

## **Section 8. Personnel Policies**

### **Equal Employment Opportunity Policy**

#### **A. Purpose**

The purpose of this policy is to comply with Federal and State law with regard to Equal Employment Opportunity (EEO) in the workplace, and to establish reporting procedures and disciplinary sanctions for violators of the Commission's EEO policy.

#### **B. Equal Employment Opportunity Policy**

Marin LAFCO is committed to equal employment opportunity and will evaluate each application and employee on the basis of personal skill and merit. The Commission does not discriminate based on an individual's race, sex, religion, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sexual orientation, age, or any other basis prohibited by law. This policy governs all aspects of employment, including hiring, assignments, training, promotions, compensation, employee benefits, employee discipline and discharge, and all other terms and conditions of employment. Marin LAFCO will reasonably accommodate an individual's physical or mental disability in accordance with its legal obligations.

#### **C. Complaint Procedure**

Any employee who believes that he or she has been subjected to unlawful discrimination, or who has observed or has become aware of unlawful discrimination, should immediately report the incident to the Executive Officer. If, for some reason, the employee feels uncomfortable about making a report to the Executive Officer, the report should be made to the Chair of the Commission.

The Executive Officer or a person designated by the Commission shall promptly investigate any such report of discrimination and after completing his or her investigation, shall report the findings to the Commission with recommendation for corrective action, if appropriate.

The investigator will document all matters related to complaints of alleged discrimination, including the contents of meetings, interviews, results of investigations, and all other actions attendant to the allegations. All documentation must be maintained for all charges, substantiated and unsubstantiated, in CONFIDENTIAL SEALED INVESTIGATION FILES, in the Commission's personnel office.

#### **D. New Employees Shall Not Be Related to Current Employees or Commission Members**

To the extent permitted by law, the policy of the Commission is that new employees shall not be related to current employees or Commission members. At the time a person is applying for a position with the Commission, the person must identify any individual who is a close relative employed by the Commission. A close relative is defined as mother, father, stepmother, stepfather, father-in-law, mother-in-law, husband, wife, child, stepchild, brother, sister, brother-in-law, and sister-in-law.

#### **E. Working Conditions**

##### **1. Purpose**

State and Federal laws mandate that employees have a right to work in an environment that is free from all forms of unlawful discrimination, including harassment. Harassment on the basis of an individual's race, color, sex, religion, sexual orientation, age, national origin, ancestry, citizenship, marital status, and physical or mental disability is a form of discrimination that is prohibited by federal and state law. Commission employees have a personal responsibility for maintaining high standards of honesty, integrity, impartiality, and conduct to assure proper performance of the Commission's business. The policy of Marin LAFCO is that unlawful harassment is unacceptable and will not be tolerated.

##### **2. Scope of Policies Governing Employment and Working Conditions**

This policy applies to all employees, volunteers and Commissioners of Marin LAFCO, and it governs their conduct toward each other and toward all members of the public with whom they come in contact because of their position.

##### **3. General Harassment Policy**

Each individual has the right to work in a professional atmosphere that promotes equal opportunity and prohibits discriminatory practices, including sexual and other forms of prohibited harassment. Such

prohibited harassment is unacceptable and will not be tolerated. Marin LAFCO prohibits the harassment of any of its employees based on an individual's race, religion, color, gender, age, national origin, ancestry, marital status, medical condition, sexual orientation, or physical and mental disability, regardless of whether that harassment is targeted specifically to the employee. Prohibited harassment may include, but is not limited to, epithets, slurs, derogatory comments or jokes, intimidation, negative stereotyping, threats, assault or any physical interference with the employee's normal work or movement, directed at an employee because of their race, religion, color, gender, age, national origin, ancestry, marital status, medical condition, sexual orientation, or physical and mental disability. Harassment may also include written or graphic material placed on walls, bulletin boards or elsewhere on Marin LAFCO premises or circulated in the workplace that denigrates, shows hostility or aversion towards an individual or group because of the characteristics identified above. Whether or not the offending employee means to offend or believed his or her comments or conduct were welcome is not significant. Rather, the Commission's policy is violated when other employees, whether recipients or mere observers, are in fact offended by comments or conduct which are based on race, religion, color, gender, age, national origin, ancestry, marital status, medical condition, sexual orientation or disability.

#### **4. Sexual Harassment**

Marin LAFCO is committed to provide a workplace free of sexual harassment. Sexual harassment is defined as unwelcome sexual conduct of any nature that creates an offensive or hostile work environment or unwelcome sexual conduct that is made a condition of working at LAFCO.

Prohibited sexual harassment includes unwelcome sexual conduct such as:

- Verbal harassment (e.g., sexual requests, comments, jokes, slurs);
- Physical harassment (e.g., touching, kissing) and;
- Visual harassment (e.g., posters, cartoons or drawings of a sexual nature.)

The Commission's policy rests on the fundamental precept that each employee must treat all others with respect, dignity and professionalism.

Deviation from that standard will not be tolerated. Whether or not the offending employee meant to offend, or believed his or her comments or conduct were welcome, is not significant. Rather, the policy is violated when other employees, whether recipients or mere observers, are in fact offended by comments or conduct which are sexual in nature.

## **5. Complaint Procedure**

Any employee who believes that he or she is the victim of harassment, or who has observed or has become aware of harassment, should immediately report the incident to the Executive Officer. If for some reason the employee feels uncomfortable about making a report to the Executive Officer, the report should be made to the Chair of the Commission.

The Executive Officer or a person designated by the Commission shall promptly investigate any such report of harassment and after completing his or her investigation, shall report the findings to the Commission with recommendation for corrective action, if appropriate.

In the event that the Commission's investigation of the alleged incident of harassment fails to substantiate that a violation of the Policies Governing Employment and Working Conditions occurred, management will inform both the employee and the complaining party that a thorough investigation has been conducted and that there exists no grounds or basis to substantiate the alleged claim.

In the event that the Commission's investigation reveals that an employee has engaged in actions or conduct in violation of this Policy, disciplinary action will be taken up to and including immediate termination depending upon the seriousness of the violation. Disciplinary action may range from written warnings, suspensions, demotion, discharge, etc., or a combination of actions. Following an investigation sustaining an allegation of harassment and the completion of appropriate corrective measures, the Executive Officer will advise the complaining party that a thorough investigation has been conducted and that appropriate corrective action has been taken by management.

## **6. Confidentiality of Personnel Files**

California State law states that personnel files shall be kept private and confidential and that no one without a legitimate business reason to do so shall have access to these files without consent from the individual. The

Executive Officer and his/her designated staff shall be the only persons allowed to access any individual's file without permission from the individual. Said personnel files shall be kept in a locked file at all times.

## **F. Employment Status**

### **1. Pre-Employment Physical Examination**

All offers of employment may be conditioned upon the certification of a qualified physician that the applicant is qualified to do the type of work required by the position being applied for. The Commission may also require an applicant being offered a job to submit to drug screening and, in that case, the offer of employment is contingent upon a negative drug screen result.

### **2. Probationary Period**

The first six months of employment is considered a probationary period. During this time, the Executive Officer will closely monitor a new employee's performance, and may dismiss the employee for any reason. Continued employment with the Commission is contingent on the successful completion of this probationary period. The Executive Officer's decision to release an employee from probation is not subject to appeal and is not subject to the grievance processes set forth in Chapter II, Section 8.J of these Policies, Procedures and Guidelines.

### **3. Employment Categories**

Each employee of the Commission is categorized as full-time or part-time, and as exempt or non-exempt.

#### *a. Full-Time/Part-Time*

Full-time employees are regularly scheduled to work 37.5 hours or more per week. Part-time employees are regularly scheduled to work fewer than 37.5 hours per week.

#### *b. Exempt/Non-Exempt*

Each employee will be informed when hired whether he or she is considered a non-exempt or exempt employee under the Fair Labor Standards Act. These categories refer to whether the employee is eligible for FLSA overtime pay. The EXEMPT category applies to

certain administrative, professional and executive staff. The NON-EXEMPT category applies to all other employees. Non-exempt employees receive extra pay for overtime work. Exempt employees' salaries already take into account that they sometimes work additional hours.

#### **4. Personal Data**

All employees must promptly notify the Commission of any changes in personal data. Personal mailing addresses, telephone numbers, number and names of dependents, beneficiaries, tax-withholding information, individuals to be contacted in the event of an emergency, and educational accomplishments. Such data must be accurate and current at all times. The Commission will maintain the confidentiality of such information in accordance with its legal obligations.

#### **5. Performance Reviews**

Supervisors and employees are strongly encouraged to discuss job performance and goals on an informal, day-to-day basis. Ongoing discussions between supervisors and employees about job duties, performance, and the work environment furthers employees' satisfaction with the Commission and the Commission's satisfaction with employees. A formal performance evaluation will be conducted after six months of employment and annually thereafter. The performance review will be the primary determinant of merit-based pay adjustments as recommended by the Executive Officer granted by the Commission.

### **G. Compensation and Benefits**

Compensation and benefits for the Commission's Executive Officer shall be specified in an employment agreement. The employment agreement shall be authorized by action of the Commission and signed by the Executive Officer and shall further define the Executive Officer's duties and terms and conditions of his or her employment.

The County of Marin provides payroll and benefits administration services for Commission employees. Commission employees participate in standard benefit programs offered by the County to County employees. For purposes of equity and administrative convenience, it is the intention of the Commission to provide its employees with pay and benefits directly comparable to equivalent positions in the County's employment classification system and to adopt the policies and procedures for accrual and use of annual leave and annual performance review

adopted by the County of Marin. A copy of the applicable policies and procedures as published by the County of Marin for its employees is attached to this document and incorporated herein as Attachment 2.

LAFCO shall specify the number and classification of all positions. A position description specifying duties and responsibilities for each classification position will be approved by LAFCO; each LAFCO position will be linked by the Commission to a comparable or similar classification within the Marin County classification plan for purposes of determining compensation and benefits.

All changes approved by the County Board of Supervisors for county employees in comparable positions may be reviewed and considered by LAFCO for its employees. Unless otherwise specified by LAFCO policy, employees of LAFCO shall receive compensation and benefits available to employees of Marin County in comparable classifications.

## **H. Work Environment**

### **1. Workplace Violence**

#### **a. Workplace Violence Prohibition**

The Commission is committed to providing a workplace that is free of threats or acts of violence and to protecting its employees from such conduct on its premises. The Commission prohibits any employee from engaging in behavior that is violent, threatening or intimidating, while on duty or on Commission business. This policy applies to all employees, including management and non-supervisory staff. The Commission will not tolerate employees who make threats, engage in threatening behavior, or commit acts of violence against others. Such behavior will be subject to disciplinary action up to and including termination. In addition, the Commission is committed to preventing violent or threatening behavior on its premises by non-employees, such as visitors, guests, customers, or family members of its employees.

#### **b. Prohibited Conduct**

This policy prohibits not only physically violent behavior, but also behavior that is threatening, harassing or intimidating. Prohibited behavior includes, but is not limited to:

- Possession of firearms, explosives, weapons such as knives, or any other hazardous or dangerous devices on any employer property or at any organization function, whether on or off premises. Additionally, use of any item as a weapon is prohibited.
- Disorderly conduct on Commission premises, including fighting, inciting/provoking another to fight, battery, attempted bodily injury, or physically abusing any employee or visitor.
- Using abusive or threatening language, coercing, threatening or otherwise harassing any employee or visitor.
- Actual or threatened physical violence towards another employee or visitor.

### c. **Policy and Response Guidelines**

All employees are responsible for reporting any incident involving threats or acts of violence immediately to their supervisor. The matter will be investigated and any appropriate corrective action taken. Violations of this policy will lead to disciplinary action, up to and including immediate dismissal.

## 2. **Non-fraternization Policy**

The Commission is committed to fostering a professional work environment where all employees are treated fairly and impartially by their supervisors. Intimate personal relationships between supervisors and subordinates may result in workplace problems, such as a lack of objectivity in supervising and evaluating employees, the perception of favoritism by other employees (whether justified or not), and the potential for sexual harassment claims if a relationship ends. Therefore, supervisors are prohibited from dating, engaging in amorous relationships with, or participating in sexual relations with employees who report to them, either directly or indirectly. Employees who violate this policy will be subject to discipline, up to and including termination of employment.

## 3. **Personal Conduct and Appearance**

Employees of the Marin LAFCO are encouraged to wear standard business attire as commonly accepted for our region of California, as they are representatives of the Commission.

#### **4. Use of Telephone**

The Commission's telephone system is designed and intended for business use. Employees are expected to limit all personal calls so as not to interfere with work. Employees are required to reimburse the Commission for any special charges for personal telephone calls.

#### **5. Information Systems/Electronic Mail (E-Mail)**

The computer and other electronic communications and information systems of the Commission, including voice mail, electronic mail and access to the Internet, are the property of the Commission and should be used for business purposes only. Although employees have passwords that restrict access to their voice mail and computers, the Commission may access any files, voice mail, or e-mail messages stored on or deleted from the computer system or voice mail system. The Commission reserves the right to access such information and to monitor on-line activities. Although the Commission reserves the right to access such information, employees are strictly prohibited from accessing another employee's personal voice mail or e-mail messages without the latter's express permission. In addition, the voice mail and e-mail systems are not to be used in a way that may be disruptive or offensive to others. For example, the Commission prohibits the display or transmission of sexually explicit images, messages, or cartoons, or any transmission or use of voice mail, e-mail or Internet communications that contain ethnic slurs, racial epithets, or anything that may be construed as harassment or disparagement of others based on their race, national origin, sex, sexual orientation, age, disability, religion or political beliefs. Nor may employees use the Internet, voice mail or e-mail system to solicit or proselytize others for commercial ventures, religious or political causes, outside organizations, or other non-job-related solicitations. E-mail messages are official internal Commission communications, subject to summons in legal proceedings. Copyrights and restrictions that pertain to outside materials and trade secrets shall be respected, and employees are prohibited from the unauthorized downloading of software or other copyrighted materials.

### **I. Employee Conduct**

#### **1. Standards of Conduct**

The Commission prides itself on a friendly and flexible environment. As in other organizations, however, order and discipline are essential to the Commission's ability to provide excellent service to the public and other

public agencies. Employees are expected to comply with basic standards of conduct and professionalism in the workplace and while conducting Commission business. Although it is impossible to provide a complete list of conduct that is not tolerated at the Commission, the following are examples:

- Unsatisfactory job performance. • Poor attitude and/or behavior (for example, rudeness or lack of cooperation).
- Excessive absenteeism or tardiness, or an unacceptable pattern of absences.
- Insubordination.
- Dishonesty.
- Use of the Commission's name or letterhead for personal business.
- Harassing, including sexually harassing, employees, customers, clients or other persons with whom the Commission has a business relationship.
- Theft, unauthorized possession or removal of property belonging to the Commission, fellow employees, customers, clients or other persons with whom the Commission has a business relationship.
- Engaging in behavior that is threatening, physically aggressive or violent.
- Failure or refusal to cooperate in or interference with an internal Commission investigation.
- Possession, distribution, sale or use, or being under the influence of, illegal drugs while on Commission property or Commission business.
- Violation of Commission policy.

## **2. Attendance and Punctuality**

To maintain a productive work environment, the Commission expects employees to be reliable and punctual in reporting for work at their regularly scheduled start time. Absenteeism and tardiness place a burden on other employees and on the Commission. Excessive absenteeism or an

inappropriate pattern of absences can lead to disciplinary action, up to and including termination.

### **3. Drug and Alcohol Use**

The presence or use of illegal drugs or unauthorized alcohol on Commission premises will not be tolerated. Illegal drugs, as referred to in this policy, include drugs that are not legally obtainable, as well as drugs that are legally obtainable but used for illegal or unauthorized purposes. The sale, purchase, transfer, distribution, use or possession of illegal drugs, as defined above, by anyone on Commission premises is prohibited. Moreover, employees are prohibited from reporting to work under the influence of alcohol or illegal drugs.

### **4. Outside Employment**

No Commission employee shall be permitted to accept employment in addition to or outside of Commission service if: a) The additional or outside employment leads to a conflict, or potential conflict of interest for said employee; or b) The additional or outside employment interferes with the employee's ability to perform his/her Commission job; or c) The nature of the additional or outside employment is such that it will reflect unfavorably on the Commission.

The duties to be performed in the additional or outside employment shall not be accomplished with the use of Commission records, materials, equipment, facilities or other Commission resources.

### **5. Outside Inquiries/Employee References**

All outside inquiries regarding employment references for current or former Commission employees must be directed to the Executive Officer. "Off the record" comments are strictly prohibited. The Commission will release only an employee's job title, salary and dates of employment to third parties unless the employee signs a written authorization to disclose further information about his/her employment. All media inquiries regarding the Commission should be referred to the Executive Officer.

### **6. Leaving the Commission**

The Commission shall provide employees written notice two weeks in advance of any action that terminates his or her employment with the Commission.

Although advance notice is not required of employees, the Commission requests two weeks' notice if an employee intends to resign. An employee's consideration in this regard will enable the Commission to arrange for a replacement and assist in the smooth transition of responsibilities. An employee may be asked at the time he or she leaves the Commission to provide an evaluation of the employee's employment with the Commission ("exit interview"). The Commission hopes that this constructive exchange will help it identify any areas that need further attention to provide the best possible work environment.

## **J. Grievance Procedure**

### **1. Scope of Grievance Procedure Policy**

This policy shall apply to all regular employees in all classifications.

### **2. Purpose of Grievance Procedure Policy**

The purpose of this policy is to provide a procedure by which employees may formally claim that he/she has been affected by a violation, misapplication, or misinterpretation of these Policies and may appeal disciplinary action as provided for in Policy No. P 119.

### **3. Exclusions**

Specifically excluded from the grievance procedure are subjects involving the amendment of state or federal law and Commission resolutions. Also specifically excluded from this grievance procedure are complaints of discrimination and harassment which are covered by Personnel Policies Nos. P 103.01-103.06.

### **4. Grievance Procedure Steps**

#### **a. Level I, Preliminary Informal Resolution**

Any employee who believes he/she has a grievance shall present the evidence thereof orally to the Executive Officer within five (5) working days after the employee knew, or reasonably should have known, of the circumstances which form the basis for the alleged grievance. The Executive Officer shall hold discussions and attempt to resolve the matter within three (3) working days after the presentation of such evidence. The Executive Officer shall document the informal meeting including the outcome and provide

a copy to the employee and the Chair of the Commission, as appropriate.

**b. Level II, Appeal of Grievance to the Commission**

If the grievance has not been resolved at the Level I, the grievant must present his/her grievance in writing on a form provided for this purpose (attached hereto as Attachment 3) to the Chairman of the Commission and to the Executive Officer within three (3) working days after the date of the Executive Officer's response to the Level I grievance process.

**5. Procedure**

Upon receiving a written appeal of a grievance from an employee, the Executive Officer shall place the matter on the agenda of the next available Commission agenda. The Commission shall convene in executive session to review the written grievance submittal and determine how the grievance will be addressed. In making this determination, the Commission may direct one of the following procedures:

- a. The Commission will meet in executive session to investigate the grievance, determine what corrective actions, if any, will be required to address the grievance and provide written documentation of its actions;
- b. Appoint a subcommittee of one, two or three of its members to investigate the grievance. The subcommittee will determine what corrective actions, if any, should be taken to address the grievance, provide written documentation of its meetings and report its recommendations to the Commission for action by the Commission in closed session;
- c. Retain or request the voluntary participation of an independent hearing officer. The independent hearing officer shall will recommend what corrective actions, if any, should be taken to address the grievance, provide written documentation of its meetings and report its recommendations to the Commission for action by the Commission in closed session; or

Take other steps that the Commission deems necessary and appropriate to address the written grievance.

## 6. Procedural Rules

- a. If an employee does not present the grievance, or does not appeal the decision rendered regarding the grievance within the time limits specified above, the grievance shall be considered resolved.
- b. By agreement in writing, the grievant and the Executive Officer may extend any time limitations on steps of the grievance procedure.
- c. A copy of all formal grievance decisions shall be retained in the Commission grievance file.
- d. The employee filing a grievance is obligated to participate in good faith in the grievance procedure. If the employee filing the grievance does not participate in good faith, the grievance shall be considered resolved.

## K. Disciplinary Actions

### 1. Types of Disciplinary Actions

The following are types of actions that may be utilized by the Executive Officer in disciplining employees. The specific type of disciplinary action taken is a decision made by the Executive Officer based on the severity of the employee's actions.

- a. **Oral Reprimand:** A formal discussion with an employee about performance or conduct problems. This action preferably is summarized by a memo to the employee outlining the nature of the discussion. An oral reprimand is not subject to the grievance process set forth in Policy P 118.
- b. **Written Reprimand:** A written document presented to an employee regarding performance or conduct problems. A copy must be provided to the employee with a copy being placed in the employee's personnel file. A written reprimand is not subject to the grievance process set forth in Policy P 118.
- c. **Disciplinary Suspension:** An involuntary absence without pay for a fixed period of time.
- d. **Reduction in pay:** A reduction in pay for a fixed or indefinite period of time.

- e. **Termination:** Discharge or removal from Commission service.
- f. **Administrative Leave:** An employee may be placed on administrative leave with pay immediately in an emergency situation or when the seriousness of a matter warrants such action pending the proper disciplinary process.

## 2. **Reasons for Reprimand, Suspension or Termination**

An employee's failure to meet the standards of employee conduct set forth in these Policies, Procedures and Guidelines will result in disciplinary action up to and including termination.

## 3. **Pre-Disciplinary Notice and Meeting**

Prior to suspending, reducing the pay of, or terminating an employee who has completed his or her probationary period, the Executive Officer shall provide the employee with a written notice of the proposed disciplinary action, a statement of the charges and reasons supporting the proposed disciplinary action and copies of the materials upon which the proposed action is based. Within five working days, the Executive Officer shall provide the employee with the opportunity to respond in person or verbally to the proposed discipline as to why the proposed disciplinary action should not be taken. After considering the response provided by the employee, the Executive Officer shall proceed with the proposed disciplinary action or modification thereof.

## 4. **Disciplinary Appeal**

An employee may appeal a suspension, reduction in pay or termination to the Commission by presenting the appeal in writing on a form provided for this purpose (attached hereto as Attachment 4) to the Chair of the Commission within three working days after receipt of the Executive Officer's notice of final disciplinary action. The Commission shall then hear the appeal in accordance with the procedures set forth in the Commission's Level II Grievance Procedure. The decision of the Commission shall be final.

## L. **Layoff - Authorization**

The Commission may lay off any employee because of lack of appropriate funds, curtailment or lack of work, changes in duties or organization, abolition of position or other reasons. When reduction of personnel is necessary, the criteria

for determining employees to be laid off shall be consideration of the work and administrative needs of the Commission as determined by the Executive Officer. Within a classification to be reduced, employees shall be laid off in the following order: (1) temporary employees, (2) part-time employees and then (3) full-time employees.

## **Section 9. Records Retention**

### **A. Purpose**

The purpose of this policy is to specify retention periods for compliance with Government Code Section 56382 and to define time limits for retention of records not addressed in Government Code Section 56382.

### **B. Records Retention Schedule**

The various forms of records created and received by Marin LAFCO shall be retained for minimum time periods as specified in Appendix A. Records extending beyond time periods specified in Appendix A will be subject to disposal.