

**METROPOLITAN EXPOSITION RECREATION COMMISSION**

**Resolution No. 12-17**

For the purpose of adopting changes to the MERC Personnel Policies.

WHEREAS, the Metropolitan Exposition Recreation Commission (MERC) is authorized to adopt personnel policies pursuant to Metro Code Sections 2.02.010 (b) and 6.01.040(a); and


WHEREAS, MERC periodically updates the MERC Personnel Policies (the Personnel Policies) in accordance with both legal requirements and agency wide policies.

**THEREFORE BE IT RESOLVED:**


That the Metropolitan Exposition Recreation Commission adopts the changes to the Personnel Policies in a form substantially similar to the attached Exhibit A.

Passed by the Commission on October 3, 2012.

  
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Chair

  
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Secretary-Treasurer

Approved As To Form:  
Alison Kean Campbell, Metro Attorney

By:   
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Nathan A. Schwartz Sykes, Senior Attorney

## MERC STAFF REPORT

**Agenda Item/Issue:** For the purpose of adopting changes to the MERC Personnel Policies.

**Resolution No.** 12-17

**Presented by:** Mary Rowe, Metro HR Director

**Date:** October 3, 2012

### **Background and Analysis:**

The MERC Commission last approved a venues policy handbook in August 2007. Since that time, there are new laws, additional regulations, and a need to update the information. Under a directive from the Metro Chief Operating Officer, a review of both the MERC policy handbook and the Metro handbook EO #88 was done to determine where there is policy overlap, best practices language, and the most urgently needed changes. The goal is to provide all Metro employees with one set of personnel policies and procedures that will serve as the primary set of practices for non-represented staff and for represented employees where contract language is silent. Human Resources staff in consultation with department managers, the Office of Metro Attorney, and the Metro Senior Leadership Team has developed these policies.

The new policies will have a rolling implementation with groups of policies, approved, distributed and implemented in batches. This departure from the past method of adopting an entire policy handbook allows management to respond promptly and efficiently to changing workplace conditions. It also meets Metro's sustainability goals since most employees will be able to access the information on-line. Printed copies will be available for those employees without internet access.

### **RESOLUTION:**

Attached is a spreadsheet (Exhibit A) listing the group of policies submitted for MERC Commission approval.

### **LONG RANGE FISCAL IMPACT:**

There is no fiscal impact associated with implementation of these policies.

### **RECOMMENDATION:**

Staff recommends approval of Resolution 12-17.

## EXHIBIT A, MERC RESOLUTION 12-17 – BATCH 3 POLICY MATRIX


The following is a list of policies that Metro Human Resources has created or recently updated. These proposed policies will supersede corresponding policies in the Metro Employee Handbook (EO #88) and the MERC Personnel Policies Handbook (8/1/07).

Policy	Existing MERC Policy	Existing Metro Policy	Legal Requirement	Policy Summary and Notable Policy Changes	Fiscal Impact	Business Impact
<b>Americans with Disabilities Act (ADA)</b>	§ 17.8	Affirmative Action Program § 7	42 U.S.C. 12101 <i>et seq.</i> ; 29 CFR 1630 <i>et seq.</i> ORS 659A.103 <i>et seq.</i>	<ul style="list-style-type: none"> <li>Clarifies procedures and responsibilities</li> <li>Updates policy to reflect ADA amendments and the Genetic Information Non-discrimination Act</li> </ul>	N/A	Ensures legal compliance
<b>Domestic Violence, Sexual Assault, Harassment and Stalking Protections</b>	N/A	N/A	ORS 659A.270 <i>et seq.</i>	<ul style="list-style-type: none"> <li>Establishes procedures for compliance with Oregon leave and non-discrimination laws for victims of certain crimes</li> <li><b>New edit:</b> "Metro will take any necessary steps to protect the safety of the other employees and the public while maintaining the victim's confidentiality in accordance with applicable law." Confidentiality language pertaining to leave and accommodation was retained because it tracks the Oregon Administrative Rules (OARS).</li> </ul>	N/A	Ensures legal compliance
<b>Employment of Minors</b>	N/A	N/A	ORS 653.305 <i>et seq.</i>	<ul style="list-style-type: none"> <li>Establishes a policy outlining legal requirements, procedures and responsibilities for employment of minors</li> </ul>	N/A	Ensures legal compliance
<b>Layoff (non-represented employees)</b>	§ 15.1	E.O. 88 §5(O) and §34	N/A	<ul style="list-style-type: none"> <li>Establishes consistent Metro-wide policy with factors for layoff decisions based on current MERC policy</li> <li>Eliminates recall rights for non-represented employees</li> </ul>	N/A	Increases flexibility in layoff and rehire decisions
<b>Military leave</b>	§ 16.7	E.O. 88 § 31(C)	38 USC 4301 <i>et seq.</i>	<ul style="list-style-type: none"> <li>Updates policy to reflect new legal requirements and clarify different types of</li> </ul>	N/A	Ensures legal compliance

			ORS 659A.090 <i>et seq.</i> ORS 408.225-408.235 <i>et seq.</i>	<p>leave available</p> <ul style="list-style-type: none"> <li>Establishes procedures for requesting leave</li> <li>Deletes alternate duty leave, which will be in a separate policy</li> </ul>		
<b>Nepotism</b>	§ 9.4	E.O. 88 § 13	ORS 244.177 <i>et seq.</i>	<ul style="list-style-type: none"> <li>Establishes procedures to ensure compliance with laws regulating the employment of family members and household members in public employment</li> <li>Expands policy and establishes procedures to address romantic relationships between supervisors and subordinates</li> </ul>	N/A	Ensures legal compliance and limits potential workplace impact of supervisor-subordinate romantic relationships, including possible liability for sexual harassment
<b>Outside employment</b>	§ 12.0	N/A	N/A	<ul style="list-style-type: none"> <li>Clarifies circumstances requiring employee to disclose additional employment outside of Metro</li> </ul>	N/A	Protects against conflicts of interest and employee performance issues caused by outside employment
<b>Probation</b>	§ 11	E.O. 88 § 15	N/A	<ul style="list-style-type: none"> <li>Establishes consistent Metro-wide policy and procedures</li> <li>Clarifies supervisor responsibilities</li> <li>Permits applying for promotion during initial probation</li> <li>Allows more discretion to require probation following voluntary demotions and transfers</li> <li>Allows a post-probationary increase of up to 4% for non-represented employees, consistent with current Metro policy. Currently, MERC policy does not provide for a post-probationary increase</li> </ul>	Discretion to award non-represented employees a post-probationary increase may have a fiscal impact; however, the impact is not likely to be significant since under current practice starting salary is subject to negotiation.	Increases flexibility and brings MERC and Metro into alignment
<b>Religious Accommodation</b>	No	No	Yes ORS 659A.030; ORS 659A.033 Title VII, Civil Rights Act of 1964 (§§ 701 – 702)	<ul style="list-style-type: none"> <li>Provides reasonable accommodation for an employee's sincerely held religious beliefs unless such accommodation would cause an undue hardship to Metro's operations</li> <li><b>New edit:</b> Clarified definition of "religious beliefs"</li> </ul>	<ul style="list-style-type: none"> <li>Minimizes legal liability.</li> </ul>	<ul style="list-style-type: none"> <li>Ensures compliance with state and federal law.</li> </ul>

**Notes:**

- The draft Religious Accommodation policy was reviewed at the April 4 MERC Commission meeting.
- Edits have been made to the Religious Accommodation and Domestic Violence, Sexual Assault, Harassment and Stalking Protections policies to address concerns raised by Commissioner Dozono.
- The draft Metro Committees and Information Technology Acceptable Use policies that were reviewed at the September 5 MERC Commission meeting are not being submitted for a vote at the October meeting in order to allow time for further consideration of the policy language.

 Metro | *Policies and procedures*

**DRAFT**  
For MERC  
Commission vote  
10/3/12

**Subject** Americans with Disabilities Act (ADA)  
**Approved by** Martha Bennett, Chief Operations Officer

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**POLICY**

*Metro complies with the Americans with Disabilities Act and corresponding state law. In keeping with Metro's commitment to equal opportunity, Metro will not discriminate against any individual based on disability and will ensure that reasonable disability accommodation is provided to allow qualified employees with disabilities to perform the essential functions of their jobs and enjoy equal benefits and privileges of employment.*

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**Applicable to**

All employees and applicants for employment.

*Where provisions of an applicable collective bargaining agreement conflict with this policy, the provisions of that agreement will prevail.*

**Definitions**

Americans with Disabilities Act (ADA): A federal law designed to protect individuals with disabilities from discrimination. For purposes of this policy, the focus will be on the employment-related portion of the ADA.

Disability: A substantial impairment of a major life activity. Temporary impairments of short duration, such as colds, flu, sunburn, or broken bones that heal normally, are typically not disabilities. Current use of illegal drugs is not a qualifying disability under the ADA.

Essential function: The fundamental duties of a position that an individual with a disability holds or desires. Considerations in determining essential functions include the time it takes to perform the function; the consequences of not performing that function; whether the position exists to perform that function; and whether there are other employees who can perform that function.

Genetic information: For the purposes of this policy, genetic information includes an individual's family medical history, the results of an individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services.

Interactive process: An informal process between an employee or applicant with a disability and an employer in an effort to identify potential reasonable accommodation.

Major life activity: Major life activities include, but are not limited to: caring for oneself; performing manual tasks; seeing; hearing; eating; drinking; sleeping; walking; standing; lifting; bending; twisting; speaking; breathing; cognitive functioning; learning; education;

reading; concentrating; remembering; thinking; communicating; operation of a major bodily function, including but not limited to functions of the immune system, normal cell growth, and digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine and reproductive functions; working. To be substantially limited in the major life activity of working, an individual must be significantly restricted in the ability to perform a class of jobs or a broad range of jobs in various classes as compared to the ability of an average person with comparable skill, experience, education or other job-related requirements needed to perform those same positions.

Qualified employee: An employee who is able to perform the essential functions of his or her position with or without reasonable accommodation.

Reasonable accommodation: Any modification or adjustment to a job or the work environment that will enable a qualified applicant or employee with a disability to participate in the application process or perform essential job functions. Reasonable accommodation also includes adjustments to provide a covered individual the same employment rights and privileges as those of employees without disabilities.

Substantially limits: Restricts one or more of an individual's major life activities as compared to most people in the general population. This analysis is made without regard to whether the employee can reduce the effects of the impairment through the use of mitigating measures, with the exception of ordinary eyeglasses and contact lenses.

Undue hardship: A significant difficulty or expense.

## **Guidelines**

1. Metro will not discriminate against any employee or job applicant because the employee has a disability or a record of disability; is regarded as having a disability; is associated with a person with a disability; or has inquired about, received, or requested reasonable accommodation.
2. Metro will provide reasonable accommodation to employees and applicants with disabilities unless to do so would result in an undue hardship. When an otherwise qualified employee has a disability, Metro will engage in an interactive process with the employee to determine whether he or she can perform the essential functions of his or her position with reasonable accommodation.
3. In accordance with the Genetic Information Non-Discrimination Act of 2008, no genetic information, including family medical history, will be requested or considered as part of the accommodation process.

## **Procedures**

### **Applicants for employment or promotion**

1. Reasonable accommodation will be provided to disabled applicants for employment or promotion if necessary to complete the application process.
  - a. If a physical capacities test is necessary before beginning regularly scheduled work, the test will be required only after a conditional offer of employment has been made, consistent with the requirements of the ADA.

- b. If the results of a physical capacities test indicate that an employee is unable to perform essential functions of the position, Metro will initiate an interactive process with the employee to determine whether disability accommodation is appropriate.

#### **Current employees**

1. An employee with a disability may request an accommodation if needed to perform the essential functions of his or her job.
  - a. The employee should initiate the request by contacting his or her supervisor or the Human Resources Benefits Manager.
  - b. Upon receipt of a request for accommodation by an employee, the supervisor shall immediately notify the HR Benefits Manager.
2. The employee will be asked to meet with the HR Benefits Manager to engage in an interactive process to discuss the disability in relation to the essential functions of the job and to identify reasonable adjustments or changes that may allow the employee to perform these essential functions.
  - a. Prior to the meeting, HR will inform the employee that they may have a union representative, family member, or other appropriate person present during interactive process meetings.
  - b. An employee may choose to decline participation in the interactive process at this point or at any other time. This decision will suspend Metro's further assessment of potential disability accommodations until the employee re-initiates a request. HR will twice seek to initiate such a dialogue with the employee before closing the matter due to the employee's non-participation. A closure of this nature will not prevent the employee from initiating the ADA process at a later date for the same or different medical reasons.
  - c. The HR Benefits Manager will write a letter outlining the duties of the position to the employee's health care provider and will request a signed medical release from the employee. The release will authorize the health care provider to provide a medical opinion and relevant medical information as to whether the employee can perform the full scope of the essential duties of the position and what, if any, accommodation(s) are recommended.
  - d. Metro will reimburse the employee for out-of-pocket costs for providing medical documentation required under this policy in accordance with applicable law.
  - e. The HR Benefits Manager will review the health care provider's responses. If the documentation is insufficient to establish the existence of a disability and the need for accommodation, the HR Benefits Manager will explain why the documentation is insufficient and allow the employee an opportunity to provide the missing information.



- i. With the employee's consent, the HR Benefits Manager may request follow-up information directly from the employee's health care provider.
    - ii. If necessary to confirm or clarify the need for accommodation, Metro may require the employee to go to a second health care provider chosen by Metro for an independent medical opinion at Metro's expense.
  - f. The HR Benefits Manager, the employee, and the employee's supervisor will meet to discuss the employee's requested accommodation and, if appropriate, other potential accommodations that may allow the employee to perform the essential functions of his or her job. HR and the employee's supervisor will jointly determine if a reasonable accommodation is available, and if so, they will arrange for timely implementation.
3. If a reasonable accommodation cannot be made so that the employee may continue to successfully perform in his or her current position, the HR Recruitment and Selection Manager will conduct a thorough review of available positions to determine if there is an available, suitable position for which the employee may be eligible.
4. If the suggested accommodations will create an undue hardship to Metro's operations as defined by the ADA, the HR Benefits Manager will meet with the employee to determine if any other benefit options may be appropriate. If no other options are found, Human Resources will meet with the department Director and Office of Metro Attorney to determine if a termination is necessary due to inability to perform the job.
5. Metro will provide reasonable accommodation to help employees meet performance and conduct standards; however, Metro is not required to waive performance or conduct standards that are job-related and consistent with business necessity or to rescind discipline or an evaluation warranted by poor performance if the employee has not requested accommodation. An employee who has a disability that may cause performance or conduct problems is encouraged to seek reasonable accommodation before problems arise.
6. Information obtained regarding the medical condition or history of the applicant will be kept in separate medical files and treated as confidential, except as follows:
  - a. Supervisors and managers may be informed regarding necessary restrictions on the work or duties of the employee and necessary accommodations.
  - b. First aid and safety personnel may be informed, when appropriate, if the disability might require emergency treatment.
  - c. Officers and employees of the Equal Employment Opportunity Commission and the Bureau of Labor and Industries investigating compliance will be provided relevant information upon request.
7. If an employee has concerns about the ADA process, including the outcome of the interactive process, he/she may contact the Director of Human Resources or Office of Metro Attorney to discuss the matter.

8. Employees who experience or observe discrimination, harassment, or retaliation related to disability should report the offending conduct using the procedures specified in Metro's Discrimination and Harassment Policy.

### **Responsibilities**

#### Employee:

- Notify the supervisor or HR Benefits Manager that an accommodation is being requested.
- Meet with the HR Benefits Manager to begin the ADA interactive process and follow up as requested.
- Provide a medical release for Metro to obtain relevant medical information.
- Report any discrimination, harassment, or retaliation related to disability using the procedures specified in Metro's Discrimination and Harassment Policy.

#### Supervisor:

- Timely respond to all ADA requests by notifying HR.
- Participate in a discussion with the employee and HR regarding reasonable accommodation.
- Coordinate with the Human Resources Department and the employee to implement any necessary accommodations.
- Refer any reports or observations of discrimination, harassment, or retaliation related to disability to the HR Department.
- Maintain the confidentiality of employees' medical information.

#### HR Benefits Manager:

- Provide the employee with the appropriate forms to obtain medical documentation.
- Obtain necessary medical information from the employee's health care professional(s) in order to verify the need for accommodation and identify potential solutions.
- Ensure that genetic information is not requested or considered during the accommodation process.
- Work with the employee and the supervisor to determine if reasonable accommodation(s) can be made.
- Coordinate with the supervisor and the employee to implement any necessary accommodations.

- Maintain the employee's medical information in a confidential file separate from the employee's personnel file.

## References

Americans with Disabilities Act of 1990 (ADA) as amended- 42 U.S.C. 12101 et seq., 29 C.F.R. 1630 et seq.

ORS 659A.103 - 659A.142; OAR 839-006-0200 - 839-006-0265 (Oregon disability law).

Genetic Information Nondiscrimination Act of 2008 (GINA) - Pub.L. 110-233, 122 Stat. 881 (2008).



## Metro | Policies and procedures

**DRAFT**

For MERC Commission vote 10/3/12  
New edit: Guidelines #5

**Subject** Domestic Violence, Sexual Assault, Criminal Harassment and Stalking Protections  
**Approved by** Martha Bennett, Chief Operating Officer

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### **POLICY**

*Metro complies with Oregon laws that provide employment protections for victims of domestic violence, sexual assault, criminal harassment and stalking. Metro prohibits discrimination against such employees and provides reasonable workplace accommodations to protect their safety. Eligible employees may also be entitled to reasonable leave from work to address safety-related matters.*

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### **Applicable to**

All Metro employees.

*Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of that agreement will prevail.*

### **Definitions**

#### Eligible Employee:

1. Safety Accommodation: Any employee who is a victim of domestic violence, sexual assault, criminal harassment or stalking as defined by applicable law.
2. Protected Leave from Work: An employee who worked an average of at least 25 hours a week for the 180 days immediately preceding the date the employee begins leave. Leave may be taken by a victim of domestic violence, sexual assault, criminal harassment or stalking as defined by applicable law; by a parent or guardian of a victim; or by any other person, including an immediate family member, who has suffered related financial, psychological, social, or physical harm.
  - a. The 25 hour requirement is calculated according to actual hours worked.
  - b. The 180 day requirement is determined by how long the employee has been maintained on Metro's payroll.

Reasonable leave: Any amount of leave that does not cause an undue hardship to Metro's operations.

Undue Hardship: A significant difficulty or expense, determined on a case by case basis.

Victim: For the purposes of this policy, a victim of domestic violence, sexual assault, criminal harassment, or stalking is an individual against whom one of these offenses has been committed as defined by Oregon statute ORS 659A.270.

Victim Services Provider: A prosecutor-based victim assistance program or a nonprofit program offering safety planning, counseling, support or advocacy related to domestic violence, sexual assault, criminal harassment or stalking.

## **Guidelines**

1. Metro prohibits discrimination against employees who are victims of domestic violence, sexual assault, criminal harassment, and stalking.
2. Metro will provide reasonable workplace safety accommodations in response to actual or threatened domestic violence, sexual assault, criminal harassment, or stalking. A request for reasonable accommodation will be granted unless it would cause an undue hardship to Metro's operations.
3. Metro will provide eligible employees reasonable leave from work to address safety-related matters, as described below, related to domestic violence, sexual assault, criminal harassment or stalking.
  - a. The employee must use fifty (50%) of accrued leaves on the books at the time the leave commences prior to going into an unpaid leave status; however in all cases the employee may retain up to 40 hours of accrued sick leave and 40 hours of accrued vacation for later use.
  - b. If no accrued paid leave time is available, leave under this policy will be unpaid.
  - c. The supervisor should contact the Payroll Manager to determine appropriate coding of such leave.
4. Employees must notify the Human Resources (HR) Department and/or Office of Metro Attorney (OMA) if they apply for or receive a protective order or restraining order that lists any Metro location as a protected area.
5. Metro will take any necessary steps to protect the safety of the other employees and the public while maintaining the victim's confidentiality in accordance with applicable law.

## **Procedures**

### **Discrimination prohibited**

1. Metro will not refuse to hire an otherwise-qualified individual because the individual is a victim of domestic violence, sexual assault, criminal harassment or stalking.
2. Metro will not discipline, demote, suspend, terminate, or in any manner discriminate, threaten, or retaliate with regard to promotion, compensation, conditions or privileges of employment because an employee is a victim of domestic violence, sexual assault, criminal harassment or stalking, or because the employee has inquired about, requested or taken leave under this policy.
3. Employees who experience or observe discrimination, harassment, or retaliation prohibited by this policy should report the offending conduct using the procedures specified in Metro's Discrimination and Harassment Policy.

### **Requesting a safety accommodation or leave of absence**

4. An employee may request for a safety accommodation or protected leave by contacting his or her supervisor or the Human Resources (HR) Department. The employee should provide written or verbal notice in advance if possible, or as soon as practicable under the circumstances.

5. Upon receipt of a request for accommodation, the supervisor shall notify the HR Benefits Manager. The HR Department, in consultation with the OMA, will be responsible for determining whether a requested accommodation is reasonable and whether the requested accommodation or leave will result in undue hardship to Metro's operations.
6. The HR Benefits Manager will contact the employee to discuss the requested accommodation, and will consult with the supervisor and/or Department Director to determine the impact of the requested accommodation on Metro operations. HR will inform the employee that they may have a union representative, family member, victims' advocate or other appropriate person present during meetings to discuss possible accommodations.
7. If it is determined that the requested accommodation would pose an undue hardship, the HR Benefits Manager and the employee will engage in an interactive process to determine whether a mutually acceptable alternative accommodation is available.
8. Metro may request documentation to confirm that the employee is a victim, or in the case of leave, a parent or guardian of a victim, or someone who has suffered harm related to domestic violence, sexual assault, criminal harassment or stalking. Metro may, in its discretion, approve an accommodation request on the basis of the employee's statements without requesting documentation. The employee may provide any of the following as certification of eligibility:
  - a. Court documents;
  - b. Law enforcement papers;
  - c. Documentation from an attorney, counselor, victim service provider, health care professional or clergy member.
9. The employee will provide the requested verification as soon as practicable. Failure to timely submit verification may result in the delay of accommodation approval.
10. After receiving sufficient verification, the HR Benefits Manager will inform the employee of whether a requested or alternative accommodation will be granted.
11. If special circumstances make it necessary to expedite the approval process, the HR Benefits Manager may grant an accommodation on a provisional basis before receiving verification, with the understanding that there is no guarantee the requested accommodation will be granted permanently.
12. The employee is required to comply with all employment policies and work rules while the request for accommodation is under consideration, or if the request is denied.
13. If an employee has concerns about the accommodation or leave process, he or she may contact the Director of Human Resources or Office of Metro Attorney to discuss the matter.
14. All documents regarding the employee's eligibility and/or the accommodation or leave provided will be kept confidential and may not be released without express permission unless required by law.

#### **Reasonable safety accommodations**

15. Safety accommodations may include, but are not limited to:
  - a. Transfer;
  - b. Reassignment;
  - c. Modified Schedule;
  - d. Changed work station or phone number;
  - e. Other measures to address safety.

## Protected Leave from Work

16. Safety-related matters for which leave may be permitted may include:
  - a. To seek legal or law enforcement assistance to ensure the safety of the employee or the employer's minor child or dependent, including preparing for and participating in protective order proceedings or other civil or criminal proceedings.
  - b. To seek medical treatment or recover from injuries suffered by the employee or his or her minor child or dependent.
  - c. To obtain, or to assist the employee's minor child or dependent in obtaining counseling from a licensed mental health professional.
  - d. To obtain services from a victim services provider for the employee or his or her minor child or dependent.
  - e. To relocate or takes steps to secure an existing home. "Relocate" includes transition periods spent moving from one home or facility to another, including but not limited to time to pack and make security, transportation or other arrangements for such transitions.
17. The length of leave will be determined by what is reasonable under the circumstances, and will be limited only if the leave creates an undue hardship to Metro's operations.
18. Employees who take leave under this policy to recover from or seek treatment for the serious health condition of the employee or his or her minor dependent may have leave rights under the Oregon Family Leave Act and the Family and Medical Leave Act. Please see Metro's Family and Medical Leave Policy for more information. To the extent that leave under this policy is also covered by the Oregon Family Leave Act, Metro may administer the two types of leave concurrently.
19. Leave granted under this policy will not be counted against the employee's attendance record for purposes of discipline or performance evaluations.
20. Crime victims may also be covered by Metro's Crime Victims' Leave Policy.

## Restraining Orders

21. All employees who apply for or obtain a protective or restraining order that lists any Metro location as a protected area must provide the HR Department and/or the Office of Metro Attorney with:
  - a. a copy of the petition and any associated declarations;
  - b. a copy of any temporary restraining order; and
  - c. a copy of any permanent restraining order or protective order that is granted.
22. Office of Metro Attorney will be responsible for informing the appropriate staff.

## Responsibilities

### Employee:

- Contact the immediate supervisor or HR Benefits Manager in advance or as soon as practicable if accommodation or leave from work is needed for safety needs arising from domestic violence, sexual assault, criminal harassment or stalking.
- Provide documentation of eligibility as requested by the HR Benefits Manager.

- Comply with all employment policies and work rules while the request for accommodation is under consideration, or if the request is denied. Notify the HR Benefits Manager if safety concerns require an exception to be made immediately.
- Follow regular call-in procedures while on leave, unless other arrangements are made with the HR Benefits Manager to accommodate safety needs.

Supervisor and Department Director:

- Notify the HR Benefits Manager of any requests for accommodation or leave by employees who are victims of domestic violence, sexual assault, criminal harassment or stalking.
- Work with the HR Benefits Manager to make any operational adjustments that may be necessary.

Human Resources Department:

- Contact the employee and engage in an interactive process to determine whether a reasonable accommodation is appropriate.
- Request documentation as necessary to certify the employee's eligibility for accommodations and/or protected leave.
- Work with the supervisor and Department Director to determine the impact of the requested accommodation on operations.
- Determine whether the requested accommodation or leave poses an undue hardship.
- Notify the employee of the decision and discuss possible alternative accommodations if the requested accommodation is denied.
- Determine employee's eligibility for accommodations and/or protected leave and notify the employee as soon as possible. Notify the employee if leave will be charged against the employee's OFLA entitlement.
- Work with the Supervisor and Department Director to make any necessary operational adjustments.
- Keep records related to accommodation and leave requests confidential except as expressly permitted by the employee or required by law.

**References**

ORS 659A.270 to 659A.290.

Crime Victims' Leave Policy

Discrimination and Harassment Policy

Family and Medical Leave Policy





## Metro | Policies and procedures

**DRAFT**  
For MERC  
Commission vote  
10/3/12

**Subject:** Employment of Minors  
**Approved by:** Martha Bennett, Chief Operating Officer

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### POLICY

*Metro may hire minors between the ages of 14 and 18 in compliance with applicable law. Due to legal restrictions on the type of work minors may perform and the hours during which they may be employed, Metro is able to employ minors in a limited range of positions.*

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#### Applicable to

All employees.

#### Definitions

Minor: A person under the age of 18.

#### Guidelines

1. Metro will not employ minors under the age of 14.
2. Metro must verify the age of every minor hired and post an employment certificate issued by the State of Oregon Bureau of Labor and Industries.
3. State and federal law regulate minors' work hours and the types of work they may perform. Supervisors of employees who are minors must comply with all legal requirements.

#### Procedures

1. A supervisor who is considering hiring minors must contact the Human Resources (HR) Department prior to offering employment. The HR Department will review job duties, applicable laws and regulations and will give advice on procedures and scheduling.
2. Job offers to minors will be made contingent upon age verification at hire. Acceptable documents for age verification include a birth certificate, state identification card, drivers' license, or passport. Metro may accept other documents as proof of age only if permitted by law.
3. Metro must maintain and post an employment certificate issued by the State of Oregon Bureau of Labor and Industries (BOLI) Child Labor Unit.

- a. The HR Department will complete and submit the certificate application. The application requires Metro to estimate the number of minors to be employed during the following year and describe their anticipated job duties and use of equipment. Department Directors must provide this information to the HR Department promptly upon request.
  - b. Department Directors must ensure that a current employment certificate is posted in a conspicuous place in every department where minors work.
  - c. If minors' work duties are changed at any time, Metro must submit a Notice of Change Form to the BOLI Child Labor Unit. Supervisors must notify the HR Department before changing minors' work duties so that the HR Department can evaluate the anticipated change for legal compliance and submit the necessary paperwork.
4. If a minor is required to report to work, Metro must provide enough work (or compensation in lieu of work) to allow the employee to earn at least one half of the scheduled day's earnings. If a minor employee arrives for a scheduled shift but is not needed for the entire shift, the employee's supervisor is responsible for ensuring that this time is recorded correctly in Kronos.

#### **Work hours, meals and rest periods**

5. Minors who are 14 or 15 years old may not work:
- a. During school hours;
  - b. More than three hours on any school day;
  - c. More than eight hours on a non-school day;
  - d. Before 7 a.m. or after 7 p.m., except that they may work as late as 9 p.m. between June 1 and Labor Day;
  - e. More than 18 hours per week during the school year; or
  - f. More than 40 hours per week when school is not in session.
6. All minors who are 16 or 17 years old may work up to 44 hours per week (subject to overtime requirements), and may work the same number of hours per day as adult employees.
7. All minors must receive a paid rest break of at least 15 minutes for every work session of four hours or the major portion thereof (i.e., for any period longer than two hours).
8. Minors must receive at least 30 minutes for lunch, beginning no later than five hours after reporting for duty.
1. Minors who are 14 or 15 years old must be completely relieved of all duties during lunch.
  2. Minors who are 16 or 17 years old may perform work or remain on call during the lunch period when business conditions require it, but in that case they must be paid for the entire lunch period.

#### **Prohibited job duties**

9. Oregon law contains specific safety-related restrictions on the types of work minors may perform. Supervisors and managers must obtain advance approval from the HR Department for all work duties to be assigned to minors.

10. Legal restrictions on job duties include, but are not limited to, the following:
- a. Minors with drivers' licenses may drive to and from work but may not drive on public roads while on the job.
  - b. Minors are not permitted to operate power-driven machinery. Minors who are 14 or 15 years old may not work in areas where power-driven machinery is used.
  - c. Minors are not permitted to lift excessive weight.

### **Responsibilities**

#### Supervisors:

- Contact the HR Department if you are considering hiring minors, and before changing the work duties of employees who are minors, to ensure legal compliance.
- If a minor reports to work for a scheduled shift but is not needed for the entire shift, make the appropriate adjustments in Kronos to ensure the employee will receive pay for at least half the scheduled shift. Contact the Kronos Help Desk with any questions.
- Monitor and ensure compliance with legal requirements regarding minor employees' work hours, meals and rest periods, and prohibited job duties. Notify HR or the Office of Metro Attorney of any questions or concerns about compliance.

#### Department Directors:

- Monitor and ensure compliance with legal requirements regarding minor employees' work hours, meals and rest periods, and prohibited job duties. Notify HR or the Office of Metro Attorney of any questions or concerns about compliance.
- Respond promptly to HR requests for information about anticipated and current employment of minors.
- Ensure that a current compliance certificate from the State of Oregon Bureau of Labor and Industries is posted conspicuously in every department where minors work.

#### Human Resources Department:

- Verify the age of every minor employee at hire or delegate verification duties to a trained supervisor.
- Advise supervisors and managers about legal compliance and best practices.
- Complete and submit the annual employment certificate application.

### **References**

ORS 653.305 et seq.; OAR 839-021-0006 et seq.

Fair Labor Standards Act (FLSA), as amended 29 USC §201 et seq; 29 CFR Parts 570 to 580.



## Metro | Policies and procedures

**DRAFT**  
For MERC  
Commission vote  
10/3/12

**Subject:** Layoffs – Non-represented Employees

**Approved by:** Martha Bennett, Chief Operating Officer

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### POLICY

*A layoff is an involuntary separation from employment that is initiated due to circumstances other than the employee's conduct or job performance. Metro may lay off employees due to lack of work, lack of funds, reorganization, and/or other business needs.*

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### Applicable to

All non-represented employees.

*Layoffs of represented employees will be in accordance with applicable collective bargaining agreements.*

### Guidelines

1. Metro may lay off employees due to lack of work, lack of funds, business reorganization, and/or other business needs.
2. Metro will provide non-probationary regular status and limited duration employees with at least 14 calendar days' notice of layoff or the corresponding amount of pay in lieu of notice.

### Procedures

1. The Chief Operating Officer (COO) or Visitor Venues General Manager will determine the number and classifications of employees to be laid off.
2. The COO and/or Visitor Venues General Manager, in consultation with management stakeholders, will determine the order in which employees in the same classification are selected for layoff.
  - a. Metro is not required to lay off temporary and seasonal employees before limited duration and regular status employees. Layoff decisions will be based on business needs.
  - b. Determinations will be made based on Metro's business needs and the employees' employment history, including the following factors, listed in no particular order:

- i. Past work performance as reflected in performance evaluations and attendance, safety, and disciplinary records;
  - ii. Job knowledge, skill, and ability to do the required work;
  - iii. The ability to perform other jobs that the employee may be called upon to perform as a result of the staffing reduction;
  - iv. Previous work experience and educational background; and
  - v. Length of service.
3. Notice of layoff will be given as follows:
  - a. Temporary and seasonal employees and non-probationary employees may be laid off with or without prior notice; however, advance notice will be provided to the extent feasible.
  - b. Non-probationary limited duration and regular status employees will be given at least 14 calendar days' written notice of layoff or the corresponding amount of pay in lieu of notice.
  - c. In the event of a facility closure or mass layoff covered by the Worker Adjustment and Retraining Notice (WARN) Act, the notice period and the form and content of the notice will comply with the WARN Act.

### **Responsibilities**

#### Chief Operating Officer and Visitor Venues General Manager:

- Make layoff determinations under this policy in consultation with supervisors, managers, and the HR Department.

#### Human Resources Department:

- Process separation paperwork.
- Provide benefits information to separating employees.
- Payroll Division: process employee's final check.

### **References**

Payroll policy

Worker Adjustment and Retraining Notification (WARN) Act (29 U.S.C. §2101, et seq.; 20 CFR Part 639)

**DRAFT**  
For MERC  
Commission vote  
10/3/12



## Metro | *Policies and procedures*

**Subject** Military Service Members and Families – Leave Rights and Non-Discrimination  
**Approved by** Martha Bennett, Chief Operating Officer

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### **POLICY**

*It is Metro's policy to comply with all state and federal laws providing employment protections to military service members, veterans, and their families. Protections covered by this policy include leave rights for military service members and their spouses and domestic partners and a prohibition against discrimination.*

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### **Applicable to**

Employees who are U.S. military service members, veterans, or spouses or domestic partners of service members.

*Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of that agreement will prevail.*

### **Definitions**

Eligible employee: Specific eligibility requirements apply under state and federal law and are detailed below under Procedures. Metro's Human Resources (HR) Department will review all leave applications and determine eligibility consistent with state and federal law.

Domestic partner: For the purposes of this policy, "domestic partner" means a same-sex domestic partner registered with the State of Oregon or an opposite-sex domestic partner confirmed by an affidavit on file with Metro.

Reasonable efforts: Actions that do not place an undue hardship on Metro's operations, including training.

Reinstatement: An employee's return to the position they formerly held following a leave of absence.

Reemployment: An employee's return to Metro and placement in a suitable alternate position following a leave of absence. Reemployment is different from reinstatement. Options for reemployment are evaluated in situations in which the employee cannot be reinstated to his or her former position.

Service: The performance of duty on a voluntary or involuntary basis in a uniformed service that may involve active duty, active duty for training, initial active duty for training, inactive duty for training, full-time duty in the National Guard, funeral honors duty or an examination to determine fitness for uniformed service.

Undue hardship: Significant difficulty or expense.

Uniformed Services: The United States Army, Navy, Air Force, Marine Corps, Coast Guard, the Army National Guard and the Air National Guard when engaged in active duty for training, inactive duty training, or full-time National Guard duty, the commissioned corps of the Public Health Service, and any other category of persons designated by the President in time of war or national emergency.

## **Guidelines**

### **Discrimination Prohibited**

1. Metro will not discriminate against any individual because of their uniformed service or retaliate against any person for exercising or attempting to exercise rights under this policy.

### **Leave rights**

1. Military service members, veterans, members of an organized state militia, and the spouses and domestic partners of U.S. service members are entitled to leave from work without any risk of adverse employment consequences under the circumstances described below.
  - a. Absences under this policy may not be counted against an employee's attendance record.
  - b. Employees will be restored to their position without any loss of employment benefits after leave is concluded.
2. In addition to the types of leave outlined in this policy, the Family and Medical Leave Act provides protected leave for eligible employees to care for family members who are covered military service members recovering from a serious illness or injury sustained in the line of duty, and to handle exigencies related to the service member's call to active duty. Please see Metro's Family and Medical Leave Policy for more information.
3. In addition to leave for military service, employees may be entitled to leave for certain types of non-military government service, such as the Peace Corps and certain search and rescue operations. Please contact Human Resources for more information if needed.

### **Other Protections**

1. Military veterans may also be eligible for preference in hiring and promotions in accordance with Oregon law. Please see Metro's Veterans' Preference Policy for more information.
2. Disabled service members and veterans, as well as other disabled employees, may be entitled to reasonable accommodation under the Americans with Disabilities Act (ADA). Please see Metro's Americans with Disabilities Act Policy for more information.

## **Procedures**

### **Discrimination Prohibited**

1. Employees who experience or observe discrimination, harassment, or retaliation on the basis of military service or the exercise of rights under this policy should report the offending conduct using the procedures specified in Metro's Discrimination and Harassment Policy.

## Military Leave

1. **Eligible employee:** An employee who leaves employment, other than in some temporary, seasonal, or part-time positions, for the purpose of military training, examination, and/or service. The employee's absences from Metro for uniformed service must total five years or less. The employee must not have been separated from military service under other than honorable conditions.
  - a. Temporary and seasonal employees are eligible for reinstatement following military leave unless their employment with Metro prior to uniformed service was for a brief, nonrecurrent period and there is no reasonable expectation that the employment would have continued indefinitely or for a significant period.
  - b. There are some exceptions to the five-year limit, including initial enlistments lasting more than five years, periodic National Guard and Reserve training duty, and involuntary active duty extensions and recalls, especially during a time of national emergency.
  - c. There is no time limit on the amount of time reservists may spend in training.
  - d. Reinstatement and reemployment protections do not depend on the timing, frequency, duration, or nature of an individual's service as long as the basic eligibility criteria are met.
2. An eligible employee who takes time off for military duty is generally entitled to reinstatement to his or her former position.
  - a. The returning veteran or reservist will be treated as if he or she had remained on the job instead of performing military service. Employees who are subject to a seniority system will continue to accrue seniority during their military service. Employees will be paid at the rate they would have received from raises based on time worked if they had stayed on the job.
  - b. Reinstatement rights apply even if a replacement has been hired for the position.
  - c. Metro will make reasonable efforts, including training or retraining, to enable returning service members to refresh or upgrade their skills to help qualify for reinstatement or reemployment.
  - d. If the service member is unable to return to his or her former position, for example due to disability, Metro will make reasonable efforts to reemploy the service member in a comparable alternative position.
    - i. Metro will provide reasonable accommodation for disabilities in accordance with applicable law.
    - ii. If the employee is not qualified for an alternative position, Metro will make reasonable efforts to help the employee become qualified.
  - e. In rare cases, Metro may be unable to reemploy a returning service member. For example, reemployment rights may be limited in the following circumstances, consistent with applicable law:
    - i. Metro's circumstances have changed so much that reemployment is impossible or unreasonable;
    - ii. The employee is no longer qualified for the former position or a comparable alternative position, he or she cannot become qualified with reasonable efforts by Metro, and reemployment would impose an undue hardship on Metro's operations; or



- iii. The returning employee's former position no longer exists and there is no appropriate alternative position for which the employee is or may become qualified with reasonable efforts by Metro. Metro is not required to create a position for a returning service member if the position no longer exists.

3. Pay status:

- a. Service members, including reservists or National Guard members, are permitted but not required to use their accrued paid leave time for military leave.
- b. Employees who are members of the National Guard, National Guard Reserve or any reserve component of the U.S. Armed Forces or Public Health Service and who have been employed by Metro for six months or more may receive up to 15 consecutive calendar days of paid leave per federal fiscal year for periods of initial or annual temporary active duty for training. This equates to eleven (11) paid work days for those working a five (5) day work week and nine (9) paid work days for those working a four (4) day work week.

4. Notification requirements before taking leave: Service members should provide advance written or verbal notice to Metro unless giving notice is impossible, unreasonable, or precluded by military necessity. An employee should provide notice as far in advance as is reasonable under the circumstances.

5. Notification requirements for return to work:

- a. Employees returning from active duty of less than 31 days must return to work at the beginning of the next regularly scheduled work period on the first full day after release from service, taking into account safe travel home plus an eight-hour rest period.
- b. Employees returning from active duty of more than 30 but fewer than 180 days must notify the Metro Human Resources Department of their intention to return to work within 14 days of release from service.
- c. Employees returning from active duty of more than 180 days must notify the Metro Human Resources Department of their intention to return to work within 90 days of release from duty.
- d. Reservists and members of the National Guard returning from training must inform Metro's Human Resources Department of their training obligations and report back at the next regularly scheduled work period.

6. After returning from service, a returning veteran will not be discharged except for cause for a period of one year. A returning reservist will not be discharged except for cause for a period of six months.

**Oregon Military Family Leave Act**

- 1. Eligible employee: An employee who has worked an average of 20 hours per week, and who is a spouse or domestic partner of a member of the U.S. Armed Forces, National Guard or military reserve forces.
- 2. An eligible employee whose spouse or domestic partner has been notified of an impending call or order to active duty or impending leave from deployment is entitled to a total of 14 work days of unpaid leave per deployment with continuation of benefits under the Oregon Military Family Leave Act (OMFLA).
  - a. Leave may be taken before the service member's deployment and/or while the service member is on leave.

- b. Leave need not be taken in one, uninterrupted period, but may be taken intermittently.
    - i. For the purpose of intermittent leave, OMFLA leave is calculated for an employee by multiplying the number of hours the employee normally works per day by 14.
    - ii. If an employee's schedule varies from day to day, a daily average of the employee's work hours over the previous 12 months will be used for calculating the employee's normal work day.
  - c. Leave taken under this policy is counted against the employee's general leave entitlement under the Oregon Family Leave Act (OFLA). Please see Metro's Family and Medical Leave Policy for more information about OFLA.
  - d. If multiple deployments occur within the employee's OFLA leave year, the employee is entitled to use all OMFLA leave until his or her OFLA entitlement is exhausted.
  - e. If the leave is also covered by the exigency leave provisions of the Family and Medical Leave Act (FMLA), Metro may run OMFLA leave and FMLA leave concurrently. Please see Metro's Family and Medical Leave Policy for more information about FMLA.
3. An employee who intends to take leave must notify his or her supervisor or the Human Resources Department by requesting leave through Kronos or submitting a Leave Request Form within five business days of an impending call or order to active duty or impending leave from deployment.
  4. An employee who takes military spouse leave may draw on any accrued paid leave to which the employee is entitled for any part of the leave. He or she may also choose to take unpaid leave rather than using accrued paid leave.

### **Veterans' Leave**

1. Eligible employee: An employee who is a veteran undergoing medical treatment, recuperation or therapy for a serious injury or illness that occurred any time within five years of service in the U.S. Armed Forces. The employee must not have been separated from military service under other than honorable conditions.
2. An eligible employee may take up to 14 weeks of leave to recover or seek treatment for a qualifying illness or injury.
3. Veteran leave, when combined with all other family or medical leave under the Family and Medical Leave Act and the Oregon Family Leave Act, may not exceed 26 weeks in a single 12-month period. Please see Metro's Family and Medical Leave Act policy for more information.

### **Responsibilities**

#### Employee:

- Notify Metro of your need for leave as specified by the procedures for the specific type of leave.
- Notify Metro of your intention to return to work as specified by the procedures for the specific type of leave.
- Provide documentation as requested by the Human Resources Department.

- Report any discrimination, harassment, or retaliation based on military service or the exercise of any rights under this policy.

Supervisor:

- Notify the HR Benefits Manager of any requests for leave.
- Work with the HR Benefits Manager to make any operational adjustments that may be necessary.
- Ensure that no employee is subject to discrimination, harassment, or retaliation based on military service or the exercise of any rights under this policy.

Human Resources Department:

- Immediately notify the Department Director of any requests for leave under this policy.
- Request documentation as needed to verify eligibility for leave.
- Determine the employee's eligibility for protected leave and notify the employee as soon as possible.
- Notify the employee if leave will be charged against the employee's OFLA and/or FMLA entitlement.
- Work with the Supervisor and Department Director to make any necessary operational adjustments.
- Ensure that an employee hired to replace a service member on leave understands the service member's reinstatement rights and the potential impact on the replacement employee's employment.
- Track leave requests, verification of the need for leave, and the use of paid and unpaid leave following usual procedures.
- Investigate and resolve any reports of discrimination, harassment, or retaliation.

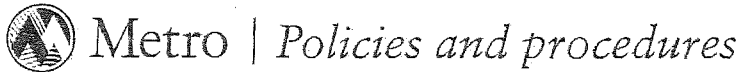
**References**

Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), 38 USC 4301-4335

Oregon Military Family Leave Act, ORS 659A.090 – 659A.099

ORS 408.225 - 408.235

ORS 408.290



**DRAFT**  
For MERC  
Commission vote  
10/3/12

**Subject:** Nepotism and Personal Relationships in the Workplace

**Approved by:** Martha Bennett, Chief Operating Officer

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## POLICY

*Metro complies with applicable laws regulating the employment of family members and household members in public employment and maintains procedures to prevent favoritism or unfairness in the workplace due to family and personal relationships.*

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## Applicable to

All employees, interns, volunteers and applicants for these positions.

*Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of that agreement will prevail.*

## Definitions

Family members: For the purposes of this policy, family members include spouses, children (including stepchildren), parents (including stepparents), siblings (including half and step siblings), aunts, uncles, nieces, nephews, grandparents, grandchildren, domestic partners and equivalent family members of an employee's spouse or domestic partner.

Nepotism: Favorable treatment based on a close personal relationship without regard to merit.

## Guidelines

1. No employee or applicant for employment or promotion will be treated differently or adversely solely because a family member works or has worked for Metro, subject to the other requirements of this policy.
2. Family members, household members and romantic partners shall not work together in a direct supervisory-subordinate relationship under any circumstances.
3. Family members, household members or romantic partners in the same department, chain of command, or span of control are cautioned to conduct themselves professionally or be subject to discipline and possible separation of the working relationship.

4. Employees must notify the Department Director or HR Director of any current or potential supervisor-subordinate relationships that may be prohibited or subject to a review requirement under this policy.

## **Procedures**

### **Employment decisions**

1. An employee may not appoint, employ, promote, discipline, demote, or fire a family member, household member or romantic partner.
  - a. No employee may participate in any official discussion or decision related to the employment of a family member, household member, or romantic partner, even if the employees do not work in the same department, chain of command, or span of control.
    - i. Example: No employee may serve on an interview panel or otherwise participate in the screening process for a position for which a family member, household member or romantic partner is a candidate.
    - ii. Exception: Metro may obtain an employee's statement about an employee who is a family member, household member or romantic partner if it is material to an internal or legal investigation and consistent with business necessity and applicable law. The relationship will be noted and taken into account when evaluating the statement.
  - a. In order to comply with legal conflict of interest requirements, the HR Director and Office of Metro Attorney (OMA) must be consulted immediately in any situations that could fall under this policy.

### **Supervisory relationships**

2. Family members, household members, and romantic partners shall not work together in a direct supervisory-subordinate relationship under any circumstances.
  - a. If employees are in a relationship prohibited by this policy, they must notify the Department Director or HR Director and propose a plan for separating the supervisory-subordinate working relationship.
  - b. One employee or the other must transfer to a different position in the agency or leave employment within 30 days. The HR Director may extend this time period if there is a clear plan and timeline for separation and an extension is consistent with Metro's legal, ethical, and business interests.
  - c. The affected employees are responsible for recommending which employee will transfer or leave employment. The final determination will be made by the HR Director.
  - d. If no solution is reached within the designated time period, both employees will be terminated.

## **Responsibilities**

### **Employees:**

- Notify the Department Director or HR Director of any current or potential supervisor-subordinate relationships that may be prohibited or subject to review under this policy.

Department Directors:

- Notify the HR Director of any current or potential supervisor-subordinate relationships that may be prohibited or subject to Director review under this policy.

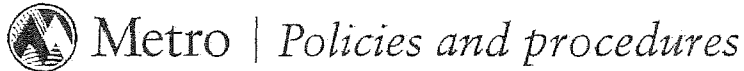
HR Director:

- Make decisions about current or potential supervisor-subordinate relationships that may fall under this policy in consultation with the Department Director and OMA.

**References**

ORS 659A.309 (prohibition against discrimination solely because of employment of another family member)

ORS 244.177 - 244-179 (employment and supervision of family members and household members - requirements for public employers)



**DRAFT**  
For MERC  
Commission vote  
10/3/12

**Subject** Outside Employment  
**Approved by** Martha Bennett, Chief Operating Officer

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### **POLICY**

*Metro employees shall not accept any outside employment that may create a conflict of interest or prevent them from meeting applicable performance standards.*

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### **Applicable to**

All Metro employees.

*Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of that agreement will prevail.*

### **Guidelines**

1. Metro employees shall not accept any outside employment that may create a conflict of interest or prevent them from meeting applicable performance standards.
2. Employees are welcome to pursue opportunities that do not violate this policy. Therefore, Metro will consider alternate arrangements that may eliminate the conflict of interest or performance concerns and allow the employee to accept the outside employment.

### **Procedures**

1. Outside employment creates a conflict of interest if it:
  - a. Involves use of Metro work time, facilities, equipment or supplies;
  - b. Involves the use of the employee's influence as an employee of Metro;
  - c. Involves the receipt of money or other benefits for duties performed as a Metro employee;
  - d. Involves competing with Metro in providing a service or product; or
  - e. Involves time demands that interfere with the employee's availability for scheduled work, including mandatory and prescheduled overtime or other extra work that may be required, or that makes the employee unable to meet the performance expectations for his or her position.
2. Employees are required to notify their supervisors before accepting outside employment that could potentially violate this policy. Employees must also report employment that may give the appearance of impropriety, even if no actual conflict of interest exists.

- a. Employees should provide notice as soon as possible to allow Metro to evaluate the potential conflict and determine whether the employment is permitted under this policy.
    - i. The employee should advise Metro if he or she is subject to a deadline for responding to an offer of outside employment.
    - ii. Metro will make an effort to respond within the requested timeframe; however, it may not be feasible to do so in every circumstance.
  - b. Supervisors must consult with the Human Resources Department before disciplining an employee under this policy or discouraging the employee from accepting the proposed employment.
3. If Metro determines that a potential conflict of interest exists, Metro will consider whether there are feasible alternate arrangements that will eliminate the conflict and allow the employee to accept the outside employment.
  4. Metro has sole discretion to determine whether a potential conflict of interest exists and whether alternate arrangements are feasible to eliminate the conflict. If Metro determines that a conflict exists, Metro will communicate its determination and reasoning to the employee in writing.
  5. If Metro determines that a potential conflict of interest exists, the employee must follow management directives to eliminate the conflict.
  6. An employee who is found to have violated this policy will be subject to discipline up to and including termination. Performance concerns will be managed according to regular policies and procedures.

## **Responsibilities**

### Employees:

- Notify your supervisor before accepting or continuing employment that may fall under this policy.

### Supervisors and Managers:

- Clearly communicate expectations for scheduling availability and job performance to employees.
- Consult with the Human Resources Department about any potential violations of this policy.

### Human Resources Department:

- Evaluate potential conflicts of interest in consultation with Office of Metro Attorney.
- Investigate options for eliminating potential conflicts of interest or performance concerns and advise supervisors, managers, and employees accordingly.





## Metro | Policies and procedures

**DRAFT**  
For MERC  
Commission vote  
10/3/12

**Subject:** Probation  
**Approved by:** Martha Bennett, Chief Operating Officer

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### POLICY

*Upon initial hire, promotion, transfer or demotion to a budgeted regular or limited duration position, all employees must successfully complete a probationary period to demonstrate fitness for the position.*

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### Applicable to

All employees occupying regular and limited duration positions.

*Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of that agreement will prevail.*

### Definitions

**Limited duration position:** A budgeted full-time or part-time position approved by the Chief Operating Officer (COO) or MERC Commission for a predetermined amount of time in order to meet a specific need.

**Probation:** A continuation of the screening process during which an employee is required to demonstrate fitness for the position to which the employee is appointed or promoted.

**Probationary employee:** An employee serving any period of probation.

**Promotion:** The movement of an employee from a position in one classification to a different position in a classification with a higher maximum salary rate.

**Reclassification:** A change in the classification of a position based on the duties currently assigned to an existing position or to be assigned for a vacant position. A position may be reclassified to a classification with a higher, lower, or equivalent rate of pay. If the position is filled, the incumbent employee is reclassified along with the position. A reclassification differs from a promotion, demotion or transfer in that the employee does not move to a different position; rather, the position is changed to a different classification.

**Regular status employee:** An employee who has successfully completed the initial probationary period and occupies a regular full-time or regular part-time position.

**Regular position:** A budgeted full-time or part-time position approved by the Metro COO or MERC Commission for an ongoing, indefinite time period.

## Guidelines

1. Upon initial hire, promotion, or lateral transfer to a regular or limited duration position, all employees must successfully complete a probationary period to demonstrate fitness for the position. The probationary period is typically six months, except as noted below or established by a collective bargaining agreement.
2. The probationary period provides the supervisor an opportunity to observe the employee's work; to train, instruct and aid the employee in adjustment to the position; and to reject any employee who does not meet the position's conduct and performance standards.
3. Successful completion of any probationary period is for Metro's internal screening process only and does not confer any form of tenure or other expectation of continued employment.
4. Upon successful completion of initial or promotional probation, non-represented employees will receive up to a 4% salary increase unless alternative arrangements have been made at the time of hire or promotion. Represented employees' pay is determined by collective bargaining agreement.

## Procedures

1. Metro's standard probationary period is six months.
  - a. The probationary period for a part-time employee must include a minimum of 400 hours, which may require a longer probationary period.
  - b. If an employee is absent from work for a total of 10 or more days during probation, the probationary period will be extended by the number of days the employee was absent.
  - c. With the approval of the Department Director and Human Resources (HR) Director, a supervisor may extend an employee's probation. The supervisor must provide the employee a written explanation of the reasons for the extension, with a copy to the HR Department.
2. During initial probation, employees will accrue sick leave but will not accrue vacation time or personal holidays. After completing probation, employees will receive a bank of vacation time and personal holidays equivalent to what they would have earned during probation.
  - a. Supervisors have discretion to grant probationary employees brief periods of leave without pay for illness for which the employee has insufficient accrued sick leave, for bereavement, or for any other appropriate purpose, subject to the department's operational needs.
  - b. Employees on probation after promotion, demotion or transfer may use any type of accrued time off subject to regular approval procedures.

- c. Probationary employees may be entitled to additional types of leave as required by law.
- 3. Supervisors must evaluate employees' work performance and conduct at least twice during probation, once at or near the midpoint of the probationary period and again before the end of probation. Supervisors are encouraged to provide regular feedback in addition to formal performance evaluations.
  - a. If it is feasible and appropriate to do so, supervisors should notify the employee as soon as possible after conduct or performance problems arise to give the employee an opportunity to correct the problem.
  - b. Supervisors must submit performance evaluations to the Department Director and HR Department for review. Supervisors must consult with the Department Director and HR Director before terminating a probationary employee.
  - c. Before the conclusion of the probationary period, the supervisor must recommend whether the employee should be given regular status or terminated.
    - i. The supervisor's recommendation is subject to the Department Director's approval.
    - ii. If an employee does not pass probation, the supervisor must provide a written explanation to the employee with a copy to the HR Department.
- 4. **Initial hire:** All employees hired into a regular or limited duration position must complete a probationary period of six consecutive months of service.
  - a. Employees serving the initial six-month probationary period may be terminated without cause, with or without prior notice.
  - b. Successful completion of probation does not confer any form of tenure or a guarantee of continued employment. Non-represented employees are employed on an "at will" basis and can be terminated with or without cause in accordance with Metro's policies related to layoff and termination.
- 5. **Application for promotion, demotion or transfer:** Employees are permitted to apply for other positions at Metro while on initial probation but will be required to serve an additional probationary period upon beginning a new position.
- 6. **Promotions, demotions, and transfers:** Employees who are promoted, transferred, or voluntarily or involuntarily demoted and have completed initial probation at Metro must serve a three-month probationary period in the new position. Employees who have not completed initial probation must serve a complete six-month probationary period in the new position.
  - a. With the approval of the HR Director, the Department Director may reduce or waive this requirement if the employee has already completed initial probation and has previously demonstrated excellent performance in a position with the same or similar duties.
  - b. Employees who are unable to perform to the standards of the new position may be terminated. An employee in this situation is not entitled to reinstatement to

the previous position but may apply for any suitable vacancy through the recruitment process.

- c. Upon successful completion of initial or promotional probation, non-represented employees will receive up to a 4% salary increase unless alternative arrangements have been made at the time of hire or promotion. There is no post-probationary pay increase for transfers and demotions.

7. **Reclassifications:** Employees whose positions are reclassified are not required to serve an additional probationary period and therefore do not receive a post-probationary pay increase.

## **Responsibilities**

### Employees:

- Become familiar with the performance expectations for your position and do your best to meet them. Ask your supervisor for guidance if you are having difficulty.

### Supervisors:

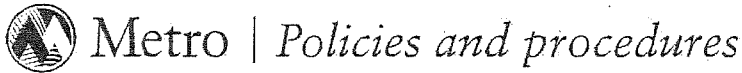
- Provide instruction and feedback to help employees meet performance expectations. Notify the employee as soon as possible after conduct or performance problems arise.
- Conduct performance evaluations at the midpoint and before the end of the employee's probationary period and provide copies to the employee, Department Director, and HR Department.
- Consult with the Department Director and HR Department if an employee is not meeting the standards necessary to pass probation.
- Provide a written explanation to the employee and the HR Department if an employee does not pass probation or if probation is extended.

### Department Directors:

- Consult with the supervisor and HR Department on decisions about employees' probationary status.

### HR Department:

- Consult with the supervisor and HR Department on decisions about employees' probationary status.
- Make appropriate adjustments to the employee's status in the applicable HR systems.



**DRAFT**  
For MERC Commission vote 10/3/12  
New edit: definition of Religious Beliefs,  
Observances and Practices

**Subject** Religious Accommodation  
**Approved by** Martha Bennett, Chief Operating Officer

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**POLICY**

*It is Metro's policy to provide reasonable accommodation for an employee's sincerely held religious beliefs, observances and practices unless such accommodation would cause an undue hardship to Metro's operations. Metro will not discriminate on the basis of religion.*

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**Applicable to**

All Metro employees.

*Where provisions of an applicable collective bargaining agreement directly conflict with this policy, the provisions of that agreement will prevail.*

**Definitions**

Religious Beliefs, Observances and Practices: The definition of "religious beliefs, observances and practices" that Metro applies will be in accordance with the constitutional definition of those terms as determined by applicable law. A general guideline is that religious beliefs are moral or ethical beliefs as to what is right and wrong that are sincerely held with the strength of traditional religious views, even though the beliefs themselves may be nontraditional, if those beliefs concern "ultimate ideas" about "life, purpose, and death." Social, political, or economic philosophies, as well as mere personal preferences, are not "religious" beliefs protected by law.

Undue Hardship: A significant difficulty or expense. Undue hardship is determined on a case-by-case basis in accordance with applicable law. Co-workers' or supervisors' mere dissatisfaction with the requested accommodation is not an undue hardship. Factors influencing a determination of undue hardship include, but are not limited to:

- a. Business necessity;
- b. Safety and health concerns;
- c. Financial cost and overall financial resources available; and
- d. Resulting personnel problems, such as staffing needs, interference with other employees' rights, or the effect on seniority systems mandated by union contract.

**Guidelines**

1. The intent of this policy is to provide reasonable accommodation for employees' sincerely held religious beliefs, observances and practices, consistent with state and federal law.
2. Common examples of religious accommodation include:

- a. Accommodation or time off to engage in religious practices, attend religious services, or observe a holy day as required by the employee's religion.
  - b. Accommodation of religious dress or grooming practices (e.g. required hairstyles or facial hair).
3. There is no prescribed manner of providing reasonable accommodation. Metro will consider all possibilities as they apply to its operational requirements. Criteria for determining whether an accommodation is reasonable include:
  - a. The nature of the job;
  - b. The number of employees who can do that job;
  - c. The effects of transferring the employee;
  - d. The effects of accommodation on other employees;
  - e. The requirements of applicable collective bargaining agreements; and/or
  - f. Scheduling and overtime problems.
4. The Human Resources (HR) Department may request verification that the request is based on a sincerely held religious belief. Metro is not required to accommodate requests that are based merely on an employee's personal preference. Determinations of whether a requested accommodation pertains to a sincerely held religious belief, whether verification is necessary, and what verification may be appropriate will be made on a case-by-case basis consistent with applicable law.
5. It is unlawful to harass, discriminate against, or take any adverse employment action in regards to an employee because of his or her religion or because he or she has requested or received an accommodation under this policy. Employees who experience or observe discrimination, harassment, or retaliation on the basis of their religious beliefs or request for a religious accommodation should report the offending conduct using the procedures specified in Metro's Discrimination and Harassment Policy.

### Procedures

1. An employee may initiate a request for religious accommodation by contacting his or her supervisor or the HR Department.
2. Upon receipt of a request for accommodation, the supervisor shall notify the HR Benefits Manager. The HR Department, in consultation with the Office of Metro Attorney, will be responsible for determining whether a requested accommodation is reasonable and whether it will result in undue hardship to Metro.
3. The HR Benefits Manager will contact the employee to discuss the requested accommodation, and will consult with the supervisor and other managers as needed to determine the impact of the requested accommodation on Metro operations.
4. If it is determined that the requested accommodation would pose an undue hardship, the HR Benefits Manager and the employee will engage in an interactive process to determine whether a mutually acceptable alternative accommodation is available.
5. The HR Benefits Manager may require the employee to provide additional information to verify that the requested accommodation is based on a sincerely held religious belief and/or a religious requirement.

6. Failure to timely submit verification may result in the delay of accommodation approval.
7. After receiving sufficient verification, the HR Benefits Manager will inform the employee of whether a requested or alternative accommodation will be granted.
8. The employee is required to comply with all employment policies and work rules while the request for accommodation is under consideration, or if the request is denied.
9. If special circumstances make it necessary to expedite the approval process, the HR Benefits Manager may grant an accommodation on a provisional basis before receiving verification, with the understanding that there is no guarantee the requested accommodation will be granted permanently.
10. If an employee has concerns about the religious accommodation process, he or she may contact the Director of Human Resources or Office of Metro Attorney to discuss the matter.

### **Responsibilities**

#### Employee:

- Notify the immediate supervisor or HR Department if religious accommodation is needed.
- Provide additional information as requested by the HR Benefits Manager.
- Be willing to discuss mutually agreeable alternative accommodations if necessary to avoid undue hardship to Metro's operations.
- Continue to follow all employment policies and work rules until accommodation is approved.

#### Supervisor:

- Notify the HR Benefits Manager if an employee requests religious accommodation.
- Work with the HR Benefits Manager to determine the impact of the requested accommodation on operations.

#### Human Resources Department:

- Contact the employee and engage in an interactive process to determine whether a reasonable accommodation is appropriate.
- Request documentation as necessary to certify the employee's eligibility for accommodations and/or protected leave.
- Work with the supervisor and other managers as needed to determine the impact of the requested accommodation on operations.
- Determine whether the requested accommodation poses an undue hardship.
- Notify the employee of the decision and discuss possible alternative accommodations if the requested accommodation is denied.

### **References**

ORS 659A.030; ORS 659A.033

Title VII of the Civil Rights Act of 1964 (Sections 701 and 702)

29 CFR §1605.1 (definition of sincerely held religious belief; codifies federal case law)

Metro Discrimination and Harassment Policy