

# **MCTC**

**MODOC COUNTY  
TRANSPORTATION COMMISSION**

## **Human Resources Policies and Procedures Manual**

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Welcome! This Policies and Procedures Manual is intended to give specific answers to most of the questions from our employees. You may have other questions, which are not answered here; if you have additional questions, do not hesitate to ask them. We are aware of the many different needs employees may have and are eager to help you meet them.

As an employee of MCTC, you are an important member of a team effort. We hope that you will find your position with our organization rewarding, challenging and productive. Because our success depends upon the dedication of our employees, we are highly selective in choosing new members for our team. We look to you contributing to the success of MCTC. At the same time, we are committed to providing all employees with challenge, recognition, and benefits, as we achieve our organizational mission and goals.

Again, welcome to the team! We wish you every success in your work with MCTC.

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# SECTION I: LEGAL

## 101. INTRODUCTION/RIGHT TO REVISE

The Modoc County Transportation Commission (MCTC, "the MCTC") enacts the following Human Resources Policies and Procedures Manual with the purpose of encouraging and maintaining a workplace environment of mutual respect and dignity for its employees engaged in furtherance of the mission of the MCTC and service to its constituents.

This Human Resources Policies and Procedures Manual contains the policies, practices, guidelines, and procedures that the MCTC has in effect at the time of publication. All employees should read, understand, and comply with all provisions of the Policies and Procedures Manual. It describes many of the responsibilities as an employee and outlines the programs developed by the MCTC to benefit employees. One of our objectives is to provide a work environment that is conducive to both personal and professional growth while delivering high-quality plans, projects, and programs to the public.

Regarding applicability of the Manual to the Executive Director: where the Executive Director's employment contract is silent, the policies and procedures in the Manual also apply to the Executive Director.

The MCTC reserves the right to revise, modify, delete, or add to any and all policies, procedures, work rules, or benefits stated in this Policies and Procedures Manual or in any other document. Any changes must be in writing and must be signed by the executive director of the MCTC or authorized designee. Any such written changes to this Policies and Procedures Manual will be generally distributed so that employees will be aware of the new policies or procedures. No oral statements or representations can in any way change or alter the provisions of this manual.

The policies and practices set out in this Policies and Procedures Manual or in any other personnel document, including benefit plan descriptions, are not intended to imply a contractual relationship, nor are they intended to create a promise or representation of continued employment for any employee.

Reference to the "MCTC" throughout this manual refers to the organization, MCTC, and its staff. It is intended that wherever reference is made in this Policies and Procedures Manual to decisions/recommendations being made or actions taken by the MCTC, those decisions/recommendations are being made by the executive director or authorized designee.

This Policies and Procedures Manual will specifically reference the MCTC's board of directors when decisions/ recommendations are referred to that level.

MCTC is not affiliated with the County of Modoc in any union, retirement, benefits, rights, or responsibilities. MCTC does not participate in Social Security FICA. MCTC independently contracts for medical and retirement benefits (Public Agency Retirement System – PARS).

~~Regular employees whose classifications are included in a bargaining unit should refer to any union Memorandum of Understanding (MOU), if in place, for the specifics about their benefits, rights, and responsibilities.~~

~~As a general provision regarding service credit, MCTC employees who transitioned from the County of Modoc to the MCTC on or before \*\*\*\*, will be granted their years of service with the County. This information is pending CalPERS determination on a public agency and how the existing employees' existing CalPERS accruals will be handled by CalPERS.~~

## **102. EQUAL EMPLOYMENT OPPORTUNITY**

The MCTC is an equal employment opportunity employer and makes employment decisions upon the qualifications, merit, or performance of an individual, and not on unlawful criteria. The MCTC recognizes its legal obligation (per state and federal law) not to refuse to hire or employ a person; or refuse to select a person for a training program leading to employment; or to bar or discharge a person from employment or from a training program leading to employment; or to discriminate against a person in compensation or terms, conditions or privileges of employment because of the person's race, color, creed, gender, religion, marital status, registered domestic partnership status, age, national origin or ancestry, physical or mental disability, veteran status, sexual orientation or medical condition including genetic characteristics. It also prohibits unlawful discrimination based on the perception that anyone has any of those characteristics, or is associated with a person who has or is perceived as having any of those characteristics. All such discrimination is unlawful. The MCTC considers the attainment of equal employment a major MCTC objective and is committed to providing equal employment opportunities to all qualified persons.

The MCTC will abide by all required federal and state statutes pertaining to nondiscrimination in employment practices and apply this policy in matters of personnel administration including, but not limited to recruitment, hiring, transfer, compensation, training, promotion, layoff and recall from layoff, and other terms and conditions of employment. All other personnel actions or programs such as benefits, education, tuition assistance, social and recreational programs will be administered in a non-discriminatory manner. All employment decisions will be consistent with the principle of equal employment opportunity (EEO).

An employee who feels that they are being illegally discriminated against, should file a complaint immediately. Please see Complaint Resolution Procedure for more details.

## **103. AMERICANS WITH DISABILITIES ACT**

### **POLICY**

It is the MCTC's policy and practice to comply with the Americans with Disabilities Act and ensure equal employment opportunity for all qualified persons with disabilities. The MCTC is committed to ensuring non-discrimination in all terms, conditions, and privileges of employment. The MCTC will make reasonable accommodations for the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or an employee unless undue MCTC hardship would result.

Qualified individuals with disabilities are entitled to equal pay and other forms of compensation as well as equal treatment and reasonable accommodation in job assignments. Employment decisions are based upon the essential responsibilities of the position, in accordance with defined criteria, not the disability of the individual.

### **GUIDELINES**

1. An applicant or employee who requires an accommodation in order to perform the essential functions of the job should contact the executive director and specify what accommodation is needed to perform the job.
2. The executive director will conduct an investigation to identify the barriers that make it difficult for the applicant or employee to have an equal opportunity to perform the job. An employee will be required to present a certification from a healthcare provider as to what job functions he or she can

perform, for which job functions he or she needs an accommodation, and what accommodation is recommended. The MCTC will engage in a good faith, interactive process with otherwise qualified applicants or employees and will make reasonable accommodations provided they will not impose undue hardship on the MCTC.

An employee who feels that they are being illegally discriminated against, should file a complaint immediately. Please see Complaint Resolution Procedure (Policy #217) for more details.

## **104. POLICY AGAINST DISCRIMINATION AND HARASSMENT**

### **POLICY**

The MCTC fully supports efforts to protect and safeguard the rights and opportunities of all people to seek, obtain and hold employment with the MCTC without unlawful discrimination or harassment. The MCTC denounces unlawful discrimination against or verbal, visual and/or physical harassment of an applicant for employment or a current MCTC employee on the basis of race, color, religious creed, age (persons over age 40), sex or gender, national origin, ancestry, marital status, physical or mental disability (including HIV and AIDS), pregnancy, medical conditions relating to a diagnosis of cancer or a record or history of cancer, genetic characteristics or sexual orientation, or on the basis that the applicant or employee is perceived to be a member of a protected class or is associated with a member of a protected class. This policy is also intended to prohibit treating an MCTC client or customer in a discriminatory or harassing manner.

### **GUIDELINES**

1. Under federal and state laws it is illegal to discriminate or harass on one or more of the foregoing bases in hiring, firing, compensation, and other terms or conditions, privileges or benefits of employment.
2. All employees shall be informed of the discrimination or harassment complaint process and be assured of their right to file complaints without fear of reprisal. All supervisors and managers shall be trained regarding behavior that constitutes discrimination or harassment.
3. Discrimination against or harassment of another employee or an applicant for employment in violation of this policy may be grounds for disciplinary action up to and including termination.
4. This policy prohibits any violation of the California Fair Employment and Housing Act, as it currently reads or as it may be amended in the future.
5. The MCTC encourages any employee to raise questions he/she may have regarding discrimination or harassment or the terms of this policy with the executive director.

### **PROHIBITED CONDUCT**

1. Definition of unlawful discrimination:
  - A. Discrimination in employment is unlawful when decisions regarding the terms, conditions or benefits of employment are based on an applicant's or an employee's actual or perceived protected status, such as race, national origin, gender or sex (including pregnancy), age (40 years and older), mental or physical disability, medical conditions relating to a diagnosis of cancer or a record or history of cancer, genetic characteristics, religion, marital status or sexual orientation.
  - B. This policy prohibits four types of illegal discrimination:
    - i. Disparate treatment: treating an individual differently because of his/her protected status;
    - ii. Disparate impact: following a policy or practice that has a discriminatory impact on a protected group of persons;

- iii. Harassment: treating an individual in such an abusive or hostile way because of his/her protected status that it unreasonably interferes with an employee's work performance or creates a hostile work environment; and
  - iv. Retaliation: harassing or imposing an adverse employment action because an individual filed a discrimination complaint or in some other way opposed discriminatory practices, including participation in an investigation, proceeding or hearing including discriminatory practices.
2. Actions which constitute harassment include:
- A. Verbal harassment: epithets, derogatory comments, threats, slurs or other offensive words or comments.
  - B. Physical harassment: assault, battery, impeding or blocking movement, or the physical interference with normal work, privacy or movement.
  - C. Visual forms of harassment: derogatory, prejudicial, stereotypical or otherwise offensive posters, photographs, cartoons, notes, correspondence, email messages or drawings.
3. Unlawful harassment occurs when an employee's conduct, such as that described in paragraph 2 of this section, is based on an individual's actual or perceived protected status AND that conduct:
- A. Unreasonably interferes with an individual's work performance, and/or
  - B. Creates an intimidating, hostile, or offensive working environment, and/or
  - C. Influences or affects an individual's salary, employment conditions, position or some other aspect of career development.
4. This policy prohibits sexual harassment:
- A. Sexual harassment is a type of sex discrimination and is a violation of Title VII of the Civil Rights Act of 1964 and the California Fair Employment and Housing Act. It is against the policy of the MCTC for any employee, male or female, to sexually harass another employee, an applicant for employment, or a member of the public while in the course of MCTC employment, while in uniform, or while using an MCTC vehicle.
  - B. "Sexual harassment," as used in this policy, includes any unsolicited and unwelcome sexual conduct when that conduct is directed toward a person because of that person's sex or gender, and:
    - i. Submission to the conduct is made either explicitly or implicitly a term or condition of employment;
    - ii. Submission to or rejection of the conduct by an employee is used as a basis for employment decisions affecting the employee; or
    - iii. Such conduct has the purpose or effect of unreasonably interfering with an employee's work performance or creating an intimidating, hostile, or otherwise offensive work environment.
  - C. "Sexual harassment" does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, that is personally offensive, that fails to respect the rights of others, that lowers morale and that, therefore, interferes with work efficiency. Sexual harassment may take different forms. It may be overt or subtle. One specific form is the demand for sexual favors. Other forms of harassment include but are not limited to:
    - i. Verbal: Sexual innuendos, suggestive comments, whistling, jokes of a sexual nature, sexual propositions, degrading comments, or threats, whether made in person, by telephone or in messages left on voice mail.

- ii. Visual: Sexually suggestive objects, pictures, or cartoons; leering; obscene gestures; or degrading or vulgar communications made in writing or by fax, email or other computer transmission.
  - iii. Physical: Unwanted physical contact, including touching, pinching, brushing the body, assault, battery, coerced sexual intercourse or making explicit or implicit threats or promises in return for submission to physical acts.
5. This policy also prohibits MCTC employees from acting in discriminatory or harassing manner toward the MCTC's clients or customers.
  6. The following conduct by MCTC managers, supervisors and lead employees is also prohibited by this policy:
    - A. Failing to promptly report or take corrective action when the manager, supervisor or lead person knows, or reasonably should know, that an employee, applicant for employment, or a customer or client of the MCTC is being subjected to harassment, sexual harassment or other forms of discrimination on the job or by an MCTC employee; or
    - B. Retaliating against a person who complained of discrimination or harassment, or who testified on behalf of one who made a complaint, or who assisted or participated in any manner on behalf of a complainant in an investigation or proceeding conducted under this policy.
  7. By law, department heads, managers, supervisors and lead persons are responsible for the actions of their employees. Department heads must ensure that employees, managers, supervisors and lead persons are aware of and comply with the MCTC's policy. Prevention is the best tool. Prompt, appropriate action can help avoid, or at least minimize, the incidence of discrimination and harassment.

#### **EMPLOYEE ACTION**

1. Some people may not be aware that their behavior constitutes or may constitute harassing conduct under this policy. Often simply advising someone of the offensive nature of his/her behavior will resolve the problem.
2. An employee who feels he/she is being harassed is encouraged to inform the harasser either verbally or in writing that the behavior is unwelcome, offensive, in poor taste or otherwise inappropriate. If this does not resolve the problem or if an employee feels uncomfortable, threatened, or has difficulty expressing his/her concern, the following complaint procedure should be used.

#### **COMPLAINT PROCEDURE**

This procedure shall be used to review and resolve allegations of discrimination or harassment (including sexual harassment). The procedure has both informal and formal routes of resolution. It is the MCTC's intent to resolve complaints at the lowest step in the process, beginning with the informal step.

1. Any employee or prospective employee who believes he/she has been the subject of unlawful discrimination or harassment, and who is not able to satisfactorily resolve the complaint or is uncomfortable discussing the matter with the harasser, should verbally report the alleged act immediately to his/her supervisor, human resources, the MCTC general counsel, or the executive director or authorized designee.
2. If the verbal report does not promptly and effectively remedy the situation, the employee shall file a formal complaint as follows:
  - A. Any employee or prospective employee who believes he/she has been the victim of discrimination or harassment (including sexual harassment) by anyone in the workplace, including an employee or customer, supplier, or visitor, should file a complaint within 30 days of

the alleged act. The complaint should be in writing and shall be filed with the executive director or authorized designee but this is not mandatory.

- B. The complaint must address the following information to allow a comprehensive investigation to be conducted:
- i. The complainant's full name.
  - ii. The complainant's job title (if an MCTC employee).
  - iii. The full name and employment classification (if an MCTC employee) of the person or persons allegedly responsible for the discrimination or harassment.
  - iv. A plain, concise statement of the facts constituting the alleged discrimination or harassment.
  - v. The date or dates on which the alleged discrimination or harassment occurred.
  - vi. The name and telephone number of any witnesses.
  - vii. The complainant's signature, address, and telephone number and the date of filing of the complaint (if the complaint is in writing, the date of signing of the complaint).
3. A supervisory employee receiving a verbal or written complaint of or observing conduct which appears to be prohibited discrimination or harassment shall inform the executive director or authorized designee of such complaint or conduct as soon as possible and in no event later than the end of the next working day.
  4. In addition to the foregoing, the executive director or authorized designee shall, in his/her discretion, initiate an investigation of suspected discrimination or harassment based upon: (1) the director's personal observation; (2) a report of such behavior given to him/her by an officer or employee who is not a party to the allegation; or (3) such other information as he/she deems sufficient to warrant further inquiry.
  5. The executive director or authorized designee, in consultation with legal counsel, will have full authority to investigate all aspects of the complaint.
  6. If the complaint was verbal, the executive director or authorized designee shall request the person who was the target of the alleged discrimination or harassment to submit his/her complaint in writing but this is not mandatory. The executive director or authorized designee shall prepare a memorandum to the MCTC's legal counsel concerning the complaint, and an investigation shall be initiated.
  7. All complaints will be investigated in a timely and confidential manner. Reasonable attempts shall be made to protect the confidentiality of the person who alleges that discrimination or harassment has taken place; however confidentiality cannot be guaranteed given the extent of the investigation that may take place. Information concerning a complaint will not be released by the MCTC to third parties or to anyone within the MCTC who is not involved with the investigation, except as required by law, nor will anyone involved be permitted to discuss the subject outside of the investigation or a resulting disciplinary action. The purpose of this provision is to protect the confidentiality of the complainant, to encourage the reporting of any incidents of discrimination or harassment, and to protect the reputation of any employee wrongfully charged with discrimination or harassment.
  8. All employees shall be protected from coercion, intimidation, retaliation, interference or discrimination for filing a complaint or assisting in an investigation.
  9. The investigation of a complaint will normally include conferring with the parties involved and any witnesses. The executive director or authorized designee is empowered to require the attendance of any employee or officer at all reasonable times for purposes of conducting the investigation and receiving testimony. The investigation may include interviews with the complainant, the alleged perpetrator, and any other persons who may have relevant knowledge concerning the complaint. The investigation shall be as thorough as possible and shall conclude within the shortest possible time reasonable given the complexity of the case at hand. When good cause is shown, temporary action may be taken pending the conclusion of the investigation. The executive director or authorized

designee, in consultation with legal counsel, shall determine whether the complaint is valid in whole or in part, based on the evidence obtained during the investigation.

10. Upon a finding that an MCTC official or employee has engaged in unlawful harassment or discrimination against another MCTC employee, an applicant for employment, or an MCTC client or customer, the appointing authority shall take disciplinary action against the perpetrator up to and including termination of employment. Any disciplinary action shall be commenced and prosecuted in accordance with these human resources policies and procedures, or any other procedures allowed by a memorandum of understanding between the MCTC and the employee's association. Other appropriate remedial measures deemed necessary to prevent future discrimination or harassment shall also be taken.
11. After the statement of findings and remedial action has been approved by legal counsel and the executive director or authorized designee, the executive director or authorized designee shall provide the complainant with the opportunity to meet to discuss the findings and any remedial action to be taken. If the complainant is dissatisfied with the findings or the proposed remedial action, the complainant may within five working days of the meeting, submit a written request for reconsideration. A meeting between the complainant, the executive director or authorized designee, and legal counsel, will be held within ten working days of the receipt of that request. Prior to any modification of the original statement, the alleged perpetrator shall be given notice of the proposed modification and an opportunity to provide input. The complainant shall be advised of his/her right to have a representative at any and all of these meetings.
12. If misconduct is found, the statement, in its final form, may be made a part of the perpetrator's personnel file and should be attached or referred to in his/her next performance evaluation.
13. If the executive director or authorized designee is the subject of the complaint, the employee shall submit his/her complaint to the MCTC general counsel who, in conjunction with the commission, will investigate the complaint.

#### **POLICY AS EXCLUSIVE MEANS OF REMEDY**

The procedures specified herein shall provide the exclusive internal mechanism by which all complaints of discrimination or harassment by employees or applicants shall be heard and adjudicated and no other grievance or appeals procedure otherwise provided in these Personnel Rules or applicable Memorandum of Understanding, shall be used for seeking an administrative remedy for such misconduct, or for purposes of taking testimony or hearing accusations and/or rebuttals on this subject, except that any employee against whom disciplinary action is initiated or proposed to be initiated pursuant to the application of this procedure shall have full rights to hearing, determination and appeal of such disciplinary action or proposed disciplinary action to the extent provided in this manual or the applicable MOU. The procedures specified herein will not preclude any person from utilizing the California Department of Fair Employment and Housing or the Equal Employment Opportunity Commission for redress of his/her complaint.

#### **FALSE COMPLAINT**

The MCTC recognizes that false accusations of discrimination or harassment can have serious effects on innocent individuals. An intentional false complaint of discrimination or harassment may be a basis for the filing of disciplinary charges and may result in disciplinary action up to and including termination of employment.

## **105. POLICY AGAINST VIOLENCE IN THE WORKPLACE**

### **POLICY**

1. No employee should have to tolerate violence or the threat of violence in the workplace. Anyone who is the victim of any violent, threatening or harassing conduct, or who observes such conduct taking place (whether the perpetrator is an MCTC employee or a non-employee) should not attempt to confront the perpetrator, but should immediately report the conduct to law enforcement, and/or the reporting person's supervisor, or to the executive director. All such complaints will be thoroughly investigated, and the MCTC will take appropriate steps to prevent any harm from occurring or being repeated. No adverse action will be taken against anyone who makes a good faith report under this policy.
2. As part of our continuing commitment to workplace safety, the MCTC is determined to provide a work atmosphere that is free of violence and the threat of violence. Violent or threatening conduct of any kind, whether it is directed against an MCTC employee or outside party, will not be tolerated. This policy prohibits conduct in connection with MCTC operations or facilities including, but not limited to, the following:
  - A. Causing, attempting to cause, or threatening to cause physical injury to another person or damage to another person's property.
  - B. Fighting or challenging another person to a fight.
  - C. Stalking (i.e., the repeated following, calling or harassing of another, combined with the making of a verbal, written, or implied threat).
  - D. Possessing a firearm or any object ordinarily used or intended to be used as a weapon in an MCTC building or at a work site (including an outdoor work site) or an MCTC vehicle, whether or not the employee has been issued a permit to carry a concealed weapon.
3. All violations of this policy will be treated as serious and may lead to discipline, up to and including termination of employment. In appropriate cases, the MCTC may also seek criminal prosecution.

## **106. EMPLOYMENT ELIGIBILITY**

In accordance with The Immigration and Control Act of 1986, the MCTC hires only those individuals who are lawfully authorized to work in the United States.

Each new employee must provide original and current documentation to the MCTC to establish employment eligibility and identification. A completed Employment Eligibility Verification Form I-9 must be furnished to the MCTC within seventy-two (72) hours of date of hire. Providing false documentation or making false statements on the verification form will be grounds for immediate termination.

## **107. BUSINESS ETHICS**

It is the policy of the MCTC to conduct business in accordance with the letter and the spirit of the law and in conformity with ethical standards.

Accordingly, employees must not take any action on behalf of the MCTC that violates any law or regulation. Employees must adhere to high moral and ethical standards in the conduct of business. Employees may not engage in activity that results in a conflict of interest with the MCTC or that reflects unfavorably on its integrity. Employees violating these standards are subject to disciplinary action, up to and including termination of employment.

In situations and on issues involving ethical or moral judgments, employees may sometimes have difficulty determining the correct course of action. In such situations, employees are urged to discuss the matter with the executive director of the MCTC or authorized designee.

Certain management employees are subject to the MCTC's Conflict of Interest Code disclosure requirements.

It is important that employees rely on their own good judgment in the performance of their duties and responsibilities. When those situations occur where proper course of action is unclear, employees are to request advice and counsel from executive director. The reputation and good name of the MCTC depends upon the honesty and integrity of each employee.

## **SECTION II: EMPLOYMENT PRACTICES**

### **201. PROBATION**

The probationary period is an intrinsic part and extension of the employee selection process during which the employee will be considered in training and under careful observation and evaluation by supervisory personnel. Generally, this period will be utilized to train the employee for his/her job responsibilities and to determine whether there is a fit between the MCTC's business needs and the qualifications of the employee. During the probationary period, employment may be terminated with or without cause and with or without notice by either the MCTC or the employee.

1. Upon initial appointment, all employees shall serve the equivalent of 12 months of full-time service as a probationary period, during which time the employee may be dismissed without cause or right of appeal at the executive director's or authorized designee's sole discretion.
2. A new employee terminated during the probationary period needs to be told only that the probationary period was not satisfactorily completed and the employee is terminated.
3. Probationary employees will receive a performance evaluation after the first six (6) months of employment. At the time of the six-month appraisal, a work plan establishing employee goals and objectives for the remaining six months of the probationary period is to be developed. The evaluation of these goals and objectives will occur at the time of the annual evaluation.
4. Upon promotion to a classification with a higher salary range, an employee shall serve the equivalent of 12 months of full-time service as a probationary period, during which time the employee may be returned to his/her previous classification without cause or right of appeal, provided the employee had successfully attained permanent status in the previous class.
5. The executive director has the authority to extend the probationary period for an additional one-time period of up to a maximum of 12 months.
6. The executive director may require a 12-month probationary period (full-time equivalent) as a condition of appointment in cases of lateral transfer or demotion, voluntary or otherwise. During such probationary period, the employee may be dismissed without cause or right of appeal. The employee has no right to return to his/her previous position.
7. Probationary employees will accrue benefits, such as vacation and sick leave at the designated accrual rate.

### **202. EMPLOYMENT STATUS**

The MCTC employs people in one of four different kinds of status: Probationary (noted above), Regular Full-Time, Regular Part-Time, and Temporary.

#### **1. Employment Categories**

##### **A. Regular Full-Time Employee**

Employees in this category are those who regularly work forty (40) hours per week on a continuous scheduled basis following satisfactory completion of a probationary period. Employees in this category are eligible to participate in all benefit programs offered by the MCTC, subject to the terms, conditions, and limitations of each benefit program. Employees in this category are required to participate in the MCTC's Public Employees Retirement System (PERS) program.

**B. Regular Part-Time Employee**

Employees in this category are those who complete a satisfactory probationary period and regularly work twenty (20) hours or more but less than forty (40) hours per week on a continuous basis. Employees in this category will not be offered MCTC's Public Agency Retirement System program or other full time permanent employee benefits. ~~Employees in this category are required to participate in the MCTC's Public Employees Retirement System (PERS) program, and may participate in some other benefit programs on a pro-rated basis.~~

**C. Temporary Employee**

Employees in this category are those holding jobs of limited or specified duration arising out of special projects, a position vacancy pending appointment, the absence of a position incumbent, abnormal workloads, emergencies, or other reasons established by the MCTC. This could include an intern, retiree, and/or extra help. Temporary employees are not eligible to participate in any benefits other than those that are mandated by state and/or federal laws and regulations. Temporary employee status is not considered for seniority or benefit longevity purposes if the employee is subsequently hired as a regular full-time or part-time employee. (See Policy #301, Health and Welfare, for additional information.)

The following are additional categories that apply to certain MCTC positions:

**A. Executive Director**

The administrative head of the MCTC, as appointed by the board of directors, with duties and powers as described in his/her contract with the commission, as well as, the MCTC's bylaws. This position is classified as exempt.

**B. Mid Management Confidential – Chief Fiscal Officer and Senior Transportation Planner**

A non-management employee who, in the course of his/her duties, is regularly privy to management planning or decision-making regarding the MCTC's administration of employer-employee relations as determined by the board of directors. Salaries and benefits for these positions are as described in his/her contract with the commission, as well as, the MCTC's bylaws. These positions are classified as exempt.

**2. Employment Classifications**

All MCTC positions are classified as either exempt or non-exempt according to federal and state legal guidelines. Exemption status is also defined in the MCTC's classification plan and in each classification description.

**A. Exempt Positions**

If a position is classified as exempt as defined by applicable federal and state laws, no overtime compensation will be paid to employees occupying that position.

**B. Non-exempt Positions**

Employees designated as non-exempt are paid on an hourly basis with overtime compensation paid or compensatory time earned for more than 40 hours in one week. Non-exempt employees may also choose to take compensatory time off in lieu of overtime pay (compensatory time is earned at one-and-a-half hours for each hour of overtime worked).

## **203. JOB CLASSIFICATION ADMINISTRATION**

The goal of the MCTC's classification specifications is to develop a system that supports employee development, provides opportunities for career advancement and creates an understanding of the roles, responsibilities and relationships of each position within the MCTC.

### **GUIDELINES**

Classification and compensation practices are reviewed periodically to ensure internal and external comparability and competitiveness of pay practices. When a new classification is created or when a position's duties, functions and/or responsibilities change significantly, a job analysis or classification reevaluation is conducted. Positions are classified/reclassified and assigned/reassigned to a salary grade on the basis of the classification review.

#### **1. Position Classification**

- A. The regular classification of each position shall be consistent with the duties performed and the position classification title approved by the MCTC for inclusion in the MCTC's budget.
- B. The executive director or authorized designee may temporarily reclassify or add positions to meet unanticipated operational requirements, within approved policy authorization and subject to appropriate budget authority. All temporary reclassifications as additions to regular staffing will be approved by the board of directors as part of the MCTC budget.
- C. All positions shall be designated as represented or unrepresented depending on any Memorandum of Understanding, if in place.

#### **2. Class Specifications**

The executive director or authorized designee shall be responsible for the preparation of a class specification for each classification in the Salary and Benefit Resolution adopted by the commission. The class specifications shall describe common distinguishing characteristics for each classification such as title, nature of work, supervision received and exercised, examples of essential and related duties, qualifications, requirements, and relationship to other classifications in the career series, if applicable. Class specifications shall be updated, maintained, or may be created on a temporary basis as the executive director or authorized designee determines necessary to properly describe the work performed and to accomplish the MCTC's mission, purpose and programs. Class specifications for newly created regular classifications and substantive revisions to current specifications will be approved by the commission for development by the executive director or authorized designee resulting from the budget approval process. Class specifications shall be made available to the employees of each classification as a general description of the work performed.

#### **3. Classification Titles**

The title of the class to which any position is allocated shall be used in all official personnel records and in all official personnel transactions of the MCTC. The provisions of this section do not preclude using separate duty statement descriptions and working titles within their department so long as the duties remain within the scope of the classification.

#### **4. Classification Pay Plan**

The executive director or authorized designee is responsible for the classification of individual positions and the assignment of classes to salary ranges within currently approved salary schedules as may be required to accomplish the MCTC's mission, purpose and programs, provided that such actions are:

- A. Consistent with policy.
- B. Will not exceed the approved budget for personnel expenses.

**5. Amendment and Maintenance**

Whenever one or more new classes are requested or whenever, because of any change in organization or method, a significant change in the duties or responsibilities of any existing position is to be made, which requires the amendment of the classification plan, such revision and amendment of the classification plan shall be made in the manner provided herein.

The commission upon recommendation of the executive director or authorized designee at any regular meeting, may create new classes, divide, combine, alter or abolish existing classes, or allocate new positions to appropriate classes or reallocate existing positions to other classes by resolution or by amending this Chapter.

## 204. COMPENSATION

### **POLICY**

The MCTC's compensation program is designed to attract, retain, motivate and reward the best possible workforce in an equitable manner. To accomplish this, the MCTC has established the following plan, provisions and standards for employee compensation.

### **GUIDELINES**

#### **1. Salary and Wage Plan**

The MCTC's salary program is designed to pay each employee a salary determined by the competitive job market, job responsibilities, and the required level of expertise.

Officers, supervisors, and employees shall receive the compensation provided in the basic salary schedule or by employment agreement set forth by resolution of the commission for the classification of the position in which they are employed, in accordance with the allocation of such classifications to ranges of the basic salary schedule and in accordance with the terms of employment hereinafter set forth. The salary of each class shall be further based on the principle that like salaries shall be paid for comparable duties and responsibilities and that MCTC salary schedules shall bear a reasonable relationship to prevailing rates of pay in other public jurisdictions and in local private employment.

The executive director or authorized designee has overall responsibility for recommending, interpreting, and monitoring the salary and performance management systems.

#### **2. Salary Structure**

The salary structure assigns each MCTC position to a salary range that identifies minimum and maximum rates, based on comparable positions at other public sector agencies, according to the skills, responsibilities and qualifications that the position requires, rather than individual job performance or qualifications of the incumbent in that position. Each position is then assigned an appropriate salary range.

Periodically, prior to the commissions' review and adoption of the Salary and Benefits Resolution, the executive director or authorized designee will review the compensation plan to evaluate current market value and labor market inflation. If appropriate, the executive director or authorized designee will recommend that ranges be adjusted to reflect market changes.

#### **3. Starting Salary**

The starting rate of pay for a newly hired employee will be determined by the executive director or authorized designee. The decision as to where to place the newly hired employee within the pre-determined salary range is made according to the knowledge, skills and abilities and job-related experience the employee brings to the MCTC. The executive director has the authority to hire either at step A, B, or C, depending on qualifications. The board may authorize hiring at higher steps.

#### **4. Performance Review**

Supervisors are responsible for reviewing each employee's performance during the annual performance evaluation period for all employees. Based upon the results of the performance review, the executive director or authorized designee will make salary adjustments, within the approved salary ranges and the adopted budget for the following fiscal year.

Accurate performance reviews are particularly important and will be considered for potential salary adjustments at the sole discretion of the executive director or authorized designee.

**5. Timing of Salary Increases**

Employees' salaries will be reviewed for the first time during the 6-month probationary performance evaluation and annually thereafter. The employee's performance evaluation will be taken into consideration. Increases will be considered depending on the employee's overall performance evaluation score.

**6. Promotions**

An employee who is promoted to a higher classification within the established compensation plan will receive at least a 5% salary increase within a specified salary step of the new position.

**7. Paydays**

All salaries and wages shall be paid on a monthly basis by the first day of the month following the end of the pay period for the preceding months' earnings.

**205. WORKING OUT OF CLASSIFICATION – STIPENDS AND BONUS/INCENTIVE PAY**

When an employee is temporarily assigned work which is normally assigned to a vacant higher level position, the employee shall receive a stipend for performing such work at a rate equivalent to that provided for under MCTC promotional rules after meeting the following requirements (at which time the pay increase will be effective the first day the employee started working out of class):

1. Perform the full regular duties of the higher position.
2. Perform the duties of the higher position for a period of at least 80 work hours, except with an approved interruption. (Holidays shall be treated like weekends or comparable regularly scheduled days off.) An approved interruption shall be the use of approved leave balances not to exceed an accumulation of 16 hours during the 80 hour qualification period.
3. **Stipends:** A stipend is a temporary additional payment to an employee that is allocated on a month-to-month basis for the duration of a temporary assignment of responsibilities. The completed Action Request Form, for a temporary stipend, may be considered for approval by the MCTC during a regularly scheduled meeting. The staff report shall accompany the completed request and describe the detailed rationale, include specific beginning and ending dates for the stipend, and any supporting information available. The request will be reviewed for conformance with the appropriate MCTC compensation practices.
4. **Bonuses/incentive pay:** A bonus/incentive pay is a lump sum payment that does not increase the employee's base salary. Bonuses and or incentives are approved by the MCTC Board. The MCTC may grant bonuses or incentive pay for reasons such as exceptional performance, retention, critical skills, and recruitment. The Executive Director may request a bonus or incentive for an employee who is eligible by preparing an agenda item and completing the Action Request from specifying the type of bonus, rationale, and any supporting information. The MCTC will review and or approve the request during a regularly scheduled meeting. Approved bonuses or incentives will be paid by separate check with flat taxes withheld. Bonuses or incentives shall not exceed 10% of the employee's annual gross salary.

## **206. PERFORMANCE EVALUATION**

### **INTRODUCTION.**

1. The purpose of this policy is to establish MCTC-wide procedures and standards for conducting performance evaluations for all regular employees. All regular employees shall receive a written performance evaluation on an MCTC approved form a minimum of once annually. All formal performance evaluations shall be placed in the employee's personnel file. Employees shall be given copies of any formal written review of their performance by their supervisor or other designated staff. Employees have the right to make comments in writing concerning any written performance evaluation and supporting documents and have their comments attached to the relevant evaluation and placed in their personnel file; however, performance evaluations are not subject to the grievance process.
2. Regular formal and informal performance evaluations and feedback between supervisor and employee are essential to promoting effective job performance. The goal of conducting evaluations is to:
  - A. Improve employee work performance by letting employees know what is expected;
  - B. Set consistent and legitimate work standards;
  - C. Identify and develop employee leadership, supervisory, and promotional potential;
  - D. Recognize and reward exceptional employee performance;
  - E. Serve as an accurate reflection of an employee's performance and offer constructive criticism to improve performance;
  - F. Encourage open communication between supervisor and employee;
  - G. Establish and monitor performance goals and objectives;
  - H. Identify employee training needs;
  - I. Hold employees responsible for their work; and
  - J. Increase the effectiveness of supervisors and hold them accountable for the performance of their employees.

### **PROCEDURE**

1. Whenever a new supervisor is assigned to a work unit, a new employee begins work, or an employee changes a job assignment, the supervisor is responsible for discussing with the employee the expected standards of conduct and performance by which the employee's performance will be evaluated.
  - A. During the course of the evaluation period, any minor performance deficiency should be promptly discussed with the employee.
  - B. If a discussion fails to correct a minor deficiency, a supervisor should advise the employee of the need for performance improvement and document the discussion by way of a counseling memorandum to the employee, or by other appropriate means.
  - C. A supervisor should coach an employee in a manner that addresses any deficiency by describing in detail the desired conduct and/or performance.
2. The performance evaluation form is used to describe the employee's performance and summarize and record the discussions during the evaluation period between a supervisor and an employee.

- A. Because a written performance evaluation is part of the process of continual feedback, performance ratings and narratives should never be a surprise to an employee.
  - B. Each performance evaluation is to be discussed with an employee privately in a face-to-face meeting.
  - C. An employee must be given a copy of his or her written performance evaluation.
3. Performance evaluations are given for a variety of reasons, and may be given more than once a year. Regardless of the reason for a performance evaluation, a supervisor shall ensure that the ratings are applied consistently within the department, and are related to job performance.
    - A. Annually: This is the most common.
    - B. Probation: A probationary employee shall be given a written performance evaluation no later than six months after his or her appointment to a position, and just before the end of his or her probationary period, or throughout the probationary period within the discretion of the supervisor.
    - C. Lengthy or special projects: A written performance evaluation may be given during or at the conclusion of a lengthy or special project, as determined by a supervisor.
    - D. Miscellaneous: Subject to the discretion of the supervisor, a written performance evaluation may be given to an employee at any other time.
  4. Performance evaluations shall be completed on or before the employee's annual review date.
    - A. Employee input: It may be useful to utilize an employee input form which allows the employee to describe his or her achievements and future goals for the supervisor to consider prior to completing the evaluation form.
    - B. Draft form: It may be practical to provide the evaluation in draft form to the employee approximately 24 hours prior to the face-to-face meeting, in order to prepare the employee for the meeting.
    - C. Supervisor review: If preferred, the supervisor can review the draft evaluation with the employee for the first time at the face-to-face meeting and allow the employee a period of time to respond prior to finalizing the evaluation.

The review process may be different from one employee classification to another, however, the supervisor is encouraged to make the employee aware of what to expect in the evaluation process.

5. An employee with an overall rating of "Unacceptable" or "Improvement Needed" shall not be entitled to a merit increase until his or her overall rating reaches "Meets Expected Standards," or higher. If an employee is denied a merit increase, his or her performance evaluation must describe what action he or she must take in a specified time period to improve his or her performance and for the supervisor to potentially authorize a merit increase subsequently, if appropriate.
  - A. A merit increase granted under such circumstances shall not be retroactive.
6. The executive director or authorized designee must approve the performance evaluation before it is presented to the employee.
7. It is the responsibility of the executive director or authorized designee to ensure that this policy is carried out for his or her employees.

#### **USE OF THE EMPLOYEE PERFORMANCE EVALUATION FORM**

1. The MCTC has approved a standard evaluation form for all MCTC employees.
2. A supervisor must complete a narrative for each rated performance category. A narrative includes, at a minimum, a short paragraph detailing how the rating was determined.

- A. If a supervisor places greater weight on any individual rating factor in an identified category, the “weighted” box must be checked for the individual rating factor.
  - B. All ratings checked as “Improvement Needed” or “Unacceptable” must be addressed in a Performance Improvement Plan (PIP). To be effective and in order to appropriately guide an employee in a deficient area of performance, a PIP must set forth, in clear terms, a description of the performance problem, the standard of performance the supervisor expects the employee to meet, and a deadline for achieving that standard of performance. A PIP should also describe all training, assistance and oversight that will be provided to the employee during the next evaluation period, and should set timelines for the employee’s next evaluation period.
3. Each supervisor is strongly encouraged to set goals and objectives for each employee within his or her performance evaluation for the next evaluation period. Employee success in meeting assigned goals and objectives shall be addressed in the next subsequent evaluation.
  4. Each supervisor shall give an employee his or her overall performance rating and shall provide a narrative that describes the employee’s job performance strengths and deficiencies for that evaluation period.
  5. Each supervisor is encouraged to utilize the employee development plan to identify training, education, or relevant experience an employee might acquire to enhance his or her development and job satisfaction.
  6. If an employee is at the top of his/her salary range and if a performance evaluation would result in no salary increases, the employee and supervisor can both agree in writing to waive a formal evaluation and agree that the prior year’s evaluation is still applicable.

## **207. PERSONNEL RECORDS**

### **POLICY**

Personnel files are the property of the MCTC. They are confidential and the MCTC will restrict access to and disclosure of personnel files to individuals authorized within the MCTC who have a legitimate business reason to see such files. Personnel files are located in the executive director’s office or that of an authorized designee and individuals with a legitimate business reason can request access from the executive director or authorized designee. Employees’ medical information and health records will be kept in a separate confidential file in accordance with HIPAA regulations.

### **GUIDELINES**

#### **1. Maintenance of Records**

Personnel records are confidential documents maintained in accordance with state and federal laws and regulations. All personnel evaluations, as well as other forms, letters, and memorandums are to be addressed to or signed by the employee, acknowledging receipt of a copy prior to being placed in the employee’s personnel file. If an employee refuses to sign a form or letter, the supervisor will sign as a witness to the fact that the employee has refused to sign, and the document will then be placed in the employee’s personnel file.

#### **2. Update**

Each employee is responsible for notifying the executive director or authorized designee of changes in name, address, telephone number, driver’s license, number of dependents, marital or registered domestic partnership status, beneficiary, education certificates or any other pertinent information.

#### **3. Access/Confidentiality**

Each employee has a right to inspect his/her own personnel file and is entitled to make notes. An employee does not have an absolute right to a copy of the file, except for documents which the employee has previously signed. Employees may review their own file upon request by scheduling

an appointment with the executive director or authorized designee. Files must be reviewed in the MCTC's office in the presence of a supervisor or the executive director or authorized designee. The MCTC will also disclose personnel files to law enforcement agents if required by law.

#### **4. Employment Reference/Credit Inquiries**

The MCTC is obligated to verify position and employment dates only. All reference inquiries regarding MCTC employees will be referred to the executive director or authorized designee.

## **208. HOURS OF WORK**

### **POLICY**

The executive director or authorized designee establishes working hours that are consistent with the operating requirements and responsibilities of the MCTC. Work shifts, days, hours, and periods can be established and modified by the executive director or authorized designee within the limits prescribed by law, based on operating conditions and requirements of the MCTC. Employees may not change their own work schedule without the express approval of their supervisor and/or the executive director or authorized designee.

The supervisor and/or executive director or authorized designee may require an employee to work overtime which may occur anytime before or after the standard workweek including weekends, evenings, and/or holidays. The supervisor will attempt to provide advance notification, if possible.

### **GUIDELINES**

#### **1. Regular Workweek**

The regular workweek is defined as forty hours between 12:01 a.m. Monday and 12:00 midnight Sunday, inclusive, or five working days of eight hours each from and including Sunday through the following Saturday. The first shift of the work period shall be the first shift wherein the majority of its working hours follow 12:01 a.m. Sunday. Where alternate work schedules are established in accordance with provisions outlined below, alternative beginning and ending work weeks may be established by the executive director or authorized designee, usually on either Monday or Friday, for the purpose of minimizing overtime liability.

#### **2. Work Schedules**

A regular forty-hour workweek will consist of five (5) days of eight (8) consecutive hours of work within a nine (9) hour period, interrupted by an unpaid lunch break of one (1) hour. The lunch hour will be taken during the mid-hours of the workday.

An alternate work schedule is defined as a variation of the standard workweek, which for most employees is five eight-hour days between the hours of 8:00 a.m. and 5:00 p.m.

Flexible Work Hours Plan: Flexible Work Hours Plan is an alternative work schedule. Once approved, by the process described in Section D below, this plan allows an employee to voluntarily set a flex schedule each week, with the supervisor's approval. The schedule provides for working 40 hours in a week but provides time for personal or medical appointments, to participate in children's school activities, or for other reasons that would not normally be available in a regular five days per week, eight hours per day schedule unless the employee utilized leave balances.

#### **3. The establishment of alternate work schedules shall be subject to the following:**

- A. An alternate schedule shall be established and approved in writing by the executive director or authorized designee with the notice to the employee and the employee's representative, if any.
- B. The executive director or authorized designee may, at any time, cause any employee or group of employees to change a work schedule permanently or temporarily. Except in case of an

emergency, the executive director or authorized designee shall provide an employee with 14 days advance notice of a permanent schedule change and/or 12 hours notice of a temporary change.

- C. During payroll periods which contain a holiday, employees may be required to revert to a standard work schedule. However, in no event shall an employee receive more than eight hours of holiday pay or holiday credit for any holiday.
- D. The usage of accrued leave balances such as vacation, sick leave, and other paid time off, shall be on an hour-for-hour basis.
- E. Complying with the MCTC Alternate Works Week Policy (AWWP). See AWWP Appendix A.

**4. Work Shifts**

All employees will be assigned to a work shift with regular start and stop times, although the actual start and stop times may be different between employees based upon employer/supervisor and employee needs. The MCTC's office hours are 8 a.m. to 5 p.m. Sage Stage bus service hours are 6:00 a.m. to 6:00 p.m. All employees should work the majority of their hours during the core hours of 8 a.m. to 4 p.m. The employee's supervisor will set a designated schedule in writing with specific working start and end times.

**5. Start Time**

Employees are required to be at their assigned work locations and ready to begin work at their designated start time.

**6. Rest Breaks**

When practical, employees shall be granted a 15 minute paid rest period during shifts of at least four hours. Employees whose shift is six hours or longer shall be granted a 15 minute paid rest period in each half of the employee's work shift. Unless otherwise approved by the executive director or authorized designee, such breaks shall not be taken within one hour of the employee's starting time, quitting time, or meal break and shall not be accumulated or used to supplement meal breaks, arrive at work late, or leave work early.

Employees who work less than three and one-half hours in a day will not receive a paid rest period.

**7. Meal Periods**

California Law requires that all non-exempt employees take an unpaid meal period of at least thirty (30) minutes no later than after each five (5) hours in any one shift with one exception. Employees may voluntarily agree to waive rights to a meal period, provided they do not work more than six (6) hours in the workday.

A second meal period of at least thirty (30) minutes will be given for all workdays on which an employee works more than ten (10) hours. The second meal break may be waived only if:

- A. The total hours worked on that workday is not more than twelve (12);
- B. There is mutual consent between the employer and employee; and
- C. The first meal break of the workday was not waived.

Employees are expected to take their meal breaks and not work during that time.

## 209. OVERTIME PAY

### **POLICY**

All MCTC positions will be classified as either exempt or non-exempt in accordance with the federal Fair Labor Standards Act. In accordance with that Act, exempt positions are defined as being primarily administrative, professional or executive in the performance of their job duties and are not eligible for overtime compensation. Non-exempt employees are eligible to earn overtime compensation and/or compensatory time off at overtime rates (compensatory time is earned at one-and-one-half hours for each hour of overtime worked).

### **GUIDELINES**

#### **1. Non-Exempt Employees**

All hours worked in excess of forty (40) hours in one workweek will be treated as overtime and will be paid at a rate one-and-one-half times the employee's regular rate of pay.

All overtime must be formally requested and approved in advance by the supervisor or the executive director or authorized designee. If a non-exempt employee foresees overtime, a written request must be made by the employee specifying the reason for the overtime and the anticipated amount of overtime. The supervisor/executive director or authorized designee must evaluate alternatives to the overtime prior to approving the request in writing, and prior to the employee's incurring the requested overtime.

If the non-exempt employee must work overtime due to unforeseen circumstances, a written request must be made by the employee to the supervisor via email or other communication before the overtime is worked, specifying the reason for the overtime and the anticipated amount of overtime.

Overtime will be computed on actual minutes worked, adjusted to the nearest increment of fifteen (15) minutes. Only those hours actually worked, sick leave, vacation or holiday credit hours taken, jury duty hours served and paid travel time may be used to calculate overtime compensation. All time lost as a result of a job related injury or illness will be considered as hours worked for purposes of overtime compensation.

Eligible employees shall be entitled to compensatory time off or cash payment as overtime compensation. The executive director or authorized designee shall determine the form of overtime compensation based on operational needs. Cash payments shall be made in the pay period in which the overtime is earned. Compensatory time off shall accrue and may be used upon approval of the executive director or authorized designee. Compensatory time off may be accrued up to 90 hours (60 hours at time-and-one-half). The executive director or authorized designee may extend the limit on accrued compensatory time off in excess of 90 hours. Hours accrued in excess of the maximum accruals shall be paid in cash at the appropriate overtime rate.

Accrued compensatory time off shall be scheduled and used prior to the use of accrued vacation or holiday time unless the employee is within 12 pay periods of incurring a loss of accrued leave.

Upon separation from employment or transfer to a management classification, employees shall be paid in cash for accrued compensatory time off at the appropriate rate.

#### **2. Exempt Employees**

Exempt employees will not be compensated for hours worked in excess of forty (40) hours per workweek.

An exempt employee in a regular full-time management position designated by the commission as an administrative leave classification shall be entitled to 80 hours of compensated administrative leave per calendar year, which shall be credited on the first payday on or after January 1. Unused

administrative leave shall be lost if not used by the end of each calendar year and upon termination. However, in lieu of paid time off under this benefit plan, a management employee may request and receive payment for up to a maximum of 40 hours of unused administrative leave. Payment shall be made at the base hourly rate, without add-ons. A request for payment may be made in November or December, and will be granted only if the employee has already taken at least 80 hours of vacation and/or administrative leave between the preceding January 1 and the date of request for payment.

## **210. PAYMENT OF WAGES**

### **POLICY**

The MCTC pays its employees on a monthly basis. Following are the guidelines used for payment of wages.

### **GUIDELINES**

#### **1. Pay Dates/Pay Periods**

All employees of the MCTC are paid every the first day of the month for work performed during the previous one month pay period. The pay dates will also be posted in the lunch area of the office.

Employees are paid for work performed during the previous pay period. If a regular payday falls on a Saturday, Sunday or holiday, employees will be paid on the preceding workday.

By law, required deductions must be made in each pay period for federal and state income taxes and state disability insurance.

If there is a discrepancy in pay or the employee feels that payroll made a mistake, he/she should notify payroll or the executive director or authorized designee immediately, who will address the issue within a reasonable amount of time.

#### **2. Timekeeping Requirements**

Accurate recording of time worked is the responsibility of every employee. Federal and state laws require the MCTC to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Because the MCTC bills all or part of the time spent by most employees to specific projects for accounting and reimbursement purposes, all employees must also maintain billing records and submit them promptly by the due dates.

All employees must keep timesheets and accurately record actual time worked, as well as, days taken off for vacation, sick or personal leave. Exempt employees are not eligible for overtime pay.

Both exempt and non-exempt employees must indicate the allocation of their hours worked to the appropriated project budget and/or billing account number.

Any handwritten marks or changes on the timesheet must be initialed by a supervisor. Any errors on a timesheet should be reported immediately to the supervisor, who will attempt to correct legitimate errors.

It is the employee's responsibility to certify the accuracy of all time recorded. Supervisors must review and then approve the time sheets before submitting them for payroll processing. Tampering, altering, or falsifying time or billing records may result in disciplinary action, up to and including termination of employment.

#### **3. Automatic Payroll Deposit**

The MCTC may offer automatic payroll deposit for all employees. The employee may begin and stop automatic payroll deposit at any time. To begin automatic payroll deposit, the employee must inform

payroll one pay period prior to the pay period that the service is to begin. The employee should monitor his/her payroll deposit for the first two pay periods after the service begins. A voided check showing the employee's account number must be submitted with a request for automatic payroll deposit. To stop automatic payroll deposits, employees should inform payroll one pay period prior to the pay period in which they wish to stop the automatic service.

## **211. ATTENDANCE AND TARDINESS**

### **POLICY**

Consistent attendance and punctuality are required standards for the MCTC's business operation, and therefore an integral part of each employee's performance standard. Poor, uncertain, or irregular attendance produces disruptive results for operations, lowers overall productivity and continuity of work, and is burdensome to other employees.

Employees are required to report to their designated work location at the prescribed time work activity is to commence. Tardiness, un-excused absences, and/or failure to report as required is/are not acceptable.

In all cases of an employee's absence, the employee should provide the supervisor with a truthful reason for the absence and, if applicable, the probable duration of the absence. Employees unable to adhere to the MCTC's attendance policy will be subject to disciplinary action, up to and including termination of employment.

### **GUIDELINES**

1. If an employee is unable to report to work on time due to illness, injury, or any other reason, the employee should notify his/her immediate supervisor, or if that person is unavailable, the receptionist followed with a voice mail message about the reason for the absence to the employee's supervisor by 9 a.m. or as soon as reasonably possible.
2. Excessive or repetitive tardiness or absenteeism, regardless of reason(s), which renders an employee insufficiently available for work or negatively impairs the operations of the MCTC, will be evaluated on a case-by-case basis to determine the merits of disciplinary action, up to and including termination of employment.
3. Employees absent for three or more consecutive workdays without calling in to report the absence are considered to have voluntarily resigned from employment with the MCTC as of the first day of absence. This "no call/no show" policy applies to all situations other than extreme emergencies.

## **212. MANDATORY MEETINGS/TRAINING**

### **POLICY**

The MCTC must pay employees for attendance at meetings, seminars and training programs under the following conditions:

1. The MCTC requires attendance.
2. The meeting or seminar is directly related to the employee's job.
3. The employee who is required to attend such meetings, seminars or training programs will be notified of the necessity for such attendance by his/her supervisor.

For non-exempt employees only:

1. Any hours in excess of the employee's normal 40-hour workweek will be paid at the appropriate overtime rate, if applicable, at the hourly rate in effect at the time the overtime work is being performed, and upon approval by the supervisor.

2. In lieu of overtime pay, the employee may choose compensatory time off at the rate of one and one-half (1½) hours per one hour of overtime worked for non-exempt employees. Use of compensation time requires the supervisor's approval.

### **GUIDELINES**

Employees requesting approval to attend a budgeted seminar or conference should complete a written request, including estimated expenses. The request should be submitted to the supervisor and executive director or authorized designee and must be approved before attending. Appropriate meals will be reimbursed with the registration fee or by submitting an employee expense form, with attached receipts.

If the employee uses his/her own car, mileage reimbursement will be made at the current IRS rate. Travel expenses will be reimbursed upon presentation of receipts and an employee expense form. Approval of reimbursement must be provided by the executive director or authorized designee. Advances for reimbursable expenses may be made for one-day seminars or workshops on a case-by-case basis.

## **213. STANDARDS OF CONDUCT**

### **POLICY**

Like all other organizations, the MCTC requires order, discipline, and performance to succeed and to promote efficiency, productivity, and cooperation among employees. It is not possible to list all forms of behavior that are considered unacceptable in the workplace. Examples of conduct that is prohibited and will not be tolerated by the MCTC are listed below. This list is illustrative only, other types of conduct that threaten the security, personal safety and welfare of employees and/or the MCTC's operations are also prohibited.

### **GUIDELINES**

Any actions such as the examples of misconduct listed below will be cause for the MCTC to discipline the employee, up to and including termination of employment. These statements of prohibited conduct do not alter the MCTC's policy of at-will employment. Either the employee or the MCTC remains free to terminate the employment relationship at any time, with or without reason or advance notice.

Disciplinary action, up to and including termination of employment may be taken against any employee for unsatisfactory performance or for misconduct including, but not limited to, the following:

1. Absence without leave;
2. Misfeasance, malfeasance, nonfeasance or neglect of duty;
3. Incompetence;
4. Inefficiency;
5. Insubordination, including but not limited to, failure or refusal to obey the orders or instructions of a supervisor or member of management, or the use of abusive or threatening language toward a supervisor or member of management; violation of any lawful or reasonable regulation or order made or given by a superior officer;
6. Theft or negligent or willful damage to public property;
7. Waste or misuse of public supplies or equipment;
8. Discourteous treatment of members of the public or public officers or employees while on duty.
9. The unlawful manufacture, unlawful distribution, unlawful dispensing, unlawful possession or unlawful use of a controlled substance or alcohol intoxication while on duty, while operating a MCTC vehicle ("controlled substance" includes any substance described in sections 11054 et seq. of the Health and Safety Code);

10. Use of alcohol or controlled substances which interferes with the employee's ability to perform his/her duties;
11. Conviction of any criminal act involving moral turpitude;
12. Disorderly conduct while on duty, while attending any event related to employment, while driving a vehicle while on MCTC business, or while on MCTC-owned or leased property;
13. Conduct unbecoming an MCTC employee which indicates the employee is unfit to perform the employee's job functions while on duty, while attending any event related to employment, while driving a vehicle while on MCTC business, or while on MCTC-owned or leased property;
14. Conduct unbecoming an MCTC employee while off duty which by its inherent nature brings disrepute to the MCTC or impairs its credibility with the public or other public agencies (this provision is not intended to limit an employee's constitutionally protected speech);
15. Dishonesty, including but not limited to falsifying official records, embezzlement or theft;
16. Fraud in obtaining employment;
17. Violation of any of the provisions of these Human Resources Rules, policy, or law;
18. Violation of the MCTC's Policy Against Discrimination and Harassment;
19. Removing or borrowing MCTC property without prior authorization;
20. Provoking a fight or fighting during working hours or on MCTC property;
21. Carrying firearms or any other dangerous weapons on MCTC premises at any time;
22. Causing, creating or participating in a disruption of any kind during working hours on MCTC property;
23. Using abusive language at any time on MCTC premises;
24. Failing to notify a supervisor when unable to report to work;
25. Unreported absence of three or more consecutive scheduled workdays;
26. Failing to obtain permission to leave work for any reason during normal working hours;
27. Failing to observe working schedules, including rest and lunch periods;
28. Failing to provide a physician's certificate when requested or required to do so;
29. Sleeping on the job or excessive attention to personal matters versus office matters;
30. Mailing, emailing, or accepting telephone calls for personal reasons of more than a few minutes during working hours, except in cases of emergency;
31. Working overtime without authorization or refusing to work assigned overtime, except under extenuating circumstances;
32. Wearing disturbing, unprofessional or inappropriate styles of dress or hair while working;
33. Violating any safety, health, security or MCTC policy, rule or procedure
34. Committing a fraudulent act or a breach of trust under any circumstances;
35. Committing or involvement in any act of unlawful harassment of another individual;
36. Unsatisfactory job performance or inability to perform job duties in a satisfactory manner;
37. Any other conduct incompatible with service to the public including behavior in the conduct of MCTC business which causes, or would tend to cause, discredit to fall upon the MCTC; and
38. Engaging in any unlawful acts, as governed by state and federal laws.

## 214. DISCIPLINARY ACTIONS

### POLICY

Each MCTC employee should perform his or her own work for the MCTC in compliance with high standards of performance and behavior required in a professional workplace and consistent with the MCTC's Business Ethics Policy. Each employee is responsible for correcting any unsatisfactory performance or behavior in order to maintain high workplace standards. Failure to meet such standards shall be grounds for appropriate disciplinary action, up to and including termination of employment.

The procedures set forth in this Section shall not apply to probationary employees who are rejected during probation. These procedures shall not apply to a reduction in force, or a reduction in pay which is part of a reclassification action or reorganization approved by the board of directors.

Time limits and formal steps may be waived by mutual written consent of the parties.

### GUIDELINES

If an employee's performance or behavior is unsatisfactory or deficient, the employee may face disciplinary action, up to and including termination of employment. The executive director or authorized designee has the right to determine what disciplinary action is appropriate based on the facts of each case. Any disciplinary action will be related to the severity of the performance or behavioral deficiency, its frequency, its consequences and the employee's record of prior performance and behavior.

The executive director may take disciplinary actions regarding an employee's unsatisfactory or deficient performance or behavior and propose corrective actions which the employee should take to bring performance or behavior to expected standards including, but not limited to:

1. Verbal counseling;
2. Written notice or reprimand: A reprimand, the details of which are committed to writing and placed in the employee's personnel file. An employee receiving a written reprimand may, within five working days, appeal such action to the executive director or authorized designee. Within five working days thereafter, the executive director or authorized designee shall respond to the employee in writing by either granting in whole or part, or denying the appeal. Such response shall be final.
3. Intermediate Disciplinary Action: Suspension of employee from work with or without pay; demotion of employee from current position to lower-paid position or class; and/or reduction in base pay. An employee receiving a suspension without pay, demotion, or reduction in base pay shall be afforded the opportunity to clear him/herself through the notice and response provisions below. Following a review of the proposed disciplinary action, the executive director or authorized designee shall issue a decision based upon the facts presented and the employee's response. If any proposed disciplinary action is to be implemented, the decision shall include the specific findings made against the employee, the effective date of the action, and reference to this article regarding possible further appeal of the decision.
4. Severe Disciplinary Action: Termination of employment. An employee whose employment is proposed to be terminated shall be afforded the procedural protections noted below. Any employee can be terminated from employment because of mental or physical inability to perform the essential functions of the employee's job, as determined by a medical or mental examination. Likewise, an employee who voluntarily quits employment through unauthorized absence of three work days or more shall be considered to have abandoned his/her position.

The MCTC is not required to treat each form of discipline as a step in a series to be followed with an employee before termination of employment. A serious or major performance or behavioral deficiency

may result in a more severe disciplinary action, including immediate termination of employment, and may not necessarily be preceded by less severe forms of disciplinary action.

RIGHT TO REPRESENTATION: An employee subject to a meeting or an investigation that may result in disciplinary action, a pre-disciplinary conference or an appeal hearing has the right to be represented by a representative of his/her choice or an attorney retained by the employee at the employee's expense.

## **215. DISCIPLINARY APPEALS PROCEDURE**

Prior to imposing any disciplinary action, except verbal counseling or written notice or reprimand, the MCTC will meet with the employee to inform the employee about the proposed disciplinary action, the basis for the disciplinary action, including the employee's unsatisfactory or deficient performance or behavior, the severity, frequency and/or consequences of such performance or behavior and any other reasons why such disciplinary action is being imposed. The employee will be given a reasonable opportunity to respond orally and/or in writing.

The following procedures shall be the exclusive means of appeal available to a disciplined employee, depending on the severity of discipline proposed. Disciplinary action may be implemented prior to the completion of any of the listed appeals procedures.

Notice: The employee shall be advised in writing of the proposed disciplinary action when such action is to result in demotion, suspension without pay, or discharge. The written statement shall contain:

- A. A description of the events which necessitated the proposed disciplinary action;
- B. A statement of the charges;
- C. A statement of the proposed disciplinary action;
- D. A copy of the materials, if any, upon which the proposed personnel action is based and notification that the employee may review or make copies of available materials, if any, which are too numerous to supply with the notice;
- E. A statement of the employee's right to representation; and
- F. Notification of the employee's right to meet with the executive director or authorized designee or to submit in writing his/her response to the proposed action, and the date by which the meeting must be requested or the written response submitted.

### **1. Employee's Response**

- A. Since the purpose of the response meeting is to enable the MCTC to avoid error in taking disciplinary action, any evidence within the employee's knowledge or that of his/her representative's or which is accessible to them which is not presented in this response meeting or otherwise presented to the executive director or authorized designee prior to the taking of final action cannot be presented in any subsequent proceeding.
- B. An employee's opportunity to respond to the designated management representative is not intended to be an adversary hearing. However, the employee may present the names of witnesses in support of his/her opposition to the proposed demotion, suspension, reduction in pay or discharge. The limited nature of this response does not obviate the executive director or authorized designee to initiate further investigation if the employee's version of the facts raises doubts as to the accuracy of the initial information leading to the proposed discipline. The employee may be accompanied and represented by a person of the employee's choice during the meeting.

## **216. TERMINATION OF EMPLOYMENT**

### **POLICY**

The executive director or authorized designee may separate employees from employment as necessary and as provided by these policies. Reasons for employee termination from employment include dismissal during the probationary period, dismissal by disciplinary action, resignation, death, unexcused absence or disability, retirement, and layoff.

All employees will be paid in full for accrued and unused vacation and compensatory time off on the last day of employment or within the appropriate timeframe based on federal and state laws.

Employees will be advised of the Consolidated Omnibus Budget Reconciliation Act (COBRA) and the Health Insurance Portability and Accountability Act (HIPAA), if applicable.

### **GUIDELINES**

#### **1. Resignation**

An employee who desires to terminate his/her employment is encouraged to submit a written resignation at least two (2) weeks before the intended resignation date. Supervisors are encouraged to give thirty (30) working days notice of intent to resign.

#### **2. Non-disciplinary Separation from Employment**

A. The executive director or authorized designee may initiate non-disciplinary separation from employment of an employee for reasons of job abandonment, failure to return to work following an approved leave, enforcement of the Employment of Relatives policy, physical or mental disability that cannot be reasonably accommodated, or other similar non-disciplinary reasons. Employees in positions which require driving as an essential duty may be subject to non-disciplinary separation from employment in the event of denial/exclusions of coverage by the insurance carrier or failure to maintain a valid driver's license.

B. The executive director or authorized designee shall provide written notice to any regular status employee separated from employment for non-disciplinary reasons. The effective date of employment termination may be determined by the executive director or authorized designee to be the last actual day at work or the date the written notice is signed or a future date. Upon receipt of notice of non-disciplinary separation from employment, the employee may accept the decision or within five (5) days submit a written request to executive director for informal reconsideration of the employment separation decision. Such request must include a statement of facts or information which the employee believes will give the executive director or authorized designee good reason to change the termination decision. The executive director or authorized designee will respond to any such request for informal reconsideration.

#### **3. Organizational Changes**

The MCTC exercises complete control and discretion over its organization and the methods of performing its work. Whenever in the judgment of the executive director or authorized designee it becomes necessary in the interest of economy and efficiency or because the need for the performance of duties no longer exists, the executive director or authorized designee may eliminate or consolidate any positions.

#### **4. Reduction in Force**

At times, the MCTC may need to restructure or reduce its workforce. If it becomes necessary to restructure operations or reduce the number of employees, the MCTC will attempt to provide advance notice, if possible, so as to minimize the impact on affected employees.

**5. Retirement**

An employee planning to retire shall submit a written notice at least thirty (30) days before the effective date of retirement.

**6. Final Paycheck**

Although it is requested that an employee give two (2) weeks notice before resigning, if an employee provides seventy-two hours (72) notice, the employee will receive the final paycheck on the last day of work. If less than seventy-two (72) hours notice is given, the MCTC shall release the final check within seventy-two (72) hours of when notice is given.

If the employee is terminated involuntarily, a final paycheck will be provided on the day of termination.

**7. Return of MCTC Property**

Upon termination of employment, employees are required to return all equipment, keys, ID cards, emergency passes, equipment, laptops, emails, computer files, any electronic storage devices, and other MCTC property prior to leaving the MCTC.

**8. Continuation of Group Health Benefits – C.O.B.R.A.**

In accordance with federal and state law, employees and their families, at their expense, may have a temporary extension of health coverage at group rates in certain instances where coverage under the plan would otherwise terminate. The employee may contact the executive director or authorized designee for more information regarding this benefit.

**217. COMPLAINT RESOLUTION PROCEDURE**

**POLICY**

The MCTC recognizes the benefit of providing an orderly and expeditious method for resolving problems which may arise from working relationships and conditions. It is the MCTC's policy to provide an orderly method for handling problems and complaints in the interest of obtaining fair and equitable solutions.

Employees shall be advised that using this process shall not affect their job status, security or relationship. Employees can exercise this complaint resolution process without retribution.

**GUIDELINES**

1. Any employee has the right to present a problem or complaint arising from his/her employment in accordance with the rules and regulations of this policy. This policy does not apply to disciplinary actions which are addressed in Section 214.
2. All parties involved in the problem solving process must act in good faith and strive for objectivity, while attempting to reach a solution at the earliest possible step of the procedure. Employees shall have the assurance that bringing forward a problem or complaint will not result in reprisal of any nature.
3. The MCTC is committed to ensuring a prompt and fair problem resolution process, including any necessary investigation process. At the discretion of the executive director or authorized designee and/or the employee's supervisor (unless otherwise required by law), the employee may be allowed to use MCTC facilities and work time to deal with their problem or complaint and to go through the complaint resolution process. The use of any office time for this purpose shall not be excessive, nor shall this privilege be abused.
4. In gathering information on a problem or complaint, the employee may discuss the problem or complaint with employees immediately concerned after obtaining permission from their immediate

supervisor; and review all documents, records or data related to the situation. A list of such employees must be submitted to the employee's supervisor in advance.

Upon obtaining permission from their immediate supervisor, the employee shall be permitted to leave the normal work area during on-duty time for such time as is necessary to prepare a written complaint.

If any involved supervisor feels that the time requested would unduly interfere with an adequate level of service, alternative arrangements may be made.

5. Certain time limits in the problem solving procedure are designed to settle the problem or complaint. The MCTC realizes, however, that occasionally the parties concerned may be unable to comply with the established limitations. In such instances, the limitations may be extended upon the mutual agreement of all parties concerned.
6. When two or more employees experience a common problem, they may initiate a single problem solving process.

### **INFORMAL RESOLUTION**

Within 20 days from the event giving rise to a complaint or from the date the employee could reasonably have been expected to have had knowledge of such event, the complaining employee shall orally discuss his/her complaint with his/her immediate supervisor. The supervisor shall have seven days within which to respond. If the employee is dissatisfied with the response to the complaint, or if he/she receives no response, the employee may, within 14 days after the supervisor's response was due, submit the complaint as a grievance in accordance with the following procedure.

### **FORMAL PROCESS**

1. Step 1: If a complaining employee is not satisfied with the resolution proposed at the informal level, he/she may, within 14 days after the supervisor's response was due, file a formal written grievance to the executive director or authorized designee containing a statement describing the grievance, the section of the applicable HR policy allegedly violated, and the remedy requested. The executive director or authorized designee shall, within seven days, have a meeting with the grievant and within seven days thereafter give a written answer to the grievant.
2. Step 2: If the grievant is not satisfied with the answer or if the executive director is the subject of the complaint, the grievant may, within seven days from the receipt of such answer, file a written appeal/complaint to the MCTC general counsel. Within 30 days of receipt of the written appeal, the general counsel, in conjunction with the commission, shall investigate the grievance, which may include a meeting with the concerned parties, and thereafter give a written decision to the grievant within seven days.

# SECTION III: BENEFITS

## 301. HEALTH AND WELFARE BENEFITS

### **POLICY**

The MCTC provides its eligible employees access to comprehensive health and welfare insurance protection including medical, dental, and vision, ~~life and long-term disability~~ insurance. The enrollment and/or cancellation date for all insurance coverage is the 1st of each month, unless otherwise indicated. For example, if an employee's first day of employment is January 15, the first possible enrollment date for the above-mentioned insurance plans is February 1. Changes to existing benefits may only be available during open enrollment or other plan regulated conditions.

The MCTC also provides retirement benefits and other optional benefit plans as outlined below.

Short-term disability, workers' compensation and unemployment insurance protection are provided to each employee ~~may~~ by state legal mandates.

Full time employees covered by medical insurance need to complete a "waiver of insurance" to opt out of MCTC provided plans. Employees opting out of all health benefits are eligible to receive a \$250.00 monthly in-lieu of insurance payment.

### **GUIDELINES**

#### **Health Benefits**

##### **1. Medical Benefits**

A. The MCTC offers medical insurance to its employees and their dependents through risk management authority. Employees may enroll their spouse, eligible children or registered domestic partners and eligible children of registered domestic partners, according to the rules and guidelines of the health plan. Employees may be required to share costs of self and dependent premiums, based on current plan requirements.

B. Medical benefits are available to Regular full-time employees.

##### **2. Dental Benefits**

Dental benefits are offered to both the employee and dependents. The MCTC pays costs for monthly premiums. Employees may be required to share costs of self and dependent premiums, based on current plan requirements.

##### **3. Vision Care**

The MCTC provides vision care through an independent carrier as a part of the employee benefit program. The MCTC pays the employee costs for monthly premiums. Employees may be required to share costs of self and dependent premiums, based on current plan requirements.

##### **4. Short-Term Disability Plan (SDI)**

MCTC employees participate in the State of California's short-term disability insurance program (SDI). This plan assists employees required to be off work due to a non-work-related illness or injury. The benefits of this program, paid for by the employee through payroll deductions, can be explained in more detail by the executive director or authorized designee.

##### **5. Consolidated Omnibus Budget Reconciliation Act (COBRA)**

Employees and dependents who lose group coverage due to termination of employment or other "qualifying events" (i.e., death of employee, divorce or separation) may continue health, dental and vision coverage on a self-pay basis under the COBRA option.

Upon an employee's termination of employment, the executive director or authorized designee will issue a Notice of Right to Elect COBRA Continuation Coverage for health, dental and vision coverage. To continue coverage under COBRA, the employee should fill out and sign forms provided by the executive director or authorized designee. Continuation of coverage is paid by the terminating employee directly to the health plan carrier.

**6. Paid Family Leave (PFL)**

Paid Family Leave (PFL) is a state-sponsored insurance program within the State Disability Insurance (SDI) program. Through PFL, employees receive partial wage replacement for up to six (6) weeks in any twelve (12)-month period while on leave from work to care for a seriously ill or injured family member or to bond with a child.

Leave for bonding with a child must occur within one year of:

- A. The birth of a child; or
- B. Placement of a child in the employee's home for foster care or adoption.

The benefits of this program, paid for by the employee through payroll deductions, can be explained in more detail by the executive director or authorized designee.

**7. Unemployment Insurance**

Unemployment insurance provides compensation payable to people unemployed through no fault of their own, who are actively seeking employment and are available and able to work. The MCTC pays the entire cost of unemployment benefits for former employees through taxes paid to the state. To receive more detailed information regarding the coverage, please contact the executive director or authorized designee.

**8. Retirement Benefits (This Policy is Pending PARS Approval of a Contract with the MCTC)**

Full-time employees are required to participate in the Public Agency Retirement System (PARS). The benefit formula for retirement is 2.0% at age 62 and the MCTC shall contribute to PARS each pay period as required. MCTC full time regular employees' benefit formula for retirement is 2.0% at age 62. The MCTC shall contribute \_\_\_% of the cost of the plan and the employee shall contribute \_\_\_% of the plan. Such contribution shall be reported to PARS as "employee contribution being made by the contracting MCTC" and shall not be deemed to be "compensation" reportable to PARS. An employee's final compensation for purposes of determining retirement shall be based on the last 3 consecutive years of MCTC service.

**9. Supplemental and In-lieu Retirement Plan**

As part of the benefits program, the MCTC provides to its employees a 401 K/deferred compensation plan. Employees may contribute to the plan on a voluntary basis.

For the period of time in which MCTC does not participate in Social Security FICA, the MCTC offers employees a payment into an alternative retirement or deferred compensation plan. The payment is 3% of qualifying payroll the MCTC would otherwise pay towards employees' Social Security benefits and is contingent upon the employee contributing 3% of qualifying payroll.

## 302. MANAGEMENT BENEFITS

The commission recognizes the greater responsibilities inherent in a management position.

There are two levels of management:

1. Executive Management: only the Executive Director is considered executive management.
2. Management: other management positions that are exempt and have direct supervisory responsibility as stated in the job description and as designated by the commission.

### ~~SICK LEAVE RETENTION INCENTIVE.~~

- ~~1. Upon retiring under the provisions of CalPERS, or upon death, unused sick leave accrued by a management employee shall be paid in accordance with the table below. Upon resignation, the employee shall be entitled to either a) a maximum payment of 50% of that provided for under retirement or death, or b) the maximum provided non management employees by the appropriate formula, whichever is greater. This will apply in all cases, except for termination of employment for cause.~~
- ~~2. These provisions are applicable for retirement or death whether or not a portion of the accrual was earned in a position other than that from which the employee is terminating.~~

<del>Years of Continuous Service</del>	<del>Percentage of Accrual Subject to Compensation</del>
<del>5 through 9</del>	<del>20% of first 30 days, 10% of accrual balance</del>
<del>10 through 14</del>	<del>40% of first 60 days, 15% of accrual balance</del>
<del>15 through 19</del>	<del>60% of first 60 days, 30% of accrual balance</del>
<del>20 or more</del>	<del>80% of first 60 days, 45% of accrual balance</del>

- ~~3. As an option to the above payoff provisions, a retiring employee may request in writing for pre-retirement time off, in lieu of equivalent direct compensation. Such time off is to be computed on the basis of dividing the total eligible payoff by the employee's daily rate as of when the requested time would be used by the employee. It shall be taken as full time off immediately prior to his/her stated retirement date to the extent of the computed number of days of eligibility. Employees shall not accrue any additional leave benefits while running out accrued sick leave prior to retiring. This option, once requested and granted, is binding on the MCTC and the employee.~~
- ~~4. An employee retiring may convert some or all of his/her accumulated but unused sick leave to CalPERS service credit upon retirement. Any sick leave utilized for cash payment as provided in the above section shall not be available for such conversion.~~
- ~~5. Employees who are depleting leave balances (including vacation, sick leave or administrative leave) immediately prior to retirement shall not be eligible for holiday pay or accrual, which might otherwise accrue during the leave period.~~

~~**LIFE INSURANCE:** The MCTC shall provide a group life and accidental death and dismemberment policy at MCTC expense equal to each management employee's actual base salary. In no event shall such amount be less than \$50,000, nor more than \$80,000. Management employees shall be allowed to purchase additional insurance in an amount up to three times their annual salary at the employee's own expense.~~

## **SALARIED STATUS**

Employees occupying positions designated as management positions are salaried employees and are exempt from the overtime provisions of FLSA. For payroll purposes, such employees are compensated on a monthly salary basis, and need not submit documented time reports. The provisions of such salaried status are as follows:

1. For the performance of prescribed duties, a management employee receives a salary and is expected to work the necessary hours required to fulfill the responsibilities of the position, at a minimum of 40 hours per week.
2. For absences of one full workday or more, a management employee will submit an exception document that deducts such time from the employee's applicable vacation, sick leave or administrative leave accrual.
3. Subject to approval by the Executive Director or authorized designee, reasonable time off of amounts of less than one full workday is authorized for a management employee for personal use during normal work hours, without loss of salary.
4. In addition to Section 3 above, when an employee is medically required to work part time on a temporary basis (of at least ten work days or more) or who otherwise requests a part time schedule on a temporary basis (of at least ten work days or more), and the employee's request is approved by the Executive Director or authorized designee, the employee's partial day absences during that time will be deducted from the employee's leave balances and the employee will receive his/her full salary. However, if the employee is medically required to work part time on a permanent basis, or the employee otherwise requests a part time schedule on a permanent basis, and the employee's request is approved by the Executive Director or authorized designee, the MCTC will reduce the employee's allocation to reflect the expected reduced work schedule (for example .5 FTE for half time work instead of 1.00 FTE) and the employee will receive a salary commensurate with the reduced permanent allocation.

## **ADMINISTRATIVE LEAVE**

1. A management employee may be entitled to administrative leave each calendar year. Unused administrative leave shall be lost if not used by the end of the year. This time will be credited on the first payday on or after January 1 and is neither accumulative from year to year nor to be considered part of earned vacation accrual. A new eligible employee will receive a portion of the time, in advance, on a prorated basis consistent with his/her date of appointment.
2. Pre-retirement Leave: employees who are depleting leave balances immediately prior to retirement shall not be eligible for additional administrative leave credit which might otherwise accrue during the leave period.
3. A management employee separating from MCTC employment will not receive payment for unused administrative leave.

## **MANAGEMENT PAY DIFFERENTIAL**

1. Principles of a Management Pay Differential: The salary of an employee in a management classification should be set at a range that is at least 5% more (F step to F step comparison including subordinates' pay stipends, if appropriate) than the subordinate classifications the manager is required to supervise. This concept includes as a principle that the manager be responsible for performance evaluations, direction of the work performed, and input into the hiring and discipline process. In order to qualify for pay differential, a person directing and evaluating the work of a subordinate would have to be of the same profession. That means, for example, that an accountant who supervises a planner would not qualify because, even if the manager did performance evaluations and assigned work, he/she could not judge the professional aspects of the subordinate's work.

2. **Process for Management Pay Differential:** A manager may apply in writing to the Executive Director or authorized designee for consideration of a pay class stipend if a subordinate classification is at a salary range that is not at least 5% less than the manager's classification. Such stipends will be granted in one-half percent (.5%) increments. When applied, the effect of this stipend will be that the manager's salary range will be 5% above the subordinate's salary range (based on F step comparisons including subordinates pay stipends, if appropriate), without regard to the salary step of the current subordinate. The pay stipend will be processed as a salary earnings type on a personnel action. The Executive Director or authorized designee will review the stipend periodically for continued appropriateness or when classifications are changed due to reclassification, salary and benefit changes, or other such changes. The decision of the Executive Director or authorized designee to grant or not grant a pay stipend is final unless the manager appeals to the commission. The findings of the commission are final.

**EMPLOYEE ASSISTANCE PROGRAM (EAP):** Managers shall be entitled to utilize the services contained in the EAP plan if offered by the MCTC.

### **303. HOLIDAYS**

The following are official holidays for appointed regular full-time and regular part-time employees:

1. January 1, New Year's Day
2. The third Monday in January, Martin Luther King, Jr. Day
3. February 12, Lincoln's Birthday
4. The third Monday in February, Presidents' Day
5. The last Monday in May, Memorial Day
6. July 4, Independence Day
7. The first Monday in September, Labor Day
8. The second Monday in October, Columbus Day,
9. November 11, Veterans' Day
10. The fourth Thursday in November, Thanksgiving Day
11. The day following Thanksgiving Day
12. December 24, Christmas Eve
13. December 25, Christmas Day
14. December 31, New Year's Eve

#### **EQUIVALENT TIME OFF OR PAY FOR HOLIDAYS**

1. **Holiday Pay and Accrual]**
  - A. **Regular Full-Time Employees**
    - i. An employee shall receive holiday pay equal to the number of fulltime hours normally worked, not to exceed eight hours, when a holiday falls on a scheduled workday.
    - ii. An employee shall receive eight hours of holiday credit when the holiday falls on a scheduled day off.

#### **HOLIDAYS FALLING ON WEEKEND DAYS**

When a holiday listed above falls on Sunday, Monday will be observed as the paid holiday in lieu thereof. When a holiday listed above falls on a Saturday, the immediately preceding Friday shall be observed as the paid holiday in lieu thereof. In those years in which December 24 falls on a Friday, December 23 shall be observed as the paid holiday in lieu thereof. In those years in which December 25 falls on a Monday, December 26 shall be observed as the paid holiday in lieu thereof.

**COMPENSATION FOR WORK ON HOLIDAYS**

If an employee is required to work on a holiday, he/she shall be paid at the rate of two times their regular rate of pay, regardless of whether the work constitutes overtime or not.

**FLOATING HOLIDAYS**

Employees shall be granted sixteen (16) hours of floating holiday credit at the beginning of each calendar year. Employees must schedule any floating holiday with advance notification of and approval by the supervisor. Floating holidays are not accruable and those unused at the end of the fiscal year will be eliminated from the employee’s available leave bank and may not be cashed out.

**304. VACATION**

**ACCRUAL SCHEDULE**

Regular full-time and regular part-time employees shall accrue the following hours vacation time for each paid regularly scheduled working hour not to exceed 80 regularly scheduled working hours in any one pay period.

<b>Years of Continuous Service</b>	<b>Vacation Hours Accrued Per Hour</b>	<b>Equivalent Days Per Year</b>
0 through 3	.0385	10
4 through 9	.0577	15
10 through 15	.0654	17
16 and thereafter	.0769	20

**TIMES AND CONDITIONS OF TAKING VACATION**

1. Employees shall use their annual vacation accruals each year at such time or times as may be approved by the executive director or authorized designee. However, for reasons deemed sufficient by the executive director or authorized designee, an employee may take less than their annual vacation accruals one year and a correspondingly longer vacation the following year. No employee shall be allowed paid vacation time off in excess of that accrued.
2. The maximum vacation accumulation which may be accrued by a regular full-time or regular part-time non-management employee without losing additional credit shall be 12 times the monthly rate of accumulation of a regular full-time or regular part-time employee. The maximum time limits for vacation accrual shall be extended by the executive director or authorized designee as follows:
  - A. For up to 6 pay periods if the executive director or authorized designee cancelled a previously scheduled employee vacation or rejected a timely employee vacation request if the executive director or authorized designee determines that circumstances so warrant.
  - B. For a period of any paid leave of absence due to illness or injury, plus, at the discretion of the executive director or authorized designee, up to 13 pay periods, if an employee attains maximum accumulation during such leave.
  - C. Additional time accrued by an employee under paragraphs 1. or 2. above shall not be lost at the end of the extension; provided, the employee takes time off to reduce his/her maximum accumulation to that provided under A. above within the 6 pay periods immediately following the extension. Such an extension shall not be approved more than once in each calendar year.

2. The maximum vacation accumulation which may be accrued by a management employee without losing additional credit shall be 39 times the employee's monthly accrual rate. The maximum vacation accumulation for managers may be extended under the provisions of subsection 1. above.

### **PAYMENT IN LIEU**

1. Any person terminating employment, or who is laid off, or who is granted military leave of absence, other than temporary military leave for a period not exceeding six months, shall be entitled to payment in lieu of earned vacation not taken at the equivalent hourly rate of salary.
2. Persons retiring under the provisions of the Public Employees' Retirement System may remain on the payroll on vacation status until such accumulated vacation time for which they are eligible has been exhausted. An appointing authority may fill such a position immediately following the last day actually worked, provided funds are available.
3. Employees shall not accrue additional paid leave benefits while running out accumulated vacation time.

## **305. SICK LEAVE**

### **EARNED ACCRUAL RATE**

Regular full-time shall accrue 10 hours of sick leave a month. Regular part time employees shall accrue sick leave at a pro-rated amount based on the percent of hours worked each month.

1. Usage: Paid sick leave can only be granted upon the recommendation of the executive director or authorized designee in cases of bona fide illness, treatment by an approved licensed medical practitioner, or in the event of illness/medical appointments in the employee's immediate family as referenced in B. below. No paid sick leave may be taken prior to the completion of three months of continuous service. Accrued sick leave may be used in coordination with
2. Family Illness/Medical Appointments: Sick leave granted because of illness in the immediate family or because of scheduled doctor/dentist appointments for members of the immediate family shall normally be limited to 56 working hours per calendar year for all incidents. Additional accrued sick leave can be authorized to be used for reasons held to be sufficient by the executive director or authorized designee. Immediate family means father, mother, spouse, registered domestic partner, son, daughter, sister or brother, grandparents, grandchildren, step grandparents, step parents, step children, step sisters, step brothers, step grandchildren, foster children, foster parents, or others as stipulated by law.
3. Verification of Illness: Written verification by an approved licensed medical practitioner or other satisfactory proof of illness or family illness may be required at the discretion of the executive director or authorized designee.

Extra help and or part-time employees are provided 24 hours of sick leave each calendar year. Sick leave shall be granted in compliance with this policy. Extra help and or part-time employees shall not accrue sick leave or carry over remaining balances from calendar year to calendar.

### **EXCEPTIONS**

No employee shall be entitled to sick leave while absent from duty on account of any of the following causes:

1. Sickness or disability sustained while on leave of absence other than his/her regular vacation.

- An employee who becomes ill while on vacation leave and wishes to be placed on sick leave shall make such request to the executive director or authorized designee as soon as possible. The executive director or authorized designee shall then make a determination whether to approve such request based on the criteria normally utilized in approving sick leave.

### **306. SICK LEAVE RETENTION INCENTIVE PAYMENT**

#### **POLICY**

Upon separation or termination, other than discharge for cause, any regular full-time or regular part-time employee shall become entitled to payment for accumulated sick leave in accordance with the table below.

Years of Continuous Service	% of Accumulation Eligible for Cash Payment	Maximum Payment
5 through 9	10.00%	\$3,500
10 through 14	25.00%	\$4,500
15 through 19	37.50%	\$6,000
20 or more	50.00%	\$6,000

**STATE DISABILITY/PAID FAMILY LEAVE BENEFITS:** Disability insurance benefits shall be extended to employees in accordance with the terms and conditions of the State Disability Insurance Program. Each employee shall contribute to the plan through payroll deductions. Accrued sick leave shall be used to supplement the disability benefit and must be exhausted prior to the use of other accrued leave balances. An employee may elect, in advance, to use accrued vacation, sick leave, compensatory time off or holiday time to supplement the disability benefit. The total compensation from accrued leaves and disability benefits shall not exceed the employee's base salary at the time of disability. Disability benefits will be considered the primary benefit and leave accruals will be used and treated as secondary to supplement the employee's earnings. Paid Family Leave insurance will be administered as described above, except employees will be required to use other leave balances after Family Sick Leave (if appropriate) has been exhausted.

### **307. INDUSTRIAL LEAVE**

#### **POLICY**

- To receive industrial leave, an employee must apply for workers' compensation benefits and supply supportive medical evidence that there was an industrial injury or disease contracted in the course and scope of employment which prevents the employee from performing his/her duties.
- Industrial leave compensation shall be applied to wage loss for the date of injury and subsequent workdays lost during the 30 days immediately following the date of injury. In no event shall compensation exceed 32 hours.
- On the fourth consecutive calendar day following the date of injury or illness, provided the employee remains off work, temporary disability benefits will then be paid in accordance with Labor Code 4653.
- Beginning with the date temporary disability benefits are applicable (Labor Code 4653) and every day of covered absence thereafter, in the following order, an employee's sick leave, compensatory time off, administrative leave, and vacation may be charged to assure that, when added to temporary disability benefits paid under workers' compensation, the employee will receive as near to but not

exceeding his/her full salary or wage. The employee, at his/her option, may elect any order of application of sick leave, compensatory time, administrative leave, vacation, or none of the preceding benefits if he/she notifies the executive director or authorized designee in writing within 14 days of the date of injury.

### **308. BEREAVEMENT LEAVE**

#### **POLICY**

1. Regular full-time and regular part-time employees shall be entitled to bereavement leave without loss of pay or charge against sick leave up to a maximum of 24 working hours for each non-concurrent death in the immediate family, including the immediate family of the spouse or registered domestic partner; provided however, that not more than two additional working days chargeable against accumulated sick leave may be granted for reasons deemed sufficient by the executive director or authorized designee; provided further that such leave with pay shall not be authorized for time expended in business or estate matters. Immediate family means spouse, registered domestic partner, father, mother, son, daughter, sister, brother, grandparent, grandchild, step grandparents, step parents, step children, step sisters, step brothers, and step grandchildren.
2. Verification of Bereavement Leave: Satisfactory proof of death may be required at the discretion of the executive director or authorized designee for any use of bereavement leave.

### **309. LEAVES OF ABSENCE**

#### **POLICY**

1. A regular employee may request a leave of absence of up to one year by submitting a written request for consideration to the executive director or authorized designee. Leaves of up to one year require approval of the executive director or authorized designee and the commission. The executive director or authorized designee may grant or deny the requested leave of absence for some or all of the requested period. Requests for leaves of absence shall not be unreasonably denied.
2. With regard to an employee holding a position deemed by the executive director or authorized designee to be a position that must be filled for legitimate business reasons, the absent employee's position may be filled if the executive director or authorized designee creates a collateral position and the absent employee is moved into that collateral position. During the period of leave granted to the absent employee, the employee moved to the collateral position shall retain the right to return to an existing position at the MCTC in the class he/she occupied at the time the leave was granted.
3. Such an appointment is either a provisional appointment or a probationary appointment depending on whether a complete eligible list exists.
4. The executive director or authorized designee may require the returning employee to submit to a medical examination, if the leave of absence was due to health reasons, in order to demonstrate the employee's fitness to return to duty.

**INDUSTRIAL LEAVES OF ABSENCE:** The MCTC shall continue making its portion of Health Plan payments, including dependent premiums, for employees who are on medical leave without pay due to on-the-job disability for a maximum of 26 pay periods. If applicable, this benefit shall run concurrently with the provisions of the California Pregnancy Disability Leave Act. Workers' Compensation benefits shall not be considered as pay when applied to this section.

## **RELEASE FROM DUTY**

1. When the best interest of the MCTC requires the immediate removal of the employee from his/her position, any employee may be released from regularly assigned duties with pay and benefits by the executive director or authorized designee for a period not to exceed 80 working hours. Upon showing of good cause by the executive director or authorized designee, such release from duty may be extended up to an additional 80 work hours.

## **PREGNANCY DISABILITY LEAVE/REASONABLE ACCOMMODATION**

1. Notice: The MCTC complies with the Pregnancy Disability Leave (PDL) and reasonable accommodation provisions of the California Fair Employment and Housing Act (FEHA).
2. Pregnancy Disability Transfer & Reasonable Accommodations: The MCTC will provide reasonable accommodations for a female employee for conditions related to pregnancy, childbirth, or related medical conditions, if she so requests, with the advice of her health care provider. This includes, but is not limited to, temporarily transferring a pregnant female employee to a less strenuous position or to less strenuous duties for the duration of her pregnancy, if she so requests, with the advice of her physician, where that transfer can be reasonably accommodated.
3. Pregnancy Disability Leave: If a female employee is disabled by pregnancy, childbirth or related medical conditions, or needs to take time off for prenatal care, she is entitled to take an unpaid pregnancy disability leave of up to four months for the period of time she is actually disabled.
  - A. A “four month leave” means the number of days the employee would normally work within four months. For a full time employee who works five eight-hour days per week, “four months” means 88 eight-hour days of leave entitlement. For employees who work more or less than five days a week, or who work on alternative work schedules, the number of working days which constitutes “four months” is calculated on a pro rata or proportional basis.
  - B. Leave may be taken intermittently or on a reduced work schedule when medically advisable, as determined by the employee’s health care provider.
  - C. A pregnancy disability leave contains a guarantee of reinstatement to the same or to a comparable position at the end of the leave, subject to any defense allowed under the law.
4. Notice: If an employee’s need for a pregnancy disability leave or transfer is foreseeable, she must give the MCTC at least 30 days’ prior notice of the need for leave or transfer, preferably in writing. If this is not practicable or the need for leave is unforeseeable, the employee must at least give notice as soon as practicable (generally either the same day or the next business day after learning of the need for leave). Failure to provide such notice may be grounds for delay of leave. Additionally, the employee must consult with the MCTC and make a reasonable effort to schedule any planned medical treatment or supervision so as to minimize disruption to MCTC operations. Any such scheduling will be subject to the approval of the employee’s health care provider.
5. Medical Certification & Recertification: In connection with a request for a pregnancy disability leave or transfer, the employee must provide appropriate medical certification from the relevant health care provider within 15 calendar days after the request for leave, if practicable. If the employee provides at least 30 days’ notice before the commencement of the leave, she should provide the medical certification before leave begins. Failure to timely provide a complete and clear medical certification may be grounds for delay or denial of the leave or transfer, or for non-designation of the leave as Pregnancy Disability Leave.
  - A. The certification indicating disability necessitating a leave should contain:
    - i. The date on which the employee became disabled due to pregnancy.
    - ii. The probable duration of the period or periods of disability, and

iii. An explanatory statement that, due to the disability, the employee is unable to work at all or is unable to perform any one or more of the essential functions of her position without undue risk to herself, the successful completion of her pregnancy, or to other persons.

B. The certification indicating the medical advisability of a transfer should contain:

- i. The date on which the need to transfer became medically advisable,
- ii. The probable duration of the period or periods of the need to transfer, and
- iii. An explanatory statement that, due to the employee's pregnancy, the transfer is medically advisable.

Upon the expiration of the time period which the health care provider originally estimated that the employee needed, the MCTC may require the employee to obtain recertification if additional time is requested by the employee.

6. Pay Status: Pregnancy Disability Leave is unpaid leave unless an employee has accrued leave balances (including compensatory time off, administrative leave, holiday credit, vacation, and sick leave). Where the employee has accrued leave balances, the following will apply:

A. The employee must use accrued sick leave. The employee also has the option, but is not required, to use vacation and other accrued leave balances.

B. However, if an employee is receiving wage replacement benefits including, but not limited to, State Disability Insurance (SDI), Paid Family Leave (PFL) insurance, or workers' compensation payments, while taking Pregnancy Disability Leave, the employee will not be required to coordinate accrued leave balances with these benefits unless he/she so chooses. An employee must notify payroll immediately if/when she receives wage replacement benefits and if she wishes accrued leave to be coordinated with these benefits. The substitution of paid leave for unpaid leave does not extend the maximum leave period. Further, in no case may the substitution of paid leave for unpaid leave, or coordinating leave balances with wage replacement benefits, result in the employee receiving more than 100% of his/her salary. If the employee is not eligible to substitute paid leave, she may still be eligible for unpaid Pregnancy Disability Leave. An employee will not earn any additional paid time off during the unpaid portion of his/her leave.

### **310. JURY AND WITNESS DUTY**

Employees who are subpoenaed to appear as jurors or witnesses in court cases, other than those of a personal nature, will be paid their full salaries.

The employee is required to report to work if, at the time he/she is released, more than two (2) hours remain to their workday. Upon return, the employee should submit the stamped verification of jury duty receipt issued by the Court. The employee should submit to his/her immediate supervisor a completed leave request form which indicates the day(s) required for attendance if known beforehand or submit the leave request form immediately after.

### **311. VOTING TIME**

The MCTC wishes to support and encourage employees in their opportunities and responsibilities as citizens to cast their ballots in general election years. Under most circumstances, it is possible for employees to vote either before coming to work or after the end of the workday. If the employee does not have sufficient time outside of working hours to vote at a state-wide election, a maximum of two hours time off with pay at the beginning or end of the regular work day will be given. The employee must request this time off at least two (2) working days before the election if this time off is necessary.

### **312. MILITARY LEAVE**

An employee who is a member of the Reserve Corps of the Armed Forces of the United States or of the National Guard will be allowed time off in accordance with current provisions of federal and state laws and regulations. An employee will be provided up to thirty (30) days with pay. Employees may be entitled to reinstatement upon completion of military service, provided they return or apply for reinstatement within the time required by law. An employee whose spouse is a member of the Reserve Corps of the Armed Forces of the United States or of the National Guard may be entitled to leave under certain circumstances; if the employee should contact the executive director or authorized designee for exact reinstatement.

### **313. VOLUNTEER CIVIL SERVICE PERSONNEL**

Employees will be allowed to take time off to perform emergency duty as a volunteer firefighter, peace officer or emergency rescue personnel. If an employee is an official volunteer firefighter, he/she should alert the executive director or authorized designee that they might have to take time off for emergency duty. When taking time off for emergency duty, the supervisor should be advised before doing so when possible.

### **314. SCHOOL VISITS**

Sometimes, an employee may need to appear at his/her child's or ward's school in connection with disciplinary action by the school. Any time take off for this purpose will be unpaid.

#### **GUIDELINES**

1. The employee should give reasonable notice for the planned time off.
2. Although the time off is unpaid, employees may use vacation, personal or compensatory time to cover the time taken for the school visit(s).
3. The employee must provide, upon the MCTC's request, written verification from the school of parental participation specifying the date and time of the event/meeting.
4. Employees whose child has been suspended from school will be allowed time off to appear at the school in connection with that suspension after giving reasonable notice to the supervisor.

### **315. VICTIMS OF DOMESTIC VIOLENCE OR SEXUAL ASSAULT**

Employees who are a victim of domestic violence or sexual assault are allowed to take unpaid time off for certain purposes, including but not limited to, legal proceedings, safety planning or relocation, and obtaining a (temporary) restraining order. Employees may use accrued vacation time to take time off. Employees who need to take time off must give the MCTC reasonable advance notice of their intention unless reasonable notice is not feasible. If the time off is an unscheduled absence, the employee may be required to notify their supervisor as soon as possible of their absence and provide documentation to the MCTC within a reasonable time after the absence. Acceptable documentation includes a police report, court order or other evidence from the court, or a note from a medical professional, domestic violence advocate, health care provider, or counselor.

### **316. VICTIMS OF CRIME**

An employee who is a victim or who is the family member of a victim of a violent felony or serious felony may take time off from work under the following circumstances:

1. The crime must be a violent or serious felony, as defined by law; and
2. The employee must be the victim of a crime, or must be an immediate family member of a victim, a registered domestic partner of a victim, or the child of a registered domestic partner of a victim.

An immediate family member is defined as: a spouse, child, stepchild, brother, stepbrother, sister, stepsister, mother, stepmother, father or stepfather.

A registered domestic partner means a domestic partner who is registered in accordance with California State law.

The absence from work must be in order to attend judicial proceedings related to a crime listed above.

Before the employee is absent for such a reason, he/she must provide documentation of the scheduled proceeding. Such notice is typically given to the victim of the crime by a court or government MCTC setting the hearing, a district attorney or prosecuting attorney's office or a victim/witness office.

If advance notice is not possible, the employee must provide appropriate documentation within a reasonable time after the absence.

Any absence from work to attend judicial proceedings will be unpaid, unless the employee chooses to take paid time off, such as accrued vacation or sick leave, or any other accrued paid time off.

### **317. REIMBURSEMENT FOR TUITION AND OTHER TRAINING AND EDUCATION COSTS**

1. It is the policy of the MCTC to encourage employees to participate in cost effective training which will improve the quality and timeliness of those services employees provide.
2. Upon prior approval of the executive director or authorized designee, the MCTC will pay for or reimburse an employee for the actual, reasonable, and necessary costs of:
  - A. Enrollment in and materials for continuing education classes which are required to maintain licensure or qualification for continued employment, and not taken for the purpose of qualifying for another position or qualifying for non-MCTC employment.
  - B. Enrollment in and materials for seminars or workshops not exceeding ten class days which are related to the employee's current employment and are not taken for the purpose of qualifying for another position or qualifying for non-MCTC employment.
  - C. Enrollment in and materials for education classes conducted in a web-based or on-line format, and not taken for the purpose of qualifying for another position or qualifying for non-MCTC employment.

The executive director or authorized designee may authorize payment for on-site or off-site classes.

3. Upon the executive director or authorized designee's prior approval, the MCTC will pay for or reimburse an employee for the actual, reasonable, and necessary costs of other classes, seminars, or workshops related to the employee's current employment and which are not taken for the purpose of qualifying for another position or non-MCTC employment.

## **SECTION IV: RULES AND REGULATIONS**

### **401. EMPLOYMENT OF RELATIVES**

#### **POLICY**

The MCTC has a strict policy regarding the hiring of and other employment actions regarding employees' relatives. The purpose of the policy is to avoid any real or perceived conflicts of interest. Exceptions may be made for paid and unpaid internships at the sole discretion of the executive director or authorized designee.

#### **GUIDELINES**

Members of the immediate family of elected or appointed MCTC commission members or alternates will not be appointed to MCTC employment.

Members of the immediate family of regular employees will not be appointed to MCTC employment, nor will they be transferred, promoted or demoted into the same function, nor be placed in such a position as to evaluate a relative or be in the same line of supervision, if doing so could result in actual or potential problems in supervision, security, safety, or morale, or if doing so could create potential conflicts of interest. Each situation will be addressed based on the individual circumstances of that situation.

Members of the immediate family of regular employees will not be hired on a temporary basis.

If two employees become married or become otherwise directly related, causing actual or potential problems such as those described above, only one of the employees will be retained with the MCTC, unless reasonable accommodations can be made to eliminate the actual or potential problems. The employees will have 30 days to decide which relative will stay with the MCTC. If this decision is not made within the time allowed, the executive director or authorized designee will make the decision, taking the employment history and job performance of both employees into account.

The MCTC defines "relatives" as spouses, children, brother, sister, parents, in-laws, grandparents, grandchildren, uncle, aunt, niece, nephew, and registered domestic partners and their children or registered domestic partners' brother, sister, parent, uncle, aunt, niece or nephew. Step-relatives of the same relationships are also included.

### **402. EMPLOYEE DATING POLICY**

#### **POLICY**

Consensual romantic relationships between employees are discouraged. Such relationships can lead to problems with morale, decreased productivity and increased liability. The MCTC has a strong policy against sexual harassment and is concerned that consensual romantic relationships might potentially violate the policy. The MCTC wants to prevent sexual harassment from occurring in the workplace.

## **GUIDELINES**

Individuals in supervisory or other influential roles are prohibited from participating in romantic relationships with subordinate employees due to the importance of the appearance of fairness, their access to sensitive information, and their ability to influence others.

To help prevent sexual harassment, employees who enter into consensual romantic relationships must:

1. Notify the executive director or authorized designee;
2. Review the sexual harassment policy and sign an acknowledgment that they have done so; and
3. Sign a consensual relationship agreement, stating that (a) the relationship is voluntary, (b) the employees will abide by the sexual harassment policy, (c) the employees will behave professionally at work, (d) the relationship will not affect work, and (e) they will not engage in offensive workplace behavior.

In addition to the above, the Employment of Relatives Policy (#401) will also apply.

Violation of these guidelines will subject the employee to discipline, up to and including termination of employment.

## **403. ALCOHOL-FREE AND DRUG-FREE WORKPLACE POLICY**

### **POLICY**

The MCTC recognizes that the use of drugs or alcohol in the workplace can create health and safety problems for employees and the public they serve. Therefore, it is the MCTC's policy that:

1. Alcohol intoxication or the unlawful manufacture, unlawful distribution, unlawful dispensing, unlawful possession or unlawful use of any controlled substance is prohibited in the workplace while on duty.
2. Each MCTC employee will be notified that as a condition of employment the employee is required to:
  - A. Abide by this policy; and
  - B. Notify the MCTC of any criminal drug or alcohol statute conviction (including a plea of nolo contendere) for a violation that occurred in the workplace while on duty, no later than five days after such conviction.
3. The MCTC will take one or both of the following actions within 30 days of receiving notice of an employee being alcohol- or drug-impaired on the job or of the employee's conviction of an alcohol- or drug-related offense described in Paragraph 2B:
  - A. Require the employee to participate in an alcohol or drug abuse rehabilitation program approved by a federal, state, or local health or law enforcement or MCTC; and
  - B. Take appropriate personnel action against the employee consistent with these Personnel Rules and relevant MOU.
4. The focus of this policy is substance abuse prevention through educating employees about the dangers of alcohol and drug abuse, and encouraging rehabilitation of those employees who have such problems. However, this policy does not preclude taking disciplinary action when appropriate. The decision whether to take disciplinary action will be made on a case-by-case basis.
5. The MCTC shall conduct drug/alcohol abuse awareness programs that inform employees about the dangers of drug and alcohol abuse in the workplace, the availability of drug and alcohol counseling and rehabilitation programs, the MCTC's policy of maintaining a drug-free and alcohol-free workplace, and the penalties that may be imposed upon employees for alcohol or drug violations.

6. The MCTC, through its drug/alcohol abuse awareness program and/or Employee Assistance Program (EAP), shall provide referral to substance abuse counseling services or educational services as appropriate.
7. An MCTC employee shall be subject to drug and alcohol testing during working hours upon the executive director or authorized designee's determination that there is reasonable suspicion that the employee is currently impaired due to the use of drugs or alcohol.
8. "Reasonable suspicion" is a belief based on objective facts and reasonable inferences drawn from those facts sufficient to lead a reasonably prudent person to suspect that an employee is under the influence of drugs or alcohol so that the employee's ability to perform the functions of the job is impaired or the employee's ability to perform the job safely is reduced. Any of the following, alone or in combination, may give rise to reasonable suspicion that the employee is currently under the influence of alcohol or a drug and is impaired:
  - A. Slurred or excessively rapid speech;
  - B. Alcohol odor on breath or clothing;
  - C. Unsteady standing, walking or movement;
  - D. Pupils dilated or constricted or difficulty focusing eyes;
  - E. An accident involving MCTC property or equipment;
  - F. A physical altercation;
  - G. A verbal altercation; provided, however, such altercation shall not, by itself, be considered a basis for reasonable suspicion;
  - H. A pattern of unusual behavior, such as hyperactivity, mood swings, hostility, absentmindedness, lethargy or withdrawal;
  - I. Ingestion of alcohol or an illegal drug while on MCTC premises or while on duty;
  - J. Possession of alcohol, an open container, illegal drugs or drug paraphernalia;
  - K. Substandard work performance, including increased errors or absenteeism, a decrease in quantity or quality of work performed, or deterioration of work relationships; provided, however, that substandard work performance shall not, by itself, be considered a basis for reasonable suspicion; and/or
  - L. Information obtained from a reliable person with direct personal knowledge.
9. The MCTC shall abide by the requirements of the Drug-Free Workplace Act of 1988.
10. This policy shall be applied without bias or prejudice.
11. Each MCTC employee will receive a copy of this policy.

#### **404. SMOKING**

##### **POLICY**

Smoking is prohibited within any public building. Smoking is not allowed on the sidewalk in front of the building if doorways and walkways are blocked or littered, smoke can infiltrate the building's ventilation systems, and such activity is not in compliance with applicable laws and ordinances.

#### **405. GRATUITIES**

##### **POLICY**

An employee's obligation under this policy is in addition to and does not in any way change his/her obligation under the MCTC's Business Ethics Policy.

An employee may not receive a gratuity from any individual, organization, or vendor doing business with the MCTC. All gratuities received or offered to the employee should be reported to the employee's supervisor.

Gratuities should be refused or returned and the offer should be reported to the supervisor. For the purpose of this policy, a gratuity is defined as a gift or service rendered to an individual. Gifts include, but are not limited to money, candy, alcoholic beverages, tickets to events, trips, or the use of equipment or property.

Employees are required to comply with the Political Reform Act of 1974 and file Form 700-FPPC, which is a public document intended to disclose potential conflicts of interest.

## **406. SECURITY AND PRIVACY**

### **POLICY**

Desks, storage areas, work areas, lockers, file cabinets, credenzas, computer systems, software, communication systems including email, office telephones, modems, facsimile machines and duplicating machines are MCTC property and must be maintained according to this policy. Because all these items are MCTC property, employees do not have, and should not expect, any right of privacy regarding this property or the contents of the property.

### **GUIDELINES**

#### **1. Neatness**

All work areas and items must be kept clean and are to be used only for work purposes, except as provided in this policy.

#### **2. Right of Inspection**

The executive director or authorized designee reserves the right, at all times, and without prior notice, to inspect and search any and all MCTC property for the purpose of determining whether this policy or any other MCTC policy has been violated, or whether further inspection and investigation is necessary for purposes of promoting safety in the workplace or compliance with state and federal laws. Such inspections may be conducted before, during or after business hours.

#### **3. Prior Authorization**

Prior authorization must be obtained from the executive director or authorized designee before any MCTC property may be removed from the premises.

#### **4. Use of Telephones and Mail**

##### **A. MCTC-maintained systems**

MCTC phones and voicemail systems including texting, pagers, and mobile email are maintained by the MCTC in order to facilitate MCTC business. Therefore, all messages sent, received, composed, and/or stored on these systems are property of the MCTC.

##### **B. Personal use extremely limited**

These systems are to be used by employees in conducting business. Personal use of the systems is allowed to a limited degree. Abuse of telephone privileges may result in disciplinary action, up to and including termination of employment. Any personal long distance call should only be made using a personal billing card.

##### **C. Privacy not guaranteed**

The MCTC reserves the right to access an employee's voicemail (outgoing and incoming), email messages and MCTC computer at any time. The existence of a password on any system is not intended to indicate that messages will remain private.

**D. Erasure not reliable**

Employees should be aware that even when a message has been erased, it still may be possible to retrieve it from a backup system. Therefore, employees should not rely on the erasure of messages to assume a message has remained private.

**E. Harassment and discrimination**

Messages on the MCTC's voicemail and email systems are subject to the same policies regarding harassment and discrimination, as are any other workplace communications. Offensive, harassing or discriminatory content in such messages will not be tolerated.

**F. Representing MCTC**

Any phone conversations the employee conducts and voicemails that he/she leaves in the conduct of MCTC business are a representation of the MCTC and must therefore follow the highest standards of professionalism and business ethics.

The use of employer-paid postage for personal correspondence is not permitted.

## **407. COMPUTER AND EMAIL POLICY**

The MCTC's computer systems, including any voicemail or email systems, are to be used for business purposes only. The executive director or authorized designee reserves the right to listen to voice mail messages and to access, copy and retain email messages to ensure compliance with this rule, with or without notice to the employee and with or without the employee's absence.

**1. Use of MCTC Equipment**

Employees are permitted to use MCTC equipment for occasional, non-MCTC purposes during rest and meal periods. Nevertheless, the employee has no right of privacy as to any information or file maintained in or on MCTC property or transmitted or stored through the MCTC's computer systems, voice mail, email, cell phones, iPhones, other smart phones or PDAs, or other technical resources.

**2. Review of Computerized Information**

For business necessity and/or for reasonable cause, the executive director or authorized designee may inspect, investigate or search employees' computerized files or transmissions, voice mail, or email. The MCTC may override any applicable passwords or codes in accordance with the best interests of the MCTC and its employees.

**3. Computer Privacy**

Employees may access only files or programs, whether computerized or not, that they have permission to enter. Unauthorized review, duplication, dissemination, removal, damage or alteration of files, passwords, computer systems or programs, or other property of the MCTC, or improper use of information obtained by unauthorized means, may be cause for disciplinary action, up to and including termination of employment.

**4. Software and Hardware Inventory Procedures**

The MCTC has established a procedure that establishes an inventory for all computer hardware equipment and software applications on-hand. The inventory is done regularly.

**5. Software Licensing**

The MCTC's policy is to purchase appropriate software licenses for each computer program required for employees to perform their job functions in a timely and efficient manner. It is the MCTC's policy to respect all computer software copyrights and adhere to the terms of all software licenses. Software may only be installed on hardware explicitly allowed under the terms and conditions of that particular software's license. Normally, the software is copyrighted by the software developer, and unless explicitly allowed by an existing license, the MCTC or its employees have no right to make copies of the software except for backup or archival purposes.

## **6. Use of Electronic Media**

Electronic communication/media may not be used in any manner that would be discriminatory, harassing or obscene, or for any other purpose that is illegal, against MCTC policy or not in the best interest of the MCTC and its employees.

Employees who misuse electronic communications and engage in defamation, copyright or trademark infringement, misappropriation of trade secrets, discrimination, harassment, commercial/political/religious solicitations, office gossip or related actions will be subject to disciplinary action, up to and including termination of employment.

While employees may occasionally use electronic mail for personal messages, such messages are also property of the MCTC and will be treated no differently from any other messages. The MCTC reserves the right to access and disclose all messages sent over its electronic mail system.

Any emails and other informal forms of correspondence an employee writes and sends in the conduct of MCTC business are a representation of the MCTC and must therefore follow the highest standards of professionalism and business ethics. (Note: the intent here is to cover social media and other emerging electronic communication.)

## **7. Internet Use**

Access to the Internet is provided for business reasons. Incidental and occasional personal use of the internet is permitted by the MCTC and should be used with discretion. No use of Internet resources shall include accessing areas, including but not limited to web sites, which are offensive or insulting. This includes areas that contain sexually explicit material, ethnic or racial slurs, or any material that can be construed to be harassment or disparagement of others based on their sex, race, sexual orientation, age, national origin or religious or political beliefs.

Employees may not download or access any material that violates another person or organization's copyrights. This includes, but is not limited to, software, images, and audio recordings (MP3, etc.). If the copyright or license status is unknown or in question, the employee is to presume that access would be a violation of this policy.

## **8. Computer Passwords**

Personal passwords may be used for purposes of security, but the use of a personal password does not affect the MCTC's ownership of the electronic information. Employees are to provide all passwords to the executive director or authorized designee, who will keep them confidential.

## **9. Remote Access**

Remote access to the MCTC's network is a privilege granted only to appropriate users at the discretion of the executive director or authorized designee, and may be revoked at any time. It is the responsibility of the remote access user to ensure that unauthorized use does not occur at any time.

When using the remote access technology, the authorized user must acknowledge that their remote machines are a de facto extension of the MCTC's network and subject to the same rules, regulations and procedures that apply to MCTC owned equipment.

If a remote access device is lost or security is breached, the MCTC reserves the right to disable the device, which may include the loss of all device data.

## **10. Social Media**

The MCTC does not use, nor does it condone the use of, social media in the workplace for any purpose other than work related and by authorized users. Social media is a set of Internet tools that aid in the facilitation of interaction between people and organizations on the Internet. Use of Internet based programs such as Facebook, Linked In, My Space or Twitter (this is not meant to be an exhaustive list – if employees have specific questions about which programs the MCTC deems to be social media, they can consult with their the executive director or authorized designee) for any other

use than official MCTC business is a violation of MCTC policy and use of these programs either on MCTC owned property or on employees' personal property during work hours on the work premises can result in disciplinary action, up to and including termination of employment.

## **408. CONFIDENTIALITY AND PROTECTION OF PROPRIETARY INFORMATION**

### **POLICY**

The protection of proprietary information is essential both for the MCTC and employee security. In the course of the employee's work, the employee may have access to confidential and proprietary information regarding the MCTC, its officers, affiliates, suppliers, customers and fellow employees. To protect such information, the employee may not disclose such information at work except as necessary to perform his/her duties. The employee must not under any circumstances reveal this information outside of the MCTC without prior approval by the executive director or authorized designee. Such information can be used only to perform the employee's job duties within the MCTC.

### **GUIDELINES**

Proprietary information includes, but is not limited to, the following examples:

1. Computer processes;
2. Computer programs and codes;
3. Customer lists;
4. Financial information;
5. Marketing strategies;
6. New materials research;
7. Pending projects and proposals;
8. Proprietary production processes;
9. Research and development strategies; and
10. Technological data.

## **409. WORKPLACE ATTIRE**

### **POLICY**

An employee's personal appearance reflects the MCTC's image to the public, applicants, consultants, visitors and other employees. All employees are representatives of the MCTC and therefore impact the MCTC's image as a professional organization. Personal appearance includes grooming, cleanliness and appropriate attire. Employees are expected to dress in professional office clothing and maintain a businesslike and well-groomed appearance. Attire that is considered "business casual" is acceptable for normal office activities.

## **410. MEDIA CONTACT**

### **POLICY**

Employees may be approached for interviews or comments by the news media. Only contact people designated by the executive director or authorized designee may comment to news reporters or other media on programs, projects, policies or events that have an impact on the MCTC. Otherwise, all media contacts and requests for information or interviews must be referred to the executive director or authorized designee.

## 411. DRIVING POLICY

### POLICY

When driving on MCTC business, the employee should always obey the rules of the road and be courteous to other drivers and pedestrians. As further safety precautions, the employee may not drive on MCTC business while under the influence of alcohol or drugs. For insurance purposes, the employee should notify the executive director or authorized immediately if he/she has received a D.U.I. conviction.

### GUIDELINES

#### 1. Reimbursement When Using Own Vehicle for MCTC Business

Employees required or authorized to drive their own vehicle on MCTC business shall be reimbursed for actual miles at the annually established rate by the Internal Revenue Service.

#### 2. Injury/Accident When Driving on MCTC Business

If the employee is injured in an automobile accident while driving on MCTC business, the employee must inform his/her supervisor immediately. Employees are required to maintain their own car insurance and a valid California Driver's License if they drive their own personal vehicle. Evidence of this documentation must be provided to the MCTC at least once a year.

It is the responsibility of the employee's supervisor to ensure that any accident report is complete and submitted to the insurance carrier.

#### 3. Use of Cell Phones and Text-Based Communication While Driving

In the interest of the safety of our employees and other drivers, MCTC employees are prohibited from using cell phones and/or writing, sending or reading text-based communication, including text messaging, instant messaging, and email, on a wireless device or cell phone while driving on MCTC business and/or MCTC time.

If the employee's job requires that he/she keep a cell phone or other wireless device turned on while driving, the employee must use a hands-free device to make or receive phone calls. All other California state rules and regulations regarding phone calls and text-based communication while driving must be followed.

## 412. EXPENSE REIMBURSEMENT

### POLICY

The MCTC has established the following procedure regarding reimbursement for travel and other MCTC related business expenses.

### GUIDELINES

#### 1. Supervisor Approval

Employees shall obtain supervisory approval prior to incurring any MCTC reimbursable expenses related to travel or other business functions.

#### 2. Appropriateness of Reimbursements

The decision of the executive director or authorized designee shall be final in cases where conflict of opinion about the appropriateness of reimbursement exists. The following guidelines shall govern such approval:

- A. While attending approved functions, the burden of responsibility for sound judgment in spending MCTC funds rests on the attending employee.
- B. A fixed reimbursement amount is set in advance by the executive director or authorized designee to cover all meals not otherwise included in the registration fee.

- C. The employee shall fill out an employee travel and expense report and submit receipts with itemizations and explanations in order to receive reimbursement.
- D. Reimbursement requests with receipts shall be submitted to the supervisor for approval on the expense reimbursement form. Approved reimbursement requests shall be forwarded to the executive director or authorized designee for payment.

**3. Vehicle Use/Reimbursement**

Employees approved to use their personal vehicles shall receive mileage reimbursement at the rate currently established by the Internal Revenue Service. Whenever possible, employees shall carpool when traveling on MCTC business.

## **413. OUTSIDE EMPLOYMENT AND CORPORATE AFFILIATION POLICY**

**PURPOSE**

- 1. Government Code Section §1125 et seq. prohibits local MCTC officers and employees from engaging in employment or activities for compensation which are incompatible, inconsistent or in conflict with their MCTC employment. Government Code Section 1090 prohibits government officers and employees from being financially interested in a contract or sale in both their public and private capacities. In addition, the state's common law prohibits self-dealing and requires public officers to discharge their responsibilities with fidelity, and untainted by private interests.
- 2. MCTC employees have the same rights as other citizens to paid outside employment if they so desire, unless such outside employment violates the provisions of Section §1125 et seq.

**GENERAL POLICY: GOVERNMENT CODE SECTION 1126**

Government Code Section §1126 is applicable to all MCTC officers and employees. The provisions of Section §1126 are hereby incorporated in this policy and any future amendments to Section §1126 duly adopted by the legislature shall be incorporated by reference as they are enacted.

- 1. Government Code Section §1126 now provides in pertinent part as follows:
  - A. "A local MCTC officer or employee shall not engage in any employment, activity, or enterprise for compensation which is inconsistent, incompatible, in conflict with, or inimical to his or her duties as a local MCTC officer or employee or with the duties, functions, or responsibilities of his or her appointing power or the MCTC by which he or she is employed. The officer or employee shall not perform any work, service, or counsel for compensation outside of his/her local MCTC employment where any part of his or her efforts will be subject to approval by any other officer, employee, board or commission of his or her employing body, unless otherwise approved in the manner prescribed by subdivision (b)."
  - B. An employee's outside employment, activity, or enterprise may be prohibited if it:
    - i. Involves the use for private gain or advantage of his or her local MCTC time, facilities, equipment and supplies; or the badge, prestige, or influence of his or her local MCTC office or employment; or
    - ii. Involves receipt or acceptance by the officer or employee of any money or other consideration from anyone other than his or her local MCTC for the performance of an act which the officer or employee, if not performing such act, would be required or expected to render in the regular course or hours of his or her local MCTC employment or as a part of his or her duties as a local MCTC officer or employee; or
    - iii. Involves the performance of an act in other than his or her capacity as a local MCTC officer or employee which act may later be subject directly or indirectly to the control, inspection,

- review, audit, or enforcement of any other officer or employee or the MCTC by which he or she is employed; or
- iv. Involves the time demands as would render performance of his or her duties as a local MCTC officer or employee less efficient...”

#### **PROHIBITED OUTSIDE EMPLOYMENT OR CORPORATE AFFILIATIONS**

1. The MCTC adopts the following rules which will govern the application of Government Code Section §1126 restrictions to employees.
2. Employees are prohibited from holding employment or participating in activities for compensation, as described in Government Code section §1126 and which have the characteristics or potential impacts described in subsection 4.
3. Employees are prohibited from being members, officers or directors of corporations, including non-profit corporations (hereafter referred to as “corporate affiliation”), if doing so would have the characteristics or potential impacts described in subsection 4.
4. The outside employment or corporate affiliation is prohibited if it:
  - A. Results in repeated phone calls to or from the employee’s work locations.
  - B. Results in persons making repeated visits to the employee’s work locations.
  - C. Requires the use of time off from work without adequate notice or at times that interfere with the employee’s MCTC responsibilities.
  - D. Involves activities that are directly or indirectly subject to the review or approval of an MCTC department under which the employee is employed.
  - E. Depends upon the availability of MCTC information which would not be available to the general public.
  - F. Improperly represents that the outside employment, activity or enterprise for which compensation is received is provided as an MCTC service or is endorsed by the MCTC, when it is not.
  - G. Involves the use of any MCTC property, vehicles, tools, or equipment, whether directly or incidentally.
  - H. Involves activities rendered to MCTC clients in the MCTC employee’s department for private compensation which are expected to be rendered in the regular course of the duties of the MCTC employee.
  - I. Interferes with the satisfactory performance of duties.
  - J. Involves any other activities which conflict with the employee’s performance of MCTC duties for which he or she was hired or is detrimental to MCTC service.
  - K. Involves the representation to any individual, company, or firm with which the MCTC does business that the employee can or will use his or her position with the MCTC to further the interests or goals of that individual, company, or firm for compensation or gifts received from that individual, company, or firm.
5. Any MCTC employee who is a member, officer, or director of a corporation, including a non-profit corporation, shall recuse himself or herself from any involvement in establishing or influencing any contractual relationship between the MCTC and the corporation, on behalf of either the MCTC or the corporation, including making or influencing decisions regarding whether to enter into such contractual relationship, or involvement in procurement, contract drafting or negotiation, or monitoring of the contractor’s performance, unless statutorily authorized to do so.
6. All MCTC employees who are also subject to professional codes of ethics shall adhere to such professional ethics in any of their dealings with outside employment. Any violation of such professional ethics may result in the prohibition of the outside employment.

## **NOTICE REQUIREMENTS**

Employees contemplating or currently engaging in any outside employment or who change outside employment, or who are or are contemplating becoming a member, officer, or director of a corporation, shall provide the executive director or authorized designee with written notification of all regular outside employment, all occasional outside employment, including self-employment, and all corporate affiliation.

An outside employment statement must contain the following:

1. The name and address of the employer, client/customer, or corporation, unless there is a statutory privilege making such provision of information confidential. In these circumstances, the executive director or authorized designee may require additional information which is not privileged or confidential.
2. The nature of the services or products to be provided, including a copy of the job description or employment agreement.
3. The expected hours and duration of the employment or activities related to the corporation.
4. The relationship, if any, of the employment to MCTC approvals or reviews.
5. With regard to corporate affiliations, whether the corporation currently has any contracts with the MCTC or is likely to have a contract through the employee's department in the future.
6. Any other information that will assist the MCTC with determining the compatibility of the outside employment with MCTC employment.
7. A certification by the employee that he or she has read this chapter and will comply with all of the rules of such policy in pursuing outside employment or corporate affiliation.
8. MCTC employees currently engaging in outside employment, or who have a corporate affiliation, shall submit notification within 10 days of receipt of this policy. Employees contemplating outside employment or a corporate affiliation shall submit notification prior to beginning each such employment or corporate affiliation and in no event shall notification be submitted more than five days after beginning employment or corporate affiliation.
9. Receipt and filing of the Notice does not constitute approval of such outside employment by the department head.
10. All employees regardless of whether they intend to engage in outside employment or initiate a corporate affiliation, must sign the Outside Employment/ Corporate Affiliation Statement.

**DISCIPLINARY ACTION:** Failure to provide written notification as required or failure to provide complete information to the best of the employee's knowledge may be cause for disciplinary action, up to and including termination of employment.

**ACKNOWLEDGMENT OF RECEIPT OF HUMAN RESOURCES POLICIES AND PROCEDURES MANUAL**

I have received a copy of the Modoc County Transportation Commission’s Personnel Policy Policies and Procedures Manual. I understand that it contains important information on MCTC policies, as well as, my rights and responsibilities as an employee. I understand and agree that it is my responsibility to familiarize myself with the policies in the Policies and Procedures Manual and abide by these policies.

I have read and understand the Policies and Procedures Manual. I understand that I am governed by its contents. I understand that the MCTC retains its discretion to make all decisions concerning my employment (including, e.g., decisions regarding promotions, demotions, transfers, job responsibilities, increases or reductions in pay, bonuses or other compensation, or any other managerial decision). No director, supervisor, or representative of the MCTC has the authority to enter into any agreement, express or implied, for employment for any specific period of time, or make any agreement for employment.

I understand and agree that nothing in the Human Resources Policies and Procedures Manual creates or is intended to create a promise or representation of continued employment.

I have also read and understand the MCTC’s Unlawful Harassment Policy.

I further understand that, except for employment at-will status, the MCTC can change, delete, or add to any policies, benefits, or practices described in the Policies and Procedures Manual in its sole and absolute discretion with or without prior notice and in accordance with the board of directors.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Print Name

## Appendix A

### Alternate Work Week Policy (AWWS)

#### AWWS Purpose

The alternate work week schedule (AWWS) allows employees and Executive Directors to mutually agree upon a varied distribution of their normal work hours. It does not change the number of hours worked, but simply allows each individual the flexibility to rearrange their work schedule to better meet their personal needs while also considering the needs of the office.

The major benefits of the AWWS are:

1. Improved employee morale and job satisfaction;
2. Extended hours of service to the public and other agencies;
3. Decreased short-term absenteeism for medical and miscellaneous personal appointments; and
4. Increased employee usage of carpools and public transportation.

#### AWWS Policy

It is the policy of the MCTC to offer flexible work hours and schedules to employees as allowed under the Fair Labor Standards Act (FLSA), while continuing to maintain operating efficiency, productivity, and effective service to the public and other agencies.

#### AWWS Eligibility

Only regular, full-time MCTC employees are eligible to participate in an "official" AWWS. AWWS allows a variety of work schedules that are mutually acceptable to the employee and the Executive Director.

Participation is dependent upon the employee maintaining a minimum balance of 40 hours of leave credits (excluding sick leave) to cover any deficit that results from working less than the required number of hours for a pay period. The AWWS may be terminated by MCTC at any time due to the employee's failure to maintain acceptable leave balances. The AWWS may also be terminated or modified at any time by MCTC due to agency needs, as further described below.

#### Responsibilities and Approvals

The Executive Director is responsible to ensure that the office has coverage during the normal office hours: 8:00 a.m. to 5:00 p.m., including the lunch period. Consideration will be given to the needs of MCTC, the employees' workload and the type of work performed. The Executive Director will consider these issues and any current operational needs prior to approving a request for an AWWS.

Employees wishing to work an AWWS must prepare a written request to the Executive Director with the proposed schedule, completion of the AWWS form, and include the alternate work week calendar.

Prior to approving the AWWS the Executive Director must consider the impact the proposed work schedule will have on fellow employees, as well as the agency as a whole, and make any necessary adjustments.

In addition, the employee's attendance record shall be reviewed. Careful consideration will be given before approving an AWWs for any employee whose leave balances are consistently hovering around the required 40 hour minimum. Exceptions to this policy can be made at the discretion of the Executive Director; however, the reason for approval must be documented.

All AWWs will be approved for a 60 to 90 day trial period. This will allow sufficient time to determine any impact the scheduling change may have on meeting workload commitments, assessing impact on attendance, as well as allowing the employee and the Executive Director to determine whether the new work schedule will meet individual and program needs.

Any adjustments to the employee's original request should be discussed with the employee in order to develop a work schedule that is agreeable to both the Executive Director and the employee. Adjustments to the original agreement should be documented.

### **AWWS MUST ALWAYS BE EFFECTIVE AT THE BEGINNING OF A PAY PERIOD.**

When an Alternative Work Week Schedule is cancelled by either the employee or Executive Director, written documentation must be immediately sent to Personnel. This documentation should contain the date upon which the employee will return to a normal 8-hour day schedule. Where possible, cancellations should occur at the end of the pay period.

## **AWWS DEFINITIONS**

### **CORE TIME**

Core Time is the period of time during which all employees are expected to work. The Executive Director will be responsible for establishing the agency's Core Time, depending on the needs of the agency.

### **REGULAR BUSINESS HOURS**

Regular Business Hours are 8:00 a.m. to 5:00 p.m., Monday through Friday, with a one hour lunch period.

It will be the responsibility of the Executive Director to ensure that staff is available to cover all key agency functions during the Regular Business Hours.

### **LUNCH PERIOD**

A minimum of 30 minutes must be taken by each employee for lunch. The lunch period is usually between 11:30 a.m. and 1:30 p.m. It may be necessary for employees to stagger individual lunch breaks to allow a minimum level of coverage during this two-hour period.

### **VACATION, SICK LEAVE, AND OTHER EXCUSED ABSENCES**

Each absence will be recorded on the employee's time sheet. The normal work week for full time employees is 40 hours. Hours of work (including holidays and excused absences) should add up to 40 hours unless the Executive Director has approved overtime or comp time.

**Regular Work Week Schedule:** Employees working a standard 5 day, 40 hour week schedule from Monday to Friday.

**Alternate Work Week Schedule:** An alternative to the normal 5-day, 40-hour work week. Examples of alternate work schedules are:

- **4/10/40:** An employee works the required 40-hour minimum work week in four 10-hour days between Monday and Friday.
- **9/8/80:** An employee works eight 9-hour days and one 8-hour day in a two-week period with one day off every other week that corresponds with the 8-hour day.

Employees who are approved for a 9/8/80 work week will be required to adjust their work week to ensure that they do not work over 40 hours in any consecutive seven day period. In this instance their work weeks would be adjusted to start four hours into their work shifts on their 8 hour days (this puts 4 hours into each work week).

Example: An employee on a 9/8/80 schedule working from 7:00 a.m. to 5:00 p.m. Monday through Thursday with a 1 hour lunch, and from 8:00 a.m. to 5:00 p.m. with a 1 hour lunch on their 8 hour Friday with every other Friday as their regular scheduled day off (RDO). The work week technically would start mid-day on Friday and end at mid-day on the following Friday.

Week 1: Monday through Thursday, 9 hours a day; Friday 4/4\*

Week 2: Monday through Thursday, 9 hours a day; Friday RDO\* /RDO

Week 3: Monday through Thursday, 9 hours a day; Friday 4/4\*...

...and so on

\* These hours together form one work week. The hours not marked with an asterisk form another work week.

In the above example, the work week, which under the FLSA is defined as a fixed and regularly recurring period (7 consecutive 24-hour periods) begins mid-day on Friday (of Week 1) and extends to mid-day the following Friday (Week 2). This work week remains constant as reflected above.

## FORMAL APPROVAL

Once the Executive Director approves any form of AWWS, the employee must complete the Alternate Work Week Agreement form ([MCTC HR02](#)) and forward it to the Executive Director for signature. A copy of the signed agreement will be placed in the employee's personnel folder. Written documentation of a canceled or modified AWW will also be placed in the employee's personnel folder.

### Termination of AWWS

The alternate work week agreement may be cancelled at any time by either the employee or MCTC by written notification or at the discretion of the Executive Director to include, but not limited to, the following: needs of the agency, employee performance, failure of employee to maintain the acceptable leave balances, or abuse of the AWWS policy. All AWWS terminations are effective the last day of the pay period.

## **Time Reporting**

All employees working a formal AWWS, i.e., 4/10/40, 9/8/80 will be required to report all hours worked, as well as any hours on paid leave, on the employee time sheet. This will ensure proper recordkeeping and crediting for any excess or holiday credit hours that may be accumulated on an AWWS. In addition, it will allow proper auditing of overtime hours that could be accumulated for those employees subject to overtime under FLSA.

### **EXCESS HOURS**

AWWS can sometimes result in a difference between the number of hours worked and the number of hours in a pay period. Hours worked over the required number of hours for a pay period are called excess hours. Hours worked below the required number of hours in a pay period are called deficit hours. Excess hours are credited at the close of the pay period, and therefore, cannot be used during the month earned. Excess hours will be carried as a credit on the employee's leave balance.

Deficit hours will not be carried over to the next pay period. The employee must use previously earned excess hours to equal the required number of hours for the pay period. If the employee does not have sufficient excess hours, s/he may use other leave credits (other than sick leave) to cover the deficit. If the employee does not have sufficient paid leave to cover the deficit, her/his pay will be docked, and the AWWS will be cancelled for failure to maintain a 40-hour leave credit balance (excluding sick leave).

Upon separation from MCTC, any accumulated excess hours shown on the employee's leave balances will be paid at the straight time rate.

Personnel will assist any affected employees with the proper attendance recordkeeping for excess or deficit hours.

### **LEAVE CREDITS**

Leave credits, including sick leave, personal leave hours, vacation, CTO, and excess hours, must be charged according to the employee's work schedule. For example:

Employees on a 4/10/40 schedule absent on sick leave all day must charge 10 hours of sick leave credits.

Employees on a 9/8/80 schedule who are absent on sick leave on the day they are required to work 9 hours must charge 9 hours of sick leave credits. If absent on their 8 hour day, must charge 8 hours of sick leave credits.

The employee must temporarily revert to a five day, 40 hour week schedule (for a minimum of one work week (Monday-Friday)) when on jury duty, on military leave, in training for 5 or more days; or when using leave credits prior to going on disability leave. In these instances, the temporary work schedule change must be coordinated with Personnel so the proper documentation can be prepared.

## **BEREAVEMENT LEAVE**

A maximum of five days or 40 hours is allowed, and must be charged in 8 hour increments. An employee on a 4/10/40 schedule who is off for more than 4 days (40 hours) must have approval for additional leave and charge the additional hours to vacation, holiday credit, floating holiday, CTO, excess hours, or absent without pay. Likewise, an employee on a 9/8/80 schedule who is absent on five 9 hour days (45 hours) must charge the additional 5 hours to vacation, CTO, holiday credit, excess hours, floating holiday hours, or absent without pay.

## **HOLIDAYS**

If a holiday falls on a regularly scheduled work day, the employee will receive 8 hours pay for the holiday, which will be counted toward the 168/176 hours needed for the pay period. The employee must then charge the additional 2 hours (if on a 10/4/40 schedule) or 1 hour (if the holiday falls on a 9 hour day when on a 9/8/80 schedule) to vacation, CTO, excess hours, floating holiday hours or holiday credit hours.

If a holiday falls on the employee's regular day off, the employee's leave record will be credited with 8 hours of holiday credit. This holiday credit does not count toward the total hours worked for the pay period.

## **PERSONAL HOLIDAY**

An employee will receive 8 hours for her/his floating holiday (FH), which when used, will count toward the 168/176 hours required for the pay period. The employee must charge an additional 2 hours (if on a 4/10/40 schedule) or 1 hour (if PH is used on a 9 hour day when on a 9/8/80 schedule) to vacation, CTO, excess hours, floating holiday hours or holiday credit when a floating holiday is taken.

## **OVERTIME**

California Code of Regulations 599.700 defines overtime as "authorized time worked in excess of regularly scheduled work week." The regularly scheduled work week is 40 hours for all employees covered under the provisions of FLSA, including those on an AWWs.

### **Changes to Alternate Work Week Schedule**

The Executive Director may require occasional changes be made to AWWs due to meetings, training, or any other work commitment where the employees attendance is necessary. Permanent changes in an employee's regular day off must be reported on a new alternate work week agreement and the new schedule should begin at the start of the next pay period.

### **Employee/ Conflict**

The MCTC Complaint Resolution Procedure is to be used in the event the employee and Executive Director are unable to reach a mutual agreement on any issue concerning alternate work week schedules.

**Appendix B**  
**Statement Concerning Your Employment in a Job**  
**Not Covered by Social Security**