

AGENDA ITEM 1 B
Consent Calendar

MEMORANDUM

DATE: October 1, 2009

TO: El Dorado County Transit Authority *Barbara McDonald*

FROM: Barbara McDonald, Admin Services/HR Manager

SUBJECT: **Proposed Revisions to the El Dorado County Transit Authority Personnel Policies and Procedures Manual**

REQUESTED ACTION:

BY MOTION,

Approve the Proposed Revisions to the Revised El Dorado County Transit Authority Personnel Policies and Procedures Manual.

BACKGROUND

Several proposed administrative and policy changes to the El Dorado County Transit Authority Personnel Policies and Procedures Manual are presented for consideration

Revisions are included in the following excerpts as bold and underline text. There is a strikethrough on items to be deleted. *The full document of the El Dorado County Transit Authority Personnel Policies and Procedures Manual is available for review at the El Dorado County Transit Authority (El Dorado Transit) during normal business hours.*

DISCUSSION

SUMMARY OF RECOMMENDED CHANGES:

Pages 1 to 99 Definition of ~~Transit Director~~ changed to **Executive Director** per the Joint Exercise of Powers Agreement effective by last agency adoption in 2007.

Page 7 ARTICLE 2 – DEFINITIONS

TEMPORARY EMPLOYEE, is an interim replacement for a currently vacant full or part-time allocated position.

Page 11 ARTICLE 4 – EMPLOYEE HOURS OF WORK AND WORKING CONDITIONS

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4.4 Overtime – Non-Exempt Employees

A. Employees working regular five (5) day eight (8) hour (5/8) schedules

~~“Time worked” includes all hours in pay status.~~ **“Time worked” for computing the number of hours worked, shall be defined to include holidays, administrative leave, vacation and compensatory time off** for employees working regular 5/8 shifts.

B. Employees working regular four (4) day ten (10) hour (4/10) schedules

~~“Time worked” includes all hours in pay status with the exception of holiday pay.~~ **“Time worked” for computing the number of hours worked, shall be defined to include administrative leave, vacation and compensatory time off** for employees working 4/10 shifts.

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ARTICLE 4 – EMPLOYEE HOURS OF WORK AND WORKING CONDITIONS

4.17 Return-to-Duty Testing

O. **Effective 08/31/09, Federal law requires mandatory direct observation (DO) collections for all return-to-duty testing.**

4.17 Follow-up Testing

P. **Effective 08/31/09, Federal law requires mandatory direct observation (DO) collections for all follow-up testing.**

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ARTICLE 4 – EMPLOYEE HOURS OF WORK AND WORKING CONDITIONS

4.21 Workplace Monitoring

Workplace monitoring, both human and electronic, may be conducted by El Dorado County Transit Authority to ensure quality control, employee safety, security, and passenger safety.

El Dorado County Transit Authority may also utilize video surveillance of non-private workplace areas, and buses and transport vehicles. Video monitoring is used to identify safety concerns, maintain quality control, detect theft and misconduct, and discourage or prevent acts of harassment and workplace violence.

Because EDCTA is sensitive to your legitimate privacy rights, every effort will be made to guarantee that workplace monitoring is done in an ethical and respectful manner.

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ARTICLE 4 – EMPLOYEE HOURS OF WORK AND WORKING CONDITIONS

4.23. Off Duty/No Loitering

There will be no employee loitering on El Dorado County Transit Authority premises while off duty. Contain off-duty activity to the employee breakroom with no disruption to on-duty employees.

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ARTICLE 4 – EMPLOYEE HOURS OF WORK AND WORKING CONDITIONS

4.25 Current Employee Background Checks

On November 1, 2007, the El Dorado County Transit Authority (El Dorado Transit) Board adopted Policy Number E-4 requiring pre-employment criminal back ground checks for all prospective applicants offered positions at El Dorado Transit. Prior to November 1, 2007, employees hired by El Dorado Transit were not required to have criminal background checks. El Dorado County now requires El Dorado Transit to conduct background checks on existing employees as a condition of entering into agreements with El Dorado County. To comply with this requirement and in an effort to ensure a safer working environment, El Dorado Transit will conduct criminal background checks on all current employees who have not gone through the criminal background check process effective upon adoption of this revised policy. A satisfactory background check is defined as the absence of a criminal history record. This will include reports from the Federal Bureau of Investigation (FBI) and the State of California Department of Justice (DOJ).

If the results of a background check for a current employee reveals adverse information that has a significant relationship to the employee’s suitability to perform their job duties, their employment may be terminated. A current employee may also be terminated for refusing to submit to a criminal background check. If it is determined a current employee falsified employment application materials, their employment may be terminated.

Current employees must complete a “Request of Live Scan Service” form and submit to a Live Scan Background check. Continued employment is contingent upon successful completion of the background check. When the background check reveals information which bears a demonstrable negative relationship to the employee’s suitability to perform the required duties and

responsibilities of his/her current position, the Review Committee will be notified. Information included in both the authorization and the results must be treated confidential.

Current employees who have been arrested or charged with a criminal complaint are required to inform their immediate supervisor of the arrest/criminal complaint.

Review Committee

The Review Committee is comprised of the Executive Director, Operations Manager, Human Resources Manager or their designee. The Review Committee reviews all criminal background checks in which convictions are found and makes the final determination regarding suitability. If there is a criminal conviction, the Review Committee will review the results and make the final determination regarding the employee's suitability for employment in the position. Consideration will be given to the specific duties of the position, the number of offenses and circumstances of each, and whether the convictions were disclosed on the application.

Employees with criminal convictions for theft, embezzlement, identity theft or fraud cannot be hired into positions with fiduciary responsibilities. Convictions for child molestation and other sex offenses will automatically preclude an employee from employment. Workplace or domestic violence, or other convictions for behaviors that would be inappropriate for specific jobs may also be grounds for termination. This list is not inclusive, but serves to illustrate the decision-making criteria.

The committee will complete its review within seven days of receiving notification of a DOJ/FBI background check with convictions.

Subsequent Criminal Convictions

In the event that an employee subject to this policy receives a criminal conviction after successful completion of the initial background check, that employee must inform his/her supervisor. The supervisor would notify the Review Committee and they would determine whether or not the conviction is relevant to his/her job under this policy. If the conviction is not relevant, no adverse action will be taken. If the conviction is relevant and it is determined that the employee is no longer suitable to perform the required duties and responsibilities of the position, employment may be terminated or the employee may resign. Failing to report a criminal conviction, regardless of the nature, may be grounds for disciplinary action up to and including termination of employment.

If an employee disputes the accuracy of any information obtained in a background check, he/she will be referred to the agency that provided the information. A current employee disputing the accuracy of information will have three (3) business days to demonstrate the inaccuracy of the information obtained in a background check, after which time an employment decision may be made.

The Executive Director has the final authority to determine suitability for employment or action required relating to a current employee.

Background reports are sensitive and confidential, and by law must be restricted to those individuals who are directly involved in the hiring process. Any records retained must be stored in a secured, confidential file. Reports are to be destroyed, once a decision is made to employ the subject of the record. The State Identification Number (SID) for the purpose of “No Longer Interested” for subsequent arrest notification services should be retained and any and all additional requirements pursuant to Penal Code Section 11105.2.

A current employee who is not on probation may appeal the decision of the Executive Director in accordance with the established disciplinary appeal process.

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ARTICLE 5 – CONFLICT OF INTEREST AND BUSINESS ETHICS

5.2 Business Ethics

Employees are expected to represent EDCTA in a positive and ethical manner. Employees have an obligation to refer questions and concerns about potential conflicts to their supervisor. It is not acceptable to “look the other way” when a possible conflict arises.

All gifts or other gratuities from any party having or seeking to establish a business relationship with EDCTA are discouraged and contrary to this policy. This policy is not intended to prohibit ordinary and accepted courtesies of business, such as promotional desk calendars, diaries, pencils and occasional meals; but this policy is intended to prohibit receipt of valuable gifts and extended or expensive hospitality. Proper personal conduct requires the following:

A. Employees of EDCTA shall not solicit personal gratuities, discounts, favors or anything monetary value from contractors or potential contractors.

B. Employees may not engage directly or indirectly, either on or off the job, in any conduct which is disloyal, disruptive, competitive or damaging to EDCTA. Such prohibited activity also includes any illegal acts in restraint of trade.

C. Employees must disclose any financial interest they or their immediate family have in any firm which does business with EDCTA.

D. Employees and their immediate family may not accept gifts, except those of nominal value (\$25 or less), or any special discounts or loans from any person or firm doing, or seeking to do, business with EDCTA. The meaning of gifts for purposes of this policy includes but is not limited to the acceptance of lavish entertainment and free long-distance travel and lodging.

E. If luncheon or dinner meetings occasionally are desirable for the conduct of business, EDCTA should pay the expenses of an appropriate share of such meetings.

F. All employees shall deal with suppliers, customers and other persons doing business with EDCTA in a completely fair and objective manner without favor or preference based upon personal financial considerations.

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ARTICLE 6 – ADMINISTRATION AND DESIGNATION OF SALARY

6.2.1 Full-Time Employees

~~An employee in an allocated full time position shall be entitled to compensation of forty (40) hours per week even if actual time worked is less than forty (40) hours due to scheduling or route time variations.~~

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ARTICLE 6 – ADMINISTRATION AND DESIGNATION OF SALARY

6.2.3 Extra-Help Employees

Extra-help employees are not guaranteed minimum work hours.

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ARTICLE 6 – ADMINISTRATION AND DESIGNATION OF SALARY

6.14 Pay Date **and Timecards**

It is the responsibility of all employees to complete their El Dorado Transit Timecards accurately and legibly. Timecards are to be turned in for processing on the second Friday of each pay period. Timecards not turned in by the second Friday of the pay period may not be processed until the following pay period. Timecards that are illegible, incomplete, or containing errors will be returned to the employee to reconcile.

ARTICLE 10 – SICK LEAVE

10.3 Usage

D. For purposes of this section, immediate family means parents, spouse, registered domestic partner, son daughter, sibling, mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law, son-in-law, grandparents or grandchildren by blood or marriage.

ARTICLE 10 – SICK LEAVE

10.3.1 Verification

Employees are required to notify their supervisors as soon as possible of their absence due to illness or injury. For sick leave of more than three (3) successive work days at any one time, a regular employee must submit a sick leave form (as provided by EDCTA) to his/her supervisor for approval and a medical release for a return to full duties, if requested by the supervisor, upon returning to work.

ARTICLE 10 – SICK LEAVE

10.3.2 Family and Medical Leave Act

Eligible employees are entitled to up to 12 weeks of leave because of “any qualifying exigency” arising out of the fact that the spouse, son, daughter, or parent of the employee is on active duty, or has been notified of any impending call to active duty status, in support of a contingency operations. By the terms of the statute, this provision requires the Secretary of labor to issue regulations defining “any qualifying exigency”. Definition of exigency: “Urgent, calling for immediate action or attention”.

Time spent performing “light duty” work does not count against an employee’s FMLA leave entitlement and that employee’s right to restoration is held in abeyance during the period of time the employee performs light duty or until the end of the applicable 12 month FMLA leave year. If any employee is voluntarily performing a light duty assignment, the employee is not on FMLA leave.

An eligible employee who is the spouse, son, daughter, parent or next of kin of a covered servicemember who is recovering from a serious illness or injury sustained in the line of duty on active duty is entitled to up to 26 weeks of leave in a single 12 month period to care for the servicemember.

Employer’s representative contacting the health care provider must be a health car provider, human resources professional, a leave administrator, or

a management official, but in no case may it be the employee's direct supervisor.

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ARTICLE 10 – SICK LEAVE
10.4 Exception to use of Sick Leave

D. Employees allowing required certifications to lapse, may not use sick time.

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ARTICLE 10 – SICK LEAVE
10.9.1 Employees **Unused Payoff Sick Leave Policy**

Employees shall be entitled to receive a payoff of their unused sick leave **upon separation of employment as follows:**

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ARTICLE 13 – SPECIAL PAYS
13.2.2 Travel

Payment of travel time away from a non-exempt employee's home "overnight travel" is covered under provisions of the Fair Labor Standards Act (FLSA).

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ARTICLE 13 – SPECIAL PAYS
13.10 Commercial Driver's License Costs

A. The EDCTA will pay DMV license fees, VTT certificate fees and DMV medical exams as required for employees in classification required to maintain valid commercial driver's license and endorsements that require medical clearance.

B. Employee will be placed on non-paid administrative or shall be required to use vacation or compensatory leave if the required license expires for any reason.

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ARTICLE 14 – EMPLOYEE BENEFITS/INSURANCE PLANS
14.1

B. Part-Time **Unrepresented** Employees

A part-time **unrepresented** employee whose regular work schedule is more than 34 hours per ~~week pay period~~ **or 60 hours per payperiod** shall be eligible to participate in the EDCTA Health Care Plan on a pro-rata basis.

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ARTICLE 16 – DISCIPLINARY ACTIONS
16.1 Disciplinary Actions

D.4. Arrest or conviction of any felony or criminal act involving moral turpitude. If disciplinary action is based on an arrest, the EDCTA shall independently establish the facts in support of the arrest prior to taking any disciplinary action. If disciplinary action is based on a conviction, the EDCTA may rely upon a plea or a verdict of guilty, or a conviction following a plea of nolo contendere. The term “conviction” does not include imposition of a sentence.

D.22. Sexual abuse, or harassment, discrimination, retaliation and conduct contributing to a hostile work environment.

FISCAL IMPACT

Current Employee Background Checks \$4,012.00