

**EMPLOYMENT ORDINANCE**  
**Ordinance 30.44**

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**ORDINANCE 30.44**

(EMPLOYMENT ORDINANCE)

***AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE  
EASTERN MUNICIPAL WATER DISTRICT ESTABLISHING  
AND SETTING FORTH THE EMPLOYMENT POLICIES  
AUTHORIZED.***

**BE IT ORDAINED** by the Board of Directors of the Eastern Municipal Water District as follows:

**SECTION 1. – ADOPTION BY BOARD OF DIRECTORS**

The following rules and regulations are hereby adopted and shall constitute the District Employment Policies of the Eastern Municipal Water District.

**SECTION 2. – VALIDITY OF ORDINANCE**

If any paragraph, sentence, clause or phrase of this Employment Ordinance for any reason is held to be unconstitutional or invalid, such shall not affect the remaining portions of this Ordinance.

**SECTION 3. – EXECUTION OF PROVISIONS**

It shall be the duty of all department heads and others in authority to execute the provisions of this Ordinance.

**SECTION 4. DEFINITIONS**

For the purpose of this Ordinance, words and phrases used are defined as follows:

A. "Anniversary Date"

The annual anniversary of last employment date for an employee in a Full- or Part-Time Regular position, used to determine eligibility for vacation, sick leave and/or other benefits.

B. "Classifications"

A listing or group of positions or jobs as set forth by Resolution No. 3345 (Exhibit "A" - Classifications of Positions"), as amended by the Board of Directors from time to time. Said listing or group of positions or jobs may be either similar in duties and responsibilities or require approximately the same abilities, education, experience, and background which are of a similar level of job worth and salary range.

C. "Continuous Service"

(Sometimes denoted - "Continuous Employment") - the uninterrupted payroll status of an employee. (Exception: Authorized Leave of Absence would not be considered a break in service even though an employee would not be in a payroll status;

however, such a period of absence would not count toward eligibility for increased vacation, sick leave, and/or other benefits).

D. "Demotion"

A demotion is the appointment of an employee from an incumbent position to a position in a different classification for which the control point is lower. An employee demoted for disciplinary reasons shall be placed within the designated range for the class to which demoted as provided in the Order of Demotion.

An employee who voluntarily requests a demotion will be placed on the step of the salary range for the lower classification closest to, without exceeding, their existing salary, however, if the employee's existing salary exceeds the Control Point of the lower salary range, the employee's salary will be reduced to the Control Point of the classification to which employee voluntarily demoted.

E. "Executive Employee"

Those classifications identified with a "+" under the column titled E on Exhibit "A" of Resolution No. 3345, as amended, are considered Executive classifications and as a condition of employment are required to work whatever hours are necessary to accomplish their assigned job. The monthly salary identified on Exhibit "D" of Resolution No. 3347, as amended, for the range and step authorized for each Executive employee is considered full compensation for all hours worked.

F. "Exempt Employee"

Those classifications identified by the letter "y" under the column titled E on Exhibit "A" of Resolution No. 3345, as amended, are compensated for each hour of authorized overtime worked at their existing hourly rate. Exempt employees may choose to accrue compensatory time off on an hour for hour basis in lieu of paid overtime, up to a maximum of 40 hours, for each hour of authorized overtime worked. Accrued compensatory time shall be taken with the approval of the department head at such times as will not impair the work schedule or efficiency of the department. Accrued compensatory time off must be used before accrued vacation hours are used.

G. "Full-Time Employee"

The holder of a Regular position established by the District on a continuing basis for the number of hours usual or prescribed for normal Regular District employment. All positions shall be full-time unless otherwise designated, and compensation shall be on an hourly basis paid biweekly. Full-Time Regular Employees are eligible for all benefits following completion of the initial probation period (some benefits become effective on employment date).

H. "Holidays"

Those days or hours designated as such by official action of the Board of Directors.

I. "Initial Probation Period"

All employees, except probationary part-time employees, shall serve an initial probationary period of 2080 regular working hours of service in a paid status

(designated classifications may have a longer probation period to allow for acquiring mandated certification), and must maintain a "good" performance rating or better before obtaining regular employment status with the District. Part-time employees shall serve an initial probationary period of twelve consecutive months of service and must maintain a "good" performance rating or better before obtaining regular employment status with the District. Employee performance reviews shall be administered at three months, six months, and twelve months. The twelfth month review will be held prior to completion of 2080 hours of regular employment (twelve consecutive months for part-time employees) and prior to the employee being released from probation. An employee may be removed from the initial probation at any time with the approval of the General Manager or designee. During the initial probation period an employee may be discharged at any time without cause and without right to review.

J. "Masculine"

Whenever the masculine form of any word is used herein, it also includes the feminine gender unless the context clearly indicates a contrary intent.

K. "Non-exempt Employee"

Those classifications identified by the letter "n" under the column titled E on Exhibit "A" of Resolution No. 3345, as amended. Non-exempt classifications are compensated for each hour of authorized overtime worked at one and a half times their existing regular rate. Non-exempt employees may choose to accrue compensatory time off in lieu of paid overtime on the basis of one and a half hours for each hour of authorized overtime worked up to a maximum of 40 hours. Any employee shall be permitted to use such compensatory time off within a "reasonable period" after making the request, if such use does not "unduly disrupt" the operations of the District. Accrued compensatory time off must be used before accrued vacation hours are used.

L. "Nonscheduled Workday"

Any day an employee is scheduled to be off duty and not assigned or scheduled to work on a particular shift or overtime basis.

M. "Overtime"

Except for those classifications designated as Executive, overtime is defined as all authorized hours worked in excess of each employee's normally scheduled daily shift of eight, nine, or ten hours, or more than 40 hours in a seven-day work period.

N. "Part-Time Employee"

The holder of a Regular position established by the District on a continuing basis for working hours, which are less than the number of hours usual or prescribed for normal Regular District employment, and compensation shall be on an hourly basis paid biweekly.

Eligibility for some benefits shall be normally conditioned upon such Part-Time employees working not less than 20 hours per week (30 hours per week for District's Long Term Disability Insurance Program, and 32 hours per week for District's Dental Insurance Plan) and following completion of the initial probation period, will be

prorated on the basis of such Part-Time Regular Employee's prescribed working hours to that of a normal Full-Time Regular Employee's hours. Part-time employees working 1000 hours or more in any fiscal year are eligible for PERS retirement benefits as provided by PERS law.

O. "Pay Periods"

The successive two calendar week periods of time which begin at 12:01 a.m. on Sunday (commencing with June 1, 1980) and extend through 12:00 midnight of the second succeeding Saturday (i.e. for the month of June, 1980, the first pay period would begin at 12:01 a.m., Sunday, June 1, 1980, and end Saturday, June 14, at 12:00 midnight; the next period would begin at 12:01 a.m. on Sunday, June 15, and end Saturday June 28 at 12:00 midnight).

P. "Position"

A particular classification to which a group of duties or responsibilities is assigned or delegated by competent authority.

Q. "Position Specification"

(Also known as "Job Description") the specific duties and responsibilities assigned to any given position.

R. "Pre-Retirement"

An employee who prior to their official retirement date opts to exhaust all vacation accruals (including sick leave accruals that have been converted to vacation accruals pursuant to Section 5.W., 13, of the MOU) will be placed into Pre-retirement status. Prior to going into Pre-retirement status, sick leave and vacation accruals are calculated up to the date of retirement.

While in Pre-retirement status, the employee will not continue to accrue vacation or sick leave. Holidays will only be paid if the employee is paid for more than 40 hours during the pay period in which the holiday falls. Unused floating holidays may be used by the employee while in Pre-retirement status. Unless specified above, no other paid or unpaid leaves are available to an employee in Pre-retirement status.

S. "Probationary Employee"

A Full or Part-time Employee, who has not completed an initial probation period, or who at the discretion of the department head, has not completed a satisfactory probation period in a position to which he was promoted, demoted or transferred.

T. "Promotion"

Change of position from one classification and salary range to a different classification with a higher salary range, whether in the same or different department.

U. "Promotional Probation"

When promoted to another position, employees will serve a promotional probationary period of 1040 regular work hours (six consecutive months for part-

time employees). When an employee does not successfully complete a promotional probation, the employee will be returned to his previously held classification or a classification at the same salary range at the same step he held before being promoted. The employee's review date will be returned to the date in the previously held classification.

V. "Reclassification"

A change in the title of a position to reflect significant changes to assigned duties and responsibilities. Such changes may be accompanied by the assignment of the position to a higher or lower salary range. Reclassification results in the reallocation of an existing position to a different classification without creating a vacancy.

W. "Regular Employee"

A Full or Part-Time Employee who has completed the initial probation period in a given classification.

X. "Retirement"

Refers to an employee who retires from the District under the provisions of the Public Employees' Retirement Law.

Y. "Review Date"

The date on which an employee's work performance is due to be evaluated by the department. Review Date is either the 1st or 16th of the month initially established at the completion of the initial probation and subsequently occurring at least annually thereafter. Pay increases resulting from an annual review will be effective on the first day of the pay period closest to the employee's review date of the 1st or 16th of the month. An employee's review date may be changed in the event of any salary change (i.e., promotion, re-classification, step-increase, etc.) when approved by the General Manager or designee.

Z. "Scheduled Workday"

Any day an employee is assigned to work in accordance with his position specification (includes days for which employee is assigned to work on an overtime basis, if any).

AA. "Separation"

As used herein, the word separation refers to either an employee's resignation or discharge from the District's employ.

AB. "Temporary Employee"

A person employed as extra help, emergency or otherwise, or a student employee. Compensation shall be on an hourly basis, paid biweekly. Such employees are not eligible for benefits. Should a Temporary Employee be changed to Probationary-Regular Status, the probation period for benefits eligibility begins on the date of transfer, with no credit for the period of time served as a Temporary Employee. Temporary employees are at-will employees who may be terminated at any time, without cause, and without right of appeal.

AC. “Title Change”

A change in title of a position without significant changes to on-going duties, responsibilities, or salary level.

AD. "Transfer"

Change of an employee from one position to another of the same classification and salary range, whether in the same or a different department.

AE. “Wage Adjustment”

A change of classification assignment to a higher or lower salary range.

**SECTION 5. CONDITIONS OF EMPLOYMENT**

A. Employment Practices

1. Appointments, Promotions, Demotions, Transfers and Discharges

Appointments, promotions, demotions, transfers and discharges shall be made on the basis of merit and ability. Each department head shall appoint all necessary employees allowed for his department, subject to approval of the General Manager or designee. It is the policy of the District to appoint the best-qualified applicant for each position without regard to race, religious background, color, national origin, ancestry, disability (including HIV and AIDS), medical condition (including cancer), or marital status, veteran status, political affiliation, worker’s compensation record, pregnancy, sexual orientation, gender or age (40+). The General Manager or designee shall establish selection procedures, which shall ensure the employment of the best-qualified applicants, including such factors as job related education, experience, skills, and knowledge.

2. Employment Vacancies

It is the policy of the District to first consider qualified existing employees with Regular status before considering the employment of new employees to fill position vacancies. Employees must have successfully completed their initial probation period before applying for other employment opportunities within the District.

3. Employee Records

Records of employees maintained by the Department of Human Resources/Risk Management are confidential and shall not be open to public inspection. They may be examined by:

a. District Officials Access

District officials having an interest therein, as a matter of official duty, and information there from may be released by the Department of Human Resources/Risk Management at its discretion in accordance

with usual and customary procedures and applicable requirements of law.

b. Employee or Employee's Representative Access

An employee, or an employee's representative, with written consent of the employee, may inspect the employee's personnel file, and information there from may be released by the Department of Human Resources/Risk Management at its discretion in accordance with usual and customary procedures applicable to requirements of law.

4. Conditions of Employment

As conditions of employment, prospective employees shall be required to:

a. Oath of Allegiance

Execute an Oath of Allegiance to the United States of America.

b. Physical Examination

Take a physical examination at the expense of the District prior to being accepted for employment. No exceptions will be made. If a prospective employee prefers to be examined by any physician other than the one designated by the District, he may do so, provided the chosen physician is acceptable to the District and further provided that the prospective employee agrees to pay all costs for such examination which exceed the usual and customary fees paid by the District for such examination. The District reserves the right to hire only those prospective employees who are physically acceptable as evidenced by the results of such physical examination.

c. Driving Record

Furnish evidence of a valid drivers license meeting the specifications of the position for which such prospective employee is being considered. In addition, such prospective employee must provide proof of a satisfactory driving record as determined by the District's vehicle insurance provider.

d. Background Check

Submit a signed authorization for a background check prior to being accepted for employment. No exceptions will be made. The District reserves the right to hire only those prospective employees who satisfactorily complete the background check process.

5. Physical Examination During Employment

With just cause, an employee, upon request of his department head or the District's Director of Human Resources/Risk Management, and with prior approval of the General Manager or designee, shall undergo a physical examination at any time during employment upon the same conditions as the initial examination. Such subsequent examinations shall not be given

routinely but only for reasons, which, in the opinion of the General Manager or designee, shall justify the expense thereof to the District.

6. Performance Management

Our employees are our most important asset. Without their help, the District cannot meet the needs and demands of our customers. Therefore, it is extremely important that we cultivate this necessary asset and attempt to create an atmosphere that generates the greatest productivity for the District and satisfaction for the employees. The District's way of accomplishing this is through the Performance Development and Feedback System.

a. Performance Management Objectives

The Performance Development and Feedback System is not a once-a-year event -- it is a continuous process and it requires the equal efforts of employees and supervisors to effect a system that:

- provides accurate feedback on past job performance;
- offers employees specific recommendations on how to improve their job performance;
- enhances work relationships through meaningful communications;
- accurately documents employee job performance; and
- gives employees the opportunity to discuss their objective/standards throughout the year.

b. Frequency of Performance Appraisals

Performance reviews for probationary employees will normally be administered at three months, six months and twelve months. The twelfth month review will be held prior to completion of 2080 hours of Regular employment and prior to the employee being released from probation. Regular Employees will normally be reviewed at least annually. If an employee has completed less than three consecutive months of on-the-job employment in any annual review period, a performance evaluation indicating "no action" at this time will be filed and no performance ratings will be required. A note that there has not been sufficient opportunity to observe work performance during the review period may be listed in the comment sections of the review.

c. Preliminary Steps

The formal written performance appraisal is the annual culmination of an ongoing performance management process. The Performance Development and Feedback forms have been adopted by the District to aid supervisors in conducting this important responsibility.

Before completing the form(s), there are several steps that need to first be completed. They include the following:

- (1) Review and update the employee's job description for accuracy and thoroughness;
- (2) Review any notes you have made after the last performance review;
- (3) Review the employee's personnel file for any documentation you may not have;
- (4) Review the performance standards/goals established for the employee's position. Note any changes to established performance standards/goals in preparations for the next review period;
- (5) Upon notification from the Human Resources Management Department that an employee's review is due (about six weeks before the scheduled review date), send the employee a Self-Appraisal form and send an appropriate number of Peer Reviews to the employee's co-workers and internal customers. Self-appraisals and Peer Reviews are to be completed strictly on a voluntary basis and should not be allowed to delay submittal of the employee's review by the scheduled review date;
- (6) If an employee submits a self-appraisal, a meeting may be scheduled to discuss and clarify any information provided. Keep in mind that this is not the formal appraisal, but an opportunity to gather valuable information from the employee about the job and issues important to the employee;
- (7) Supervisors receive a "Supplemental" Performance Development and Feedback evaluation designed specifically for Supervisors along with their regular "Short Form" evaluation.
- (8) Adapt the appraisal to the employee's position. Although additional performance dimensions, such as "Confidentiality," may be added to the "Short Form," all District employees are to be evaluated on all the performance dimensions currently listed on the "Short Form."
- (9) If additional performance dimensions are critical to the employee's position, add them to the "Short Form."
- (10) A list of performance dimensions and their associated behavioral anchors may be drawn from the "Resource Form" provided by the Human Resources/Risk Management Department. If you wish, you may use the "Resource Form" for your employee evaluations.

d. Preparing the Draft Appraisal

After you have completed these preliminary steps, prepare a rough draft of the Performance Development and Feedback form. Keep the following points in mind as you begin your draft:

- (1) On the form, check the appropriate box under each characteristic. In the "comments" section, list specific details that apply to that characteristic. Note the following:
  - (a) The positive points regarding the employee's performance;
  - (b) Areas of deficiency in the employee's performance;
  - (c) The stated performance standards/goals in the last review and comparisons with their attainment;
  - (d) Specific examples of performance (both positive and negative);
  - (e) Specific ways assistance can be given to the employee in order to achieve improvement and growth;
  - (f) Follow-up action that will be taken in order to assist the employee with his goals and the District's goals for this person; and
  - (g) Summary of the employee's strengths and employee training needs.
- (2) All reviews must include an Individual Development Plan identifying specific job related goals and timetables established for the employee's position and specific actions the supervisor and employee will take to implement the plan.

e. Finalizing the Performance Appraisal

After you have completed the appraisal form(s), take the following actions:

- (1) Have your department head preview the draft appraisal before meeting with the employee (Department directors are excluded from this requirement.) The department head is responsible for ensuring that the performance standards/goals being set are appropriate for the position and are in line with department and District objectives. The department head is also responsible to ensure that all appraisals are being prepared in an accurate, consistent and legal manner. The department head is not to sign the appraisal until after you have met with the employee and have finalized the document(s).

- (2) Give the draft appraisal to the employee at least 48 hours before the scheduled review date. Employees need this time to thoroughly review the appraisal and develop a response. When you present an appraisal to an employee, review the process you went through in developing the appraisal. Also indicate your willingness to revise the appraisal if the employee can show that performance ratings or comments warrant modification. The goal is to enhance communication between supervisors and employees. You may also wish to provide a copy of any proposed performance standards and ask the employee to prepare comments or suggestions regarding these standards/goals for the up-coming formal review meeting;
- (3) Schedule a one to one and one-half hour meeting with the employee in a conference room or private office away from interruptions. During this formal performance appraisal meeting, discuss the draft evaluation, proposed performance standards/goals and seek to gain agreement with the employee regarding his position's responsibilities, direction for the next review period and performance expectations;
- (4) After the meeting, incorporate any changes to the appraisal as agreed and get the employee's signature along with the signatures of the employee's department director and Deputy General Manager or Assistant General Manager;
- (5) Return all reviews to the Human Resources Management Department for processing.

f. Performance Appraisal Appeals Process

All employees are allowed at least 48 hours to review and comment on their performance appraisal before it is to be finalized.

- (1) The first step in the appeals process is the employee's opportunity to discuss any objections he has with the draft appraisal with the evaluator. This initial appeal occurs during the formal appraisal meeting. It is the employee's responsibility to provide information to the evaluator justifying any changes to the draft appraisal being sought.
- (2) The second step in the appeals process is for the employee to note in the comments section of the appraisal form any discrepancies the employee finds with the final appraisal.

NOTE: If the employee fails to comment on his performance appraisal or fails to request an appeal within 15 calendar days after signing or being given an opportunity to sign the appraisal, further appeals will not be granted.

- (3) The third step in the appeals process is limited to employees below the level of department head. An employee may

submit an appeals request (with all back-up material attached) to his department head with a copy to the Human Resources/Risk Management Department. The department head will have 10 calendar days to review and investigate an appeal and prepare a written finding. The department head may authorize any changes to the appraisal deemed warranted.

The employee may immediately proceed to the fourth step in the appeals process if the department head is the employee's immediate supervisor; if the department head does not make a finding within 10 calendar days of receipt; or if the appeal is not resolved by the department head to the employee's satisfaction.

- (4) The fourth and final step in the appeals process is for the employee to submit a copy of the appeals request and related back-up material to his Deputy General Manager or Assistant General Manager. If the employee's department reports directly to the executive branch, the appeal should be submitted to the General Manager or designee. The General Manager, Deputy General Manager or Assistant General Manager must render a decision within 5 working days. This decision is final.

g. Performance Pay - Policy and Procedure

- (1) Policy - It is the policy of Eastern Municipal Water District to conduct regular annual performance reviews with all employees. These performance reviews will be coordinated with a pay for performance award system to recognize employee performance. The award will be linked to the overall evaluation rating received by the employee at his or her annual performance review.

Our reason for establishing a pay for performance system is to encourage operational and administrative excellence, and achievement of Individual Development Plan goals. One goal of the District's compensation philosophy is to maintain a compensation plan that provides a framework for rewarding performance based upon a sound evaluation system. The pay for performance system is the mechanism to accomplish this goal.

This plan will be reevaluated periodically to ensure its applicability. These reviews will be to determine the effectiveness of the pay for performance system, and whether it should be continued, modified, or discontinued. The District will meet its legal obligation to meet and confer on any proposed modification or discontinuance of the pay for performance program.

- (2) Procedure - All employees with regular employment status including regular part-time employees and employees

successfully completing their initial probationary period, are eligible for one of the following types of performance pay:

- (a) A merit step increase of either one or two steps is available for all employees below the control point for their classification's salary range and below range 97.
- (b) A one-time lump sum payment not to exceed 10 percent of the employee's control point is available for all employees who have reached their control point and are rated very good to excellent on their current performance review. See Section 4.0, "Assignment of Overall Performance Ratings". (Note: Employees over their control point are eligible for a one-time lump sum payment up to their range's maximum and are also eligible for negotiated salary or "cost of living" adjustments in the form of a lump sum payment. Part-time employees' lump sum payments will be prorated based on their percentage of time worked during their 12-month review period.)
- (c) Employees on open ranges are eligible for merit increases up to the control point of their salary range. Open ranges include range 97 and above. These employees are eligible for lump sum payments after reaching their control point up to the maximum of their range. It is expected that the matrix found in Section 4.0 will be used as a guideline in awarding merit pay or lump sum payments.
- (d) The size of the merit increase will depend on the employee's overall performance rating as determined by the employee's immediate supervisor and department head. See Section 4.0, "Assignment of Overall Performance Ratings." Although this section does not apply to employees on range 97 or above, it does apply to employees below range 97 who are below their control point. These employees are eligible for a one step (2.5 percent) salary increase for good performance and a two step (5.0 percent) salary increase for very good or excellent performance. (Exception: If an employee on step nine of a salary range earns a performance rating of very good or better, the employee will advance 2.5 percent to the control point and receive a 2.5 percent one-time lump sum performance payment.)
- (e) Employees who are rated very good to excellent on their current performance review and who are on or above the control point for their salary range are eligible for a one-time lump sum payment following their annual performance review. See Section 4.0 "Assignment of Overall Performance Ratings"

- (f) At the discretion of the Board of Directors, all pending and future lump sum payments may be reduced or discontinued indefinitely based on a finding of financial necessity. A finding of financial necessity requires a Board minute order and may be made to avoid or reduce the impact of a potential reduction in force.
- (3) Performance Plan Year - The performance period for all employees will coincide with their annual review period. Three months, six months or other performance appraisal periods will not be linked to either a step increase or a lump sum performance payment.
- (4) Assignments of Overall Performance Ratings - As noted in Procedure, the following matrix (see next page) applies to all employees below range 97. For employees on or above range 97, this matrix is expected to be used as a guideline in awarding merit pay or lump sum payments.

OVERALL PERFORMANCE RATING	EMPLOYEES BELOW THE CONTROL POINT	EMPLOYEES WHO HAVE REACHED THE CONTROL POINT <b>SUSPENDED UNTIL 6/30/2010</b>
Improvement Essential	0% No step increase allowed	0% Ineligible for lump sum payment.
Improvement Desired	0% No step increase allowed	0% Ineligible for lump sum payment.
Good	2.5% or one step increase	0% Ineligible for lump sum payment.
Very Good	5.0% or two step increase	Up to a 5.0% lump sum payment.
Excellent	5.0% or two step increase	Up to a 10.0% lump sum payment.

The Performance Management System outlined above is to be followed by all individuals responsible for completing performance appraisals. Part of this system calls for supervisors to supplement their knowledge and critical incident records of an employee's job performance with self-appraisals and peer reviews. An employee's internal or external customers are also a good source of job related performance information, and can be asked to complete a peer review form.

These forms can be obtained from the Human Resources/Risk Management Department and should be sent out as soon as the Human Resources/Risk Management Department notifies supervisors that a performance appraisal is due. Supervisors should give those individuals completing self-appraisals and peer review forms two to three weeks to return completed forms. If a supervisor does not receive these forms in a timely manner, the

supervisor is still responsible for completing the employee's appraisal by the date indicated on the appraisal form.

- (5) Ratings Distributions - District-wide guidelines for rating distributions are that approximately 35 percent of all staff will be rated as very good or excellent; 50 percent will be rated as good and the remaining 15 percent will be rated as improvement desired or improvement essential. These reference points are not intended to be applied as formula to control or dictate actual rating distributions. By the same token, it is incumbent upon the rating manager and the Human Resources/Risk Management Department to scrutinize rating distributions for extremes (e.g., 50 percent of eligible employees rated as excellent, or 30 percent rated as improvement essential.)

Human Resources/Risk Management (HRM) will review ratings to identify compliance with the Performance Pay policy, and to evaluate the ratings for adverse impact on protected groups. All ratings and proposed merit increases or lump sum awards are subject to the approval of the General Manager or designee.

- (6) Negotiated Salary Increases - The timing and amounts of negotiated salary increases or "cost of living adjustments" are determined by MOU provision of the District's labor contract. The authorization to implement these agreements is subject to approval by the Board of Directors. The payment of approved negotiated salary increases is independent of performance.

- (7) Appeals Process - The existing Performance Appraisal Appeals Process found in Ordinance 30, as amended, Section 5.A.,6.f, will be used to resolve disputes arising from performance evaluations and the application of this policy. However, the results of the initial implementation of the classification and compensation agreement are not subject to appeal. Employees who have exhausted the Performance Appraisal Appeals Process and remain unsatisfied with the outcome may appeal qualified performance awards in writing to the Grievance Review Committee. Qualified performance awards are defined as lump sum payments of less than 5 percent.

When using the Grievance Review Committee, Section 6.G.8, of the M.O.U., Steps in the Grievance Procedure, will apply commencing with Step 3. Disputed lump sum payments will be capped at 5 percent above the employee's control point. However, the General Manager or designee has the option to increase or decrease disputed awards. The District will not be responsible for any interest payments or other adjustments because of delays in payment resulting from an appeal.

7. Uniforms and Grooming

Employees shall be identified in a manner and form prescribed by the General Manager or designee. Field personnel designated by the General Manager or designee shall be furnished uniforms, at the expense of the District, which identify them as employees of Eastern Municipal Water District. District furnished uniforms are to be worn only during an employee's District related working hours; such uniforms are not to be worn while engaging in any non-District related activities. Hair is to be maintained in a neat and safe manner, in a style, which will permit the safe use of hard hats as necessary. Also, if an employee's duties might require his presence in the proximity of rotating or reciprocating moving parts of machinery, hair shall be cut or safely controlled to avoid the possibility of it becoming tangled in such equipment. Employees with beards who are required to wear respirators in the course of performing their duties may be required to shave off the beard to assure that the respirator will fit properly and provide a tight seal. The Uniform Policy can be found as an attachment to this Ordinance.

8. Firearms

Employees are expressly forbidden, for any reason, from carrying firearms of any kind on their person or in their vehicles, whether District-owned or private, while traveling on District business or on the District premises, without the express written approval of the General Manager or designee, and then only during an emergency situation. Employees hired as District Security Guards may be authorized to carry firearms upon the written approval of the General Manager or designee.

9. Voluntary Service Organizations

Employees belonging to voluntary service organizations such as the Sheriff's Posse, Volunteer Firemen, Search and Rescue Squad, Red Cross, etc., may use vacation, floating holidays, or Leave of Absence Without Pay, when they are performing duties provided by such voluntary services and shall obtain the approval of their supervisor or department head prior to leaving their District responsibilities.

10. Tobacco Product Use Policy

The health and rights of all Eastern Municipal Water District employees and the public are to be protected from unhealthful conditions.

a. Tobacco Product Use Prohibitions

- (1) Tobacco product use is prohibited and/or "No Smoking" signs will be posted in all District owned or leased buildings and vehicles including but not limited to:

- Public Hearing Rooms and Chambers
- Restroom
- Public lobbies/hallways
- Conference rooms
- Common walk areas

Lunchrooms/Break rooms  
Common work areas

- (2) For the purpose of this policy “tobacco product use” includes any use of any tobacco product such as cigarette, cigar, chewing tobacco, or pipe.

b. Branch/Departmental Responsibilities

Each department director and his respective Assistant General Manager or Deputy General Manager is responsible for enforcing the above tobacco product use prohibitions and restrictions for areas within their jurisdiction. Violation of this policy will be handled as any other violation of a District policy, rule or procedure in accordance with Ordinance No. 30, as amended.

11. Verbal Abuse Policy

It is the policy of the District that no District employee is required, under any circumstances, to be subjected to verbal abuse. It is not the responsibility of any employee to continue a verbally abusive conversation with anyone. For the purposes of this policy, verbal abuse is defined as a personally degrading verbal attack, an attack which addresses the individual rather than the problem at hand. Verbal abuse often takes the form of threats, racial remarks, sexual innuendo, profanity and many other personally degrading comments.

Guidelines:

- a. Tell the other party that you are interested in their problem but will continue the conversation only if they'll address the issue and stop making personal attacks.
- b. If the verbal abuse continues, you are encouraged to refer the person to your supervisor.
- c. If the person is a co-worker or your supervisor, tell him that you are willing to work with him but you will end the conversation if he doesn't address the issue in a professional manner.
- d. If the person continues to verbally attack you, there are a number of actions employees are authorized to take. For example, if you are being verbally abused over the phone by a customer and there is no one available to transfer the call to, you can terminate the call and just hang up. If the other party is in your presence, just walk away.
- e. If you are concerned that you are in any physical danger, leave the area immediately.
- f. Immediately report all cases of verbal abuse, in writing, to your supervisor, department head, or Assistant General Manager or Deputy General Manager.

- g. Do not attempt to counter verbal abuse by engaging in it yourself. That only escalates the problem. Use courtesy and common sense when dealing with others who are abusive.

B. Working Hours, and Overtime

1. Policy

It is the policy of the Eastern Municipal Water District that overtime work is discouraged; that each department head arrange the work of his department so Full-Time Regular Employees shall normally work not more than forty (40) hours per week; that overtime work be held to a minimum consistent with the efficient performance of necessary functions meeting emergencies and/or when temporarily using employees on an overtime basis can be shown to be more economical than employing additional personnel or contract assistance.

2. Work Period and Overtime Defined

The normal work period for each Full-Time Regular Employee shall consist, for all computing purposes, of a basic forty (40) hour work week with Part-Time positions being prorated as fractions thereof. The General Manager or designee is authorized to establish longer or different work periods for the performance of specified functions or as applied to a particular employee or a group of employees but all work performed in excess of each employee's normally scheduled daily shift of eight, nine, or ten hours, or more than 40 hours in a seven-day work period shall be overtime work. Work shall be reported in increments of not less than one-half (1/2) hour.

3. Extended Overtime Work

Full-Time, non-exempt employees unexpectedly required to work beyond the normal work shift shall be paid at the rate of one and one-half (1-1/2) times the employee's regular rate of pay for the additional hours worked. Non-exempt employees may choose to receive compensatory time off calculated on the same basis as paid overtime in lieu of paid overtime as long as the employees total accrued compensatory time off hours does not exceed 40 hours. Accrued compensatory time shall be taken with the approval of the department head at such times as will not impair the work schedule or efficiency of the department. Accrued compensatory time off must be used before accrued vacation hours are used.

4. Authorization for Overtime Work

All overtime work must be authorized in advance by the General Manager, Deputy General Manager or Assistant General Manager, the involved employee's department head, or such department head's designee. Each department head shall be required to keep a record of actual hours of overtime worked by his employees, with justification for each instance.

5. Reporting Overtime

Total hours of recorded authorized overtime for each pay period for each employee shall be reported on time cards or time sheets. All overtime

worked should be reported as the actual hours worked and the Finance Department will make all required time-and-one-half calculations.

6. Compensation

Compensation for overtime shall be as specified under Section 4.M, Definitions, of this Ordinance for non-exempt employees.

7. Fringe Benefits Not Affected by Overtime

Overtime work shall not be a basis for increasing vacation or sick leave benefits, nor shall it be a basis for advancing completion of required periods for probation or salary step adjustment.

C. On-The-Job Injury or Illness

Employees with District job related injuries or illnesses, as evidenced by acceptance of their claim by and receipt of payments from the District's workers' compensation insurance carrier, shall be paid the difference between their regular pay and the amount of such workers' compensation insurance payments by the District. Such District payments may not exceed 90 cumulative days in any 12-month period for any one injury or illness. Employees will not receive overtime pay for Workers' Compensation appointments that extend beyond their normal work hours. Such payments by the District shall continue until such employee returns to work or qualifies; through the expiration of the three month elimination period associated with the District's Long-Term Disability Program whichever occurs first. In the event such three month elimination period, for the District's Long Term Disability Program expires and the employee is still unable to return to work, such payments by the District shall cease and the employee shall begin receiving benefits under the District's Long-Term Disability Insurance Program. During the time an employee is not receiving a District payroll check, contributions to PERS and Security Trust will cease until employee is back on the District's payroll. The payments made by the District under this Section shall be in addition to all other sick leave benefits provided by the District. Accordingly, such payments hereunder shall not be charged against employee's accrued unused sick leave and/or vacation balances. There shall be no accrual of sick leave or vacation credit during the time such employee is receiving sick leave benefits under this Section or recurring benefits under the District's Long-Term Disability Program. The net amount of the sick leave payments which the employee will receive from the District pursuant to this Section shall be the involved employee's regular salary less: (1) the amount of workers' compensation insurance payment received; (2) mandatory payroll deduction including Federal and State withholding tax, and Public Employees' Retirement System contributions; and (3) payroll deductions which the employee has previously authorized in writing.

D. Off-The-Job Injury or Illness

Regular status and Probationary status (after two months of continuous employment) Full-Time and Part-Time (30 or more hours a week) employees who become disabled as a result of a non-work-related injury or illness, including pregnancy, childbirth or related medical conditions, may use their available compensatory time off, vacation, sick leave, or floating holidays during the three month elimination period associated with the District's Long-Term Disability Program.

E. Employee Discipline

1. Policy

a. General Guidelines

It is the policy of Eastern Municipal Water District to maintain an atmosphere of positive motivation and discipline with its employees; to treat all employees fairly; and to administer disciplinary action, when necessary, in a manner that is both fair and corrective.

All employees are expected to conduct themselves in a positive and professional manner in performing their jobs and in their relationships with other employees.

Occasionally situations may arise where individual behavior or work performance does not meet the District's standards as defined in Ordinance 30, as amended. Such situations require that supervisors take necessary action to correct the problem at hand. Such corrective discipline will normally be handled on a progressive basis.

Progressive discipline may include, where appropriate, counseling, oral reprimands, written reprimands, suspension, reduction in pay, demotion, or discharge.

All incidents of employee counseling and verbal reprimands must be documented with a copy to the supervisor's file. All instances of written reprimands, suspensions, reduction in pay, demotions, or discharges will be a part of the employee's personnel file maintained in the Human Resources/Risk Management Department. The employee must sign and receive a copy of the documented disciplinary action. If the employee refuses to sign the disciplinary action, that fact should be noted in writing by the supervisor.

All written notices of proposed disciplinary action (i.e., suspension without pay, reduction in pay, demotion or discharge) will be prepared by the Human Resources/Risk Management Department with final approval by the employee's department head, Assistant General Manager, Deputy General Manager or General Manager. All forms of formal discipline (i.e., written reprimands, suspensions, reductions in pay, demotions, and discharges) must be reviewed by the Director of Human Resources/Risk Management, or designee, before being given to the employee.

All written orders of disciplinary action (i.e., suspension without pay, reduction in pay, demotion or discharge) will be prepared by the Human Resources/Risk Management Department with final approval by the General Manager or designee.

At any point in the progressive discipline process the employee may be represented by anyone of his choosing (i.e., union representative, attorney, another employee, etc.). During any of the progressive discipline steps should an employee request representation; the meeting should be suspended and rescheduled at the earliest time the employee's representation is available.

With the exception of department directors hired subject to an at-will agreement, the Deputy General Manager, Assistant General Managers, and the General Manager, all employees with regular status are subject to the disciplinary procedures contained in this policy.

Employees working in a temporary or initial probationary status may be discharged, demoted, or otherwise disciplined without right to review or appeal at any time, without cause.

This policy shall be implemented through the procedures and specific guidelines, which follow:

b. Corrective Discipline

- (1) Disciplinary actions shall be appropriate to the infraction.
- (2) Implementation of discipline to be successful should be:
  - (a) Prompt - initiate personnel investigation within 24 hours in most situations.
  - (b) Impartial - all employees should be treated fairly.
  - (c) Consistent - similar offenses should be treated in a similar manner.
  - (d) Fair - with regard to employee's past record and responsibilities.
  - (e) Corrective - intent should be to prevent future problems
  - (f) Given with Advance Warning - employees should know that specific actions or omissions will result in disciplinary action up to and including discharge.
  - (g) Followed Through - enforcement is consistent.
- (3) Key Factors in Analyzing Disciplinary Problems:
  - (a) Seriousness of the problem
  - (b) Length of employment
  - (c) Frequency and nature of the problem
  - (d) Employee's work history
  - (e) Mitigating factors

- (f) Degree of orientation, training, or experience previously provided the employee
- (g) Existing disciplinary practices and guidelines
- (h) Implications for other employees
- (i) Management policies
- (j) Safety implications for other employees and/or the general public

c. Common Offenses

Disciplinary action shall be commensurate with the seriousness of the offense and be based upon any of the following:

- (1) Non-approved leave - An individual being absent from the work place without proper authorization for a period of time less than the normal work day.
- (2) Non-approved absence without leave - Being absent from the workplace without proper authorization for a full workday or shift. Each such absence shall be considered a separate offense.
- (3) Discourtesy to the public, a supervisor, or another employee- Verbal or physical conduct that displays or exhibits a lack of respect to members of the public, a supervisor or another employee.
- (4) Failure to follow directions or procedures - Failure of an individual to follow a specific direction given or a known and routine procedure in the course of his duties without willful intent where such direction or procedures involve minor or routine matters.
- (5) Failure to perform assigned work - The failure to perform work assigned or required in the accomplishment of job duties in a timely manner.
- (6) Improper political activity - Use of District time or materials to promote a specific political position or candidate.
- (7) Loss of minor equipment through neglect - To misplace or lose minor District equipment through negligence or lack of safeguarding same. Minor equipment is defined as that equipment valued at \$999.99 or less
- (8) Misuse of District time - The use of District time for activities inappropriate in the work place (i.e., horseplay, loafing, creating disruption between employees, etc.)
- (9) Misuse or damage of District property or equipment - The use of District property or equipment for purposes not intended, or in such a manner for which the equipment is not designed, or which is unsafe; or damage to property or equipment due to negligence.

- (10) Conducting non-District related activities on District time - The conduct of non-District related activities on District time to the extent it interferes with the performance of assigned duties.
- (11) Tardiness - Failure to report to work or return from breaks or meals at scheduled times.
- (12) Untruthfulness - Providing false information or withholding accurate and complete information from a supervisor when such information would be routinely provided as a function of normal job duties or as specifically requested.
- (13) Possession of an open alcoholic beverage container or use during the working hours - The possession of an open alcoholic beverage container or use of alcohol during working hours or on District property.
- (14) Violation of District rules and regulations, policies, and procedures except for unauthorized use of District vehicles - See District policies, rules, and ordinances for specifics.
- (15) Violation of federal, state or local laws - The conviction of minor infractions and misdemeanors committed while on duty.
- (16) Chronic absenteeism/tardiness - Frequent and continuous unscheduled absences of an individual for reasons other than absences resulting from on-the-job injuries, where such continuous absences substantially reduce the reliability and dependability of the individual to perform his assigned duties, and where they exceed the established standards of the organization.
- (17) Conviction of an act defined as a felony - To be convicted of committing an act which is defined as a felony under the laws of the State of California or the United States. The nature of the conviction would determine the appropriate disciplinary action.
- (18) Conviction of an act defined as a misdemeanor involving moral turpitude - To be convicted of an act which is defined as a misdemeanor involving moral turpitude under the laws of the State of California or the United States. The nature of the conviction would determine the appropriate disciplinary action.
- (19) Falsifying official reports - An intentional presentation of inaccurate, incomplete, or false data on any report or other work product. Those reports which have a legal status (i.e., police reports, official statements, etc.) shall be considered a more serious category within this offense.

- (20) Fraud in securing and/or maintaining employment - To falsify any information provided or to be misleading by the information provided, including omissions, in an attempt to gain, secure, or maintain employment with Eastern Municipal Water District.
- (21) Illegal drug possession or use - The possession or use of any illegal drug.
- (22) Selling or dispersion of drugs - The attempt, intent, or actual sale or dispersion of drugs to another individual.
- (23) Working under the influence of an intoxicating substance - Being on District property or operating District vehicles or equipment while under the influence of an intoxicating substance, which includes but is not limited to, alcohol or any other drug, glue, paint thinner, etc., which causes substantial impairment of motor or mental abilities.
- (24) Improper conduct toward the public - To act in an insulting, provocative, intimidating or flagrantly discourteous manner toward any member of the public.
- (25) Inexcusable neglect of duty - To perform a duty or act in a negligent manner or to fail to perform assigned or known duties and obligations which are critical in nature.
- (26) Insubordination - Actions by an individual which clearly and obviously indicate a resistance or defiance of a Supervisor's authority or clearly treat the Supervisor with disrespect, including the use of obscene or threatening language or acting in a violent or intimidating manner.
- (27) Loss of major equipment through neglect - Loss of major equipment through a negligent act or failure to safeguard said equipment. Major equipment is defined as that equipment valued at \$1000 or more.
- (28) Physical assault or battery - To physically intimidate or attack another individual through the use or intended use of force.
- (29) Sexual harassment - (See District Policy Statement)
- (30) Theft - The theft of District property or property of another individual.
- (31) Willful disobedience - The intentional and willful failure of an individual to follow specific verbal or written directions or instructions of a supervisor.
- (32) Vehicle Accident - A vehicle accident involving District equipment in which the investigating law enforcement agency determines the employee was at fault, and where the resulting damage was minor or major in nature

- (33) Violation of a District safety regulation - The violation of any of the regulations specified in the EMWD Safety Ordinance 49, as amended.
- (34) Violation of traffic laws - See Ordinance No. 49, as amended.
- (35) At fault major accident including driver or second party injury-  
Same as (32), but the accident results in injury.
- (36) Carelessness or neglect that results in a safety or health hazard to another employee or the public.
- (37) Failure to carry out responsibilities and/or authority as set forth in Safety Ordinance - Any inappropriate action or failure to act in accordance with an employee's responsibilities and/or authority as set forth in the EMWD Safety Ordinance 49, as amended.
- (38) Failure to maintain minimum job requirements - The failure to maintain required skills, abilities and certifications as stipulated in official District job description for the employee's classification.
- (39) Incompetence - The inability to meet the standards of performance established for the position held due to lack of skill, knowledge, or ability.
- (40) Physical or mental disability - The presence of some physical or mental disability, as determined by an authorized medical physician, that prohibits or interferes with an individual's ability to successfully achieve the established standards of job performance or to perform the essential duties of the position. Based on the employee's disability, full consideration will be given by the District to reasonably accommodate the employee.

d. Types of Disciplinary Actions

- (1) Counseling
- (2) Oral Reprimand
- (3) Written Reprimand
- (4) Suspension Without Pay for 5 days or Less
- (5) Suspension without Pay in Excess of 5 Days
- (6) Reduction in Pay
- (7) Demotion
- (8) Discharge

2. Procedural Guidelines for Disciplinary Actions

Disciplinary action involving counseling, oral reprimand, or written reprimand does not require that the employee be given a right to a hearing but, nevertheless, the employee is entitled to be apprised of the action, given the reasons for that action, given a copy of any supporting documentation, and

given a meaningful chance to respond to the action, either orally or in writing, by explaining his side of the story.

a. Informal Discipline

- (1) Counseling - This step in the progressive disciplinary process includes any informal discussion with an employee designed to assist the employee to fully develop skills and abilities. When there is a disciplinary problem, counseling is usually the first action taken to assist the employee in clarifying and resolving the problem. The discussion may clarify standards, evaluate the employee's strengths and weaknesses, or seek information. It is especially important that this step be taken promptly to avoid the need to escalate the disciplinary action.

Counseling is usually done by the immediate supervisor, but may be done by any departmental supervisory staff up to and including the department head. At any point in the progressive disciplinary process should the employee request representation, the meeting should be suspended and rescheduled at the earliest time the employee's representation is available.

(a) The Counseling Interview

(i) Before the interview

- aa. Investigate the incident or situation. Be sure you have all the facts.
- bb. Arrange to talk to the employee in private.

(ii) During the interview

- aa. Specifically state the problem and the required change in performance.
- bb. Give the employee a chance to respond, and listen to what the employee has to say.

(iii) After the interview

- aa. Document that a counseling interview has taken place. The documentation should include the time, date, and the contents of the interview. The written summary of the interview is to be retained by the department in the supervisor's file.

No record is placed in the employee's permanent personnel file. The employee should sign and be given a copy for his information (See sample).

(iv) Follow-up to the interview

- aa. If the employee corrects the situation or if there is no recurrence of the problem, be sure to acknowledge that fact to the employee.
- bb. If there is a recurrence, or the problem persists, you may try additional counseling sessions or proceed to an oral reprimand.

- (2) Oral Reprimand - Oral reprimands should be given by supervisors when counseling has failed to produce the desired changes. The supervisor should follow the same procedures as in the counseling interview, but must also inform the employee that an oral reprimand is being given.

An oral reprimand may be given by the immediate supervisor or any departmental supervisory staff up to and including the department head.

(a) The Oral Reprimand

(i) Before the meeting

- aa. Investigate the situation or problem. Be sure you have all the facts.
- bb. Review the situation and the employee's record to make sure the action you are taking is appropriate.

(ii) During the meeting

- aa. Specifically state the problem and what must be done to correct it.
- bb. Ask for the employee's comments, and listen to the responses.
- cc. Let the employee know the consequences if the problem continues or recurs.
- dd. Advise the employee that for record keeping only, you are making a brief notation of the meeting, including the employee's responses, if any, and the record will be retained in the supervisor's file. (See sample)

(iii) After the meeting

- aa. If the employee corrects the situation or if there is no recurrence of the problem, be sure to acknowledge that fact to the employee.
- bb. If there is a recurrence, or the problem persists, you must either issue another oral reprimand or proceed to a written reprimand.

(iv) Disposition of the oral reprimand

- aa. A copy is given to the employee.
- bb. A copy is retained in the supervisor's file.

b. Formal Discipline

- (1) Written Reprimand - If counseling and oral reprimands have failed to resolve a problem, a written reprimand is the next step in progressive disciplinary action.

A written reprimand is a formal notice to the employee that further disciplinary action may be taken unless performance or behavior improves.

A written reprimand may be presented by any supervisor up to and including the department head.

(a) The Written Reprimand

(i) Writing the reprimand (See sample)

aa. The contents of the written reprimand are essentially the same as that of the oral reprimand. The employee is advised in writing of the consequences of failing to improve performance or behavior. The reprimand should contain the following:

- What occurred.
- Date and time.
- Specific rule or policy broken or violated.
- Reference to previous conversations and oral reprimands regarding the problem.
- What the employee is directed to do to correct the situation. Be specific, and give a definite time limit if appropriate.

(ii) Before the meeting

- aa. Investigate the incident, review notes, oral reprimands, and other essential materials.
- bb. Make a short agenda of the meeting.
- cc. Arrange to speak to the employee in private.
- dd. Advise the employee that the intent of the meeting is for the purpose of disciplinary action.

(iii) During the meeting

- aa. Review previous counseling and oral reprimands.
- bb. Present the written reprimand.
- cc. Specifically state the problem and the required change in performance.
- dd. Provide an opportunity for the employee to respond.
- ee. Unless the explanation indicates otherwise, state that a written reprimand will be placed in the employee's file in the Department of Human Resources Management.
- ff. Confirm that the employee understands the required changes.
- gg. State that failure to improve may result in more serious disciplinary action, up to and including discharge.
- hh. Give the employee an opportunity to review the reprimand and to sign or initial indicating he has seen it, and to file a written response to the charges within a reasonable time.

(iv) Disposition of the Written Reprimand

- aa. A copy is given to the employee.
- bb. A copy is retained by the supervisor.
- cc. A copy is filed in the employee's permanent personnel file in the Human Resources Management Department, along with any written response filed by the employee.

c. Due Process

Discipline as set forth below, which is punitive in nature or may result in financial detriment to the employee requires that due process be observed before the action is taken. Due process requires that the employee be given notice of the proposed action, be given a copy of the charges or reasons upon which the proposed action is based, be given copies of any written materials supporting the charges, and be advised of his right to a meeting with his Deputy General Manager or Assistant General Manager on the charges/reasons before the action is taken. It should be noted, however, that an employee may be suspended with pay at the time a Notice of Proposed Disciplinary Action (as set forth below) is delivered to him and that said suspension may remain in effect pending completion of the disciplinary proceeding. The following are considered to be the forms of discipline requiring due process:

- (1) Suspension Without Pay - This form of discipline normally would be the next step where counseling and reprimands have failed to achieve correction of unacceptable behavior, although it may be used as a first form of discipline for some offenses. This action shall only be initiated upon the

department head's review and approval in consultation with the Director of Human Resources or designee. An employee may be put on Administrative Leave with pay where the employee's continued presence constitutes a danger to the safety of the employee or others in the opinion of his supervisor or in the opinion of any superior in the chain of command above his supervisor.

(a) Procedure

(i) Before Suspension

- aa. Investigate the incident or situation. Be sure of all the facts.
- bb. Review the action you are taking to make sure it is appropriate to the situation.
- cc. Discuss the recommendation and the reasons for it with your immediate supervisor.

(ii) Preparation of the Notice of Suspension Without Pay

- aa. State the duration and the effective dates of the suspension, including starting and ending dates and times.
- bb. State the reason for the proposed suspension. Be specific.
- cc. Give a summary of prior disciplinary action taken for the same or related offenses by the employee.
- dd. Advise the employee that he may respond within a reasonable period of time if it is felt the action is not appropriate.
- ee. Copies of any documents, which support the proposed action, must be attached to the Notice of Proposed Suspension Without Pay.

(iii) Distribution of the Notice

- aa. The original signed Notice of Proposed Suspension Without Pay shall be hand delivered by the Department of Human Resources/Risk Management to the employee and the date and time of delivery noted on the copy which shall be signed by the employee, signed by the person delivering the original and retained by the Human Resources/Risk Management Department. If personal delivery on the employee cannot be obtained for any reason, the Notice should be sent

by certified mail with a request for return receipt made.

bb. The copy of the Notice shall be placed in the employee's personnel file.

- (2) Demotion or Reduction in Pay - Demotion to a position with a lower salary range or a reduction in pay to a lower paying salary step shall be used primarily in response to an employee's failure to maintain minimum job requirements, incompetence or an inability to perform the essential duties of a position. It may also be used, however, for any form of misconduct; such action shall only be proposed after review and approval by the employee's department head in consultation with the Director of Human Resources/Risk Management, or designee, and finalized as a written order of discipline approved by the General Manager or designee.
- (3) Discharge - Action to permanently terminate an employee's employment with the District shall only be proposed after review and approval by the employee's department head in consultation with the Director of Human Resources/Risk Management, or designee, and finalized as a written order of discipline approved by the General Manager or designee.
- (4) Pre-Disciplinary Due Process - When a recommendation that discipline of a punitive nature or that will or may result in financial detriment to the employee be imposed has been approved by the employee's department head, Deputy General Manager, Assistant General Manager, or General Manager, Notice of Proposed Disciplinary Action shall be prepared and delivered to the employee at least five (5) working days (counting the day of delivery as the first day) before the proposed disciplinary action will become effective.
  - (a) Contents - The Notice of Proposed Disciplinary Action shall include the following information:
    - (i) A description of the disciplinary action proposed to be taken;
    - (ii) The date on which that action will become effective (if known) which shall be no sooner than the beginning of the sixth (6th) working day after delivery of the Notice, counting the day of delivery as the first day;
    - (iii) A statement of the charge(s) upon which the proposed action is based, including a reference to or description of the specific District rule or policy violated;
    - (iv) A statement that the employee has a right to meet with his Deputy General Manager, Assistant General Manager, or designee, to

respond to the charges either orally or in writing at any time before the proposed disciplinary action is to become effective if the employee feels the proposed action is not appropriate (this right is separate from the right to request a hearing); In cases where the employee's department head reports directly to the General Manager, the General Manager may designate an available Assistant General Manager or the Deputy General Manager to hear an employee's response to the charges.

(b) Order of Discipline - On the sixth day after Notice of Proposed Disciplinary Action is served, it will become effective unless the proposed action is modified or rescinded as a result of consideration of the employee's oral or written response per Subparagraph (iv.) above, if any:

(i) Contents - The Order of Disciplinary Action shall include the following information:

- aa. A description of the disciplinary action being taken;
- bb. The date on which that action will become effective;
- cc. A statement of the charge(s) upon which the proposed action is based, including a reference to or description of the specific District rule or policy violated;
- dd. A statement that the employee has the right to a hearing on the charge(s), exercisable by filing a written request for hearing, dated and signed by the employee, with the Department of Human Resources Management before 5:00 P.M. on the 5th working day after the Order is delivered to the employee (counting the day of delivery as the first day);
- ee. A statement that the employee requesting a hearing is entitled to be represented at the hearing by an attorney, by a Union Representative or by anyone else of his choosing;
- ff. A statement that in the absence of a timely written request for hearing, all rights to a hearing are waived.

(c) The Post-Disciplinary Hearing

(i) Voluntary Resignation - At any time during the disciplinary process, up until a Disciplinary

Review Committee hearing is held, the District will accept a written resignation from the employee. Once a Disciplinary Review Committee hearing has begun, the Notice of Decision will be final, and a voluntary resignation will not be accepted.

- (ii) Disciplinary Review Committee - The hearing shall be conducted by the Disciplinary Review Committee composed of two Assistant General Managers or their designees, and one union designated employee. The Assistant General Manager directly involved in the disciplinary action being heard by the Committee will be excluded and an alternative member not involved in the proposed action shall be designated by the remaining Disciplinary Review Committee members. The Director of Human Resources/Risk Management or designee will serve in an advisory capacity to the Committee in matters of procedure and will be in attendance at all hearings to ensure that the Committee's recommendations to the General Manager or designee are properly documented. When the parties are represented by legal counsel, the Committee may also have legal counsel to advise the Committee.
  
- (iii) Format for Hearing - The Hearing shall be closed to members of the public unless the employee requests that it be an open hearing. The Hearing shall be conducted in substantially the following manner:
  - aa. The case in support of the disciplinary action shall be first presented by the department head initiating the disciplinary action or his designated representative. The employee's case in response shall then be presented followed by rebuttal evidence on behalf of the District, if any, followed by surrebuttal evidence on behalf of the employee, if any; at that point, the matter will be deemed submitted for decision.
  - bb. Oral evidence shall be taken only on oath or affirmation;
  - cc. Each party shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct

examination, and to impeach any witness regardless of which party first called the witness to testify. The foregoing notwithstanding, if the employee does not testify on his own behalf, he may not be called and examined on behalf of the District.

- (iv) Committee Recommendation - After the case has been submitted and after examining the facts and weighing the responses from all parties involved, the Disciplinary Review Committee will, by majority vote, reach a decision and make a written recommendation to the General Manager or designee regarding the disciplinary action within two working days of the conclusion of the Hearing. Said recommendation may support the disciplinary action, recommend that said action be rescinded; the Committee cannot at that point recommend that a more severe form of discipline be imposed. Any member of the Disciplinary Review Committee not agreeing with the majority vote may write a dissenting opinion and submit that written opinion to the General Manager or designee, along with the committee's recommendation regarding the disciplinary action, within two working days of the conclusion of the hearing. The General Manager or designee shall make a determination after review of the recommendation and report submitted by the Disciplinary Review Committee within a reasonable period of time. The General Manager or designee may take any of the following actions after receiving the recommendations of the Disciplinary Review Committee: 1) He may follow the recommendation of the Disciplinary Review Committee; 2) He may refuse to follow said recommendation and uphold the Order of Discipline; or 3) He may modify the Disciplinary Review Committee's recommendation in any way that he determines to be warranted and does not impose a greater form of discipline than that found in the Order of Discipline.
  
- (v) Notice of Decision -The General Manager or designee will advise the Director of Human Resources/Risk Management, or designee, of the General Manager's or designee's decision, and the latter shall then prepare a

Notice of Findings and implement authorized changes, if any.

d. Emergencies

Under emergency circumstances, an employee may be removed or ordered from the work place without following the procedures for due process outlined above and be placed on administrative leave if in the opinion of the employee's department head or other superior officer, the continued presence of the employee gives rise to a risk of harm to the employee or to others. In such case, the employee's department head shall document the circumstances which give rise to said risk of harm. After the emergency has passed and in the event that disciplinary action against the employee is to be pursued, the guidelines for disciplinary action set forth above shall be followed.

e. Removal of Documentation Regarding Disciplinary Actions from Personnel File

An employee may request the removal of any and all documentation regarding disciplinary action from the employee's file by submitting a request for removal in writing to the Director of Human Resources/Risk Management. Such a request shall not be accepted until on or after the anniversary of the date disciplinary action was imposed.

The Director of Human Resources/Risk Management will review the request with the appropriate department head and Deputy General Manager or Assistant General Manager. The documentation relating to disciplinary action will only be removed from the employee's personnel file with the approval of the involved department head and Deputy General Manager or Assistant General Manager who shall make said decision after considering the age and severity of the discipline, subsequent recurrences of the misconduct, if any, and overall work performance and behavior.

3. Sample Memo and Reprimands

a. Sample Counseling Interview Memorandum

**(Used to clarify verbal agreements and possible behavior changes between a supervisor and an employee.)**

TO: Name of Employee  
FROM: Name of Supervisor  
SUBJECT: CONFERENCE OF (Date)

This is to summarize (and make a matter of record) our conference of above date.

- A. During the conference, the following items were discussed. **(These may later become charges.)**
1. **(Use the shortest possible description but be specific and complete.)**
  - 2.
- B. During the conference, you stated the following:
1. **(This paragraph is optional. Use it only if the employee makes statements significant to the issue. Do not use it to provide the employee with a written alibi.)**
  - 2.
- C. During the conference, I offered you the following assistance and guidance:
1. **(Be specific. If offering helpful control techniques, spell them out. Avoid generalizations.)**
  2. **(Include the names of publications given to the employee, opportunities to visit other locations to observe the work of others, and names of individuals who will assist the employee.)**
- D. During the conference you were directed to: **(use when necessary)**
- 1.
  - 2.

If this is not an accurate summary of our conference, please notify me in writing\* by (Date). If I do not hear from you, I shall assume the above to be an accurate summary of our conference.

**\*Be sure to give at least 3 or 4 working days for response.**

Signature \_\_\_\_\_ Date \_\_\_\_\_

b. Sample Letter Confirming Oral Reprimand

**(To provide both supervisor and employee with a permanent record of a specific violation. This does not become a part of the employee's permanent personnel file.)**

TO: (Employee)

FROM: (Supervisor or Manager)

SUBJECT: Confirmation of Verbal Reprimand

This memo will confirm our conversation of (Date), during which you received a verbal reprimand for (state the offense in a brief and concise manner).

**(Note: Provide background information of the specific incident(s); state what you discussed with the employee and what the employee has agreed to do to correct the situation. If time limits have been agreed to for certain actions, make sure they are included.**

**Make sure you state what the possible negative and positive consequences are if the action is not corrected.)**

Signature \_\_\_\_\_ Date \_\_\_\_\_

c. Written Reprimand

**EASTERN MUNICIPAL WATER DISTRICT**

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EMPLOYEE NAME \_\_\_\_\_

EMPL. NO. \_\_\_\_\_

DATE \_\_\_\_\_

Describe in detail the circumstances that necessitate this action:

Supervisor's Signature: \_\_\_\_\_

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

Has this issue been discussed with the employee previously?  YES <input type="checkbox"/> NO <input type="checkbox"/>	Date Counseled  _____	Date of Verbal Reprimand  _____
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Employee Response:

I have read this **REPRIMAND** and understand that additional **REPRIMANDS** of a similar nature may lead to further disciplinary action. I have received a copy of this report and my signature does not necessarily indicate agreement.

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

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

F. Reduction in Force Policy and Procedure

1. Policy Statement - It is the policy of Eastern Municipal Water District that reductions in force (RIF) will be pursued only in the event economic conditions result in inadequate funding to support existing staffing levels or reduced work loads that make existing staffing levels excessive. Further, a RIF will not be pursued until other methods of reducing operating costs and distributing workloads have been given careful consideration by the District. It is recognized that pursuant to Section 7 of the Memorandum of Understanding (MOU) the Board of Directors, through its duly authorized managerial employees has the unqualified right to impose a reduction in force, however, it will exercise that right in coordination and consultation with the formally recognized employee organization. Further, the determination of the Branch, number, and classifications of positions to be impacted by a RIF is a management prerogative and is not subject to the Grievance Procedure.
  
2. Notification - Whenever the General Manager or designee believes that a RIF will be necessary a RIF plan will be developed and submitted to the Board of Directors for approval. The RIF plan shall include justification for the necessity of the anticipated RIF, the anticipated number of positions, classifications, and seniority list of employees. The formally recognized employee organization affected shall be provided a copy of the RIF plan no less than thirty (30) days prior to the anticipated effective date of the RIF. Once the RIF plan is approved by the Board of Directors, affected employees shall be entitled to ten working days written notification prior to the RIF. Written notification to affected employees shall contain the following:
  - a. The employee's position is eliminated or he/she is being "bumped" due to exercise of seniority rights by another employee.
  - b. The affected employee's right to request to be "bumped" into a position for which they are qualified pursuant to 5.F.,3.g.
  - c. The affected employee's right to individually meet with a representative of the Human Resources/Risk Management (HRM) Department to clarify "bumping" options.
  - d. The affected employee has three working days from the date of their meeting with HRM in which to determine whether they chose to be separated or exercise their "bumping" rights.
  
3. Order of Reduction In Force
  - a. The General Manager or designee will determine the Branch to be affected by a reduction in force.
  - b. Before any reduction in the work force of regular employees occurs, all employees that have not completed their initial probationary period, temporary employees, and other individuals without regular status in affected classification/s within the affected Branch shall be separated.

- c. Reductions in force among regular employees shall be made on the basis of seniority determined by the employee's total length of regular District service. In the event a tie exists between two or more employees having the same length of service, employee's birth dates will be used to distinguish seniority. Employees with the oldest birth date will be considered to have greater seniority.
- d. Employees in 'Assignment to Vacant Higher Positions' who have regular status in a lower classification shall be returned to their former classification where they will be subject to RIF under provisions applicable to other employees in that classification.
- e. Once it is determined that a RIF may be necessary and the Branch is identified, Human Resources Management will determine the total length of District service, in days, including hours of paid leave, and up to 12 months of time off for Worker's Compensation, but excluding leave without pay that exceeds 14 consecutive calendar days, of each affected employee. A composite list of all affected employees will be prepared showing each affected employees length of District service in days. From the composite list, HRM will develop a seniority list by length of District service and Branch. This list will be distributed to the General Manager, Deputy General Manager or Assistant General Manager of the work division affected, and the formally recognized employee organization pursuant to the time frames stipulated in Section 5.F., 2., Notification.
- f. The Deputy General Manager or Assistant General Manager of the affected Branch(es) will then identify the number of positions by classification, and those employees affected by the RIF will be notified. Those employees with the least length of District service in the identified classifications will receive notification.
- g. If a regular employee receiving notification that he/she is affected by the RIF had regular status in an equivalent or lower level classification, and has greater seniority than others in the classification, return to the classification ("bumping") shall be approved. Affected employees may also bump into a lower classification, which is in the normal line of promotion for their classification if they have more District service than those employees (junior employees) holding the lower classification at that time. "Bumping" an incumbent employee in a lower class will only occur within the Branch of the affected RIFed employee exercising his/her "bumping" rights. Additionally, any vacant position for which the RIFed employee meets the minimum qualifications as stated in the job description shall be made available. The meaning of "Normal Line of Promotion" as used within Ordinance 30, as amended shall be consistent with the "Normal Line of Promotion" chart maintained by the Human Resources Department. This chart identifies a single column of classifications, organized by District Branch, which represents each position's normal line of promotion. Subject to the requirements of the meet and confer process, this chart will be amended from time to time to reflect classification and compensation adjustments.

- h. An employee who elects not to "bump" into any vacant position or filled position, thereby retaining their existing classification and position shall be separated.
- i. An employee being "bumped" will be provided the same "bumping" provisions stipulated in 5.F.,3.g.
- j. Because the "bumping" process is a sequential operation, and due to other factors affecting the timing of a reduction in force, it is anticipated that notices of RIF may be furnished to affected employees at different times, however, time frames established in Section 5.F.,.2. Notification pertaining to affected employees will be met.
- k. All affected employees receiving a notice of an impending RIF or "bump down" will be scheduled for an individual meeting with HRM to review his/her options for "bumping". The affected employee will then have three working days to notify HRM in writing whether he/she opts to be separated or to exercise "bumping" rights.
- l. HRM will provide the General Manager, the affected Deputy General Manager and/or Assistant General Manager(s), and formally recognized employee organization the names of those employees requesting to exercise their "bumping" rights.
- m. During the first two years following separation as a result of a RIF, separated employees will be given priority consideration for recall prior to all other applicants or other employees without regular status. Regular employees separated, as the result of a RIF shall be recalled only for positions appropriate to their skills and/or for positions for which they meet the minimum requirements as stated in the job description. Recall of affected employees from the reinstatement list will be in reverse order of separation.
- n. Each affected employee will be responsible for keeping HRM advised of his or her current home address and phone number. Upon notification of recall by telephone or certified mail, the employee is required to respond in person or in writing within six working days following notification of recall. Recalled employees will be required to report for work within thirty (30) calendar days following notification. Failure to comply with these requirements without appropriate explanation as to why requirements could not be met will result in the employee's name being stricken from the reinstatement list.
- o. HRM will maintain a list of all separated employees and provide a copy to the formally recognized employee organization.
- p. Prior to being reinstated, an affected employee will be required to submit to and pass a physical examination, including a drug screen and provide HRM with a copy of a current official driving record (DMV printout) that meets the District's insurance providers

standards for coverage. Results of the physical examination will be evaluated in terms of conditions that may have existed prior to the RIF and may not be automatically disqualifying.

- q. Reinstated employees will retain the seniority they had prior to being separated.
- r. Affected employees who have utilized tuition reimbursement, certification reimbursement, or scholarship funds in the previous 12 months will not be required to return those funds to the District.

4. Outplacement Assistance - Each employee to be separated as a result of a reduction in force will be provided counseling and training in career development, resume preparation and job search techniques. Assistance will be provided in the form of "one-on-one" counseling, work books, audio tapes, and other resources that will aid separated employees in searching for other employment.

G. Resignation

Employees are expected to give at least two weeks notice to their department head before the effective date of their resignation to allow time for a replacement to be hired and trained. Once submitted, a resignation may not be withdrawn without the approval of the appropriate Deputy General Manager or Assistant General Manager.

H. Private Business Activities

While employed by the District, every employee shall devote assigned work time to District business and shall not engage in private activities for profit during working hours. Moreover, an employee shall not engage in private business activities outside assigned working hours that involve either of the following:

- 1) The performance of a task that may later be directly or indirectly related to the control, inspection, review, audit or enforcement by the employee or any other employee of the District; or
- 2) Employment with any organization that provides products or services to the District.

I. Ethics Policy for District Officers and Employees

The Ethics Policy for District Officers and Employees is by this reference made a part of Ordinance 30, as amended.

**SECTION 6. TRAVEL, EXPENSE AND PROFESSIONAL ASSOCIATION MEMBERSHIPS**

A. Travel Authorization Policy and Procedure

Please see Travel Authorization Policy and Procedure, revised and adopted by the Board of Directors.

B. Professional Association Membership and Conference Policy

Any regular professional employee with the authorization of his department head and the General Manager or designee may be eligible for membership in a

professional association at District expense. Such employee, so authorized, may also request approval from his department head to participate in professional association training conferences. Attendance must have prior approval from the employee's department head and General Manager or designee. Conference attendance, travel, and expenses are subject to the District's Travel Authorization Policy and Procedures.

For the purpose of this section, professional employees are defined as incumbents of classifications identified with either a '+' or a 'y' under the column titled E on Exhibit "A" of Resolution No. 3345, as amended.

**SECTION 7. USE OF DISTRICT FACILITIES, EQUIPMENT & VEHICLES**

A. District Property

The use of all District property by District Directors, officers, employees, consultants and agents and members of the public for private use is hereby prohibited, except as set forth in Section 7.B. herein and such memoranda of understanding as may be entered into by and between the IBEW Local 1436 and the District.

B. Photography Equipment

The District's photocopy equipment may be used on behalf of District Directors, officers and employees for duplicating purposes for private use under procedures established by administrative orders of the General Manager or designee, including the establishment of the charge for such use.

C. District Vehicles

The Vehicle Use Policy and Procedure, as amended, is by this reference made a part of the Ordinance.



**SECTION 8. EFFECTIVE DATE AND TERM OF Ordinance 30.44**

**BE IT FURTHER ORDAINED** that Ordinance 30.43 be hereby rescinded effective September 30, 2009.

**BE IT FINALLY ORDAINED** that this Ordinance shall be effective as of September 30, 2009.

DATED: September 30, 2009

\_\_\_\_\_  
Ronald W. Sullivan, President

\_\_\_\_\_  
Rosemarie V. Howell,  
Secretary to the Board/Asst. to the GM  
(Seal)

\_\_\_\_\_  
Stephen A. Shockey,  
IBEW Local 1436  
Business Manager/President