



Memorandum

MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT

Reviewed by U/mm Date 8/8/08
General Manager

DATE: August 8, 2008
 TO: Board of Directors
 FROM: Administrative Services Manager
 SUBJECT: Reduction in Staffing Policy and Personnel Policy update to the Harassment and Discrimination Policy

RECOMMENDATION: Adopt Resolution 2008-09 Establishing a Reduction in Staffing Policy and approve changes to the District's Harassment and Discrimination Policy.

DISCUSSION

Reduction in Staffing Policy

In 2007, when the decrease in District revenues and the corresponding need to reduce expenses became apparent, the absence of a District layoff policy became noticeable. The matter was discussed at the Personnel Committee and staff was directed to develop such a policy. Working closely with District counsel, the policy before the Board provides an objective method to determine the order of layoff and a meaningful process for the General Manager to consider and review individual challenges to their own layoff.

The policy is based on guidelines and procedures provided by the city of Marina. Since it has been initiated by Board direction and not inclusive to the District's Personnel Policy, it is not subject to the usual meet and confer process; however, the involvement of the bargaining groups was deemed beneficial and representatives were invited to present their concerns and input related to the policy. From those meetings several changes were incorporated, primarily related to increases in the notification and response time limits.

Harassment and Discrimination Policy

The District Harassment Policy was last updated in 1992 and should be revised to bring it to current standards. It provides definitions of discrimination, harassment and retaliation; includes comprehensive direction for reporting violations as well as the District response to those complaints. In addition, it clearly describes the expectations and responsibilities of employees, supervisors and management to provide a working environment that is free of harassment and discrimination.

Richard Norton

Board of Directors
Monterey Regional Waste Management District

RESOLUTION NO. 2008-09

**A RESOLUTION OF THE
MONTEREY REGIONAL WASTE MANAGEMENT DISTRICT
ESTABLISHING A REDUCTION IN STAFFING POLICY**

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WHEREAS, the Monterey Regional Waste Management District recognizes that it is in the best interest of the public, the District and the employees who work for the District, to provide a policy setting forth methods that are designed to achieve a reduction in personnel costs in a manner that will enable the District to avoid or limit layoffs; and

WHEREAS, said policy would set forth the manner in which a reduction in staffing will be implemented if such is required; and

WHEREAS, said policy would set forth objective procedures for the order of layoff and an administrative appeal process for an employee directly affected to dispute the application of the policy.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of the Monterey Regional Waste Management District that it has been determined that it is in the best interest of the public, the District and the employees who work for the District, to hereby adopt the attached Reduction in Staffing Policy.

PASSED AND ADOPTED at a regular meeting by the Board of Directors of the Monterey Regional Waste Management District duly held on August 15, 2008, by the following votes:

AYES:

NOES:

ABSENT:

Leo Laska
Chairman of the Board

ATTEST:

William M. Merry
General Manager/Secretary

REDUCTION IN STAFFING POLICY

August 15, 2008

1. GENERAL

When the Board determines that a reduction in staffing is or may be warranted, the following procedures will be followed. Before any reduction in staffing is implemented, the Board will evaluate alternatives by which it may attempt to avoid layoffs. The alternatives will include methods that are designed to achieve a reduction in personnel costs in a manner that will enable the District to avoid or limit layoffs while still meeting its needs. The District retains full authority and discretion to determine what measures are most appropriate under the circumstances. Depending upon the circumstances that give rise to such a situation, the District may respond in several ways, including but not limited to offering a voluntary reduction of hours or days of work, reducing employee's hours or days of work, considering pay reductions for certain classifications, or implementing a reduction in staff, i.e., layoffs.

a) **Voluntary Reduction of Hours.** When the District deems it necessary to reduce the number of work hours for a particular classification or department, herein called "the affected area," the following guidelines will apply:

- 1) All recruitment and hiring in and transfers to the affected area will be frozen.
- 2) Employees in the affected area may be invited and permitted to request a voluntary reduction of their hours or days of work.
- 3) The District will consider any request for time off without pay. An employee who desires to take extended time off without pay and without loss of seniority may apply through the appropriate Department Manager to the General Manager. If approved, an employee may maintain accrued leave time instead of using it before unpaid leave begins.

b) **Involuntary Reduction of Hours.** If a voluntary reduction in employees' hours is not sufficient to meet the District's needs and objectives, the District may implement an involuntary reduction in hours or days of work, under the following guidelines:

- (1) Such reductions will be administered to maximize productivity and efficiency as determined in the sole discretion of the District Board and can be made on a temporary, indefinite or permanent basis.
- (2) In making its determination, the positions of all District employees shall be considered except those required by law to be staffed to a specific standard or those required by the public health, safety or welfare.
- (3) If at all possible, reduction of not more than twenty percent (20%) from the regular hours of any employee may be made, unless the position is re-classified as part-time.
- (4) Any reduction shall be made only after a minimum of twenty-eight (28) calendar days notice to an affected employee.
- (5) Those benefits which are directly based on salary or hours worked, such as vacation, sick leave, PERS, Life and Long-Term Disability insurance shall be reduced proportionately for an employee whose hours have been reduced, during such period of time as the involuntary reduction is in effect. District contributions for Health Insurance (Medical, Dental, Vision) will also be reduced proportionately subject to the eligibility requirements of the District's health insurance provider.
- (6) Any employee affected by such a reduction may appeal the decision to the District Manager through the appeal procedure, set forth herein.
- (7) The District shall meet and confer with the appropriate bargaining unit over issues raised by such reductions to the extent required by law.

2. LAYOFF PROCEDURES

If the District determines that these or other options are insufficient or inappropriate to meet its needs and objectives, it may decide to implement a layoff. A layoff involves discharging or terminating certain employees for non-disciplinary reasons.

- a) **Layoff Policy.** If layoffs are determined to be necessary, employees will be selected carefully to insure fairness. All personnel policies, except those in conflict with this section, including the policy prohibiting discrimination, shall be followed. When selecting employees for layoff in a classification, department, work group, or job classification, the General Manager, in coordination with Department Managers, will choose employees based on a combination of factors, except as otherwise required by law, including (but not limited to) qualifications, seniority, productivity, and general performance. Any individual selected for layoff may elect to retire, if eligible.
- b) **Vacancy and Demotion.** Except as otherwise provided, whenever there is a reduction in the work force, the appointing authority shall first demote to a vacancy, if any, in a lower class for which the employee who is the latest to be laid off in accordance with section e. is qualified. All persons so demoted shall have their names placed on the re-employment list.
- c) **Employee Bumping Rights.** An employee affected by layoff shall have the right to displace an employee who has less seniority in a lower classification in which the affected employee once had regular status and/or is determined by the General Manager to be presently qualified in the lower classification. For the purpose of this section and sections d), seniority includes all periods of full-time service at or above the classification level where layoff is to occur.
- d) **Seniority.** In order to retreat, i.e., move to a former or lower class, an employee must have more seniority than at least one of the incumbents in the retreat class and must request displacement action in writing to the General Manager within ten (10) calendar days of receipt of Notice of Layoff. Employees retreating to a lower or similar class shall be placed at the salary step representing the least loss of pay. In no case shall the salary exceed that received in the class from which the employee was laid off. Employees retreating to a lower or similar class shall serve a ninety (90) day probationary period in the new class unless they have previously successfully completed a probationary period in the class or a class in the class series. For purposes of layoff, seniority shall be defined as the length of paid continuous service in regular full-time positions with the District as determined by the District personnel records. Continuous service for purposes of determining seniority shall be defined to include work-related injury leave of up to one year's duration.
- e) **Employment Status.** Wherever possible, in each class of position, employees shall be laid off according to employment status in the following: temporary, probationary and regular, according to the following guidelines:
 - (1) Temporary and probationary employees shall be laid off according to the needs of the service as determined by the District Manager.
 - (2) If there are two or more regular employees in a class from which the layoff is to be made, such employees shall be laid off in inverse order of seniority of total paid District service.
 - (3) If employees have identical periods of service, the following criteria shall be used to determine the order of layoff:
 - i. First, all employees having overall ratings of "Unsatisfactory"; second, all employees having overall ratings of "Needs Improvement"; third, all employees having overall ratings of "Satisfactory or Better."
 - ii. If two or more employees have the same overall ratings and evaluations, each preceding year will be used until the tie has been broken, as determined by the District Manager.

- f) **Re-Employment List.** The names of persons laid off or demoted in accordance with these rules shall be entered upon a re-employment list. Lists from different departments or at different times for the same class of position shall be combined into a single list. Such list shall be used by the appointing authority when a vacancy arises in the same or lower classification before consideration is given to applicants who are not on the re-employment list. Employees determined by the General Manager to be qualified in the vacant position shall be called in order of seniority consistent with section c) and d).
- g) **Duration of Re-Employment List.** Names of persons laid off shall be carried on a re-employment list for two (2) years, except that persons appointed to regular positions of the same level as that which laid off, shall upon such appointment, be dropped from the list. A person so appointed shall have any unused sick leave accrued prior to the layoff but not paid at the time of layoff re-credited to that person's record. Persons re-employed in a lower class, or on a temporary basis, shall be continued on the list for the higher position for the balance of the two (2) year period.
- h) **Official Notice of Layoff.** Official Notice of Layoff shall be issued by the District Manager and shall:
- (1) Specify the date on which the employee is due to be laid off, such date to be a minimum of forty-five (45) calendar days following the date the notice is issued.
 - (2) Describe the employee's right to re-employment, if any, and indicate the date on which the right expires.
 - (3) Advise the employee of the right to appeal the layoff to the General Manager through the procedure specified herein below but note that the effective date of the layoff shall not be stayed pending resolution of the appeal.
 - (4) Advise the employee that requests for paid time off to participate in employment interviews with other employers will be considered by the appropriate supervisor, subject to the needs of the service.
 - (5) Advise the employee regarding the right, if any, to displace another employee and to which department, classification and salary rate the employee would be assigned if the right is used.
 - (6) Specify the date and time by which the General Manager must receive the employee's written response as to whether or not the employee shall exercise the rights under the displacement procedure, such date not to exceed five (5) working days following the date the Official Notice of Layoff is issued.
 - (7) Advise the employee that if a clear response indicating a desire to exercise displacement rights is not received within five (5) working days, the employee will be designated for layoff, and that any rights under the displacement procedure shall be deemed to have been forfeited.
- i) **Benefits.**
- (1) Employees who are laid off shall be paid for all benefits, including vacation benefits, that would be payable in the event of any termination of employment, as of the date of layoff. In addition, employees shall be allowed to convert up to six (6) days of sick leave to pay for each year of continuous service with the District.
 - (2) An employee who is laid off and his or her dependents shall be eligible to continue the District's group health coverage at the individual's expense pursuant to the Consolidated Omnibus Reconciliation Act of 1984 (COBRA). Details of this continuation coverage shall be provided to the employees by official notice from the Finance Department.
 - (3) While on layoff, an employee shall not accrue any seniority or benefit.

3. **APPEAL PROCEDURE**

- a) An employee directly affected by the operation of this policy may, within ten (10) calendar days after notice of layoff is received, request a meeting with his or her Department Manager to review the application of this policy as it affects the employee's status. The employee may be accompanied by the representative of his or her choice.

- b) If the employee is not satisfied with the review provided by his or her Department Manager, a further review and appeal of the application of the layoff policy may be requested by the employee with the General Manager. Review by the General Manager must be requested within seven (7) calendar days of a determination by the Department Manager.

Appeals regarding the layoff policy shall be limited solely to alleged misapplications of the policy relating to the following:

1. Determinations of seniority.
2. Determinations of an employee's current or prior service in a classification.
3. Other decisions directly affecting an employee's layoff status under this policy.

The determination of the General Manager shall be final, and except as provided herein, there shall be no other appeal rights under this policy.