



**HOUSING COMMISSION AGENDA**  
**Regular Meeting: September 9, 2020**  
**Time: 8:00 a.m.**

**COVID-19 UPDATE:** Based on guidance provided by the Centers for Disease Control Prevention, the Shelter in Place order from Alameda County Public Health officials and Governor Newsom’s Stay-at-Home Order, HACA’s office building is temporarily closed to the public until further notice. **The Housing Commission will conduct this meeting electronically.** You may participate in this meeting through one of the following options:

**Participate via Zoom Video Conference Platform:**

Members of the public may listen, view, and/or participate in this meeting using Zoom. Using Zoom is free of charge; however, you may have to download the Zoom app to your device. Downloading Zoom is free of charge. To join the electronic meeting using the Zoom video conference platform, you can click on this link: <https://us02web.zoom.us/j/84692773412> or do one of the following:

**FROM A DESKTOP OR LAPTOP:**

Go to: <https://zoom.us/join>

Enter Meeting ID: 846 9277 3412

**FROM A MOBILE DEVICE, E.G., CELL PHONE AND/OR IPAD OR TABLET:**

Download the Zoom app to your device. In the app tap on “Join Meeting”

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**Participate via Telephone:**

To access the meeting via telephone:

Call [1-888-788-0099](tel:1-888-788-0099) (US Toll-Free) and when prompted, enter Meeting ID 846 9277 3412.

**PUBLIC COMMENT**

**If you wish to comment on a matter NOT on the agenda, please email your comment, preferably by 5:00 p.m. on Tuesday, September 8, 2020 to the Housing Commission Clerk at: [melissat@haca.net](mailto:melissat@haca.net).** Upon recognition by the Chairperson during Public Comment, state your name, comments and/or questions. To allow the opportunity for all to speak, a time limit of 3 minutes has been set for public speakers wishing to address the Housing Commission. The Chairperson has the discretion to further limit this time if warranted by the number of speakers. Anyone wishing to address the Commission on an agenda item or on business introduced by the Housing Commission may do so when the Chairperson calls for comments on the agenda item. NOTE: Only matters within the Housing Commission’s jurisdiction may be addressed.

Thank you for your understanding and flexibility during the COVID-19 public health emergency. If you have any questions please contact (510)727-8511 or [melissat@haca.net](mailto:melissat@haca.net).

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**HOUSING COMMISSION AGENDA**  
**Regular Meeting: September 9, 2020**  
**Time: 8:00 a.m.**

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**MINUTES**  
**July 8, 2020**



**HOUSING COMMISSION  
SUMMARY ACTION MINUTES**

**Regular Meeting**

**Meeting Date: Wednesday, July 8, 2020**

**Pursuant to the State of California's Executive Order N-25-20 (at paragraph 11), this meeting was conducted electronically via the Zoom video conference platform and by telephone.**

**1. CALL TO ORDER/ROLL CALL**

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**Call to Order**

Chairperson Hannon called the meeting to order at 8:13 a.m.

**Roll Call**

Present: Commissioner (Cmr.) Ballew, Gacoscos, Gerry, Hannon, Kumagain, Lamnin, McQuaid, Patz and Shao.

Excused: Cmsrs. Finley and Olson.

**2. ACTION: ELECTION OF OFFICERS**

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Chairperson Hannon reported that a Nominating Committee comprised of Cmsrs. Gerry, Patz and himself met to discuss candidates for the positions of the Commission Chairperson and Vice Chairperson. Cmr. Gerry gave a brief summary of the Nominating Committee's discussion and recommended that the Housing Commission Cmsrs. Hannon and Patz to the offices of Chairperson and Vice Chairperson, respectively.

Recommendation: Approve the nomination of Commissioner Michael Hannon to the office of Chairperson and Commissioner Christian Patz to the office of Vice Chairperson.

Upon a roll call vote being taken the votes were:

Ayes: Cmsrs. Gacoscos, Gerry, Hannon, Lamnin, McQuaid, Patz and Shao.

Abstain: Cmsrs. Ballew and Kumagai

Excused: Cmr. Finley and Olson.

Motion passed. **APPROVED AS RECOMMENDED.**

*Chairperson Hannon introduced Kurt Wiest, HACA's new Executive Director. He shared Mr. Wiest's achievements as the Executive Director of the Bremerton Housing Authority (BHA) and indicated that Mr. Wiest worked at HACA for many years before accepting the position at BHA.*

*Mr. Wiest thanked Chairperson Hannon for the introduction. Mr. Wiest spoke briefly about his history with HACA, the work that he did while at BHA and the tasks that he has undertaken during his first week at HACA. He thanked staff for their gracious and warm welcome. Mr. Wiest commented that meeting the needs of HACA's clients, participants, residents and the community during the COVID-19 pandemic remains one of his top priorities.*

**3. ACTION: APPROVAL OF THE MINUTES OF THE JUNE 10, 2020 MEETING**

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Recommendation: Approve the minutes of the June 10, 2020 meeting as presented.

Motion/Second: Lamnin/Patz.

Upon a roll call vote being taken the votes were:

Ayes: Cmr. Gacoscos, Gerry, Hannon, Lamnin, McQuaid, Patz and Shao.

Abstain: Cmr. Ballew and Kumagai

Excused: Cmr. Finley and Olson.

Motion passed. **APPROVED AS RECOMMENDED.**

**4. PUBLIC COMMENT – On matters not on the Agenda.**

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None.

**5. NEW BUSINESS**

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**5-1. RESOLUTION NO.: 13-20: APPROVING REVISIONS TO HACA'S PERSONNEL RULES**

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Charla Freckmann, Human Resources Manager, presented the staff report. Ms. Freckmann reported that staff continues to work on the ongoing project to update HACA's Personnel Rules. She indicated that staff is proposing to revise Articles 5-8 of the Personnel Rules. Ms. Freckmann explained that these articles pertain to HACA's recruitment process and that the proposed revisions reflect the established processes and procedures that HACA has been using. She reported that the Personnel Committee approved the proposed revisions at their meeting held on June

10<sup>th</sup> and recommended that the Housing Commission approve the revisions as presented.

Recommendation: Adopt Resolution No. 13-20 approving the proposed revision's to HACA's Personnel Rules.

Commissioner Discussion: Cmr. Lamnin and Ms. Freckmann discussed the practice of using qualifying exams in the recruitment process. Ms. Freckmann explained that it is a remnant of language used by Alameda County and that although HACA typically does not utilize qualifying exams as part of the recruitment process, the language was retained in the proposed updates to the Personnel Rules in the event that there is a need to incorporate this practice in the future. Cmr. Lamnin pointed out 2 corrections that needed to be made to Section 7.4, D. and Section 8.2, G. and stated that she would make a motion to adopt Resolution No. 13-20 with these recommended corrections.

Revised Recommendation: Adopt Resolution No. 13-20 approving the revision's to HACA's Personnel Rules with the following corrections:

**Section 7.4, D. – Examination Inspection Period** to read, *“Each candidate may inspect the written examination key in the Human Resources department the Housing Authority within five (5) working days of completing the examination.”*

**Section 8.2, G. (last bullet point)** to read, *“Upon written request from the candidate that the candidate's name be withdrawn.”*

Chairperson Hannon reported that the Personnel Committee directed staff to share the updated Personnel Rules with all employees once the project is completed in order to give them the opportunity provide their feedback and to report back to the Commission sometime in 2021 when this has been completed and how it went.

Motion/Second: Cmr. Lamnin/Patz.

Upon a roll call vote being taken the votes were:

Ayes: Cmr. Ballew, Gacoscos, Gerry, Hannon, Kumagai, Lamnin, McQuaid, Patz and Shao.

Excused: Cmr. Finley and Olson.

Motion passed. **APPROVED AS RECOMMENDED.**

5-2. **RESOLUTION NO.: 14-20: APPROVING REVISIONS TO HACA'S INJURY AND ILLNESS PREVENTION PLAN**

Charla Freckmann presented the staff report. Ms. Freckmann reported that staff is proposing to revise HACA's Injury and Illness Prevention Plan (IIPP) in order to incorporate protocols specifically related to COVID-19 and the workplace. Ms. Freckmann summarized the proposed revisions and recommended that the Housing Commission approve the amendments as presented.

Recommendation: Adopt Resolution No. 14-20 approving revisions to HACA's Injury and Illness Prevention Plan as presented.

Commission Discussion: Cmr. McQuaid asked about the language pertaining to face coverings and commented that she is perplexed as to why face coverings are encouraged rather than required. Ms. Freckmann explained that the HACA office building is temporarily closed to the public but employees are required to wear face coverings before entering the building. Mr. Wiest commented that he and staff have put a great deal of thought and have had discussions about creating a safe environment for when HACA opens to public. He further commented that it is likely that HACA will remain closed to the public for some time and will not re-open until it is safe for the public and the employees. Cmr. McQuaid and Ms. Freckmann also discussed temperature checks. Ms. Freckmann indicated that there has been conflicting information on this practice and that HACA does not require temperature checks. Cmr. McQuaid suggested adding wording to the IIPP that states that the policies and procedures in the IIPP will follow guidelines and requirements of the Centers for Disease Control and Prevention (CDC) and local public health authorities. Mr. Wiest agreed that adding this statement would be helpful given the fluidity of the COVID-19 crisis.

Motion/Second: Cmr. Patz/McQuaid.

Upon a roll call vote being taken the votes were:

Ayes: Cmr. Ballew, Gacoscos, Gerry, Hannon, Kumagai, Lamnin, McQuaid, Patz and Shao.

Excused: Cmr. Finley and Olson.

Motion passed. **APPROVED AS RECOMMENDED.**

5-1. **RESOLUTION NO.: 15-20: APPROVING REVISIONS TO HACA'S POLICY AGAINST HARRASSMENT, DISCRIMINATION AND RETALIATION**

Charla Freckmann presented the staff report. Ms. Freckmann reported that staff is proposing to amend HACA's Policy Against Harassment, Discrimination and Retaliation in order to incorporate significant changes to the law that were implemented in 2018

that expand the certain existing protected classifications. Ms. Freckmann described these significant changes and HACA's proposed revisions in response to these changes to the law. Ms. Freckmann recommended that the Housing Commission approve the amendments as presented.

Recommendation: Adopt Resolution No. 15-20 approving revisions to HACA's Harassment, Discrimination and Retaliation Policy and Complaint Procedure

Commission Discussion: Cmr. Gacoscos and Ms. Freckmann discussed a pending bill related to Affirmative Action. Ms. Freckmann indicated that once that bill is enacted, staff will review HACA's Affirmative Action plan and revise as needed.

Cmr. Kumagai, Mr. Wiest and Ms. Freckmann discussed options that are available to employees for the filing of complaints. Cmr. Kumagai asked that staff add clarifying language outlining the process for filing a complaint when the allegation is against the Executive Director and/or the Human Resources Manager.

Cmr. McQuaid commented that clarifying language needs to be added to the provision regarding hair.

Cmr. Ballew commented that it is important to stay up to date with the changes to the law but more importantly, it is important that HACA makes these changes because it is the right thing to do. Mr. Wiest commented that he completely agrees with Cmr. Ballew and stated that not only does HACA make these changes because they have to but because it is the agency's desire to do the right thing. Cmr. Gerry agreed and commented that the agency must always do the right thing.

Chairperson Hannon recommended that staff include language within the appropriate sections of the policy that provides for the following:

- protection from retaliation for anyone who is associated with the person who is being accused in the complaint
- a requirement that verbal complaints are documented in writing within a certain period of time but no more than 5 days from the time the verbal complaint is made complaint, including but not limited to complaints that are made verbally in passing
- the specific number of days for a response instead of using the term, "timely response" following an action or finding
- a requirement that the accused is advised of a finding that determines that a complaint is unfounded or found not to be accurate

Cmr. Gerry recommended that staff make the changes that the Commission has recommended and return with these added revisions for a final review. Cmr. Lamnin agreed that it would be helpful to see these recommended changes incorporated into



the policy. Cmr. Lamnin also agreed with the request made by Cmr. Kumagai and suggested that the language also include that the complainant may also send their complaint to the Housing Commission.

The Housing Commission deferred taking action on Resolution No. 15-20 and will consider the item at their regular meeting in September.

**6. COMMISSIONER REPORTS**

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Chairperson Hannon apologized that the Personnel Committee meeting did not end on time and that the Commission meeting started a bit late. He stated that in the future the Personnel Committee will schedule an earlier start time.

**7. COMMITTEE REPORTS**

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None.

**8. COMMUNICATIONS**

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Mr. Wiest announced that the August Commission meeting scheduled for August 12, 2020 will be cancelled due to no action items.

Chairperson Hannon stated that he is looking forward to working with Mr. Wiest and welcomed him to the team.

**9. ADJOURNMENT**

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There being no further business to discuss, Chairperson Hannon adjourned the meeting at 9:04 a.m.

Respectfully submitted,

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Melissa Taesali  
Executive Assistant/Housing Commission Clerk

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Kurt Wiest  
Executive Director/Housing Commission Secretary

**Approved:**

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Michael Hannon  
Housing Commission Chairperson

**NEW BUSINESS**  
**September 9, 2020**

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**AGENDA STATEMENT**

Meeting Date: August 14, 2019

Subject: Recognition of Jacqueline Rodriguez

Exhibits Attached: None

Recommendation: Receive presentation

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**BACKGROUND**

The Housing Authority is proud of the achievements of Jacqueline “Jackie” Rodriguez. Jackie has been a participant in our Family Self-Sufficiency Program for the last few years and was the recipient of a 2017, 2018 and 2020 HACA Scholarship Award. In 2019 she was selected by the HACA Scholarship Committee as the winner of the Donald C. Biddle Memorial Scholarship for her community service, advocacy efforts and volunteer work with various programs that provide resources for at-risk youth, formerly incarcerated youth and youth in the juvenile system.

**DISCUSSION**

This year, with encouragement from her FSS Coordinator and staff, Jackie applied for a 2020 Pacific Southwest Regional Council of NAHRO (PSWRC-NAHRO) Scholarship. Staff received the exciting news that not only was Jackie selected by PSWRC-NAHRO as their scholarship winner, her applications was chosen for submission to the National Association of Housing and Redevelopment Officials (NAHRO) national scholarship program competition. NAHRO has partnered with housing developer, LDG Development to provide \$1 million in scholarships and internship opportunities to low-income students from around the country. Staff is thrilled to report that Jackie was selected by NAHRO as a 2020 NAHRO-LDG Scholar!

Here are the details of Jackie’s scholarship awards:

- **PSWRC-NAHRO Regional Scholarship:** \$1000 per year for a maximum of 4 years
- **NAHRO-LDG Scholarship:** \$12,000 scholarship that is disbursed over four (4) years, \$3,000 a year for up to three years as a summer internship stipend, and networking opportunities with business and community leaders. NAHRO also gives the NAHRO-LDG scholars \$1000 each year they receive the award.

**HACA AGENDA ITEM NO.: 4-1.**

Jackie wrote in parts of her personal essay, “I am passionate about helping at-risk and formerly incarcerated youth find a better path so that they can envision a promising future, realize their potential, and pursue higher education... My passion stems from my own experiences as an at-risk and formerly incarcerated individual... I continued to struggle and face many barriers, however, at the age of 20, with two small children, I decided that I needed to further my education because I wanted to be a role model for my kids and set a good example of a successful Latina woman. I have learned that the odds stacked against me were systemic and not a testament of my abilities and potential for success. As a single mom, I am working tirelessly to show my children that their circumstances do not define them. Not only am I working towards obtaining an advanced degree but I am parenting with the intention of breaking the cycle of intergenerational trauma and being of service to help and heal my community... “

Jackie has started classes at UCLA and if her schedule permits she will join your September Commission meeting via Zoom. We are extremely proud of Jackie and recommend that your Commission recognize her for her outstanding achievements.

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**AGENDA STATEMENT**

Meeting Date: September 9, 2020

Subject: Recognition of Employees Years of Service

Exhibits Attached: None

Recommendation: Receive presentation

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**DISCUSSION**

HACA’s service awards program recognizes employees, in 5 year increments, who have achieved 5 or more years of service with HACA. Depending on their number of years of service, employees receive gift cards and/or vacation time and are honored at the annual HACA Service Awards luncheon.

This year staff was able to successfully carry out the HACA Service Awards in a format that not only enabled social distancing but also allowed remote staff to participate in the event. The HACA Services Awards were held on August 28. The honorees were invited to sit in the Board Room where Kurt Wiest, Executive Director, recognized them for their years of service and presented them with their awards. The presentation was broadcasted live via Zoom so that all employees could take part.

The following employees were honored for their Years of Service:

<b>YEARS OF SERVICE</b>	<b>EMPLOYEE</b>	<b>TITLE</b>	<b>DEPARTMENT</b>
5	Rooyna Ayubi	Eligibility Technician	Programs
	Laura Moreno	Eligibility Technician	Programs
	Cathy Zeigler	Administrative Clerk	Programs
10	Anita Sanchez	Property Management Assistant	Property Management & Maintenance
15	George Smith	Facilities Manager	Property Management
20	Patricia Maddon	Housing Inspector	Programs
25	Gregory Koubek	Housing Inspector	Programs
30	Dorene Carr	Administrative Clerk	Property Management & Maintenance

We are very proud of these employees’ accomplishments, work, and tenure at the Housing Authority and recommend that the Housing Commission acknowledge and recognize these employees at your September meeting.

**HOUSING AUTHORITY OF ALAMEDA COUNTY**

**AGENDA STATEMENT**

Meeting Date: September 9, 2020

Subject: Recognize Irving Aragon as HACA's Shining Star

Exhibits Attached: None

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**BACKGROUND**

In 2006 the Housing Authority created a Communications Committee composed of staff from all departments. The Committee created an "Employee of the Quarter" recognition program to acknowledge exceptional individual contributions of HACA employees.

At the end of 2011 the Communications Committee decided to revamp the program to allow more time for chosen employees to enjoy their recognition. The Committee re-named the award "HACA's Shining Star" and extended the recognition period to six months, so there will be two Shining Stars per year.

Just as the COVID-19 crisis has disrupted many milestone events in 2020, the selection of our HACA Shining Star for the 2<sup>nd</sup> half of 2020 was slightly delayed. Since some of our employees are working remotely and some are working on-site, staff had to modify the nominations process slightly to provide a way for all employees to submit nominations. This presented staff with an opportunity to review the Shining Star program overall and update the honorariums to truly honor those who are chosen as HACA Shining Stars.

**DISCUSSION**

The Housing Authority is privileged to have on its staff Irving "Irv" Aragon, Information Technology Manager. Irv's selection was announced at the HACA Service Awards held on August 28, 2020. The comments below were submitted by those who nominated Irv and describe his outstanding work in the following categories: Problem Solving, Innovative Idea, Team Effort & Flexibility in Working with Others, Customer Service, and Acknowledgement from the Public, Co-Workers and Clients:

*Irv has outdone himself once again! For a "Team of 1" he manages to keep the Housing Authority running smoothly while juggling an array of projects simultaneously. He has an excellent work ethic and is always striving to stay on top of ever changing technology. He continuously makes the effort to implement positive changes that keep the Housing Authority moving forward.*

*Problem Solving: He has impeccable problem solving skills. When this pandemic hit, he had to think quickly and figure out how to keep our “essential” organization operational. From utilizing his resources to obtain multiple laptops, configuring each laptop, ensuring we had enough resources to support remote workers, and then providing detailed written instructions (including pictures and screenshots) in order to make remote work possible. During this time he also had to re-locate staff members who remained in the office in order to keep in compliance with “social distancing.” This was no easy task.*

*Innovative Idea: He found and implemented the “Line 2” system in order for remote workers to be able to make/receive phone calls more easily and effectively. He is conscientious and always suggests more efficient processes to improve the way our agency conducts business.*

*Team Effort & Flexibility in Working with Others: Irv has a wealth of knowledge that he shares with staff on a regular basis. There are always emails being distributed with detailed instructions, pictures with arrows, highlights, etc. His overall character and calm demeanor plays a vital role in being able to get the job done effectively.*

*Customer Service: He is always readily available to assist in day to day processes as well as brainstorm ideas to help staff work smarter, not harder.*

*Acknowledgement: Irv deserves so much more recognition than this nomination, however, this will have to do for now. He is truly “ESSENTIAL” to this organization!*

*One last and final note, in his words... “If it’s not working – REBOOT!”*

Staff recommends that your Housing Commission recognize Irving Aragon as “HACA’s Shining Star” through December 2020.

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**AGENDA STATEMENT**

Meeting: September 9, 2020

Subject: Section 8 HCV Payment Standards

Exhibits Attached: Resolution 16-20

Recommendation: Adopt the Attached Resolution Approving the Proposed Payment Standards for the HCV Program

Financial Statement: Estimated \$37,008 increase of Section 8 program costs for HACA FY 2021

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**BACKGROUND**

A housing authority's payments to landlords to subsidize the rents of Section 8 Housing Choice Voucher (HCV) Program participants are called "Housing Assistance Payments" (HAP). A formula determines the total HAP funding that HUD provides annually to each housing authority. Congress may or may not appropriate sufficient funds to fund 100% of that formula.

A housing authority must manage the HAP funds that it receives from HUD to pay landlords enough so that families can afford modest housing and yet not run out of money before the end of the year. If a housing authority sets the rents that families are allowed to pay too low for its market area, families won't be able to find suitable housing and/or will have to pay too much of their income (i.e., more than 30% - 40%) for rent. If the housing authority sets rents too high, it may run out of HAP funds and will have to reduce the size of its program, possibly having to terminate participating families unless HUD provides additional shortfall funding.

The rents that a housing authority allows participating families to pay are determined, in large part, by HUD. Every year, HUD publishes "fair market rents" for each market area in the United States to be effective October 1 of that year (October 1 is the beginning of the federal fiscal year). Fair market rent (FMR) is the rent, including the cost of utilities (except telephone, internet and cable TV), that are paid in the market area to rent privately owned, decent, safe and sanitary rental housing that is *modest* (i.e., non-luxury and pegged at the 40<sup>th</sup> percentile of rents in the market area). It is not intended that the FMRs enable a participating family to rent every type of unit in a community.

After HUD publishes the FMRs, every housing authority must then adopt one or more "payment standard" schedules based on those FMRs. A county housing authority like HACA may either adopt a single payment standard for its entire FMR area or a separate payment standard for each city. HACA adopts payment standards by city and groups together those with the same payment standards.

The payment standard serves as a cap on HAP payments. It establishes the **maximum gross rent** (i.e., rent plus a utility allowance) that will be used by the housing authority to compute the monthly HAP that it



will pay the landlord on behalf of the Section 8 family. However, HUD regulations require the housing authority to conduct a 'rent reasonableness' review of the requested rent based on comparisons to similar units in the same general neighborhood, so some units rent for less than the payment standard as a result.

The housing authority may establish the payment standard amount for a unit size at any level between 90% and 110% of the published FMR for that unit size. This is called the "basic range."

## **DISCUSSION and ANALYSIS**

HUD published the **2021** FMRs for the Alameda County/Contra Costa County HUD FMR Metro Area in August 2020. Those FMRs were 3.83% - 7.19% higher than the previous year's FMRs for all bedroom sizes. At your September meeting of 2018, you authorized HACA to participate in a rent study with the other seven housing authorities in our FMR Metro Area to be used by HUD to reevaluate the FMRs. Because we did a survey study, HUD does not use its usual FMR formula to calculate the 2021 FMRs. Instead, HUD uses the rental market survey data and applies a local trend factor to bring the rents forward to 2021, which increased our FMRs by the percentages mentioned above. This is the last year the survey data will be valid. HACA will evaluate the need to conduct another study at the issuance of HUD's 2022 FMRs.

To determine our 2021 payment standards, staff first reviewed current Section 8 program data, including:

- gross rents currently being paid by Section 8 participants, paying close attention to those that moved in the previous year;
- the number of "over-housed" families (that is, families living in a unit larger than their voucher size);
- the number of families whose rent exceeds the current payment standard (where the tenant pays the overage);
- the number of families whose rent exceeds 30 percent of their adjusted monthly income,
- likely increases in the utility allowances; and
- the impact on the total tenant rent portion of current participants.

After reviewing all of the factors listed above, staff determined that there is no immediate need to raise our current payment standards, with the exception of Dublin and Pleasanton's 2 and 3 bedroom units, as HACA wishes to catch up its payment standards that were affected by the drop in FMRs in 2018. HACA is taking a conservative approach, in an effort to prepare for the uncertainty that lies ahead at the issuance of HUD's 2022 FMRs, when HUD's rental market data takes precedence over our survey data.

## **COST IMPACT**

There are 158 two bedroom units with a payment standard increase of \$5; and 62 three bedroom units with a payment standard increase of \$37. The \$37,008 increase in program costs shown above assumes all participants have their annual recertification effective as of October 1<sup>st</sup>, 2020, the effective date of the revised payment standards. Costs may vary as number of total units change.

## **RECOMMENDATION**

Staff recommends that your Housing Commission adopt the attached Resolution approving the payment standards shown below.

**PAYMENT STANDARDS BY CITY**

City	Unit Size by Bedrooms							
	Studio	1	2	3	4	5	6	7
Albany	\$1,552	\$1,863	\$2,350	\$3,262	\$3,651	\$4,199	\$4,746	\$5,294
Castro Valley (u)	\$1,552	\$1,863	\$2,350	\$3,262	\$3,651	\$4,199	\$4,746	\$5,294
Dublin	\$1,580	\$1,914	\$2,390	\$3,319	\$3,789	\$4,357	\$4,925	\$5,494
Emeryville	\$1,552	\$1,863	\$2,350	\$3,262	\$3,651	\$4,199	\$4,746	\$5,294
Fremont	\$1,580	\$1,899	\$2,385	\$3,282	\$3,719	\$4,278	\$4,835	\$5,394
Hayward	\$1,522	\$1,828	\$2,306	\$3,201	\$3,624	\$4,167	\$4,710	\$5,253
Newark	\$1,580	\$1,899	\$2,385	\$3,282	\$3,719	\$4,278	\$4,835	\$5,394
Pleasanton	\$1,580	\$1,914	\$2,390	\$3,319	\$3,789	\$4,357	\$4,925	\$5,494
San Leandro	\$1,522	\$1,828	\$2,306	\$3,201	\$3,624	\$4,167	\$4,710	\$5,253
San Lorenzo (u)	\$1,522	\$1,828	\$2,306	\$3,201	\$3,624	\$4,167	\$4,710	\$5,253
Union City	\$1,580	\$1,899	\$2,385	\$3,282	\$3,719	\$4,278	\$4,835	\$5,394

For the cities of Albany, Castro Valley, Emeryville, Fremont, Hayward, Newark, San Leandro, San Lorenzo, and Union City, HACA’s current payment standards will remain unchanged. For the cities of Dublin and Pleasanton, the 2 bedroom payment standard will be set to \$2,390 and the three bedroom payment standard will be set to \$3,319.

These payment standards would become effective October 1<sup>st</sup>, 2020, and remain in effect until October 1, 2021, when HUD usually issues new FMRs and we establish new payment standards based on those FMRs.

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**RESOLUTION NO.: 16-20**

**APPROVING UPDATE TO THE BENEFIT PAYMENT STANDARDS**

**WHEREAS**, the U. S. Department of Housing and Urban Development (“HUD”) requires the Housing Authority of the County of Alameda (“HACA”) to adopt one or more payment standard schedules for its Housing Choice Voucher program based on the Fair Market Rents (“FMRs”) published by HUD; and

**WHEREAS**, HUD further requires that such payment standards be set within 90 percent to 110 percent of the FMRs (known as the “basic range”); and

**WHEREAS**, HUD published FMRs for the Alameda County/Contra Costa County HUD FMR Metro Area on August 14, 2020; and

**WHEREAS**, HACA now desires to adopt payment standards within the basic range based on the August 14, 2019 FMRs;

**NOW, THEREFORE, BE IT RESOLVED**, that the Housing Commission of the Housing Authority of the County of Alameda does hereby adopt the payment standards presented at this meeting with an effective date of October 1, 2020 for annual re-examinations and move-ins with an effective date of October 1, 2020 or later.

**PASSED, APPROVED, AND ADOPTED** by the Housing Commission of the Housing Authority of the County of Alameda on September 9, 2020 by the following vote:

**AYES:**

**NAYS:**

**ABSTAIN:**

**EXCUSED:**

**ABSENT:**

**Attest:**

\_\_\_\_\_  
Kurt Wiest  
Executive Director

\_\_\_\_\_  
Michael Hannon  
Housing Commission Chairperson

**Adopted:** \_\_\_\_\_

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**AGENDA STATEMENT**

Meeting: September 9, 2020

Subject: Management Class Annual Comparability Adjustment

Exhibits Attached: 2020 Management Class Comparability Survey Results – Cost of Living Adjustment (COLA)

Recommendation: Approve recommended annual salary adjustment of 3.3% retroactive to June 12, 2020, the beginning of the first pay period of the fiscal year, and continue the Management Compensation Policy

Financial Statement: Approximately \$83,937 in salary and associated benefits

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**BACKGROUND**

The Housing Commission originally adopted various components for setting and maintaining compensation for management employees in 1986. These components have been a longstanding practice and currently remain in place with minor periodic revision. Taken together these components are referred to as the Management Compensation Policy. In 2003, the Commission appointed a sub-committee to review the various methodologies used for setting and maintaining compensation. The sub-committee affirmed the Management Compensation Policy and its practices with a few recommended changes regarding the then-existing comparability pool. Over the years, the comparability pool has been adjusted a few times, adding and deleting comparator agencies when appropriate. However, the underlying practice of maintaining and implementing the various components of the management compensation policy has remained consistent.

The core components of the Management Compensation Policy are:

**1. Annual Cost of Living Adjustment**

Conduct annual cost of living adjustment (COLA) surveys by assessing cost of living adjustments granted to management employees in the comparability pool, calculating the mean (average) of those adjustments and applying them to both employees' salaries and HACA's salary range structure;

**2. Triennial Salary Survey of Management Positions**

Conduct triennial surveys to review HACA's management positions and compare them to similar positions within our comparability pool to insure that they are assigned a pay range at the median (middle) rate of comparable positions within the pool or are tied to another classification internally; and

**3. Triennial Survey of Management Total Compensation**

As part of the triennial survey, review total compensation programs for management classifications to make sure that HACA's program is competitive.

**DISCUSSION**

The annual management COLA comparability survey is usually conducted in the Fall of each year because public agencies adopt their annual budgets prior to granting management employee increases and often the increase is not known until July, August or even later. The results of HACA's annual survey are attached. At the October 8, 2014 meeting, with respect to COLAs, the Housing Commission modified the methodology to allow rounding of the survey results to the nearest tenth of a percent.

The average adjustment for the agencies in HACA's comparability pool providing a known cost of living adjustment to management employees is 3.255%, which would be rounded up to 3.3%. The proposed management employee COLA is retroactive to June 12, 2020, the first pay period in the fiscal year. The cost is \$59,955 in base salary and \$23,982 in associated benefits that are based on a percentage of salary for a total of \$83,937.

Staff recommends that your Commission approve the COLA as described above. Along with accepting the results of the survey and directing staff to implement the results, it has been your Commission's practice to direct staff to continue the practices and procedures of the Management Compensation Policy going forward.

**SURVEY SUMMARY**  
**Management COLA – FY2020/21**

	<b>AGENCY</b>	<b>COLA</b>	<b>DATE</b>
1	City of Alameda Housing Authority	<b>3.0%</b>	effective 7/1/20
2	City of Fremont	<b>4.0%</b>	effective 6/21/20
3	City of Hayward	<b>4.0%</b>	effective 7/1/20; 1/1/21
4	City of San Leandro	<b>3.0%</b>	effective 1/1/20
5	City of San Mateo	<b>2.5%</b>	effective 4/5/20
6	Contra Costa County Housing Authority	<b>2.0%</b>	effective 6/27/20
7	County of Alameda	<b>3.3%</b>	effective 12/27/20
8	Oakland Housing Authority	<b>4.0%</b>	effective 7/1/20
9	San Mateo County Housing Authority	<b>4.0%</b>	effective 12/13/20
10	Santa Clara County Housing Authority	<b>2.75%</b>	effective 7/1/20

Total agencies used: 10

**Average COLA:** 3.255%

**HACA COLA:** **3.3%**  
*(rounded to the nearest tenth)*

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**AGENDA STATEMENT**

Meeting: September 9, 2020

Subject: Harassment, Discrimination and Retaliation Policy and Complaint Procedure

Exhibits Attached: Resolution 15-20: Approving Amendments to the Harassment, Discrimination and Retaliation Policy and Complaint Procedure  
Attachment A: Tracked and clean versions of the policy

Recommendation: Adopt Resolution 15-20

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**BACKGROUND**

Periodically, revisions to the Housing Authority’s Harassment, Discrimination and Retaliation Policy and Complaint Procedure are necessary to maintain consistency with the current state of both federal and state law. The policy was presented to your Commission at the meeting held on July 8, 2020. Based on the discussion and a number of questions, the adoption of the recommended revisions to the policy was tabled for further clarification. At this time, the additional revisions have been made addressing the questions at the last Commission meeting. The tracked and clean versions can be found at Attachment A.

**DISCUSSION and ANALYSIS**

Since 2018, there have been three significant changes to federal and state laws pertaining to harassment and discrimination in the workplace. All three changes expand the definition of certain existing protected classifications.

On July 1, 2018, the California Department of Fair Employment and Housing (DFEH) added clarity to the protected classification based on national origin by amending Title 2 of the California Code of Regulations, sections 11027.1 and 11028. The new DFEH regulations expand the definition of “national origin” to include the individual’s cultural or linguistic background, tribal affiliation, names that are associated with a national origin group, marriage to or association with a person belonging to a national origin group, and membership or attendance in religious institutions generally used by persons of a national origin group.

On January 1, 2020, Governor Newsome signed into law SB 188, the “Create a Respectful and Open Workplace for Natural Hair (CROWN) Act. This is the first law of its kind in the United States to be enacted. However, the Equal Employment Opportunity Commission, in their implementing regulations, takes the position that race discrimination may include unfavorable treatment of an employee because of personal characteristics associated with race, such as natural hair texture or style. The California CROWN Act expands the definition of the Fair Employment and Housing Act to include this language as related to the protected classifications of race and ethnicity.

**HACA AGENDA ITEM NO.: 4-6.**

On June 15, 2020, the United States Supreme Court issued a ruling stemming from three different decisions, which broadens the definition of the protected classification of sex as defined in Title VII of the Civil Rights Act of 1964. The majority opinion in these three cases have now ruled that “sex” includes sexual orientation and transgender status as protected classifications under Title VII.

Although California’s Fair Employment and Housing Act (FEHA) already includes similar language including sexual orientation and transgender status, the language in HACA’s Harassment, Discrimination and Harassment Policy is being revised to clarify the full expansion of the word sex as defined in both Title VII and FEHA.

The complaint form attached to the revised policy has also been updated but is not attached for your Commission’s approval as this is a form that is administratively updated and does not affect the policy itself.

Staff recommends that your Commission adopt the resolution amending the Harassment, Discrimination and Retaliation Policy.



**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**RESOLUTION NO.: 15-20**

**RESOLUTION APPROVING REVISIONS TO THE HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA’S HARASSMENT, DISCRIMINATION AND RETALIATION POLICY & COMPLAINT PROCEDURE**

**WHEREAS**, the Housing Authority of the County of Alameda (“HACA”) has a longstanding policy and complaint procedure to address issues and concerns regarding harassment, discrimination and retaliation in the workplace; and;

**WHEREAS**, in order to be in compliance with the changing state of both federal and state law, this policy and complaint procedure has been amended from time to time and now requires further revision based on the changes indicated below; and

**WHEREAS**, on July 1, 2018, the Department of Fair Employment and Housing added clarity to the protected classification based on national origin by amending Title 2 of the California Code of Regulations, sections 11027.1 and 11028; and

**WHEREAS**, on January 1, 2020, SB 188, the “Create a Respectful and Open Workplace for Natural Hair” Act amending the Fair Employment and Housing Act became effective, which added natural hair characteristics to the race and ethnicity protected classifications; and

**WHEREAS**, on June 15, 2020, the United States Supreme Court issued a decision expanding the definition of “sex” as a protected category in Title VII of the Civil Rights Act of 1964;

**NOW, THEREFORE, BE IT RESOLVED**, that the Housing Commission of the Housing Authority of the County of Alameda does hereby approve the recommended revisions to the Harassment, Discrimination and Retaliation Policy and Complaint Procedure as presented at this meeting.

**PASSED, APPROVED AND ADOPTED** by the Housing Commission of the Housing Authority of the County of Alameda on this 8th day of July 2020 by the following vote:

**AYES:**

**NAYS:**

**ABSTAIN:**

**EXCUSED:**

**ABSENT:**

**Attest:**

\_\_\_\_\_  
Kurt Wiest  
Executive Director

\_\_\_\_\_  
Michael Hannon  
Housing Commission Chairperson

**Adopted:** \_\_\_\_\_

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**AGENDA STATEMENT**

Meeting: September 9, 2020

Subject: Personnel Rule Revisions

Exhibits Attached: Resolution 17-20: Approving Amendments to the Personnel Rules  
Attachment B: Tracked and clean versions of the amended articles

Recommendation: Adopt Resolution 17-20

Financial Statement: None

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**BACKGROUND**

On July 8, 2020, your Commission’s Personnel Committee approved recommended changes to the Personnel Rules identified below. Personnel Rule 1.2 states that the Personnel Rules may be amended by a resolution adopted by the Housing Commission on the recommendation of the Personnel Committee.

**DISCUSSION and ANALYSIS**

Staff is currently undertaking a rewrite of the Personnel Rules to bring them up to date, correct grammar and misspellings, better organize the provisions and format the Rules in a more logical manner. These types of amendments do not require a notice or meet and confer as there are no changes to terms and conditions of employment for employees.

The Personnel Rules were originally written as part of HACA’s process of establishing itself as an independent public agency over 40 years ago. From time to time, certain provisions of the Rules have been revised when terms and conditions of employment have changed as a result of labor negotiations or changes to management benefits have been implemented, but otherwise they are as they were when first written.

This project is too cumbersome to implement all at once; therefore, revisions to the Rules will be handled in groups. Most revisions involve considerable reorganization of articles and sub-sections as well as rewording for simplification and clarity. Staff has included both tracked and clean versions of all the revisions (see Attachment B), although the tracked versions are very difficult to read so you may want to focus on the clean versions. For your review and consideration today are the following Articles:

- Article 9 – Background Checks and Appointment
- Article 10 – Probationary Period
- Article 11 – Performance Evaluations
- Article 12 – Resignation
- Article 13 – Lay-Offs and Reductions in Force
- Article 14 – Re-employment

Some of the articles in this grouping have been split into two different articles to keep the same and related subject matters in the same article. As originally written related topics were scattered throughout the various sections in the articles. The following chart should assist in visualizing what titles to articles were changed, what sections were moved to other articles and what articles are new in terms of re-organization.

Art. #	Original Title	New Title	Sections Deleted/Added	Moved To
9	Appointment	Background Checks and Appointment	Added §9.3 Duty to Take Loyalty Oath	N/A
10	Probationary Period	Probationary Period	No additions or deletions of sections	N/A
11	Reduction in Force, Lay-Off, Reemployment, Reinstatement	Performance Evaluations	New section and also incorporated section on personnel files from original Article 12	The topic of lay-offs and RIFs were moved to Article 13
12	Miscellaneous Personnel Transactions	Resignation	This article primarily related to resignation issues	Resignation was given its own Article.
			Deleted section 12.6 regarding appeals relative to resignations	Moved to new Article 15 on Appeal of Personnel Actions
13	Disciplinary Action	Lay-Offs and Reductions in Force	Excerpts relating to appeal rights on lay-offs deleted	Moved to new Article 15 on Appeal of Personnel Actions
14		Re-employment	Was originally in the Lay-off Article, but reemployment rights also deal with non-lay-off situations	Disciplinary Action moved to Article 16
				Re-employment was given its own Article.

Revisions to these rules were approved by your Personnel Committee at its July meeting to re-organize, simplify and update the language to reflect current policy and procedures. Your Personnel Committee provided comments and a few suggestions for further clarification. The points of clarification that were discussed by your Personnel Committee have been addressed in the versions before you today.

As previously indicated, these changes, albeit substantial in “cutting and pasting,” are not substantive changes to terms and conditions of employment. The Personnel Committee recommended that your Commission adopt the attached resolution revising the Personnel Rules as described.

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**RESOLUTION NO.: 17-20**

**RESOLUTION APPROVING REVISIONS TO THE  
HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA PERSONNEL RULES**

**WHEREAS**, the Housing Authority of the County of Alameda (“HACA”) has implemented Personnel Rules governing certain terms and conditions of employment for both management and non-management employees; and

**WHEREAS**, Section 1.2 of said Personnel Rules allows for amendment of these rules by resolution adopted by the Housing Commission on the recommendation of the Personnel Committee; and

**WHEREAS**, at its meeting of July 8, 2020 the Personnel Committee approved recommended revisions to Personnel Rules 9 through 14 to improve organization and clarity and to reflect the current intent and practice of policy and procedures;

**NOW, THEREFORE, BE IT RESOLVED**, that the Housing Commission of the Housing Authority of the County of Alameda does hereby approve the recommended revisions to Personnel Rules 9 through 14 as presented at this meeting.

**PASSED, APPROVED AND ADOPTED** by the Housing Commission of the Housing Authority of the County of Alameda on this 9th day of September 2020 by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**EXCUSED:**

**ABSENT:**

**Attest:**

\_\_\_\_\_  
Kurt Wiest  
Executive Director/Housing Commission Secretary

\_\_\_\_\_  
Michael Hannon  
Housing Commission Chairperson

**Adopted:** \_\_\_\_\_

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**AGENDA STATEMENT**

Meeting: September 09, 2020

Subject: Resolution Approving Revisions to the Housing Authority's Budgeted Positions

Exhibits Attached: Resolution No. 18-20

Recommendation: Adopt the Resolution

Financial Statement: See below

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**BACKGROUND**

On June 10, 2020, the Operating Budget for the July 1, 2020 – June 30, 2021 fiscal year was approved, which included the number of budgeted positions. Since then, there have been two developments which have necessitated the need for an additional Accountant position in Accounting.

**DISCUSSION AND ANALYSIS**

As Public Housing Authorities (PHAs) across the country are dealing with reduced amounts of Housing Assistance (HAP) funds, we continue to receive short payments as reimbursements for incoming Housing Choice Voucher (HCV) portability clients administered by HACA. This situation requires significant additional level of effort to correspond with the sending PHAs, reconcile the accounts, and demand payment for costs HACA has incurred. These HAP funds are not reimbursed by HUD and if not collected, become a drain on HACA's own administration funds. For example, HACA pays approximately \$900,000 in HAP assistance each month for incoming ports administered on behalf of other PHAs resulting in an annual outlay of \$10.8 million which must be collected from the sending PHAs.

Portability is a required HUD mandate and HACA cannot refuse to administer the incoming portability clients. HACA's Portability Receivables from sending PHAs has increased from \$537,200 in June 2018 to approximately \$1 million in June 2020. It is imperative that HACA invest resources in following up on each account with the respective sending PHAs and collect the funds due. This requires a significant level of effort that is not currently budgeted.

On July 19<sup>th</sup>, our outsourced Payroll provider, Ceridian, notified HACA that they will no longer support the payroll system we are on effective January 1, 2021 and HACA will need to transition its payroll system to a new platform. Although this change was not known at the time the budget was developed and approved, it does provide HACA an opportunity to assess and implement not only a better payroll system but also enhanced functionality such as time tracking, benefits administration, FMLA administration etc. The key constraint is and will continue to be compliance with ACERA's requirements both in terms of calculation of contributions as well as ongoing reporting. It is anticipated that ACERA reporting requirements may need to be handled manually for quite some time.

Staff recommends amending the budgeted positions by adding an Accountant position to address both these issues. The management salary range assigned to the Accountant position is range 27. The minimum monthly salary is \$6,425 and maximum is \$9,541.

Timely collection of portability receivables will more than offset the additional cost of the position. For FY 2020-2021, this expense will be funded by the additional HUD administrative funds received under the CARES Act. Staff will report on progress achieved twelve months after the position is on board and commences collection.

#### **RECOMMENDATION**

Adding the new position requires your Commission to amend the approved Budgeted Positions. The effective date for the new classifications will be the beginning of pay period 20-21, which is September 18, 2020. Staff recommends your Commission adopt the attached Resolution amending the budgeted positions for 2020-2021.

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**RESOLUTION NO.: 18-20**

**RESOLUTION APPROVING REVISIONS TO THE HOUSING AUTHORITY’S BUDGETED POSITIONS**

**WHEREAS**, on June 10, 2020, the Housing Commission adopted Resolution No. 11-20 approving HACA’s Operating Budget and Budgeted Positions for the July 1, 2020 – June 30, 2021 fiscal year; and

**WHEREAS**, an amendment to the Budgeted Positions is required in order to add the new position of Accountant in order to address increasing operational needs in HACA’s Finance Department.

**NOW, THEREFORE, BE IT RESOLVED**, that the Housing Commission of the Housing Authority of the County of Alameda does hereby approve an amendment to HACA’s Budgeted Positions to reflect the changes described above.

**PASSED, APPROVED AND ADOPTED** by the Housing Commission of the Housing Authority of the County of Alameda on this \_\_\_\_\_ day of \_\_\_\_\_ 2020 by the following vote:

**AYES:**

**NOES:**

**ABSTAIN:**

**EXCUSED:**

**ABSENT:**

**ATTEST:**

\_\_\_\_\_  
Kurt Wiest  
Executive Director/Housing Commission Secretary

\_\_\_\_\_  
Michael Hannon  
Housing Commission Chairperson

**ADOPTED:**

\_\_\_\_\_

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**AGENDA STATEMENT**

Meeting: September 09, 2020

Subject: Quarterly Investment Portfolio Report

Exhibits Attached: Investment Portfolio Report for Quarter ended June 30, 2020

Recommendation: Receive Report

Financial Statement: \$18,006,055.33 invested at an Average Annual Yield ranging from 0.11% to 1.36% (excluding FSS Escrow Participant Accounts)

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**BACKGROUND**

Public agencies are required to file an investment policy with their governing boards and to provide quarterly financial reports on the status of the agency's investments and to certify to their compliance with the approved investment policy.

**DISCUSSION AND ANALYSIS**

The attached investment portfolio report reflects the investments as of the quarter ending June 30, 2020 for each program that HACA administers. \$12.70M, or 71% of the total portfolio, is invested in Union Bank commercial paper, \$1.96M, or 11% of the total, in various issuers' certificates of deposit (CD) and \$3.36M, or 18% of the total, in the State of California Local Agency Investment Fund (LAIF).

The Housing Choice Voucher program had no funds invested at the end of the reported quarter. The re-establishment of HUD-held program reserves combined with HACA being in shortfall and the dwindling balance of Unrestricted Net Position (UNP) has made even short-term investment infeasible.

The Housing Development Fund has a total investment of \$3.36M, which is 18% of the total investment portfolio and entirely in LAIF.

PACH has a total investment of about \$9.16M, which is 51% of the total investment portfolio. Funds for replacement reserves in the amount of \$1.96M are invested in laddered long-term CDs (maturities in 2-5 years).

Ocean Avenue and Park Terrace investments are 1% and 6% of the total investment, respectively. The Health Care Services Agency (HCSA) Flexible Housing Subsidy Program has \$4.19M, which is 23% of the total investment.

The FSS Participant Escrow Accounts are maintained in a savings account, in accordance with HUD regulations, at Union Bank.



**Housing Authority of Alameda County  
Investment Portfolio  
For the Quarter Ended June 30, 2020**

<b>PROGRAM NAME</b>	<b>TYPE OF ACCOUNT</b>	<b>AMOUNT</b>	<b>INTEREST RATE</b>	<b>MATURITY DATE</b>
PACH	Union Bank N.A. Commercial Paper	\$ 7,200,757.21	various	various
PACH - RAD	Certificate of Deposits (various issuers)	\$ 1,955,000.00	various	2-5 years
Ocean Avenue	Union Bank N.A. Commercial Paper	\$ 190,234.97	0.11004%	10/6/20
Park Terrace	Union Bank N.A. Commercial Paper	\$ 1,111,372.69	0.11004%	10/6/20
HCSA	Union Bank N.A. Commercial Paper	\$ 4,193,000.00	0.15007%	8/5/20
	Sub-total	\$ 14,650,364.87		
Housing Dev Fund	State of CA - Local Agency Investment Fund	\$ 3,355,690.46	1.36000%	N/A
<b>TOTAL</b>		<b>\$ 18,006,055.33</b>		

The above investment portfolio is in compliance with the policy approved by the Housing Commission.

\_\_\_\_\_  
Kurt Wiest

\_\_\_\_\_  
Date

**BUDGET STATUS**  
**REPORT**

**Fiscal Year Ended June 30, 2020**  
*(Preliminary and Unaudited)*

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**  
**BUDGET STATEMENT OF REVENUES, EXPENSES AND CHANGES IN NET ASSETS**  
**FOR THE FISCAL YEAR ENDED JUNE 30, 2020**  
**PRELIMINARY AND UNAUDITED**

	Housing Choice Voucher			Housing Development Fund			PACH		
	Approved FY 2020	Budget 06/30/2020	Actuals 06/30/2020	Approved FY 2020	Budget 06/30/2020	Actuals 06/30/2020	Approved FY 2020	Budget 06/30/2020	Actuals 06/30/2020
<b>Housing Assistance Payments (HAP)</b>									
Est. HUD PHA grants-HAP	125,425,958	125,425,958	123,782,846						
Less: Est. HAP expenses	(125,360,035)	(125,360,035)	(122,977,270)						
Est. Addition to/(Use of) Reserves									
<b>Operating Income</b>									
Rental revenue - tenants	-	-	-	143,000	143,000	143,000	1,335,977	1,335,977	1,390,039
Other revenue -tenants	-	-	-	-	-	-	7,000	7,000	3,693
HUD PHA grants	7,406,688	7,406,688	7,295,073	-	-	-	3,819,636	3,819,636	3,735,288
Grant Revenue (CARES Act)	-	-	878,346						
Other revenue	327,518	327,518	400,339	42,500	42,500	40,875			-
Other revenue - property management fees	-	-	-	1,187,640	1,187,640	1,187,640			3,559
Investment income	42	42	6	75,000	75,000	71,332	115,060	115,060	163,677
<b>Total</b>	<b>7,734,248</b>	<b>7,734,248</b>	<b>8,573,764</b>	<b>1,448,140</b>	<b>1,448,140</b>	<b>1,442,847</b>	<b>5,277,673</b>	<b>5,277,673</b>	<b>5,296,256</b>
<b>Operating Expenses</b>									
Administrative salaries	(3,995,132)	(3,995,132)	(3,918,124)	(497,493)	(497,493)	(578,166)	-	-	-
Administrative expenses	(1,784,195)	(1,784,194)	(1,653,270)	(194,320)	(194,320)	(76,979)	(126,887)	(126,887)	(99,454)
Property Management and Administrative Service Fees							(1,113,600)	(1,113,600)	(1,113,600)
Utilities	-	-	-	(51,866)	(51,866)	(51,710)	(245,205)	(245,205)	(230,493)
Maintenance salaries	-	-	-	(203,580)	(203,580)	(260,571)	-	-	-
Maintenance services	-	-	-	(124,743)	(124,743)	(201,745)	(842,868)	(842,868)	(1,470,421)
General expenses	(184,369)	(184,369)	(137,251)	(8,288)	(8,288)	(7,229)	(153,448)	(153,448)	(188,188)
Employee benefits	(2,317,177)	(2,317,177)	(2,380,514)	(407,157)	(407,157)	(423,338)	-	-	-
<b>Total</b>	<b>(8,280,873)</b>	<b>(8,280,872)</b>	<b>(8,089,159)</b>	<b>(1,487,447)</b>	<b>(1,487,447)</b>	<b>(1,599,738)</b>	<b>(2,482,008)</b>	<b>(2,482,008)</b>	<b>(3,102,156)</b>
<b>Income (Loss)</b>	<b>(546,625)</b>	<b>(546,624)</b>	<b>484,605</b>	<b>(39,307)</b>	<b>(39,307)</b>	<b>(156,891)</b>	<b>2,795,665</b>	<b>2,795,665</b>	<b>2,194,100</b>
<b>Cash &amp; Investments as of 06/30/2020</b>	<b>-</b>	<b>-</b>	<b>3,450,506</b>	<b>-</b>	<b>-</b>	<b>3,905,007</b>	<b>-</b>	<b>-</b>	<b>11,607,716</b>

# **PROGRAM ACTIVITY**

# **REPORT**

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

**AGENDA STATEMENT**

Meeting: September 9, 2020

Subject: Programs Activity Report

Exhibits Attached: Section 8 Contract and Housing Assistance Payments (HAP) Report; Section 8 Average Contract Rent Report; Landlord Rental Listing Report; FSS Program Monthly Report

Recommendation: Receive Report

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**SECTION 8 HOUSING CHOICE VOUCHERS (HCV)**

- **Lease-Up:** As of September 1, 2020, the Section 8 HCV program had 6,088 units under contract. This number includes HACA vouchers and portability clients for which we are being billed by the receiving housing authority, but excludes portability clients for which we are billing the initial housing authority.
- **HCV Program Utilization:** As of September 1, 2020, the average HAP subsidy was \$1,757 and the average tenant-paid rent portion was \$529 for an average Contract Rent of \$2,287. These amounts include HACA vouchers, but do not include incoming and outgoing portability clients.
  - ❖ As of September 1, 2020, HACA had 152 outgoing billed portability contracts (i.e., HACA voucher holders who are housed in another housing authority’s jurisdiction).
  - ❖ As of September 1, 2020, HACA billed other housing authorities for 432 incoming portability contracts.
  - ❖ As of September 1, 2020, 227 of PACH’s 230 project-based voucher (PBV) units are leased. Due to COVID-19, we are leasing the two units at Nidus Court that were being held vacant to be used as temporary living units for tenants while we remodel their units at the property. We hope to resume our remodeling project soon.
- **Section 8 Contract Reports:** Copies of the Contract Reports are attached. The Section 8 Contract and HAP Report includes HACA certificates, HACA vouchers and portability clients for which we are billing the initial housing authority. The Section 8 Average Contract Rent Report includes HACA vouchers and portability clients for which we are billing the initial housing authority.
- **HCV Housing Quality Standards (HQS) Abatements:** During the second quarter of 2020, HACA scheduled 0 annual inspections due to COVID-19. HACA abated four HAP contracts in Q2 2020 for non-compliance with HQS.
- **Landlord Rental Listings:** As of September 1, 2020, there were 109 active properties listed.

	10/1/19	11/4/19	12/1/19	1/2/20	2/3/20	3/2/20	4/1/20	5/4/20	6/2/20	7/6/20	8/3/20	9/1/20
Units	48	49	63	58	58	64	63	70	79	105	99	109

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**  
**Section 8 Contract and HAP Report for the Month of: August 2020**

City	Certificates		Vouchers		AUGUST 2020 TOTAL		AUGUST 2019	AUGUST 2018
	Number	HAP*	Number	HAP**	Number	HAP		
		based on avg \$ 1,961		based on avg \$ 1,757				
Albany	0	\$0	12	\$21,084	12	\$21,084	14	17
Castro Valley	4	\$7,844	222	\$390,054	226	\$397,898	223	214
Dublin	3	\$5,883	403	\$708,071	406	\$713,954	401	399
Emeryville	6	\$11,766	151	\$265,307	157	\$277,073	146	153
Fremont	20	\$39,220	1,089	\$1,913,373	1,109	\$1,952,593	1,073	1,066
Hayward	45	\$88,245	1,837	\$3,227,609	1,882	\$3,315,854	1,917	1,984
Newark	6	\$11,766	221	\$388,297	227	\$400,063	225	218
Pleasanton	3	\$5,883	243	\$426,951	246	\$432,834	218	210
San Leandro	14	\$27,454	1,314	\$2,308,698	1,328	\$2,336,152	1,316	1,355
San Lorenzo	3	\$5,883	177	\$310,989	180	\$316,872	189	201
Union City	8	\$15,688	694	\$1,219,358	702	\$1,235,046	701	715
<b>TOTALS</b>	<b>112</b>	<b>219,632</b>	<b>6,363</b>	<b>11,179,791</b>	<b>6,475</b>	<b>11,399,423</b>	<b>6,423</b>	<b>6,532</b>

\* Based on an average August Housing Assistance Payment (HAP) of \$1,961 per certificate contract

\*\*Based on an average August Housing Assistance Payment (HAP) of \$1,757 per voucher contract

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**  
**Section 8 Average Contract Rent Report for the Month of August 2020**

City	Number of HAP Contracts (HCV Only)	Average Contract Rent	Average HAP Paid by HACA	Average Rent Paid by Family	Average Family-Paid Rent as a Percentage of Average Contract Rent
Albany	12	\$1,700	\$1,371	\$398	23%
Castro Valley	222	\$2,322	\$1,809	\$513	22%
Dublin	403	\$2,229	\$1,752	\$473	21%
Emeryville	151	\$1,829	\$1,348	\$480	26%
Fremont	1,089	\$2,442	\$1,917	\$523	21%
Hayward	1,837	\$2,196	\$1,674	\$522	24%
Newark	221	\$2,609	\$1,945	\$664	25%
Pleasanton	243	\$2,042	\$1,661	\$381	19%
San Leandro	1,314	\$2,214	\$1,699	\$514	23%
San Lorenzo	177	\$2,517	\$1,894	\$620	25%
Union City	694	\$2,440	\$1,858	\$578	24%

\*Some rents may vary by \$1 due to rounding

This report includes HACA vouchers and portability clients for which we are billing the initial housing authority.



**To:** Kurt Wiest, Executive Director  
**From:** Daniel Taylor, Special Programs Manager  
**Re:** **FSS Program Summary**  
**CC:** Linda Evans, Phyllis Harrison, Mary Sturges, Vannessa Kamerschen  
**Date:** July 31, 2020

---

<b>Program Summary</b>	<b>July 2020</b>
Total Clients Under Contract:	203
MDRC:	100
Graduates:	1
Escrow Disbursed:	\$5,726.82
Ports In:	0
Ports Out:	0
Terminations:	2
New Contracts:	5

**FSS PROGRAM NEWS:**

**NAHRO Scholarships Winner**

FSS participant, Jacqueline Rodriguez, three time HACA scholarship recipient and last year's Donald C. Biddle Memorial Scholarship winner, was selected to receive two NAHRO Scholarships. Jacqueline is one of seven regional winners of the NAHRO Merit Scholarship. This scholarship provides \$1,000 towards school tuition, fees and related expenses for the upcoming school year. Additionally, she is eligible to receive a renewal of this scholarship, annually for up to three years. Jacqueline was also selected as a 2020 NAHRO-LDG Scholar, one of three to receive this honor. This scholarship provides an additional \$1,000 from national NAHRO and the LDG, an award-winning multi-family housing developer. This honor also provides the opportunity for additional scholarships.

**Participant Outreach**

The FSS team continues to support our participant families during the COVID-19 pandemic. We continue to reach out to participants to offer support and provide community resources. The FSS team remains available for our participant families who have questions, concerns or require information about available resources. Additionally, we continue to work with our partners in order to stay up to date on services they are offering remotely to serve our participant families.

**Case Management Referrals = 24, Job Referrals = 57**





**To:** Kurt Wiest, Executive Director  
**From:** Daniel Taylor, Special Programs Manager  
**Re:** **FSS Program Summary**  
**CC:** Linda Evans, Phyllis Harrison, Mary Sturges, Vanessa Kamerschen  
**Date:** August 27, 2020

---

<b>Program Summary</b>	<b>August 2020</b>
Total Clients Under Contract:	203
MDRC:	100
Graduates:	0
Escrow Disbursed:	\$0
Ports In:	0
Ports Out:	0
Terminations:	0
New Contracts:	0

**FSS PROGRAM NEWS:**

**Back to School Event**



The FSS team held a drive through backpack giveaway for our FSS families. The backpacks were filled with school supplies. We were able to provide over one hundred (100) backpacks to school aged children from kindergarten through high school. Traditionally, we provide the backpacks to our FSS families at our Health and Resource Fair. The drive through event provided a safe way to provide school supplies to our participant families. The FSS team is grateful for the assistance we received from HACA staff that helped fill the backpacks with school supplies. We would also like to thank Executive Director, Kurt Wiest for taking time to distribute backpacks alongside our FSS Coordinators.

**Driving Clean Assistance Program**

On August 19, 2020, The FSS team, along with ten (10) FSS families participated in a webinar that was hosted by the Community Housing Development Corporation (CHDC), located in Richmond, CA. The presentation focused on their Driving Clean Assistance Program. The program offers the opportunity to purchase Electric Vehicles through a partnership with California Air Resources Board and local lenders that provide low- interest vehicle loans.

**Case Management Referrals = 14, Job Referrals = 58**

# **ATTACHMENT A**



## HARASSMENT, DISCRIMINATION AND RETALIATION POLICY & COMPLAINT PROCEDURE

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

### I. PURPOSE

The purpose of this Policy is to: establish a strong commitment to prohibit and prevent harassment, discrimination, and retaliation in employment; to define those terms; and to set forth a procedure for investigating and resolving internal complaints of harassment, discrimination, and retaliation. The Housing Authority of the County of Alameda encourages all covered individuals to report – as soon as possible – any conduct that they believe violates this Policy.

### II. POLICY

The Housing Authority of the County of Alameda has zero tolerance for any conduct that violates this Policy. In addition, the Housing Authority prohibits retaliation against individuals who complain of conduct believed to violate this Policy. Conduct need not rise to the level of a violation of state or federal law to violate this Policy. Rather, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions.

This Policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, transfer, leave of absence, compensation, and training.

Harassment, discrimination, or retaliation in violation of this Policy, against an applicant, unpaid intern or volunteer, or employee by a ~~supervisor, management employee~~, elected or appointed official, co-worker, member of the public, contractor, or vendor ~~on the basis of race, religion, color, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), national origin, ancestry, citizenship status, disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including homosexuality, bisexuality, or heterosexuality), military or veteran status, or any other protected classification as defined below~~, will not be tolerated.

~~Disciplinary action or other appropriate sanction up to and including termination will be instituted for prohibited behavior as defined below.~~

Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination.

Disciplinary action or other appropriate sanction up to and including termination will be imposed for prohibited behavior as defined in this Policy.

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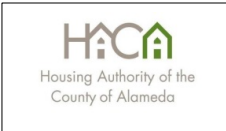
### III. DEFINITIONS

- A. Protected Classifications:** This Policy prohibits harassment or discrimination because of an individual's actual or perceived protected classification.

7/8/20

~~Adopted by Housing Commission – 7/26/17~~ Adopted by Housing Commission –

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# HARASSMENT, DISCRIMINATION AND RETALIATION POLICY & COMPLAINT PROCEDURE

## HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

“~~Protected~~ classification” includes: ~~race, religion, color, national origin, ancestry, citizenship status, sex (including gender, gender identity, gender expression, transgender, pregnancy, and breastfeeding), disability, medical condition, genetic characteristics or information, marital status, age, sexual orientation (including heterosexuality, homosexuality, and bisexuality), military or veteran status, or any other basis protected by law.~~

- Race
- Religion
- Color
- National Origin – including on the basis of immigration status, height and/or weight, cultural/linguistic characteristics, tribal affiliation, marriage to or association with a person in this classification, names that are associated with a national origin group, or membership/attendance in religious institutions generally used by persons of a national origin group.
- Ancestry
- Citizenship
- Sex – including on the basis of gender, gender identity, gender expression (a person’s gender-related appearance and behavior whether or not associated with the person’s assigned sex at birth), transgender, pregnancy and breastfeeding
- Disability
- Medical Condition
- Genetic Characteristics – or other genetic information
- Marital Status
- Age – 40 and over
- Sexual Orientation – including heterosexuality, homosexuality or bisexuality
- Military or Veteran Status
- Natural hair – including but not limited to, braids, locks or length

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A.  
**B. Policy Coverage:** This Policy prohibits Housing Authority officials, officers, employees, contractors, or vendors from harassing or discriminating against applicants, officers, officials, employees, contractors, vendors, unpaid interns or volunteers, or clients because of:

- 1.) an individual’s protected classification;
- 2.) the perception that an individual has a protected classification;
- ~~or~~
- A.** 3.) an individual’s association with a person who has or is perceived to have a protected classification.

**B.C. Discrimination:** This Policy prohibits treating individuals differently or adversely because of the individual’s protected classification as defined in ~~this~~ Policy.

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## HARASSMENT, DISCRIMINATION AND RETALIATION POLICY & COMPLAINT PROCEDURE

### HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

D. **Harassment:** Harassment may include, but is not limited to, the following types of behavior that is taken because of a person's protected classification. Note that harassment is not limited to conduct that Housing Authority employees take. Under certain circumstances, harassment can also include conduct ~~taken~~ by those who are not employees, such as elected or appointed officials, persons providing services under contracts or even members of the public:

G.

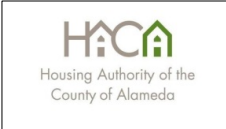
1. **Speech** – such as epithets, jokes, derogatory comments or slurs, and propositioning on the basis of a protected classification. This might include inappropriate comments on appearance (including dress or physical features, or dress consistent with gender identification) or race-oriented stories and jokes.
2. **Visual Acts** – such as gestures, posters, notices, bulletins, cartoons, e-mails, photography, or drawings related to a protected classification.
3. **Physical Acts** – such as assault, impeding or blocking movement, offensive touching, stalking, taunting, or any physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering, making explicit or implied job threats, or promises in return for submission to physical acts.
4. **Unwanted Sexual Advances** – requests for sexual favors, and other acts of a sexual nature where submission is:
  - a. A term of condition of employment, business, or housing assistance participation;
  - b. Used as a basis for employment decisions affecting the employee;
  - c. Conduct unreasonably interfering with an employee's work performance and/or creating an intimidating, hostile, or offensive working environment;
  - d. Used as a basis for making a business decision by an employee regarding a client or vendor.

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#### IV. GUIDELINES FOR IDENTIFYING HARASSMENT:

To help clarify what constitutes harassment in violation of this Policy, the Housing Authority uses the following guidelines:

- Harassment includes any conduct which would be "unwelcome" to an individual of the recipient's same protected classification or which is taken because of the recipient's protected classification.



## HARASSMENT, DISCRIMINATION AND RETALIATION POLICY & COMPLAINT PROCEDURE

### HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

- It is no defense that the recipient appears to have voluntarily “consented” to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.
- Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.
- Even visual, verbal, or physical conduct between two employees who appear to welcome it can constitute harassment of a third individual who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
- Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient’s same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).
- A single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. Therefore, if you are in doubt as to whether any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor.

#### V. RETALIATION

Any adverse conduct taken because an applicant, employee, client, vendor, or contractor has reported harassment, or has participated in the complaint and investigation process described below, is prohibited. “Adverse conduct” includes but is not limited to:

- ~~T~~ Taking sides because an individual has reported harassment or discrimination;
- ~~S~~ Spreading rumors about a complainant;
- ~~S~~ Shunning and avoiding an individual who reports harassment or discrimination, ~~or~~
- ~~R~~ Real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination.

The following individuals are protected from retaliation:

- Those who make good faith reports of harassment or discrimination;
- Those who are accused of harassment or discrimination;
- Those who associate with an individual who is involved in reporting harassment or discrimination, **or associated with those who are accused**; and
- Those who participate in the complaint or investigation process.

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## HARASSMENT, DISCRIMINATION AND RETALIATION POLICY & COMPLAINT PROCEDURE

HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

**VI. COMPLAINT PROCEDURE**

A. Complaint Reporting Protocols

**A.** 1. An applicant, employee, officer, official, vendor, client, unpaid intern or volunteer who believes he or she has been harassed, discriminated against, or retaliated against should immediately make a complaint verbally or in writing with any of the following – there is no need to follow the chain of command:

- Immediate supervisor;
- ~~Any supervisor or manager within or outside of the department;~~
- Any manager;
- Human Resources Manager.

2. If the complaint is against the Human Resources Manager or Executive Director, a complainant may submit a written complaint to the Executive Assistant who will forward the complaint to the Housing Authority’s employment law counsel for processing.

**B. Processing of Complaints:**

1. Verbal Complaints

Individuals who have received a verbal complaint are required to document the nature of the complaint and identity of the complainant within five (5) working days from receipt of the verbal complaint.

2. Written Complaints

A complaint form is attached to this Policy that can be used to submit a complaint. However, using this attached complaint form is not a requirement for submitting a complaint–(see Attachment 1).

3. Human Resources Processing

**B.** Upon receiving notification of a complaint pursuant to this Policy, the Human Resources Manager shall:

- 1-a. Provide the complainant with a timely response within five (5) working days indicating that the complaint has been received and that a fair, timely, and thorough investigation will be conducted.

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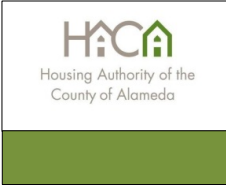
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# HARASSMENT, DISCRIMINATION AND RETALIATION POLICY & COMPLAINT PROCEDURE

**HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA**

2.b. Timely a Authorize and supervise a fair and thorough investigation of the complaint by qualified personnel and/or investigate the complaint. The investigation will afford all parties with appropriate due process and include interviews with: 1) the complainant, 2) the accused, and 3) other persons who have relevant knowledge concerning the allegations in the complaint.

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3.c. Review the factual information gathered through the investigation to reach a reasonable conclusion as to whether the alleged conduct constitutes harassment, discrimination, or retaliation giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct and the context in which the alleged incidents occurred.

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4.d. Report a summary of the determination as to whether harassment, discrimination, or retaliation occurred to appropriate persons, including the complainant, the alleged harasser, the supervisor or department head, and the Executive Director.

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5.e. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.

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6.f. Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation.

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g. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.

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7.h. If the complaint is determined to be unfounded, the accused shall be provided written notification advising them that the complaint was not substantiated.

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4. The determination of whether the complaint investigation is performed internally or by an outside investigator will be made on a case-by-case basis. However, when a complaint is made against the Executive Director or Human Resources Manager, an outside investigator will be appointed to conduct the investigation.

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C. The Housing Authority takes a proactive approach to potential Policy violations and will conduct an investigation if a manager becomes aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

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D. **Confidentiality:** Every effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible. An employee who is

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7/8/20

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## HARASSMENT, DISCRIMINATION AND RETALIATION POLICY & COMPLAINT PROCEDURE

### HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a manager or the Human Resources Manager, or to discuss the interview with a designated representative. Any individual who discusses the content of an investigatory interview with an individual other than a designated representative will be subject to discipline or other appropriate sanction. The Housing Authority will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

E. **Responsibilities:** Managers are responsible for:

1. Informing employees of this Policy;
2. Modeling appropriate behavior under this Policy;
3. Taking all steps necessary to prevent harassment, discrimination, or retaliation from occurring;
4. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints;
5. Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language or behavior;
6. Following up with those who have complained to assure that the behavior has stopped and that there are no reprisals;
7. Reporting potential violations of this Policy of which he or she becomes aware to the Human Resources Manager or Executive Director, regardless of whether a complaint has been submitted **within five (5) working days**; and
8. Informing those who complain of harassment, discrimination, or retaliation of their options to contact the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH) regarding alleged Policy violations.

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Employees and other covered individuals are responsible for:

1. Treating all employees, contractors, clients, and landlords with respect and consideration;
2. Modeling appropriate behavior that conforms to this Policy;
3. Participating in periodic training;
4. Fully cooperating with Housing Authority investigations by responding fully and truthfully to all questions posed during the investigation;
5. Taking no actions to influence any potential witness while the investigation is ongoing;



## HARASSMENT, DISCRIMINATION AND RETALIATION POLICY & COMPLAINT PROCEDURE

### HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

6. Maintaining the confidentiality of any investigation that the Housing Authority conducts by not disclosing the substance of any investigatory interview, except as directed by the Human Resources Manager or to a designated representative;
7. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in the Policy, to his or her immediate supervisor, or a manager, or the Human Resources Manager.

**F. Option to Report to Outside Administrative Agencies:** An individual has the option to report harassment, discrimination, or retaliation to the federal Equal Employment Opportunity Commission (EEOC) or the to California's Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the telephone book or employees can check the posters that are located on bulletin boards for EEOC and DFEH office locations and telephone numbers. Agency websites are: [www.eeoc.gov](http://www.eeoc.gov) and [www.dfeh.ca.gov](http://www.dfeh.ca.gov).

#### VII. DISSEMINATION OF POLICY

All employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed with a form for the employee to sign and return, acknowledging that the employee has received, read, and understands this Policy. In addition, this Policy shall be distributed annually.

[Attachment 1: Complaint Form](#)

### ***ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING***

I acknowledge the receipt of a copy of the Housing Authority of the County of Alameda's "Harassment, Discrimination, and Retaliation Policy & Complaint Procedure." I have read and understand my responsibilities under the Policy and I agree to abide by my responsibilities as outlined. I understand that I will be subject to discipline for violating this Policy or subject to other appropriate sanctions for failing to fulfill my responsibilities as outlined in the Policy.

[7/8/20](#)

[Adopted by Housing Commission—7/26/17](#)[Adopted by Housing Commission –](#)

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## HARASSMENT, DISCRIMINATION AND RETALIATION POLICY & COMPLAINT PROCEDURE

### HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

I understand that the Housing Authority strongly encourages all employees to use the Complaint Procedure described in this Policy to make good faith reports of potential violations. I acknowledge that the Housing Authority of the County of Alameda has authority to investigate any potential violations of this Policy and that I have a duty to cooperate in any such investigation.

Dated: \_\_\_\_\_

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

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

7/8/20

~~Adopted by Housing Commission – 7/26/17~~ Adopted by Housing Commission –

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# HARASSMENT, DISCRIMINATION AND RETALIATION POLICY & COMPLAINT PROCEDURE

## HOUSING AUTHORITY OF THE COUNTY OF ALAMEDA

### I. PURPOSE

The purpose of this Policy is to: establish a strong commitment to prohibit and prevent harassment, discrimination, and retaliation in employment; to define those terms; and to set forth a procedure for investigating and resolving internal complaints of harassment, discrimination, and retaliation. The Housing Authority of the County of Alameda encourages all covered individuals to report – as soon as possible – any conduct that they believe violates this Policy.

### II. POLICY

The Housing Authority of the County of Alameda has zero tolerance for any conduct that violates this Policy. In addition, the Housing Authority prohibits retaliation against individuals who complain of conduct believed to violate this Policy. Conduct need not rise to the level of a violation of state or federal law to violate this Policy. Rather, a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions.

This Policy applies to all terms and conditions of employment, including, but not limited to, hiring, placement, promotion, disciplinary action, layoff, transfer, leave of absence, compensation, and training.

Harassment, discrimination, or retaliation in violation of this Policy, against an applicant, unpaid intern or volunteer, or employee by a manager, elected or appointed official, co-worker, member of the public, contractor, or vendor will not be tolerated.

Any retaliation against a person for filing a complaint or participating in the complaint resolution process is prohibited. Individuals found to be retaliating in violation of this Policy will be subject to appropriate sanction or disciplinary action up to and including termination.

Disciplinary action or other appropriate sanction up to and including termination will be imposed for prohibited behavior as defined in this Policy.

### III. DEFINITIONS

**A. Protected Classifications:** This Policy prohibits harassment or discrimination because of an individual's actual or perceived protected classification. "Protected classification" includes:

- Race
- Religion
- Color
- National Origin – including on the basis of immigration status, height and/or weight, cultural/linguistic characteristics, tribal affiliation, marriage to or association with a person in this classification, names that

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are associated with a national origin group, or membership/attendance in religious institutions generally used by persons of a national origin group.

- Ancestry
- Citizenship
- Sex – including on the basis of gender, gender identity, gender expression (a person’s gender-related appearance and behavior whether or not associated with the person’s assigned sex at birth), transgender, pregnancy and breastfeeding
- Disability
- Medical Condition
- Genetic Characteristics – or other genetic information
- Marital Status
- Age – 40 and over
- Sexual Orientation – including heterosexuality, homosexuality or bisexuality
- Military or Veteran Status
- Natural hair – including but not limited to, braids, locks or length

**B. Policy Coverage:** This Policy prohibits Housing Authority officials, officers, employees, contractors, or vendors from harassing or discriminating against applicants, officers, officials, employees, contractors, vendors, unpaid interns or volunteers, or clients because of:

1. an individual’s protected classification
2. the perception that an individual has a protected classification
3. an individual’s association with a person who has or is perceived to have a protected classification.

**C. Discrimination:** This Policy prohibits treating individuals differently or adversely because of the individual’s protected classification as defined in this Policy.

**D. Harassment:** Harassment may include, but is not limited to, the following types of behavior that is taken because of a person’s protected classification. Note that harassment is not limited to conduct that Housing Authority employees take. Under certain circumstances, harassment can also include conduct by those who are not employees, such as elected or appointed officials, persons providing services under contracts or even members of the public:

1. **Speech** – such as epithets, jokes, derogatory comments or slurs, and propositioning on the basis of a protected classification. This might include inappropriate comments on appearance (including dress or physical features, or dress consistent with gender identification) or race-oriented stories and jokes.

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2. **Visual Acts** – such as gestures, posters, notices, bulletins, cartoons, e-mails, photography, or drawings related to protected classifications.
3. **Physical Acts** – such as assault, impeding or blocking movement, offensive touching, stalking, taunting, or any physical interference with normal work or movement. This includes pinching, grabbing, patting, propositioning, leering, making explicit or implied job threats, or promises in return for submission to physical acts.
4. **Unwanted Sexual Advances** – requests for sexual favors, and other acts of a sexual nature where submission is:
  - a. A term of condition of employment, business, or housing assistance participation;
  - b. Used as a basis for employment decisions affecting the employee;
  - c. Conduct unreasonably interfering with an employee’s work performance and/or creating an intimidating, hostile, or offensive working environment;
  - d. Used as a basis for making a business decision by an employee regarding a client or vendor.

#### IV. GUIDELINES FOR IDENTIFYING HARASSMENT:

To help clarify what constitutes harassment in violation of this Policy, the Housing Authority uses the following guidelines:

- Harassment includes any conduct which would be “unwelcome” to an individual of the recipient’s same protected classification or which is taken because of the recipient’s protected classification.
- It is no defense that the recipient appears to have voluntarily “consented” to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.
- Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.
- Even visual, verbal, or physical conduct between two employees who appear to welcome it can constitute harassment of a third individual who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.

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- Conduct can constitute harassment in violation of this Policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual of the recipient's same protected classification would find it offensive (e.g., gifts, over attention, endearing nicknames).
- A single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. Therefore, if you are in doubt as to whether any particular conduct may violate this Policy, do not engage in the conduct, and seek guidance from a supervisor.

#### V. RETALIATION

Any adverse conduct taken because an applicant, employee, client, vendor, or contractor has reported harassment, or has participated in the complaint and investigation process described below, is prohibited. "Adverse conduct" includes but is not limited to:

- Taking sides because an individual has reported harassment or discrimination
- Spreading rumors about a complainant
- Shunning and avoiding an individual who reports harassment or discrimination
- Real or implied threats of intimidation to prevent an individual from reporting harassment or discrimination.

The following individuals are protected from retaliation:

- Those who make good faith reports of harassment or discrimination;
- Those who are accused of harassment or discrimination;
- Those who associate with an individual who is involved in reporting harassment or discrimination or associated with those who are accused; and
- Those who participate in the complaint or investigation process.

#### VI. COMPLAINT PROCEDURE

##### A. Complaint Reporting Protocols

1. An applicant, employee, officer, official, vendor, client, unpaid intern or volunteer who believes he or she has been harassed, discriminated against, or retaliated against should immediately make a complaint verbally or in writing with any of the following – there is no need to follow the chain of command:
  - Immediate supervisor;
  - Any manager;
  - Human Resources Manager.

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2. If the complaint is against the Human Resources Manager or Executive Director, a complainant may submit a written complaint to the Executive Assistant who will forward the complaint to the Housing Authority's employment law counsel for processing.

#### B. **Processing of Complaints:**

##### 1. Verbal Complaints

Individuals who have received a verbal complaint are required to document the nature of the complaint and identity of the complainant within five (5) working days from receipt of the verbal complaint.

##### 2. Written Complaints

A complaint form is attached to this Policy that can be used to submit a complaint. However, using this attached complaint form is not a requirement for submitting a complaint(see Attachment 1).

##### 3. Human Resources Processing

Upon receiving notification of a complaint pursuant to this Policy, the Human Resources Manager shall:

- a. Provide the complainant with a response within five (5) working days indicating that the complaint has been received and that a fair, timely, and thorough investigation will be conducted.
- b. Authorize and supervise a fair and thorough investigation of the complaint by qualified personnel and/or investigate the complaint. The investigation will afford all parties with appropriate due process and include interviews with: 1) the complainant, 2) the accused, and 3) other persons who have relevant knowledge concerning the allegations in the complaint.
- c. Review the factual information gathered through the investigation to reach a reasonable conclusion as to whether the alleged conduct constitutes harassment, discrimination, or retaliation giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct and the context in which the alleged incidents occurred.
- d. Report a summary of the determination as to whether harassment, discrimination, or retaliation occurred to appropriate persons, including the complainant, the alleged harasser, the supervisor or department head, and the Executive Director.



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- e. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
  - f. Take reasonable steps to protect the complainant from further harassment, discrimination, or retaliation.
  - g. Take reasonable steps to protect the complainant from retaliation as a result of communicating the complaint.
  - h. If the complaint is determined to be unfounded, the accused shall be provided written notification advising them that the complaint was not substantiated.
4. The determination of whether the complaint investigation is performed internally or by an outside investigator will be made on a case-by-case basis. However, when a complaint is made against the Executive Director or Human Resources Manager, an outside investigator will be appointed to conduct the investigation.
- C. The Housing Authority takes a proactive approach to potential Policy violations and will conduct an investigation if a manager becomes aware that harassment, discrimination, or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.
- D. **Confidentiality**: Every effort will be made to assure the confidentiality of complaints made under this Policy. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. As a result, confidentiality will be maintained to the extent possible. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An individual who is interviewed during the course of an investigation is prohibited from discussing the substance of the interview, except as otherwise directed by a manager or the Human Resources Manager, or to discuss the interview with a designated representative. Any individual who discusses the content of an investigatory interview with an individual other than a designated representative will be subject to discipline or other appropriate sanction. The Housing Authority will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.
- E. **Responsibilities**: Managers are responsible for:
1. Informing employees of this Policy;
  2. Modeling appropriate behavior under this Policy;
  3. Taking all steps necessary to prevent harassment, discrimination, or retaliation from occurring;

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4. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints;
5. Monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language or behavior;
6. Following up with those who have complained to assure that the behavior has stopped and that there are no reprisals;
7. Reporting potential violations of this Policy of which he or she becomes aware to the Human Resources Manager or Executive Director, regardless of whether a complaint has been submitted within five (5) working days; and
8. Informing those who complain of harassment, discrimination, or retaliation of their options to contact the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH) regarding alleged Policy violations.

Employees and other covered individuals are responsible for:

1. Treating all employees, contractors, clients, and landlords with respect and consideration;
2. Modeling appropriate behavior that conforms to this Policy;
3. Participating in periodic training;
4. Fully cooperating with Housing Authority investigations by responding fully and truthfully to all questions posed during the investigation;
5. Taking no actions to influence any potential witness while the investigation is ongoing;
6. Maintaining the confidentiality of any investigation that the Housing Authority conducts by not disclosing the substance of any investigatory interview, except as directed by the Human Resources Manager or to a designated representative;
7. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in the Policy, to his or her immediate supervisor, or a manager, or the Human Resources Manager.

- F. Option to Report to Outside Administrative Agencies:** An individual has the option to report harassment, discrimination, or retaliation to the federal Equal Employment Opportunity Commission (EEOC) or to California's Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed in the government section of the telephone book or employees can check the posters that are located on bulletin boards for EEOC and DFEH office locations and telephone numbers. Agency websites are: [www.eeoc.gov](http://www.eeoc.gov) and [www.dfeh.ca.gov](http://www.dfeh.ca.gov).

## VII. DISSEMINATION OF POLICY



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All employees shall receive a copy of this Policy when they are hired. The Policy may be updated from time to time and redistributed with a form for the employee to sign and return, acknowledging that the employee has received, read, and understands this Policy. In addition, this Policy shall be distributed annually.

Attachment 1: Complaint Form

### ***ACKNOWLEDGEMENT OF RECEIPT AND UNDERSTANDING***

I acknowledge the receipt of a copy of the Housing Authority of the County of Alameda's "Harassment, Discrimination, and Retaliation Policy & Complaint Procedure." I have read and understand my responsibilities under the Policy and I agree to abide by my responsibilities as outlined. I understand that I will be subject to discipline for violating this Policy or subject to other appropriate sanctions for failing to fulfill my responsibilities as outlined in the Policy.

I understand that the Housing Authority strongly encourages all employees to use the Complaint Procedure described in this Policy to make good faith reports of potential violations. I acknowledge that the Housing Authority of the County of Alameda has authority to investigate any potential violations of this Policy and that I have a duty to cooperate in any such investigation.

Dated: \_\_\_\_\_

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

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

# **ATTACHMENT B**

Article 9

**BACKGROUND CHECKS & APPOINTMENT**

**Section 9.1 BACKGROUND CHECKS**

**A. References**

Prior to an offer of appointment, the selected candidate will be asked to provide three (3) professional supervisory references. Human Resources and/or the hiring manager will contact these references for inquiry into the candidate’s prior job performance history. If satisfactory references cannot be obtained (at least two (2) professional supervisory references), no offer of appointment will be made to the selected candidate and the candidate will be notified in writing regarding this decision.

**B. Pre-Employment Physical Examination**

Offers of appointment are conditioned upon the candidate passing a pre-employment physical examination. The pre-employment physical exam will be required after a conditional offer of appointment has been made. Prior to the selected candidate’s employment start date, the candidate will be scheduled for this exam. Pre-employment physical exams are designed to determine whether the candidate is able to perform the essential functions of the classification for which they have been hired with or without reasonable accommodation. If the candidate refuses to complete the pre-employment physical exam, the candidate shall be disqualified from Housing Authority employment.

**C. Fingerprinting**

1. After the Housing Authority makes a conditional offer of appointment the candidate will be required to provide their fingerprints for purposes of determining the candidate’s criminal history, if any. Criminal convictions, except for misdemeanor marijuana-related convictions that are over two (2) years old or convictions that have been judicially sealed, eradicated or expunged (Labor Code Sections 4327 – 432.8), will be considered relevant to the inquiry into criminal history.
2. Unless required by law, the Housing Authority will not deny employment to any candidate solely because they have been convicted of a crime. The Housing Authority may consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the classification for which the candidate has been selected.

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**Section 9.21**      **TYPES OF APPOINTMENT**

A. Types of Appointment

The type of An appointment may be regular (permanent), intermittent, temporary, provisional, or emergency or project-based, or it may be by reemployment, voluntary demotion, split-off privilege, or reinstatement following resignation.

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**Section 9.2**      **NOTICE OF APPOINTMENT**

The Executive Director shall report on the forms prescribed by the Personnel Committee, the name of each person selected for appointment and the date service is to begin.

**Section 9.3**      **REGULAR (PERMANENT) APPOINTMENT**

1. Regular (Permanent) Appointment

An appointment from a reemployment list or from an open or promotional eligible list to a position that has been created for an indefinite period of time is a regular appointment that will become permanent after satisfactory completion of ~~a~~ the required probationary period. Regular appointments can be either full-time or part-time.

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a. Full-time- Appointment

All full-time regular appointments work either 75 or 80 hours (depending upon classification) per bi-weekly pay period and are eligible for all Housing Authority benefits.

b. Part-time Appointment

Part-time appointments work less than 75 hours per bi-weekly pay period. Appointments at 20 hours per week or more are eligible for Housing Authority group health benefits. Holiday pay and vacation and sick leave accruals are pro-rated based of the level of appointment (number of hours worked per pay period). Part-time employees are not eligible for participation in the ACERA retirement system.

**Section 9.4**      **INTERMITTENT APPOINTMENT**

An appointment from an eligible list to a position which is filled for irregular periods from time to time is an intermittent appointment. Intermittent appointments are subject to a probationary period. After satisfactory completion of the period of probation, intermittent appointees enjoy

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2. Re-employment

**Section 9.8** REEMPLOYMENT

Whenever a vacancy occurs in a classification for which there is a preferred list, the first ~~personname~~ on ~~such~~that list ~~as defined in Section 7.2~~ shall be entitled to reemployment in the vacancy with full ~~tenure~~ rights and privileges granted to regular appointees.

**Section 9.9** TRANSFER

3. Transfer

a. An appointment by transfer is the appointment of the incumbent ~~of a position~~ to a position in the same classification designated as appropriate by the Executive Director, ~~who will advise the Personnel Committee of the transfer~~. Each transfer appointment is subject to the written consent of the incumbent, appointee and the incumbent's manager and the Executive Director.

b. A transfer appointee who has completed the required probationary period for the position from which ~~he/she has they have~~ transferred is not required to serve another probationary period. A probationary employee who is transferred shall be required to serve out the remainder of ~~his or her~~their probationary period.

**Section 9.10** VOLUNTARY DEMOTION

4. Voluntary Demotion

a. An appointment by voluntary demotion is the appointment of the incumbent ~~of a position~~, at ~~his/her~~ their own request, to a position in a lower classification. ~~Each such~~ ~~Requests for voluntary demotion~~ shall be approved by the Executive Director. A demoted appointee who has completed the required probationary period in the position from which ~~he/she has they have~~ taken a demotion is not required to serve another probationary period. A probationary employee who is demoted shall be required to serve out the remainder of ~~his or her~~ their probation period.

b. ~~On~~Upon the approval of the Executive Director, ~~who will advise the Personnel Committee~~, an employee who has taken voluntary demotion may be reinstated ~~in to~~ a position in the classification from which ~~he/she they were~~ was voluntarily demoted.

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**Section 9.11 — SPLIT-OFF**

**5. Split-Off**

A split-off occurs ~~W~~when a classification is divided into two or more new classifications (split-off classifications) and the positions of the old classification are reallocated to the new classifications. ~~;~~When an incumbent with tenure in the old classification is reallocated to ~~the~~ one of the new classifications, ~~an~~ the incumbent with tenure in the old classification shall be given tenure in the new classification to which ~~his/her~~ their position has been reallocated. ~~and i~~In addition, ~~the incumbent~~ shall be given the privilege of future appointment without further examination to positions in any of the other split-off classifications. An appointment by split-off privilege is made ~~at the will of~~by the Executive Director, ~~who will advise the Personnel Committee~~, and is not subject to a probationary period.

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**Section 9.12 — REINSTATEMENT FOLLOWING RESIGNATION**

**6. Re-instatement Following Resignation**

- a. On the approval of the Executive Director, who will advise the Personnel Committee, a regularly appointed employee who resigned in good standing may, within three years after the effective date of ~~his/her~~their resignation, be reinstated in a position in the class from which he/she resigned or in a position in another class for which ~~he/sh~~they may be eligible ~~as determined by the Personnel Committee~~. Appointments by reinstatement following resignation are subject to the probationary period established for the class.
- b. An employee reinstated to the same class or an equivalent class starts at the same salary step in the pay schedule in effect at the time of resignation. An employee reinstated to a lower class shall be entitled to credit for the period of service in the higher class when determining his or her salary step.
- c. All employees whose break in service exceeds six months may only receive an appointment conditioned upon passing a physical examination.

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**Section 9.13 — PROJECT APPOINTMENT**

A project appointment is an appointment of an applicant, by the Executive Director, to a part-time position for a specified period, not to exceed 18 months. Appointments may be extended, but no appointee shall serve more than 18 months as a project employee with the Housing Authority. A project appointment may be made without use of an employment list. Any person appointed on a project basis must meet the published minimum qualifications of the class for employment. An employee appointed on a project basis shall not gain tenure in his/her position

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~~and shall not have promotional or transfer rights. Service in a position on a project basis shall not convey on the appointee credit towards a probationary period.~~

**Section 9.3 DUTY TO TAKE LOYALTY OATH**

All public employees are required to take and subscribe to the oath or affirmation set forth in the California Constitution that declares them to be disaster service workers in time of need. Taking the oath or affirmation is part of the appointment process. Employees who refuse to sign the Loyalty Oath Form are disqualified from continued Housing Authority employment.

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Article 10

PROBATIONARY PERIOD

Section 10.1 AUTHORITY TO ESTABLISHMENT AND PURPOSE OF PROBATIONARY PERIOD

A. The Personnel Committee shall ~~provide establish a period of~~ probationary periods for each classification in the ~~classified~~ Housing Authority service.

Section 10.2 PURPOSE OF PROBATIONARY PERIOD

B. The probationary period ~~is considered to shall be regarded as~~ an integral part of the examination process ~~even after employment has commenced~~. Probation is a period of ~~time~~ ~~It shall be utilized for the effective adjustment of the probationer,~~ for close observation of ~~his/her~~ performance, ~~to provide feedback and provide an opportunity for the employee to correct deficiencies and address concerns. and for his/her separation if such~~ performance does not meet the ~~work expected~~ standards for the classification, ~~the probationary period ends and the employee is released from their probationary employment, or if his/her conduct, moral responsibility, or integrity is found to be unsatisfactory.~~

Section 10.23 APPOINTMENTS SUBJECT TO PROBATION

A. The following types of appointments are subject to satisfactory completion of a probationary period:

- 10.3.1 Regular appointments from promotional ~~eligible~~ eligibility lists, open ~~eligible~~ eligibility lists, and re-employment lists.
- 10.3.2 ~~Intermittent appointments from open intermittent eligible lists and intermittent reemployment lists.~~
- 10.3.3 Appointments made from qualifying examinations.
- 10.3.4 Reinstatement appointments following resignation.
- 10.3.5 Transfer or voluntary demotion appointments of probationers.

Section 10.4 EXCLUSION OF LIMITED TERM APPOINTMENTS

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B. Time served in a temporary, provisional, or emergency appointments shall not be credited toward the completion of any period of probation and shall not confer upon the appointees any tenure rights.

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**Section 10.35** WHEN PROBATIONARY PERIOD IS NOT REQUIRED

A new probationary period is not required for the following types of appointments:

- 10.5.1** Reemployment from preferred lists provided that a probationary employee shall complete the original probationary period, except as specified in Section 10.46.
- 10.5.2** Transfer and voluntary demotion appointments of employees with tenure in the classification from which they are transferring or taking demotion.
- 10.5.3** Split-off privilege appointments.
- 10.5.4** Re-employment following disability retirement.

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**Section 10.46** DURATION OF PROBATION

~~Except as otherwise provided herein, the period of probation for employees appointed to any class shall be six (6) months.~~

- A. The period of probation for employees appointed to management classifications (~~those designated with "M" designated classifications after their item number~~) shall be ~~is~~ twelve (12) months. ~~The period of probation for employees appointed to training classifications (those designated with "T" after their item number) shall be twelve (12) months.~~
- B. The period of probation for all other employees appointed to any classifications shall be six (6) months. Whenever a probationary employee is promoted to a higher classification within the same classification series, ~~except where such classes are flexibly staffed~~, time served in such higher classification shall be counted toward the period of probation for the classification from which the employee was promoted.
- C. ~~When a probationary employee is in a flexibly-staffed position and is moved to the next level within the flexibly-staffed classification series, the employee shall continue to serve out their original probationary period.~~
- D. ~~Whenever~~ a probationary ~~or~~ employee is absent on leave without pay from his/her position, his/her period of probation shall be increased by ~~the~~ total time of such absence, unless he/she is on leave of absence to serve in a higher class, in which case the time served satisfactorily in such class shall be counted toward the completion of the period of probation for the class from which leave was granted.

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~~E. When a probationary employee is absent on leave with pay or is on modified duty for two (2) consecutive work weeks or more, their probationary period will be extended by the total time in such status.~~

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~~F. Whenever a probationary employee accepts a demotion to a position in a lower classification, the time served satisfactorily in the higher classification shall be counted toward the completion of his/her period of the probationary period for the classification to which he/she accepts the demotion was made.~~

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~~G. When a probationary employee is assigned to an out-of-class assignment, they shall continue to serve their probationary period while performing in the out-of-class assignment.~~

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~~H. The period of probation for regular appointees in part-time, intermittent, or services-as-needed positions shall be considered satisfied when they, such appointees have accumulated in actual service time an equivalent to the period of probation established for the classification, regardless of the number of calendar months over which such the accumulated service extends.~~

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~~I. When the remaining period of probation of a probationary employee rehired from a preferred list is less than three (3) months, the period of probation shall be extended to three (3) months. When the remaining probationary period of a probationary employee rehired from a preferred list is more than three (3) months, the rehired probationary employee shall be required to serve only the remaining period in order to complete the required probationary period.~~

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~~J. Time spent on the job by a probationary employee following receipt of a written notice of termination shall not be counted toward completion of the probationary period.~~

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~~K. If a manager is unsure of whether or not a probationary employee can successfully complete their initial probationary period, the manager has the discretion to extend the probationary period for up to an additional six (6) months. If probation is to be extended, the probationary employee shall receive advance notice of this decision of not less than two (2) weeks prior to the end of the probationary period. This provision only applies to non-management employees.~~

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~~Whenever a probationer is absent on leave with pay or is in modified duty in his/her position for two consecutive work weeks or more, his/her period of probation shall be increased by total time in such status.~~

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~~When the remaining period of probation of a probationer rehired from a preferred list is less than three months the period of probation shall be extended to three months. When the remaining probation period of a probationer rehired from a preferred list is more than three months, the rehired probationer shall be required to serve only the remaining period in order to complete his or her probation.~~

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**Section 10.67**      **SEPARATION BEFORE COMPLETION OF A PROBATION**

**A. Probationary Release May Occur Anytime During Probation**

- 1. ~~The Executive Director may separate or release a probationary employee at any time during the period of probation, and a notice of such separation shall be concurrently sent sent by the Executive Director or their designee to the probationary employee, and the Personnel Committee at the time of separation.~~
- 2. ~~A probationary employee who has been released from employment so separated shall have no right to appeal, except as provided in Section 10.8, or unless he/she they alleges that his/her dismissaltheir probationary release was due to his/her race, religion, national origin, sex or political affiliation on the basis of a protected category as defined in Title VII of the 1964 Civil Rights Act, as amended, or in the California Fair Employment and Housing Act. In the latterthis case, the appeal shall be in accordance with the applicable procedures in the Housing Authority's Affirmative Action Appeals ProgramPolicy.~~

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**Section 10.8**      **SEPARATION OF PROMOTIONAL PROBATIONER**

- B. ~~An employee, who was promoted to a higher classification in the Authority from a lower class, shall be on probation only for the higher classification, only, and if he/shethe employee is separated before attaining tenurecompleting probation in the higher classification, the employee generally has the right to demote back to the same position from which they were promoted, and is However, if the employee is denied the right to return to the position from which he/she was they were promoted, he/she the employee shall have the rights to of appeal as set forth in under these Personnel Rules, 15 – Appeal of Personnel Actions., provided, however, that he/she shall have no such right of appeal and hearing where the lower class has been designated as a training classification.~~

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**Section 10.9**      **STATUS UPON COMPLETION OF PROBATIONARY PERIOD**

~~An employee who satisfactorily completes the period of probation for the class to which she was regularly appointed, shall be considered to have tenure in his/her employment in such class.~~

**Section 10.510**      **ADMINISTRATION OF PROBATIONARY AND TRAINING PERIODS**

- A. ~~Nothing in these rules shall be construed to limit the Housing Authority's discretionary authority to separate or release an employee during the probationary period.~~

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B.  
**10.10.1** Each probationary employee or ~~employee in a trainee position~~ will have an immediate supervisor assigned to them who will administer the probationary ~~or training~~ period in a fair and objective manner. The employee will have reasonable access to this supervisor to seek ~~and~~ feedback, obtain training and assistance.

**10.10.2** C. At ~~or near~~ the ~~commencement~~ beginning of the probationary ~~or training~~ period the employee shall be provided with performance and progress expectations.

**10.10.3** D. Prior to the expiration of a probationary ~~or training~~ period, the immediate supervisor will complete a performance evaluation and discuss ~~such~~ the evaluation with the employee.

~~Nothing herein shall be construed to limit the Housing Authority's discretionary authority to separate a probationer during the probationary period.~~

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## Article 11

### PERFORMANCE EVALUATIONS

**Commented [FC1]:** This Article is new to cover the subject of performance evaluations and related topics. Sections 11.1, 11.2, 11.3 represent new language and the remainder is revised and incorporated from other Articles,

#### Section 11.1 PROBATIONARY EVALUATIONS

Employees shall receive a formal performance evaluation at the end of their probationary period. The evaluation should include commentary on all aspects of job performance and whether the employee will transition from probationary status to a permanent employee.

#### Section 11.2 NON-MANAGEMENT EMPLOYEES

The performance evaluation cycle for non-management employees is based on the employee's "salary anniversary date." The salary anniversary date is generally based on date of hire or date of promotion. Except for probationary evaluations, employees shall receive annual performance evaluations based on their salary anniversary date.

#### Section 11.3 MANAGEMENT EMPLOYEES

The performance evaluation cycle for management employees is based on the fiscal year calendar except for probationary evaluations and/or the initial evaluation. A management employee's initial evaluation covers the period of time from the date of hire to the employee's one-year anniversary, corresponding with the probationary period. A management employee's ~~second~~<sup>first</sup> performance evaluation will be based on the period of time from the employee's one-year anniversary~~on the period of time from the date of hire~~ to the end of the fiscal year. Merit increases, if any, ~~for the initial period~~ will be pro rated based on the period of time that is less than a full fiscal year. Subsequent evaluations will be done on an annual basis based on the fiscal year cycle.

#### Section 11.4 REBUTTAL OF EVALUATION

~~When an employee receives a Performance Evaluation the employee shall have the right to rebut his/her evaluation in writing. The rebuttal is to be submitted to the employee's immediate supervisor who will forward it through channels to become an integral part of the evaluation in the personnel folder.~~

Employees shall have the right to rebut or provide their own comments in writing regarding the evaluation. Written comments are to be submitted to the evaluating manager who will attach the comments to the manager's performance evaluation. Copies of performance evaluations and any written rebuttals or comments are filed in the employee's personnel file.

#### Section 11.5 PERSONNEL FILES

A. ~~Employees shall, in the presence of the Personnel Officer or his/her designee, have the right to review and obtain a copy reasonable number of copies of their personnel files or to authorize same by their representative to obtain the copy. Representatives of employees shall first obtain written authorization from the employee to review a personnel file or to obtain personnel file copies. No material shall be placed in the employee's personnel file without the employee receiving a copy of such material beforehand or at the same time.~~

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B. ~~Review of personnel files shall be conducted in the Human Resources Department and copies of any personnel file documents shall be provided by the Human Resources Department.~~

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C. ~~Employees may submit attach a rebuttals or written comments to adverse material for attachment to such material contained in their Ppersonnel file.~~

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D. ~~The Housing Authority retains the right to determine what other materials may be included in an employee's personnel file.~~

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~~In the case of a probationary employee, the Executive Director or their designee shall notify the employee in writing that such an automatic resignation has been invoked effected, and the employee shall have three (3) working days from the date of the actual or constructive receipt of such the notice to present submit written satisfactory reasons for his or her their absence, after which the Executive Director may rescind such the automatic resignation in writing, or shall notify the employee in writing that the Executive Director has effected an automatic resignation has been upheld pursuant to this section.~~

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C. Permanent Employees

~~In the case of a tenured employee, the Executive Director or their designee will provide the employee written notice of:~~

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~~1) of the Housing Authority's intent to implement an automatic resignation pursuant to this section, and the factual basis supporting the intent to implement an automatic resignation; that indicate that this rule applies (e.g., that the employee did not return on time, or did not notify the Authority of a legitimate reason for his or her inability to return, or did not have permission from the appropriate authority to be absent on the specific days in question); and~~

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~~2) of the employee's opportunity to provide an written explanation for his or her their absence within five (5) working days after the date of delivery receipt of the written notice.~~

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~~D. Copies of any and all documents that support the Executive Director's intended decision decision to invoke an automatic resignation shall also be attached to the written notice.~~

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~~E. If the Executive Director does not receive an written explanation within the appropriate time five (5) work day period, or if the explanation received is not sufficient, the Executive Director may implement an tenured employee's automatic resignation pursuant to this section.~~

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~~F. An employee will not receive compensation for absences unless it is determined that the employee worked on the day(s) in question, and/or that the employee was entitled to an approved leave on the day(s) in question.~~

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~~G. The Executive Director shall notify a tenured the employee in writing of his/her their final decision to implement an automatic resignation, pursuant to this section.~~

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Section 12.3 APPEALS FROM AUTOMATIC RESIGNATION

H. Appeal of Automatic Resignation

~~A tenured Permanent employees, who have been separated from employment as a result of to whom the Executive Director has implemented an automatic resignation pursuant to Section 12.2, may submit a written appeal by notifying to the Personnel Committee, in writing of the appeal and the facts supporting the appeal. Appeals are to be made in~~

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accordance with the applicable provisions in Article 15 regarding Appeal of Personnel Actions. In order to be effective, the written appeal must be received by the Housing Authority within (10) ten working days after delivery of the notice of decision to implement an automatic resignation.

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The Personnel Committee shall hear timely appeals. The issues to be decided at the hearing are limited to whether the employee was absent without leave or failed to return after the expiration of a leave.

After the employee and the Executive Director have presented evidence and/or sworn testimony relating to these issues, the Personnel Committee will issue a written decision. The Housing Authority will forward the Personnel Committee's decision to the employee.

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**Section 12.4 WITHDRAWAL OF TENDERED RESIGNATIONS**

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An employee who has submitted a resignation may, with the approval of the Executive Director, withdraw such resignation prior to the effective date thereof and continue in the position as though the resignation had not been tendered. An employee who alleges that a resignation was obtained through fraud, duress or undue influence on the part of a supervisor or agents of the Authority or representatives so as to tender such resignation tantamount to a constructive dismissal may file an appeal with the Personnel Committee of the refusal of the Executive Director to consent to the employee's aforesaid request to withdraw such resignation, provided that such appeal is filed within ten working days of the Executive Director's refusal to consent to such withdrawal but in no case later than ten working days after the effective date of the resignation. Nothing herein is to be construed to permit appeals from resignations solely because of a "change of heart" or because of events outside the control of the Authority.

**Section 12.5 NOTICE OF PERSONNEL OFFICER/EXECUTIVE DIRECTOR ACTION**

When the Personnel Officer or Executive Director take a personnel action pursuant to these rules, a notice of the action shall be placed on a designated bulletin board and copies of the notice shall be given to union shop stewards.

**Section 12.6 APPEAL OF PERSONNEL ACTIONS**

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Appeals to the Personnel Committee arising from its own determination or from a personnel administration decision of the Executive Director or Personnel Officer or his or her designee over which the Personnel Committee has jurisdiction (Article 2 through Article 13 of these Rules) may be made by any person who is adversely affected by such determination or decision.

Where an appeal is filed by an employee or candidate regarding an action or decision of the Executive Director/Personnel Officer that affects his or her application for, examination for, or right to be considered for an appointment to a position, the employee or candidate shall have the right to request that no appointment be made to the position in question until the appeal is heard and resolved by the Personnel Committee and such requests shall be honored by the Executive

Director/Personnel Officer. Such requests and stays of appointments shall not apply to appeals disputing the type of appointment made by the Executive Director pursuant to Article 9 herein.

**Section 12.7 — FORM OF APPEAL**

Each appeal shall be made in writing and shall be signed by the appellant. It shall clearly state the specific facts and reasons upon which it is based and the relief requested. Facts or reasons not specifically stated shall be deemed waived.

**Section 12.8 — TIME FOR FILING APPEAL**

Appeals from administrative actions or Personnel Committee rulings, including classification actions, shall be made within ten working days following the date of the action or ruling appealed from, and appeals from examination ratings shall be made within ten working days after the date of such rating.

**Section 12.9 — PERSONNEL COMMITTEE ACTION ON APPEALS**

Upon receipt of an appeal, the Executive Director shall contact the Personnel Committee members, schedule a Personnel Committee meeting and notify the appellant of the date and time. The appeal shall then be mailed to the Personnel Committee by the Executive Director together with any appropriate report or recommendation by the Housing Authority's staff. A copy of such report or recommendation shall also be mailed to the appellant or the appellant's representative, at the same time.

The appellant and/or his or her representative shall have the right to submit written arguments and evidence in advance of the Personnel Committee meeting and to appear in person and present oral arguments and evidence at the Personnel Committee meeting. At the Personnel Committee meeting, the Personnel Committee may interview the appellant and/or appellant's representative and Housing Authority staff. The Personnel Committee may then, in its own discretion, decide the matter forthwith or defer the matter for further investigation and set a subsequent Personnel Committee meeting.

**Section 12.10 — PERSONNEL FILES**

Employees shall, in the presence of the Personnel Officer or his/her designee, have the right to review and obtain a reasonable number of copies of their personnel files or to authorize same by their representative. No material shall be placed in the employee's personnel file without the employee receiving a copy of such material beforehand or at the same time. Employees may submit rebuttals to adverse material for attachment to such material in the Personnel file. The Housing Authority retains the right to determine what other materials may be included in an employee's personnel file.

**Section 12.11 — PERFORMANCE EVALUATION**

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When an employee receives a Performance Evaluation, the employee shall have the right to rebut his/her evaluation in writing. The rebuttal is to be submitted to the employee's immediate supervisor who will forward it through channels to become an integral part of the evaluation in the personnel folder.

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- 1. Emergency appointments
- 2. Provisional appointments
- 3. Temporary appointments
- 4. Probationary appointments

~~above sequence, except that the provisions of this sentence shall not apply to~~ Exceptions to this rule include probationary appointees reinstated pursuant to Section 9.2.B.6.12 and ~~to~~ employees on probation by virtue of job reclassification where such employee was continuously performing the same job functions six (6) months prior to the reclassification.

Nothing herein shall limit the right of any employee or group of employees or employee organization representing employees of the Housing Authority from questioning or disputing through means other than personnel or grievance appeals, any recommendation or decision to implement a layoff of Housing Authority employees.

**Section 13.4 DEMOTION IN LIEU OF LAY-OFF**

- A. An employee in a classification affected by a reduction in force may, in lieu of lay-off, elect to demote to a lower paying classification, provided that such the employee had was a permanent employee, held tenure in the lower paying classification.
- B. For purposes of lay-off or demotion in lieu of lay-off, flexibly-staffed classifications, as defined in the annual salary ordinance, may, with the concurrence of the Personnel Committee be treated designated as one classification.
- C. When both the employee demoting and the employee in the lower paying classification class have equal total Housing Authority service, the employee in the lower paying classification would will be laid off or demoted first.
- D. Employees exercising their right of demotion in lieu of lay-off must demote to a lower paying classifications, in order of the pay levels of the classifications.

**Section 13.5 RIGHT TO APPEAL LAY-OFFS OR REDUCTIONS IN FORCE**

Employees may appeal an action for lay-off or reduction in force only as it relates to the issue of whether or not the Executive Director appropriately followed the procedural requirements in this Article regarding the implementation of lay-offs or reductions in force. Appeals must in be compliance with the requirements set forth in Article 15 regarding Appeal of Personnel Actions.

**Section 11.5 REEMPLOYMENT**

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Employees in the class from which they were laid off, including employees who elected to take a demotion in lieu of lay-off, shall have reemployment rights to future vacancies in such class. The names of laid off and demoted employees shall be placed on the Authority preferred list established for the class as defined in Section 7.2. Reemployment from such list shall be in accordance with the provisions of these rules governing certification and appointment.

#### **Section 11.6 — RIGHT TO COMPETE FOR PROMOTION**

An employee who has reemployment rights as provided in Section 11.5, shall have the same right to compete for promotion that he/she would have had if he/she had not been laid off or had not accepted demotion in lieu of lay-off. Such employee shall be admitted to a promotional examination and shall be given preferential promotional credits in an open examination as provided in Section 6.19.

#### **Section 11.7 — REEMPLOYMENT FOLLOWING DISABILITY RETIREMENT**

An employee who has been retired because of disability before reaching the ordinary minimum retirement age, and who under the provisions of the retirement act has been medically reexamined and has been found to be able to engage in gainful employment shall be eligible for reemployment, either in the position he occupied or in another position for which he/she may be found to be qualified.

#### **Section 11.8 — REAPPOINTMENT TO TEMPORARY POSITION**

Any person from among the eligible willing to accept temporary appointment, who is appointed to a temporary position of an intermittent nature, may be reappointed to such position on the request of the Executive Director without having to be certified again from the list, notwithstanding the fact that at the time of such reappointment there may be on the list of names more eligible willing to accept temporary work. Nothing in this rule shall be construed to extend the maximum length of temporary appointments prescribed by the law.

This type of appointment is distinguished from a permanent intermittent appointment, the method for filling which is set forth in Section 9.4.

#### **Section 11.9 — REEMPLOYMENT FOLLOWING SEPARATION FROM PROMOTIONAL APPOINTMENT**

An employee who, during his/her probationary period, is separated for reason of inability to perform the duties of a higher level position to which he/she has been promoted, shall, upon request to and order of the Personnel Committee, have his/her name placed on the preferred list for the class from which he/she was promoted, and shall be certified from the list as provided in Section 7.7.

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Article 14

RE-EMPLOYMENT

Section 11.514.1 RE-EMPLOYMENT AFTER LAY-OFF

Employees in the class from which they who were laid off, including employees who elected to take a demotion in lieu of lay-off, shall have re-employment rights to future vacancies in such the same classification from which they were laid-off. The names of laid-off and demoted employees shall be placed on the a Housing Authority preferred list established for the classification from which the employee was laid-off, as defined in Section 7.2. Re-employment from a such preferred list shall be in accordance with the provisions of these rules governing certification and appointment.

Section 11.6 RIGHT TO COMPETE FOR PROMOTION

A. Right to Compete for Promotional Opportunities

An employee who has re-employment rights as provided in Section 11.5, shall have the same right to compete for promotion that he/she they would have had if he/she they had not been laid off or had not accepted demotion in lieu of lay-off.

B. Such eEmployees shall be admitted to a promotional examination and shall be given preferential promotional credits (points) in an open examination as provided in Section 6.197.4.E.

Section 11.714.2 RE-EMPLOYMENT FOLLOWING DISABILITY RETIREMENT

An eEmployees who has have been retired because of disability before reaching the ordinary minimum retirement age, and who under the provisions of the retirement act has and have been medically reexamined determined and has been found to be able to perform the essential functions of the position for which they seek re-employment with or without reasonable accommodation engage in gainful employment shall be eligible for reemployment, either in the position he previously occupied or in another position for which the employee he/she may be found to be qualified.

Section 11.814.3 RE-APPOINTMENT TO TEMPORARY POSITION

Any person candidate from among the eligible on an eligibility list -willing to accept a temporary appointment, and who is appointed to a temporary position of an intermittent nature, may be re-appointed to such that position on the request of the Executive Director without having to be re-certified again from on the eligibility list, notwithstanding the fact that at the time of such reappointment there may be on the list of names more eligible willing to accept temporary work.

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Nothing in this rule shall be construed to extend the maximum length of temporary appointments ~~prescribed by the law, beyond what is provided in these rules.~~

~~This type of appointment is distinguished from a permanent intermittent appointment, the method for filling which is set forth in Section 9.4.~~

**Section ~~11.914.4~~ RE-EMPLOYMENT FOLLOWING SEPARATION FROM PROMOTIONAL APPOINTMENT**

An employee who, ~~is released~~ during ~~his/her~~ their probationary period ~~because they were unable, is separated for reason of inability~~ to perform the duties of a higher level position to which ~~he/she has~~ they were ~~been~~ promoted, ~~shall, upon~~ may request to ~~and order of the Personnel Committee,~~ have ~~his/her~~ their name placed on the preferred list for the classification from which ~~he/she was~~ they were promoted, ~~and shall be certified from the list as provided in Section 7.7.~~

## Article 9

### BACKGROUND CHECKS & APPOINTMENT

#### Section 9.1 BACKGROUND CHECKS

##### A. References

Prior to an offer of appointment, the selected candidate will be asked to provide at least three (3) professional supervisory references. Human Resources and/or the hiring manager will contact these references for inquiry into the candidate's prior job performance history. If satisfactory references cannot be obtained (at least two (2) professional supervisory references), no offer of appointment will be made to the selected candidate and the candidate will be notified in writing regarding this decision.

##### B. Pre-Employment Physical Examination

Offers of appointment are conditioned upon the candidate passing a pre-employment physical examination. The pre-employment physical exam will be required after a conditional offer of appointment has been made. Prior to the selected candidate's employment start date, the candidate will be scheduled for this exam. Pre-employment physical exams are designed to determine whether the candidate is able to perform the essential functions of the classification for which they have been hired with or without reasonable accommodation. If the candidate refuses to complete the pre-employment physical exam, the candidate shall be disqualified from Housing Authority employment.

##### C. Fingerprinting

1. After the Housing Authority makes a conditional offer of appointment the candidate will be required to provide their fingerprints for purposes of determining the candidate's criminal history, if any. Criminal convictions, except for misdemeanor marijuana-related convictions that are over two (2) years old or convictions that have been judicially sealed, eradicated or expunged (Labor Code Sections 4327 – 432.8), will be considered relevant to the inquiry into criminal history.
2. Unless required by law, the Housing Authority will not deny employment to any candidate solely because they have been convicted of a crime. The Housing Authority may consider the nature, date and circumstances of the offense, evidence of rehabilitation, as well as whether the offense is relevant to the duties of the classification for which the candidate has been selected.

## Section 9.2 APPOINTMENT

### A. Types of Appointment

The type of appointment may be regular (permanent), temporary, provisional, emergency or project-based.

#### 1. Regular (Permanent) Appointment

An appointment from a reemployment list or from an open or promotional eligible list to a position that has been created for an indefinite period of time is a regular appointment that will become permanent after satisfactory completion of the required probationary period. Regular appointments can be either full-time or part-time.

##### a. Full-time Appointment

All full-time regular appointments work either 75 or 80 hours (depending upon classification) per bi-weekly pay period and are eligible for all Housing Authority benefits.

##### b. Part-time Appointment

Part-time appointments work less than 75 hours per bi-weekly pay period. Appointments at 20 hours per week or more are eligible for Housing Authority group health benefits. Holiday pay and vacation and sick leave accruals are pro-rated based of the level of appointment (number of hours worked per pay period). Part-time employees are not eligible for participation in the ACERA retirement system.

#### 2. Temporary (Extra-Help) Appointment

- a. An appointment is temporary when it is for the duration of a leave of absence of a regular employee or authorized for a period not to exceed five (5) months in any one fiscal year. Temporary appointments do not require eligibility lists and are used when extra-help is required. The initial 5-month appointment may be extended for an additional five (5) months.
- b. Service in a temporary appointment shall not create any credit toward a probationary period. Temporarily appointed employees are not eligible to take promotional examinations, do not acquire tenure in the position and are not eligible for Housing Authority benefits.

### 3. Provisional Appointment

- a. When fewer than three (3) names on an eligibility list are available for appointment and the Executive Director decides not to appoint one of those available, or when there is no eligibility list for the classification, the Executive Director may make a provisional appointment pending the establishment of a list.
- b. Candidates appointed provisionally must meet the published minimum qualifications and pass all the requirements for a background check.
- c. A provisional appointment shall not be made unless a full application has previously been filed with the Human Resources Department in order for the person to be approved for appointment.
- d. A provisional appointment shall not continue longer than thirty (30) days from the date an eligibility list for the classification is promulgated by the Personnel Committee.
- e. Provisional appointments do not create any credit toward a probationary period. A provisionally appointed employee is not eligible to take promotional examinations and does not gain tenure in the position.
- f. Provisional appointees are not eligible to participate in the ACERA retirement system.

### 4. Emergency Appointment

- a. An emergency appointment is made by the Executive Director without recourse to an eligibility list under conditions necessitating immediate action. An emergency appointment shall not continue longer than ten (10) working days and two successive emergency appointments shall not be made to the same position. The Executive Director shall notify the Personnel Committee as soon as possible whenever an emergency appointment is made.
- b. Service in an emergency appointment does not create any credit toward a probationary period or any of the rights and privileges granted to regularly appointed employees.

### 5. Project Appointment

A project appointment is an appointment of an applicant, by the Executive Director, to a part-time temporary position for a specified period, not to exceed eighteen (18) months. Project appointments may be extended, but no

project appointee shall serve more than eighteen (18) months. A project appointment may be made without use of an eligibility list. Any individual appointed on a project basis must meet the published minimum qualifications of the classification. An employee appointed on a project basis shall not gain tenure in the position and shall not have promotional or transfer rights. Service in a position on a project basis does not create credit towards a probationary period nor eligibility for Housing Authority benefits.

## **B. Means of Appointment**

### 1. Eligibility Lists

The primary means of appointment is selection from names of candidates on an eligibility list approved and promulgated by the Personnel Committee. Eligibility lists are generated from open and promotional recruitments.

### 2. Re-employment

Whenever a vacancy occurs in a classification for which there is a preferred list, the first name on that list shall be entitled to reemployment in the vacancy with full rights and privileges granted to regular appointees.

### 3. Transfer

- a. An appointment by transfer is the appointment of the incumbent to a position in the same classification designated as appropriate by the Executive Director. Each transfer appointment is subject to the written consent of the incumbent, the incumbent's manager and the Executive Director.
- b. A transfer appointee who has completed the required probationary period for the position from which they have transferred is not required to serve another probationary period. A probationary employee who is transferred shall be required to serve out the remainder of their probationary period.

### 4. Voluntary Demotion

- a. An appointment by voluntary demotion is the appointment of the incumbent at their own request to a position in a lower classification. Requests for voluntary demotion shall be approved by the Executive Director. A demoted appointee who has completed the required probationary period in the position from which they have taken a demotion is not required to serve another probationary period. A probationary employee who is demoted shall be required to serve out the remainder of their probation period.



- b. Upon the approval of the Executive Director, an employee who has taken voluntary demotion may be reinstated to a position in the classification from which they were voluntarily demoted.

### 5. Split-Off

A split-off occurs when a classification is divided into two or more new classifications (split-off classifications) and the positions of the old classification are reallocated to the new classifications. When an incumbent with tenure in the old classification is reallocated to one of the new classifications, the incumbent with tenure in the old classification shall be given tenure in the new classification to which their position has been reallocated. In addition, the incumbent shall be given the privilege of future appointment without further examination to positions in any of the other split-off classifications. An appointment by split-off privilege is made by the Executive Director and is not subject to a probationary period.

### 6. Re-instatement Following Resignation

- a. On the approval of the Executive Director, who will advise the Personnel Committee, a regularly appointed employee who resigned in good standing may, within three years after the effective date of their resignation, be reinstated in a position in the class from which he/she resigned or in a position in another class for which they may be eligible. Appointments by reinstatement following resignation are subject to the probationary period established for the class.
- b. An employee reinstated to the same class or an equivalent class starts at the same salary step in the pay schedule in effect at the time of resignation. An employee reinstated to a lower class shall be entitled to credit for the period of service in the higher class when determining his or her salary step.
- c. All employees whose break in service exceeds six months may only receive an appointment conditioned upon passing a physical examination.

## **Section 9.3 DUTY TO TAKE LOYALTY OATH**

All public employees are required to take and subscribe to the oath or affirmation set forth in the California Constitution that declares them to be disaster service workers in time of need. Taking the oath or affirmation is part of the appointment process. Employees who refuse to sign the Loyalty Oath Form are disqualified from continued Housing Authority employment.

## Article 10

### PROBATIONARY PERIOD

#### Section 10.1 ESTABLISHMENT AND PURPOSE OF PROBATIONARY PERIOD

- A. The Personnel Committee shall establish probationary periods for each classification in the Housing Authority service.
- B. The probationary period is considered to be an integral part of the examination process even after employment has commenced. Probation is a period of time for close observation of performance, to provide feedback and provide an opportunity for the employee to correct deficiencies and address concerns. If performance does not meet the expected standards for the classification, the probationary period ends and the employee is released from their probationary employment.

#### Section 10.2 APPOINTMENTS SUBJECT TO PROBATION

- A. The following types of appointments are subject to satisfactory completion of a probationary period:
  - Regular appointments from promotional eligibility lists, open eligibility lists, and re-employment lists.
  - Appointments made from qualifying examinations.
  - Reinstatement appointments following resignation.
  - Transfer or voluntary demotion appointments of probationers.
- B. Time served in temporary, provisional, or emergency appointments shall not be credited toward the completion of any period of probation and shall not confer upon the appointees any tenure rights.

#### Section 10.3 WHEN PROBATION IS NOT REQUIRED

A new probationary period is not required for the following types of appointments:

- Reemployment from preferred lists provided that a probationary employee shall complete the original probationary period, except as specified in Section 10.4.
- Transfer and voluntary demotion appointments of employees with tenure in the classification from which they are transferring or taking demotion.
- Split-off appointments.

- Re-employment following disability retirement.

#### **Section 10.4                    DURATION OF PROBATION**

- A. The period of probation for employees appointed to management classifications ("M" designated classifications ) is twelve (12) months.
- B. The period of probation for all other employees appointed to any classification shall be six (6) months. Whenever a probationary employee is promoted to a higher classification within the same classification series, time served in such higher classification shall be counted toward the period of probation for the classification from which the employee was promoted.
- C. When a probationary employee is in a flexibly-staffed position and is moved to the next level within the flexibly-staffed classification series, the employee shall continue to serve out their original probationary period.
- D. Whenever a probationer is absent on leave without pay from his/her position, his/her period of probation shall be increased by the total time of such absence, unless he/she is on leave of absence to serve in a higher class, in which case the time served satisfactorily in such class shall be counted toward the completion of the period of probation for the class from which leave was granted.
- E. Whenever a probationary employee is absent on leave with pay or is on modified duty for two (2) consecutive work weeks or more, their probationary period will be extended by the total time in such status.
- F. Whenever a probationary employee accepts a demotion to a position in a lower classification, the time served satisfactorily in the higher classification shall be counted toward the completion of the probationary period for the classification to which the demotion was made.
- G. When a probationary employee is assigned to an out-of-class assignment, they shall continue to serve their probationary period while performing in the out-of-class assignment.
- H. The period of probation for regular appointees in part-time, positions shall be considered satisfied when they have accumulated actual service time equivalent to the period of probation established for the classification, regardless of the number of calendar months over which the accumulated service extends.
- I. When the remaining period of probation of a probationary employee rehired from a preferred list is less than three (3) months, the period of probation shall be extended to

three (3) months. When the remaining probationary period of a probationary employee rehired from a preferred list is more than three (3) months, the rehired probationary employee shall be required to serve only the remaining period in order to complete the required probationary period.

- J. Time spent on the job by a probationary employee following receipt of a written notice of termination shall not be counted toward completion of the probationary period.
- K. If a manager is unsure of whether or not a probationary employee can successfully complete their initial probationary period, the manager has the discretion to extend the probationary period for up to an additional six (6) months. If probation is to be extended, the probationary employee shall receive advance notice of this decision of not less than two (2) weeks prior to the end of the probationary period. This provision only applies to non-management employees.

#### **Section 10.6            SEPARATION BEFORE COMPLETION OF PROBATION**

- A. Probationary Release May Occur Anytime During Probation
  - 1. The Executive Director may separate or release a probationary employee at any time during the period of probation. A notice of separation shall be sent by the Executive Director or their designee to the probationary employee at the time of separation.
  - 2. A probationary employee who has been released from employment shall have no right to appeal, unless they allege that their probationary release was on the basis of a protected category as defined in Title VII of the 1964 Civil Rights Act, as amended, or in the California Fair Employment and Housing Act. In this case, the appeal shall be in accordance with the applicable procedures in the Housing Authority's Affirmative Action Program.
- B. An employee who was promoted to a higher classification shall be on probation only for the higher classification. If the employee is separated before completing probation in the higher classification, the employee generally has the right to demote back to the same position from which they were promoted. However, if the employee is denied the right to return to the position from which they were promoted, the employee shall have the right to appeal as set forth in Personnel Rule 15 – Appeal of Personnel Actions.

#### **Section 10.5    ADMINISTRATION OF PROBATIONARY PERIOD**

- A. Nothing in these rules shall be construed to limit the Housing Authority's discretionary authority to separate or release an employee during the probationary period.

- B. Each probationary employee or will have an immediate supervisor assigned to them who will administer the probationary period in a fair and objective manner. The employee will have reasonable access to this supervisor to seek feedback, obtain training and assistance.
- C. At the beginning of the probationary period the employee shall be provided with performance and progress expectations.
- D. Prior to the expiration of a probationary period, the immediate supervisor will complete a performance evaluation and discuss the evaluation with the employee.

**Article 11****PERFORMANCE EVALUATIONS**

**Commented [FC1]:** This Article is new to cover the subject of performance evaluations and related topics. Sections 11.1, 11.2, 11.3 represent new language and the remainder is revised and incorporated from other Articles,

**Section 11.1**      **PROBATIONARY EVALUATIONS**

Employees shall receive a formal performance evaluation at the end of their probationary period. The evaluation should include commentary on all aspects of job performance and whether the employee will transition from probationary status to a permanent employee.

**Section 11.2**      **NON-MANAGEMENT EMPLOYEES**

The performance evaluation cycle for non-management employees is based on the employee's "salary anniversary date." The salary anniversary date is generally based on date of hire or date of promotion. Except for probationary evaluations, employees shall receive annual performance evaluations based on their salary anniversary date.

**Section 11.3**      **MANAGEMENT EMPLOYEES**

The performance evaluation cycle for management employees is based on the fiscal year calendar except for probationary evaluations and/or the initial evaluation. A management employee's initial evaluation covers the period of time from the date of hire to the employee's one-year anniversary, corresponding with the probationary period. A management employee's second performance evaluation will be based on the period of time from the employee's one-year anniversary to the end of the fiscal year. Merit increases, if any, will be pro rated based on the period of time that is less than a full fiscal year. Subsequent evaluations will be done an annual basis based on the fiscal year cycle.

**Section 11.4**      **REBUTTAL OF EVALUATION**

Employees shall have the right to rebut or provide their own comments in writing regarding the evaluation. Written comments are to be submitted to the evaluating manager who will attach the comments to the manager's performance evaluation. Copies of performance evaluations and any written rebuttals or comments are filed in the employee's personnel file.

**Section 11.5**      **PERSONNEL FILES**

- A. Employees have the right to review and obtain a copy of their personnel file or to authorize their representative to obtain the copy. Representatives of employees shall first obtain written authorization from the employee to review a personnel file or to obtain personnel file copies.

- B. Review of personnel files shall be conducted in the Human Resources Department and copies of any personnel file documents shall be provided by the Human Resources Department.
- C. Employees may attach a rebuttal or written comments to adverse material contained in their personnel file.
- D. The Housing Authority retains the right to determine what materials may be included in an employee's personnel file.

## **Article 12 RESIGNATION**

### **Section 12.1            RESIGNATION IN GOOD STANDING**

An employee may tender their resignation from the Housing Authority by submitting their written resignation to their manager using the designated Housing Authority form. In order to resign in good standing, an employee shall give advance notice of their intention to resign of not less than two (2) weeks prior to the effective date of their resignation. A copy of the employee's resignation shall be provided to the Human Resources Department.

### **Section 12.2            WITHDRAWAL OF TENDERED RESIGNATIONS**

- A. An employee who has tendered their resignation may, with the approval of the Executive Director, withdraw their resignation prior to the effective date and continue in the position as though the resignation had not been tendered.
- B. An employee who alleges that a resignation was obtained through fraud, duress or undue influence on the part of a supervisor or other agent of the Housing Authority may file an appeal with the Personnel Committee if the Executive Director does not allow the employee to withdraw their resignation under these circumstances. Appeals shall be filed in accordance with the provisions in Article 15 regarding Appeal of Personnel Actions. There is no basis for appeal solely because the employee has had a "change of heart" regarding their tendered resignation.

### **Section 12.3            AUTOMATIC RESIGNATION**

- A. The Executive Director shall have the right to invoke the automatic resignation of an employee on the following grounds:
  - 1. Failure to return to work or to notify the employee's manager of a legitimate reason for the employee's inability to return to work following the expiration of an approved leave of absence;
  - 2. Being absent without approved leave for more than five (5) work days.
- B. Probationary Employees
 

The Executive Director or their designee shall notify the employee in writing that an automatic resignation has been invoked and the employee shall have three (3) working days from the date of receipt of the notice to submit written satisfactory reasons for their absence. The Executive Director may rescind the automatic resignation or shall notify the employee in writing that an automatic resignation has been upheld.
- C. Permanent Employees

The Executive Director or their designee will provide the employee written notice of:



1. The Housing Authority's intent to implement an automatic resignation and the factual basis supporting the intent to implement an automatic resignation;
  2. The employee's opportunity to provide a written explanation for their absence within five (5) working days after the date of receipt of the written notice.
- D. Copies of all documents that support the Executive Director's decision to invoke an automatic resignation shall be attached to the written notice.
- E. If the Executive Director does not receive a written explanation within the five (5) work day period, or if the explanation received is not sufficient, the Executive Director may implement an automatic resignation.
- F. An employee will not receive compensation for absences unless it is determined that the employee worked on the day(s) in question, and/or that the employee was entitled to an approved leave on the day(s) in question.
- G. The Executive Director shall notify the employee in writing of their final decision to implement an automatic resignation.
- H. Appeal of Automatic Resignation

Permanent employees, who have been separated from employment as a result of an automatic resignation may submit a written appeal to the Personnel Committee. Appeals are to be made in accordance with the applicable provisions in Article 15 regarding Appeal of Personnel Actions.

**Article 13****LAY-OFFS AND REDUCTIONS IN FORCE****Section 13.1 NOTICE TO PERSONNEL COMMITTEE**

Layoffs and demotions in lieu of lay-off resulting from a reduction in force shall be made in accordance with these rules and procedures. The Personnel Committee shall be notified when the Executive Director determines a reduction in force is necessary.

**Section 13.2 EXECUTIVE DIRECTOR AUTHORITY**

- A. Whenever it becomes necessary to reduce the number of employees, the Executive Director shall have the authority to determine the classifications to be affected by the reduction, the number of positions in each classification that shall be reduced, and the date the reduction is to take effect. The Personnel Committee shall be notified of the determination to implement a reduction in force.
- B. When a specific position within a classification requires special skills, knowledge, and/or abilities, the Executive Director may, with prior notice to the Personnel Committee, designate the special skills, knowledge and abilities required for the position and designate that position as a separate classification for purposes of lay-off and demotion in lieu of lay-off.

**Section 13.3 ORDER OF LAY-OFF**

- A. Lay-off shall be accomplished in inverse order of total Housing Authority service. For purposes of this rule, total Housing Authority service shall be defined as the sum total of paid service without regard to whether such service was continuous, full-time, less than full-time, tenured, probationary, provisional, temporary or emergency. Leave without pay or any other unpaid status is not counted toward total Housing Authority service. All ties in total service time will be resolved according to criteria established by the Personnel Committee.
- B. Before any tenured employee is laid off, all employees working in classifications that are emergency, provisional, temporary or probationary appointments shall be separated in the following order:
  - 1. Emergency appointments
  - 2. Provisional appointments
  - 3. Temporary appointments
  - 4. Probationary appointments

Exceptions to this rule include probationary appointees reinstated pursuant to Section 9.2.B.6. and employees on probation by virtue of job reclassification where such employee was continuously performing the same job functions six (6) months prior to the reclassification.

**Section 13.4                    DEMOTION IN LIEU OF LAY-OFF**

- A. An employee in a classification affected by a reduction in force may elect to demote to a lower paying classification, provided that the employee was a permanent employee in the lower paying classification.
- B. For purposes of lay-off or demotion in lieu of lay-off, flexibly-staffed classifications may be designated as one classification.
- C. When both the employee demoting and the employee in the lower paying classification class have equal total Housing Authority service, the employee in the lower paying classification will be laid off or demoted first.
- D. Employees exercising their right of demotion in lieu of lay-off must demote to a lower paying classification.

**Section 13.5                    RIGHT TO APPEAL LAY-OFFS OR REDUCTIONS IN FORCE**

Employees may appeal an action for lay-off or reduction in force only as it relates to the issue of whether or not the Executive Director appropriately followed the procedural requirements in this Article regarding the implementation of lay-offs or reductions in force. Appeals must in be compliance with the requirements set forth in Article 15 regarding Appeal of Personnel Actions.

## Article 14

### RE-EMPLOYMENT

#### Section 14.1 RE-EMPLOYMENT AFTER LAY-OFF

Employees who were laid off, including employees who elected to take a demotion in lieu of lay-off, shall have re-employment rights to future vacancies in the same classification from which they were laid-off. The names of laid-off and demoted employees shall be placed on a Housing Authority preferred list established for the classification from which the employee was laid-off. Re-employment from a preferred list shall be in accordance with the provisions of these rules governing certification and appointment.

##### A. Right to Compete for Promotional Opportunities

An employee who has re-employment rights shall have the same right to compete for promotion that they would have had if they had not been laid off or had not accepted demotion in lieu of lay-off.

B. Employees shall be admitted to a promotional examination and be given preferential credits (points) in an open examination as provided in Section 7.4.E.

#### Section 14.2 RE-EMPLOYMENT FOLLOWING DISABILITY RETIREMENT

Employees who have been retired because of disability and have been medically determined to be able to perform the essential functions of the position for which they seek re-employment with or without reasonable accommodation shall be eligible for reemployment, either in the position previously occupied or in another position for which the employee may be qualified.

#### Section 14.3 RE-APPOINTMENT TO TEMPORARY POSITION

Any candidate on an eligibility list willing to accept a temporary appointment and who is appointed to a temporary position may be re-appointed to that position on the request of the Executive Director without having to be re-certified on the eligibility list. Nothing in this rule shall be construed to extend the maximum length of temporary appointments beyond what is provided in these rules.

#### Section 14.4 RE-EMPLOYMENT FOLLOWING SEPARATION FROM PROMOTIONAL APPOINTMENT

An employee who is released during their probationary period because they were unable to perform the duties of a higher level position to which they were promoted, may request to have their name placed on the preferred list for the classification from which they were promoted.