



Meeting Date: August 25, 2021

Agenda Item: D.5

## AGENDA SUMMARY REPORT

### **SUBJECT:**

Discussion and Possible Adoption of Resolution No 2021-\_\_ Adopting and Approving August 25, 2021 MTA Policy Manual

### **SUMMARY:**

On July 28, 2021 the MTA Board of Directors reviewed the first draft of MTA's updated Policy Manual. The Board directed staff to reference the Succession Plan document as well as send Policy Manual to MTA legal counsel for a final review.

MTA's legal counsel completed the original review of the attached policies on June 21, 2021 and subsequent review on August 17, 2021. Recommended changes have been incorporated into the final version you have before you today.

Tom Woods with Teamsters Local 665 completed review on July 26, 2021.

Many of the original policies have been included in the attached policy manual. Updates and changes include:

- Update to Cash-In-Lieu Policy: Flat rate rather than based on % of premium costs.
- Update of leave policies to include most recent federal and state rules and regulations related to Family Medical Leave (FMLA), California Family Rights Leave (CFRA), Pregnancy Disability Leave (PDL) and Non-FMLA leave.
- Inclusion of Telecommuting Policy.
- Inclusion of Equal Employment Opportunity Program.
- Inclusion of Diversity, Equity and Inclusion Policy.
- Inclusion of Lactation Accommodation.
- Updated Drug and Alcohol Policy.

### **STAFF RECOMMENDATION:**

1. Adopt of Resolution No 2021-\_\_ Adopting and Approving the August 25, 2021 MTA Policy Manual

### **ATTACHMENTS:**

Resolution 2021-\_\_

Final MTA Policy Manual

**A RESOLUTION ADOPTING THE POLICY MANUAL  
EFFECTIVE OCTOBER 1, 2021, FOR MENDOCINO TRANSIT AUTHORITY**

**Resolution Number 2021-\_\_**

**WHEREAS**, policies may be adopted and amended at the discretion of the MTA Board of Directors and are subject and subordinate to applicable federal and state laws, rules, and regulations; and

**WHEREAS** purpose of the manual is to provide for guidance regarding the fair and consistent administration of MTA personnel, but neither any contract nor implied contract rights are created hereby; and

**WHEREAS** the Executive Director, Legal Counsel, Human Resources Department, and the Union have reviewed the Policies; and

**WHEREAS** the MTA Board of Directors deems it in the best interest of the employees of Mendocino Transit Authority to formally adopt the Policy Manual.

**NOW, THEREFORE, BE IT RESOLVED** by the MTA Board of Directors, as follows:

1. **ADOPTION.** The MTA Policy Manual, dated August 25, 2021, attached hereto, is hereby adopted and all previous versions of the MTA Policy Manual are superseded.
2. **EFFECTIVE DATE.** This Resolution shall take effect on October 1, 2021.

**RESOLUTION MOVED** by Director\_\_ and seconded by Director\_\_ and adopted this 25th day of August 2021 by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF:

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SAPRINA RODRIGUEZ, CHAIRPERSON OF THE BOARD.



# **Policy Manual**

**Mendocino Transit Authority  
August 25, 2021**

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## **100 - General Employment Policies**



## 101 - Introductory Statement

Welcome! As an employee of Mendocino Transit Authority (“MTA”), you are an important member of a team effort. We hope that you will find your position with MTA rewarding, challenging, and productive.

We look to you and the other employees to contribute to the success of MTA.

This employee policy manual is intended to explain the terms and conditions of employment of all full and part-time employees and supervisors.

This policy manual summarizes the policies and practices in effect at the time of publication. This handbook supersedes all previously issued handbooks and any policy or benefit statements or memoranda that are inconsistent with the policies described here.

In addition to the policies covered in this handbook, Mendocino Transit Authority also maintains separate policies and procedures including but not limited to addressing COVID-19 in the workplace as well as an Injury and Illness Prevention Plan (IIPP), Drug and Alcohol Testing Policy and a Succession Planning document and policy.

Where applicable, this handbook will refer Represented Employees to the relevant section of the Collective Bargaining Agreement. If there are no such policies found in the Agreement, please refer to the relevant section of this handbook for additional information.

Please take the time to review the policies in this handbook. Your supervisor or manager will be happy to answer any questions you may have. Again, welcome!

## 102 - Responsibilities of the MTA Board of Directors

- (1) The Board of Directors has and will continue to have regardless of frequency of exercise, the full right and duty of directing the affairs of MTA in every respect. The rights reserved to the Board of Directors include but are not limited to the following:
  - a) Determination of the organization of MTA;
  - b) Monitoring the efficiency of the operations of MTA;
  - c) Establishment of standards and levels of service to be offered to the public;
  - d) Establishment of the fare structure;
  - e) Determination of the composition and size of the work force;
  - f) Determination of the location, method, facilities, equipment and means by which operations are to be conducted, including whether goods or

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- services valued at more than \$30,000 (in any fiscal year) are to be made, provided, contracted out or purchased;
  - g) Establishment of an effective internal security program;
  - h) Creation, modification or deletion of MTA policies, including Personnel Policies; and,
  - i) Participation in and approval of annual operating and capital budgets for submittal to Mendocino Council of Governments.
- (2) The functions, prerogatives and policy-making rights reserved, whether listed above or not, are not in any way directly or indirectly subject to grievance procedures.
  - (3) The above-described rights and duties are not to be interpreted as all inclusive, but merely describe examples of those rights and duties that remain with the Board of Directors.
  - (4) The MTA Board may assign certain responsibilities and authorities in connection with the administration of these rights and duties to the Executive Director.

## 103 - Responsibilities of the Executive Director

- (I) The Executive Director shall be responsible for managing the operation of MTA, including, but not limited to the following:
  - a) Taking all action necessary to implement the policies and directives of the Board of Directors;
  - b) Recruiting, hiring, training, assigning work duties, promoting and disciplining of all other employees;
  - c) Managing the day-to-day operation of MTA;
  - d) Reviewing the efficiency of the operation, making route and schedule changes as appropriate within budget constraints and recommending changes to the Board of Directors;
  - e) Developing annual operating and capital budgets for adoption by the Board of Directors;
  - f) Developing long-range capital and operating plans and budgets for adoption by the Board of Directors;
  - g) Purchasing goods or services valued at \$20,000 or less in any fiscal year.
- (2) The Executive Director may delegate any of his/her duties to one or more appropriate members of the Management Team.

## 104 - Responsibilities of the Management Team

(1) The Management Team is comprised of:

- a) Executive Director
- b) Operations Manager
- c) Chief Financial Officer
- d) Maintenance Manager
- e) Human Resources Director
- f) Mobility Manager

(2)

The Management Team shall serve as the main consultant for the Executive Director in taking all actions and decisions necessary to implement the policies and directives of the Board of Directors. The Management Team responsibilities include, but are not limited to formulating analysis and recommendations on:

- a) Major decisions referring to efficiency, budget, route and schedule changes.
- b) Short-term and long-term actions for capital and operating plans.
- c) Short-term and long-term financial strategies.
- d) Changes in MTA Departmental structure and staffing.

## 105 - Right to Revise

This employee handbook contains the employment policies and practices of Mendocino Transit Authority in effect at the time of publication. All previously issued handbooks and any inconsistent policy statements, or memoranda are superseded.

Mendocino Transit Authority reserves the right to revise, modify, delete, or add to any and all policies, procedures, work rules, or benefits stated in this handbook at any time, except for the policy of at-will employment.

Any written changes to this handbook will be distributed to all employees so that you will be aware of any new policies or procedures. No oral statements or representations can in any way alter the provisions of this handbook.

Unless you are covered by an applicable *Collective Bargaining Agreement*, this handbook contains the entire agreement between you and Mendocino Transit Authority as to the duration of employment and the circumstances under which employment may be terminated. Nothing in this employee handbook or any other personnel document, including benefit plan descriptions, creates or is intended to create a promise or representation of continued employment for any employee.

Nothing in this statement is intended to interfere with your right to communicate or work with others toward altering the terms and conditions of your employment, such as communications regarding wages, scheduling or other terms or conditions of employment.

## **106 - Equal Employment Opportunity Program Policy**

(approved by Board of Directors on 10/26/20)

### **Objective**

Mendocino Transit Authority is an equal opportunity employer. In accordance with federal and state anti-discrimination law, it is the purpose of this policy to effectuate these principles and legal mandates. Mendocino Transit Authority prohibits discrimination, harassment or retaliation of any type and affords equal employment opportunities to employees and applicants without regard to race, color, religion, sex, sexual orientation, gender identity or expression, pregnancy, age, national origin, disability status, genetic information, protected veteran status, or any other characteristic protected by federal and/or state law. Mendocino Transit Authority conforms to the spirit as well as to the letter of all applicable laws and regulations.

### **Scope**

The policy of equal employment opportunity (EEO) and anti-discrimination applies to all aspects of the relationship between Mendocino Transit Authority and its employees, including, but not limited to:

- Recruitment
- Employment
- Promotion
- Transfer
- Training
- Working conditions
- Wages and salary administration
- Employee benefits and application of policies

The policies and principles of EEO also apply to the selection and treatment of independent contractors, personnel working on our premises who are employed by temporary agencies, volunteers, interns and any other persons or firms doing business for or with Mendocino Transit Authority.

### **Dissemination and Implementation of Policy**

The Human Resources department of Mendocino Transit Authority will be responsible for the dissemination of this policy. Directors, managers and supervisors are responsible for implementing equal employment practices within each department. The HR department is responsible for overall compliance and will maintain personnel records in compliance with applicable laws and regulations.

### **Procedures**

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Mendocino Transit Authority administers our EEO policy fairly and consistently by:

- Posting all required notices regarding employee rights under EEO laws in areas highly visible to employees.
- Advertising for job openings with the statement "*We are an equal opportunity employer and all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity or expression, pregnancy, age, national origin, disability status, genetic information, protected veteran status, or any other characteristic protected by federal and/or state law.*"
- Posting all required job openings with the appropriate state agencies.
- Forbidding retaliation against any individual who files a charge of discrimination, opposes a practice believed to be unlawful discrimination, reports harassment, or assists, testifies or participates in an EEO agency proceeding.
- Requiring employees to report to a member of management or an HR representative of any apparent discrimination, harassment or retaliation. The report should be made within 48 hours of the incident.
- Promptly notifying Human Resources of all incidents or reports of discrimination, harassment or retaliation and takes other appropriate measures to resolve the situation.

For additional information related to Mendocino Transit Authority's Harassment, Discrimination and Retaliation Prevention Policy, please see Policy Section 110.

### **107 - At-Will Employment Status**

Employees at Mendocino Transit Authority are employed on an at-will basis. This means that the employment relationship may be terminated at any time with or without reason or advance notice by either the employee or MTA. Nothing in this handbook limits the right to terminate at-will employment.

No employee or representative of MTA has any authority to enter into an agreement for employment for any specified period of time or to make an agreement for employment on other than at-will terms. Only the MTA Board of Directors and Executive Director of Mendocino Transit Authority has the authority to make any such agreement, which is binding only if it is in writing.

Represented employees refer to *Collective Bargaining Agreement* for more information.

### **108 - Employee-Employer Relations Policy**

MTA Employee-Employer Relations Policy will comply with Public Employee Relations Board's (PERB's) Rules and Regulations.

## 109 - Diversity, Equity and Inclusion

Mendocino Transit Authority is committed to fostering a diverse workforce, and maintaining a workplace that is equitable, inclusive and safe for all employees. From recruiting practices, to pay and benefits, promotions, and all other aspects of employment with us, an environment of equity is of the utmost importance.

We not only recognize that you, our employees, comprise a wide range of backgrounds and characteristics, but we believe those differences should be celebrated and valued. Whether it's race, religion, gender, national origin, ancestry, color, language, age, marital status, sexual orientation, gender identity, gender expression, physical or mental disability, medical condition, genetic information/characteristics, veteran status, political affiliation or any other characteristic, these are parts of each of you that contribute to your experiences as humans, and ultimately to the knowledge and expertise that make you a valuable asset to MTA.

Mendocino Transit Authority is committed and determined that there is access, opportunity and advancement for all individuals. We are always looking for ways in which we can cultivate an inclusive work environment, strengthen our cultural competency, and train our managers and employees to provide opportunities for growth and development.

It is our intention that all our employees, regardless of any particular background or characteristic, are always treated with respect and dignity. Likewise, we expect that as our employees, you treat your coworkers, supervisors and other team members with the same dignity and respect at all times.

Disrespect, inappropriate behavior or conduct toward others will not be tolerated and may subject an employee to disciplinary action, up to and including termination.

If you feel you have been mistreated, harassed, or discriminated or retaliated against in violation of MTA's *Harassment, Discrimination and Retaliation Prevention Policy* or *Equal Employment Opportunity Program Policy*, please contact your supervisor, manager or HR Director.

## **110 - Harassment, Discrimination and Retaliation Prevention Policy**

### **A. POLICY STATEMENT**

Mendocino Transit Authority (“MTA”) is committed to providing all its employees with a work environment free of discrimination, harassment, abusive conduct, and/or retaliation (“Prohibited Behavior”). MTA prohibits discrimination and harassment based on race, color, national origin (including language use restrictions), ancestry, religion, religious creed (including religious dress and grooming practices), gender, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth, or breastfeeding), disability (mental and physical, including HIV or AIDS), citizenship status, medical condition (cancer and genetic characteristics), genetic information, marital status, military and veteran status, political affiliation, sexual orientation, gender identity and gender expression, age (40 and over), political affiliation, parental status, the exercise of family care leave rights, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation or any other basis protected by federal, state, or local law (“Protected Categories”).

No employee is expected to tolerate any conduct prohibited by this policy from anyone while at work or engaged in MTA business. MTA strictly enforces a Zero Tolerance Policy for harassment or discrimination based upon one’s protected status (e.g., race, gender, age, national origin, etc.). MTA also strictly enforces a Zero Tolerance Policy for retaliation and/or abusive conduct. Zero Tolerance means MTA will take immediate and effective action, when appropriate, calculated to stop the conduct that violates this Policy.

Employees are subject to discipline, up to and including termination, for failure to comply with this Policy. Temporary workers, interns and others conducting business for MTA are subject to release from their assignments for violations of this Policy. Temporary workers, interns, and others conducting business for MTA are protected against the Prohibited Behavior defined in this policy.

### **B. PROHIBITED BEHAVIOR**

The following, either together or individually, constitute Prohibited Behavior:

#### **1. Discrimination**

Adverse employment actions related to hiring, promotions, assignments, performance management, and other terms and conditions of employment where membership in a Protected Category is a substantial motivating reason for the action. Discrimination is a Prohibited Behavior.

#### **2. Retaliation**

MTA strictly prohibits retaliation against any person by another at MTA for:

- making a non-malicious and non-frivolous internal complaint about an allegation of discrimination, harassment, abusive conduct, or retaliation;



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- utilizing the complaint procedure of any state or federal agency to report discrimination, harassment, or retaliation;
- opposing discrimination, harassment, abusive conduct, or retaliation;
- reporting discrimination, harassment, abusive conduct, or retaliation;
- requesting an accommodation for religious practice or disability; or
- for filing, testifying, assisting, or participating in any manner in any investigation, proceeding or hearing conducted by MTA or a governmental enforcement agency relating to this policy or any state or federal anti-discrimination laws or regulations.

This means that any employee who participates in the protected activity described above shall not be adversely affected or discriminated against in their terms and conditions of employment because of their involvement in the protected activity. “Because of” means that the employee’s involvement in the protected activity must be a substantial motivating reason behind the prohibited retaliatory conduct. In short, there must be a causal connection.

Prohibited retaliation includes, but is not limited to: termination, demotion, suspension, failure to hire or consider for hire, failure to give equal consideration in making an employment decision, failure to make employment recommendations impartially, adversely affecting working conditions or otherwise denying any employment benefit to the person engaging in the protected activity. Prohibited retaliation includes any conduct that is reasonably likely to impair an employee’s job performance or prospects for advancement or promotion. Prohibited retaliation does not include minor or trivial actions or conduct that is not reasonably likely to do more than anger or upset an employee.

MTA does not consider conduct in violation of this Policy to be within the course and scope of employment and does not sanction such conduct on the part of any employee, including management employees. Employees found to have engaged in retaliatory conduct are subject to disciplinary action. Retaliation is a Prohibited Behavior.

### **3. Harassment**

Harassing conduct may include, but is not limited to: verbal harassment (obscene language, demeaning conduct, slurs, or threats); physical harassment such as unwanted touching, assault, or actual physical interference with normal work; visual harassment (offensive posters, drawings, photographs, cartoons, or objects); unwanted sexual advances; and other communicative harassment (offensive emails, text messages, internet postings, letters, etc.) because of a Protected Category. Harassment is a Prohibited Behavior.

### **4. Hostile Work Environment**

A hostile work environment exists where one is subjected to unwanted harassing conduct because of his or her Protected Category, where the harassing conduct is severe or pervasive, where one considers the work environment to be hostile or abusive as a result of the conduct, and where a reasonable person in the same circumstances would also

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have found the environment to be hostile or abusive. Creating a Hostile Work Environment is a Prohibited Behavior.

### **5. Abusive Conduct**

MTA employees, including managers, shall refrain from any malicious conduct that a reasonable person would find hostile, offensive, and unrelated to an employer's legitimate business interest. MTA's legitimate business interests include employees being held accountable for timeliness, meeting deadlines, producing deliverables adequately, and other general work responsibilities, among other things.

Examples of abusive conduct include, but are not limited to, repeated infliction of verbal abuse, such as the use of malicious, derogatory remarks, insults, epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating or humiliating, or the intentional sabotage or undermining of a person's work performance.

Abusive Conduct that is substantially motivated by one's Protected Category may constitute harassment. Abusive Conduct is a Prohibited Behavior.

### **6. Malicious Complaints**

MTA will not tolerate malicious complaints. Complaints/concerns will not be considered malicious merely because they are determined to be unsubstantiated. A malicious complaint/concern is one that is made in bad faith or with knowledge that the complaint entirely lacks any factual basis. Malicious complaints may result in disciplinary action, up to and including termination.

## **C. COMPLAINT PROCESS**

Employees or other covered parties who believe they have been subjected to Prohibited Behavior, whether specifically noted as an inappropriate behavior as described in this policy, should immediately report the offensive behavior to their supervisor, a member of the management team or HR. Incidents not immediately reported can be reported up to 365 days from the date of the last occurrence or event. This period may be extended up to 90 days if the person allegedly aggrieved by the discrimination first obtained knowledge of the facts after expiration of the 365-day period. Beginning on January 1, 2020, incidents may be reported 3 years after the date of the last occurrence or event. This 3-year period may be extended up to 90 days if the person allegedly aggrieved by the discrimination first obtained knowledge or facts after expiration of the 3-year period.

If an employee or other covered party is aware, either directly or indirectly, of Prohibited Behavior engaged in or suffered by another, regardless of whether such conduct directly affects them, they should immediately report that information to their supervisor, a member of the management team, or HR Staff.

Supervisors and managers must refer all complaints of misconduct as described herein to HR.

Complaints against the Executive Director or a member of the Board will be immediately referred to MTA's Legal Counsel for resolution.

Complaints should include details of the incident(s) such as names of individuals involved, the timeframe during which incident(s) occurred, and the names of any witnesses. No adverse action

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will be taken against an employee who makes a report or cooperates in the investigation of a report of Prohibited Behavior.

HR staff shall have access to all information deemed necessary to determine to the validity of a complaint.

Once a complaint is received, HR will determine if the complaint requires a consultation, initial inquiry, or full investigation. If HR determines the need for a full investigation, it is MTA's policy is to conduct a timely, thorough, and impartial investigation of all Prohibited Behavior claims. The investigation will be conducted by qualified personnel, documented, and tracked for reasonable progress and concluded in a timely manner.

After the investigation, HR will make a determination as to whether a violation of this policy has occurred. MTA will look at the totality of the circumstances, including the nature of the conduct and the context in which it occurred. MTA will then timely communicate the findings to the complainant and respondent, and when appropriate, to other persons who are directly concerned.

If it is determined that Prohibited Behavior has occurred, MTA will take remedial action commensurate with the severity of the offense. This action may include corrective action against the respondent, up to and including termination. Steps will be taken, as necessary, to prevent any further Prohibited Behavior from occurring.

With the exception of Abusive Conduct claims, all complainants, including those not satisfied with MTA's resolution, may pursue a complaint or file concurrently with the Department of Fair Employment and Housing (DFEH) and/or the U.S. Equal Employment Opportunity Commission (EEOC). Federal law typically requires the employee to file an administrative charge with the EEOC within 180 days from the date of the discriminatory violation. California's Fair Employment and Housing Act gives the employee one year to file such a charge with DFEH. For more information on filing a complaint with the DFEH or the EEOC, please refer to the following information:

### **DFEH**

Website: <https://www.dfeh.ca.gov/complaint-process/file-a-complaint/> Phone: 800-884-1684

Email: [contact.center@dfeh.ca.gov](mailto:contact.center@dfeh.ca.gov)

Write to: 2218 Kausen Drive, Suite 100, Elk Grove, CA 95758

### **EEOC**

Website: <https://www.eeoc.gov/employees/charge.cfm> Phone: 800-669-4000

Email: [info@eeoc.gov](mailto:info@eeoc.gov)

Write to: 450 Golden Gate Avenue 5 West, P.O Box 36025 San Francisco, CA 94102-3661

## **D. REMEDIES**

Misconduct constituting harassment, discrimination or retaliation will be dealt with appropriately. Violations of this policy, regardless of whether an actual law has been violated, will not be tolerated. Responsive action may include, for example, training, referral to counseling or disciplinary action such as a warning, reprimand, withholding of a promotion or pay increase, reassignment, temporary suspension without pay, or termination, as Mendocino Transit Authority believes appropriate under the circumstances. Additionally, depending on the nature of the violation, civil liability could be imposed on the violator as well as the Authority.

## **E. RIGHT TO REPRESENTATION**

The complainant and the respondent have the right to representation at each step of the process by a person of their choice.

## **F. CONFIDENTIALITY**

Information gathered by HR during an investigation will be kept confidential to the extent possible, but complete confidentiality cannot be guaranteed.

## **G. COMMUNICATION AND TRAINING**

To ensure all employees are aware of their role in support of a work environment free of Prohibited Behavior, HR staff will send all employees this Policy on an annual basis. New employees will be required to sign an acknowledgement of receipt. The Policy will also be posted on MTA's bulletin boards in all MTA facilities.

In keeping with its commitment to a harassment and discrimination free environment, MTA will comply with all applicable rules and regulations regarding the training of employees. All new hires and temporary workers will attend an Anti-Harassment training and they will receive a copy of this Policy and guidance in support of this Policy.

## **H. PURPOSE**

To prevent Prohibited Behavior in the workplace, to enable employees to report Prohibited Behavior before it becomes severe or pervasive, and to stop Prohibited Behavior before it rises to the level of a violation of MTA's policies or state or federal law.

## **I. SCOPE, ASSUMPTIONS & EXCEPTIONS**

This Policy applies to all employees (both represented and non-represented), contractors, consultants and temporary employees.

## **J. ROLES & RESPONSIBILITIES**

### **General**

- Employees who are involved in personnel decisions (including job interviews, candidate selection, and employee progressive disciplinary proceedings) and in business decisions (including all decisions concerning procurement activities,

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contracting, and service agreements) are expected to be knowledgeable of equal opportunity requirements and comply with them in conducting their responsibilities.

- Managers, supervisors, and all other employees are required to cooperate fully with an investigation and resolution of all Prohibited Behavior discrimination or harassment complaints.

### **Supervisors and Managers**

- Are charged with the responsibility of ensuring that the employees they supervise are not subjected to Prohibited Behavior. They are also responsible for taking timely and effective action calculated to stop Prohibited Behavior about which they are aware, and for taking proactive steps to identify and eradicate Prohibited Behavior of which they should be aware.
- Upon receipt of a complaint, the supervisor or manager must notify the Human Resources Director that a harassment complaint has been received.
- Upon awareness of potential Prohibited Behavior, the supervisor or manager must notify the Human Resources Director.
- Under this policy, ignorance of Prohibited Behavior is not necessarily an acceptable defense for inaction if the manager or supervisor, through reasonable diligence, should have been aware of the problem.
- Corrective measures taken by MTA in response to Prohibited Behavior must attempt to stop the Prohibited Behavior and ensure that the workplace will remain free of Prohibited Behavior. If warranted under the circumstances, supervisors and managers may be subject to discipline for failure to carry out their duties in enforcing this policy even if they have not personally engaged in Prohibited Behavior. In addition, the law provides that managers and supervisors may be held personally responsible in a civil suit if they have engaged in or allowed Prohibited Behavior.
- In consultation with the Human Resources Director, the supervisor or manager must deal proactively with possible Prohibited Behavior situations, process complaints immediately, and take appropriate corrective or disciplinary action against the employee whose conduct violates this policy.
- Are required to take positive steps to comply with this policy. They are required to be aware of potential Prohibited Behavior situations, quickly resolve any Prohibited Behavior issues that arise, and refrain from retaliation or any other Prohibited Behavior against any employee involved in the filing, investigation, or resolution of a Prohibited Behavior claim.
- Must not minimize or otherwise discourage employees from reporting such complaints.

### **Employee**

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- Employees who feel they have been the target of Prohibited Behavior in any way may tell the offender that they find such behavior offensive, that such behavior is against MTA policy, and that they should immediately stop the behavior.
  - o If the employee is uncomfortable taking this action, or if the conduct does not stop after the warning has been given, the employee should immediately contact their supervisor or manager. Employees are not required to confront the offender but are required to report the behavior.
  - o If the employee cannot or does not want to seek help from their supervisor or manager, the employee should contact Human Resources or MTA Executive Director for assistance.
- If employees or other covered parties are aware of Prohibited Behavior engaged in or suffered by another, regardless of whether such Prohibited Behavior directly affects them, they should immediately report that information to their supervisor, a member of the management team or HR staff.

### **Human Resources Department**

- Ensure that when Human Resources determines an investigation is necessary, qualified personnel conduct a timely, and thorough investigation that is fair to the employees involved and reaches a reasonable conclusion based on the facts.
- Develop and uphold a process for responding to complaints that is timely, impartial, thorough, and confidential to the extent permissible by law.
- Refer policy violations to Union Representative or management, as appropriate.
- Complaints are appropriately documented and tracked for reasonable progress and resolution.
- Resolve non-investigation matters at the lowest possible level, including, but not limited to, addressing an employees' conduct with the employee and/or the employees' manager or supervisor.

### **Governance**

The Board and its members will not discriminate, harass, or allow harassment against any applicant, employee, customer, or other person on the basis of sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), race, religion, color, national origin (including language use restrictions), ancestry, religious creed (including religious dress and grooming practices, political affiliation, disability (mental and physical, including HIV or AIDS), medical condition (cancer and genetic characteristics), genetic information, marital status, parental status, gender, age (40 and over), pregnancy, military and veteran status, sexual orientation, gender identity and gender expression, the exercise of family and medical care leave, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation.

The Board will require that the organization's work environment be one in which all people are welcomed and included, and in which all individuals are unique and important and are treated with fairness and dignity.

## **K. Governing Laws**

- The Age Discrimination in Employment Act of 1967
- The Equal Pay Act of 1963
- Title VII of the Civil Rights Act of 1964
- Title I Americans with Disabilities Act of 1990 (ADA)/ADAAA
- Fair Employment and Housing Act
- The Pregnancy Discrimination Act
- The Genetic Information Nondiscrimination Act of 2008 (GINA)

## **L. DEFINITIONS**

**Abusive Conduct** - Malicious conduct that a reasonable person would find hostile, offensive, and unrelated to MTA's legitimate business interests. Examples of abusive conduct include, but are not limited to, repeated infliction of verbal abuse, such as the use of malicious, derogatory remarks, insults, epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating or humiliating, or the intentional sabotage or undermining of a person's work performance.

**Causal Connection** – An employee's involvement in protected activity must be a substantial motivating reason behind the prohibited retaliatory conduct.

**Complainant** – The person submitting an allegation, claim, concern or information to manager, supervisor or HR indicating a possible breach of MTA rules or policies.

**Discrimination** – Adverse employment actions related to hiring, promotions, assignments, performance management, and other terms and conditions of employment where membership in a Protected Category is a substantial motivating reason for the action.

**Employee** – Any individual appointed by the Board, Board Appointed Officer, or a designate, as a regular employee of MTA and for purposes of this policy includes temporary or intermittent workers.

**Hostile Work Environment** – Severe or pervasive actions, communications, or behavior that discriminate against a Protected Category such as age, religion, disability, or race. "Severe or pervasive" means conduct that alters the conditions of employment and creates, based on the totality of the circumstances, an abusive work environment.

**Investigative Findings** – Determinations made based on the preponderance of evidence found in the investigation. A preponderance of evidence means it is more likely than not that the allegation(s) did or did not occur.

**Exonerated** – Possible finding in an investigation that indicates that the alleged conduct or failure to act was found to be true; however, such conduct either was appropriate under the circumstances or was not found to constitute a violation of the applicable provisions of the rule and/or policy.



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**Not Sustained** – Possible finding in an investigation which indicates that the alleged misconduct could neither be proved or disproved, given the existing evidence.

**Sustained** – Possible finding in an investigation which indicates that the alleged misconduct is found to have occurred, and, where applicable, to have violated an applicable rule and/or policy.

**Unfounded** – Possible finding in an investigation which indicates that the alleged misconduct revealed conclusively that the alleged act did not occur.

**Protected Categories** – race, color, national origin (including language use restrictions), ancestry, religion, religious creed (including religious dress and grooming practices), gender, sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth, or breastfeeding), citizenship status, disability (mental and physical, including HIV or AIDS), medical condition (cancer and genetic characteristics), genetic information, marital status, military and veteran status, political affiliation, sexual orientation, gender identity and gender expression, age (40 and over), political affiliation, parental status, the exercise of family care leave rights, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation.

**Prohibited Behavior** – Discrimination, harassment, sexual harassment, abusive conduct and/or retaliation all as defined herein.

**Sexual Harassment** – Sexual harassment prohibited by this policy includes any unwanted sexual advances, requests for sexual favors or visual, verbal, or physical conduct of a sexual nature when:

- Submission to such conduct is made a term or condition of employment; or submission to or rejection of such conduct is used as a basis for employment decisions affecting the individual; or
- Such conduct has the purpose or effect of unreasonable interference with an employee's work performance or creating an intimidating, hostile, or offensive working environment.

The following is a partial list of conduct that would be considered sexual harassment:

- Unwanted sexual advances or propositions;
- Offering employment benefits in exchange for sexual favors;
- Making or threatening retaliation after a negative response to sexual advances;
- Visual conduct such as leering, making sexual gestures, displaying offensive, derogatory, obscene, or sexually suggestive objects, e-mails, computer graphics or images, unwelcome notes or letters, photographs, cards, drawings, pictures, cartoons, calendars, or posters placed on walls, bulletin boards or elsewhere on MTA premises or circulated in the workplace;
- Verbal conduct such as making or using derogatory sexual comments, epithets, slurs, sexually explicit jokes, negative stereotyping, comments about an employee's body or dress;



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- Verbal abuse of a sexual nature, graphic verbal commentary about an individual's body, sexually degrading words to describe an individual;
- Written communications of a sexual nature, including but not limited to, suggestive, or obscene letters, notes, or invitations distributed in hard copy, via computer or other means;
- Physical conduct such as assaults, impeding or blocking movements, and/or unwelcome physical contact.
- Sexual harassment can occur between persons who identify as the same or different sex or gender.

### **Other Types of Harassment**

Harassment on the basis of sex (which includes pregnancy, childbirth, breastfeeding and medical conditions related to pregnancy, childbirth or breastfeeding), race, religion, color, national origin (including language use restrictions), ancestry, religious creed (including religious dress and grooming practices), political affiliation, disability (mental and physical, including HIV or AIDS), medical conditions (cancer and genetic characteristics), genetic information, marital status, parental status, gender, age (40 and over), pregnancy, military and veteran status, sexual orientation, gender identity and gender expression, the exercise of family and medical care leave, the exercise of pregnancy disability leave, or the request, exercise, or need for reasonable accommodation is also prohibited.

Such prohibited harassment includes but is not limited to the following examples of offensive conduct:

- Verbal conduct such as threats, epithets, derogatory comments, or slurs.
- Threatening, intimidating, coercing, or otherwise interfering with the job performance of fellow employees or visitors.
- Visual conduct such as derogatory posters, photographs, cartoons, drawings, or gestures.
- Written communications containing statements that may be offensive to individuals in a protected group, such as racial or ethnic stereotypes or caricatures.
- Any logos or graphics worn by employees that reflect any form of violent, discriminatory, abusive, offensive, demeaning or otherwise unprofessional message.
- Physical conduct such as assault, unwanted touching or blocking of normal movement.
- Retaliation for making harassment reports or threatening to report harassment.

## 111 - Lactation Accommodation

Mendocino Transit Authority recognizes lactating employees' rights to request lactation accommodation and accommodates lactating employees by providing a reasonable amount of break time and a suitable lactation location to any employee who desires to express breast milk for their infant child, subject to any exemption allowed under applicable law.

If possible, the break time should run concurrently with your normally scheduled break time. Any break time to express breast milk that does not run concurrently with your normally scheduled break time is unpaid.

The lactation location will be private (shielded from view and free from intrusion from co-workers and the public) and located close to your work area. The location will be safe, clean and free of toxic or hazardous materials; have a surface to place a breast pump and other personal items; have a place to sit; and have access to electricity or alternative devices (including, but not limited to extension cords or charging stations) needed to operate an electric or battery-powered breast pump. Mendocino Transit Authority will also provide access to a sink with running water and a refrigerator suitable for storing milk in close proximity to your workspace. If a refrigerator cannot be provided, Mendocino Transit Authority will provide another cooling device suitable for storing milk, such as an employer-provided cooler. The lactation location will not be a bathroom or restroom. The room or location may include an employee's private office if it otherwise meets the requirements of the lactation space. Multi-purpose rooms may be used as lactation space if they satisfy the requirements for space; however, use of the room for lactation takes priority over other uses for the time it is in use for lactation purposes.

Employees who desire lactation accommodations should contact HR Director to request accommodations. An employee's request may be provided orally, by email, or in writing, and need not be submitted on a specific form. We will engage in an interactive process with you to determine when and where lactation breaks will occur. If we cannot provide break time or a location that complies with this policy, we will provide a written response to your request.

Mendocino Transit Authority will not tolerate discrimination or retaliation against employees who exercise their rights to lactation accommodation, including those who request time to express milk at work and/or who lodge a complaint related to the right to lactation accommodation. If you believe you have been denied reasonable break time or adequate space to express milk or have been otherwise denied your rights related to lactation accommodation, you have the right to file a complaint with the Labor Commissioner.

## **200 - Hiring and Recruitment**

## **201 - Recruitment**

### **Authority Vested in the Board of Directors**

The Board of Directors shall approve a Wage and Staffing Table for MTA annually in June.

### **Authority Vested in Executive Director**

The Executive Director is authorized to keep all approved positions filled. The Executive Director shall take whatever actions are necessary to recruit, select and hire to fill such vacant positions pursuant to established policy.

### **Recruitment of Current Employees, except the Executive Director**

MTA shall develop the skills of MTA employees and use whatever means possible to encourage individual professional growth. MTA encourages employees to apply for new job vacancies and rise in the organization to the extent of their abilities and desires.

All vacancies shall first be announced to current employees. Job vacancies shall be posted in a conspicuous place for one week (7 calendar days). All interested employees must notify the Human Resources Department in writing by the end of that week. If a current employee is selected to fill a vacancy, no further recruitment shall be conducted.

### **Recruitment Advertising**

If job vacancies are not filled from within, the Human Resources Department shall take all necessary and appropriate action to advertise for and recruit the most highly qualified candidates.

### **Application for Employment**

Applications for all positions other than Executive Director, shall be submitted on approved forms. All applicants shall be given the appropriate job description. There shall be a minimum advertising period of one week (7 calendar days).

### **Temporary Appointments**

When necessary, the Executive Director may make temporary appointments for a period not to exceed six months, to fill vacancies.

### **Prohibition of Recruitment and Relocation Expenses**

There shall be no reimbursement to candidates for employment for their expenses in the recruitment process or for their relocation expenses when hired, except for candidates for management positions, for whom the Executive Director and Chairman (or the full Board of Directors when recruiting for the Executive Director) shall determine appropriate reimbursement, if any. Should a management employee, who has received payment or reimbursement for relocation expenses, voluntarily terminates their employment at MTA within twenty-four months of their date of hire, all amounts paid or reimbursed shall be returned to MTA.

### **Equal Employment Opportunities in Recruitment**

It is the policy of Mendocino Transit Authority to provide equal employment opportunities without regard to race, color, religion, sex, national origin, age, disability, marital status, veteran status, sexual orientation, genetic information, or any other protected characteristic under applicable law. This policy relates to all phases of employment, including, but not limited to, recruiting, employment, placement, promotion, transfer, demotion, reduction of workforce and termination, rates of pay or other forms of compensation, selection for training, the use of all facilities, and participation in all company-sponsored employee activities. Provisions in applicable laws providing for bona fide occupational qualifications, business necessity or age limitations will be adhered to by MTA where appropriate.

As part of the company's equal employment opportunity policy, Mendocino Transit Authority will also take affirmative action as required by applicable laws and Executive Orders to ensure that minority group individuals, females, disabled veterans, recently separated veterans, other protected veterans, Armed Forces service medal veterans, and qualified disabled persons are introduced into our workforce and considered for promotional opportunities.

Employees and applicants shall not be subjected to harassment, intimidation or any type of retaliation because they have (1) filed a complaint; (2) assisted or participated in an investigation, compliance review, hearing or any other activity related to the administration of any federal, state or local law requiring equal employment opportunity; (3) opposed any act or practice made unlawful by any federal, state or local law requiring equal opportunity; or (4) exercised any other legal right protected by federal, state or local law requiring equal opportunity.

The above-mentioned policies shall be periodically brought to the attention of supervisors and shall be appropriately administered. It is the responsibility of each supervisor of MTA to ensure affirmative implementation of these policies to avoid any discrimination in employment. All employees are expected to recognize these policies and cooperate with their implementation. Violation of these policies is a disciplinary offense.

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The Human Resources Director has been assigned to direct the establishment and monitor the implementation of personnel procedures to guide our affirmative action program throughout Mendocino Transit Authority. A notice explaining the company's policy will remain posted.

### **Screening Procedure**

- (1) For all positions other than that of Executive Director, the Human Resources Director shall review all applications and shall select an appropriate number of the most qualified candidates for interview. Evaluations, work records and previous MTA application(s) of employee applicants, received within the three months, shall be considered. MTA may require a standardized written or other appropriate form of examination for a specific classification. If a standardized exam is used it shall be administered to all applicants.
- (2) After review of the examination results, if any, by the Human Resources Director, such candidates shall be interviewed by a panel selected by the Executive Director. This panel shall rate all candidates in order of qualification in accordance with selection criteria established for each classification.
- (3) After Consultation with the panel, the Executive Director may cancel the recruitment and begin another, or may appoint candidates to fill existing vacancies. At the discretion of the Executive Director, qualified but non-appointed candidates may be appointed to fill subsequent vacancies in the same classification for a period of 180 days from the interview date.

### **Verification of Application Information**

No employee shall begin work until the Human Resources Director or his/her designee has completed a verification check of the information presented on the application form. Should, at any time, such information be determined to be false, the employee or candidate providing the information may be terminated or eliminated from consideration. This regulation shall apply even after the hiring, remaining in effect for so long as the employee remains with MTA.

Newly hired employees may begin in-classroom training provided employee does not perform any safety-sensitive functions prior to satisfactory pre-employment drug testing and criminal background check.

### **Pre-Employment Requirements**

All applicants, as specified, in the final stages of the selection process are required to pass the following examinations.

**a. Physical Examination**

Applicants for Transit Vehicle Operator, Lead Mechanic and Mechanic positions are required to pass a physical examination prior to employment that satisfies the requirements of the Federal Commercial Driver's License. The physical exam shall be paid for by MTA and shall be performed by a provider selected by MTA.

**b. Physical Performance Evaluation**

Applicants for Transit Vehicle Operator, Lead Mechanic and Mechanic positions are required to pass a physical performance evaluation. This evaluation shall be performed by a provider selected by and paid for by MTA.

**c. Pre-employment Drug Testing**

*See Drug and Alcohol Policy.*

**d. Department of Motor Vehicle License**

All employees whose occupations require the operation of motor vehicles on public roadways, are required to have a valid Department of Motor Vehicle license and specified certificates and endorsements, plus a medical certificate. Therefore, all applicants must possess or be qualified to receive the same as required by their classification description. Time required to obtain these items shall be paid.

**e. Criminal Background Check and Fingerprinting**

*See Criminal Records Checks Policy.*

**Notification of Determination**

Every applicant that is interviewed by MTA shall be notified in writing of the decision made regarding the outcome of any interview conducted.

## 202 - Nepotism

(approved by Board of Directors 09/25/2019)

The MTA believes that the most qualified candidates should be selected for positions in the department, for promotions, and for assignment to specialized positions. Employees who are related to or who are engaged in a romantic relationship with candidates for hiring, selection, promotion, or assignment to specialized positions must ensure that all reasonable precautions are taken to avert any undue influence in the selection process or even the appearance of impropriety in the process.

The MTA recognizes the rights of employees to become involved in personal relationships with their co-workers. However, it is also the policy of the MTA to ensure that its employees carry out their duties with impartiality and fairness so that public and organizational confidence in the actions of MTA employees is maintained. Also, public trust, efficient MTA operations, proper supervision, security, workplace safety, and MTA morale require that employees avoid the appearance of or actual conflicts of interest between their professional responsibilities and any involvement in a family or personal relationship with other employees.

The general employment policies of the MTA do not permit discrimination against employees or applicants on the basis of marital or familial status. This policy is to be interpreted and applied consistent with those general employment policies. This policy is not intended to change or conflict with policies providing for equal employment opportunity or prohibiting unlawful discrimination.

Members of an employee's immediate family will be considered for employment by the MTA, provided the applicant possesses all the qualifications for employment in the same manner as other, non-family member applicants. An immediate family member will not be hired into a position if such employment would:

- a. Create either a direct or indirect supervisor/subordinate relationship; or
- b. Create either an actual conflict of interest or the appearance of a conflict of interest.

For purposes of this policy, "immediate family" includes: grandparent, parent, parent-in-law, spouse or domestic partner, sibling or child, or a corresponding half or step-relationship, or any member of the employee's household.

### **Hiring, Promotion and Assignment to Specialized Positions**



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Employees who have a family or personal relationship with a candidate for hiring selection, promotion, or assignment to specialized positions shall not be involved in the selection, appointment, or assignment process.

### **Supervisory Procedures**

An employee generally shall not directly supervise a relative or another employee where a family or personal relationship exists. It will be incumbent upon the subordinate to select assignments which will not put them under the supervision or management of someone with whom they have a family or personal relationship.

### **Working Conditions**

The assignment or employment of employees with a family or personal relationship within a department or division may be limited or prohibited, even if the employees are not in the direct line of supervision, depending on the conditions. Since these situations could involve conflicts of interest, these situations will be decided on a case-by-case basis by the Department Head and the Executive Director or designee. For example, one person typically should not be employed in a position where that person would approve or process payroll for a spouse.

Employees who marry or become members of the same household during their employment with MTA may continue employment so long as:

- a. There is no direct or indirect supervisor/subordinate relationship between such employees; or
- b. It does not create an actual conflict of interest or the appearance of a conflict of interest.

### **Duty to Notify and Accommodation**

In the event that employees in the same department or division become involved in a personal relationship, they shall notify their immediate supervisor or manager as soon as possible. Employees who find themselves working in close proximity to a relative or another employee with whom they have a personal relationship, even if in different departments or divisions, shall notify their immediate supervisor or manager of the circumstances.

The Executive Director or designee will review the working relationship of the two employees and determine if it violates this policy. The Executive Director or designee, in conjunction with the department head, will make reasonable efforts to transfer, reassign, or otherwise resolve the situation so that one of the employees is placed in a position where the conflict potential no longer exists. Prior to any reassignment, the MTA will

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receive input from the involved employees.

Any failure to report relationships as required by this policy shall constitute misconduct and may subject an employee to disciplinary action.

Should one of the above situations occur, the MTA will attempt to reassign one of the employees to another position for which he or she is qualified, provided such a position is available. If no such position is available, then one of the employees will be required to leave the MTA. The decision as to which individual will leave the MTA is left solely to the two employees.

In all cases of potential nepotism, MTA staff will complete the attached check sheet and send to legal counsel for review and recommendation of candidate hire.

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MTA EMPLOYMENT CANDIDATE CHECKLIST			
NAME:		DATE:	
1	Does this candidate meet all employment qualifications as a non-family member applicant?	Yes	No
2	What is the candidates familial relationship:		
3	Will this candidate be employed in a direct or indirect subordinate position from the family member and/or romantic relationship staff member?	Yes	No
4	If so, can the direct or indirect supervisory position be removed from the direct or indirect supervision?	Yes	No
5	If so, how?		
6	Does employment of this candidate create a conflict of interest?	Yes	No
7	If applicable, does this candidates position conflict with the financial internal controls - segregation of duties?	Yes	No
8	Is this candidate the best qualified applicant for the position?	Yes	No
ADDITIONAL NOTES:			

## **203 - Employment Status**

At the time employees are hired, they shall be informed of their status and position in writing. Should employees be moved from one status to another, they shall be informed of their status change in writing.

## **204 - Full-Time Employees**

Regular full-time employees are those who are scheduled for and do work 32 to 40 hours per week. Regular full-time employees are eligible for most employee benefits described in this handbook. Benefit eligibility may depend on length of continuous service. Benefit eligibility requirements may also be imposed by the plans themselves or by law.

## **205 - Part-Time Employees**

Part-time employees are those who are scheduled for and do work over 20 hours per week but not more than 32 hours per week. Part-time employees are eligible for most employee benefits described in this policy book.

## **206 - Casual Employees**

Casual employees are those who are scheduled to work less than 20 hours per week are considered casual employees. Casual employees do not qualify for health, dental or vision benefits but must become a member of the CalPERS retirement system.

## **207 - Temporary Employees**

Temporary employees are those employed for short-term assignments. Short-term assignments generally are periods of three months or fewer; however, such assignments may be extended. Temporary employees are not eligible for employee benefits except those mandated by applicable law.

## **208 - Exempt Employees**

Classifications that are considered exempt from the overtime provisions of the Fair Labor Standards Act (FLSA) shall be designated on the Wage and Staffing Table annually.

## **209 - Probationary Employee**

An employee who has not yet completed his/her probationary period in a regular position and who has not been certified to regular employment status. Unless otherwise

specified, when regular employees are referred to in these policies, they shall include probationary employees.

## **210 - Job Classifications/Descriptions**

All job classifications, as approved by the Board of Directors and listed in the Wage and Staffing Table, shall be described in writing in the form of a Job Description.

Classification/descriptions shall be reviewed with employees by their immediate supervisor. Individuals may work in two or more classifications at the same time.

Mendocino Transit Authority reserves the right, at any time, with or without notice, to alter or change job responsibilities, job descriptions, reassign or transfer job positions, or assign additional job responsibilities.

## **211 - Health Benefits Extension**

Unless a health benefits extension is covered by state or federal law, benefits will terminate according to MTA's insurance carrier's policy. Employees on inactive status may be eligible under the Consolidated Omnibus Budget Reconciliation Act (COBRA) or the California Continuation Benefits Replacement Act (Cal-COBRA) to elect to continue their health care coverage at the employee's expense.

Contact the HR Director for more information.

## **212 - Inactive Status**

Employees who are on any type of leave of absence, work-related or non-work-related, that exceeds any protected state, federal or local leave of absence will be placed on inactive status.

## **213 - Seniority Represented Employees**

Refer to *Collective Bargaining Agreement* Article 20

## **214 - Probationary Status**

For non-represented employees, the first six months of continuous employment at Mendocino Transit Authority is considered a probationary period. During this time, you will learn your responsibilities, get acquainted with co-workers and determine whether or not you are happy with your job. Your supervisor will closely monitor your performance.

Completion of the probationary period does not entitle you to remain employed by Mendocino Transit Authority for any definite period of time. Your status as an at-will employee does not change. The employment relationship may be terminated with or

without cause and with or without advance notice, at any time by you or MTA.

The probationary period for current employees who have been selected through the recruitment process and change classifications shall be 3-months.

Represented employees refer to Collective Bargaining Agreement Article 5.

## **215 - Job Duties**

During the introductory period, your supervisor will explain your job responsibilities and the performance standards expected of you. Please keep in mind that your job responsibilities may change at any time during your employment. From time to time, you may be asked to work on special projects, or to assist with other work necessary or important to the operation of your department or Mendocino Transit Authority. Your cooperation and assistance in performing such additional work is expected.

Mendocino Transit Authority reserves the right, at any time, with or without notice, to alter or change job responsibilities, job descriptions, reassign or transfer job positions, or assign additional job responsibilities.

Represented employees refer to Collective Bargaining Agreement Article 20

## **216 - Transfers**

Transfers are defined as a change in locale with no change in classification. Seniority is not transferrable from one locale to another. Employees desiring transfers must make a written request to the Executive Director. Transfers shall be handled as a change in work schedule and assignments.

Represented employees refer to *Collective Bargaining Agreement* Article 20 Section H

## **217 - Changes in Position**

Within certain job classifications there are a specified number of positions of each type (full-time, part-time (non-represented), casual). Employees in those classifications may not change position without written permission and then only when it has been determined that there is an opening within that position in that locale. Frequent changes in position will not be permitted. In case of a competing request, the Supervisor, Operations Manager and Executive Director will determine the change in position, with seniority, reliability, and performance all considered in the determination. The Anniversary Date Step Increase will be the date of hire in the new position.

## **218 - Promotions**

A promotion is defined as a change of classification generally to a higher rate of pay.

Promotions shall be handled as recruitment of current employees described in Hiring and Recruitment Policy above. The Anniversary Date Step Increase will be the date of hire in the new position.

## **219 - Criminal Records Checks Policy**

(Approved by Board of Directors on 01/30/2019)

All offers of employment at Mendocino Transit Authority are contingent upon clear results of a thorough Live Scan background check. Background checks will be conducted on all final candidates and on all employees, who are promoted, as deemed necessary.

- A. Background checks will include:
1. Social Security Verification: validates the applicant's Social Security number, date of birth and former addresses.
  2. Prior Employment Verification: confirms applicant's employment with the listed companies, including dates of employment, position held and additional information available pertaining to performance rating, reason for departure and eligibility for rehire. This verification will be run on the past two employers or the previous five years, whichever comes first.
  3. Personal and Professional References: calls will be placed to individuals listed as references by the applicant.
  4. Educational Verification: confirms the applicant's claimed educational institution, including the years attended and the degree/diploma received.
  5. Criminal History: in compliance with state law, includes review of criminal convictions and probation. The following factors will be considered for applicants with a criminal history:
    - a. The nature of the crime and its relationship to the position.
    - b. The time since the conviction.
    - c. The number (if more than one) of convictions.
    - d. Whether hiring, transferring or promoting the applicant would pose an unreasonable risk to Mendocino Transit Authority, its employees or its customers and vendors.
  6. Motor Vehicle Records: provides a report on an individual's driving

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history in the state requested. This search will be run when driving is an essential requirement of the position.

B. Procedure

After a candidate receives and accepts a conditional written job offer, the candidate must complete a Live Scan background check authorization form and return it to MTA Human Resources.

Human Resources will order the background check upon receipt of the signed release form.

The HR representative will notify the hiring manager regarding the results of the check. In instances where negative or incomplete information is obtained, the appropriate management and hiring manager will assess the potential risks and liabilities related to the job's requirements and determine whether the individual should be hired.

Background check information will be maintained in a file separate from employees' personnel files for a minimum of five years.



## **300 - Time Off and Leaves of Absence**

Mendocino Transit Authority will adhere to all local, state or federal laws related to certain types of leaves. Local, state or federal laws related to certain leave may be changed prior to this policy manual being updated.

## **301 - Bereavement Leave**

Mendocino Transit Authority grants leave of absence to employees in the event of the death of the employee's current spouse, registered domestic partner, child, parent, legal guardian, brother, sister, grandparent, or grandchild; or in law for mother, father, sister, brother, son or daughter. An employee with such a death in the family may take up to 3 consecutive scheduled workdays off (5 workdays if out-of-state travel is necessary) with pay (utilizing accruals) with the approval of MTA. The employee's supervisor may approve additional unpaid time off.

Bereavement leave may be deducted from either employee's sick leave or vacation leave at the employee's request.

## **302 - Crime or Abuse Victims' Leave for Treatment**

If you are the victim of crime or abuse, you are eligible for unpaid leave. While the leave is generally unpaid, employees can use their paid sick time under California's Healthy Workplaces, Healthy Families Act for the purposes described below.

You are considered a victim of crime or abuse who is eligible for unpaid leave if you are:

- A victim of stalking, domestic violence, or sexual assault;
- A victim of a crime that caused physical injury or that caused mental injury and a threat of physical injury; or
- A person whose immediate family member is deceased as a result of a crime. "Immediate family member" includes:
  - Regardless of age, your biological, adoptive, or foster child, stepchild, or legal ward, a child of a registered domestic partner, a child to whom you stand in loco parentis, or a person to whom you stood in loco parentis when the person was a minor;
  - Your biological, adoptive, or foster parent, stepparent, or legal guardian or that of your spouse or registered domestic partner, or a person who stood in loco parentis when you or your spouse or registered domestic partner was a minor child;
  - Your legal spouse or registered domestic partner;
  - Your biological, foster, or adoptive sibling, a stepsibling, or half-sibling; or
  - Any other individual whose close association with you is the equivalent of a family relationship described in any of the bullets above.

You may request leave for any of the following purposes:

- To seek medical attention for injuries caused by crime or abuse;

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- To obtain services from a domestic violence shelter, program, rape crisis center, or victim services organization or agency as a result of the crime or abuse;
- To obtain psychological counseling or mental health services related to experiencing crime or abuse;
- To participate in safety planning and take other actions to increase safety from future crime or abuse, including temporary or permanent relocation.

Please provide reasonable advance notice of the need for leave unless advance notice is not feasible to Human Resources.

Mendocino Transit Authority will, to the extent allowed by law, maintain the confidentiality of an employee requesting leave under this provision.

### 303 - Family Medical Leave Act Leave

This policy summarizes benefits available under various federal and state leaves. For additional information or if you have questions, please contact Human Resources. The federal Family and Medical Leave Act (FMLA) provides up to 12 workweeks of unpaid family/medical leave within a 12-month period, under the following conditions:

- You have been employed with MTA for a total of at least 12 months prior to the commencement of leave. The 12 months of employment must have accumulated within the previous seven years (certain exceptions apply);
- You have worked at least 1,250 hours during the previous 12-month period before the need for leave; and

Leave may be taken for one or more of the following reasons:

- Your own serious health condition that makes you unable to perform your job;
- To care for your family member who has a serious health condition. For purposes of FMLA leave, a “family member” includes your:
  - Spouse.
  - Parent.
  - Child under the age of 18, or child over the age of 18 and incapable of self-care due to mental or physical disability at the time FMLA leave is to begin.
    - The birth of your child, or placement of a child with you for adoption or foster care;
    - Because of a qualifying exigency related to covered active duty or a call to covered active duty of your spouse, child or parent in the Armed Forces of the United States, or to care for a covered servicemember. (See *Military Family Leave Entitlements* below.)
    - Incapacity due to pregnancy, prenatal medical care or child birth

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Depending on your reason for leave, you may also be eligible for California Family Rights Act (CFRA) leave, in which case both your FMLA leave and CFRA leave will run concurrently. (See the *CFRA Leave* policy for additional information and CFRA leave eligibility.)

For additional information about eligibility for FMLA and how it may or may not interact with CFRA leave, contact the Human Resource Director.

### **Military Family Leave Entitlements**

- Eligible employees whose spouse, son, daughter or parent is on covered active duty or call to covered active-duty status may use their 12-week leave entitlement for certain qualifying exigencies. Qualifying exigencies may include attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and attending post-deployment reintegration briefings.
- Eligible employees may also take a special leave entitlement of up to 26 weeks of leave during a single 12-month period to care for a covered servicemember. A covered servicemember is either:
  - A current member of the Armed forces, including a member of the National Guard or Reserves, who is undergoing medical treatment, recuperation or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious injury or illness\*; or
  - A veteran who was discharged or released under conditions other than dishonorable at any time during the five-year period prior to the first date the eligible employee takes FMLA leave to care for the covered veteran, and who is undergoing medical treatment, recuperation, or therapy for a serious injury or illness.\*

\*The FMLA definitions of “serious injury or illness” for current servicemembers and veterans are different from the FMLA definition of “serious health condition.”

### **Calculating the 12-month Period**

For purposes of calculating the 12-month period during which 12 weeks of family and medical leave or qualifying exigency leaves may be taken under FMLA, Mendocino Transit Authority uses a Calendar Year.

Under most circumstances, leave under federal and state law will run at the same time and an eligible employee will be entitled to a total of 12 weeks of family and medical leave in the designated 12-month period.

For leave to care for a covered servicemember, the 12-month period begins on the first day of

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the leave, regardless of how the 12-month period is calculated for other leaves. Leave to care for a covered servicemember is for a maximum of 26 workweeks during a 12-month period.

### **Pregnancy, Childbirth or Related Conditions and Baby Bonding**

Time off because of pregnancy disability, childbirth or related medical condition counts as FMLA leave, but not for CFRA leave. Employees who take time off for pregnancy disability and who are eligible for FMLA will be placed on FMLA that runs concurrently with pregnancy disability leave (PDL).

Once the pregnant employee is no longer disabled, or once the employee has given birth and exhausted PDL, the employee may apply for leave under the CFRA, for purposes of baby bonding.

Under the FMLA, leave taken for the birth, adoption, or foster care placement of a child must be taken as a continuous block of leave unless MTA grants intermittent leave. If, however, your baby bonding leave is under both FMLA and CFRA (running concurrently), such leave does not have to be taken in one continuous period of time:

CFRA leave taken for the birth or placement of a child will be granted in minimum amounts of two weeks. However, MTA will grant a request for a CFRA leave (for birth/placement of a child) of less than two weeks' duration on any two occasions. MTA may also grant additional requests for leave lasting less than two weeks at its discretion. Any leave taken (under either FMLA or CFRA) must be concluded within one year of the birth or placement of the child with the employee.

### **Leave Procedures**

The following procedures shall apply to FMLA leave:

- Please contact the Human Resources Director as soon as you realize the need for family/medical leave. If the leave is based on the expected birth, placement for adoption or foster care, or planned medical treatment for your serious health condition or that of a family member, you must notify MTA at least 30 days before leave is to begin. You must consult with your supervisor regarding scheduling of any planned medical treatment or supervision in order to minimize disruption to the operations of MTA. Any such scheduling is subject to the approval of your health care provider or the health care provider of your child, parent, or spouse.
- If you cannot provide 30 days' notice, the Human Resources Director must be informed as soon as is practical.

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- If the FMLA request is made because of your own serious health condition, MTA may require, at its expense, a second opinion from a health care provider that MTA chooses. The health care provider designated to give a second opinion will not be one who is employed on a regular basis by MTA.
- If the second opinion differs from the first opinion, MTA may require you, at MTA's expense, to obtain the opinion of a third health care provider designated or approved jointly by you and the employer. The opinion of the third health care provider shall be considered final and binding on you and MTA.

### **Certification**

Mendocino Transit Authority requires you to provide certification. You will have 15 calendar days from MTA's request for certification to provide it to MTA, unless it is not practical to do so. MTA may require recertification from the health care provider if you request additional leave upon expiration of the time period in the original certification. *(For example, if you need two weeks of family and medical leave, but following the two weeks you need intermittent leave, a new medical certification will be requested and required.)* If you do not provide medical certification in a timely manner to substantiate the need for family and medical leave, MTA may delay approval of the leave, or continuation thereof, until certification is received. If certification is never received, the leave may not be considered FMLA leave.

If the leave is needed to care for a sick family member, you must provide a certification from the health care provider stating:

- Date of commencement of the serious health condition;
- Probable duration of the condition;
- Estimated amount of time for care by the health care provider; and
- Confirmation that the serious health condition warrants your participation.

Under the FMLA, when both parents are employed by MTA, and request simultaneous leave for the birth or placement for adoption or foster care of a child, MTA will not grant more than a total of 12 workweeks of FMLA leave for this reason. However, if baby bonding leave is under both FMLA and CFRA (running concurrently), each parent employed by MTA is entitled to 12 workweeks of leave for this reason.

If your serious health condition is the reason for leave, you must provide a certification from the health care provider stating:

- Date of commencement of the serious health condition;
- Probable duration of the condition; and
- Your inability to work at all or to perform any one or more of the essential functions of your position because of the serious health condition.

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If you are on leave because of your own serious health condition, MTA will also require a medical release to return to work form or certification from your health care provider that you are able to resume work.

Failure to provide a release to return to work from your health care provider may result in denial of reinstatement until the certificate is obtained.

### **Leave Related to Military Service**

A leave taken due to a "qualifying exigency" related to military service must be supported by a certification of its necessity. A leave taken due to the need to care for a servicemember must be supported by a certification by the servicemember's health care provider or other certification allowed by law. Special certification requirements apply to leaves related to military service.

### **Health and Benefit Plans**

If you are taking FMLA leave, you will be allowed to continue participating in any health and welfare benefit plans in which you were enrolled in before the first day of the leave (for a maximum of 12 workweeks, or 26 workweeks if the leave is to care for a covered servicemember) at the level and under the conditions of coverage as if you had continued in employment for the duration of such leave. MTA will continue to make the same premium contribution as if you had continued working. The continued participation in health benefits begins on the date leave first begins. In some instances, MTA may recover premiums paid to maintain health coverage if you fail to return to work following FMLA leave.

Employees on pregnancy disability leave will be allowed to continue to participate in group health coverage for up to a maximum of four months of pregnancy disability leave (if such insurance was provided before the leave was taken) on the same terms as if you had continued to work. The right to continued group health coverage during pregnancy disability leave is a separate and distinct entitlement from the CFRA entitlement.

Payment is due when it would be made by payroll deduction.

### **Substitution of Paid Leave**

Generally, FMLA leave is unpaid. MTA may require, or you may choose, to use accrued paid leave while taking FMLA leave. In order to use paid leave for FMLA leave, you must comply with MTA's normal paid leave policies. For more information on those specific circumstances requiring or allowing the substitution of paid leave contact Human Resources Director.

### **Reinstatement**

Under most circumstances, upon return from FMLA leave, you will be reinstated to your original job or to an equivalent job with equivalent pay, benefits, and other employment terms and

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conditions. However, an employee has no greater right to reinstatement than if the employee had been continuously employed rather than on leave. For example, if an employee on FMLA leave would have been laid off had the employee not gone on leave, or if the employee's job is eliminated during the leave and no equivalent or comparable job is available, then the employee would not be entitled to reinstatement. In addition, an employee's use of FMLA leave will not result in the loss of any employment benefit that the employee earned before using FMLA leave.

Reinstatement after FMLA leave may be denied to certain salaried "key" employees under the following conditions (however, this exception will not apply if the FMLA leave runs concurrently with CFRA leave):

- An employee requesting reinstatement was among the highest-paid 10 percent of salaried employees employed within 75 miles of the worksite at which the employee worked at the time of the leave request;
- The refusal to reinstate is necessary because reinstatement would cause substantial and grievous economic injury to MTA's operations;
- The employee is notified of MTA's intent to refuse reinstatement at the time MTA determines the refusal is necessary; and
- If leave has already begun, MTA gives the employee a reasonable opportunity to return to work following the notice described previously.

### **Time Accrual**

Please contact Human Resources Director with any questions regarding accrual of other MTA provided paid leave benefits (such as vacation or sick leave) during unpaid FMLA leave.

### **Carryover**

Leave granted under any of the reasons provided by FMLA and/or CFRA will be counted as family/medical leave and will be considered as part of the 12-workweek entitlement (26-workweek entitlement if leave is to care for a servicemember) in any 12-month period. No carryover of unused leave from one 12-month period to the next 12-month period is permitted.

### **Intermittent Leave**

You may take FMLA leave intermittently (in blocks of time, or by reducing your normal weekly or daily work schedule) if the leave is for your serious health condition or that of a qualifying family member and the reduced leave schedule is medically necessary as determined by the health care provider of the person with the serious health condition. The smallest increment of time that can be used for such leave is one hour.



## 304 - California Family Rights Act Leave

This policy summarizes benefits available under various federal and state leaves. For additional information or if you have questions, please contact Human Resources. California's California Family Rights Act (CFRA) provides up to 12 workweeks of unpaid family/medical leave within a 12-month period, under the following conditions:

- You have been employed with MTA for a total of at least 12 months prior to the commencement of leave. The 12 months of employment must have accumulated within the previous seven years (certain exceptions apply); and
- You have worked at least 1,250 hours during the previous 12-month period before the need for leave.

Leave may be taken for one or more of the following reasons:

- Your serious health condition that makes you unable to perform your job;
- To care for your family member who has a serious health condition. For purposes of CFRA leave, a "family member" includes your:
  - Spouse;
  - Parent;
  - Child of any age;
  - Registered domestic partner;
  - Grandparent;
  - Grandchild;
  - Sibling;
  - Parent-in-law;
  - The birth of your child, or placement of a child with you for adoption or foster care;
  - Because of a qualifying exigency related to covered active duty or a call to covered active duty of your spouse, registered domestic partner, child, or parent in the Armed Forces of the United States. (See *Qualifying Exigencies Related to Active Duty* below.)

Please note that incapacity due to pregnancy, prenatal medical care or childbirth is not an eligible reason for CFRA leave. (See the *Pregnancy Disability Leave Policy* for more information).

For additional information about eligibility for CFRA leave, contact the Human Resources Director.

### **Qualifying Exigencies Related to Active Duty**

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- Eligible employees whose spouse, domestic partner, child or parent is on covered active duty or call to covered active-duty status may use their 12-week leave entitlement for certain qualifying exigencies. Qualifying exigencies may include, but are not necessarily limited to, attending certain military events, arranging for alternative childcare, addressing certain financial and legal arrangements, attending certain counseling sessions, and

attending post-deployment reintegration briefings.

### **Calculating the 12-month Period**

For purposes of calculating the 12-month period during which 12 weeks of CFRA leave may be taken, Mendocino Transit Authority uses a Calendar Year.

### **Pregnancy, Childbirth or Related Conditions and Baby Bonding**

Leave because of a disability for pregnancy, childbirth or related medical condition is not counted as time used under CFRA leave. Employees who take time off for pregnancy disability will be placed on pregnancy disability leave (PDL). (See *Pregnancy Disability Leave* policy for more information.)

Once the pregnant employee is no longer disabled, or once the employee has given birth and exhausted PDL, the employee may apply for leave under the CFRA, for purposes of baby bonding.

Any leave taken for the birth, adoption, or foster care placement of a child does not have to be taken in one continuous period of time. CFRA leave taken for the birth or placement of a child will be granted in minimum amounts of two weeks. However, MTA will grant a request for a CFRA leave (for birth/placement of a child) of less than two weeks' duration on any two occasions. MTA may also grant additional requests for leave lasting less than two weeks at its discretion. Any leave taken must be concluded within one year of the birth or placement of the child with the employee.

### **Leave Procedures**

The following procedures shall apply to CFRA leave:

- Please contact the Human Resources Director as soon as you realize the need for family/medical leave. If the leave is based on the expected birth, placement for adoption or foster care, or planned medical treatment for your serious health condition or that of a family member, you must notify MTA at least 30 days before leave is to begin. You must consult with your supervisor regarding scheduling of any planned medical treatment or supervision in order to minimize disruption to the operations of MTA. Any

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such scheduling is subject to the approval of your health care provider or the health care provider of your family member.

- If you cannot provide 30 days' notice, MTA must be informed as soon as is practical.
- You must provide a certification from your health care provider, pursuant to the requirements stated in the section titled *Certification*, below.
- If the CFRA request is made because of your own serious health condition, MTA may require, at its expense, a second opinion from a health care provider that MTA chooses. The health care provider designated to give a second opinion will not be one who is employed on a regular basis by MTA.
- If the second opinion differs from the first opinion, MTA may require you, at MTA's expense, to obtain the opinion of a third health care provider designated or approved jointly by you and the employer. The opinion of the third health care provider shall be considered final and binding on you and MTA.

### **Certification**

Mendocino Transit Authority requires you to provide certification. You will have 15 calendar days from MTA's request for certification to provide it to MTA, unless it is not practical to do so. MTA may require recertification from the health care provider if you request additional leave upon expiration of the time period in the original certification. *(For example, if you need two weeks of family and medical leave, but following the two weeks you need intermittent leave, a new medical certification will be requested and required.)* If you do not provide medical certification in a timely manner to substantiate the need for family and medical leave, MTA may delay approval of the leave, or continuation thereof, until certification is received. If certification is never received, the leave may not be considered CFRA leave.

If the leave is needed to care for a sick family member, you must provide a certification from the health care provider stating:

- Date of commencement of the serious health condition;
- Probable duration of the condition;
- Estimated amount of time for care by the health care provider; and
- Confirmation that the serious health condition warrants your participation.

If your serious health condition is the reason for leave, you must provide a certification from the health care provider stating:

- Date of commencement of the serious health condition;
- Probable duration of the condition; and
- Your inability to work at all or to perform any one or more of the essential functions of your position because of the serious health condition.

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If you are on leave because of your own serious health condition, MTA will also require a medical release to return to work form or certification from your health care provider that you are able to resume work.

Failure to provide a release to return to work from your health care provider may result in denial of reinstatement until the certificate is obtained.

### **Leave Related to Military Service**

A leave taken due to a "qualifying exigency" related to military service must be supported by a certification of its necessity. Special certification requirements apply to leaves related to military service.

### **Health and Benefit Plans**

If you are taking CFRA leave, you will be allowed to continue participating in any health and welfare benefit plans in which you were enrolled in before the first day of the leave (for a maximum of 12 workweeks) at the level and under the conditions of coverage as if you had continued in employment for the duration of such leave. MTA will continue to make the same premium contribution as if you had continued working. The continued participation in health benefits begins on the date leave first begins. In some instances, MTA may recover premiums paid to maintain health coverage if you fail to return to work following CFRA leave.

Employees on pregnancy disability leave will be allowed to continue to participate in group health coverage for up to a maximum of four months of pregnancy disability leave (if such insurance was provided before the leave was taken) on the same terms as if you had continued to work. The right to continued group health coverage during pregnancy disability leave is a separate and distinct entitlement from the CFRA entitlement.

Payment is due when it would be made by payroll deduction.

### **Substitution of Paid Leave**

Generally, CFRA leave is unpaid. MTA may require, or you may choose, to use accrued paid leave while taking CFRA leave. In order to use paid leave for CFRA leave, you must comply with MTA's normal paid leave policies. For more information on those specific circumstances requiring or allowing the substitution of paid leave contact the Human Resources Director.

### **Reinstatement**

Under most circumstances, upon return from CFRA leave, you will be reinstated to your original job or to an equivalent job with equivalent pay, benefits, and other employment terms and conditions. However, an employee has no greater right to reinstatement than if the employee had been continuously employed rather than on leave. For example, if an employee

on CFRA leave would have been laid off had the employee not gone on leave, or if the employee's job is eliminated during the leave and no equivalent or comparable job is available, then the employee would not be entitled to reinstatement. In addition, an employee's use of CFRA leave will not result in the loss of any employment benefit that the employee earned before using CFRA leave.

### **Time Accrual**

Please contact the Human Resources Director with any questions regarding accrual of other MTA provided paid leave benefits (such as vacation or sick leave) during unpaid CFRA leave.

### **Carryover**

Leave granted under any of the reasons provided by CFRA and/or FMLA will be counted as family/medical leave and will be considered as part of the 12-workweek entitlement in any 12-month period. No carryover of unused leave from one 12-month period to the next 12-month period is permitted.

### **Intermittent Leave**

You may take CFRA leave intermittently (in blocks of time, or by reducing your normal weekly or daily work schedule) if the leave is for your serious health condition or that of a qualifying family member and the reduced leave schedule is medically necessary as determined by the health care provider of the person with the serious health condition. The smallest increment of time that can be used for such leave is one hour.

## **305 - Jury Duty and Witness Leave**

Mendocino Transit Authority encourages employees to serve on jury duty when called. Non-exempt employees who have completed their probationary periods will receive full pay while serving up to 5 days of jury duty. Exempt employees will receive full salary unless they are absent for a full week and perform no work. You should notify your supervisor of the need for time off for jury duty as soon as a notice or summons from the court is received. You may be requested to provide written verification from the court clerk of performance of jury service. If work time remains after any day of jury selection or jury duty, you will be expected to return to work for the remainder of your work schedule.

### **Fees Paid by the Court**

You may retain any mileage allowance or other fee paid by the court for jury services.

Represented employees refer to *Collective Bargaining Agreement*, Article 19, Section B.

## **306 - Military Leave**

Employees who wish to serve in the military and take military leave should contact the Human Resources Director for information about their rights before and after such leave. You are entitled to reinstatement upon completion of military service, provided you return or apply for reinstatement within the time allowed by law.

### **307 - Military Spouse Leave**

Employees who work more than 20 hours per week and have a spouse or registered domestic partner in the Armed Forces, National Guard or Reserves who have been deployed during a period of military conflict are eligible for up to 10 unpaid days off when their spouse is on leave from (not returning from) military deployment.

You must request this leave in writing to the Human Resources Director within two business days of receiving official notice that your spouse will be on leave. You must attach to the leave request written documentation certifying that your spouse will be on leave from deployment.

### **309 - Personal Leave**

A personal leave of absence without pay may be granted at the discretion of Mendocino Transit Authority. Requests for personal leave should be limited to unusual circumstances requiring an absence of longer than six weeks. Approved personal absences of shorter duration are not normally treated as leaves, but rather as excused absences without pay.

### **310 - Pregnancy Disability Leave**

If you are pregnant, have a related medical condition, or are recovering from childbirth, please review this policy. Any employee planning to take pregnancy disability leave (PDL) should advise the Human Resources Department as early as possible. Please make an appointment with the Human Resources Director to discuss the following conditions:

- The length of pregnancy disability leave will be determined by the advice of your physician, but employees disabled by pregnancy may take up to four months of leave per pregnancy (the working days you normally would work in one-third of a year or 17 1/3 weeks). Part-time employees are entitled to leave on a pro rata basis. The four months of leave includes any period of time for actual disability caused by your pregnancy, childbirth, or related medical condition. This includes leave for severe morning sickness and for prenatal care, doctor-ordered bed rest, as well as other reasons. Your healthcare provider determines how much time you need for your disability;
- Mendocino Transit Authority will also reasonably accommodate medical needs related to pregnancy, childbirth, or related conditions or temporarily transfer you to a less strenuous or hazardous position (where one is available) or duties if medically needed because of your pregnancy;

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- If you need to take PDL, you must inform your supervisor when a leave is expected to begin and how long it will likely last. If the need for a leave, reasonable accommodation, or transfer is foreseeable (such as the expected birth of a child or a planned medical treatment for yourself), you must provide at least 30 days advance notice before the PDL or transfer is to begin. Consult with your manager regarding the scheduling of any planned medical treatment or supervision in order to minimize disruption to the operations of MTA. Any such scheduling is subject to the approval of your health care provider;
- For emergencies or events that are unforeseeable, we need you to notify MTA, at least verbally, as soon as practical after you learn of the need for the leave;
- Failure to comply with these notice requirements may result in delay of PDL, reasonable accommodation, or transfer;
- Pregnancy leave usually begins when ordered by your health care provider. You must provide Mendocino Transit Authority with a written certification from a health care provider for need of PDL, reasonable accommodation or transfer. The certification must be returned no later than 15 calendar days after it is requested by MTA. Failure to do so may, in some circumstances, delay PDL, reasonable accommodation or transfer. Please see Human Resources for a medical certification form to give to your health care provider;
- Leave returns will be allowed only when your health care provider sends a release;
- You are allowed to use accrued sick time (if otherwise eligible to take the time) during PDL. You are allowed to use accrued vacation (if otherwise eligible to take the time) during PDL; and
- Leave does not need to be taken in one continuous period of time and may be taken intermittently, as needed. Leave may be taken in increments of one hour.

If intermittent leave or leave on a reduced work schedule is medically advisable you may, in some instances, be required to transfer temporarily to an available alternative position that meets your needs. The alternative position does not need to have equivalent job duties, but must have the equivalent rate of pay and benefits, and you must be qualified for the position. The position must better accommodate your leave requirements than your regular job. Transfer to an alternative position can include altering an existing job to better accommodate your need for intermittent leave or a reduced work schedule.

When your health care provider releases you to return to work, from PDL, you will be reinstated to your same position held at the time the leave began or, in certain instances, to a comparable position, if available. There are limited exceptions to this policy. An employee returning from a pregnancy disability leave has no greater right to reinstatement than if the employee had been continuously employed.

If you are on PDL, you will be allowed to continue to participate in group health insurance coverage for up to a maximum of four months of disability leave (if such insurance was provided before the leave was taken) at the level and under the conditions that coverage would have been provided if you had continued in employment continuously for the duration of the leave. In some instances, MTA can recover premiums paid to maintain your health coverage if you fail to return from PDL. PDL may impact other benefits or a seniority date. Please contact Human Resources for more information.

## **311 - Rehabilitation Leave**

Employees who test positive in any drug or alcohol test, for the first time, are eligible for rehabilitation leave for up to 6 months upon the completion of a re-entry contract at the discretion of the Executive Director.

While on leave, MTA will continue to pay for group insurance/core benefits the same as before the leave, and seniority will continue to accrue. Accrued sick time and vacation time may be used during the leave.

It is the responsibility of the employee to pay for all costs of rehabilitation not covered by insurance.

If the employee violates any of the terms of the re-entry contract the employee will be discharged.

Represented employees refer to *Collective Bargaining Agreement* Article 9 Section J.

## **312 - School and Child Care Activities Leave**

Employees are encouraged to participate in the school or childcare activities of their child(ren).

The absence is subject to all of the following conditions:

- Time off under this policy can only be used by parents, guardians, grandparents, stepparents, foster parents or a person who stands in loco parentis to one or more children of the age to attend kindergarten through grade 12 or who are with a licensed child care provider;
- The amount of time off for school or child care activities described below cannot exceed a total of 40 hours each year;
- You can use the time off to find, enroll or reenroll a child in a school or with a licensed child care provider or to participate in activities of the child's school or licensed child care provider. The time off for these purposes cannot exceed eight hours in any calendar month. You must provide reasonable advance notice to your supervisor before taking the time off;



- You can also use time off to address a "child care provider or school emergency" if you give notice to MTA. A "child care provider or school emergency" means that the your child cannot remain in a school or with a child care provider due to one of the following:
- The school or child care provider has requested that your child be picked up, or has an attendance policy (excluding planned holidays) that prohibits your child from attending or requires your child to be picked up from the school or child care provider;
- Behavioral or discipline problems;
- Closure or unexpected unavailability of the school or child care provider, excluding planned holidays; or
- A natural disaster, including, but not limited to, fire, earthquake or flood.
- If more than one parent is employed by Mendocino Transit Authority, the first employee to request such leave will receive the time off. Another parent will receive the time off only if the leave is approved by their supervisor;
- You must use vacation leave in order to receive compensation for this time off; and
- If you who do not have paid time off available, this time will be taken without pay.

### **313 - School Appearances Involving Suspension**

If you are the parent or guardian of a child facing suspension from school and are summoned to the school to discuss the matter, you should alert your supervisor as soon as possible before leaving work. In agreement with California Labor Code Section 230.7, no discriminatory action will be taken against an employee who takes time off for this purpose.

### **314 - Catastrophic Leave Fund Policy**

Approved by MTA Board of Directors on 03/29/2019

#### **Statement of Policy**

Mendocino Transit Authority has a leave donation program that is meant to provide assistance to employees who are suffering from a crisis event that has resulted in a need for additional time off in excess of their available sick or other paid time. The program allows eligible employees to voluntarily donate time from their available sick leave to their co-workers in

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accordance with the policy.

This policy is strictly voluntary. The policy does not guarantee any employee the right to extended leave beyond what is provided for by MTA's stated policy and its legal obligations. Final approval of receipt of any sick leave donation and of the ability to donate accrued leave rests with HR Director.

Donations made under this policy shall be deemed to be equivalent one-hour increments and are not based on the job classification or salary of the donating employee or the recipient employee.

### **Eligibility to Donate**

Mendocino Transit Authority (MTA) recognizes that employees may have a family medical emergency or be affected by a major disaster, resulting in a need for additional time off in excess of their available sick/vacation time. To address this need, all eligible employees will be allowed to donate accrued paid sick or vacation leave hours from their unused balance to their co-workers in need of additional paid time off, in accordance with the policy outlined below. This policy is strictly voluntary.

### **Eligibility**

Employees must be employed with MTA for a minimum of one year (12 months) to be eligible to donate and/or receive donated Catastrophic Leave.

### **Guidelines**

Employees who would like to make a request to receive donated sick/vacation time from their co-workers must have a situation that meets the following criteria:

1. Medical emergency, defined as a medical condition of the employee or an immediate family member that will require the prolonged/extended absence of the employee from duty and will result in a substantial loss of income to the employee due to the exhaustion of all paid leave available. An immediate family member is defined as a spouse, child or parent.
2. Major disaster, defined as a disaster declared by the president under §401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (the Stafford Act), or as a major disaster or emergency declared by the president pursuant to California Disaster Assistance Act (CDAA). An employee is considered to be adversely affected by a major disaster if the disaster has caused severe hardship to the employee or to a family member (spouse, child or parent) of the employee that requires the employee to be absent from work.

### **Donation of Sick/Vacation Time**

- The donation of sick/vacation time is strictly voluntary.

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- Donated sick/vacation time will go into a leave bank for use by eligible recipients.
- The donation of sick/vacation time is on an hourly basis, without regard to the dollar value of the donated or used leave.
- The maximum number of sick/vacation hours that an eligible employee may donate is no more than 50% of the employee's current accrued balance.
- Employees cannot borrow against future sick/vacation time to donate.
- Employees will be given the opportunity to donate a lump sum of sick/vacation time annually during benefits open enrollment.
- Employees may also choose to donate a designated amount to the catastrophic leave bank on a biweekly period during annual open enrollment.
- Employees who are currently on an approved leave of absence cannot donate sick/personal time.
- Employees may not donate time to an individual co-worker, or designate donated time as for the benefit of a specific co-worker, through this process.

Human Resources can provide you with the necessary Catastrophic Leave forms.

### **Requesting Utilization of Catastrophic Leave**

Employees who would like to request utilization of Catastrophic Leave time are required to complete a Request Form and submit it to Human Resources. See Human Resources to complete necessary forms.

Requests for utilization of CLF donations must be approved by the employee's immediate supervisor and MTA's Executive Director.

Donated Catastrophic Leave time may only be used for time off related to the approved request.

Employees who receive donated sick/vacation time may receive no more than 240 hours (6 weeks) within a rolling 12-month period from the date of the original request.

### **Workers Compensation Injuries**

In the event that an employee is injured on the job, and Workers' Compensation is authorized, the injured employee will be able to utilize, upon approved request, immediate catastrophic leave for a maximum of 280 hours within a 12-month period calculated from the date of the incident or occurrence.

Immediate Catastrophic Leave. Human Resources will report the CAT Leave payments as required.

Immediate catastrophic leave will cease after the employee has received his/her first benefit check through Workers Compensation.

### **Continued Catastrophic Leave**

At no point will an employee be made more than whole through the use of the CLF or a combination of the CLF and their own vacation/sick time or Workers Compensation benefits. MTA may authorize CLF utilization in the event workers compensation does not provide 100% of injured employees normal salary.

### **FMLA/CFRA AND UTILIZATION OF CLF**

Nothing in this policy will be construed to limit or extend the maximum allowable absence under the Family and Medical Leave Act or the California Family Rights Act.

## **314 - Non-FMLA Medical Leave of Absence**

### **Leave within First Year of Employment**

An employee with a serious medical condition as defined under the FMLA, who is in his or her first year of employment and has completed the initial orientation period, may request a leave of absence for a self-qualifying medical event. This leave will be considered for employees that need to be out of work for five (5) consecutive days. Employees may take leave up to six (6) weeks within their first 12 months of service at MTA. Intermittent leave under Non-FMLA is not permitted unless such leave has been approved as a reasonable disability related accommodation pursuant to the Americans with Disabilities Act.

### **Leave after First Twelve Months of Employment**

An employee with a serious medical condition as defined under the FMLA who does not meet the 1,250 hour requirement or has exhausted leave available under the FMLA may request a leave of absence for a self-qualifying medical event. Time away from work will generally not exceed six (6) months in a "rolling" 12-month period. Intermittent leave under Non-FMLA is not permitted unless such leave has been approved as a reasonable disability related accommodation pursuant to the Americans with Disabilities Act.

### **Requesting a Non-FMLA Medical Leave**

The employee is expected to provide at least 30 days' notice when requesting leave. When an employee becomes aware of a need for leave less than 30 days in advance, the employee must provide notice of the need for the leave either the same day, the next business day, or as soon as reasonably practicable. Leave requests that are not submitted according to policy and as soon as practicable will be denied.

### **Certifications for Non-FMLA Medical Leave**

MTA will require certification for the employee's serious health condition. Human Resources will receive all medical certifications. The employee must respond to the request for certification within 15 calendar days of the notice of eligibility. Failure to comply with the above-mentioned requirements will result in denial of leave or reinstatement from leave, in which case the employee's leave of absence would be unauthorized, subjecting the employee to discipline up to and including employment termination.

### **Incomplete Certifications**

If an incomplete medical certification is received, Human Resources will provide the employee with the opportunity to either have the health care provider correct the certification or provide a written release for Human Resources to contact the health care provider directly. The employee will have seven (7) calendar days to resolve any deficiencies in the medical certification. If, after seven (7) calendar days the identified deficiencies have not been resolved, the request for leave will be denied.

### **Pay Status While on Non-FMLA Medical Leave**

An employee who is taking Non-FMLA Medical Leave must use all accrued time off banks prior to being placed in an unpaid leave status.

### **Unpaid Status**

Accrued time off ceases when the employee moves to an unpaid status. Accrued time off will restart upon the employee's return to paid status.

### **Long-Term Disability**

If an employee's leave may extend six (6) months or longer, they may be eligible to apply for Long-Term Disability (LTD) benefits. Employees who anticipate being on medical leave longer than six (6) months should contact Human Resources as soon as possible for more information. If Long Term Disability benefits are granted, the employee's employment with MTA will end on the commencement date of their Long-Term Disability benefits.

### **Job Restoration from Non-FMLA Medical Leave**

Employees who take a non-FMLA Medical Leave do not have job restoration rights. However, MTA will generally reinstate the employee to the same position or a position with equivalent status, pay, benefits and other employment terms upon the employee's return before or at the end of the approved leave period. In the event MTA will not be able to restore the employee, the employee will receive written notice from Human Resources.

### **Notice Requirements for Returning from Non-FMLA Medical Leave**

Employees are expected to be able to return to work by the end of their approved leave. Prior to returning from leave for a personal health condition, the employee must secure a release from his or her healthcare provider confirming the release to return to work to perform regular duties or set forth any restrictions. The Request to Return from Medical Leave of Absence Form should be completed and submitted to the employee's supervisor at least two (2) days in advance of the expected date of return reflected on the Request for Leave form. After the supervisor has reviewed the form, it should be forwarded to Human Resources where it will be retained.

If the employee is released to return to work with restrictions, the department in consultation with Human Resources will determine whether the restriction can be reasonably accommodated. Medical restrictions are those that prevent the employee from performing his or her regular duties at the end of the approved leave due to a continuing medical condition.

If an employee on leave for personal medical reasons is released to return to work sooner than the expected return date listed on the Leave Request, the employee must notify their supervisor within two (2) business days of receiving the release.

#### **Unable to Return from Non-FMLA Medical Leave**

If the employee is not medically released to return to work at the end of his or her leave and the employee has not been granted any additional leave, employment ends as "unable to return from leave" effective the last day of the approved leave, unless a continuation of leave has been granted as an accommodation under the Americans with Disabilities Act, or for other reasons.

#### **Failure to Return from Non-FMLA Medical Leave**

Any employee who fails to return to work as scheduled after leave may be subject to dismissal from employment. Employees who exceed their leave without extension(s) of their leave approved under appropriate leave provisions, may be subject to termination of employment.

### **315 - Time Off for Voting**

If you do not have sufficient time outside of working hours to vote in an official statewide election, you may take off enough working time to vote, including up to two hours off without loss of pay. This time should be taken at the beginning or the end of the regular working shift, whichever allows for more free time for voting and the least time off work. If you know or have reason to believe that time off will be necessary to be able to vote on election day, you must give your supervisor at least two working days' notice.

### **316 - Criminal Judicial Proceedings and Victims' Rights Leave**

If you are the victim, or the family member of a victim of certain serious crimes, you may take time off from work to attend judicial proceedings related to the crime or to attend proceedings involving rights of the victim.

If you are the family member of a crime victim, you may be eligible to take this leave if you are the crime victim's spouse, parent, child or sibling. Other family members may also be covered, depending on the purpose of the leave.

The absence from work must be in order to attend judicial proceedings or proceedings involving rights of the victim. Only certain crimes are covered. You must provide reasonable advance notice of your need for leave and documentation related to the proceeding may be required. If advance notice is not possible, you must provide appropriate documentation within a reasonable time after the absence.

Any absences from work to attend judicial proceedings or proceedings involving victim rights are unpaid, unless you choose to use accrued time off.

For more information regarding this leave (including whether you are covered, when and what

type of documentation is required and which type of paid time off can be used), please contact Human Resources or your supervisor.

## **317 - Volunteer Civil Service Personnel**

No employee shall be disciplined for taking time off to perform emergency duty as a volunteer firefighter, peace officer, or emergency rescue personnel. Employees who perform emergency duty as a volunteer firefighter, reserve peace officer, or emergency rescue personnel may also take up to a total of fourteen days unpaid leave time per calendar year to engage in required fire, law enforcement or emergency rescue training. Please alert your supervisor that you may have to take time off for emergency duty or emergency duty training. When taking time off for emergency duty, please alert your supervisor before doing so when possible.

## **318 - Sick Leave**

California provides for mandatory paid sick leave under the Healthy Workplaces, Healthy Families Act (the "Act"). This paid sick leave policy is intended to comply with the requirements of the Act.

You cannot be discriminated or retaliated against for requesting or using accrued paid sick time. If you have any questions about paid sick leave, please contact the Human Resources Department.

### **Eligible Employees**

All employees who have worked in California for the same employer for 30 or more days within a year from the start of their employment will be entitled to paid sick time.

However, employees are not eligible to take paid sick time until they have worked for MTA for 90-days from their date of hire.

### **Sick Pay Amount**

The purpose of sick leave is to provide short term and long term pay for the times when illnesses make it difficult to work, or when it is in the interest of fellow employees or the public safety not to work or when it is necessary to have doctor's appointments. Sick leave accumulation also provides for paid leave if a serious long-term illness or accident should occur.

- a. Employees shall be eligible to use accrued sick leave after three months of employment.
- b. Employees shall accrue sick leave, from the date of hire, at the rate of one hour for each twenty hours worked (13 days per year). There shall be no limit on accrual of unused sick leave.
- c. Any accrued Sick Leave (in excess of 96 hours) may be converted to vacation leave at one-fourth (1/4) of the accrued hours and added to employee's accrued vacation leave.

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Two weeks' notice is required for sick accrual conversion to vacation time under this policy.

- d. At the option of the employee, any accrued sick leave (in excess of 96 hours) may be paid, at one-fourth (1/4) of the accrued hours. Two weeks' notice is required for cash out of sick accruals under this policy.
- e. If an employee fails to give two week's termination notice, unused sick leave shall not be cashed out at termination.
- f. A doctor's certification will be required to substantiate illnesses of more than three days. Use of sick leave in excess of that allowed will be considered abuse of this policy and is grounds for disciplinary action.
- g. Upon termination of employment from the MTA an employee may be eligible (provided two weeks termination notice is provided) to receive 25% of Accrued Sick Leave in their final paycheck, or 100% of Accrued Sick Leave can be converted to CalPERS Service Credit at the CalPERS calculation for conversion (Example: 8 hours equals one day service credit).

### **Qualifying Reasons for Paid Sick Leave**

Paid sick time can be used for the following reasons:

- Diagnosis, care or treatment of an existing health condition for an employee or covered family member, as defined below.
- Preventive care for an employee or an employee's covered family member.
- For certain, specified purposes when the employee is a victim of crime or abuse.

For purposes of paid sick leave, a covered "family member" includes:

- A "child" defined as a biological, foster or adopted child; a stepchild; or a legal ward, regardless of the age or dependency status of the child. A "child" also may be someone for whom you have accepted the duties and responsibilities of raising, even if they are not your legal child.
- A "parent," defined as a biological, foster or adoptive parent; a stepparent; or a legal

guardian of an employee or the employee's spouse or registered domestic partner. A parent may also be someone who accepted the duties and responsibilities of raising you when you were a minor child, even if they are not your legal parent.

- A spouse.
- A registered domestic partner.
- A grandparent.
- A grandchild.
- A sibling.



### **Use of Paid Sick Leave**

If the need for paid sick leave is foreseeable, you must provide advance oral or written notification to the Supervisor. If the need for paid sick leave is not foreseeable, provide notice to the Supervisor as soon as practical.

Use of paid sick time may run concurrently with other leaves under local, state or federal law.

## **319 - Vacation**

### **Vacation Accrual from First Day**

The purpose of vacation is to allow employees time away from their work environment to relax and refresh. MTA encourages all employees to take their accrued vacation.

Vacation accrual begins on the date of hire. All employees shall be entitled to vacation with pay, subject to the following terms:

- a) All employees, after six months of continuous employment, shall be entitled to a vacation based upon the accrual rate of one hour for every 26.00 paid hours (10 days per year).
- b) All employees, after four years of continuous employment, shall be entitled to a vacation based upon an accrual rate of one hour for every 17.33 paid hours (15 days per year).
- c) All employees, after seven years of continuous employment, shall be entitled to vacation based upon an accrual of one hour for every 13.00 paid hours (20 days per year).

Vacation schedules must be approved in advance by the immediate supervisor. Employees sign-up for vacation in order of Seniority.

Employees cannot accrue more than 240 hours of vacation and employees may be required to take accrued vacation at the Executive Director's discretion.

Employees may sell (cash-out) up to two weeks (80 hours) of vacation per fiscal year. That is, employees may be paid for vacation leave hours without taking time off. Two weeks' notice is required to sell accrued vacation.

Vacation time may not be used or sold unless sufficient hours will have been accrued by the end of the pay period in which it is to be used or sold.

Upon termination of employment from MTA, for any reason, the employee will be paid any accrued vacation leave in their final paycheck. Active service begins on your first day of

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work and continues thereafter unless broken by an absence without pay, a leave of absence, or termination of employment. Temporary and casual employees do not accrue paid vacation.

You become eligible to take accrued vacation after six months of active service as work schedules permit.

Vacation schedules must be coordinated with and approved by a Supervisor in advance. Complete a request for vacation well in advance of the dates involved.

Vacations are scheduled to provide adequate coverage of job responsibilities and staffing requirements. Every effort will be made to permit employees to take their vacations at the times they wish. However, Mendocino Transit Authority's operating needs will take priority.

When your employment relationship with MTA ends, you will be paid for accrued unused vacation days on a pro rata basis.

Represented Employees please refer to *Collective Bargaining Agreement* Article 16.

### **Use of Vacation Before Unpaid Leave**

If you are taking an unpaid leave of absence, there are circumstances where you may be required to use your accrued and unused vacation before taking unpaid leave or having unpaid absences. In other circumstances, you can choose to use vacation before taking unpaid leave or having unpaid absences, but it is not required. It will depend on the type of leave you are taking and/or federal and state leave requirements.

Please contact Human Resources to discuss coordination of your benefits.

Represented employees refer to *Collective Bargaining Agreement* Article 16.

## **400 - Benefits**

## 401 - Benefits Overview

Mendocino Transit Authority is committed to providing the following benefits for eligible employees. Benefit eligibility may be dependent upon your employee classification (full-time versus part-time, or casual for example) and on length of continuous employment at Mendocino Transit Authority. Benefit eligibility requirements may also be imposed by the plans themselves.

Upon becoming eligible for certain employee benefit plans, you will receive Summary Plan Descriptions which describe the benefits in greater detail. For information regarding employee benefits and to answer any questions you may have, contact Human Resources.

MTA reserves the right to modify, amend or terminate benefits and to modify or amend benefit eligibility requirements at any time and for any reason, subject to any legal restrictions and subject to the *Collective Bargaining Agreement* for represented employees.

MTA offers the following employee benefits:

- Health Insurance
- Dental Insurance
- Disability Insurance (Example: AFLAC)
- CalPERS Retirement Plan
- Vision Insurance
- Reach/AirMed Service
- The Standard AD&D Insurance Policy
- 457 Supplemental Income Plan (optional)
- Flexible Spending Account (FSA) Benefit Plan (Optional)
- Employee Assistance Program (EAP)

## 402 - Qualification for Employee Benefits

The benefits described below are reviewed annually and/or updated and may be amended from time to time by the MTA Board of Directors.

\*Represented employees refer to *Collective Bargaining Agreement* Article 14.

### **Probationary Employees**

Probationary Employees shall be treated as Permanent Employees for purposes of

Benefit Eligibility.

### **Full-Time Permanent Employees**

Full-Time, permanent employees are eligible to receive all benefits the first of the month after 30 days of employment.

### **Casual Employees**

Casual employees do not qualify for health, dental, vision benefits but are required to become a member of the CalPERS Retirement system and also will receive holiday pay, life insurance and AirMed Ambulance Service. Casual employees also have access to MTA's Employee Assistance Program (EAP).

### **Temporary Employees**

Temporary employees shall not be eligible for any benefits described herein, except for holiday pay and the part-time retirement plan. However, temporary employees who are eventually hired permanently shall accrue sick leave and vacation time from date-of-hire, provided their employment has been continuous.

### **Part-Time Employees**

Part-Time Employees working over 20 hours but under 32 hours are eligible to receive all benefits the first of the month after 30 days of employment.

### **Voya 457 SIP Plan**

All employees are entitled to voluntarily participate in the MTA Voya SIP 457 Plan. MTA matches up to 4.5% of employee 457 Supplemental Income Plan contributions.

### **CalPERS Retirement**

As allowed by law, the MTA does not participate in the Federal Social Security Program. Instead, MTA and MTA employees participate in the California Public Employees Retirement System (CalPERS) as allowed by Employee Retirement Income Security Act (ERISA).

### **Full-Time and Part-Time**

Full-Time, Part-Time and Casual employees shall participate in MTA's regular CalPERS Retirement Plan. The details of this plan are incorporated herein by reference and may be amended from time to time by CalPERS or the MTA Board of Directors.

### **Flexible Spending Account (FSA) Benefit Plan**

All full-time, part-time, and casual employees are entitled to participate in the MTA Flexible Spending Account Benefit Plan (FSA). The FSA Plan is designed for the purpose of allowing employees to purchase dependent medical/dental/vision insurance coverage and out of pocket medical expenses with pre-tax income. The details of this plan are contained in the MTA FSA Document, which is incorporated herein by reference, and may be amended from time to time by the MTA Board of Directors. Benefit runs on a calendar year from 1/1 to 12/31. MTA maintains a *Section 125 Plan* which further outlines requirements related to FSA Benefit Plans.

### **Health**

Mendocino Transit Authority (MTA) strives to provide an affordable and comprehensive benefits package for their employees. During open enrollment period, you will be able to enroll in our medical, vision and dental plans or make changes to your dependent status by adding or deleting dependents on your policy. You may also decline or waive coverages.

You are eligible for benefits if you are a regular employee working more than 20 hours per week. Your eligible dependents include:

- your spouse or domestic partner and children
- Children are eligible up to age 26 for medical

If you do not want the coverage, you are required to sign a refusal form and return it to your benefits administrator.

If you do nothing during our Open Enrollment period, MTA will assume that you are electing to keep your current coverage the same for the new plan year. Remember your election is binding through the end of the plan year.

Changes can only be made if you experience a qualifying event. The elections you make are binding for the entire plan year unless you experience a qualified Family or Work Status change. Qualified Family or Work Status changes include:

- marriage or divorce
- birth or adoption of a child
- death of a spouse or child
- become eligible for assistance under a Medical plan or State Plan
- spouse terminates employment or becomes employed
- full-time to part-time employment changes (or vice versa)
- lose coverage under Medicaid or State Plan (such as California's Medi-Cal)

Represented employees will pay 5% of the composite rate for Health, Dental, Vision benefits which is adjusted on an annual basis based on published premium rates. All Employees have the option to purchase medical coverage for their dependents at the age-based rate. If MTA finds a competitive plan offering the same or similar benefits or a more advantageous medical plan, MTA will notice the union and substitute that plan for any current plan in place.

## **403 - Cash Option (Cash-In-Lieu) or “Opt-Out”**

Employees who attest that they have qualifying group health and/or dental coverage through a spouse, domestic partner, parent, or another source have the option to receive cash in lieu of MTA sponsored health, vision and/or dental benefits. Qualifying group health coverage includes health coverage that provides minimum value as established by the federal Patient Protection Affordable Care Act (ACA) and is maintained by an employer or employee organization. All MTA's health plans currently meet the law's minimum value standard.

This policy provides direction on factoring the cash that MTA employees receive in lieu of benefits under the Opt-Out provision of MTA's Section 125 Plan.

### **Introduction**

Effective July 1, 2021, the cash amount paid in lieu of health and/or dental benefits and the excess cash received under the “Opt-Out” Cash-In-Lieu program must be included in an employee's regular rate of pay for overtime purposes.

### **Statement**

The Fair Labor Standards Act (FLSA) requires that all pay earned during the regular scheduled work period be included as part of the regular hourly rate for purposes of calculating overtime. For most classifications overtime is authorized time worked in excess of the employee's regularly scheduled workweek.

For represented employees time and one-half (1 ½) shall be paid for all hours in excess of forty (40) hours per week. (see *Collective Bargaining Agreement* Article 12 Section C).

### **Cash-In-Lieu Calculation**

The Opt-Out Cash-in-Lieu flat rate amounts will be as follows for all employees who opt-out:

Cash-in-lieu of Health Benefits: \$258.06 per pay period;

Cash-in-lieu of Vision Benefits: \$1.25 per pay period;

Cash-in-lieu of Dental Benefits: \$13.10 per pay period.

Employees will be required to complete open enrollment documentation confirming or declining their Opt-Out choice each year. Failure to complete the necessary documentation will result in forfeiture of Opt-Out benefits.

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Represented employees please refer to *Collective Bargaining Agreement* Article 14 Section B.

### **Air Ambulance Services (AirMEDCare)**

Air Ambulance membership will be provided at no cost to employee.

### **Disability/Cancer/Life Insurance Plan (Optional)**

An optional supplemental Disability/Cancer Life Insurance Plan through AFLAC will be available and paid for by the employee through paycheck deduction upon request.

### **CalPERS Retirement**

MTA will maintain the existing 2% at 60 (Classic) or 2% at 62 (PEPRA) retirement program on behalf of all qualified employees and will continue to make required employer payments. Employees will continue to make required employee payments on a pre-taxed payroll deduction basis, throughout the term of this Agreement.

MTA does not pay into the Social Security system and membership in CalPERS is a requirement of employment.

### **Longevity**

All Employees shall receive an hour longevity bonus as follows:

- Beginning of the 10th year, \$.25/hour
- Beginning of the 15th year, \$.25/hour
- Beginning of the 20th year, \$.50/hour
- Beginning of the 25th year, \$.50/hour
- Beginning of the 30th year, \$.50/hour
- Beginning of the 35<sup>th</sup> year, \$.50/hour
- Beginning of the 40<sup>th</sup> year, \$.50/hour

Employees granted leaves of absence for pregnancy disability, Family and Medical Leave, California Family Rights Act, or any other leave to which this provision applies by law, shall not experience a break in service for purposes of longevity.

Employees who separate from MTA employment for reasons other than layoff, whether voluntarily or involuntarily, and then return to MTA employment, shall have longevity calculated from the first date of their most recent employment. For example, if an employee has worked for MTA for 20 years, separates for 1 year, and then returns to employment, the employee shall begin with 0 years of longevity.



All employees will receive a bonus for longevity as follows:

- o Beginning of the 10th year, \$100.00
- o Beginning of the 15th year, \$150.00
- o Beginning of the 20th year, \$200.00
- o Beginning of the 25th year, \$250.00
- o Beginning of the 30th year, \$300.00
- o Beginning of the 35th year, \$350.00
- o Beginning of the 40th year, \$400.00

Longevity bonuses are considered taxable income.

## **404 - External Employee Education**

Some employees may need to attend training programs, seminars, conferences, lectures, meetings, or other outside activities for the benefit of Mendocino Transit Authority or the individual employees. Attendance at such activities, whether required by MTA or requested by individual employees, requires the written approval of the Executive Director. To obtain approval, any employee wishing to attend an activity must submit a written request detailing all relevant information, including date, hours, location, cost, expenses, and the nature, purpose, and justification for attendance.

Attendance at any such event is subject to the following policies on reimbursement and compensation. For attendance at events required or authorized by MTA, customary and reasonable expenses will be reimbursed upon submission of proper receipts. Acceptable expenses generally include registration fees, materials, meals, transportation, and parking.

Reimbursement policies regarding these expenses should be discussed with the Executive Director in advance.

Employee attendance at authorized outside activities will be considered hours worked for non-exempt employees and will be compensated in accordance with normal payroll practices.

This policy does not apply to an employee's voluntary attendance, outside of normal working hours, at formal or informal educational sessions, even if such sessions generally may lead to improved job performance. While Mendocino Transit Authority generally encourages all employees to improve their knowledge, job skills, and promotional qualifications, such activities do not qualify for reimbursement or compensation under this policy unless prior written approval is obtained as described previously.

For additional information refer to Policy Section *508 - Travel*

## 405 - Holidays

The MTA Board of Directors will approve a Holiday Calendar annually. This calendar will be distributed to MTA employees. Mendocino Transit Authority typically observes the following paid holidays:

- January 1 (New Year's Day)
- Martin Luther King Jr.'s Birthday
- Presidents' Day
- Memorial Day
- Juneteenth
- July 4th (Independence Day)
- Labor Day
- Thanksgiving Day
- Christmas Day

Employees normally scheduled to work on the day the approved holidays fall will have these days off and will receive holiday pay. Holiday pay is their regular rate of pay for normally scheduled hours. An employee who is required to work on a holiday will be paid holiday pay plus regular wages for working the Holiday. If an employee works a shift for a minimum of two weeks, which they are not signed up for, they will be eligible to receive holiday pay as specified above.

The MTA Board of Directors may schedule a double holiday if a holiday falls on a Saturday or Sunday and is observed on Friday or Monday.

An employee can only be paid holiday pay for one day of the double holiday even if he/she is scheduled to work on both days.

If an employee is scheduled to work on both days employee will be paid holiday pay for the actual day of the holiday, not the day in which it is observed.

Example: Independence Day falls on Sunday and is observed on Monday. An employee scheduled to work on both Sunday and Monday will be paid holiday pay for their scheduled hours on Sunday only in addition to regular wages for hours worked. An employee scheduled to work on only one of the two days, either Sunday or Monday, will be paid holiday pay for the hours scheduled on that day in addition to regular wages for any hours worked.

Example: July 4 Sunday  
July 5 Monday (Observed)

### **Scheduled Hours**

<b>Sunday</b>	<b>Monday</b>	<b>Holiday</b>	
8	0	8	
0	8	8	
8	8	8 (Sunday)	
3	8	3 (Monday)	

Employees who are not scheduled to work on any day that is observed as a holiday shall receive holiday pay. Holiday pay shall be computed at their normal rate of pay multiplied by one-fifth of the number of hours per week they are regularly scheduled to work.

In order to qualify for holiday pay, employees must be in paid status, including sick or vacation leave, on their regularly scheduled workday immediately prior to and after the observed holiday.

### **Floating Holiday**

All employees are entitled to one day off each fiscal year at their regular rate of pay for their regularly scheduled shift. If not used during the fiscal year the floating holiday will be lost. Employees shall be eligible to use their floating holiday after six months of employment. The floating holiday must be approved in advance by their immediate supervisor.

### **Religious Observances**

MTA shall observe no religious holidays or holy days. Those holidays that coincide with days of religious observance are deemed holidays because of their widespread secular observance, such as Christmas, and not because of their religious character.

Nothing in these Policies shall bar an employee from arranging vacation or personal leave on days of personal religious significance. Such leave must be approved in advance by their immediate supervisor.

## **406 - Workers' Compensation**

Mendocino Transit Authority, in accordance with state law, provides insurance coverage for employees in case of work-related injury. The workers' compensation benefits provided to injured employees may include:

- Medical care;
- Cash benefits, tax free, to replace lost wages; and
- Assistance to help qualified injured employees return to suitable employment.

To ensure that you receive any workers' compensation benefits to which you may be entitled, you need to:

- Immediately report any work-related injury to your supervisor;
- Seek medical treatment and follow-up care if required;
- Complete a written *Employee's Claim for Workers' Compensation Benefits* (DWC Form 1) and return it to Human Resources;
- Contact Company Nurse and report your injury as soon as

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- possible; and
- Provide MTA with a certification from your health care provider regarding the need for workers' compensation disability leave, as well as your eventual ability to return to work from the leave.

Upon submission of a medical certification that an employee is able to return to work after a workers' compensation leave, the employee under most circumstances will be reinstated to their same position held at the time the leave began, or to an equivalent position, if available. An employee returning from a workers' compensation leave has no greater right to reinstatement than if the employee had been continuously employed rather than on leave.

An employee's return depends on their qualifications for any existing openings. If, after returning from a workers' compensation disability leave, an employee is unable to perform the essential functions of their job because of a physical or mental disability, MTA's obligations to the employee may include reasonable accommodation, as governed by the Americans with Disabilities Act or the California Fair Employment and Housing Act.

The law requires Mendocino Transit Authority to notify the workers' compensation insurance MTA of any concerns of false or fraudulent claims.

### **Workers' Compensation and CFRA/FMLA**

Employees who are ill or injured as a result of a work-related incident, and who are eligible for family and medical leave under state and/or federal law California Family Rights Act (CFRA) and/or Family Medical Leave Act (FMLA), will be placed on CFRA and/or FMLA during the time they are disabled and not released to return to work. The leave under these laws will generally run concurrently. Employee must be employed for at least 12 months to qualify for this leave.

## **500 - Management**

## **501 - Employee Property**

An employee's personal property, including but not limited to lockers, packages, briefcases, purses, messenger bags, and backpacks, may be inspected upon reasonable suspicion of unauthorized possession of Mendocino Transit Authority property, possession of dangerous weapons or firearms, or abuse of MTA's drug and alcohol policy.

## **502 - Names and Addresses Policy**

Mendocino Transit Authority is required by law to keep current all employees' names and addresses. You are responsible for immediately notifying MTA in the event of a name or address change.

## **503 - Personnel Records**

It is the policy of the MTA to maintain personnel records for applicants, employees, and past employees in order to document employment related decisions, evaluate and assess policies, and comply with government record keeping and reporting requirements.

The MTA strives to balance its need to obtain, use and retain employment information with each individual's right to privacy. To this end, it attempts to restrict the personnel information maintained to that which is necessary for the conduct of its business or which is required by federal, state or local law.

Employees have a responsibility to make sure their personnel records are up to date and should notify the Human Resources Department in writing of any changes in at least the following:

- Name;
- Address;
- Telephone number;
- E-mail address;
- Marital status (for benefits and tax withholding purposes only);
- Beneficiary designations as needed for any of the MTA's insurance and retirement;
- Persons to be notified in case of emergency.

Employees who have a change in the number of dependents or marital status must complete a new Form W-4 for income tax withholding purposes within ten days of the change, if the change results in a decrease in the number of dependents. W-4 Forms can also be completed utilizing the PayChex Flex app.

Employees may inspect their own personnel records and may copy, but not remove, documents

in the file. Such an inspection must be requested to the Human Resources Department and will be scheduled at a mutually convenient time. All inspections must be conducted in the presence of a designated member of the Human Resources Department.

Employees who feel that any file material is incomplete, inaccurate, or irrelevant may submit a written request to the Human Resources Director that the files be revised accordingly. The appropriate manager or supervisor shall grant the request or deny it in writing. The employee may then have a written statement of disagreement placed in the file along with the written denial.

Only supervisory or management employees, who have an employment-related need to know information about another employee, may inspect the files of that employee.

All requests from outside the MTA for personnel information concerning applicants, employees, and past employees shall be referred to the Human Resources Department.

The Human Resources Department normally will release personnel information only upon written request and only after obtaining the written consent of the individual involved. Exceptions may be made to cooperate with legal, safety, and medical officials who have a need-to-know specific employee information.

In general, only the following information will be released without written authorization from the employee:

- Employment dates; and
- Position held

## **504 - Open-Door Policy**

Suggestions for improving Mendocino Transit Authority are always welcome. At some time, you may have a complaint, suggestion, or question about your job, your working conditions, or the treatment you are receiving. Your complaints, questions, and suggestions are important to us.

If you have a complaint, suggestion or question, speak with your immediate supervisors as soon as possible. If you are not comfortable speaking to your immediate supervisor, please bring the issue to the Human Resources Director or any other member of management.

Also, if you have raised the issue and if the problem persists, you may present it to the Human Resources Director, who will investigate and provide a solution or explanation.

If the problem is not resolved, you may also present the problem to the Executive Director of Mendocino Transit Authority, who will attempt to reach a final resolution.

While a written complaint will assist us in investigating your concerns, it is not required that you put your complaint in writing. If you need assistance with your complaint, or you prefer to make

a complaint in person, contact Human Resources Director.

This procedure, which we believe is important for both you and MTA, cannot guarantee that every problem will be resolved to your satisfaction. However, Mendocino Transit Authority values your observations, and you should feel free to raise issues of concern without the fear of retaliation.

## **505 - Performance Evaluations**

Each employee will receive periodic performance reviews conducted by their supervisor. Your first performance evaluation will take place prior to end of probationary period. Subsequent performance evaluations will be conducted Annually. The frequency of performance evaluations may vary depending upon length of service, job position, past performance, changes in job duties, or recurring performance problems.

Your performance evaluations may review factors such as the quality and quantity of the work you perform, your knowledge of the job, your initiative, your work attitude, and your attitude toward others. The performance evaluations are intended to make you aware of your progress, areas for improvement, and objectives or goals for future work performance. Favorable performance evaluations do not guarantee increases in salary or promotions. Salary increases and promotions are solely within the discretion of Mendocino Transit Authority and depend upon many factors in addition to performance. After the review, you will be required to sign the evaluation report simply to acknowledge that it has been presented to you, that you have discussed it with your supervisor, and that you are aware of its contents.

## **506 - Workplace Privacy - Audio/Video Recordings**

MTA uses or may use video surveillance in public areas (not in restrooms, locker rooms or changing or lactation areas).



## **507 - Telecommuting Policy and Procedure**

### **Objective**

Telecommuting allows employees to work at home, on the road or in a satellite location for all or part of their workweek if appropriate. Mendocino Transit Authority considers telecommuting to be a viable, flexible work option when both the employee and the job are suited to such an arrangement or when an unforeseen emergency situation exists in the community.

Telecommuting may be appropriate for some employees and jobs but not for others. Telecommuting is not an entitlement, it is not a companywide benefit, and it in no way changes the terms and conditions of employment with Mendocino Transit Authority.

### **Procedures**

Telecommuting can be informal, such as working from home for a short-term project or on the road during business travel, or a formal, set schedule of working away from the office as described below. Either an employee or a supervisor can suggest telecommuting as a possible work arrangement.

Any telecommuting arrangement made will be on a trial basis and may be discontinued at will and at any time at the request of either the telecommuter or MTA. Every effort will be made to provide 15 days' notice of such change to accommodate commuting, childcare and other issues that may arise from the termination of a telecommuting arrangement. There may be instances, however, when no notice is possible.

### **Eligibility**

Individuals requesting formal telecommuting arrangements must be employed with Mendocino Transit Authority for a minimum of 12 months of continuous, regular employment and must have a satisfactory performance record.

Before entering into any telecommuting agreement, the employee and manager, with the assistance of the Human Resource Department, will evaluate the suitability of such an arrangement, reviewing the following areas:

**Employee suitability.** The employee and manager will assess the needs and work habits of the employee, compared to traits customarily recognized as appropriate for successful telecommuters.

**Job responsibilities.** The employee and manager will discuss the job responsibilities and determine if the job is appropriate for a telecommuting arrangement.

**Equipment needs, workspace design considerations and scheduling issues.** The employee and manager will review the physical workspace needs and the appropriate location for the telework.

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Tax and other legal implications. The employee must determine any tax or legal implications under IRS, state and local government laws, and/or restrictions of working out of a home-based office. Responsibility for fulfilling all obligations in this area rests solely with the employee.

Emergency situations such as county or state emergency declarations or critical events that may create a situation where being physically present in the office is not feasible. If the federal, state or local government or local school districts close schools and employee is responsible for care of school aged children, MTA will consider that a qualifying emergency under this policy.

Evaluation of telecommuter performance during the trial period of 2 weeks will include regular interaction by phone and e-mail between the employee and the manager, and weekly face-to-face meetings to discuss work progress and problems. At the end of the trial period, the employee and manager will each complete an evaluation of the arrangement and make recommendations for continuance or modifications.

Evaluation of telecommuter performance beyond the trial period will be consistent with that received by employees working at the office in both content and frequency but will focus on work output and completion of objectives rather than on time-based performance.

An appropriate level of communication between the telecommuter and supervisor will be agreed to as part of the discussion process and will be more formal during the trial period. After conclusion of the trial period, the manager and telecommuter will communicate at a level consistent with employees working at the office or in a manner and frequency that is appropriate for the job and the individuals involved.

### **Equipment**

On a case-by-case basis, Mendocino Transit Authority will determine, with information supplied by the employee and the supervisor, the appropriate equipment needs (including hardware, software, modems, phone and data lines and other office equipment) for each telecommuting arrangement. The human resource and information system departments will serve as resources in this matter.

Equipment supplied by MTA will be maintained by MTA. Equipment supplied by the employee, if deemed appropriate by MTA, will be maintained by the employee.

Mendocino Transit Authority accepts no responsibility for damage or repairs to employee-owned equipment. Mendocino Transit Authority reserves the right to make determinations as to appropriate equipment, subject to change at any time. Equipment supplied by MTA is to be used for business purposes only.

The telecommuter must sign an inventory of all Mendocino Transit Authority property received and agree to take appropriate action to protect the items from damage or theft. Upon termination of employment, all company property will be returned to the company, unless other arrangements

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have been made.

Mendocino Transit Authority will supply the employee with appropriate office supplies (pens, paper, etc.) as deemed necessary. Mendocino Transit Authority will also reimburse the employee for business-related expenses, such as phone calls and shipping costs, that are reasonably incurred in carrying out the employee's job.

The employee will establish an appropriate work environment within his or her home for work purposes. Mendocino Transit Authority will not be responsible for costs associated with the setup of the employee's home office, such as remodeling, furniture or lighting, nor for repairs or modifications to the home office space.

### **Security**

Consistent with MTA's expectations of information security for employees working at the office, telecommuting employees will be expected to ensure the protection of proprietary company and customer information accessible from their home office. Steps include the use of locked file cabinets and desks, regular password maintenance, proper use of Virtual Networks (VPN's) and any other measures appropriate for the job and the environment.

### **Safety**

Employees are expected to maintain their home workspace in a safe manner, free from safety hazards. Mendocino Transit Authority will provide each telecommuter with a safety checklist that must be completed at least twice per year. Injuries sustained by the employee in a home office location and in conjunction with his or her regular work duties are normally covered by the company's workers' compensation policy. Telecommuting employees are responsible for notifying the employer of such injuries as soon as practicable. The employee is liable for any injuries sustained by visitors to his or her home worksite.

Telecommuting is not designed to be a replacement for appropriate childcare. Although an individual employee's schedule may be modified to accommodate childcare needs, the focus of the arrangement must remain on job performance and meeting business demands. Prospective telecommuters are encouraged to discuss expectations of telecommuting with family members prior to entering a trial period. Exception: When local school districts close schools due to local emergency.

### **Time Worked**

Telecommuting employees who are not exempt from the overtime requirements of the Fair Labor Standards Act will be required to accurately record all hours worked using Mendocino Transit Authority time-keeping system. Hours worked in excess of those scheduled per day and per workweek require the advance approval of the telecommuter's supervisor. Failure to comply with this requirement may result in the immediate termination of the telecommuting agreement.

### **Ad Hoc Arrangements**

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Temporary telecommuting arrangements may be approved for circumstances such as inclement weather, federal, state or local disaster declarations, special projects or business travel. These arrangements are approved on an as-needed basis only, with no expectation of ongoing continuance. MTA reserves the right to revoke any previously approved work-from-home arrangement at any time for any reason.

Other informal, short-term arrangements may be made for employees on family or medical leave to the extent practical for the employee and MTA and with the consent of the employee's health care provider, if appropriate. \*

All informal telecommuting arrangements are made on a case-by-case basis, focusing first on the business needs of MTA.

\* Nothing in this policy will be construed to limit or extend the maximum allowable absence under the Family and Medical Leave Act (FMLA) or the California Family Rights Act (CFRA) or Families First Coronavirus Response Act (FFCRA) or any other leave mandated by state or federal law.

Employee Signature: \_\_\_\_\_ Date: \_\_\_\_\_

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**TELECOMMUTING INVENTORY LIST**

**Initial**

\_\_\_\_\_ Item Description (Make/Model/Serial Number): \_\_\_\_\_

\_\_\_\_\_ Item Description (Make/Model/Serial Number): \_\_\_\_\_

\_\_\_\_\_ Item Description (Make/Model/Serial Number): \_\_\_\_\_

\_\_\_\_\_ Item Description (Make/Model/Serial Number): \_\_\_\_\_

\_\_\_\_\_ Item Description (Make/Model/Serial Number): \_\_\_\_\_

\_\_\_\_\_ Item Description (Make/Model/Serial Number): \_\_\_\_\_

\_\_\_\_\_ Item Description (Make/Model/Serial Number): \_\_\_\_\_

\_\_\_\_\_ Item Description (Make/Model/Serial Number): \_\_\_\_\_

\_\_\_\_\_ Item Description (Make/Model/Serial Number): \_\_\_\_\_

Employee Signature: \_\_\_\_\_

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

## 508 - Travel Reimbursement Policy

(approved by BOD on 09/25/19)

### **Purpose**

To establish a uniform policy for MTA Board Members and MTA employees, (hereafter referred to as “employees”) for travel and business expenses. Expenses incurred in connection with the following type of activities generally constitute authorized expenses as long as the other requirements of this policy are met:

1. Communicating with representatives of regional, state, and national government on MTA-adopted policy and/or program positions.
2. Attending educational seminars designed to improve employees' skill and knowledge related to their position within MTA.
3. Participating in local, regional, state, and national organizations whose activities affect MTA's interest.
4. Attending MTA-sponsored events.
5. Implementing an MTA-approved strategy for attracting or retaining businesses to the MTA.
6. Other meetings as required to further the MTA's interest.

### **General Provisions**

It is the policy of the Mendocino Transit Authority that all travel expenses and business expenses incurred meet the following criteria:

1. The expense incurred is of direct benefit to MTA.
2. The amount of the expense is reasonable in terms of the event or activity involved.
3. The expenses incurred are within the department's budget and are approved by Executive Director. The Executive Director or designee is authorized to approve travel and business expenses incurred by employees for all out of state and international travel only regardless of the funding source or reimbursement from an outside agency.

## **Responsibilities**

Every employee who travels on official business on behalf of the MTA is responsible for knowing and complying with the Travel and Business Expense Policy. The Executive Director or approved designee, is responsible for reviewing and approving or denying all travel requests for compliance with this Policy.

## **General Business Travel Guidelines**

When an employee is traveling for training, meetings, workshops, or conferences, the MTA's Training, Education or Conference Approval form shall be used and approved prior to traveling or incurring any associated expenses. Event brochures/agendas are required documentation to accompany the form. The form shall include the following advisory:

All expenses reported on this form must comply with the MTA's policies relating to expenses and use of public resources. The information submitted on this form is a public record. Penalties for misusing public resources and violating the MTA's policies may include, but are not limited to, the loss of reimbursement privileges, restitution, civil and criminal penalties, additional tax liability and employment disciplinary action (if applicable), up to and including termination of employment.

After travel is completed, employees must fill out the General Business Travel Expense Reimbursement Form (Appendix C-1) for all training/travel expenses incurred. In addition, the MTA's Training, Education or Conference Approval form must be updated to reflect actual costs. These two forms shall be included with every request for payment and separate forms must be used for individual employees. Detailed, itemized receipts for expenses shall be attached to the General Business Travel Expense Reimbursement form for reimbursement purposes (note: receipts that are not itemized are not acceptable). Receipts are not required for per diem meal and incidental expenses. The General Business Travel Expense form shall reflect all travel-related costs. If reimbursement is necessary, the form must be signed by the employee, their direct supervisor and the Executive Director.

## **Meals**

1. During travel, meal and incidental expenses are paid on a per diem basis. The MTA's per diem rate for Meals and Incidental Expenses (M&IE) shall be equal to the U.S. General Services Administration's (GSA) M&IE rates (<https://www.gsa.gov/>). For international travel, M&IE rates are set by the U.S. Department of State [https://aoprals.state.gov/content.asp?content\\_id=184&menu\\_id=78](https://aoprals.state.gov/content.asp?content_id=184&menu_id=78).
2. For the first and last day of travel, an employee is limited to 75% of the applicable per diem rate for M&IE. If the employee leaves prior to 9:00 am or the employee returns after 6:00 pm on the first and last day, the employee is eligible for 100% of the per diem for those days.

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3. When meals are included as part of the event (included in the registration fee), employees will not be provided per diem for these meals. When the employee can justify a legitimate business or personal, or medical reason and there are no accommodations available to not participate in the provided meal, the employee must submit written justification to receive per diem for that meal.
4. Employees will not be reimbursed for any purchase of alcoholic beverages.

### **Lodging**

1. It is the MTA's policy to provide adequate lodging for its employees while they are out of town on MTA business. Out of town is defined as a location greater than one and one half (1.5) hours' drive of normal commute time from MTA. Lodging is an allowable expense for the evening preceding a training, meeting, or conference only when the employee would have to leave his/her residence before 7:00 a.m. on the day of the event to arrive at his/her destination at the designated time. Lodging is an allowable expense for the evening subsequent to an event when travel would result in the employee arriving at his/her residence after 9:00 p.m. Employees must submit an itemized hotel check-out receipts to obtain reimbursement. Booking receipts are not acceptable forms of documentation.
2. Lodging charges are based on single occupancy rates. The MTA will not reimburse employees for lodging expenses incurred by family members when an employee's family accompanies him/her, or for any charges above the single occupancy rate if the hotel charges more for additional guests in the same room. Lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question, or the rate for government employees on official business,
3. If such lodging is in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question, or the rate for government employees on official business, if such rates are available at the time of booking. If the group or government rate is not available, lodging at accommodations at comparable rates to the group rate, which do not substantially increase transportation costs or interfere with an employee's duties, are presumed to be reasonable and reimbursable.
4. If an employee chooses to extend his or her stay for personal business, the employee is responsible for all associated costs.

### **Reimbursable Travel Expenses**

1. Rail, bus, taxi, ridesharing or airfare expenses will be reimbursed at actual cost. Only economy or coach airfare will be authorized. When possible, travel arrangements should



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be made in advance by MTA. If there is not a pre-paid arrangement for travel, receipts are required for reimbursement.

2. Rental vehicles are only allowed for business reasons in the situation when the hotel location is not within walking distance of the event location and a shuttle service or other means of ground transportation is not available, impractical or too costly. Rental vehicles are only allowed as a business necessity, not for personal convenience. All rental car requests must have prior approval from Executive Director. Rental car expenses without prior approval from the Executive Director will not be reimbursed. Rental vehicle agreements should be limited to no more than a full-size model. If a portion of the trip includes personal business (i.e., staying over a weekend), then the employee shall pay the pro-rata cost of the rental car during the personal business time. Vans and other large vehicles may be rented if there is a group of employees and/or officials traveling together.
3. Garage, toll, taxis, rideshares, shuttles and hired vehicle fares, and parking expenses will be reimbursed at actual cost. It is recommended that employees obtain receipts for expenses and attach receipts to the General Business Travel Expense form. Reimbursement for airport parking will be at the long-term airport parking rate for travel exceeding 24 hours, with employee paying the difference, if any.

Mileage expenses will be reimbursed at the actual miles traveled times the federal mileage rate. Travel by private vehicle is authorized when additional time away from the job is previously approved in lieu of flying when it does not necessitate more time away from the job. The total travel cost shall be computed on direct route distances, but in no case shall exceed the round trip by air. Employees who receive a monthly auto allowance or use an MTA vehicle are not eligible for mileage reimbursement.

4. Baggage charges, tips and gratuities are eligible for reimbursement as long as charges are reasonable. Airline early check-in fees are not eligible for reimbursement.
5. Telecommunication expenses related to MTA business are reimbursable (i.e., cell phone calls on personal cell phones or internet costs at a hotel). Personal phone calls are not eligible for reimbursement.
6. Personal expenses including entertainment expenses are not eligible for reimbursement. Moving violations, parking tickets or other fines are not reimbursable.
7. Detailed receipts are required if any MTA issued charge, debit or gasoline card is used for business travel.
8. If an employee changes a flight after it is booked and incurs a cost, the additional cost shall be borne by the employee, unless the change was required by business of the MTA.
9. For airfare expenses, if an employee chooses to extend his or her stay for personal

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purposes, any additional costs resulting from this extension is the responsibility of the employee and documentation (flight print-outs at time of booking) must be submitted to ensure compliance with this policy.

### **Approval of Business Travel Expenses**

The Executive Director or designee approves business travel expenses for Board Members and for employees regardless of funding source of reimbursement by an outside agency. The Executive Director's travel shall be approved by the Board.

General Business Travel Expense forms without authorized signatures will not be accepted for processing payments.

The Finance Department will retain completed reports, documentation, and records pertaining to travel and business expenses.

### **Conferences, Meetings, and Training Expenses**

The MTA encourages employee's participation in special training and educational activities that are directly job related. Reimbursement for tuition and cost of materials is available from the MTA of approved training courses. Receipts are required for registration fees, books, and supplies related to approved conferences, meetings and/or trainings.

All training and educational activities require prior approval of the Executive Director or designee.

The guidelines for general business travel apply to the lodging, meals, and transportation costs associated with training, conferences, workshops, and meetings. Employees seeking to attend a meeting, training or conference for professional development, or to make a presentation, or to accept an award, and who have not been assigned to attend under the preceding paragraph, may, at the discretion of the Executive Director, attend such meeting or conference on MTA time up to three calendar days, and be reimbursed for part or all of any registration costs, if it deemed that the resulting education or information derived will be of benefit to the MTA.

### **Cash Advances**

Generally, the MTA will pay in advance for registration, hotels, and airfares. All other expenses will be reimbursed after the MTA's General Business Advance Travel Expense form (contact Human Resources to obtain forms) is submitted to reflect actual costs incurred. Detailed, itemized receipts for expenses must be attached to the General Business Travel Expense form for reimbursement purposes.

### **Out of State Travel**

The Executive Director or designee must approve, in advance, all out of state and international

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travel requests. The Executive Director's travel out of state and international travel requests must be approved by the Board of Directors.

Employees may travel out of state if assigned by their department head with prior Executive Director or designee approval to: (a) attend training on systems, equipment or procedures used by the MTA, where such training is either not offered in California, or is offered at lesser cost than comparable training in California; or (b) conduct interviews or gather information related to a law enforcement, economic development or other MTA operation or project, where such access to individuals or information is not available in California.

### **Forms**

See Human Resources to obtain required travel reimbursement/request forms.

## **509 - News Media Contacts**

Employees may be approached for interviews or comments by the news media. Only contact people designated by the Executive Director may comment to news reporters on Mendocino Transit Authority policy or events relevant to Mendocino Transit Authority.

This policy does not limit your right to discuss the terms and conditions of his or her employment, or to try and improve these conditions.

## **510 - Political Activity**

Many employees participate in political activities on their own time. MTA time, facilities, property or equipment (including all computers, networks, and electronic equipment) must not be used for your outside political activities. Mendocino Transit Authority will not reimburse any employee for political contributions, and you should not attempt to receive or facilitate such reimbursements.

Absent a formal statement by Mendocino Transit Authority announcing any political endorsements, you must not, through your own actions, speech, contributions, or written communication, mislead others to believe that Mendocino Transit Authority officially endorses or opposes any candidates for political office that Mendocino Transit Authority itself has not publicly announced. MTA employees are entitled to their own personal position.

MTA will not discriminate against employees based on their lawful political activity engaged in outside of work.

## **511 - Punctuality and Attendance**

As an employee of Mendocino Transit Authority, you are expected to be punctual and regular in attendance. Tardiness or absences can cause problems for your co-workers and your supervisor. When you are absent, your assigned work must be performed by others.

You are expected to report to work as scheduled, on time, and prepared to start work. Employees also are expected to remain at work for their entire work schedule, except for meal periods or when required to leave on authorized MTA business. Late arrivals, early departures or other unanticipated and unapproved absences from scheduled hours are disruptive and must be avoided.

If you are unable to report for work on any particular day, you must provide reasonable advance notice to your supervisor before the time you are scheduled to begin working for that day. You must inform your supervisor of the expected duration of any absence. If you fail to provide reasonable advance notice before your scheduled time to begin work and do not arrive in time for your assigned shift, you will be considered tardy for that day. If the circumstances for your tardiness or absence were unforeseen, inform your supervisor as soon as practical of the reason for the tardiness or absence.

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Excessive absenteeism or tardiness, providing false information or abuse of leave laws will not be tolerated. Generally, if you fail to report for work without any notification to your supervisor and your absence continues for a period of 3 days, Mendocino Transit Authority will consider that you have voluntarily abandoned or quit your employment.

Absences protected by local, state and federal law do not count as a violation of the punctuality and attendance policy. Paid sick time protected under California law does not count as a violation of this policy.

## **600 - MTA Property**

## 601 - Bulletin Boards

Mendocino Transit Authority maintains bulletin boards and a video monitors in operator lounge areas.

Bulletin boards are used to provide information to employees concerning employee events, fundraising, employer memo's, etc.

Employees may not post items on MTA bulletin boards unless the following conditions are met:

- Postings may be made by MTA employees only;
- The information to be posted must first be approved by the Supervisor;
- Bulletin boards will be updated as needed; and
- Posted items will be dated and will be removed after two-weeks unless there is an operational reason for posting.

If an employee wishes to display content on the video monitor, this request must be approved by the Executive Director.

Teamsters Local 665 maintains a billboard for represented employees. Represented employees refer to *Collective Bargaining Agreement* Article 8 Section C.

## 602 - Electronics and Social Media

This policy is intended to protect MTA's computer systems and electronic information.

For purposes of these policies, the following definitions apply: "Computers" are defined as desktop computers, laptops, handheld devices (including but not limited to iPhones, smart phones, iPads, and other electronic tablets and cell phones), computer software/hardware and servers.

### **MTA provided cell phones**

Mendocino Transit Authority also uses various forms of "electronic communication." "Electronic communications" includes e-mail, text messages, telephones, cell phones and other handheld devices (such as cell phones, smart phones, writing tablets or iPads), fax machines, and online services including the Internet.

"Electronic information" is any information created by an employee using computers or any means of electronic communication, including but not limited to, data, messages, multimedia data, and files.

The following general policies apply:

- Computers and all data transmitted through Mendocino Transit Authority servers are MTA property owned by MTA for the purpose of conducting MTA business. These items must be maintained according to Mendocino Transit Authority rules and regulations. Computers must be kept clean and employees must exercise care to prevent loss and damage. Prior authorization must be obtained before any MTA property may be removed from the premises.
- All electronic communications also remain the sole property of Mendocino Transit Authority and are to be used for MTA business. For example, email messages are considered MTA records.
- Electronic information created by an employee using any computer or any means of electronic communication is also the property of Mendocino Transit Authority and remains the property of Mendocino Transit Authority.
- Information stored in Mendocino Transit Authority computers and file servers, including without limitation customer lists is the property of MTA and may not be distributed outside MTA in any form whatsoever without the written permission of the Executive Director.
- Violation of any of the provisions of this policy, whether intentional or not, will subject Mendocino Transit Authority employees to disciplinary action, up to and including termination.



### **Monitoring of MTA Property**

Mendocino Transit Authority reserves the right to inspect all MTA property to ensure compliance with its rules and regulations, without notice to the employee and at any time, not necessarily in the employee's presence. Mendocino Transit Authority computers and all electronic communications and electronic information are subject to monitoring and no one should expect privacy regarding such use. MTA reserves the right to access, review and monitor electronic files, information, messages, text messages, e-mail, Internet history, browser-based webmail systems and other digital archives and to access, review and monitor the use of computers, software, and electronic communications to ensure that no misuse or violation of MTA policy or any law occurs. E-mail may be monitored by MTA and there is no expectation of privacy. Assume that e-mail may be accessed, forwarded, read or heard by someone other than the intended recipient, even if marked as "private."

Employee passwords may be used for purposes of security but the use of a password does not affect MTA's ownership of the electronic information or ability to monitor the information. MTA may override an employee's password for any reason.

Employees are not permitted to access the electronic communications of other employees or third parties unless directed to do so by Mendocino Transit Authority management.

### **Prohibited Use**

All existing MTA policies apply to employee use of computers, electronic communications, electronic information, and the Internet. This includes policies that deal with misuse of MTA assets or resources. It is a violation of Mendocino Transit Authority policy to use computers, electronic communications, electronic information, or the Internet, in a manner that: is discriminatory harassing or obscene; constitutes copyright or trademark infringement; violates software licensing rules; is illegal; or is against Mendocino Transit Authority policy. It is also a violation of policy to use computers, electronic communications, electronic information, or the Internet to communicate confidential or sensitive information or trade secrets.

The display of any kind of sexually explicit multimedia content, message, or document on any MTA computer is a violation of MTA's policy against sexual harassment. This description of prohibited usage is not exhaustive and it is within the discretion of Mendocino Transit Authority to determine if there has been a violation of this policy. Employees that engage in prohibited use will be subject to discipline and/or immediate termination.

This policy is not intended to limit the ability of employees to discuss with other employees the terms and conditions of their employment, including such topics as wages, job performance, workload, supervisors, or staffing.

### **Computer and Internet Use**

## MENDOCINO TRANSIT AUTHORITY POLICY MANUAL

Mendocino Transit Authority provides computers, electronic communications, electronic information, and information technology resources, including the Internet, to its employees to help them do their job. Generally, these MTA resources should be used for business related purposes. However, MTA recognizes that occasional personal use of these resources and property may occur during working time. MTA allows such occasional personal use as long as the usage does not interfere with the employee's work performance, take away from work time, consume supplies, slow other users, slow the servers or computer systems, or tie up printers or other shared resources, or violate any MTA policy, including policies against harassment, discrimination and disclosure of confidential or trade secret information.

This policy is not intended to limit the ability of employees to use MTA email systems to communicate with other employees regarding the terms and conditions of their employment, including such topics as wages, job performance, workload, supervisors or staffing.

All policies relating to monitoring usage of MTA property apply. Mendocino Transit Authority reserves the right to adjust this policy on a case-by-case basis as it deems appropriate.

### **Social Media**

Mendocino Transit Authority uses social media in limited circumstances for defined business purposes. Social media is a set of Internet tools that aid in the facilitation of interaction between people online. If you have specific questions about which programs MTA deems to be social media, consult with your supervisor.

Use of Internet based programs such as Facebook, Linked In, and Twitter (this is not meant to be an exhaustive list) may be used in furtherance of MTA goals. However, only authorized individuals are allowed to speak/write in the name of Mendocino Transit Authority using the social media tools of MTA.

Your manager will authorize you in writing if you can use these MTA social media tools to perform your job duties. Authorized individuals using MTA social media tools shall identify themselves honestly, accurately and completely and comply with all MTA policies in using this media.

Your authorization is limited to business purposes and personal use of these MTA social media tools or programs is prohibited and can result in discipline up to and including termination. All policies relating to monitoring usage of MTA property apply.

Employees can use their own personal devices to engage in social media during non-working times, such as breaks and meal periods; however, all other MTA policies against inappropriate usage, including MTA's no tolerance for discrimination, harassment or retaliation in the workplace, and protection of confidential and trade secret information apply.

Nothing in the Mendocino Transit Authority social media policy is designed to interfere with, restrain or prevent employee communications regarding wages, hours or other terms and conditions of employment.

### **Employee-owned Devices**

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Mendocino Transit Authority recognizes that occasional use of the employee's own computers (including handheld devices) and electronic communications may occur during working time. MTA allows such occasional personal use as long as the usage does not interfere with the employee's work performance, take away from work time or violate any MTA policy. All other MTA policies, including MTA's no tolerance for discrimination, harassment or retaliation in the workplace apply. Mendocino Transit Authority reserves the right to adjust this policy on a case-by-case basis as it deems appropriate.

### **Personal Use of MTA Cell Phone**

Cell phones (including handheld devices and smart phones such as iPhones) may be provided to some employees to assist them in performing their job. Cell phones are MTA property. Data (including web browsing), messages (including voice mail, mobile email, and text messaging), and other stored electronic information is subject to monitoring and employees do not have an expectation of privacy in the use of this MTA property.

MTA may ask you to assign a password to your MTA cell phone to prevent unauthorized access. This password does not affect MTA's ownership of the cell phone or ability to monitor the information.

MTA cell phones must not be used in any manner that violates any other MTA policy, including safety policies, confidentiality policies, electronic and social media policies, and policies against discrimination and harassment.

Employees who are provided an MTA cell phone may use it to send and receive occasional and limited personal communications. Any personal usage of an MTA-issued cell phone must not interfere with your work performance, take away from work time, or violate any MTA policy, including policies against harassment, discrimination and disclosure of confidential or trade secret information. Employees are responsible for paying for additional time or data usage in excess of any rate plan maintained by MTA and unrelated to performance of job duties or following MTA directions.

## **603 - Off-Duty Use of Facilities**

Employees are prohibited from remaining on Mendocino Transit Authority premises or making use of MTA facilities while not on duty. Employees are expressly prohibited from using MTA facilities, MTA property, or MTA equipment for personal use. This policy is not intended to limit the ability of employees to use MTA's email systems to communicate with other employees regarding the terms and conditions of their employment during non-working times, including such topics as wages, job performance, workload, supervisors or staffing.

## **604 - Credit Card Usage Policy**

(approved by Board of Directors 09/30/2020)

## MENDOCINO TRANSIT AUTHORITY POLICY MANUAL

The MTA issued credit card cannot be used to obtain cash advances, bank checks, traveler's checks, or electronic cash transfers for expenses other than those incurred by the assigned employee named on the card, or for personal expenses.

The Executive Director must approve all MTA credit card applications. Misuses of the card will result in cancellation of the card and withdrawal of MTA issued credit card privileges. Personal use of the MTA issued credit card is prohibited. If the card is used for an employee's personal expenses, the employer reserves the right to recover these monies from the employee cardholder.

Cardholders will be required to sign a declaration authorizing the company to recover, from their salary, any amount incorrectly claimed. Employees shall not utilize the MTA credit card to purchase fuel for their personal vehicles. MTA credit cards shall be used to fuel MTA vehicles only. Employees will submit a mileage reimbursement request for miles traveled.

To be eligible for an MTA credit card, an employee must travel frequently in the course of his/her duties, purchase significant volumes of goods and services for use by the employer, or incur other regular frequent business expenses of a kind appropriately paid by credit card.

Each card will be limited to a maximum of \$1,000 with the following exception: members of Management shall be limited to a maximum of \$5,000 and the Executive Director card shall be limited to \$15,000. Increases to the established maximum may be made on a case-by-case basis by the Chief Financial Officer in coordination with the Executive Director.

Credit card expenditures must be reconciled and submitted with original receipts to the Finance Department within 14 business days of receiving the statement from the Finance Department. Cardholders who have not reconciled and submitted their monthly expenditure within this 14-day period will be asked to reconcile and submit their monthly expenditure immediately.

Continued or repeated non-conformance to this policy will result in cancellation of the card and such other actions as appropriate. If the card expenditures are not reconciled and submitted within a month of the statement date or a plausible explanation has not been received by Finance Department, the employee's MTA credit card will be cancelled.

Lost or stolen cards must be reported immediately to the Chief Financial Officer. Credit cards will be returned to Human Resources upon separation of employment, for any reason, along with all receipts for expenditures.

The CFO will set up credit card alerts which will notify the Executive Director, the Maintenance Manager, and the CFO when there is unusual activity on any card. The Executive Director will be added as a signer on the credit card account.

MTA Executive Director shall limit, to the extent possible, the number of MTA credit cards that are assigned.

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For travel related expense reimbursements and policy please see Policy Section Travel Reimbursement Policy 500 (approved by MTA BOD on 09/25/19).

## Application for MTA Credit Card

Employee Name: \_\_\_\_\_

Position: \_\_\_\_\_

I am applying for a MTA credit card.

I understand and agree that:

- I bear ultimate responsibility for the card.
- I will not use the MTA credit card to withdraw cash.
- I will not use the MTA credit card for personal expenses and will use it only for official business on behalf of the company.
- If I misuse the card (i.e., use it otherwise than in accordance with the instructions given to me in this agreement or related policies) or otherwise fail to reconcile my expenditures within the prescribed procedures and timeframe, I authorize the company to recover the funds through payroll deductions for any amounts incorrectly claimed or for reconciliations that are one month in arrears of the statement date.
- If the MTA credit card is lost or stolen, I will report it immediately to the Chief Financial Officer.
- If I am separated from employment for any reason, I will return the card with a final reconciliation of all expenditures and receipts prior to departure to Human Resources .

\_\_\_\_\_  
Signature of cardholder

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of supervisor

\_\_\_\_\_  
Date

Approval of Executive Director

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

## MISSING RECEIPT FORM

Cardholder or Approving Official must complete the following:

Date of Purchase or Service: \_\_\_\_\_

Vendor Name: \_\_\_\_\_

\_\_\_\_\_

Description of Purchase: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Quantity Purchased: \_\_\_\_\_

Dollar Amount: \$ \_\_\_\_\_

Steps Taken to Obtain Duplicate Copy:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

## CARDHOLDER ACKNOWLEDGEMENT AND RESPONSIBILITY FORM

The purchase card number \_\_\_\_\_ has been  
assigned to \_\_\_\_\_.

By signing this form, the above-named person acknowledges they are responsible for the security of the card and for the appropriate use of this card for departmental/official purchases only. **No personal purchases are allowed.** Furthermore, understand MTA's policies and procedures.

The cardholder understands this card is valid only while employed with MTA. Upon termination of employment the cardholder must relinquish this card as well as receipts to Human Resource Department.

\_\_\_\_\_  
Cardholder Printed Name

\_\_\_\_\_  
Cardholder Signature

\_\_\_\_\_  
Date



## **700- Employee Conduct**

## **701 - Policy**

The mission of MTA is to provide basic mobility to transit dependent persons as well as the general public. To accomplish that mission, all employees are expected to provide the highest quality of public service possible, safely, courteously, accurately, and punctually.

## **702 - Conducting Personal Business**

Employees are to conduct only Mendocino Transit Authority business while at work. Employees may not conduct personal business or business for another employer during their scheduled working hours.

## **703 - Customer Relations**

Employees are expected to be polite, courteous, prompt, and attentive to every customer and passenger. When an employee encounters an uncomfortable situation that they do not feel capable of handling, a supervisor or dispatcher should be called immediately. Refer to MTA's Standard Operating Procedures (SOP's) for more information.

Never place a telephone caller on hold for an extended period. Direct incoming calls to the appropriate person and make sure the call is received.

Through your conduct, show your desire to assist the caller, customer or passenger in obtaining the help they need. If you are unable to help, find someone who can.

All correspondence and documents, whether to customers, passengers or others, must be neatly prepared and error-free. Attention to accuracy and detail in all paperwork demonstrates your commitment to those with whom we do business.

Never argue with a customer. If a problem develops or if a customer or passenger remains dissatisfied, ask your supervisor, dispatch or the Executive Director to intervene.

Transit Vehicle Operators refer to *Standard Operating Procedures*.

## 704 - Dress Codes and Other Personal Standards

Employees are expected to wear clothing appropriate for the nature of our business and the type of work performed. Avoid clothing that can create a safety hazard.

Because each employee is a representative of Mendocino Transit Authority in the eyes of the public, each employee must report to work properly groomed and wearing appropriate clothing. Employees are expected to dress neatly and, in a manner consistent with the nature of the work performed.

All clothing should be clean. Employees who report to work inappropriately dressed may be asked to clock out and return in acceptable attire.

All employees required to wear uniforms provided by Mendocino Transit Authority must take care of their uniforms and report any wear or damage to their supervisors. See Collective Bargaining Agreement further guidance. Instructions regarding cleaning and maintenance of uniforms will be provided. Supervisors will inform you of additional requirements regarding acceptable attire. Certain employees may be required to wear safety equipment or clothing. Any deviations from these guidelines must be approved by your supervisor.

This dress code policy will not be enforced in a manner that discriminates against anyone based on a protected class, such as race, sex, gender identity or gender expression, religion, national origin or any other class protected by federal, state or local law. For more information, see the *Harassment, Discrimination and Retaliation Prevention and Equal Employment Opportunity Program* policy. Employees who need a reasonable accommodation because of religious beliefs, observances or practices should contact a MTA representative with day-to-day personnel responsibility and discuss the need for accommodation.

### **Uniforms – Transit Vehicle Operators**

The MTA agrees to provide transit vehicle operators with an initial issue of uniforms upon their successful completion of the training period, this shall include:

- Five shirts, any combination of short and/or long sleeve; cotton available upon request.
- One (1) jacket with liner
- One rain jacket
- One sweater
- One vest (or two of either sweaters or vests)
- MTA will also provide optional clothing such as:
- Up to three (3) pants, shorts, or skirts (any combination)
- Driver Bag supplied by MTA and/or Teamsters 665 Duffel

## MENDOCINO TRANSIT AUTHORITY POLICY MANUAL

After the initial purchase of uniforms, uniform items shall be replaced at no charge to the employee, upon the presentation to the Transportation Superintendent of the worn-out item. Should the uniform become damaged or excessively worn or stained due to acts or conditions not associated with work (such as spills or tears) the employee will be responsible for replacing the damaged uniform part.

Uniforms must be clean and neat. Uniforms may be worn to and from work and while participating in any other activities. Uniforms will be worn in a respectful manner at all times. Wearing of uniforms in other activities or to other establishments may subject the employee to disciplinary action.

Badges, pins and/or patches are to be worn at the prescribed place on the uniform. Employees shall be permitted to wear an official Teamsters Local 665 union button or patch on their uniforms.

Shoes that have adequate arch support are permitted. Sandals are permitted if they have a heel strap and straps no less than  $\frac{3}{4}$  inch that secure the shoe to the foot.

Socks must be white or a solid color matching the clothing being worn.

Employees on duty who are out of uniform or in unclean or otherwise unpresentable uniforms will be subject to disciplinary action.

### **Uniforms – Maintenance**

All mechanics, mechanic helpers and cleaners shall be supplied with a clothing allowance in the amount of twenty-five (\$25) dollars per pay period by the MTA. Cleaning of said clothing shall be the responsibility of the mechanics, mechanic helpers and cleaners. Clothing damaged through carelessness are to be replaced at the employee's expense.

Mechanics and mechanic helpers shall be allowed to take uniforms home with them, if desired.

Mechanics and mechanic helpers must be in uniform, ready to work, when reporting to work to begin their shift. Should a mechanic or mechanic helper lose or damage any uniform items at home, he will be responsible for the cost of replacement or repair.

### **Tool Insurance / Boot and Tool Allowance**

The MTA agrees to provide, the mechanics and mechanic helpers with tool insurance against complete loss by fire, vandalism and documented theft at replacement value. Coverage does not include breakage, gradual deterioration, unexplained loss or mysterious disappearance.

Employees must have a current and complete tool inventory on file with the Maintenance Manager. Thefts must be reported immediately by the employee. Claim forms must be accompanied by a police report and a copy of the employee's tool inventory.

**Mechanic:** An annual tool allowance in the amount of \$500 and annual boot allowance in the amount of \$100 per year shall be provided to each mechanic.

**Mechanic Helper:** An annual tool allowance in the amount of \$250 and annual boot allowance in the amount of \$100 per year shall be provided to each mechanic helper.

**Vehicle Cleaner:** An annual boot allowance of \$100 shall be provided to the cleaner.

**Shelter Cleaner/Fueler:** An annual boot allowance of \$100 shall be provided to the cleaner.

Such amount shall be used exclusively for the purchase of tools and shoes to be used in the performance of required maintenance duties. Such allowance cannot be carried over from year to year. The MTA shall provide a list of minimum required tools by classification. The allowance shall be paid on a bi-weekly basis.

## 705 - Off-Duty Conduct

While Mendocino Transit Authority does not seek to interfere with the off-duty and personal conduct of its employees, certain types of off-duty conduct may interfere with MTA's legitimate business interests.

Off-duty conduct by an employee that directly conflicts with MTA's essential business interests and disrupts business operations will not be tolerated.

## 706 - Prohibited Conduct

Employees are expected to conduct themselves in a manner to further MTA's objectives. The following conduct is prohibited and will not be tolerated by Mendocino Transit Authority. This list of prohibited conduct is illustrative only; other types of conduct that threaten security, personal safety, employee welfare and MTA operations also may be prohibited and will result in disciplinary action up to and including termination. This is not a comprehensive list of prohibited conduct but is provided as examples of prohibited conduct.

## 707 - Behavior of Employees

MTA shall administer discipline fairly, reasonably, and impartially. Employees and the MTA are best served when discipline is administered to correct actions rather than to punish.

## MENDOCINO TRANSIT AUTHORITY POLICY MANUAL

Disciplinary action is not intended to be punitive, but rather to maintain the efficiency and integrity of MTA service.

Employees are expected to conduct themselves in a positive manner so as to promote the best interests of the MTA and its customers.

The following conduct is prohibited and will subject the individual to disciplinary action up to and including termination:

- Ineffective, unsafe or negligent performance of assigned duties;
- The reporting to work under the influence of alcoholic beverages and/or illegal drugs or narcotics; the use, sale, dispensing, or possession of alcoholic beverages and/or illegal drugs or narcotics on MTA premises;
- The use of profanity or abusive language;
- Fighting or assault on a fellow employee or customer;
- Falsifying or altering any MTA record or report, such as an application for employment, a medical report, a time record, a reimbursement request or the like;
- Engaging in any form of sexual harassment;
- Engaging in political activities, partisan or non-partisan, while on duty;
- Destruction, removal or improper use of MTA property;
- Actions that damage the ability of MTA to function entirely or in part;
- Engaging in unlawful activities;
- Inefficient or careless performance of job responsibilities or inability to perform job duties satisfactorily;
- Recording the work time of another employee or allowing any other employee to record your work time, or falsifying any timecard, either your own or another employee's;
- Theft and deliberate or careless damage or destruction of any MTA property, or the property of any employee or passenger or customer;
- Removing or borrowing MTA property without prior authorization;
- Unauthorized use or misuse of MTA equipment, time, materials, or facilities;
- Provoking a fight or fighting during working hours or on MTA property;
- Participating in horseplay or practical jokes on MTA time or on MTA premises;
- Carrying firearms or any other dangerous weapons on MTA premises at any time;
- Causing, creating or participating in a disruption of any kind during working hours on MTA property;
- Insubordination, including but not limited to failure or refusal to obey the orders or instructions of a supervisor or member of management, or the use of abusive or threatening language toward a supervisor or member of management;
- Using abusive, threatening or intimidating language at any time on MTA premises;
- Violation of MTA punctuality and attendance policies. Absences protected by state or federal law do not count as violations of this policy. Protected paid sick time under California law does not count as a violation of this policy;

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- Failing to obtain permission to leave work for any reason during normal working hours, not including meal periods;
- Failing to observe working schedules, including rest and meal periods;
- Sleeping or malingering on the job;
- Making or accepting personal telephone calls, including cell phone calls, of more than three minutes in duration during working hours, except in cases of emergency or extreme circumstances;
- Working overtime without authorization or refusing to work assigned overtime;
- Violation of dress standards;
- Violation of any safety, health, security or MTA policy, rule or procedure;
- Violation of MTA's drug and alcohol policy;
- Committing a fraudulent act or a breach of trust under any circumstances;
- Violating MTA's anti-harassment or equal employment opportunity policies; and
- Failing to promptly report work-related injury or illness.

This statement of prohibited conduct does not alter MTA's policy of at-will employment. Either you or Mendocino Transit Authority remain free to terminate the employment relationship at any time, with or without reason or advance notice.

The examples listed above are illustrative of the type of behavior that will not be permitted but are not intended to be all-inclusive.

Represented employees refer to *Collective Bargaining Agreement* Article 22 through Article 24.

## **800 - Discipline**



## 801 - Authority to Administer Discipline

Supervisors may impose verbal warnings and written reprimands. More serious disciplinary actions, including suspension, demotion or termination, must be recommended to the supervisor's manager. Managers may rescind, reduce, approve or increase those recommendations. In consultation with the Human Resources Director, Managers may impose all levels of discipline.

### Disciplinary Action

1. Progressive discipline principles will be used whenever possible in the application of discipline. However, based on the severity of the grounds for action and the record of the employee, more severe discipline, including termination, may be applied.
2. Forms of disciplinary action include, but are not limited to the following:
  - a) Verbal warning;
  - b) Written reprimand;
  - c) Suspension without pay
  - d) Demotion or termination of employment within one job classification;
  - e) Discharge or termination of employment by the MTA.
3. All these disciplinary actions when final shall be documented in writing and given to the employee with a copy placed in the employee's personnel file.

Represented employees refer to *Collective Bargaining Agreement* Article 22.

## 802 - Preliminary Determination of Disciplinary Action

- A. Situations that may require disciplinary actions shall be investigated by the affected employee's supervisor as thoroughly as possible. The supervisor and the employee shall meet and discuss the actions or events in question. If the supervisor determines that disciplinary actions are needed, he/she shall record the facts discovered during their investigation and the results of their discussion with the employee in writing. This report shall include the actions or events prompting the investigation/discussion, the employee's statements regarding the incident, a listing of all the facts and materials on which the determination was based, the rules, procedures or policies violated by the employee and the reasons that disciplinary actions are being taken. The disciplinary action to be taken or recommended will be stated, as will the desired behavior or outcome that is expected of the employee. A clear statement of the consequences, if the desired behavior or outcome is not forthcoming, will be given.
- B. If the supervisor is recommending disciplinary action consisting of suspension

demotion or termination, that recommendation shall be confirmed, modified or denied by the appropriate manager.

- C. Once the decision on appropriate action has been made, the employee shall receive a written notice of the preliminary determination of the disciplinary action to be taken, including the effective date of the discipline and a notice of their right to appeal to the Executive Director or his/her designee within seven calendar days of that notice.

### **803 - Pre-Disciplinary Appeal Hearing**

- A. An appeal hearing will be scheduled as soon as possible but within ten calendar days of the written request unless the Executive Director or his/her designee grants a longer period of time prior to the hearing.
- B. If the Executive Director was the supervisor issuing the original preliminary determination of disciplinary action, then the appeal hearing will be conducted by the Executive Directors designee or a member of the Board of Directors designated by the Chair of the Board.
- C. Employees have the right to have a representative of their choice present at the appeal hearing. Employees also have the right to receive copies of all written materials used in the preliminary determination of the disciplinary action.
- D. During the hearing, the employee may present their appeal in oral or written form. The Executive Director, or his/her designee, or Board member, in the appropriate case, will consider the employee's testimony and the information presented in the preliminary determination and reach a conclusion within seven calendar days.

Represented employees refer to *Collective Bargaining Agreement* Article 22

### **804 - Final Determination of Disciplinary Action**

The determination of discipline will be preliminary until the appeal process is concluded or the application period for requesting an appeal process has expired. Written requests for an appeal hearing must be filed within the time specified or the appeal right is forfeited. The final decision will be in writing and may modify, uphold or overrule the preliminary decision. It will be given to the employee either directly or sent through the mail to the employee's last known address. If the preliminary disciplinary action is upheld or modified, it becomes final and effective immediately, or at some later time as determined by the Executive Director or his/her designee.

## **805 - Time Limit for Judicial Review**

The MTA Board of Directors has adopted Section 1094.6 of the California Code of Civil Procedure which is incorporated herein by reference which establishes time limits for judicial review of the decision of a local agency and requires a petition to be filed.

## **806 - Suspension**

- A. An employee may be suspended from work, pending an expedient investigation of any situation which, in the opinion of any supervisor or manager, jeopardizes the safety of MTA or passengers, damages the public image of MTA or is potential grounds for disciplinary action. This suspension may or may not be paid leave at the discretion of the Executive Director.
- B. An employee may be required to immediately leave the premises or vehicle. An employee may be required to perform work in an alternative classification while on administrative leave. Supervisors or managers may put employees on administrative leave for up to 3 days and the Executive Director may extend this up to 30 days. Administrative leave will not adversely affect an employee's personnel records, benefits and seniority will be continued.

## **900 - Wages**

## **901 - Reporting-Time Pay**

Mendocino Transit Authority will comply with all applicable regulations regarding reporting-time pay for nonexempt employees.

Mendocino Transit Authority will pay a minimum of two hours of pay to non-exempt employees who are required to report to work on a day other than their normally scheduled workday.

Represented employees refer to *Collective Bargaining Agreement* Article 12.

## **902 - Wages and Salary**

### **Salaries**

The Executive Director and other employees designated as "exempt" shall receive a salary in accordance with the Wage and Staffing Table approved by the Board of Directors and shall work a schedule as is needed.

### **Wage Scale**

All "non-exempt" employees receive hourly wages within their range in accordance with the Wage and Staffing Table.

### **Out of Class Work Assignment**

Any employee assigned by their Supervisor to work in a position out of his/her classification with a higher pay range, shall have their hourly rate adjusted to their equivalent step in the higher classification.

### **Equal Pay for Equal Work**

All employees within any classification shall be paid equally, except as provided by Step Increases.

### **Wage & Staffing Table**

There shall be a Wage and Staffing Table approved annually by the Board of Directors. New or probationary employees shall receive the first step wage or salary, or some higher level within the range considered appropriate by the Executive Director. Employees will receive step increases on their anniversary date, within their range. If an employee is selected through the recruiting process for a different position, their Anniversary Date Step Increase will be the date of

hire in the new position.

## **903 - Deductions for Exempt Employees**

Employees paid on a "salary basis" regularly receive a predetermined amount of compensation each pay period. Subject to the exceptions listed below, exempt employees will receive full salary for any workweek in which they perform any work, regardless of the number of days or hours worked. Exempt employees may not be paid for any workweek in which they perform no work, subject to Mendocino Transit Authority benefits programs and policies.

No deductions from salary may be made for time when work is not available, provided the exempt employee is ready, willing, and able to work.

Deductions from pay are permissible when an exempt employee:

- Is absent from work for one or more full days for personal reasons other than sickness or disability;
- Is absent for one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy, or practice of providing full compensation for salary lost due to illness and the employee has exhausted their leave under this policy;
- Is absent for jury duty or military duty for a full week and performs no work during the week; or
- Works less than a full week during the initial or final week of employment;

If an employee is only working a portion of their regular workday for personal reasons, the employer may require or the employee may request to take a partial day deduction from any available accrued vacation leave balance. If an employee is only working a portion of their regular workday due to illness, the employee may request to take a partial day deduction from any available accrued sick leave balance.

It is MTA's policy to comply with these salary basis requirements. Therefore, Mendocino Transit Authority prohibits all MTA managers from making any improper deductions from the salaries of exempt employees. MTA wants employees to be aware of this policy and know that MTA does not allow deductions that violate federal or state law.

If you believe that an improper deduction from your salary has been made, you should immediately report this information to your direct supervisor, or to the Payroll Department.

Reports of improper deductions will be investigated promptly. If it is determined that an improper deduction has occurred, you will be promptly reimbursed for any improper deduction made.

## **904 - Expense Reimbursements**

Mendocino Transit Authority reimburses employees for business expenses. Employees who

have expense accounts or who have incurred business expenses must submit required receipts and the Reimbursement Request to Finance no later than the 30th of the month of each month in which the expense was incurred.

If you have any questions about MTA's expense reimbursement policy, contact your Supervisor.

Personal and/or vacation travel may be combined with business travel provided there is no additional cost to Mendocino Transit Authority, and it meets with the approval of your Supervisor. Mendocino Transit Authority credit cards are not to be used for personal expenses.

For more information refer to Travel Policy Section 508.

## **905 - Compensatory Time and Overtime**

### **Overtime - Nonexempt Employees**

As mandated by the Federal Fair Labor Standards Act, all non-exempt employees shall be entitled to overtime for authorized work in excess of forty hours per week. Said overtime shall be compensated either as compensatory, on an hour per hour basis, or additional wages based on one and one-half times the employee's regular hourly rate. All overtime must be approved in advance by the employee's supervisor prior to working overtime (emergency road service excepted).

### **Overtime - Exempt Employees**

Should overtime become necessary to fulfill the responsibilities of exempt employees, overtime will not be paid. However, compensatory time off, on an hour per hour basis, up to 40 hours each fiscal year is allowed. Compensatory time off cannot be cashed out in the form of a check.

## **906 - Meal and Rest Periods**

California's Meal and Rest Break rules are preempted under 49 U.S.C. 31141 as applied to passenger-carrying commercial motor vehicle drivers subject to FMCSA's hours of service regulations.

### **Rest Breaks**

All nonexempt employees are entitled to uninterrupted rest break periods during their workday. If you are a nonexempt employee, you will be paid for all such break periods, and you will not clock out.

### **Number of Rest Breaks**

You will be authorized and permitted one (1) 10-minute rest break for every four (4) hours you

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work (or major fraction thereof, which is defined as any amount of time over two [2] hours). A rest break need not be authorized for employees whose total daily work time is less than three and one half (3.5) hours.

You will be relieved of all duty during your rest break periods. You are free to come and go as you please and are free to leave the premises. You are expected to return to work promptly at the end of any rest break.

If you work a shift from three and one-half (3.5) to six (6) hours in length you will be entitled to one (1) ten-minute rest break. If you work more than six (6) hours and up to 10 hours, you will be entitled to two (2) ten-minute rest breaks. If you work more than 10 hours and up to 14 hours, you will be entitled to three (3) ten-minute rest breaks.

### **Timing of Rest Breaks**

You are authorized and permitted to take a rest break in the middle of each four-hour work period.

There may be practical considerations that make this general timing infeasible and that require Mendocino Transit Authority to deviate from this general rule. You will be informed if there are practical considerations that make this timing infeasible.

Your rest break will be scheduled by supervisor or manager.

### **Meal Period**

All nonexempt employees will be provided an uninterrupted unpaid meal period of at least 30 minutes if you work more than five (5) hours in a workday. You must clock out for your meal period. You will be permitted a reasonable opportunity to take this meal period, and you will be relieved of all duty. During your meal period, you are free to come and go as you please and are free to leave the premises. You are expected to return to work promptly at the end of any meal period.

If your total work period for the day is more than five hours per day but no more than six hours, you may waive the meal period. This cannot be done without the mutual consent of you and your supervisor. You must discuss any such waiver with your supervisor in advance.

The waiver must be in writing.

### **Timing of Meal Period**

Your meal period will be provided no later than the end of your fifth hour of work. For example, if you begin work at 8:00 a.m., you must start your meal period by 12:59 p.m. (which is before the end of your fifth hour of work).



Your meal period will be scheduled by your supervisor.

### **Second Meal Period**

If you work more than 10 hours in a day, you will be provided a second, unpaid meal period of at least 30 minutes. Again, you must clock out for your meal period. You will be permitted a reasonable opportunity to take this meal period, and you will be relieved of all duty. There will be no control over your activities during your meal period. During your meal period, you are free to leave the premises and are free to come and go as you please. You are expected to return to work promptly at the end of any meal period.

### **Timing of Second Meal Period**

This second meal period will be provided no later than the end of your 10th hour of work.

Your second meal period will be scheduled by your supervisor.

### **Recording Meal Periods**

You must clock out for any meal period and record the start and end of the meal period.

Employees are not allowed to work "off the clock." All work time must be accurately reported on your time record.

If for any reason you are not provided a meal period in accordance with our policy, or if you are in any way discouraged or impeded from taking your meal period or from taking the full amount of time allotted to you, please immediately notify the Human Resources Director.

Anytime you miss a meal period that was provided to you (or you work any portion of a provided meal period), you will be required to report to your supervisor and document the reason for the missed meal period or time worked.

## **907 - Pay for Mandatory Meetings/Training**

Mendocino Transit Authority will pay non-exempt employees for their attendance at meetings, lectures, and training programs under the following conditions:

- Attendance is mandatory;
- The meeting, course, or lecture is directly related to the employee's job;
- The employee who is required to attend such meetings, lectures, or training programs will be notified of the necessity for such attendance by their supervisor;
- Employees who do perform productive work during attendance at meetings, lectures or training programs will be compensated at their regular rate of pay; and

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- Any hours in excess of eight in a day or 40 in a week will be paid at the appropriate overtime rate, at the hourly rate in effect at the time the overtime work is being performed.

Employees who must travel over twenty miles one-way in their own vehicle to any mandatory meeting, shall be reimbursed for mileage at the established federal reimbursement rate and receive their regular rate of pay for travel time. If the employees drive an MTA vehicle he/she will be compensated for travel time only.

### **908 - Payment of Wages**

Paychecks are normally available at the Finance Office. If you observe an error on your check, please report it immediately to your supervisor.

All employees of Mendocino Transit Authority are paid every other Friday for work performed during the previous two-week pay period. If a regular payday falls on a holiday, you will be paid on the day prior.

Mendocino Transit Authority offers automatic payroll deposit. You may begin and stop automatic payroll deposit at any time. To begin automatic payroll deposit, you must complete a form (available from the payroll department) and return it to payroll at least 10 days before the pay period for which you would like the service to begin. You should carefully monitor your payroll deposit statements for the first two pay periods after the service begins.

Direct deposit may also be arranged through PayChex Flex App. Contact Human Resources for more information.

To stop automatic payroll deposit, complete the form available from the payroll department and return it to payroll at least 10 days before the pay period for which you would like the service to end. You will receive a regular payroll check on the first pay period after the receipt of the form, provided it is received no later than 10 days before the end of the pay period.

Stopping direct deposit can also be accomplished through the PayChex Flex app. See Human Resources for more information.

Employees may have their paychecks direct deposited in their bank and they will receive a pay stub, instead of a check, with all appropriate payroll information include on the payroll stub.

#### **Work Week**

Generally, the work week commences at 12:01 A.M. on Sunday and finishes at 12:00 midnight on the following Saturday. The work week may change based on an individual's schedule.

Represented employees refer to *Collective Bargaining Agreement* Article 12

## **909 - PayChex App**

Employees may be required to enroll in the MTA PayChex Flex Application by contacting Human Resources and completing the necessary authorization. Employees can make changes to their own payroll direct deposit accounts, update tax information, addresses, etc. within the PayChex Flex app.

## **910 - Pay Advances**

Generally, payroll advances are not allowed. Upon approval of Executive Director, and with compelling circumstances, employees may be granted a payroll advance for no more than the requestors one-week (40 hours) normal salary. Repayment will be authorized through payroll deductions for no more than 6 pay periods.

## **911 - Payroll Deductions**

Payroll deductions may be made as required by law. Such deductions shall include, but not limited to, those for taxes, insurance, retirement, benefit premiums, 457 SIP, disability (AFLAC), FSA contributions, DCAP contributions and union dues.

Employees must return to Human Resources a copy of any Union Authorizations promptly in order to begin dues and initiation fees. Failure to provide this to Human Resources may result in past due fees accruing and past due fees being deducted as necessary by MTA to comply with Union requirements.

## **912 - Release of Paychecks to Someone Other than the Employee**

No paycheck shall be given to anyone other than the employee unless the employee has made such a request, in writing. Such written request may be for one or more paychecks. Written requests should be provided to the Human Resources Department.

## **913 - Mailing Paychecks**

Where logistics so dictate, paychecks may be mailed to employees. Such mailings shall be considered delivered when mailed by first class mail to the employee's last known address. It is the responsibility of employee to keep address current.

## **914 - Other Compensation**

### **Call-Ins**

Nonexempt employees who are called in to perform work for which they are not scheduled and who report for work, shall be guaranteed a minimum of two hour's pay at their regular rate.

Represented Employees refer to *Collective Bargaining Agreement* Article 12 Section B.

### **Work Assignment in Other Than Usual Locale**

Employees who must travel over twenty miles one-way for work assignments in a locale other than their usual locale will be paid for travel time. If the employee drives their own vehicle they will be reimbursed for travel mileage at the federal rate, if they must travel over twenty miles one-way. This does not apply to shifts for which an employee has voluntarily signed up.

### **Temporary Suspension of Service**

In the event that service is temporarily suspended, employees will be compensated for their scheduled hours while service is suspended for a maximum of fourteen consecutive calendar days.

### **Overtime - Nonexempt Employees**

As mandated by the Federal Fair Labor Standards Act, all nonexempt employees shall be entitled to overtime for authorized work in excess of forty hours per week. Said overtime shall be compensated either as compensatory, on an hour per hour basis, or additional wages based on one and one-half times the employee's regular hourly rate. All overtime must be approved in advance by the employee's supervisor prior to working overtime (emergency road service excepted).

### **Overtime - Exempt Employees**

Should overtime become necessary to fulfill the responsibilities of exempt employees, overtime will not be paid. However, compensatory time off, on an hour per hour basis, up to 40 hours each fiscal year is allowed. Compensatory time can not be cashed out.

### **Out of Class Work Assignment**

Any employee assigned by their Supervisor to work in a position out of his/her classification with a higher pay range, shall have their hourly rate adjusted to their equivalent step in the higher classification.

## **915 - Work Schedules**

Mendocino Transit Authority offices are normally open for business between the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. Your supervisor will assign your individual work schedule. All employees are expected to be at their desks, dispatch station or workstations at the start of their scheduled shifts, ready to work.

Represented employees refer to *Collective Bargaining Agreement Article 11*

## **1000 - Safety and Health**

## 1001 - Employees Who Are Required to Drive

Non-represented employees whose job duties require them to drive an MTA staff vehicle or their own vehicles for MTA business will be required to show proof of current valid driving licenses and proof of insurability under MTA's policy or current effective insurance coverage before the first day of employment and also be enrolled in MTA's employee pull notification program.

Mendocino Transit Authority participates in a system that regularly checks state Department of Motor Vehicles (DMV) records of all employees who are required to drive as part of their job.

If an employee is required to drive as part of their job, Mendocino Transit Authority retains the right to transfer to an alternative position, suspend, or terminate an employee whose license is suspended or revoked, or who fails to maintain personal automobile insurance coverage or who is uninsurable under MTA's policy.

Employees who drive their own vehicles on MTA business will be reimbursed at the federal mileage reimbursement rate.

Employees who fail to meet the requirements of training and/or licensing may be terminated or re-assigned.

## 1002 - Ergonomics

Mendocino Transit Authority is subject to Cal/OSHA ergonomics standards for minimizing workplace repetitive motion injuries. MTA will make necessary adjustments to reduce exposure to ergonomic hazards through modifications to equipment and processes and employee training. MTA encourages safe and proper work procedures and requires all employees to follow safety instructions and guidelines.

Mendocino Transit Authority believes that reduction of ergonomic risk is instrumental in maintaining an environment of personal safety and well-being and is essential to our business. We intend to provide appropriate resources to create a risk-free environment. If you have any questions about ergonomics, please contact the Human Resources Director.

## 1003 - Health and Safety

All employees are responsible for their own safety, as well as that of others in the workplace. To help us maintain a safe workplace, everyone must be safety-conscious at all times. Report all work-related injuries or illnesses immediately to your supervisor or to the human resources department. In compliance with California law, and to promote the concept of a safe workplace, Mendocino Transit Authority maintains an *Injury and Illness Prevention Program*. The Injury and Illness Prevention Program is available for review by employees and/or employee representatives in the Executive

Director's office.

In compliance with Proposition 65, Mendocino Transit Authority will inform employees of any known exposure to a chemical known to cause cancer or reproductive toxicity.

## **1004 - Heat Illness**

MTA is concerned with employee health and safety. Employees who work outside may be exposed to extreme temperatures or adverse working conditions, particularly in the summer months. All supervisors are trained in the recognition and prevention of heat illness. Employees who work outside are encouraged to frequently drink water. Employees who work outside are also allowed and encouraged to take a cool-down rest in the shade of at least five minutes (in addition to the time needed to access the shade) when needed to protect themselves from overheating. These preventative cool-down rests are paid time.

Please refer to MTA's *Injury Illness and Prevention Program* or talk to your supervisor for details on how to ensure you are protected from heat illness dangers.

## **1006 - Recreational Activities and Programs**

Mendocino Transit Authority or its insurer will not be liable for payment of workers' compensation benefits for any injury that arises out of an employee's voluntary participation in any off-duty recreational, social, or athletic activity that is not part of the employee's work-related duties.

## **1007 - Security**

Mendocino Transit Authority has developed guidelines to help maintain a secure workplace. Be aware of persons loitering for no apparent reason in parking areas, walkways, entrances and exits, and service areas. Report any suspicious persons or activities to security personnel.

Secure your desk or office at the end of the day. When called away from your work area for an extended length of time, do not leave valuable and/or personal articles in or around your workstation that may be accessible.

The security of facilities as well as the welfare of our employees depends upon the alertness and sensitivity of every individual to potential security risks. You should immediately notify your supervisor when unknown persons are acting in a suspicious manner in or around the facilities, or when keys, security passes, or identification badges are missing.

MTA's workplace security program is described in detail in MTA's *Illness and Injury Prevention Program (IIPP)*.

## **1008 - Workplace Violence**

Mendocino Transit Authority has adopted the following workplace violence policy to ensure a



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safe working environment for all employees.

MTA has zero tolerance for acts of violence and threats of violence. Without exception, acts and threats of violence are not permitted. All such acts and threats, even those made in apparent

jest, will be taken seriously, and will lead to discipline up to and including termination.

Possession of non-work-related weapons on MTA premises and at MTA-sponsored events shall constitute a threat of violence.

It is every employee's responsibility to assist in establishing and maintaining a violence-free work environment. Therefore, you are expected and encouraged to report any incident which may be threatening to you or your co-workers or any event which you reasonably believe is threatening or violent.

You may report an incident to any supervisor or manager.

A threat includes, but is not limited to, any indication of intent to harm a person or damage MTA property. Threats may be direct or indirect, and they may be communicated verbally or nonverbally. The following are examples of threats and acts that shall be considered violent - this list is in no way all-inclusive:

Example	Type of Threat
Saying, "Do you want to see your next birthday?"	Indirect
Writing, "Employees who kill their supervisors have the right idea."	Indirect
Saying, "I'm going to punch your lights out."	Direct
Making a hitting motion or obscene gesture	Nonverbal
Displaying weapons	Extreme
Stalking or otherwise forcing undue attention on someone, whether romantic or hostile	Extreme
Taking actions likely to cause bodily harm or property damage	Acts of violence

Mendocino Transit Authority will conduct a workplace violence threat assessment upon notification of a perceived or actual threat of violence.

## **1100 - Termination**

## **1101 - Policy**

An individual's employment at MTA may be terminated by that employee (through resignation) or by MTA (through layoff for as result of disciplinary action).

## **1102 - Involuntary Termination and Progressive Discipline**

Violation of Mendocino Transit Authority policies and rules may warrant disciplinary action. MTA has a system of progressive discipline that may include verbal warnings, written warnings, suspension, and termination. Mendocino Transit Authority may, in its sole discretion, utilize whatever form of discipline is deemed appropriate under the circumstances, up to, and including, immediate termination of employment. MTA's policy of progressive discipline in no way limits or alters the at-will employment relationship.

Represented employees refer to Collective Bargaining Agreement Article 22.

## **1103 - Termination by the Employee**

Employees are requested to give written notice of their intent to resign. Failure to give at least two weeks written notice will result in forfeiture of pay for 25 % of Accrued Sick Leave and ineligibility for re-employment.

## **1104 - Termination by MTA**

When an employee is terminated through layoff, management at its discretion, may give two weeks' notice or two weeks' pay in lieu of notice. When an employee is terminated for reasons other than layoff notice will be given only as appropriate.

## **1105 - Termination or Re-assignment by MTA for Failure to Meet Training and/or Licensing Requirements**

Employees who fail to meet the requirements of training and/or license may be terminated or re-assigned.

## **1106 - Termination Procedures**

Supervisors shall send notices of resignation or recommendations for termination to their

manager, Executive Director and the Human Resources Director, or his/her designee review. These notices or recommendations shall be accompanied by any needed supporting documents, such as performance appraisals or disciplinary reports. All terminations shall be reviewed and confirmed by the Human Resources Director or his/her designee before any final action is taken.

## **1107 - Exit Interview**

- A. The Human Resources Director or his/her designee shall conduct an exit interview not later than the employee's last working day.
- B. The Human Resources Director, or his/her designee will have the final pay for terminating employees available on their last working day or the next regularly scheduled payday. It also will be responsible for securing the return by terminated employees of funds advanced and/or all MTA property in their possession, such as vehicle/building keys, bus/cab tickets or passes, credit cards, or cab cash. If the employee owes the MTA any monies or is responsible for any lost or damaged property, such accounts shall be settled as originally agreed or by deduction from final pay, unless prohibited by law.

## **1108 - Employment References**

Request for employment references should be made in writing to the Human Resources Director, or his/her designee and should include an authorization by the employee for the release of the requested information. Generally, The Human Resources Department will not release reference information without the employee's authorization or will limit the information to verification of the employee's position, and dates of employment with the MTA.

## **1109 - Termination of the Executive Director**

The Board of Directors may terminate the Executive Director, with or without cause, at any time and under any terms and conditions of the Employment Agreement approved by the Board of Directors.

## **1110 - Reductions in Force**

Under some circumstances, Mendocino Transit Authority may need to restructure or reduce its workforce. If restructuring our operations or reducing the number of employees becomes necessary, MTA will attempt to provide advance notice, if possible, to help prepare affected individuals. If possible, employees subject to layoff will be informed of the nature of the layoff and the foreseeable duration of the layoff, whether short-term or indefinite.

In determining which employees will be subject to layoff, Mendocino Transit Authority will take into account, among other things, operation and requirements, the skill, productivity, ability, and past performance of those involved, and also, when feasible, the employee's length of service.

Represented employees refer to *Collective Bargaining Agreement* Article 21.

## **1111 - Reinstatement/Furlough**

Laid off employees shall be offered reinstatement if/when rehiring begins, without going through the hiring/screening process, if such rehiring begins within (6) six months of the individual's layoff. Reinstatement shall be in the reverse order of layoffs.

A laid off employee who is reinstated will retain accumulated seniority, hire date and rate of pay as prior to lay-off and is eligible for group insurance/core benefits as governed by the terms of each benefit plan.

### **Furlough**

If a temporary reduction in the work force is required in any classification, the option of furlough may be offered to all employees in that classification by the Executive Director. The number of employees granted furloughs and the duration of the furlough will be determined by the Executive Director. This option would allow any employee to voluntarily take a furlough or a reduction in hours without pay, and continue to accrue seniority. Employees who are otherwise eligible to receive MTA sponsored benefits will continue to receive that benefit paid by MTA during their furlough.

Represented employees refer to *Collective Bargaining Agreement* Article 21.

## **1112 - Voluntary Resignation**

Voluntary resignation results when an employee voluntarily quits their employment at Mendocino Transit Authority or fails to report to work for three consecutively scheduled workdays without notice to, or approval by, their supervisor (unless the absence is protected by law). All MTA-owned property, including vehicles, keys, uniforms, identification badges, and credit cards, must be returned immediately upon termination of employment.

## **1200 - Drug and Alcohol Testing Policy**

- 1) The Mendocino Transit Authority provides public transit and paratransit services for the residents of Mendocino County. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, Mendocino Transit Authority declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath specimens.
- 3) Any provisions set forth in this policy that are included under the sole authority of Mendocino Transit Authority and are not provided under the authority of the above-named Federal regulations are underlined. Tests conducted under the sole authority of Mendocino Transit Authority will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

### **1201 - Applicability**

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full or part-time) when performing safety sensitive duties. See Attachment A for a list of employees and the authority under which they are included. A safety-sensitive function is operation of public transit service including the operation of a revenue service vehicle (whether or not the vehicle is in revenue service), maintenance of a revenue service vehicle or equipment used in revenue service, security personnel who carry

firearms, dispatchers or persons controlling the movement of revenue service vehicles and any transit employee who operates a non-revenue service vehicle that requires a Commercial Driver's License to operate. Maintenance functions include the repair, overhaul, and rebuild of engines, vehicles and/or equipment used in revenue service. A list of safety-sensitive positions who perform one or more of the above-mentioned duties is provided in Attachment A. Supervisors are only safety sensitive if they perform one of the above functions. Volunteers are considered safety sensitive and subject to testing if they are required to hold a CDL or receive remuneration for service in excess of actual expense.

## 1202 - Definitions

**Accident:** An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. One or more vehicles incur disabling damage as the result of the occurrence and is transported away from the scene by a tow truck or other vehicle. For purposes of this definition, *disabling damage* means damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

**Adulterated specimen:** A specimen that has been altered, as evidence by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

**Alcohol:** The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols contained in any beverage, mixture, mouthwash, candy, food, preparation or medication.

**Alcohol Concentration:** Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

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***Aliquot:*** A fractional part of a specimen used for testing, It is taken as a sample representing the whole specimen.

***Canceled Test:*** A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

***Confirmatory Drug Test:*** A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

***Confirmatory Validity Test:*** A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

***Covered Employee Under FTA Authority:*** An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function (See Attachment A for a list of covered employees).

***Designated Employer Representative (DER):*** An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

***DOT, The Department, DOT Agency:*** These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

***Dilute specimen:*** A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

***Disabling damage:*** Damage which precludes departure of any vehicle from the scene of the occurrence in its usual manner in daylight after simple repairs. Disabling damage includes damage to vehicles that could have been operated but would have been further damaged if so operated, but does not include damage which can be remedied temporarily at the scene of the occurrence without special tools or parts, tire disablement without other damage even if no spare tire is available, or damage to



headlights, taillights, turn signals, horn, or windshield wipers that makes them inoperative.

**Evidentiary Breath Testing Device (EBT):** A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations, and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

**Initial Drug Test: (Screening Drug Test)** The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

**Initial Specimen Validity Test:** The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid.

**Invalid Result:** The result reported by an HHS-certified laboratory in accordance with the criteria established by the HHS Mandatory Guidelines when a positive, negative, adulterated, or substituted result cannot be established for a specific drug or specimen validity test.

**Laboratory:** Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT under this part.

**Limit of Detection (LOD):** The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

**Limit of Quantitation:** For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

**Medical Review Officer (MRO):** A licensed physician (medical doctor or doctor of osteopathy) responsible for receiving laboratory results generated by the drug testing program who has knowledge of substance abuse disorders, and has appropriate medical training to interpret and evaluate an individual's confirmed positive test result, together with his/her medical history, and any other relevant bio-medical information.

**Negative Dilute:** A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

**Negative result:** The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug or the concentration of the drug is less than the cutoff

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concentration for the drug or drug class and the specimen is a valid specimen. An alcohol concentration of less than 0.02 BAC is a negative test result.

**Non-negative test result:** A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites.

**Oxidizing Adulterant:** A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites, or affects the reagents in either the initial or confirmatory drug test.

**Performing (a safety-sensitive function):** A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

**Positive result:** The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

**Prohibited drug:** Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine, as specified in 49 CFR Part 40, as amended.

**Reconfirmed:** The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

**Rejected for Testing:** The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

**Revenue Service Vehicles:** All transit vehicles that are used for passenger transportation service.

**Safety-sensitive functions:** Employee duties identified as:

- (1) The operation of a transit revenue service vehicle even when the vehicle is not in revenue service.
- (2) The operation of a non-revenue service vehicle by an employee when the operation of such a vehicle requires the driver to hold a Commercial Drivers License (CDL).
- (3) Maintaining a revenue service vehicle or equipment used in revenue service.
- (4) Controlling the movement of a revenue service vehicle; and

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- (5) Carrying a firearm for security purposes.

**Split Specimen Collection:** A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

**Substance Abuse Professional (SAP):** A licensed physician (medical doctor or doctor of osteopathy) or licensed or certified psychologist, social worker, employee assistance professional, state-licensed or certified marriage and family therapist, or drug and alcohol counselor (certified by an organization listed at <https://www.transportation.gov/odapc/sap>) with knowledge of and clinical experience in the diagnosis and treatment of drug and alcohol related disorders.

**Substituted specimen:** A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

**Test Refusal:** The following are considered a refusal to test if the employee:

- (1) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
- (2) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
- (3) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- (4) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- (5) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- (6) Fail or decline to take a second test as directed by the collector or the employer for drug testing.
- (7) Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- (8) Fail to cooperate with any part of the testing process.

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- (9) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
- (10) Possess or wear a prosthetic or other device used to tamper with the collection process.
- (11) Admit to the adulteration or substitution of a specimen to the collector or MRO.
- (12) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- (13) Fail to remain readily available following an accident.
- (14) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

**Vehicle:** A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

**Verified negative test:** A drug test result reviewed by a medical review officer and determined to have no evidence of prohibited drug use at or above the minimum cutoff levels established by the Department of Health and Human Services (HHS).

**Verified positive test:** A drug test result reviewed by a medical review officer and determined to have evidence of prohibited drug use at or above the minimum cutoff levels specified in 49 CFR Part 40 as revised.

**Validity testing:** The evaluation of the specimen to determine if it is consistent with normal human urine. Specimen validity testing will be conducted on all urine specimens provided for testing under DOT authority. The purpose of validity testing is to determine whether certain adulterants or foreign substances were added to the urine, if the urine was diluted, or if the specimen was substituted.

## 1203 - Education and Training

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use.

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- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

### 1204 - Prohibited Substances

- 1) Prohibited substances addressed by this policy include the following.
  - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1308.11 through 1308.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to: marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. It is important to note that the use of marijuana in any circumstances remains completely prohibited for any safety-sensitive employee subject to drug testing under USDOT regulations. The use of marijuana in any circumstance (including under state recreational and/or medical marijuana laws) by a safety-sensitive employee is a violation of this policy and a violation of the USDOT regulation 49 CFR Part 40, as amended. Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.
  - b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a Mendocino Transit Authority supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
  - c. Alcohol: The use of beverages containing alcohol (including mouthwash,

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medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

## 1205 - Prohibited Conduct

- 1) Illegal use of the drugs listed in this policy and as defined in 49 CFR Part 40, as amended is prohibited at all times. All covered employees are prohibited from reporting for duty or remaining on duty if they have used a prohibited drug as defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol.
- 4) Each covered employee is prohibited from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
  - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the employee to be removed from the performance of safety-sensitive duties until:
    - i. The employee's alcohol concentration measures less than 0.02;  
or
    - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.

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- 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
- 7) Mendocino Transit Authority, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform or in control of an MTA owned vehicle during or after work hours.
- 8) Consistent with the Drug-free Workplace Act of 1988, all Mendocino Transit Authority employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace including transit system premises and transit vehicles.

### 1206 - Drug Statute Conviction

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the Mendocino Transit Authority management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section 800 of this policy.

### 1207 - Testing Requirements

- 1) Analytical urine drug testing and breath testing for alcohol will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be performed just before, during, or after the performance of a safety-sensitive job function. Under Mendocino Transit Authority authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.
- 3) All covered employees will be subject to urine drug testing and breath alcohol testing as a condition of ongoing employment with Mendocino Transit Authority. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section 800 of this policy.

### 1208 - Drug Testing Procedures

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have

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been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.

- 2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at a HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) or Liquid Chromatography/Mass Spectrometry (LC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS or LC/MS test are at or above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer. A Medical Review Officer (MRO) is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result, and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to the Mendocino Transit Authority. If a legitimate explanation is found, the MRO will report the test result as negative.
- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted



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on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. Mendocino Transit Authority will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however Mendocino Transit Authority will seek reimbursement for the split sample test from the employee.

- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so requested by the employee through the Medical Review Officer, or by the employer, by the MRO, or by the relevant DOT agency.

### 8) Observed Collections

- a. Consistent with 49 CFR Part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:
  - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to Mendocino Transit Authority that there was not an adequate medical explanation for the result;
  - ii. The MRO reports to Mendocino Transit Authority that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed;
  - iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).

- iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen;
- v. The temperature on the original specimen was out of range;
- vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
- vii. All follow-up-tests; or
- viii. All return-to-duty tests.

## 1209 - Alcohol Testing Procedures

- 1) Tests for breath alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing device (EBT) operated by a trained Breath Alcohol Technician (BAT). A list of approved EBTs can be found on ODAPC's Web page for "Approved Evidential Breath Measurement Devices". Alcohol screening tests may be performed using a non-evidential testing device (alcohol screening device (ASD)) which is also approved by NHTSA. A list of approved ASDs can be found on ODAPC's Web page for "Approved Screening Devices to Measure Alcohol in Bodily Fluids". If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. The confirmatory test must occur on an EBT. The confirmatory test will be conducted no sooner than fifteen minutes after the completion of the initial test. The confirmatory test will be performed using a NHTSA-approved EBT operated by a trained BAT. The EBT will identify each test by a unique sequential identification number. This number, time, and unit identifier will be provided on each EBT printout. The EBT printout, along with an approved alcohol testing form, will be used to document the test, the subsequent results, and to attribute the test to the correct employee. The test will be performed in a private, confidential manner as required by 49 CFR Part 40, as amended. The procedure will be followed as prescribed to protect the employee and to maintain the integrity of the alcohol testing procedures and validity of the test result.
- 2) A confirmed alcohol concentration of 0.04 or greater will be considered a positive alcohol test and in violation of this policy. The consequences of a positive alcohol test are described in Section 800. of this policy. Even though an employee who has a confirmed alcohol concentration of 0.02 to 0.039 is not considered positive, the employee shall still be removed from duty for at least eight hours or for the duration of the work day whichever is longer and will be subject to the consequences described in Section 800 of this policy. An alcohol concentration of less than 0.02 will be considered a negative test.

- 3) Mendocino Transit Authority affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.
- 4) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

## 1210 - Pre-Employment testing

- 1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
  - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
  - b. An employee shall not be placed, transferred or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
  - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
  - d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section 800

herein.

- e. If a pre-employment test is canceled, Mendocino Transit Authority will require the applicant to take and pass another pre-employment drug test.
- f. In instances where a FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide *Mendocino Transit Authority* with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. *Mendocino Transit Authority* is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide Mendocino Transit Authority proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

## 1211 - Reasonable Suspicion Testing

- 1) All Mendocino Transit Authority FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to

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detect the signs and symptoms of drug and alcohol use, and who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under Mendocino Transit Authority's authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty.

- 2) Mendocino Transit Authority shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section 800 of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section 800 of this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to MTA's Human Resources Director.
- 4) When there are no specific, contemporaneous, articulable objective facts that indicate current drug or alcohol use, but the employee (who is not already a participant in a treatment program) admits the abuse of alcohol or other substances to a supervisor in his/her chain of command, the employee shall be referred for assessment and treatment consistent with Section 800 of this policy. Mendocino Transit Authority shall place the employee on administrative leave in accordance with the provisions set forth under Section 800 of this policy. Testing in this circumstance would be performed under the direct authority of the Mendocino Transit Authority. Since the employee self-referred to management, testing under this circumstance would not be considered a violation of this policy or a positive test result under Federal authority. However, self-referral does not exempt the covered employee from testing under Federal authority as specified in Sections L through N of this policy or the associated consequences as specified in Section 800.

## 1212 - Post-Accident Testing

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- 1) FATAL ACCIDENTS – A covered employee will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
- 2) NON-FATAL ACCIDENTS - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:
  - a. The accident results in injuries requiring immediate medical treatment away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.
  - b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident.

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test. An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or

she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that Mendocino Transit Authority is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), Mendocino Transit Authority may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

## 1213 - Random Testing

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Employees who may be covered under company authority will be selected from a pool of non-DOT-covered employees.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.
- 3) The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the FTA administrator. The current year testing rates can be viewed online at <https://www.transportation.gov/odapc/random-testing-rates>.
- 4) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 5) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the

testing pool of non-safety-sensitive employees that are included solely under Mendocino Transit Authority authority.

- 6) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under Mendocino Transit Authority' authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 7) Employees are required to proceed immediately to the collection site upon notification of their random selection.

## **1214 - Return-To-Duty Testing**

All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee will require a return-to-duty drug test, alcohol test, or both.

## **1215 - Follow-Up Testing**

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject



to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

## 1216 - Result of Drug/Alcohol Test

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, referred to a list of USDOT qualified Substance Abuse Professionals (SAPs) for assessment. No employee will be allowed to return to duty requiring the performance of safety-sensitive job functions without the approval of the SAP and the employer.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) Refusal to submit to a drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal is defined as any of the following circumstances:
  - a) Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
  - b) Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the testing process commences for a pre-employment test has not refused to test.
  - c) Fail to attempt to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
  - d) In the case of a directly-observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
  - e) Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
  - f) Fail or decline to take a second test as directed by the collector or the

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- employer for drug testing.
  - g) Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
  - h) Fail to cooperate with any part of the testing process.
  - i) Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly-observed test.
  - j) Possess or wear a prosthetic or other device used to tamper with the collection process.
  - k) Admit to the adulteration or substitution of a specimen to the collector or MRO.
  - l) Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
  - m) Fail to remain readily available following an accident.
  - n) As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.
- 4) For the first instance of a verified positive test from a sample submitted as the result of a random drug/alcohol test, disciplinary action against the employee shall include:
- a. Mandatory referral to Substance Abuse Professional for assessment, formulation of a treatment plan, and execution of a return to duty agreement;
  - b. Failure to execute, or remain compliant with the return-to-duty agreement shall result in termination from Mendocino Transit Authority employment.
    - i. Compliance with the return-to-duty agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; in the judgment of the SAP the employee is cooperating with his/her SAP recommended treatment program; and the employee has agreed to periodic unannounced follow-up testing as defined in Section 1215 of this policy.
  - c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination.
  - d. A periodic unannounced follow-up drug/alcohol test which results in a verified positive shall result in termination from Mendocino Transit Authority employment.

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- 5) The first instance of a verified positive post-accident or reasonable suspicion drug and/or alcohol test shall result in termination.
- 6) The second instance of a verified positive drug or alcohol test result for any category of testing shall result in termination from Mendocino Transit Authority employment.
- 7) An alcohol test result of  $\geq 0.02$  to  $\leq 0.039$  BAC shall result in the removal of the employee from duty for eight hours or the remainder of the work day whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NON-DOT alcohol test with a result of less than 0.02 BAC.
- 8) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
  - a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return-to-work agreement;
  - b. Failure to execute, or remain compliant with the return-to-work agreement shall result in termination from Mendocino Transit Authority employment.
    - i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in Section 1215 of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section 800 of this policy is under the sole authority of Mendocino Transit Authority and will be performed using non-DOT testing forms.
  - c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. All tests conducted as part of the return-to-work agreement will be conducted under company authority and will be performed using non-DOT testing forms.

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- d. A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section 800 of this policy.
  - e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section 800 of this policy.
  - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with Mendocino Transit Authority.
  - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 9) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

### **2017 - Grievance and Appeal**

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

### **2018 - Proper Application of the Policy**

Mendocino Transit Authority is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

### **2019 - Information Disclosure**

- 1) Drug/alcohol testing records shall be maintained by the Mendocino Transit Authority Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.

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- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need-to-know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.
- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over Mendocino Transit Authority or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken.
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify

compliance with the regulation to the FTA.

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**Drug and Alcohol Policy Attachment A - Safety Sensitive Positions**

<b><u>Job Title</u></b>	<b><u>Job Duties</u></b>	<b><u>Testing Authority</u></b>
Transit Vehicle Operator	Operation of a revenue service vehicle, including when not in revenue service.	DOT rule, 49 CFR Part 40  49 CFR Part 655.4
Operations Supervisor	Controlling dispatch or movement of a revenue service vehicle.	DOT rule, 49 CFR Part 40  49 CFR Part 655.4
Operations Supervisor/Instructor	Operation of a revenue service vehicle, including when not in revenue service and controlling movement of a revenue service vehicle.	DOT rule, 49 CFR Part 40  49 CFR Part 655.4
Dispatcher	Controlling dispatch or movement of a revenue service vehicle.	DOT rule, 49 CFR Part 40  49 CFR Part 655.4
Maintenance Manager	Operation of a revenue service vehicle, including when not in revenue service and maintaining (including repairs, overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service.	DOT rule, 49 CFR Part 40  49 CFR Part 655.4
Mechanic	Operation of a revenue service vehicle, including when not in revenue service, maintaining (including repairs and overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service.	DOT rule, 49 CFR Part 40  49 CFR Part 655.4
Mechanic's Helper	Operation of a revenue service vehicle, including	DOT rule, 49 CFR Part 40

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	when not in revenue service, maintaining (including repairs and overhaul and rebuilding) a revenue service vehicle or equipment used in revenue service.	49 CFR Part 655.4
Shelter Cleaner/Fueler	Operation of a revenue service vehicle, including when not in revenue service.	DOT rule, 49 CFR Part 40 49 CFR Part 655.4
Vehicle Cleaner	Operation of a revenue service vehicle, including when not in revenue service.	DOT rule, 49 CFR Part 40 49 CFR Part 655.4

### Drug and Alcohol Policy Attachment B - Contacts

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

#### Mendocino Transit Authority Drug and Alcohol Program Manager

Name: Heather Lindsteadt  
Title: Human Resources Director  
Address: 241 Plant Road, Ukiah, CA  
Telephone Number: 707-234-6447

#### Medical Review Officer

Name: Terri Hellings  
Title: MD  
Address: University Services, 2800 Black Lk Pl, Ste A, Philadelphia PA 19154

Telephone Number: 1-800-624-3784  
Fax: 1-215-637-6998

#### Substance Abuse Professional #1

Name: Lisa Wolper  
Title: Clinical Social Work/Therapist, LCSW, SAP  
Address: 825 College Avenue, Santa Rosa, CA 95404  
Telephone Number: 707-524-8864



Substance Abuse Professional #2

Name: Richard Zimmer

Title: PhD

Address: 1144 Sonoma Avenue, Ste 117, Santa Rosa, CA 95404

Telephone Number: 707-526-7720 x 326

HHS Certified Laboratory Primary Specimen

Name: QUEST Diagnostics

Address: 10101 Renner Blvd, Lenexa, KS 66219

Telephone Number: 913-895-2400

## **1300 - Confirmation of Receipt**

### Confirmation of Receipt

I have received my copy of MTA's employee policy manual. I understand and agree that it is my responsibility to read and familiarize myself with the policies and procedures contained in the handbook.

I understand and agree that nothing in the employee policy manual creates or is intended to create a promise or representation of continued employment and that employment at Mendocino Transit Authority is employment at-will; employment may be terminated at the will of either MTA or myself. My signature certifies that I understand that the foregoing agreement on at-will status is the sole and entire agreement between Mendocino Transit Authority and myself concerning the duration of my employment and the circumstances under which my employment may be terminated. It supersedes all prior agreements, understandings, and representations concerning my employment with Mendocino Transit Authority.

I understand that except for employment at-will status, any and all policies or practices can be changed at any time by MTA. Mendocino Transit Authority reserves the right to change my hours, wages, and working conditions at any time. I understand and agree that other than the Executive Director or Board of Directors of Mendocino Transit Authority, no manager, supervisor, or representative of MTA has authority to enter into any agreement, express or implied, for employment for any specific period of time, or to make any agreement for employment other than at-will; only the Executive Director or Board of Directors has the authority to make any such agreement and then only in writing, signed by the Executive Director or Board of Directors Chairperson.

Represented employees also confirm receipt of the Collective Bargaining Agreement between MTA and Teamsters Local 665.

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

Employee's Printed Name \_\_\_\_\_

Date \_\_\_\_\_

## **1400 - Confirmation of Equal Employment Opportunity Program Policy**

### Confirmation of Receipt

I have received my copy of MTA's Equal Employment Opportunity Program policy and MTA's Harassment, Discrimination and Retaliation Prevention Policy. I understand and agree that it is my responsibility to read and familiarize myself with these policies.

I understand that MTA is committed to providing a work environment that is free from harassment, discrimination and retaliation. My signature certifies that I understand that I must conform to and abide by the rules and requirements described in this policy.

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

Employee's Printed Name \_\_\_\_\_

Date \_\_\_\_\_

## **1500 - Confirmation of MTA's Drug and Alcohol Testing Policy**

### Confirmation of Receipt

I have received my copy of MTA's Drug and Alcohol Testing policy I understand and agree that it is my responsibility to read and familiarize myself with these policies.

I understand that MTA is committed to providing a Drug and Alcohol free workplace. My signature certifies that I understand that I must conform to and abide by the rules and requirements described in this policy.

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

Employee's Printed Name \_\_\_\_\_

Date \_\_\_\_\_

## 1600 - Organization Chart

