and Organization of the Board of Directors**

The Board of Directors shall organize and conduct its business in accordance with the Community Services District Law, the Brown Act, the Public Records Act and the Political Reform Act of the State of California, and in accordance with State and federal law.

The President of the Board will chair the Board meetings. In the President's absence, the Vice President of the Board will chair the Board meetings. In the Vice President's absence, the directors present at the meeting shall elect a chairman for the meeting.

The President and Vice-President of the Board shall be elected by the Board members at the December Board meeting, and shall serve for a period of one year.

## **7. Selection of Agenda Items for Board Meetings**

The President of the Board will establish the agenda for each Board meeting after consultation with the District Superintendent. Other directors are encouraged to suggest the inclusion of items on the agenda. Agenda items may include reports from the District Superintendent, committee reports, expenditure approvals, discussion items and action items as well as other business that may come before the Board.

In order for the Board to hold discussion and/or take action on any item, it must have been listed on the Agenda (with minor exceptions) and the public must have opportunity for comment. The minor exceptions include brief answers to questions posed by the public, asking questions of staff for clarification, brief announcements or reports on a Director's activities, asking staff to report back on an item at a future meeting, or directing staff to place a matter of business on a future agenda.

## **8. Board Materials Distributed in Advance**

Board materials are normally distributed in advance of each meeting, to allow time for review and assessment so that the Board meeting time may be conserved for discussions focused on questions that the Board has about the material. The Board President will make every effort to see that the material is distributed in advance, and that it is presented in an efficient and effective format.

## **9. Public Notice of Meetings**

Public Notice must be given for meetings of the Board. The advance notice time depends on the type of meeting.

For Regular Board Meetings. A meeting Notice, including Agenda, must be posted in three conspicuous public places, at least 72 hours prior to the meeting.

For Special Board Meetings. Twenty-four hour notice must be given to the Board members and the public, including a brief general description of the matters to be considered or discussed.

For Emergency Board Meetings. One hour notice in case of a dire emergency.

## **10. Mailed Notice of Meeting**

The District shall give mailed notice of meetings in advance of the meeting to any person who has filed a written request for notification. Written requests for notice are valid for one year, and the District may establish a reasonable annual fee for sending the notices by mail.

## **11. Board Meetings Open to the Public**

Board meetings will normally be held in facilities located in the District that allow sufficient space for public attendance.

## **12. Closed Sessions of the Board**

Closed sessions of the Board may be held, but notice of the subject must be published. Prior to each closed session, the President must announce the subject to be considered. If final action is taken in closed session, the Board generally must report the action at the conclusion of the session. Minutes will be kept for closed sessions (Government Code Section 54957.2).

Closed sessions may be held for any purpose specified in the Brown Act, Government Code 54956.7-54957.10, including employee matters, public security, pending or threatened litigation, attorney client privilege, labor negotiations, and real property negotiations.

## **13. Board Participation**

Directors are expected to prepare for, attend and actively participate in all Board and applicable Committee meetings.

## **14. Public Testimony**

The Public may comment on agenda items during consideration by the Board as called for by the President of the meeting. In addition, time must be set aside for public comment on any other matters under the Board's jurisdiction, but not on a meeting agenda.

## **15. Board Committees**

The Board may, from time to time, form committees of the Board to allow more focused work in specific areas on interest. These committees may be standing, special advisory and ad hoc committees. The District has the following advisory committees:

- (1) Plant Operations—this committee is charged with reviewing equipment modifications and treatment plant and collection system operation and maintenance issues.
- (2) Personnel and Management—this committee is responsible for administering employee policies, benefits, accident prevention and safety, and policies and procedures regarding harassment.
- (3) Finance Committee—this committee is responsible to oversee the finances of the District, and may include working with the District Superintendent in creating annual budgets and other financial plans.

(4) Groundwater Management—in Mendocino, the groundwater resource is managed by the MCCSD to avert aquifer overdraft. The Groundwater Management Committee has oversight of issues affecting the Groundwater Management Program, the Water Conservation Program, the Groundwater Monitoring Program, the Data Management Program, the District's Water Reclamation Program, and the Water Shortage Contingency Program.

(5) Street Lighting—this committee supervises the town's street lighting system.

From time to time the Board may establish standing, advisory, and ad hoc committees as may be necessary to carry out its responsibilities.

All committees are committees of the Board, must have at least one board member on the committee and must seek Board approval for actions to be taken on behalf of the Board, including the expenditure of funds. A committee may be appointed consisting of only Board members. Committee members must be Board members or other residents of Mendocino City Community Services District.

Committee chairpersons shall present a report, in person or written, at a meeting of the Board of Directors of the District following a committee meeting.

## **16. Board Access**

Directors will have full access to the District's management, employees and principal advisers, including its auditors and legal counsel, and to District information that they believe is necessary to fulfill their obligations as directors. Directors will use judgment to ensure that such contact is not distracting to the business or operations of the District. Any contact which will result in billings to the District will first be coordinated with the President of the Board. Such coordination will include identification of the account from which funds will be used to pay the billing(s).

There may be occasions when an outside advisor is retained directly by the Board in connection with a particular matter. The Board and/or its Committees may retain outside experts and advisors at the District's expense to the extent they consider it necessary and appropriate under the circumstances. Committees will first coordinate with the Board prior to such retention. Such coordination will include identification of the account from which funds will be used to pay the billing(s).

## **17. Election of Directors.**

Directors shall be elected in accordance with the California Elections Code, Sections 10500-10556 and Government Code 61042-61043. Directors elected shall hold office for a term of 4 (four) years or until their successor qualifies and takes office. Directors take office at noon on the first Friday in December following their election. Directors serve staggered terms.

125 days prior to the election, the district secretary will file a notice with the county elections official. Forms for declaration of candidacy shall first be available from the counties elections official on the 113<sup>th</sup> day prior to the election and shall be filed not later than 5 p.m. on the 88<sup>th</sup> day prior to the election, in the office of the county elections official. The full procedure is contained in the California Elections Code.

## **18. Filling of Vacancies**

Should a Director no longer be able or willing to serve the remainder of his/her elected term, the Board shall appoint a successor member from applicants for the position as provided under Section 1780 of the Government Code, to serve out the remainder of the term, unless there are more than 2 years left of the original term of office, in which case the appointed director shall serve until the next General Election.

## **19. Conflict of Interest Code.**

The Board of Directors reviews the Conflict of Interest Code for the Mendocino City Community Services District, Ordinance 91-2, biennially. Each director shall be required annually to file a Form 700 – Statement of Economics Interests – with the County.

## **20. Continuing Education**

As required under the Community Services District Law, the District will provide for continuing education for the Board members, arranging for Directors to attend State qualified education programs for Special District Directors if required.

## **21. Term Limits**

The Board does not believe it should establish term limits for directors. While such limits might contribute fresh ideas to the Board, they have the disadvantage of losing the contribution of directors who have developed, over a period of time, insight into the future direction and operations of the District.

## **22. Annual Board Evaluations**

Each director will evaluate the performance of the Board annually utilizing an approved, pre-determined process.

## **23. At Termination of Duties**

Whenever a Board member of the District leaves his/her position as a board member, through expiration of the tour of service or by voluntary action, he/she shall return all property of the District to the Board President, to including keys, manuals, official correspondence, and other publications that belong in the District Archives.

## **24. Publication of Guidelines**

The District shall make them available to Directors, employees and members of the public.

## **25. Changes to Guidelines**

These Governance Guidelines may be changed by majority vote of the Board of Directors, taken at a public meeting of the Board, wherein members of the public are allowed comment on proposed changes.



## APPENDIX A: LATENT POWERS OF SPECIAL DISTRICTS

Per PART 3. Chapter 1. of the Code, Section 61100 stipulates that within its boundaries, a district may do any of the following:

- a) Supply water for any beneficial uses, in the same manner as a municipal water district. b) Collect, treat or dispose of sewage, wastewater, recycled water and storm water in the same manner as a sanitary District.
- c) Collect, transfer and dispose of solid waste and provide solid waste handling services including but not limited to source reduction, recycling, composting activities, etc.
- d) Provide fire protection services, rescue services, hazardous material emergency response services and ambulance services.
- e) Acquire, construct, improve, maintain and operate recreation facilities including but not limited to parks and open space.
- f) Organize, promote, conduct and advertise programs of community recreation.
- g) Acquire construct, improve, maintain and operate street lighting and landscaping on public property.
- h) Provide for the surveillance, prevention, abatement and control of vectors and vector borne diseases in the same manner as a mosquito abatement and vector Control District.
- i) Provide police protection and law enforcement services by establishing and operating a police department that employs peace officers.
- j) Provide security services including but not limited to burglar and fire alarm services to protect lives and property.
- k) Provide library services in the same manner as a library district formed pursuant to either Chapter 8 or Chapter 9 of the education code.
- l) Acquire, construct, improve and maintain streets, roads, right of ways, bridges, culverts, drains, curbs, gutters, sidewalks and any incidental works.
- m) Convert existing overhead electric and communications facilities with the consent of the public agency or public utility that owns the facilities to underground locations.
- n) Provide emergency medical services pursuant to the emergency medical services system and the pre-hospital emergency medical care personnel act.
- o) Provide and maintain public airports and landing places for aerial traffic.
- p) Provide transportation services.
- q) Abate graffiti.

- r) Plan, design, construct, improve, maintain and operate flood protection facilities.
- s) Acquire, construct, improve, maintain and operate community facilities including but not limited to community centers, libraries, theaters, museums, cultural facilities and childcare facilities.
- t) Abate weeds and rubbish pursuant to part 5 of the health and safety code.
- u) Acquire, construct, improve, maintain and operate hydroelectric power generation facilities and transmission lines.
- v) Acquire, construct, improve, maintain and operate television translator facilities.
- w) Remove snow from public streets, roads, easements and rights of way.
- x) Provide animal control services pursuant to section 30501 of the Food and Agricultural code.
- y) Control, abate and eradicate pests in the same manner as a pest abatement district.
- z) Construct, maintain and operate mailboxes on the District property or rights of way.
- aa) Provide mail delivery service under contract to the United States Postal Service.
- bb) Operate, improve and maintain cemeteries and provide internment services.
- cc) Finance the operations of area Planning Commissions formed pursuant to section 65101.
- dd) Finance the operations of municipal advisory councils formed pursuant to section 31010.
- ee) Acquire, own, improve, maintain and operate land within or without the District for Habitat Mitigation or other environmental protection purposes to mitigate the effects of projects undertaken by the District.

Per Section 61106: a) If the Board of Directors desires to exercise a latent power, the District shall first receive the approval of the Local Agency Formation Commission, pursuant to article 1.5 (commencing with section 56824.10) of Chapter 5 of part 3 of Division 3. b) After receiving the approval of the Local Agency Formation Commission, the board of directors may, by ordinance, order the exercise of that power.

## Memo

**To:** MCCSD Board of Directors  
**From:** District Superintendent  
**cc:** Jim Jackson  
**Date:** December 7, 2022  
**Re:** Election of Officers and Committee Appointments

---

The MCCSD Board of Directors has two officer positions per our Governance Guidelines. The President and Vice President are elected by the Board members in December and serve for a one year period. The Board President will chair Board meetings, appoint Committee Members, and set the meeting Agendas. In the absence of the President the Vice President will chair the meetings.

Elections will be by e-mail ballot to the Superintendent, at [mccsd@mcn.org](mailto:mccsd@mcn.org) during the meeting. Each Director has the opportunity to self-nominate if interested in a position. Each position will be elected one at a time. All Directors are allowed to vote for each position. Voting for yourself is allowed and encouraged. The Director with the greatest number of votes will be announced as the winner. In the event of a tie there will be a re-vote until one person has a majority of votes and is declared the winner. Once the President is elected, there will be a vote for the position of Vice President following the same process.

Once both a President and Vice President are elected the new President will appoint two Directors to serve on each of the six (6) Standing Committees:

- Safety
- Street Lighting
- Plant Operations
- Finance
- Personnel
- Groundwater Management

Committee appointments are intended to use the strengths, experience, and interest of individual Directors. If there are Committees that you believe you would enjoy serving on or have some experience please make that information known to the Superintendent.

The Board usually meets monthly on the last Monday of every month at 5:00 p.m. The six Committees will ideally meet about twice per year. However, District need and Board or Committee member request will dictate how often meetings occur.

## Memo

**To:** MCCSD Board  
**From:** District Superintendent  
**cc:** Jim Jackson  
**Date:** December 6, 2022  
**Re:** Personnel Manual

---

In 2020 as the new Superintendent one of my first projects was the read through and understand the District Personnel Manual, last updated in 2015. I worked with then Board President Hauck and District Counsel Jim Jackson to begin making suggested edits to the manual. However the project stalled in Committee and was not completed. Recently CalPERS has requested that the District revisit this manual and continue with updates and revisions. District staff have resumed the process with the guidance of District H.R. legal consultants at LCW.

Tonight I am asking that the new Personnel Committee resume the process of reviewing and updating the Personnel Manual. My goal is that we will have a completed draft to share and discuss by the January BOD meeting, and vote to adopt the revised manual some time in February.

Staff recommend a board motion to resume revisions and updates to the personnel manual and assign the duty to the Personnel Committee to come up with suggested updates.

**MENDOCINO CITY COMMUNITY SERVICES  
DISTRICT PERSONNEL MANUAL**

July 27, 2015



TABLE OF CONTENTS

ARTICLE 1 INTRODUCTION..... - 6 -

Section 1.1 Personnel Manual..... - 6 -

Section 1.2 Mendocino City Community Services District. .... - 6 -

Section 1.3 Equal Employment Opportunity. .... - 7 -

Section 1.4 Employment at Will. .... - 7 -

Section 1.5 Applicability..... - 7 -

ARTICLE 2 HARASSMENT ..... - 7 -

Section 2.1 Unlawful Harassment. .... - 7 -

Section 2.2 Complaint Procedure..... - 8 -

ARTICLE 3 EMPLOYMENT STATUS..... - 9 -

Section 3.1 Employee Classifications..... - 9 -

A. Regular Full-Time Employees. .... - 9 -

B. Regular Part-Time Employees. .... - 10 -

C. Temporary Employees..... - 10 -

D. Exempt/Non-Exempt Employees..... - 10 -

E. Hiring Powers. .... - 10 -

Section 3.2 Eligibility for Employment..... - 11 -

Section 3.3 Selection..... - 11 -

Section 3.4 Medical Examinations..... - 11 -

Section 3.5 Probationary Period. .... - 11 -

Section 3.6 Performance Reviews. .... - 12 -

ARTICLE 4 HOLIDAYS, VACATION, LEAVES OF ABSENCE ..... - 12 -

Section 4.1 Holidays..... - 12 -

Section 4.2 Vacation Policy. .... - 12 -

*Mendocino City Community Services District Personnel Manual*

- A. Vacation Accrual..... - 12 -
- B. Schedule. .... - 13 -
- C. Temporary Employees..... - 13 -
- D. Maximum Accrual..... - 13 -
- E. Pay in Lieu of Vacation. .... - 14 -
- F. Vacation Accrual During Periods of Leaves of Absence..... - 14 -
- G. Vacation Pay on Termination. .... - 14 -
- H. Vacation Approval. .... - 14 -
- I. Vacation Scheduling. .... - 14 -
- J. Vacation Advances. .... - 14 -
- K. Time Off in Lieu of Pay..... - 14 -
- Section 4.3 Sick Leave. .... - 14 -**
  - A. Eligibility. .... - 14 -
  - B. Use..... - 15 -
  - C. Coordination of Sick Leave Benefits with Workers' Compensation and Nonoccupational Disability or Medical Leaves of Absence. .... - 15 -
- Section 4.4 Other Leaves of Absence..... - 16 -**
  - A. Family Care and Medical Leave. .... - 16 -
  - B. Pregnancy Disability Leave. .... - 20 -
  - C. California Paid Family Leave..... - 23 -
  - D. State Disability Insurance and Parental Bonding Leave. .... - 23 -
  - E. Other Disability Leaves ..... - 24 -
  - F. Legally Required Leaves of Absence..... - 24 -
  - G. Bereavement Leave. .... - 24 -
  - H. Leaves Of Absence Without Pay..... - 24 -
  - I. Military Spouse Leave. .... - 25 -
- ARTICLE 5 HOURS OF WORK, OVERTIME, PAY DAY, AND BENEFITS ..... - 26 -**
  - Section 5.1 Hours of Work. .... - 26 -**
  - Section 5.2 Pay Days. .... - 26 -**
  - Section 5.3 Overtime Pay..... - 27 -**
    - A. Overtime Definition and Rates of Pay. .... - 27 -
  - Section 5.4 Other Types of Pay. .... - 27 -**
    - A. Callback Pay..... - 27 -
    - B. Holiday Pay. .... - 27 -
    - C. Emergency Call-Out Pay. .... - 27 -
    - D. Pay Advances..... - 27 -
    - E. Payment on Resignation or Termination..... - 27 -
    - F. Weekend Duty..... - 28 -

**Section 5.5 Step Compensation Plan..... - 28 -**

**Section 5.6 Longevity Pay Program..... - 28 -**

    A. Purpose..... - 28 -

    B. Service Requirement. .... - 28 -

    C. Full Longevity Bonus Payment..... - 28 -

**Section 5.7 Merit Raise or Merit Bonus Payment Program..... - 29 -**

    A. Merit Raise. .... - 29 -

    B. Merit Bonus Payment..... - 29 -

    C. Merit Award Criteria..... - 29 -

**Section 5.8 Benefits ..... - 30 -**

    A. Payroll Deductions..... - 30 -

    B. Retirement..... - 30 -

    C. Medical/Health Coverage..... - 30 -

    D. Term Life Insurance. .... - 30 -

    E. Safety Equipment. .... - 31 -

    F. Transportation on District Business. .... - 31 -

    G. Tuition Refund. .... - 31 -

    H. Professional Society Costs. .... - 31 -

**ARTICLE 6 RULES OF CONDUCT..... - 31 -**

**Section 6.1 Open Door..... - 31 -**

**Section 6.2 Termination, Discipline, and Rules of Conduct..... - 32 -**

    A. Termination..... - 32 -

    B. Disciplinary Action..... - 32 -

    C. Rules of Conduct..... - 33 -

**ARTICLE 7 WORK REGULATIONS..... - 34 -**

**Section 7.1 Personnel Records..... - 35 -**

**Section 7.2 Security and Confidentiality..... - 35 -**

**Section 7.3 Personal Telephone Calls..... - 35 -**

**Section 7.4 MCCSD Policy on Cellular Phones in the Workplace..... - 36 -**

    A. Purpose..... - 36 -

    B. Policy..... - 36 -

    C. Procedures..... - 36 -

    D. Employee Acceptance..... - 37 -

**Section 7.5 Smoking..... - 37 -**



*Mendocino City Community Services District Personnel Manual*

Section 7.6 Dress and Grooming Standards..... - 37 -

Section 7.7 Employment of Relatives. .... - 38 -

Section 7.8 Conflicts of Interest. .... - 38 -

Section 7.9 Use of District Equipment. .... - 39 -

ARTICLE 8 DRUG-FREE WORKPLACE POLICY..... - 39 -

Section 8.1 General..... - 39 -

    A. Purpose..... - 39 -

    B. Effective Date. .... - 39 -

    C. Impairment Prohibited. .... - 39 -

    D. Possession Prohibited..... - 40 -

    E. Discipline. .... - 40 -

ARTICLE 9 TECHNOLOGY..... - 40 -

Section 9.1 Internet, E-mail and Electronics Communications Ethics, Usage and Security. .... - 40 -

## **MENDOCINO CITY COMMUNITY SERVICES DISTRICT PERSONNEL MANUAL**

### **ARTICLE 1 INTRODUCTION**

Section 1.1 Personnel Manual. This Manual is intended to help employees get acquainted with the Mendocino City Community Services District (District). It describes, in general terms, some of the District's employment guidelines. It is not intended to be an official policy and procedures manual. Also, employees should understand that the manual is not intended to be a contract (express or implied), nor is it intended to otherwise create any legally enforceable obligations on the part of the District or its employees.

This Manual supersedes and replaces all previous personnel policies, practices, and guidelines, except where a specific written contract of employment is in place. The District reserves full discretion to add, to modify, or delete provisions of this Manual, or the policies and procedures on which they may be based, at any time, without advance notice. For this reason, employees are urged to check with District Superintendent to obtain current information regarding the status of any particular policy, procedure, or practice.

Section 1.2 Mendocino City Community Services District. The Mendocino City Community Services District, established July 19, 1971, provides services as approved by the electorate under Community Services District Law, Title 6, Division 3 of the Government code of California, Section 61000 et seq. The Board of Directors is the legislative and policy making body of the District consisting of five members elected by and responsible to the citizens of the District. A president, elected by the Directors, presides over the Board.

Elections are held every two years. Three members are elected at one election and two at the next election, each serving a four-year term.

The Board, in carrying out its function of representing the people in respect to District affairs, formulates policy and adopts an annual budget.

MCCSD has a Line-Type organizational structure. The District's ultimate managerial authority resides with the Board of Directors. The Board members are elected to represent the interests of the District, and their primary function is to decide on major strategy and policy matters. The Board delegates authority to the District Superintendent to manage the resources of the MCCSD. Operational and administrative employees report directly to the Superintendent. The daily administrative and operational activities are supervised and managed by the District Superintendent.

Regular meetings of the Board are held on the last Monday of each month. These meetings begin at 7:00 p.m. and are open to the public, including District employees.

The Board has adopted the following policies. Other than the protections and procedures set forth in these policies a District employee has no civil service or other job guarantee.

Section 1.3 Equal Employment Opportunity. It is the District's policy to provide equal employment opportunity for applicants and employees. The District does not unlawfully discriminate on the basis of race, color, religion, sex (including pregnancy, childbirth, or related medical conditions), national origin, ancestry, age, physical disability, mental disability, medical condition, family care status, veteran status, marital status, or sexual orientation. The District also makes reasonable accommodations for disabled employees. Finally, the District prohibits the harassment of any individual on any of the bases listed above. For information about the types of conduct that constitute impermissible harassment and the District internal procedures for addressing complaints of harassment, please refer to the District's policy against harassment located in Article 2 of this Manual. This policy applies to all areas of employment including recruitment, hiring, training, promotion, compensation, and benefits programs. It is the responsibility of the District Superintendent and employees to conscientiously follow this policy. Any employee having questions regarding this policy should discuss them with the District Superintendent.

Section 1.4 Employment at Will. All employment at the District is "at will." This means that both employees and the District have the right to terminate employment at any time, with or without cause, and with or without advance notice. The District does not guarantee continued or permanent employment. Employees may be demoted or disciplined and the terms of their employment may be altered at any time, with or without cause, at the discretion of the District. No one other than the Board has the authority to alter this arrangement, to enter into an agreement for employment for a specified period of time, or to make any agreement contrary to this policy, and any such agreement must be in writing and must be signed by the President of the Board and by the affected employee.

Section 1.5 Applicability. This Personnel Manual applies to all employees of District, except where inconsistent with a written contract of employment.

## **ARTICLE 2     HARASSMENT**

Section 2.1 Unlawful Harassment. The District is committed to providing a work environment free of harassment. Offensive or harassing statements—including all forms of legally prohibited discrimination and/or harassment based on age, race, sex, sexual orientation, national origin, disability or any other characteristics protected by relevant law—are prohibited. This includes any posting, distribution, participation in or exchange of offensive jokes, e-mails, chain letters, pyramid schemes or other similar matter. Use of the mail systems to make statements that could be construed as defamatory is also prohibited. This also applies to Internet usage. The mail, computer and email systems are a part of the District's workplace and the District's policies on harassment and on workplace conduct apply.

The District strictly prohibits sexual harassment and harassment because of race, religion, creed, color, national origin, ancestry, physical or mental disability, medical condition including pregnancy, childbirth or any related medical condition, marital status, veteran's status, sexual orientation or preference, age or any other basis made unlawful by Federal, state or local law, ordinance, or regulation. This policy applies to all persons involved in the operation of the District and prohibits harassment by any employee of the District, including supervisors and co-workers. Harassment in any form, including verbal, physical and visual conduct, threats, demands and retaliation is prohibited. Sexual harassment is defined by the Fair Employment and Housing Commission as "unwanted sexual advances, or visual, verbal or physical conduct of a sexual nature." Harassment includes, but is not limited to:

- verbal conduct such as epithets, derogatory jokes or comments, slurs, or unwanted sexual advances, invitations or comments;
- visual conduct such as derogatory and/or sexually explicit posters, photography, cartoons, drawings, or gestures;
- physical conduct such as assault (unwanted touching), blocking normal movement, or interfering with work directed at you because of sex, race, or any other protected basis;
- threats and demands to submit to sexual requests in order to keep your job or avoid some other loss, and offers of job benefits in return for sexual favors;
- retaliation for having reported or threatened to report harassment, or for participation in any investigation of alleged harassment; and
- verbal abuse of a sexual nature, graphic verbal commentaries about an individual's body, sexually degrading words used to describe an individual, suggestive or obscene letters, notes, or invitations.

Any employee who believes that he or she has been harassed by a co-worker, family member, visitor, vendor, supervisor or management employee should promptly report the facts of the incident and the name of the individual(s) involved to the District Superintendent. Any other management employee receiving such a report must immediately report any incident to the District Superintendent, who will be responsible for the follow-up investigation. Investigations may be conducted by the Personnel Committee, the District Superintendent, or an outside person retained for this purpose, as determined appropriate by the District Superintendent.

#### Section 2.2 Complaint Procedure.

- A. Any employee who feels he or she has been the victim of sexual or other harassment should contact the District Superintendent or other management personnel within five (5) days of the incident. In the event the employee feels uncomfortable making such report to his or her supervisor or the District Superintendent, the employee should make the report to the next

level of management up to and including the President of the Board. This report can be oral or written, but the District requests a written report contain specific facts of the harassment so that it can be properly and fully investigated.

B. If management personnel other than the District Superintendent first receives the initial complaint, oral or written, the supervisor or manager receiving the complaint will immediately report the incident to the District Superintendent. Upon receipt of a written statement signed by the employee, the District Superintendent shall arrange for an investigation of the complaint.

C. The investigator will contact the person who allegedly initiated the harassment, and inform that person of the basis of the complaint and his or her opportunity to respond to the allegations in writing within seven (7) days.

D. Upon the receipt of the written response, and after conducting a thorough investigation, the investigator will submit a written summary of the complaint, the response, and a finding of facts which substantiate, in whole or in part, the allegations to the Personnel Committee. After reviewing the report, the Personnel Committee will determine whether harassment has occurred and notify both parties.

E. If it is determined that harassment has occurred, appropriate disciplinary action, up to and including dismissal, will be taken. The severity of the discipline will be determined by the severity and frequency of the offense, or other conditions surrounding the incident.

The District encourages all employees to report any incidents of harassment forbidden by this policy immediately so that complaints can be quickly and fairly resolved. You should also be aware that the California Department of Fair Employment and Housing ("DFEH") investigates and may prosecute complaints of prohibited harassment in employment. If you think you have been harassed or that you have been retaliated against for resisting or complaining about such harassment, or for participating in the investigation of any alleged harassment, you may file a complaint with the DFEH. The nearest DFEH office is listed in the telephone book.

### **ARTICLE 3    EMPLOYMENT STATUS**

Section 3.1 Employee Classifications. Employee classifications are as follows:

A. Regular Full-Time Employees. An employee who is regularly scheduled to work not less than thirty (30) hours per week for a period of indefinite duration is referred to as a regular full-time employee. A regular full-time employee is eligible for the benefits described in this Manual and as approved from time to time by the District's Board of Directors.

- B. Regular Part-Time Employees. An employee who is regularly scheduled to work less than thirty (30) hours per week for a period of indefinite duration is referred to as a regular part-time employee. Regular part-time employees who work at least 800 hours a year are eligible for benefits only as specifically described in this Manual and as approved from time to time by the District's Board of Directors. In a regular part-time employee's first year, the calculation of number of hours worked for the purpose of determining benefit eligibility will be performed as of the pay period that includes the employee's one year employment anniversary. Thereafter, when the employee has worked for the District more than 12 months, the calculation of number of hours worked for the purpose of determining benefit eligibility will be performed at the end of the District's fiscal year, unless there's been a break in service. In the event of a break in service, the calculation of number of hours worked for benefit eligibility will be performed as of the pay date including the employee's one year anniversary of returning to work and thereafter at the end of the District's fiscal year.
- C. Temporary Employees. Temporary employees are persons hired to work on special assignment with the understanding that such work will be completed within a specified period of time. When the need arises, the District will hire employees for a temporary period or contract out, using a temporary contract service or agency independent of the District. Temporary employees do not become regular employees as a result of the passage of time. Temporary employees are not eligible for the benefits described in this Manual. Temporary employees who work over 30 days in one year are eligible for sick leave as provided in Section 4.3.
- D. Exempt/Non-Exempt Employees. Exempt employees are those employees who are exempt from earning overtime compensation; non-exempt employees are those employees eligible for overtime compensation in accordance with the provisions of applicable wage and hour laws. Overtime compensation requirements are set forth in the section of this Manual entitled "Hours of Work and Overtime". The District Superintendent, as that position has been established by the Board, is an exempt position. Other positions may or may not be exempt, and the status of the employee in that position will be established at the time of hiring, depending on the duties and responsibilities of the position.
- E. Hiring Powers. The District Superintendent serves at the pleasure of the Board; all other employees of the District are hired by, and serve at the pleasure of the District Superintendent, subject to this Manual and Board approval.

Section 3.2 Eligibility for Employment. At the time the District plans to fill a personnel vacancy, the District will recruit from an established list of eligible applicants kept in District files or may run an add in a local newspaper and other media as appropriate identifying the job and minimum requirements for the position. Any person meeting the requirements, who is a United States citizen or has filed notice of intent to become a citizen, regardless of sex, race, creed, or place of national origin may apply.

Section 3.3 Selection. Selection for appointment to a District position will be as follows:

- A. In the event of an anticipated vacancy for the District Superintendent position, the current Superintendent and the Personnel Committee will jointly recruit and interview applicants, and refer the most qualified applicant to the Board for consideration.
- B. In the case of all other District vacancies, the District Superintendent and the Personnel Committee will jointly recruit and interview applicants, selecting and referring the most qualified individual to the Board for consideration. If the Board does not approve such applicant, another applicant will be referred, either from the same group of applicants or from a new group, at the discretion of the District Superintendent and the Personnel Committee.

Section 3.4 Medical Examinations. It is the policy of the District to employ persons who have physical health consistent with the bona fide essential functions and other requirements of the position to be filled, and to assure that all employees have a standard of health that will contribute to safe, healthy and efficient performance of work. It is also the District's policy not to discriminate against applicants because of physical or mental disabilities, or medical conditions whenever such can be reasonably accommodated.

Therefore, an applicant offered appointment, may be required to take a physical examination with final appointment subject to a satisfactory physical report by a physician of the District's choice. Said examination shall be conducted at the District's expense, after an offer of employment and as a condition of continued employment. Periodic examinations may further be required to assess continuing ability to fulfill physical requirements of his or her position, at the sole discretion of the District. Job applicants who fail to appear for an arranged medical examination without good cause may be disqualified from further employment consideration.

Section 3.5 Probationary Period. All appointments shall be subject to a probationary period of six (6) months. During this period, the Superintendent shall closely observe the probationary employee's performance, and probationary employee may be discharged by the Superintendent or by the District Board without cause and without right

of appeal to the District Board.

Section 3.6 Performance Reviews. Employee's performance will be evaluated on a continual basis. The District Superintendent will complete an annual performance review of all District employees during the month of June. As part of the ongoing performance review process, any deficiencies will be discussed with the respective employee. Preset employee performance goals will be included in the review for employee eligibility for merit award consideration during the next fiscal year.

#### **ARTICLE 4 HOLIDAYS, VACATION, LEAVES OF ABSENCE**

Section 4.1 Holidays. The District observes the following standard holidays and provides all full-time employees time off with pay at their normal base rate unless otherwise provided in this Manual. Part-time employees receive holiday time off, with pay pro-rated to the number of hours they are scheduled to work.

New Year's Day  
President's Day  
Memorial Day  
Independence Day  
Labor Day  
Thanksgiving Day  
Friday Following Thanksgiving  
Christmas Day  
1 Floating Holiday

Holidays are to be taken on the day they occur. Holidays which fall on Saturday will be observed the preceding Friday, and those which fall on Sunday will be observed the following Monday.

Section 4.2 Vacation Policy. The District provides vacation benefits to eligible employees to enable them to take paid time off for rest and recreation. The District believes this time is valuable for employees in order to enhance their productivity and to make their work experience with the District personally satisfying.

- A. Vacation Accrual. All regular full-time employees are eligible to take vacation benefits based on their continuous length of service, measured from the date of hire. All regular part-time employees are eligible to accrue, and take, vacation time off, except that vacation accrual is pro-rated, according to the number of weekly hours they are scheduled to work. "Continuous length of service" is defined as service that is uninterrupted by termination of



employment and subsequent rehire by the District; uninterrupted by a break in service or a leave of absence.

For a break in service of one year or less, a returning employee's previous continuous service will be considered in calculating the vacation accrual, though no credit will be given for the break in service period. For breaks in service greater than one year, continuous service will be calculated from the employee's rehire or return date, and no credit will be given for the previous service period.

The District's Vacation Accrual policy applies to all employees of District, except where inconsistent with a written contract of employment.

B. Schedule. Vacation accrues according to the following schedule:

| Years of Continuous Service     | Vacation Accrual   |
|---------------------------------|--|
| Date of hire through fifth year | .0475 hours per hour worked, taken as vacation, or paid as holiday; maximum of 80 hours per year (11 days).  |
| Sixth year through tenth year   | .0714 hours per hour worked, taken as vacation, or paid as holiday, maximum of 120 hours per year (17 days). |
| Eleventh year and thereafter    | .0857 hours per hour worked, taken as vacation, or paid as holiday, maximum of 144 hours per year (20 days). |

C. Temporary Employees. Temporary employees do not accrue vacation benefits.

D. Maximum Accrual. Vacation accruals may not exceed the following:

| Years of Continuous Service     | Vacation Carry forward at Fiscal Year-End or Employment Termination |
|---------------------------------|---|
| Date of hire through fifth year | A maximum of 80 hours or 11 seven hour work days.                   |
| Sixth year through tenth year   | A maximum of 120 hours or 17 seven hour work days.                  |
| Eleventh year and thereafter    | A maximum of 144 hours or 20 seven hour work days.                  |

Once this maximum is reached, all further accruals of vacation will cease.

Vacation accruals will recommence after the employee has taken vacation and his or her accrued hours have dropped below the maximum accrual allowed.

- E. Pay in Lieu of Vacation. No employee will receive pay in lieu of vacation except on the termination of his or her employment, as described in Paragraph G below, unless the employee has deferred his or her vacation at the District's request.
- F. Vacation Accrual During Periods of Leaves of Absence. No vacation accrues during an unpaid leave of absence; vacation accrual continues during paid leaves of absence. Vacation accruals recommence when the employee returns to work.
- G. Vacation Pay on Termination. On termination of employment, the employee is paid all accrued but unused vacation at the employee's base rate of pay at the time of his or her termination.
- H. Vacation Approval. All vacations must be approved in advance by the District Superintendent.
- I. Vacation Scheduling. Scheduling of vacations is to be done in a manner consistent with the District's operational requirements. Vacation requests should be submitted by employees to the District Superintendent for approval at least four (4) weeks prior to the commencement of a vacation period. Vacation requests may be disapproved or rescheduled to accommodate the District's operational requirements.
- J. Vacation Advances. An employee is not permitted to borrow on future accrual of vacation benefits. If an employee has used any vacation days before they have been accrued and then leaves the employment of the District, the amount of pay for any vacation time taken but which has not accrued at the time of termination will be deducted from the employee's final paycheck.
- K. Time Off in Lieu of Pay. The District may, in its discretion, require an employee to work on scheduled holidays and provide another day off, at the convenience of the District and the employee.

Section 4.3 Sick Leave. In order to help prevent loss of earnings that may be caused by accident or illness, the District has established paid sick leave.

- A. Eligibility. All regular full-time employees are eligible for 8 hours of sick leave per 160 hours worked. The maximum accrual of un-used sick leave shall be 720 hours. Regular part-time employees and temporary employees that work more than 30 days per year are eligible to accrue sick leave and shall, at a minimum, receive 24 hours of sick leave per calendar year. Temporary employees that work less than 30 days per year are

ineligible to earn or receive sick leave benefits. Employees that work more than 30 days per year earn 1 hour of paid sick leave for every 30 hours worked.

B. Use.

1. Sick leave may be taken for an employee or a family member for illness, emergency, or disability, preventative care or care of an existing health condition. For purposes of this section, family members shall include your spouse, registered domestic partner, parent or child (including step-parent, stepchildren, and in-laws) or a grandparent or grandchild. Sick leave may also be taken if an employee is the victim of domestic violence, sexual assault, or stalking.
2. Hours absent for medical and dental appointments will be treated as sick leave.
3. Sick leave may be accumulated up to a total of 720 hours. Upon reaching the accrual limit, no more sick leave shall be accrued, until sick leave has been taken to reduce the accrued amount to below the accrual limits. No more than 192 hours may be used for the illness of a spouse, domestic partner, parent or child (including step-parent, stepchildren, and in-laws) or a grandparent or grandchild.
4. The District retains the right to request a verification form from a licensed healthcare provider for all absences due to illness or disability. Sick pay may be withheld if a satisfactory verification is not received.
5. Sick leave will not accrue during any unpaid leave of absence.
6. Accrued, but unused, sick leave will not be paid on termination.
7. Abuse of sick leave privileges will be grounds for disciplinary action. Reasonable grounds of abuse include a pattern of numerous one-day absences throughout the year, particularly if leave is always taken on Mondays or Fridays; frequency of absences; low or zero accumulated sick leave balances; and other patterns of abuse.

- C. Coordination of Sick Leave Benefits with Workers' Compensation and Non-occupational Disability or Medical Leaves of Absence. The District will pay sick leave benefits to an eligible employee during the normal three-day waiting period before the employee is paid workers' compensation benefits pursuant to the applicable state or federal law governing the industrial injury or illness.

Similarly, the District will pay sick leave benefits during the normal seven-day waiting period before the eligible employee is paid benefits from either state unemployment disability or other insured unemployment disability plan.

Following the three-day and seven-day waiting periods specified

above, an employee will continue to receive accrued sick pay, less the disability benefits actually received.

Section 4.4 Other Leaves of Absence.

A. Family Care and Medical Leave.

1. Purpose. This section outlines the procedures applicable under the federal Family and Medical Leave Act, (29 U.S.C. Sections 2601-2654) and the California Family Rights Act, (Government Code Section 12945.2), both of which require the District to permit each eligible employee to take up to 12 work weeks of Family and Medical Leave Act leave (collectively referred to as "FMLA leave") in a 12-month period.
2. Employee Eligibility Criteria. To be eligible for FMLA leave, employees must have been employed by the District for at least 12 months and must have worked at least 1,250 hours during the 12 month period immediately preceding commencement of FMLA leave.
3. Events Which May Entitle an Employee to FMLA Leave. The 12-week FMLA allowance includes time taken (with or without pay) for any of the following reasons:
  - a) The birth of a child of the employee or the placement of a child with the employee for adoption or foster care. Leaves for this purpose must conclude 12 months after the birth, adoption, or placement. If both parents are employed by the District, they will be granted a combined total of 12-weeks of leave for this purpose.
  - b) Because of the employee's own serious health condition (including a serious health condition resulting from an on-the-job illness or injury) that makes the employee unable to perform his job at all or unable to perform any one or more of the essential functions of his job
  - c) To care for a spouse, child, or parent with a serious health condition. A "serious health condition" is one that requires either (1) inpatient care (i.e. an overnight stay) in a hospital, hospice, or residential medical care facility, including any period of incapacity or any subsequent treatment in connection with such inpatient care; or (2) continuing treatment or supervision by a health care provider.
  - d) For qualified exigency, as defined by the Family Medical Leave Act and related regulations, arising when an employee's spouse, child or parent is on active duty or is notified of an impending order to active duty ("Military FMLA leave"). Examples of a "qualified exigency" may include attending counseling sessions and attending military

ceremonies.

- e) For an employee to care for a spouse, child, parent or nearest blood relative who is a service member recovering from a serious illness or injury incurred while on active duty ("Military FMLA leave").

4. Length of FMLA Leave.

- a) FMLA leave can be taken in one or more periods, but may not exceed 12 work weeks total for any purpose in any 12-month period, as described below, for anyone, or combination, of the above-described situations. "Twelve work weeks" means the equivalent of 12 of the employee's normally scheduled work weeks. For a full-time employee who works five eight-hour days per week, "12 work weeks" means 60 working and/or paid eight-hour days.
- b) The "12-month period" in which 12 weeks of FMLA leave may be taken is the 12-month period immediately preceding the commencement of any FMLA leave.
- c) Military FMLA leave can be taken in one or more periods, but may not exceed a total of twenty-six (26) work weeks for any purpose in any 12-month period.
- d) The maximum combined amount of leave available under FMLA shall not exceed 26 weeks.

5. Pay During FMLA Leave.

- a) Except as otherwise provided in this Section, FMLA leave is unpaid.
- b) An employee on an FMLA leave because of his own serious health condition must use all accrued paid sick leave and may use vacation time and/or holiday leave at the beginning of any otherwise unpaid FMLA leave period.
- c) An employee on an FMLA leave for any reason other than his own serious health condition may use any or all accrued paid sick leave at the beginning of any otherwise unpaid FMLA leave and may use vacation or holiday leave.
- d) The receipt of vacation pay, sick pay, or State Disability Insurance benefits will not extend the length of the FMLA leave.
- e) Employees will continue to accrue vacation, sick leave, and holidays only during any period of FMLA leave which is paid leave, but not during any portion which is unpaid leave.

6. Seniority. An employee on FMLA leave remains an employee.

7. Medical Certifications.

- a) An employee requesting FMLA leave because of his/her own or a relative's serious health condition must provide medical certification from the appropriate healthcare provider. Failure to provide the required certification in a timely manner (within 15 days of the leave request) may result in denial of the leave request until such certification is provided.
  - b) If the District has reason to doubt the medical certification supporting a leave because of the employee's own serious health condition, the District may request a second opinion by a healthcare provider of its choice (paid for by the District). If the second opinion differs from the first one, the District will pay for a third, mutually agreeable, healthcare provider to provide a final and binding opinion.
  - c) Recertifications are required if leave is sought after expiration of the time estimated by the healthcare provider. Failure to submit required recertifications could result in termination of the leave.
8. How FMLA Leave is Requested and Scheduled.
- a) An employee should request FMLA leave by completing a Request for Leave form and submitting it to their supervisor.
  - b) Employees should provide not less than thirty (30) days' notice, or such shorter notice as is practicable, for foreseeable childbirth, placement, or any planned medical treatment for the employee or the employee's spouse, child, or parent.
  - c) When possible, employees must make a reasonable effort to schedule foreseeable planned medical treatments so as not to unduly disrupt the District's operations.
  - d) If FMLA leave is taken because of the employee's own serious health condition or the serious health condition of the employee's spouse, child, or parent, the leave may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the healthcare provider of the person with the serious health condition.
  - e) If FMLA leave is taken because of the birth of the employee's child or the placement of a child with the employee for adoption or foster care, the minimum duration of leave is two (2) weeks, except that the District will grant a request for FMLA leave for this purpose of at least one day but less than two (2) weeks duration on any two occasions.
  - f) If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or the employee's spouse, child or parent, or to care for a newborn child or child placed with the employee for adoption or foster care, the employee may be transferred temporarily to an available alternative position for which he is qualified that has

equivalent pay and benefits that better accommodates recurring periods of leave than the employee's regular position.

- g) In most cases, District will respond to a FMLA leave request with in two (2) days of acquiring knowledge that the leave is being taken for an FMLA qualifying reason and, in any event, the District will notify the employee in writing that the leave will be counted against the employee's FMLA leave entitlement. This notice will explain the employee's obligations and the consequences of failing to meet those expectations.

9. Return to Work.

- a) On timely return at the expiration of the FMLA leave period, an employee (other than a "key" employee whose reinstatement would cause serious and grievous economic injury to the District's operation) is entitled to the same or a comparable position with the same or similar duties and virtually identical pay, benefits, and other terms and conditions of employment unless the same position and any comparable position(s) have ceased to exist because of legitimate business reasons unrelated to the employee's FMLA leave.
- b) When a request for FMLA leave is granted to an employee, the District will give the employee a written guarantee of reinstatement at the termination of the leave (with the limitations explained above).
- c) Before an employee will be permitted to return from an FMLA leave taken because of his own serious health condition, the employee must obtain a certification from his healthcare provider that he is able to resume work.
- d) If an employee can return to work with limitations, the District will evaluate those limitations and, if possible, will accommodate the employee as required by law. If accommodation cannot be made, the employee will be medically separated from the District.

10. Limitations on Reinstatement.

- a) The District may refuse to reinstate a "key" employee if the refusal is necessary to prevent substantial and grievous economic injury to the District's operations. A "key" employee is an exempt salaried employee who is among the highest paid ten percent (10%) of the District's employees.
- b) A "key" employee will be advised in writing at the time of a request for, or if earlier, at the time of commencement of FMLA leave, that he qualifies as a "key" employee and the potential consequences with respect to reinstatement and maintenance of health benefits if the District determines that substantial and grievous economic injury to the District's operations will result if the employee is reinstated

from FMLA leave. At the time it determines that refusal is necessary, the District will notify the "key" employee in writing (by certified mail) of its intent to refuse reinstatement and will explain the basis for finding that the employee's reinstatement would cause the District to suffer substantial and grievous economic injury. If the District realizes after the leave has commenced that refusal of reinstatement is necessary, it will give the employee at least ten (10) days to return to work following the notice of its intent to refuse reinstatement. If the employee does not return to work in response to the notification, the employee continues to be entitled to maintenance of health benefits for the remainder of the leave period and the District may not recover its share of the employee's health benefit premiums. If such a "key" employee then requests reinstatement at the end of the leave period, the District will again determine if his reinstatement will cause substantial and grievous injury and, if so, will so notify the employee in writing (via certified mail) of the denial of reinstatement.

11. Employment During Leave. An employee on FMLA leave may not accept employment with any other employer without the District's written permission. An employee who accepts such employment will be deemed to have resigned from employment at the District.

B. Pregnancy Disability Leave.

1. Purpose. This policy explains procedures applicable under the California Pregnancy Disability Act, (Government Code Section 12945), which requires the District to give each female employee a reasonable leave of absence of up to four months, as needed, for the period(s) of time a woman is actually disabled by pregnancy, childbirth, or related medical conditions.
2. Employee Eligibility Criteria. To be eligible for Pregnancy Disability Leave (PDL), the employee must be disabled by pregnancy, childbirth, or related medical conditions.
3. Events Which May Entitle an Employee to PDL Leave. The four month PDL allowance includes any time taken (with or without pay) for any of the following reasons:
  - a) The employee is unable to work at all or is unable to perform any more or is unable to perform any one or more of the essential functions of her job without undue risk to herself, the successful completion of her pregnancy, or to other persons because of pregnancy or childbirth or because of any medical recognized physical



- or mental condition that is related to pregnancy or childbirth (including severe morning sickness);
  - b) The employee needs to take time off for prenatal care.
- 4. How Much PDL May be Taken. PDL may be taken in one or more periods, but may not exceed four months total. "Four Months" means the number of days the employee would normally work within four months. For a full-time employee who works five eight-hour days per week, "four months" means 88 working and/or paid eight-hour days of leave entitlement, based on an average of 22 working days per month for four months. PDL does not count against the leave available under the District's policy on Family Care and Medical Leave.
- 5. Pay During PDL.
  - a) An employee on PDL shall use all accrued sick leave, vacation time and holiday leave at the beginning of any otherwise unpaid leave period.
  - b) All other time off on PDL is unpaid.
  - c) The receipt of vacation pay, sick pay, or State Disability Insurance benefits will not extend the length of the PDL.
  - d) Employees will continue to accrue vacation, sick leave, and holidays only during that period of PDL which is paid, and will not continue such accrual during any unpaid portion of PDL.
- 6. Seniority. An employee on PDL remains an employee of the District and the leave will not constitute a break in service. When the employee returns from PDL, she will return with the same seniority she had when the leave commenced.
- 7. Medical Certifications.
  - a) An employee requesting a PDL must provide medical certification from her healthcare provider. Failure to provide the required certification in a timely manner (within 15 days of the leave request) may result in a delay of the leave request until such certification is provided.
  - b) Recertification is required if leave is sought after expiration of the time estimated by the healthcare provider. Failure to submit required recertification could result in termination of the leave.
- 8. How PDL is Requested and Scheduled.
  - a) An employee should request PDL by completing a Request for Leave form and submitting it to her supervisor.
  - b) Employees should provide not less than thirty (30) days' notice, or such shorter notice as is practicable, if the need for the leave is

foreseeable.

- c) When possible, employees must make a reasonable effort to schedule foreseeable planned medical treatments so as not to unduly disrupt the District's operations.
- d) PDL may be taken intermittently or on a reduced leave schedule when medically advisable, as determined by the employee's healthcare provider.
- e) If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment, the employee may be transferred temporarily to an available alternative position for which she is qualified that has equivalent pay and benefits that better accommodates recurring periods of leave than the employee's regular position.
- f) In most cases, the District will respond to a PDL request within two (2) days of acquiring knowledge that the leave qualifies as PDL and, in any event, within ten (10) days of receiving the request. If a PDL request is granted, the District will notify the employee in writing that the leave will be counted against the employee's PDL entitlement. This notice will explain the employee's obligations and the consequences of failing to meet them.

9. Return to Work.

- a) On timely return at the expiration of the PDL period, an employee is entitled to the same position unless the employee would not otherwise have been employed in the same position at the time reinstatement is requested for legitimate business reasons unrelated to the employee's PDL or each means of preserving the job for the employee (such as leaving it unfilled or filling it with a temporary employee) would have substantially undermined the District's ability to operate the business safely and efficiently. If the employee is not reinstated to the same position, she will be reinstated to a comparable position unless there is no comparable position available or a comparable position is available, but filling that position with the returning employee would substantially undermine the District's ability to operate the business safely and efficiently. A "comparable" position is a position that involves the same or similar duties and responsibilities and is virtually identical to the employee's original position in terms of pay, benefits, and working conditions.
- b) When a request for PDL is granted to an employee, the District will give the employee a written guarantee of reinstatement at the end of the leave (with the limitations explained above).
- c) Before an employee will be permitted to return from a PDL of three days or more, the employee must obtain a certificate from her

healthcare provider that she is able to resume work.

- d) If the employee takes FMLA leave for reason of the birth of her child at the expiration of her PDL, her right to reinstatement is governed by the FMLA leave policy, not by this policy.
- e) If the employee can return to work with limitations, the District will evaluate those limitations and, if possible, will accommodate the employee as required by law. If accommodation cannot be made, the employee will be medically separated from the District.

10. Employment During Leave. An employee on PDL may not accept employment with any other employer without the District's written permission. An employee who accepts such employment will be deemed to have resigned from the employment at the District.

- C. California Paid Family Leave. California law provides for payments from the State Disability Fund for wage loss of employees who take time off work to care for a seriously ill child, spouse, parent or domestic partner, or to bond with a new child ("Bonding Leave"). Bonding Leave is a program administered, not by the District, but by the California Employment Development Department. Employees make small contributions through payroll deductions for this benefit. Bonding Leave provides you income replacement while on leave - it does not create a new right to a leave of absence or guarantee job protection during your leave.

For purposes of the employee's employment with the District, Bonding Leave is unpaid leave. Prior to receiving "Bonding Leave" benefits, the employee may be required to use some or all of the employee's accrued sick leave and/or vacation. Further information regarding this program may be obtained through the Employment Development Department's website: [www.edd.ca.gov/disability/Paid Family Leave.htm](http://www.edd.ca.gov/disability/Paid%20Family%20Leave.htm). Employees will not accrue vacation or sick leave, nor will employees be paid for holidays during any period of unpaid leave.

- D. State Disability Insurance and Parental Bonding Leave.

***NOTE: State Disability Insurance, which is funded by employee deductions, is optional for employees of California public agencies, including the District. Therefore, payment for any benefits associated with the State Disability Insurance program is contingent upon the employee's participation in the program. Please see the District Superintendent for additional details.***

In the event of an injury or illness that is not work related, employees may be eligible for income replacement benefits through the California State Disability Insurance ("SDI"). Employees make small contributions through payroll deductions for this benefit, which is administered by the State of California. For

purposes of the employee's employment with the District, Disability Leave is considered unpaid leave.

- E. Other Disability Leaves. In addition to PDL, and FMLA leave, employees may take a temporary disability leave of absence if necessary to reasonably accommodate a work place injury or a disability, as defined under the Americans with Disabilities Act or the California Fair Employment and Housing Laws. Such leaves will be unpaid, except that an employee must use any available sick leave, and may, at the employee's option, use any accrued vacation time.
  
- F. Legally Required Leaves of Absence. Employees will be granted a leave of absence as required by law for the purpose of fulfilling any required legal or military obligation (e.g., jury duty, appearance as a witness in a legal proceeding, in which the employee is not a party, military duty, appearance at school by a parent when requested pursuant to the Education Code, or performance of emergency duty by a volunteer fire fighter). Employees are required to provide reasonable advance notice of any need for such leave and are expected to return to work each day or portion of the day that they are not selected for jury duty or called as a witness. Any employee who is summoned for attendance to any court for jury duty on a normal work day shall be deemed to be on duty and there shall be no loss of pay, provided that any jury or witness fees (excluding payment for mileage) received by the employee should be paid to District.

Employees who do not have sufficient time outside of their regular working hours to vote in a statewide election may request time off to vote. If possible, employees should make their request at least two days in advance of the election. Up to two hours of paid time off will be provided, at the beginning or end of the employee's regular shift, whichever will allow the freest time for voting and the least time off work.
  
- G. Bereavement Leave. All employees who suffer a death in their immediate family may be allowed to be absent with pay for three scheduled work days for each family member who dies. Employees must take this leave within a seven consecutive day period and will be paid only for days and hours they were scheduled to work. For purposes of this leave, immediate family shall mean the spouse, child, parent, sibling, grandparent, or grandchild of the employee, or the child, sibling, parent, or grandchild of the employee's spouse.
  
- H. Leaves Of Absence Without Pay. An employee shall not be entitled to a leave of absence without pay as a matter of right (except as provided by federal or state law).

- 1. Authorization For Leave Of Absence Without Pay.

- a) Requests for leaves of absence without pay may be granted by the

Board of Directors for a period of up to one (1) year.

- b) The request and the authorization for any leave of absence without pay shall be in writing. A copy shall be filed with the District Secretary.
- c) A leave of absence without pay shall not be authorized until the employee has exhausted all accumulated vacation.

2. Early Return From Authorized Leave Of Absence Without Pay. An employee may request permission from the District Superintendent to return from an authorized leave of absence without pay prior to the expiration of such leave. Such a request may be granted at the discretion of the District Superintendent.

3. Status Of Employee On Authorized Leave Of Absence Without Pay.

- a) Authorized leave of absence without pay shall not be construed as a break in service, except as listed below, and rights accrued as of the time the leave is granted shall be retained by the employee.
- b) Benefits including, but not limited to, health/medical insurance, life insurance, vision care, dental care, vacation, sick leave, holidays, retirement, payments for special assignments, and other similar benefits shall not be granted nor accrue to a person granted a leave of absence without pay during period of absence if such period exceeds one pay period. Employees and their dependents may continue their health /medical insurance by paying the premiums for such time as the employee is on authorized leave of absence without pay.
- c) An employee returning to employment after an authorized leave of absence without pay shall retain the same status and shall be placed at the same salary step in the pay range in effect for the class as the employee received when the authorized leave of absence without pay commenced.
- d) Time spent on an authorized leave of absence without pay shall not count towards service and the employee's personnel action date shall be set forward a period of time equal to the employee's total absence.

4. Failure To Return From Authorized Leave Of Absence Without Pay. Failure of an employee to return to his or her employment upon the termination of any authorized leave of absence without pay shall constitute an automatic resignation from District service.

I. Military Spouse Leave.

1. Eligibility. To be eligible for Military Spouse Leave, the employee must:

- a) Work an average of twenty (20) or more hours per week;
  - b) Have a spouse that is a member of 1) the Armed Forces of the United States and has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States, 2) the National Guard who has been deployed during a military conflict, or 3) Reserves who has been deployed during a military conflict.
  - c) Provide the District written notice of their intention to take military spouse leave within two (2) business days of receiving official notice that their spouse will be on leave from deployment; and
  - d) Provide the District written documentation certifying that his or her spouse will be on leave from deployment during the time that they will be using military spouse leave.
2. Procedure for Requesting Military Spouse Leave. Employees should notify the District of their request for Military Spouse Leave within two (2) business days of receiving official notice that their spouse will be on leave from deployment. In addition, employees shall provide the District with written documentation certifying that his or her spouse will be on leave from deployment during the time that they will be using Military Spouse Leave.
3. Amount of leave. The District provides up to Ten (10) days of unpaid leave when an employee's spouse is on leave from military deployment.

## **ARTICLE 5 HOURS OF WORK, OVERTIME, PAY DAY, AND BENEFITS**

Section 5.1 Hours of Work. The District's office hours are generally from 8:30 a.m. to 4:30 p.m., Monday through Friday. Sewerage system operator hours are from 8:30 a.m. to 4:30 p.m., Monday through Friday, with one-half hour unpaid for lunch. Employees will be assigned specific hours, shifts, and days of work, dependent upon the need of the District, by the District Superintendent or by the employee's supervisor. Due to the nature of District operations employees may be required to work shifts, or hours, outside office hours. The District Superintendent or the employee's supervisor may reschedule an employee's hours, shifts, and days whenever necessary, based upon the needs of the District.

Hourly compensated employees receive two ten-minute paid break periods for each full work day, one in mid-morning and one in mid-afternoon.

Treatment Plant operators are regularly scheduled for weekend sewerage system inspection duty on a rotating basis.

Section 5.2 Pay Days. Complete and accurate time cards are to be kept by all hourly compensated employees noting hours worked as well as vacation and sick

leave taken. Salary compensated employees shall complete a time sheet noting accrued vacation and sick leave and vacation and sick leave taken on a monthly basis. Pay days are on bi-weekly basis.

Section 5.3 Overtime Pay.

- A. Overtime Definition and Rates of Pay. All hourly compensated employees who work more than forty (40) hours in one workweek will receive overtime pay computed as follows:

*Overtime at the rate of 1 ½ times the employee's regular rate of pay will be provided for all hours worked in excess of forty (40) in any one workweek.*

Overtime will be computed on actual minutes worked, adjusted to the nearest increment of 15 minutes. Only those hours actually worked are added together to determine an employee's overtime pay. Compensated holidays, for example, are not hours worked and are therefore not counted in making overtime calculations.

Section 5.4 Other Types of Pay.

- A. Callback Pay. Any hourly compensated employee who is called back to work for a second work period in any one workday and is furnished with less than two hours work is paid a minimum of two hours pay at the regular straight-time rate for the second work period, without regard to the number of hours actually worked, unless the reasons for lack of work are beyond the District's control.
- B. Holiday Pay. Hourly compensated employees are paid their regular straight-time wages for holidays as set forth under Article 3 of this manual. To receive holiday pay, the employee must work the regularly scheduled workdays preceding and following the holiday, or receive prior approval from his or her Supervisor to take the time off.
- C. Emergency Call-Out Pay. Hourly compensated employees called out in emergency situations will receive one and one-half (1 ½) hours of pay for each hour worked. There is a three-hour minimum paid for an emergency call-out.
- D. Pay Advances. There will be no pay advances.
- E. Payment on Resignation or Termination. If an employee resigns, his or her

paycheck will be available on the final day of work, provided the employee has given at least 72 hours prior notice. If an employee resigns without giving 72 hours notice or fails to return to work, his or her paycheck will be mailed by regular mail to his or her last known address not later than 72 hours after the date when an employee is considered to have terminated. If an employee is terminated involuntarily, his or her paycheck will be available at the time of discharge. The employee's final paycheck will include payment for all wages due and not previously paid and for accrued but unused vacation time, minus authorized deductions.

- F. Weekend Duty. Hourly compensated employees that inspect the sewerage system on weekends and holidays shall be paid a minimum of 2 hours per day.

Section 5.5 Step Compensation Plan. The District has a five year Step Compensation Plan. At the end of each year of employment for the first five years of employment the Board of Directors will review an employee's job performance to determine an automatic step compensation pay raise. At the end of five years employment, no additional pay increases are offered. Step compensation increases are given at the start of the fiscal year. The District provides supplementary employee compensation through its Merit Award and Longevity Pay Programs.

District Superintendent compensation is directly negotiated with the Board of Directors.

Section 5.6 Longevity Pay Program.

- A. Purpose. The Longevity Bonus pay plan recognizes and expresses the District's appreciation for the long-term service of employees, both full-time and part-time who have completed at least 10 years of Total Service.
- B. Service Requirement. Longevity Bonus pay (full or pro-rata) is based on Total Service and is computed as a percentage of the employee's annual compensation at the date of eligibility. A break in service as a result of leave without pay delays the payment for longevity by the months represented by the non-pay status. (Workers' compensation leave and military leave do not represent breaks in service.) Service toward longevity is credited for each month in which an employee is in pay status for one-half or more of the regularly scheduled work days and paid holidays in the month.
- C. Full Longevity Bonus Payment. Longevity Bonus payment is computed by multiplying the eligible employee's annual compensation by the appropriate percentage (see table below) and is rounded to the nearest dollar:



Years of Total State Service Longevity Pay Percent

|                   |       |
|-------------------|-------|
| Ten Years         | 1.50% |
| Fifteen Years     | 2.25% |
| Twenty Years      | 3.25% |
| Twenty-Five Years | 4.50% |

Longevity pay is made in a lump sum and is subject to statutory deductions. It is not considered a part of base annual pay for classification. Full longevity pay is paid by separate check to an eligible employee on the payday for the pay period in which his/her eligibility date occurs and annually in succeeding years. Longevity bonus payments from the above table shall apply to employees hired after 2010. A longevity bonus payment for an employee hired prior to 2010 shall be approved by the Board of Directors on a case by case basis.

Section 5.7 Merit Raise or Merit Bonus Payment Program. The District has a merit raise and merit bonus payment program to recognize and reward employee performance. The amount of each merit raise or merit bonus payment is based upon considerations such as, availability of funding during the next fiscal year. Merit raises or bonuses are offered as incentives for employees to meet or exceed preset goals or performance criteria. These are set at the time of hiring or during subsequent individual performance reviews.

- A. Merit Raise. A merit increase is an increase in hourly wages or yearly salary based on individual performance. This is as compared to a standard yearly pay increase for all employees or a cost of living increase. The District may give cost-of-living raises to employees to offset inflation, and are not tied to performance of an employee's duties, while merit raises are awarded on an individual basis according to performance. Merit increases are considered at budget preparation time and approved by the Board of Directors, and are awarded during the next fiscal year.
- B. Merit Bonus Payment. A merit increase and a merit bonus, though often used interchangeably, are not technically the same thing. A merit bonus may be considered at the end of the fiscal year to an employee or employees who have gone above and beyond their standard job duties, or who have had excellent performance in their jobs. This merit bonus may be a one-time flat payment, which is where it differs from merit increases, which are permanent pay raises once they are in effect. A merit bonus is a lump sum approved by the Board of Directors during budget preparation, and awarded during the next fiscal year.
- C. Merit Award Criteria. An annual performance review is used to document each employee's performance and contributions. The performance review may include performance goals for the following fiscal year, which are used to establish meritorious performance. To be eligible for a merit raise or merit bonus, an

employee should exhibit exemplary performance, evidenced by an excellent overall rating on the current performance review. The time span for evaluation for meritorious performance is relatively short. Recent activity as well as current level of activity should be considered.

Following the performance review, the Superintendent may make a recommendation to the Personnel Committee. In turn, the Personnel Committee may recommend the pay increase or bonus to the full Board of Directors for approval.

The final approval would be based on the current performance review, which should outline any meritorious performance by the employee. The Board should make an assessment of how the employee meritoriously went beyond the satisfactory execution of the normal duties listed in their job description, which are a condition of employment.

#### Section 5.8 Benefits

- A. Payroll Deductions. The following payroll deductions are withheld from employee paychecks:

1. State Disability Insurance
2. Income Tax
3. Social Security (FICA)

All permanent employees and those employees who work in excess of 23 hours per week contribute to Social Security. The District matches contributions to Social Security dollar for dollar.

- B. Retirement. The District provides retirement benefits through the Public Employees' Retirement System (PERS).
- C. Medical/Health Coverage. The District will provide regular full-time and part-time employees and their dependents with health coverage under a policy determined by or approved by the Board. The District will provide \$250.00 per year per insured employee and each employee's dependent to cover ½ of the deductible. Any unused medical benefit will not be carried over to the beginning of the next fiscal year. The District will provide up to \$500.00 per year for Dental/Optical care per employee and each employee's dependent(s). Any unused Dental/Optical benefit will carry over to the beginning the next fiscal year. Dental/Optical benefit shall carry over shall accrue for a maximum of three years.
- D. Term Life Insurance. The Board will provide full-time and permanent part-time employees with a \$25,000 Group Term Life Insurance under a policy determined by or approved by the Board.

- E. Safety Equipment. The District shall provide employees with safety boots and gloves when required by their work.
  
- F. Transportation on District Business. Approval to use District vehicles must be given by the District Superintendent. Each employee is responsible for any traffic citations received. Should an employee be required to use a private vehicle on District business, the District will reimburse the employee twenty-five (58.5¢) per mile. Claims for reimbursements must be submitted within thirty- (30) days of the date incurred. The District shall not be responsible for any damage to or maintenance of private vehicles.
  
- G. Tuition Refund. Permanent employees who desire to further their education for the purpose of improving their on-the-job performance may have up to one hundred percent (100%) of the tuition, transportation and per diem expenses for approved courses of study paid by the District. This does not include costs of college units for furthering ones' education.

The District Superintendent may approve training expenses under three hundred dollars (\$300.00) consistent with the budget. Before higher reimbursements can be made, it is necessary that the employee receive from the Board prior approval for proposed courses of study and for the cost of the course. Per Diem reimbursements must be verified by submission of a receipt for, travel, food and lodging, and verification of satisfactory completion of the course.

- H. Professional Society Costs. The Board will subscribe to certain publications and society memberships at the District's expense, as submitted by the District Superintendent and approved by the Board of Directors. Registration, transportation, and per diem expense will be reimbursed for attendance at local, state, and national conventions sponsored by the Water Environment Federation and the California Water Environment Association with prior approval of the Board.

## **ARTICLE 6    RULES OF CONDUCT**

Section 6.1 Open Door. The District has an Open Door Policy that encourages employee participation in decisions affecting them and their daily professional responsibilities. Employees who have job-related concerns or complaints are encouraged to talk them over with the District Superintendent. The District believes that employee concerns are best addressed through this type of informal and open communication.

Section 6.2 Termination, Discipline, and Rules of Conduct.

A. Termination.

1. Voluntary Termination. The District will consider an employee to have voluntarily terminated his or her employment if an employee does any of the following:
  - a) Elects to resign from the District;
  - b) Fails to return from an approved leave of absence on the date specified by the District; or
  - c) Fails to report for work without notice to the District for three consecutive days.
2. Involuntary Termination. An employee may be terminated involuntarily for reasons that may include, but are not limited to, poor performance, misconduct, or other violations of the District's rules of conduct as set forth below. Notwithstanding this list of rules, the District reserves the right to discharge with or without cause and with or without prior notice.
3. Termination Process. An employee who has successfully completed a probationary period may be terminated upon the recommendation of the District Superintendent to the Board of Directors, who will give final approval of the discharge, or the Board may, of their own initiative, discharge the employee on grounds which may include, but are not restricted to, incapacity, inefficiency, insubordination, or misconduct. At the time of discharge, the employee shall be given a written statement identifying the reason for termination. The discharged employee may, within ten (10) days of discharge, present a written statement to the Board in response to the official termination letter, and may ask to have a hearing before the Board.

Two weeks notice of termination shall be given to employees unless, in the opinion of the Board, the reason for discharge is such that others' safety may be endangered or the operation of the plant may be seriously impaired, in which cases the Board may affect an immediate discharge.

The District Superintendent may place an employee on a leave of absence without pay pending a Board decision regarding a recommendation of termination if in the Superintendent's opinion, the reason for discharge is such that others' safety may be endangered or the operation of the plant may be seriously impaired.

- B. Disciplinary Action. If it should become necessary to take disciplinary action

against an individual or individuals that violate District rules and regulations, the responsibility for initiating any such disciplinary action resides with the District Superintendent or Board. It is District policy to consider each case on an individual basis, taking into account, (1) the nature of the offense, (2) the employee's previous work and conduct record, and (3) the length of service of the employee concerned. Minor infractions will usually result in a verbal warning, but in serious cases an employee may be referred to the Board for disciplinary action, which may include suspension without pay or termination.

C. Rules of Conduct.

1. This policy also establishes the steps the District may take for both inappropriate conduct and performance in the workplace and use of employee cell phones, the District computer network, and the Internet and e-mail. All employees must read and adhere to the guidelines and policies established herein. Failure to follow this policy may lead to discipline, up to and including immediate termination or opportunity to correct the deficiency. If, however, the employee fails to make the correction, he or she will be subject to discipline including termination.

The rules set forth below are intended to provide employees with fair notice of what is expected of them. Necessarily, however, such rules cannot identify every type of unacceptable conduct and performance. Therefore, employees should be aware that conduct not specifically listed below that adversely affects or is otherwise detrimental to the interests of the District, other employees, or customers, may also result in disciplinary action. The listing of these rules does not in any way abrogate or modify the at-will policy set forth in Section 1.4 of this manual.

2. Job Performance. Employees may be disciplined for poor job performance including but not limited, to the following:
  - a) Unsatisfactory work quality or quantity;
  - b) Poor attitude (for example, rudeness or lack of cooperation);
  - c) Excessive absenteeism, tardiness, or abuse of break and lunch privileges;
  - d) Failure to follow instructions or District procedures; or
  - e) Failure to follow established safety regulations.
3. Misconduct. Employees may be disciplined for misconduct including, but not limited to, the following:

- a) Insubordination;
  - b) Dishonesty;
  - c) Theft;
  - d) Discourtesy;
  - e) Misusing or destroying District property or the property of another on District property;
  - f) Violating conflict of interest rules;
  - g) Disclosing or using confidential or proprietary information without authorization;
  - h) Falsifying or altering District records, including the application for employment;
  - i) Interfering with the work performance of others;
  - j) Altercations;
  - k) Harassing, including sexually harassing, employees or customers or clients;
  - l) Being under the influence of, manufacturing, dispensing, distributing, using, or possessing alcohol or illegal or controlled substances on District property or while conducting District business;
  - m) Gambling on District premises or while conducting District business;
  - n) Sleeping on the job or leaving the job without authorization;
  - o) Possessing a firearm or other dangerous weapon on District property or while conducting District business.
  - p) Being convicted of a crime that indicates unfitness for the job or raises a threat to the safety or well-being of the District, its employees, customers, or property;
  - q) Failing to report to the District, within five days, any conviction under any criminal drug statute for a violation occurring in the work place;
  - r) Use of foul or abusive language; or
  - s) Smoking in non-designated areas.
4. Attendance. In addition to the general rules stated above, employees may be disciplined for failing to observe the following specific requirements relating to attendance:
- a) Reporting to work on time, observing the time limits for rest and lunch periods, and obtaining approval to leave work early; and
  - b) Notifying the Superintendent in advance of anticipated tardiness or absence.

## **ARTICLE 7      WORK REGULATIONS**

Section 7.1 Personnel Records. The information in the employee's personnel file is confidential, and must be kept up-to-date. The employee should inform his or her Supervisor immediately whenever there are changes in personal data such as address, telephone number, marital status, number of dependents, and person(s) to notify in case of emergency.

The employee has the right to inspect his or her personnel file at reasonable times and on reasonable notice. In addition, employees have the right to request copies of all employment related documents that they have signed. An employee may inspect only his or her own personnel file and only in the presence of the District Superintendent, or his or her designee.

Personnel files are the property of the District and may not be removed from the District's premises without written authorization from the District Superintendent. Materials maintained in an employee's personnel file will not be disclosed to anyone outside the District, except upon prior written authorization from the employee, in compliance with a lawfully served subpoena, or other authority upon prior approval of the District.

Section 7.2 Security and Confidentiality. Each employee understands that it is the District's policy to maintain strict control over entrance to the premises, access to records, computer information, and items of monetary value. It is contrary to the policy of the District for an employee to discuss, reveal, or to refer to possession of such information, either during or after the end of the employment relationship, other than as necessary to accomplish the duties assigned to the employee.

This includes all information about the District's families, creditors and other employees. No employee will reveal such information to anyone, including friends, relatives, or the subject of the information, either voluntarily or by request other than those employees specifically authorized to make such disclosures and then only as prescribed by law.

Employees who are assigned keys, given special access, or assigned job responsibilities in connection with safety, security, and confidentiality will be required to use sound judgment and discretion in carrying out their duties. Each employee will be responsible for any wrongdoing or acts of indiscretion.

All computers, desks, drawers, vehicles, phones, and work areas are the property of the District, and may be reviewed or inspected by management at any time.

Section 7.3 Personal Telephone Calls. Personal telephone calls on District phone lines are to be limited to essential matters and kept as brief as possible. Continued excessive use of phones for personal matters on the District phone system is subject to

disciplinary action.

Section 7.4 MCCSD Policy on Cellular Phones in the Workplace.

- A. Purpose. This policy outlines the use of personal cell phones at work, the personal use of District cell phones, and the safe use of cell phones by employees while driving.
- B. Policy. It is District policy that use of personal cellular phones (including text messaging, tweeting, etc.) shall be limited during the work day, and District cellular phones shall be utilized for District purposes only and in a safe manner.
- C. Procedures.
  - 1. Personal Cellular Phones. During paid work time, employees are expected to exercise the same discretion in using personal cellular phones as is expected for the use of any District phones. Excessive personal calls (including text messaging, tweeting, etc.) during the work day, regardless of phone used, can interfere with employee productivity and be distracting to others. A reasonable standard the District encourages is to limit personal calls during work time to an average of no more than two or three short-duration calls per day as needed. Employees are expected to make personal calls on non-work time when possible and to ensure that friends and family members are aware of the District's policy. Flexibility will be provided in circumstances demanding immediate personal phone use.
  - 2. Personal Use of District-Provided Cellular Phones. Where District needs demand immediate access to an employee, the District may issue a District-owned and serviced cell phone to an employee for work-related communications. District owned cellular telephones are for official business only. Occasional brief personal use is allowable, and any charges for personal use will be reimbursed to the District. Phone invoices will be audited by the District to ensure no unauthorized use has occurred.
  - 3. Property of District. Cellular phones shall remain the sole property of the District, and shall be subject to inspection or monitoring at any time. Employees in possession of District equipment such as cellular phones are expected to protect the equipment from loss, damage, or theft.
  - 4. Safety Issues for Cellular Phone Use. Employees whose job responsibilities include regular or occasional driving are required to refrain from using a cellular phone while driving. Safety must come before all other concerns. Regardless of the circumstances, including slow or stopped traffic, employees



must pull off to a reasonably safe location and safely stop the vehicle before placing or accepting a call.

Text messaging, reading emails, and writing emails while driving is not allowable under any circumstance. Employees who are charged with traffic violations resulting from the use of a cellular phone while driving on duty may be subject to disciplinary action and personal liability resulting from such traffic violations.

D. Employee Acceptance.

I certify that I have received the MCCSD Policy on Cellular Phones in the Workplace. I understand that it is my responsibility to read and comprehend this policy. I read and understand the content, requirements, and expectations of the Policy and I agree to abide by the policy guidelines. I understand that if at any time I have questions regarding the Policy, I will consult with the District Superintendent.

I agree to observe and follow the acceptable use policy. I understand that failure to abide by the policy could result in the loss of cellular phone privileges and/or other disciplinary actions, up to and including termination.

By signing this policy agreement, I hereby represent that I have read, understand, and agree to the MCCSD Policy on Cellular Phones in the Workplace.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name

Section 7.5 Smoking. The District prohibits smoking in the workplace. Smoking is prohibited within the confines of any office or vehicle. Smoking will be permitted out of doors only. All cigarettes are to be extinguished and disposed of prior to entering any office or vehicle. Employees violating this policy will be subject to disciplinary action.

Section 7.6 Dress and Grooming Standards. The District considers the presentation of the District image to its customers, suppliers, and the public at large to be extremely important. Accordingly, it is expected that all employees dress in a manner

consistent with good hygiene, safety, and good taste. Employees whose jobs require them to come in contact with clients, customers, suppliers, or the public are expected to wear apparel the District considers appropriate for dealing with the public.

Each employee is expected to be neat and clean in appearance, with clean clothing or clean uniform and good personal hygiene. Clothing should be appropriate for the particular work area and type of work performed.

Section 7.7 Employment of Relatives. The District will not employ relatives of present employees, except with the previous written consent of the District Superintendent and Board approval. This policy will not apply to employees of the District who are employees of the District prior to the effective date of this manual. "Relatives" are defined as spouses or registered domestic partners, children, sisters, brothers, mothers, or fathers, and persons related by marriage.

Section 7.8 Conflicts of Interest. Employees are expected to devote their best efforts and attention to the full-time performance of their jobs. They are expected to use good judgment, to adhere to high ethical standards, and to avoid situations that create an actual or potential conflict between the employee's personal interest and the interest of the District. A conflict of interest exists where the employee's loyalties or actions are divided between the District's interest and those of another, such as a supplier, consultant, contractor, customer, or another agency. Both the fact and the appearance of a conflict of interest should be avoided. Employees unsure as to whether a certain transaction, activity, or relationship constitutes a conflict of interest should discuss it with the District Superintendent for clarification. Any expectations to this guideline must be approved in writing by the District Superintendent.

While it is not feasible to describe all possible conflicts of interest that could develop, some of the more common conflicts, from which employees should refrain, include the following:

- A. Accepting personal gifts or entertainment from a supplier, consultant, contractor, customer, or another agency;
- B. Working for a supplier or customer;
- C. Using proprietary or confidential District information for personal gain or to the District's detriment;
- D. Having a direct or indirect financial interest in or relationship with a customer or supplier;
- E. Using District assets or labor for personal use;

- F. Acquiring any interest in property or assets of any kind for the purpose of selling or leasing it to the District.
- G. Committing the District to give financial or other support to any outside activity or organization.
- H. Developing a personal relationship with a subordinate employee of the District that might interfere with the exercise of impartial judgment in decisions affecting the District or any employees of the District.

If an employee or someone with whom an employee has a close relationship (a family member or close companion) has a financial or employment relationship with a supplier, or potential supplier, the employee must disclose this fact in writing to the District Superintendent. Employees should be aware that if they enter into a personal relationship with a subordinate employee or with an employee of a supplier, consultant, contractor, customer, or another agency, a conflict of interest may exist which requires full disclosure to the District.

Part-time employees may engage in outside employment, provided that they disclose such employment and get written approval from the District Superintendent.

An employee's failure to adhere to this guideline, including the failure to disclose any conflicts or failure to seek an exception, will result in discipline, up to and including termination of employment.

Section 7.9 Use of District Equipment. Use of District equipment and vehicles for non-District purposes, including personal use, is strictly prohibited.

## **ARTICLE 8 DRUG-FREE WORKPLACE POLICY**

Section 8.1 General. The District maintains the following policy prohibiting illegal drug use and alcohol misuse.

- A. Purpose. The purpose of this policy is to protect and benefit the employee and co-workers, and to create a safe and efficient work environment. For the purpose of clarification, alcohol is considered a drug under this policy.
- B. Effective Date. MCCSD recognizes that drug use and abuse negatively affects the District, the employee, job performance and co-workers. In this regard, MCCSD has adopted a Drug-Free workplace policy effective on the date of the approval of the Personnel Manual.
- C. Impairment Prohibited. No employee shall report for work or work impaired by

any substance that is legal or illegal. "Impaired" means under the influence of a substance such that the employee's motor senses (i.e., sight, hearing, balance, reaction, reflex) or judgment either are or may be reasonably presumed to be affected.

- D. Possession Prohibited. No employee at any work site will possess any quantity of any substance, legal or illegal, which in sufficient quantity could cause impaired performance, except for authorized substances. "Work site" means any office, building, or property (including parking lots) owned or operated by the District, or any other site at which an employee performs work for the District. "Possess" means to have a drug or drugs either in or on an employee's person, personal effects, motor vehicle, tools, and areas entrusted to the employee such as desks, files and District vehicles.
- E. Discipline. Any violation of this policy may result in summary discipline for the employee, up to and including termination.

## **ARTICLE 9    TECHNOLOGY**

### Section 9.1    Internet, E-mail and Electronics Communications Ethics, Usage and Security.

- A. The District believes that employee access to and use of the Internet, e-mail, and other electronic communications benefits the District and makes it a more productive and successful local public agency. However, the misuses of these resources have the potential to harm the District's short and long-term accomplishments.
- B. The District establishes the following ethics, usage, and security policy to ensure that all District employees use the computer resources, which the District has provided its employees, such as the Internet and e-mail, in an ethical, legal, and appropriate manner. This policy defines acceptable and unacceptable use of the Internet, e-mail, and other electronic communications.
- C. This policy also establishes the steps the District may take for inappropriate use of the Internet and e-mail. All employees must read and adhere to the guidelines and policies established herein. Failure to follow this policy may lead to discipline, up to and including immediate termination of employment.
  - 1. Employees shall not use the Internet or e-mail in an inappropriate manner. Inappropriate use of the internet and e-mail includes, but is not limited to:

- a) Accessing internet sites that contain pornography, exploit children, or sites that would generally be regarded in the community as offensive, or for which there is no official business purpose to access, such as playing computer games, making personal hotel or event reservations or purchasing of items that are not work related.
  - b) Participating in any profane, defamatory, harassing, illegal, discriminatory, or offensive activity or any activity that is inconsistent in any way with the District's policies (i.e. policy on sexual harassment).
  - c) Exploiting security weaknesses of the District's computing resources and/or other networks or computers outside the District.
  - d) Internet access is to be used for District business purposes only. Employees who have completed all job tasks should seek additional work assignments. Use of the Internet should not interfere with the timely and efficient performance of job duties. Access to the Internet and e-mail is not a benefit of employment with the District. Personal use of the Internet, e-mail, and other electronic communications is strictly prohibited.
2. Employees do not have any right to privacy on or in any District computer resources, including e-mail messages produced, sent, or received by District computers or transmitted via the District's servers and network. The District may monitor the contents of all e-mail messages to promote the administration of the District, its business, and policies.
  3. Employees access to and use of the Internet, e-mail, and other electronic communications will be monitored frequently. Failure to follow this policy may lead to discipline, up to and including immediate termination. Disciplinary action may include the removal of Internet and e-mail access from their computer or termination of employment with the District.
  4. The Internet and e-mail provide means by which employees of the District may communicate with its suppliers, consultants, contractors, customers, or other agencies. Messages sent or received through the District's e-mail system may be considered part of the District's business records and should be treated as such.
  5. Deleting an e-mail message does not necessarily mean the message

cannot be retrieved from the District's computer system. For a specific period of time, the District retains backup copies of all documents, including e-mail messages, produced, sent, and received on the District's computer system.

6. E-mail and any attachments are subject to the same ethical and legal concerns and standards of good conduct as memos, letters, and other paper-based documents. E-mails can be forwarded to others, printed on paper, and are subject to possible discovery during lawsuits in which the District may be involved.
7. Currently all District e-mails being sent are not encrypted. Unencrypted electronic mail is not a secure way of exchanging information or files. Due to the way Internet data is routed, all messages are subject to "eavesdropping." Messages may be "stolen" as they temporarily reside on host machines waiting to be routed to their destination, or they may be purposefully intercepted from the Internet during transfer to the recipient. It is possible for someone other than the intended recipient to capture, store, read, alter and/or re-distribute your message. Do not transmit information in an electronic mail message that should not be written in a letter, memorandum, or document available to the public.
8. E-mail, once transmitted, can be printed, forwarded, and disclosed by the receiving party without the consent of the sender. Use caution in addressing messages to ensure that messages are not inadvertently sent to the wrong person.
9. Use of electronic mail or the Internet to distribute copyrighted materials is prohibited.
10. Each user should take the necessary steps to prevent unauthorized disclosure of confidential or privileged information. (This is especially important for law firms and accounting firms that the District does business with.)
11. Use of electronic mail or the Internet to send offensive messages of any kind is prohibited.
12. Use of electronic mail or the Internet for inappropriate or unauthorized advertising and promotion of the District is prohibited.
13. When District employees communicate using electronic mail or other features of the Internet, the employee must be extremely mindful of

the image being portrayed of the District.

14. Computer viruses can become attached to executable files and program files. Receiving and/or downloading executable files and programs via electronic mail or the Internet without express permission is prohibited. This includes, but is not limited to, software programs and software upgrades. All downloaded files must be scanned for viruses.
15. Use of another user's name/account without express permission to access the Internet is strictly prohibited.
16. Personal use of the District's computer resources for personal commercial activity or any type of illegal activity is strictly prohibited.
17. It is advisable for all employees of the District to remind customers/clients/contractors of these security issues when sending confidential electronic mail and/or documents to the District via electronic mail. If applicable, District customer/clients/contractors should be reminded to implement a security policy and make sure their employees understand the ramifications of sending privileged information via electronic mail. (This is especially important for law firms and accounting firms that have strict professional ethical obligations and duties toward their clients.)
18. The District will not be responsible for maintaining or payment of personal Internet accounts or related software.
19. To maintain the integrity and firewall protection of the District's network system, telephone system, or communication server to access the Internet, District employees or users shall not access such personal e-mail account using the District's network system, telephone system, or communication server.
20. Unauthorized employees will only access the Internet through the District's network. Internet access through other methods (i.e. modems) will not be allowed, unless specifically authorized by the District Superintendent.
21. Employees will only access the Internet using approved Internet browsers (Internet Explorer, Bing, Google Chrome, or Safari). Any other browser being used on a workstation will be promptly removed.
22. Employees will respect all copyright and license agreements regarding software or publication they access or download from the Internet. The

District will not condone violations of copyright laws and licenses. Any software or publication, which is downloaded onto District computer resources, becomes the sole property of the District.

23. Employees will only download information and/or publications for official business purposes.

24. Employees are to scan all downloaded materials before using or opening them on their computers to prevent the introduction of computer viruses.

25. All list subscriptions should be for business purposes only. The employee will make sure List Servers are notified when the employee leaves the District.

D. Employee Acceptance. By signing this agreement, I hereby represent that I have read , understand , and agree to the District's Internet, e-mail , and electronic communications ethics, usage, and security policy.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name



EMPLOYEE ACKNOWLEDGMENT

I acknowledge that I have received a copy of the District's Personnel Manual. I understand that I am responsible for reading the Manual and for knowing and complying with the policies and programs set forth in the Manual during my employment with the District.

I further understand, however, that the policies contained in the Manual are guidelines only and are not intended to create any contractual rights or obligations, expressed or implied, and shall not be construed to create any type of right to a "fair procedure" prior to termination or other disciplinary action. I also understand that the District has the right to amend, interpret, modify, or withdraw any of the provisions of the Manual at any time in its sole discretion, with or without notice. Furthermore, I understand that, because the District cannot anticipate every issue that may arise during my employment, if I have any questions regarding any of the District's policies or procedures, I should consult with the District's Superintendent.

I understand and agree that my relationship with the District is "at-will," which means that my employment is for no definite period and may be terminated by me or by the District at any time and for any reason, with or without cause or advance notice. I also understand that the District may demote or discipline me or otherwise alter the terms of my employment at any time at its discretion, with or without cause or advance notice.

I understand and agree that the terms of this Acknowledgment may not be modified or superseded except by a written agreement signed by me and the President of the Board of Directors of the District, that no other employee or representative of the District has the authority to enter into any such agreement, and that any agreement to employ me for any specified period of time or that is otherwise inconsistent with the terms of this Acknowledgment will be unenforceable unless in writing and signed by me and the President of the Board of Directors of the District. I further understand and agree that if the terms of this Acknowledgment are inconsistent with any policy or practice of the District now or in the future, the terms of this Acknowledgment shall control.

Finally, I understand and agree that this Acknowledgment contains a full and complete statement of the agreements and understandings that it recites, that no one has made any promises or commitments to me contrary to the foregoing, and that this Acknowledgment supersedes all previous agreements, whether written or oral, expressed or implied, relating to the subjects covered in this Acknowledgment.

Date: \_\_\_\_\_

\_\_\_\_\_  
Employee's Signature

\_\_\_\_\_  
Employee's Name (Please Print)

## December 2022 Superintendent's Report

### **Wastewater Treatment Plant:**

Operators performed routine repair and maintenance to the WWTP in December of 2022. Operators continue to work towards completing the other ½ of the annual sewer main cleaning, though staff shortages have delayed progress. We have successfully collected and shipped out all annual state required lab samples. I expect lab bills to be in the neighborhood of \$6,000 for the three parameters.

**Outfall Update:** We continue to wait on Alpha Diving to conduct a final survey prior to the end of the year and complete the annual survey

### **Recycled Water:**

MCCSD did not transfer any recycled water during the month of December. We are awaiting funding and upgrades to the WWTP to be compliant with the current discharge permit. Recycled water remains a high priority. December 6, we gave a tour to the MHS Sonar Class to teach them about recycled water, and WWTP operations

### **Biosolids Trailer and Transport:**

MCCSD did not transported any biosolids in December 2022.

### **Drought Update:**

MCCSD received our first report of a dry or under producing well on Hills Rd. East of Hwy 1. We have also now seen the water delivery truck in town on one occasion.

### **Grant and Project Updates:**

GHD continues to move forward on the Emergency Water Storage Tank Project. MCCSD still has not received any official updates on the Federal Bureau of Reclamation grant application. We continue to work with GHD on Ca State Revolving Fund Planning grant application to evaluate and assess for wastewater infrastructure replacement.

The California SAFER program (Safer and Affordable Funding for Equity and Resilience) continues to work with the District on community engagement, water resiliency discussions, and the potential for a more current feasibility study.

### **Office Update:**

The Superintendent has completed all 2022 staff performance evaluations.

### **Safety Meeting and Plant Safety Inspection:**

The District is still following County, State, Federal, and CDC guidelines regarding COVID-19 safety precautions. The 30-minute monthly safety meeting has not been held as of December 7, 2022.

### **Sanitary Sewer Collection System:**

There were no MCCSD collection system sanitary sewer overflows to report during January 1, 2020 to December 7, 2022.