

LIVERMORE AREA RECREATION AND PARK DISTRICT

PERSONNEL COMMITTEE

DRAFT MINUTES

Monday, April 8, 2024
2:00 p.m.

Robert Livermore Community Center
4444 East Avenue, Livermore, CA 94550-5053
West Wing Conference Room

Committee Members Present: Jan Palajac, David Furst

Staff Present: Linda VanBuskirk, Executive Assistant
Michelle Kleman, Human Resources Manager (HRM)
Rene Venus Dalusong, Executive Assistant

Members of the Public Present: None

1. **CALL TO ORDER:** Committee Chair Palajac called the meeting to order at 2:01 p.m.
2. **PUBLIC COMMENT:** Chair Palajac opened the Public Comment period. There were no speakers, and the public comment period was closed.
3. **COMPLIANCE POLICY ROLL OUT TO SUPERVISORS:** Human Resources Manager, (HRM) Michelle Kleman provided a high-level overview of the Supervisor Training presentation (Attachment 1) that will be presented to Supervisors on Thursday, April 25, 2024.

Key presentation highlights the reasons for the compliance policy rollout.

- 1) Explain the supervisors' role in the employment relationship process.
 - a. Merit Based System
 - b. The Importance of Supervisors
- 2) Highlight the changes in the way we function in the District
 - a. LARPD Reporting Policy
 - b. Numerous Job Protected Leaves in California
 - c. Additional Leaves
 - d. Leave Processing and Protocols
- 3) Point out areas where they can help or hinder issues.
- 4) Highlight new laws.
 - a. Workplace Violence Prevention Plan
 - i. Establish, implement, and maintain a Workplace Violence Prevention Plan
 - ii. Employee training requirements
 - iii. Record incidents of violence
 - iv. Maintain records

- 5) Roll out the compliance-based policy changes.
 - a. Bereavement
 - b. Discipline
 - c. Dress Code
 - d. Drivers
 - e. Employment of relatives
 - f. Employment Verification
 - g. Substance abuse
 - h. Terminations

Committee Comments and Questions:

- a) Director Palajac inquired about the meaning of the acronym FEHA. [*HRM Kleman - Fair Employment and Housing Act*].
- b) Director Palajac requested a definition of exigency. [*HRM Kleman - Qualifying exigency leave is a type of leave provided under the Family and Medical Leave Act. It allows eligible employees to take job-protected leave for certain reasons related to a family member's military service*].
- c) Director Palajac requested the definition of Workplace Violence Prevention. [*HRM Kleman - Workplace Violence refers to physical threats or behaviors that can harm someone.*]
 - o How is this different from harassment? [*Harassment refers to inappropriate or offensive attitudes, words, and behaviors.*]
- d) The Committee members discussed the procedures to be followed in case of a complaint filed against a member of the board. [*HRM Kleman - Report to Human Resources and General Manager first*].


ACTION: This was a discussion only: no action was taken.

4. DIRECTORS' AND/OR GENERAL MANAGER'S REPORTS OR ANNOUNCEMENTS:

There were no reports or announcements from the Directors.

5. ADJOURNMENT: The meeting was adjourned at 2:48 p.m.

/Lvb/rvd



Supervisor Training

2024 - APRIL 25

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Why training?

Purpose of training:

- *Explain supervisors' role in the employment relationship process.*
- *Highlight the changes in the way we function at LARPD.*
- *Point out areas where they can help or hinder issues.*
- *Highlight new laws.*
- *Roll out the compliance-based policy changes.*

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AGENDA

- **Employment at Will**
- **Changes in organization**
- **Policies**



3

Merit Based System	Civil Service System
Applicants are considered based on the requirements of the job	Preference is given for veteran service or previous time in the organization
Candidate slates are built based off of the job description and the outlined skills and abilities for the role	Candidate slates are driven by prior candidates and eligibility lists
Targeted recruiting for key roles AND fair review with qualified candidates	Post the role and see who applies
Promotions may occur as employees are increasing their scope and breadth of duties	Employees that are working out of class may be reclassified
New Positions are created and posted if the job is more than 20% different than a current role	New positions are approved by the Board
Titles may be amended to best represent market needs for recruiting and benchmarking	Title changes go to the Board
Performance management is the guiding practice and is intended to assure alignment with goals and performance	The discipline policy may apply
Discipline is applied based on policy	Discipline is applied based on policy
Grievances regarding discipline or performance are handled through the performance management process or through outside legal options	Grievances are handles through the personnel commission or an appointed ombudsperson
Terminations can theoretically occur for any good reason	Terminations occur for just cause
Lay offs and reorganizations are completed in accordance with employment laws	Layoffs and reorganizations follow a bumping process with reemployment rights (already amended via a district notice)
Rehire rights are based on the employment needs of the organization and the skill sets required in the remaining roles	Rehires are completed based off of seniority (already amended based on district notice)
Step increases occur at the anniversary mark or the determined next step date	Step increases occur at the anniversary mark or the determined next step date

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Supervisors Are Important!

- Wide interpretation of a supervisor in CA
 - Has the authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline other employees;
 - Has the responsibility to direct employees or adjust their grievances;
- Or
- Doesn't have the authority to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees **but can effectively recommend one of those actions by use of independent judgment** (versus it being merely of a routine or clerical nature).
 - A primary concern for employers is that under the FEHA, a supervisor's conduct may create strict liability for FEHA violations regardless of whether the employer was aware of that supervisor's conduct — including when the supervisor is either the harasser or receives complaints of harassment from employees but **fails to act on them**.

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Little Known Truths

No such thing as off the record and off the clock complaint

If an employee raises a harassment issue, the supervisor **must** report it to the appropriate person within the organization.

This also holds true when either a third party raises the complaint on behalf of another employee or the supervisor witnesses harassing conduct, but no one complains.

The FEHA requires employers to take steps to prevent harassment in the workplace. If an employee is harassing a coworker outside of the workplace, that can contribute to a hostile work environment and must be addressed — or the employer risks violating the FEHA.

Ultimately, an employer may be [liable](#) for hostile work environment claims if a supervisor fails to report these types of complaints and the employer took no action to address the conduct.

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LARPD Reporting Policy

- Managers and supervisors are expressly required to notify Human Resources about any complaints, reports, or observed incidents of harassment, discrimination or bullying in any District work environment.
- Failure by any manager or supervisor to report known or suspected incidents of harassment, discrimination or bullying may be subject to disciplinary action.

Steps

1. Direct Communication (if possible)
2. Formal or informal complaint goes to HR. Complaints against HR go to the GM. Document the complaint as soon as possible. Maintain confidentiality.
3. HR or GM will determine if formal or less formal inquiry necessary

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Numerous Job Protected Leaves in CA

- Sick
- FMLA/CFRA
- Pregnancy
- Child Bonding
- Bereavement
- Reproductive Loss
- Child Activities
- Jury Duty
- Voting
- Exigency
- Domestic Violence Victim Leave

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*Time off - Sick time

Employees may use sick leave for the diagnosis, care or treatment of the employee's own existing health condition (or that of a family member), as well as for **preventive care** purposes. Family members are defined as: employee's child, parent, spouse, registered domestic partner, grandparent, grandchild or sibling or **designated person identified by the employee at the time the employee requests to use paid sick days. An employee is limited to one designated person per 12-month period.** The District also allows sick leave to be used if an employee is a victim of domestic violence, sexual assault, or stalking to obtain or attempt to obtain relief, such as a restraining order, injunctive relief, counseling, medical attention, safety assistance or other services to help ensure the health, safety, or welfare of the victim or their child.

Of Note

- We cannot ask why sick time?
- Non-benefitted have 5 days per year of sick time after 90 days of employment.
- If someone is using a ton of sick time, pull in HR. (They may need a leave.)
- Unpaid sick time, currently no policy – several issues.

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*Bereavement Leave

Employees who have been employed by the District for at least 30 days are eligible for up to five days of bereavement leave following the death of the employee's family member.

"Family member" is defined as a spouse, child, parent, sibling, grandparent, grandchild, domestic partner or parent-in-law.

The days do not need to be consecutive, but must be taken within **one year from** of the death.

Bereavement leave must now permit leave for reproductions loss.

*Reproductive Loss Leave

Employees who have been employed by the District for at least 30 days are eligible for up to five days of reproductive loss leave following a reproductive loss event.

Reproductive loss event includes the following: failed adoption, failed surrogacy, miscarriage, stillbirth, and unsuccessful assisted reproduction

The leave is to be taken within three months of the event.

If an employee experiences more than one reproductive loss event within a 12-month period, the employee is limited to 20 days within a 12-month period.

The leave is protected, but unpaid.

Additional Leave

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Why is it important to process leaves correctly?

A clear leave management process:

- Increases employee satisfaction and retention
- Creates policy consistency across the organization
- Ensures compliance with labor laws
- Reduces the number of management errors
- Increases productivity and efficiency (e.g., managers know when people are leaving resulting in better work planning and labor orchestration)
 - With everyone on the same page, managers are able to effectively plan their team workloads around employee leave without disrupting productivity.

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Leave Protocols

- Have employees reach out to HR as soon as possible
- HR will review employee eligibility
- HR will provide leave request forms and disability information if needed
- HR will develop a plan for paying the employee – benefit coordination

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*Workplace Violence Prevention Plan

- New policy
- What it means for the District
- Training requirements

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Workplace Violence Prevention Plan

Effective July 1, 2024, a new law requires employers to:

1. Establish, implement and maintain a Workplace Violence Prevention Plan
2. Incorporate Injury and Illness Prevention Program Requirements
3. Train Employees
4. Record Incidents of Violence
5. Properly Maintain Records

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Workplace Violence Prevention Plan

The plan must be in writing and be easily accessible to employees.
It must identify who is responsible for implementing the plan and include all of the following:

- A system for identifying and evaluating workplace hazards;
- Methods and procedures to correct unsafe or unhealthy conditions and work practices in a timely fashion.
- An occupational health and safety training program to teach safe and healthy work practices and provide instruction specific to an employee's particular hazards;
- A system for ensuring that employees comply with safe and healthy work practices, which may include disciplinary consequences;
- Procedures that allow for employee participation in developing and implementing the plan as well as to identify, evaluate, and correct workplace violence hazards;
- Procedures for accepting and responding to reports of workplace violence, including a prohibition on retaliating against the employee making the report;
- Procedures to communicate workplace violence matters with employees, including how to report an incident without fear of retaliation;
- Procedures to investigate employee concerns;
- Procedures for responding to an actual or potential workplace violence emergency, including the means to alert employees of the emergency and obtain help from staff designated to respond, and evacuation and shelter plans; and
- Procedures for post-incident response and investigation.

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Policy Updates

Bereavement
Discipline
Dress code
Drivers
Employment of relatives
Employment verification
Substance abuse
Terminations

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Bereavement

- This policy shall apply to all employees that have been employed for at least thirty days prior to commencement of the leave.
- In the event of a death of a family member, an employee may be granted a leave of absence not to exceed five days (or the amount of hours that they typically would have been scheduled for up to one week.) This is in addition to regular sick leave and vacation time should the employee have those available.
- Employees receiving benefits with the District will receive up to five days of paid bereavement time off per calendar year. Employees that are not benefitted are eligible to take the time off unpaid but may use accrued and available sick leave and vacation time.
- "Family member" means a spouse, child, parent, sibling, grandparent, grandchild, domestic partner or parent-in-law.
- Employees are not required to take bereavement leave on consecutive days. Employees must complete their leave within one year of the family member's death.
- In the unfortunate event that an employee experiences multiple deaths of immediate family members within the calendar year, the employee may take off five days for each death with job protection. However, they will not be allocated bereavement pay for time beyond five calendar days per year.

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Discipline

- Probationary period one year for each role.
- Discipline is generally for willful violations that negatively impact safety, culture, and the reputation of the District.
- Can be progressive or can be severe enough to invoke immediate termination.
- There is no longer a personnel commission and therefore no appeals process. Employees who believe they have been discriminated and/or retaliated against can challenge the decisions using legal channels – CRD/EEOC complaints/law.
- Employees should not be terminated without consulting HR and GM first.

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Some examples of conduct that warrants discipline:


- Providing any false or misleading information in any application or document Actual or threatened physical violence towards another employee, supervisor or member of the public.
- The possession of a firearm or other weapon on LARPD premises.
- Violating any safety or health rules or practices.
- Damage or misuse of District property or the property of another.
- Theft or unauthorized removal of property from District premises.
- Falsely altering either your own or another employee's completed and approved time record.
- Conviction of a felony or misdemeanor that is prohibited by California or federal law when interacting with minors.
- Making or influencing decisions on behalf of the District for personal gain.

Discipline


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Dress Code

- Vague enough to allow for different departments to have more specific requirements.
- Remind employees that they should not wear uniforms outside of work times.
- Remind employees that LARPD gear is identifiable by the public and we should be thoughtful about what we do while wearing it and the messages we send.
- Some things cannot be prohibited unless there is a safety and business reason for such a prohibition. Examples, – tatoos, piercings, hats, religious attire, hair color, gang-affiliated clothing
- We are Parks and Recreation, clothing should be reflective of our individual jobs.
- Clothing should help identify us to the people who need to know who we are.
- Clothing should not create safety hazards.



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LARPD Drivers

The District requires employees who drive on behalf of the District to have valid CA driver's licenses, but will no longer have this requirement for employees who do not drive as an essential function of their job.

The District has determined that it will not require driver's licenses for the following classifications :

- Lifeguard 1 and 2;
- Recreation 1;
- Program Leaders;
- Administrative assistant and office assistant classifications;
- Accounting and payroll classifications;
- Human resources classifications;
- Community service roles; and
- Managers.

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LARPD Drivers

- We have eliminated the point system from licenses
- We do not check/validate insurance
- We enter employees when they are hired or change status into DMV pull
- DMV sends me an annual update or if an incident
- CAPRI has said if you are driving a District vehicle you are insured by CAPRI
- Driving your own vehicle for work is more of a concern
- If we receive notification that someone has lost their ability to drive, we must engage in the interactive process with them
- An employee can be disciplined for poor driving even if the employee does not lose their license

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Employment of relatives

- No employee shall vote, make recommendations, or in any way participate in decisions about any personnel matter that may directly affect the selection, appointment, promotion, termination, other employment status, or interest of a close relative.
- For the purpose of this policy, "close relative" is defined as spouse, child, parent, sibling, grandparent, grandchild, domestic partner or parent-in-law.
- When an individual is considered for a position in a department in which a close relative is already assigned, review of this fact shall be required at all appointing levels. The objective of this review shall be to ensure equity to all members of the department.
- An individual cannot be considered for appointment in a department where a close relative has direct supervisory responsibility.
- Candidates and employees must disclose relationships to Human Resources as soon as reasonably possible so they might be reviewed and documented.

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Employment Verifications

- Send them to HR
- For legal reasons, HR will provide only limited information: the title, date of hire, date of term.
- We provide pay information with the former employee's signed consent.



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- The old policy was out of date
- We amended to include the idea that alcohol can be onsite
- Alcohol should not be transported in District cars unless it is for an event
- Substance abuse is inclusive of prescription, which is more prevalent these days
- You cannot test someone for marijuana unless you can prove that it is active, no test available
- If employee provided a prescription, that would impair them, go to HR
- If someone is being treated in a program you cannot discriminate against them, but it is important for HR to be aware of it

Substance Abuse/ Reasonable Suspicion/ Drug Testing

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Reasonable Suspicion/Drug Testing

- Only used when verified by two employees that have been trained
- Complete a check sheet
- Decide the person is a risk to self and others
- Contact HR to schedule the offsite test
 - Occupational health during business hours
 - After hours test facility is Arc point labs, HR will call and Arc Point will meet them there
- The employee has to sign a waiver allowing us to conduct test and get results (will eventually be in the handbook)
- Supervisors have to ensure the employee has a safe ride home
- Testing for substances may only occur if we have reasonable suspicion to do so.
 - Review District Policy!

Valleycare/Stanford (925-416-3562)
4000 Dublin Blvd. St.
Dublin, CA 94568

Arc Point Labs (925-236-1700)
405 Boulder court suite 100 location
in Pleasanton, CA 94566

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Terminations

- When employees leave LARPD it is important to collect a resignation letter and complete a PARF.
- IF LARPD does not have proof that an employee has resigned we may have to pay unemployment.
- A clear termination date is important for other reasons as well, including the time a terminated employee has to bring legal charges against the District.
- Benefitted employees need to meet with HR to go over benefits information, including COBRA.
- Supervisors should always collect all District property from the employee.
- If we terminate someone, we provide the final pay on the term date. (We do not if it is a resignation.)

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Fair Labor Standards Act

The Fair Labor Standards Act (FLSA) is a federal law that establishes minimum wage, overtime pay, recordkeeping, and youth employment standards for employees. It sets forth requirements for minimum wage and overtime payments.

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Coming Attractions

- Continued Policy Roll out - ongoing
- Performance Management - Fall
- Violence Prevention - May

Questions?