

MAKING A  
GREAT  
PLACE



# Policy manual

## MERC Venues - abridged edition

Part-time, event-driven, temporary  
and seasonal employees

July 2014



## About Metro

Clean air and clean water do not stop at city limits or county lines. Neither does the need for jobs, a thriving economy, and sustainable transportation and living choices for people and businesses in the region. Voters have asked Metro to help with the challenges and opportunities that affect the 25 cities and three counties in the Portland metropolitan area.

A regional approach simply makes sense when it comes to providing services, operating venues and making decisions about how the region grows. Metro works with communities to support a resilient economy, keep nature close by and respond to a changing climate. Together we're making a great place, now and for generations to come.

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# MERC/METRO PERSONNEL POLICIES

## ABRIDGED MANUAL

Updated July 2014

Please review the enclosed Metro and MERC personnel policies carefully. You are responsible for familiarizing yourself with these policies and complying with them during your employment. The policies included in this manual are the most important for you to know, but Human Resources also maintains agency-wide policies on a variety of other topics. Current personnel policies are available on the Intranet (Metro's internal internet system) at <http://imet.metro-region.org/policies>. Your department may also have specific work rules for you to follow. If you have questions or concerns about any Metro or MERC policies or procedures, please ask your supervisor or contact Antoinette Gasbarre, Human Resources Manager, at (503) 797-1571.

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 Metro | *Policies and procedures*

**Subject** Employee Conduct  
**Section** Human Resources  
**Approved by** MERC Commission

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**EXCERPT FROM MERC PERSONNEL POLICIES (2007)**

*Policy is under review. Numbering has been changed from original manual; content is from former Section 12, MERC Personnel Policies (2007).*

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**EMPLOYEE CONDUCT**

**1. General – Employee Responsibilities**

Employees are expected to maintain satisfactory work performance standards. Consistent with this expectation, an employee is encouraged to learn the performance criteria for the job and the guidelines, policies, procedures, work rules, standards of conduct established by the Commission, and any other applicable laws and regulations.

Commission employees shall not accept any outside employment that prevents them from performing the duties and responsibilities for their position or creates a conflict of interest. *See also Outside Employment policy (Dec. 2012)*

Employees failing to comply with the standards outlined below are subject to disciplinary action up to and including termination.

**2. Political Activity**

- a. Nothing contained within this chapter shall affect the right of the employee to hold membership in and to support a political party, to vote as they choose, to privately express their opinions on all political subjects and candidates, to maintain political neutrality, and to attend political meetings.
- b. No official, employee, or any other person shall attempt to coerce, command, or require any Commission employee to influence or to give money, service, or other things of value to aid or promote any political committee or to aid or promote the nomination or election of any person to public office.
- c. No public employee shall solicit any money, influence, service, or other thing of value or otherwise aid or promote any political committee or the nomination or election of any person to public office while on the job during work hours. However, nothing in this section is intended to restrict the right of a public employee to express personal political views.

### **3. Employee Whistle Blowing**

*REPLACED - See Whistleblowing policy (Oct. 2013)*

### **4. Abandonment of Position**

An absence of three consecutive days or shifts without notifying the supervisor or manager is job abandonment and may be considered a voluntary resignation.

### **5. Appearance and Conduct**

Public relations are an integral part of each Commission employee's job. Appropriate and neat appearance that ensures workplace safety and projects a professional image is essential to the productive and efficient operation of the workplace.

### **6. Attendance**

Tardiness and absenteeism adversely affect the efficiency and service level of the Commission. Employees who cannot report at the designated starting time must notify their supervisor immediately.

Absenteeism or tardiness that is unexcused or excessive in the judgment of the Commission will result in disciplinary action, up to and including dismissal.

### **7. Smoking**

Smoking and using tobacco is prohibited in Commission facilities except where otherwise designated.

### **8. Discrimination and Harassment**

*REPLACED - See Discrimination and Harassment policy (Nov. 2011)*

### **9. Drug/Alcohol Abuse Policy**

Employees may not possess, be under the influence of, or use any alcohol, intoxicant, or narcotic on the way to work, on the job, or on Commission premises (including parking lots, adjacent parking lots, or surrounding buildings). In addition, the unlawful manufacture, distribution, possession, or use of controlled substance is prohibited in the workplace and on Commission property.

If a representative of the Commission has reason to believe that an employee is unable to perform the duties of his/her job in a safe and productive manner, or if in management's opinion the employee's presence on the job creates a risk to the safety and well-being of the employee or others, the public or Commission property, the employee will be immediately suspended from the workplace.

- a. An employee who believes they have a problem involving the use of alcohol or drugs can ask a supervisor or the Human Resources Manager for confidential assistance. No discipline or discrimination will result from an employee asking for such assistance.

The Commission also agrees to work jointly with the employee to identify all Commission and, if applicable, union benefits and benefit programs that may be available to help deal with the problem, such as leaves of absence, sick pay, short-

term or long-term disability pay, and health insurance. Any continuing rehabilitation treatment will be paid for by the employee and whatever employee coverage for such treatment that is provided by the existing benefits package. The request for assistance and any later treatment program will be kept as confidential as possible under all the factual circumstances.

Although the Commission recognizes that alcohol and drug abuse can sometimes be successfully treated and is willing to work with employees who may suffer from such problems, it is the employee's responsibility to seek such assistance BEFORE drug or alcohol problems lead to on-the-job safety or misconduct incidents, or violations of this policy and to corresponding disciplinary action. AFTER a drug or alcohol-related accident, an employee's willingness to seek Commission or outside assistance will NOT excuse the violation and generally will have no bearing on the determination of an appropriate penalty.

A "last chance agreement" will be required of an employee once the problems have been identified or assessed and a treatment program started. Failure to sign or to live up to the last chance agreement or treatment program obligation will be grounds for discipline, including termination.

b. Prohibited Conduct

- i. Alcohol. The possession, transfer, sale, offering, consumption or being under the influence of any intoxicating liquor while on Commission property is prohibited. IMPORTANT: The conduct prohibited includes consumption of any intoxicating liquor prior to reporting to work or during breaks or lunch periods or on the job, unless specifically associated with official Commission business.
- ii. Drugs. The possession, transfer, sale, offering, consumption or being under the influence of any narcotic, hallucinogen, stimulant, sedative, or drugs (except as authorized and prescribed by a physician and then only if reported to the supervisor prior to beginning work) while on Commission property or time (such as on customer's premises).

EXCEPTION: The use of medically prescribed or over-the-counter drugs during working hours is approved, and an employee shall have no obligation to inform their supervisor of such usage unless the prescribed or over-the-counter drug contains a warning notice of possible impairment which may prevent an employee from performing their job safely and adequately; for example, operating mechanical equipment. An employee must inform their supervisor that they are taking prescribed or over-the-counter drugs, which contain a warning of possible impairment prior to beginning work each day they are using the medication.

IMPORTANT: The conduct prohibited by this rule includes consumption of any such substance prior to reporting to work or during breaks or lunch period or on the job. An employee who tests positive for any such substances by screening and confirmation tests, including an employee who tests positive as the result of an authorized prescribed substance that was not reported to the supervisor prior to beginning work, will be deemed "under the influence" for the purposes of this rule.

c. Right to Test

When the Commission reasonably suspects that an employee has consumed or is under the influence of alcohol or any other substance or is otherwise in violation of this policy, the Commission may require that the employee submit to appropriate tests for alcohol or prohibited drugs or substances in their system, including urinalysis. Failure to promptly give written consent, without qualification, to such testing and failure to provide samples for such testing will be grounds for immediate suspension pending further investigation and consideration, and for discipline, including termination.

The Commission will bear the expense of all testing under this provision requested by the Commission. A positive test must be confirmed by a second test, which uses a different methodology than the one used for the initial positive result. An employee subject to testing will, upon request, receive a sample of the tested substance so that the employee can submit it to an independent lab (chosen by the Commission) for verification.

The results of all investigations, tests, and discipline will be kept strictly confidential to the extent possible and permitted by law, except that such information will be made available on request by the employee.

d. Commercial Driver's License (CDL)

All Commission employees holding CDLs that operate commercial vehicles on behalf of the Commission will be subject to the federally mandated drug and alcohol testing requirements.

The Federal Highway Administration (FHWA) has promulgated rules to implement the Omnibus Transportation Employee Testing Act of 1991. These rules affect those employees required to maintain a CDL as part of their jobs. The Commission will follow and meet all Federal regulations.

## 10. Ethics Policy

All MERC Commissioners and employees are covered by the Oregon Government Standards and Practices Act. All Commissioners and employees must comply with all requirements of the state ethics laws for public officials and employees. Any Commissioner or employee who has a question about the state ethics laws may obtain a copy of the law's requirements from the Human Resources Manager.

## 11. Travel Policy

a. Policy Statement

Travel for the purpose of enhancing business opportunities and improving service and operations is an integral part of MERC's mission. It is the policy of the Commission to keep such expenditures at a cost-effective level without prejudicing the purpose of the travel.

It is the policy and practice of the Metropolitan Exposition-Recreation Commission (MERC) to reimburse its employees and Commission members for business travel expenses that are ordinary and necessary business expenses including: reasonable travel, lodging, subsistence, and related expenses incurred while conducting business, providing that the expenses are prudent and directly related to the individual's service on behalf of MERC.

Those who travel on MERC business are expected to neither gain nor lose financially with respect to such travel costs.

The provisions in this policy can only be exceeded under limited circumstances regardless of a department's ability to fund expenses at a higher level. The policy can only be exceeded with prior written approval of the Facility Director or General Manager.

- i. Purpose. This policy governs out-of-town and local travel used to conduct official Commission business.

The intent of the travel policy and procedures is to clearly identify, for MERC Commissioners and employees, those expenses considered a legitimate and appropriate part of MERC travel costs.

The procedures stipulate the way in which travel is to be arranged and details the various methods by which travel expenses may be paid.

- ii. Principles. Traveling employees are expected to exercise prudent judgment regarding the ordinary and necessary business expenses covered by this policy. This does not mean that the least expensive alternative available must always be adopted. It does mean that the employee is expected to exercise prudent judgment regarding expenses and cost should be an important determinant in decisions regarding travel arrangements.

Employees are encouraged to plan ahead in order to take advantage of the best possible travel rates. All efforts should be made to take advantage of reduced fares or discounts.

Prior to approving travel, managers should feel confident that the travel is necessary to meet facility and MERC objectives, the employee assigned to travel is the appropriate person for the assignment, and the expenditure to be incurred is budgeted, cost effective, and promotes the mission of MERC.

- iii. Administration. The Facility Director reviews and approves travel and travel expenditures. The Deputy General Manager, or designee, is authorized to oversee the reimbursement program, design and distribute forms and instructions, and carry responsibility for submitting claims to Metro for reimbursement in a timely manner. Claims will be processed in accordance with administrative procedures.

b. Travel Expenses – General

Local travel is defined as travel within a 55-mile radius of Portland. Personal car mileage is reimbursed at the current Internal Revenue Service allowable rate. Travel expenses related to travel 55 miles and under are considered local travel and are reimbursed through weekly expense reports.

Out-of-town travel is defined as travel in relation to official Commission business that requires the employee to travel more than 55 miles from Portland.

- i. Accommodations. When out-of-town travel requires overnight absence, reimbursement will be made for the actual cost of reasonably priced lodging not to exceed the single occupancy rate established by the hotel (unless employees share accommodations). Many establishments offer lower rates for government travelers. The employee should ask for and secure such rates

when they are advantageous to MERC. Lodging expenses in excess of the Runzheimer Meal-Lodging Cost Index may only be used if their use cannot be avoided or business demands it. No payment will be authorized for lodging in a private residence.

- ii. Airfares. Air travel expenses shall not exceed standard coach fare except for exceptional circumstances that must be explained and approved in writing by the Facility Director or MERC General Manager.
- iii. Alternative transportation. If an employee elects to use an automobile or train in lieu of flying, they will be reimbursed at the round trip coach air fare, the current mileage reimbursement or the train fare, whichever is lesser. If an employee cannot take a particular mode of transportation for health reasons they may be reimbursed at the current mileage reimbursement or coach train fare.

Reimbursement for use of a private automobile will be made at the current rate published by the IRS. Employees authorized to use a private automobile on MERC business are responsible for having a valid driver's license and liability insurance in an amount not less than the minimum State of Oregon required automobile insurance coverage.

With approval in advance by the Facility Director or General Manager, MERC travel may be combined with a vacation trip providing public and private expenses are separately accounted for. Any additional expense over the least expensive ticketing and accommodation costs for the business portion of the trip is the responsibility of the employee. All travel expenses must be based solely on the business portion of the trip.

- iv. Expenses - Other Transportation. When the use of a rental car is required as a business need rather than a personal convenience it may be approved by the Facility Director and shown in the Special Requirements section of the Travel Request Form.

It is the policy of MERC to use public transportation whenever possible. However, miscellaneous transportation expenses essential to the transaction of official MERC business will be reimbursed. These include, but are not limited to, taxi and bus fares, shuttles, parking fees, ferry and bridge tolls. A receipt is required except in cases where receipts are not commonly provided, such as bus fare.

- v. Acceptable Expenditures Related to Doing Business:
  - A. Registration fees required in connection with attendance at approved conventions, conferences, and official meetings.
  - B. Rental of space that is used to transact official business.
  - C. Charges for necessary personnel support services in connection with advancing MERC's business.
  - D. Business related faxes, e-mail, photocopies, computer/laptop hookup and support and telex charges made by an employee while away from their normal place of work will also be reimbursed.
  - E. Emergency purchases of materials and supplies.

- vi. Meals. Meals will be reasonable and reimbursed at actual cost based on receipts provided. Reasonable is defined by the Facility Director and/or General Manager.

Meal expenses for non-employees (except spouses, traveling companions, or other individuals not present for a MERC business-related purpose) may be reimbursed provided the claim details the business-related purpose of the hospitality. If the hospitality expense is anticipated to be significant the employee should receive approval in anticipation of incurring the expense. Gratuities for meal service are allowed up to 20% and should be included on the meal receipt.

- vii. Prospective Employees. Applicants for positions with high-level responsibility may, upon the approval of the Facility Director, receive travel expenses in connection with interviewing.

- viii. Automobile Mileage. Automobile mileage is reimbursed in accordance with the current rate published by the Internal Revenue Service.

- ix. Personal. Certain travel expenses, such as (but not limited to): in-house movies, special hotel facilities such as gyms, hairdressers, transportation costs to or from places of entertainment not associated with business, expenses of spouse or other traveling companions, non-business reading material, dependent care, pet boarding or house sitting expenses, loss or theft of personal effects, motor vehicle violations, or personal travel insurance are not eligible for reimbursement.

Long distance telephone calls home are allowed provided the frequency and duration of such calls is reasonable.

Employees are encouraged to minimize the cost of telephone calls made from hotels through the use of alternate calling methods.

The actual cost of reasonable laundry and/or dry cleaning as evidenced by a receipt.

- x. Non-meal Gratuities. Porter and bell services are authorized and limited to \$2.00 per bag. Porter and bell services do not require receipts for reimbursements.

- xi. Abuse

Intentional abuse of expense claims or other violation of these policies will result in disciplinary action up to and including termination.

c. Approval Authority

Employees must receive advance authorization to travel and incur travel-related expenditures by the Facility Director or designee. The General Manager authorizes travel-related expenditures for Facility Directors.

Significant changes in originally approved travel plans or costs require approval of the Facility Director or General Manager.

## 12. Confidentiality

Employees may work with, and may have access to, information that must be kept confidential. Such information includes customer and client data, product specifications, production techniques, personnel records and personnel matters, payroll data, financial data, sales and marketing activity and plans, trade secrets, and proprietary information. Confidential information may only be discussed with staff members and employees who have a work-related need for information. Failure to protect confidential information is a serious offense and subject to discipline up to and including termination. **UPDATE: This policy is not intended to restrict employees from legally protected speech, such as engaging in union activity or speaking as a private citizen on matters of public concern. Employees will not be disciplined for such conduct. Determinations under this provision will be made by the Office of Metro Attorney in accordance with applicable law. (Dec. 2012)**

## 13. Personal Use of Electronic Office Equipment and Network Access Policy

**REPLACED - See Information Technology: Acceptable Use policy (Oct. 2013)**

## 14. Workplace Violence

Workplace violence is defined as any act of physical, verbal or written aggression by an individual in or related to the work place. This includes, but is not limited to, verbal or physical threats or intimidation, assault or battery by an employee, former employee or visitor to a Commission workplace. Workplace violence also includes destruction or abuse of property.

The Commission is committed to maintaining a safe work environment free of all forms of violence for all Commission employees, agents of the Commission and customers. Any act of violence or intimidation, including verbal or physical threats, is strictly prohibited at all times and will lead to disciplinary action, which may include immediate termination.

## 15. Restriction of Weapons

- a. No Commission employee while on duty on the premises of Commission property, including Commission-owned or -leased parking areas, and no Commission employees while on duty, whether on Commission property or not, shall:
  - i. Possess a loaded or unloaded firearm. "Firearm" means a weapon, by whatever name known, including pistol, revolver, gun, or rifle, which is designed to expel a projectile by the action of an explosive, compressed air, or spring.
  - ii. Possess a dangerous weapon. "Dangerous weapon" means metal knuckles, straight razor, weapon of the type commonly known as a nunchaku, blackjack, sap, or sap glove, slingshot, bomb or bombshell, and any type of knife other than an ordinary pocketknife with a blade not longer than three and one-half inches. When carried with intent to use the same unlawfully against another, "dangerous weapon" also includes any instrument or device capable of inflicting injury to the person or property of another.
  - iii. Possess or discharge fireworks or explosives of any nature.
- b. Exception: Commission employees who have been authorized specifically and in writing by the Commission or General Manager to possess firearms or dangerous weapons as part of their job duties.

## **16. Accepting and Taking Items from Exhibitors**

No Commission employee is permitted to accept or take items from exhibitors, promoters, clients, or performers. Accepting or taking such items is subject to disciplinary action up to and including termination.

## **17. Inclement Weather**

- a. All employees are to assume that all buildings are open as normally scheduled unless they are told otherwise by their Facility Director.
- b. Employees not scheduled to work or scheduled to be on approved leave during any facility closure due to inclement weather will be compensated consistent with the work schedule or approved leave and shall record their time according to the applicable leave policy.
- c. In the event that a Facility Director or designee determines that inclement weather conditions justify shortening the workday for facility employees, the modified hours will be treated as the full workday for employees who report to work. Any employee who is unable to report to work may take the time as unpaid leave or may charge the absence to any accrued leave balance, except sick leave, but shall not be credited with paid time for the modified schedule. Non-exempt employees who require additional travel time may take the time as unpaid leave or may charged the additional time to any accrued leave balance, except sick leave. Employees unable to work the full modified schedule shall follow applicable procedures for notifying a supervisor of the absence.
- d. If a facility is closed due to inclement weather, employees who are scheduled to work will be paid for their normal work hours. If the inclement weather day was a previously scheduled vacation day, personal day or day off, it will be treated as such.

## **18. Drivers' Licenses**

All employees driving on property managed by MERC or parking in MERC-owned or -operated parking facilities must have a valid driver's license.

 Metro | *Policies and procedures*

**Subject** Discipline and Discharge  
**Section** Human Resources  
**Approved by** MERC Commission

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**EXCERPT FROM MERC PERSONNEL POLICIES (2007)**

*Policy is under review. Numbering has been changed from original manual; content is from former Section 13, MERC Personnel Policies (2007).*

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**DISCIPLINE AND DISCHARGE**

**1. General**

Nothing in these Personnel Policies precludes managers and supervisors from establishing work rules that are consistent with these policies for efficient operation and administration of the job site, or precludes supervisors from having private discussions with employees. These discussions may be in the form of assignment, instruction, or any other job-related communication. Any disciplinary action may be grieved under the grievance procedure established in ~~Section 14~~ by these policies. The Commission reserves the right to enter into last chance agreements with its employees.

- a. Disciplinary actions shall include, but not be limited to, oral or written reprimand, suspension, reduction in pay, transfer, demotion and/or dismissal from employment. Any of these disciplinary actions may be utilized. It may not be necessary in every circumstance that the discipline be taken progressively.

The Commission reserves the right to discipline employees, up to and including termination, whenever:

- i. The employee's performance is unsatisfactory, or
  - ii. The Commission feels discipline or termination is appropriate for other reasons, or
  - iii. Whenever it is determined that such action is in the best interests of the Commission.
- b. The following behaviors are some (not all) examples of the types of conduct that will result in disciplinary action. The listing of these examples is for illustrative purposes, and in no way limits the Commission's authority and discretion to discipline or terminate employees pursuant to paragraph (A) of this section.
    - i. Abandonment of position;

- ii. Abuse of leave privileges;
- iii. Unauthorized absence from duty;
- iv. Below standard work performance
- v. Discourteous treatment of any member of the public or any Commission employee, including but not limited to intentional tortious conduct;
- vi. Any rude, boorish, insulting, intimidating, abrasive, bullying or threatening behavior that can be construed as creating an unproductive work place or hostile work environment.
- vii. Possessing, using, transferring, offering or being under the influence of any intoxicants or narcotics during work hours;
- viii. Fraud in securing appointment or promotion;
- ix. Insubordination including, but not limited to, refusal or failure to follow the directive of a supervisor or other designated management staff, failure to comply with an established work rule or procedure, or discourteous behavior towards members of management;
- x. Misuse of Commission property, funds, or records;
- xi. Neglect of duty;
- xii. Habitual or excessive absence or tardiness, or abuse of sick leave privileges;
- xiii. Failure to cooperate or interfering with an internal investigation;
- xiv. Willful deceit;
- xv. Willful violation of established safety policies;
- xvi. Any conviction by a court of law that demonstrates an impaired ability to properly perform work for the Commission, or that would cause an embarrassment or inconvenience to the Commission;
- xvii. Inability to get along with fellow employees so that work being performed is hindered or below standard;
- xviii. Violation of any Commission regulation;
- xix. Any falsification of information during the employment application or employment appointment process, regardless of when discovered;
- xx. Harassment or discrimination;
- xxi. Theft, including personal or public property;
- xxii. Sleeping on the job;
- xxiii. Gambling on Commission premises, including but not limited to card and dice games;

- xxiv. Bringing weapons on Commission property;
- xxv. Falsification of documents;
- xxvi. Violation of these personnel policies, established work rules, or other management directives.

c. Procedures for Suspension, Reduction in Pay, Transfer, Demotion, or Dismissal

Information gathered by the supervisor will be reviewed by the Human Resources Manager and the Facility Director prior to the supervisor taking any suspension, reduction in pay, transfer, demotion or dismissal action. If the Human Resources Manager or designee determines a basis for discipline may exist, then:

- i. An employee may be suspended, with or without pay, pending disciplinary action. The General Manager must approve any proposed suspension without pay.
  - ii. A written notice of contemplated disciplinary action shall be delivered to the affected employee in person or by mail. This notice shall state the reasons for the proposed action and will include:
    - A. The alleged conduct by the affected employee;
    - B. The violation(s); and
    - C. A date, time, and place for the affected employee to have an opportunity to address the violation(s) at a pre-disciplinary meeting.
  - iii. Upon completion of the pre-disciplinary process, a written notice of the actual disciplinary action taken, if any, shall be delivered to the affected employee in person or by mail. This notice shall state the disciplinary action taken, the violation(s), and the effective date of the disciplinary action. This notice shall be a permanent part of the affected employee's personnel record.
  - iv. No failure by the Commission to follow any of the procedures described herein shall be grounds for invalidating disciplinary action, including termination, which is otherwise deserved on the merits. Additionally, the Human Resources Manager may, in his or her discretion, dispense with all or part of these procedures, with or without notice to the employee.
- d. The affected employee may grieve the final disciplinary action pursuant to the grievance procedure established in these policies. In the case of a dismissal action, the grievance shall be filed at Step 2, with the General Manager, with a copy to the Human Resources Manager or designee.

# Metro | *Policies and procedures*

**Subject** Discrimination and Harassment  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*Metro is committed to promoting and maintaining a work environment that is free from all forms of discrimination, harassment, intimidation, hostility and offensive behavior.*

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## **Applicable to**

All employees, elected officials, interns, volunteers, visitors, contractors and vendors.

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

## **Definitions**

**Discrimination:** An act having adverse effect on one or more individuals because of race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, veteran status, disability or perceived disability, or any other status protected by law. It may be intentional or unintentional.

**Harassment:** Behavior which is reasonably perceived by the recipient as unwelcome and includes, but is not limited to, the use of verbal/written derogatory or discriminatory statements, denigrating jokes, unwelcome touching, offensive remarks, put-downs, epithets, slurs or negative stereotyping, displays, objects or materials which create an offensive work environment. Harassment has the purpose or effect of creating an intimidating, hostile, abusive or offensive work environment; unreasonably interfering with an individual's work performance; or otherwise adversely affecting an individual's employment and employment related opportunities.

Harassment does not refer to behavior or occasional compliments of a socially acceptable nature. It refers to behavior that is not welcome, offensive, fails to respect the rights of others, lowers morale, and/or interferes with work effectiveness.

**Unlawful Harassment:** Any harassment as defined above that is based on a protected class status or singles someone out because of their protected class, and where: 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

**Retaliation:** Treating someone negatively or differently because that person has filed a complaint under this policy, exercised his or her rights under state or federal law, or participated in a harassment investigation.

Protected Class: Any individual or group of individuals for whom there is an established law prohibiting discrimination, harassment, or retaliation. Examples of protected classes are race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, veteran status or disability.

## **Guidelines**

1. Any practice or behavior which acts to discriminate against or harass an employee, intern, volunteer or applicant because of his or her race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, veteran status, disability or perceived disability, or any other status protected by law, is in direct conflict with Metro's commitment to ensuring a discrimination and harassment-free work environment. Such behavior, or tolerance of such behavior, on the part of management or employees violates Metro's policy and may result in disciplinary action up to and including termination, even if the conduct does not necessarily constitute a violation of the law.
2. This policy applies to all conduct on any of Metro's premises and to conduct off Metro's premises that has an effect on an employee's work environment.
3. No employee, elected official, intern, volunteer, visitor, contractor or vendor may engage in any of the following conduct (this list represents examples and is not intended to be all-inclusive):
  - a. Making unwelcome sexual advances, requesting for sexual favors, or engaging in other inappropriate verbal or physical conduct of a sexual nature.
  - b. Making stereotypical offensive comments, jokes, innuendo or threats about a person's protected class status (e.g. race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, veteran status or disability).
  - c. Bringing suggestive or offensive objects or pictures, cartoons, or graphics onto Metro premises, either electronically or otherwise.
  - d. Making suggestive or insulting sounds or obscene gestures, leering, staring, or whistling.
  - e. Making unwanted physical contact with others, such as touching, grabbing, pinching, brushing the body, neck or back rubs, coerced sexual intercourse or assault.
4. Management and elected officials must demonstrate by their own conduct that they support and enforce Metro's policy. For example, managers must take prompt action when they observe inappropriate conduct or when a complaint is made, and are expected to provide leadership in carrying out the policy's intent. If a manager learns of any potential discrimination or harassment in the workplace, they must immediately contact the Metro Human Resources department.

## **Procedures**

### **Complaint Procedure**

1. Any employee, intern, volunteer or elected official subjected to discrimination or harassment is encouraged to proceed under the Complaint Procedure in this policy. Individuals who observe or who are aware of situations involving discrimination or harassment should immediately notify their supervisor, the Human Resources Director, or any other manager at

Metro. Discretion will be used during the investigation in order to maintain as much confidentiality as is possible without compromising the ability to effectively complete the investigation.

- a. If a complaint, whether informal or formal, is concerning a Councilor, the complaint shall be forwarded to the Council President or Human Resources Director. If the complaint, whether informal or formal, is about the Council President, the complaint shall be forwarded to the Deputy Council President or Human Resources Director.
  - b. If a complaint, whether informal or formal, is about the Chief Operating Officer, the complaint shall be forwarded to the Council President or Human Resources Director.
  - c. If a complaint, whether informal or formal, is about the Auditor, the complaint shall be forwarded to the Chief Operating Officer or Human Resources Director.
  - d. If a complaint, whether informal or formal, is concerning the Human Resources Director, the complaint shall be forwarded to the Chief Operating Officer.
  - e. If a complaint, whether informal or formal, is about the Metro Attorney, the complaint shall be forwarded to the Council President or Human Resources Director.
2. Formal Complaint Procedure: A formal complaint alleging an act of discrimination or harassment by an employee, elected official, intern, volunteer, visitor, contractor or vendor may be submitted in writing to the Human Resources Director.
- a. A written complaint should include the following information:
    - i. the complainant's name and protected class status (e.g., race, religion, sex, national origin, disability, age, veteran status, sexual orientation, etc.) if applicable;
    - ii. the nature of the complaint, the date the alleged violation occurred, the name of the person who is the subject of the complaint, and the names of any witnesses present; and
    - iii. if the complaint is in regard to a vendor, contractor or subcontractor, the name of that organization.
  - b. The Human Resources Director or his or her designee shall:
    - i. thoroughly investigate the complaint and establish a file of findings;
    - ii. submit the findings with a recommendation to the Department Director or his or her designee;
    - iii. inform the alleged harasser of the determination and any action to be taken; and
    - iv. notify the complainant that the investigation has been completed and relevant avenues of appeal, if appropriate.
3. Informal Complaint Procedure: Some individuals alleging an act of unlawful discrimination or harassment may wish to go through an informal process. The following informal procedure is established to address that need; however, a person making a complaint is not required to use this procedure either in lieu of or prior to proceeding with a formal complaint.

- a. Any person alleging an act of discrimination or harassment by another employee, elected official, intern, volunteer, visitor, contractor or vendor has occurred, may verbally request an informal investigation of the allegation by either his or her Manager/Director, or the Human Resources Director.
  - b. The Manager/Director, or Human Resources Director or his or her designee shall, after appropriate investigation of the complaint, determine what informal remedial action, if any, shall be taken. The Manager/Director, or Human Resources Director or his or her designee shall inform the complainant and alleged harasser of the determination and any action to be taken. The details of any disciplinary action taken against the alleged harasser will not be disclosed to the complainant.
  - c. If the complainant does not feel that the informal procedure satisfactorily resolves his or her complaint, or if the complainant does not want to initiate the informal procedure, he or she may proceed with the formal complaint procedure described above.
  - d. All management and supervisory personnel who have received a report or complaint of discrimination or harassment shall immediately inform Metro's Human Resources Director. The Human Resources Director shall make arrangements for the prompt and proper investigation of such report or complaint.
  - e. Discretion will be used during the investigation in order to maintain as much confidentiality as possible while still being able to effectively complete the investigation.
4. Job Applicant Complaint Procedure: Any individual who has made application for employment and alleges that an act of unlawful discrimination has occurred may file a complaint in writing to the Human Resources Director as set forth in the formal procedure outlined above.

### **Retaliation**

5. An employee, intern or volunteer who files a complaint of discrimination or harassment, participates in the investigation of a complaint, or reports or opposes harassing or discriminatory behavior shall not be subject to adverse treatment as a result of such activity. In addition, any individual who is the subject of, or is aware of, a complaint must refrain from taking any retaliatory actions against the person who complained, or against others participating in the investigation.
6. Any form of retaliation related to a discrimination or harassment complaint may result in discipline up to and including termination.
7. Any employee, intern or volunteer who believes he or she has been retaliated against for filing a complaint or otherwise participating in any investigation under this policy should immediately report the circumstances to the Human Resources Director.

### **Responsibilities**

#### Employee/Intern/Volunteer:

- Demonstrate support of the policy by your own conduct; refrain from engaging in behaviors which constitute harassment, discrimination or retaliation.

- If you are comfortable doing so, tell employees or other individuals who violate this policy to stop the offensive behavior.
- Immediately notify your supervisor, Human Resources Director or any Metro manager if you observe or are aware of situations involving discrimination, harassment or retaliation in the workplace.

Director/Manager/Supervisor:

- Monitor and ensure that the work environment is free from discrimination, harassment and retaliation.
- Demonstrate support and enforcement of the policy by your own conduct, and provide leadership in carrying out this policy's intent.
- Take all complaints of discrimination or harassment seriously.
- Immediately notify Human Resources if you learn of any actual or potential discrimination, harassment or retaliation in the workplace.

Human Resources:

- Upon notification of potential discrimination, harassment or retaliation in the workplace, immediately conduct a thorough investigation.
- Take appropriate action in order to end discrimination, harassment or retaliation in the workplace.

**References**

Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352) (Title VII), as amended, 42 U.S.C. § 2000e *et seq.*

ORS 659A.030

2013 Oregon Laws Ch. 379 (House Bill 2669)

Additional information can be obtained from the Oregon Bureau of Labor and Industries ([www.boli.state.or.us](http://www.boli.state.or.us)) or the Equal Employment Opportunity Commission ([www.eeoc.gov](http://www.eeoc.gov)).

 Metro | *Policies and procedures*

**Subject** Ethical Requirements for Employees, Officers, Elected and Appointed Officials  
**Section** Human Resources  
**Approved by** Office of the Executive

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**EXCERPT FROM METRO CODE 2.02.120 (2005)**

*Policy is under review. Numbering is from original Code provision.*

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**METRO CODE §2.02.120 - Ethical Requirements for Employees, Officers, Elected and Appointed Officials**

- (a) The purpose of this section is to establish a Code of Ethics for Metro public officials which is consistent with current public policy established by the Oregon Legislative Assembly. Failure to comply with the provisions of this Code shall be grounds for disciplinary action for employees of Metro.
- (b) "Public official" means any employee, officer, elected official or appointed member of a board, commission or committee of Metro.
- (c) All public officials of Metro shall strictly comply with the following requirements:
  - (1) No public official shall use official position or office to obtain financial gain for the public official, other than official salary, honoraria or reimbursement of expenses, or for any member of the household of the public official, or for any business with which the public official is associated.
  - (2) No public official or candidate for office or a member of the household of the public official or candidate shall solicit or receive, whether directly or indirectly, during any calendar year, any gift or gifts with an aggregate value in excess of ~~\$100~~ **\$50 (see ORS 244.025 as amended)** from any single source who could reasonably be known to have a legislative or administrative interest in any governmental agency in which the official has or the candidate, if elected, would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.
  - (3) No public official shall solicit or receive, either directly or indirectly, and no person shall offer or give to any public official any pledge or promise of future employment, based on any understanding that such public official's vote, official action or judgment would be influenced thereby.
  - (4) No public official shall further the personal gain of the public official through the use of confidential information gained in the course of or by reason of the official position or activities of the public official in any way.

- (5) No person shall offer during any calendar year any gifts with an aggregate value in excess of ~~\$100~~ \$50 to any public official or candidate therefor or a member of the household of the public official or candidate if the person has a legislative or administrative interest in a governmental agency in which the official has or the candidate, if elected, would have any official position or over which the official exercises or the candidate, if elected, would exercise any authority.
- (d) The Auditor and every member of the Council of Metro shall be required to comply with the reporting requirements established by ORS 244.060, including the filing of a Statement of Economic Interest on an annual basis as required by state law. A copy of the Statement of Economic Interest shall be filed with the Chief Operating Officer at the time of filing with the appropriate state agency.
- (e) The Chief Operating Officer, the Metro Attorney, the Chief Financial Officer, and all members of the Metropolitan Exposition-Recreation Commission and all Department Directors shall file annually with the Chief Operating Officer a Statement of Economic Interest which is substantially consistent with that required by ORS 244.060.
- (f) Public officials shall comply with the following requirements regarding the declaration of potential conflicts of interest and recording the notice of a potential conflict:
- (1) If the public official is an elected public official or an appointed public official serving on a board or commission, announce publicly the nature of the potential conflict prior to taking any action thereon in the capacity of a public official.
  - (2) If the public official is any other appointed official subject to this chapter, notify in writing the person who appointed the public official to office of the nature of the potential conflict, and request that the appointing authority dispose of the matter giving rise to the potential conflict. Upon receipt of the request, the appointing authority shall designate within a reasonable time an alternate to dispose of the matter, or shall direct the official to dispose of the matter in a manner specified by the appointing authority.
  - (3) Nothing in subsection (1) of this section requires any public official to announce a potential conflict of interest more than once on the occasion which the matter out of which the potential conflict arises is discussed or debated.
  - (4) Nothing in this section authorizes a public official to vote if the official is otherwise prohibited from doing so.
  - (5) When a public official gives notice of a potential conflict of interest, the potential conflict shall be recorded in the official records of the public body.

*(Ordinance No. 89-305A, Sec. 3. Amended by Ordinance No. 94-523B; Ordinance No. 02-965A, Sec. 1; and renumbered by Ordinance No. 05-1082, Sec. 1.)*

 Metro | *Policies and procedures*

**Subject** Mandatory Reporting of Child Abuse  
**Section** Human Resources; Office of Metro Attorney  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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**POLICY**

*All Metro employees are required to report suspected child abuse to the proper authorities in accordance with Oregon law, whether or not the employee is at work when they witness or learn of the abuse.*

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**Applicable to**

All employees.

**Definitions**

Child: An unmarried person under 18 years of age.

Child abuse: Physical or mental injury to a child that is not accidental and that endangers the welfare and safety of a child. Examples of child abuse include:

- a. Assault and any physical injury to a child that has been caused by other than accidental means. This includes an injury that appears in conflict with the explanation given for the injury;
- b. A mental injury that includes observable and substantial impairment to the child's mental or psychological ability to function caused by cruelty to the child, with a due regard to the culture of the child;
- c. Sexual abuse that includes incest, rape, sodomy, sexual penetration, fondling, voyeurism and sexual harassment;
- d. Sexual exploitation of a child, including contributing to the sexual delinquency of a minor and allowing, encouraging or hiring a child to engage in prostitution;
- e. Negligent treatment or maltreatment of a child, including failure to provide adequate food, clothing, and shelter or medical care that is likely to endanger the child's health or welfare;
- f. Threatened harm to a child, which means subjecting a child to a substantial risk of harm to the child's health or welfare;
- g. Buying or selling a person under 18 years of age except legitimate adoptions or domestic relations planning;

- h. Permitting a person under 18 to remain on premises where methamphetamines are being manufactured;
- i. Unlawful exposure to a controlled substance that subjects a child to a substantial risk of harm to health or safety;
- j. Physical injuries that include bruises, cuts, burns, scalds, head injuries, internal injuries, poisoning, electrical shocks, fractures, sprains that are not accidental.

“Abuse” does not include reasonable discipline unless the discipline results in one of the conditions described in a. through j. above.

**Mandatory child abuse reporter:** Under Oregon law, mandatory reporters include employees of “public or private organizations providing child-related services or activities.” Because Metro provides child-related activities, all Metro employees are mandatory reporters even if they do not work directly with children.

**Law enforcement agency:**

- a. A city or municipal police department;
- b. A county sheriff’s office;
- c. The Oregon State Police;
- d. University police departments and officers;
- e. A county juvenile department.

**Guidelines**

1. All Metro employees must immediately report suspected child abuse to the local office of the Department of Human Services, to the designee of the department, or to a law enforcement agency within the county where the person making the report is located at the time of the contact as required by Oregon law and outlined in this policy. See Procedures below.
2. Child abuse reporting is a 24 hour a day, 7 day a week personal obligation. The law applies regardless of whether the suspected abuse occurs at work or while off-duty. A report must be made even if the suspected child abuse did not occur on Metro premises and has no connection to Metro.
3. If an employee observes or suspects child abuse on Metro premises or related to Metro activities, the employee must also inform a supervisor immediately. While telling a supervisor does not fulfill the employee’s individual mandatory reporting obligation under the law, it is important to ensure that Metro is aware of the abuse and can take all necessary steps to protect the child.
4. For additional information about mandatory child abuse reporting, please see Frequently Asked Questions: Mandatory Reporting of Child Abuse in Oregon.

**Procedures**

1. Under Oregon law, a Metro employee must make an immediate oral report by telephone or other means following the procedures below whenever he or she has reasonable cause to believe:
  - a. Any child with whom a Metro employee comes in contact has suffered abuse; or
  - b. Any person with whom a Metro employee comes in contact has abused a child.

2. The report must be made to a local office of the Department of Human Services, to DHS's designee, or to a law enforcement agency within the county where the reporter is located at the time of the contact with the child or suspected abuser.
  - a. The report may be made by telephone or by other oral or written means.
  - b. For emergency situations, call 911
  - c. For non-emergency situations, contact:
    - i. Local office of the Department of Human Services
      - Multnomah County: 503-731-3100, 800-509-5439
      - Clackamas County: 971-673-7112, 800-628-7876
      - Washington County: 503-681-6917, 800-275-8952
    - ii. A law enforcement agency such as the local police department, county juvenile department, county sheriff or Oregon State Police:
      - Portland Police Bureau: 503-823-3333
      - Multnomah County Sheriff: 503-988-4300
      - Clackamas County Sheriff: 503-655-8211
      - Oregon State Police – Portland Area Command: 503-731-3020
3. The report should include the following information, if known:
  - a. The name and address of the child;
  - b. The name and address of the child's parents;
  - c. The child's age;
  - d. The type and extent of the abuse, including any previous evidence of abuse;
  - e. The explanation given for the abuse;
  - f. Any other information that will help establish the cause of the abuse or identify the abuser.
4. If the suspected abuse occurred on Metro premises or in connection with Metro activities, the employee must inform a supervisor as soon as possible in addition to making the report described above.

## **Responsibilities**

### Employee:

- Any time, on or off the job, that you have reasonable cause to suspect child abuse, immediately make a report to the local office of the Department of Human Services or for emergencies call 911. Ask your supervisor or the Human Resources Department if you need additional information.
- Inform your supervisor immediately if you observe or learn of an incident of child abuse on Metro premises or related to Metro activities.

### Supervisor/Manager/Director:

- If an employee reports suspected child abuse, take appropriate steps to protect the child and report the incident to the Office of Metro Attorney for follow-up.

Office of Metro Attorney:

- Coordinate any follow-up to reported incidents of child abuse.

Human Resources Department:

- Design and implement educational training on child abuse reporting.
- Take appropriate action in response to reports of violations of this policy.

**References**

ORS 419B.005 to 419B.045, amended by House Bill 2622

2013 Oregon Laws Ch. 129 (H.B. 2622)

Frequently Asked Questions: Mandatory Reporting of Child Abuse in Oregon

# Metro | Policies and procedures

**Subject** Information Technology: Acceptable Use  
**Section** Information Services; Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*Information, computer systems and devices are made available to users to optimize employee productivity in support of Metro's business processes. The purpose of this policy is to inform technology users of the appropriate and acceptable use of information, computer systems and devices.*

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## **Applicable to**

All employees and other users of Metro agency information-related technology, services or systems.

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

## **Definitions**

Access: To instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system or computer network.

Computer Software: Computer programs, procedures and associated documentation concerned with the operation of a computer system.

Encryption: Use of a process to transform data into a form in which the data is unreadable or unusable without the use of a confidential process or key.

Information System: Computers, hardware, software, storage media, networks, operational procedures and processes used in the collection, processing, storage, sharing or distribution of information within, or with access beyond ordinary public access to, Metro's shared computer and network infrastructure.

Technology Asset: A data processing device that performs logical, arithmetic or memory functions, including the components of a computer and all input, output, processing, storage, software or communication facilities that are connected or related to such a device in a system or network. Technology assets include, but are not limited to, computers, tablets, telephones, and other messaging devices.

Technology Services: Information systems that are functioning on the public network subscribed to by Metro, including services found on the Internet that hold and process mail, files or streams of information.

Users: All Metro employees, volunteers, vendors and contractors who access Metro information assets, and all others authorized to use Metro information technology for the purpose of accomplishing Metro's business objectives and processes.

## **Guidelines**

- 1. Users have no right to expect that any information created on, kept on, or transmitted through the Metro information system is private.**
  - a. All information created or kept on Metro information systems, including email, is subject to review for compliance with public records law, regardless of whether the content is business-related or personal.
  - b. Metro documents, communications and work products stored on personally owned devices are also subject to public records law. The use of personally owned electronic devices such as home computers, laptops, smart phones and tablets to access Metro's internal networks may subject the personal device to review and possible disclosure.
  - c. Metro may monitor all electronic communications and information contained on its systems. Metro may monitor any and all email traffic passing through its email system as well as website visits, other computer transmissions, and any stored information created or received using Metro's information systems.
  - d. Metro will disclose or maintain the confidentiality of information in accordance with applicable law.
2. Metro information systems and devices are provided for business purposes only; however, Department Directors may approve limited, incidental personal use consistent with the terms of this policy.
3. Metro expects employees to comply with normal standards of professional and personal courtesy and conduct in their use of email and other electronic communications.
4. The Information Services Department is responsible for issuing guidance, consistent with this policy, to address changing technology or business needs. At a minimum, newly issued guidance will be posted on the IS intranet page and notification will be emailed to employees with Metro email addresses.
5. Violation of terms of this policy may result in the limitation, suspension or revocation of access to Metro information systems and can lead to other disciplinary action up to and including termination.

## **Procedures**

### **General security protocols**

1. All users must be authorized by Information Services to use Metro technology assets.
2. Users are responsible for the security of their passwords and accounts. Users must keep their passwords confidential. Passwords must be changed on a regular basis and should be complex enough that they cannot be easily discovered.

3. Users of Metro information systems shall respect the confidentiality of other users' information. Users shall not attempt to:
  - a. access third-party systems without prior authorization by the system owners;
  - b. obtain other users' login names or passwords;
  - c. attempt to defeat or breach computer or network security measures;
  - d. intercept, access, or monitor electronic files or communications of other users or third parties without approval from the author or responsible business owners;
  - e. review the files or information of another user without a specific business need to do so.
4. **Remote access:** Users may access Metro networks and email from remote locations only with proper authorization and through the use of agency-approved and agency-provided remote access systems or software.
  - a. Telecommuting is subject to applicable Metro policies and collective bargaining agreements.
5. **Software:** Non-approved software, including but not limited to desktop and workgroup applications, screen savers, browsers, application plug-ins and games, may not be downloaded or installed from the Internet, portable computer and storage devices, or other external sources without prior approval from Metro Information Services.
  - a. Approved software is listed on the IS Department intranet page.
  - b. Employees who have an ongoing business need to download non-approved software may request an exception from the requirement to obtain prior approval each time. Such requests must be supported by the employee's supervisor and submitted to the IS Department in writing. IS will evaluate the request with due consideration to the employee's business need, Metro's operational readiness, and the potential security impact. If the request is granted in whole or in part, IS will provide a written description of the expanded approval.
  - c. The IS Director has final authority over software approval decisions.
6. **Privately owned electronic devices:** Privately owned devices may not be connected to Metro networks, wireless access points, computers or other equipment without prior approval from Metro Information Services.
  - a. Privately owned devices such as laptops, smart phones and tablets may be connected to the email server over the public internet in accordance with IS Department guidance.
  - b. Hardware devices that are not required for assigned work must not be attached to a Metro-provided computer. All hardware attached to Metro systems must be appropriately configured, protected and monitored so it will not compromise Metro technology assets.
7. **Instant messaging and streaming video/audio:** Departments may allow the use of Instant Messaging (IM) and other communications or messaging alternatives for business purposes. Departments may also allow the use of streaming video/audio for business purposes. However, these uses must be approved, documented, and adequately secured and must comply with Metro records and information management policies. The IS Department is authorized to monitor IM communications and video/audio streams as needed for business or legal reasons.

8. Technology assets must not be used in a manner that impairs the availability, reliability or performance of Metro business processes and systems or unduly contributes to system or network congestion.
9. Users are required to report evidence of computer viruses, security breaches, or unauthorized access to the IS help desk as soon as possible.
10. Metro-provided email systems and Internet access for the public must be secured appropriately in order to protect Metro technology assets.
11. Metro may employ additional security controls, such as limited workstation access, in order to protect Metro technology assets and maintain a secure environment.
12. Information Services is responsible for monitoring the use of information systems and assets. At a minimum, IS will monitor on a random basis and for cause. Monitoring systems or processes will be used to create usage reports and the resulting reports will be reviewed by Information Services management for compliance.

### **Restriction of personal use of Metro technology assets**

13. Internet use increases the risk of exposing Metro technology assets to security breaches. Metro can only accept this risk for business uses.
  - a. Business use includes accessing information related to employment with Metro, such as accessing benefit-related information. Approved sites for this purpose are the Oregon Public Employees' Retirement System (PERS), Employee Assistance Program (EAP), Oregon Savings Growth Plan and union contract information.
  - b. Department Directors may determine whether to allow limited incidental personal internet use, such as to check weather conditions or in case of emergency.
  - c. Metro has discretion to determine if an employee's use is personal or business. Employees will not be disciplined for personal use without an opportunity to explain any business reasons for the use.
14. Email is to be used for Metro-related business only, except as follows:
  - a. Department Directors may allow employees limited, incidental personal use as long as it does not violate other requirements of this policy and there is no significant cost to the agency.
  - b. Email may be used for union business to the extent allowed in the applicable collective bargaining agreement.
15. Metro employees are responsible for exercising good judgment regarding the reasonableness of personal use of Metro's technology assets. No personal use of Metro information systems shall interfere with staff productivity, pre-empt any business activity, consume more than a trivial amount of resources, or be used for personal gain.
  - a. Users may not use Metro technology systems to play computer games, regardless of whether Internet-based, personal, or included with approved software applications.
  - b. Metro systems may not be used for hosting or operating personal Web pages; non-business-related postings to Internet groups, chat rooms, or list services; or creating, sending or forwarding chain emails.

- c. Metro information systems, other than the intramet bulletin board, may not be used for personal solicitation. Systems may not be used to lobby, solicit, recruit, sell or persuade for or against commercial ventures, products, religious or political causes, or outside organizations.

### **Prohibited uses**

16. Metro networks and systems shall not be used to intentionally view, download, store, transmit, or retrieve any information, communication or material that:
  - a. is harassing or threatening; is obscene, pornographic or sexually explicit;
  - b. is defamatory;
  - c. fosters hate, bigotry, discrimination or prejudice or makes discriminatory reference to race, age, gender, sexual orientation, gender identity, religious or political beliefs, national origin, health or disability;
  - d. is untrue or fraudulent;
  - e. is illegal or promotes illegal activities;
  - f. is intended for personal profit;
  - g. facilitates Internet gaming or gambling; or
  - h. contains offensive humor.
17. Under certain circumstances, there may be legitimate business reasons to access materials that are otherwise prohibited. Employees should obtain supervisor approval before accessing such materials.
18. Users shall not intentionally destroy data in an attempt to misrepresent data in Metro information systems.
19. Personal hardware or software may not be used to encrypt any Metro-owned information except with express prior permission and direction from Information Services.
20. Users shall not send email or other electronic communication that attempts to hide the identity of the user or represent the user as someone else. Users shall not utilize proxy devices or servers to hide their identity or to circumvent existing security. No use of scramblers, remailer services, drop-boxes or identity-stripping methods is permitted.

### **Additional legal requirements**

21. All information created on or stored within Metro's applications, systems, devices and networks, whether on or off-premises, is the sole property of Metro and subject to its sole control, except as required by contract. In addition, all Metro documents, communications and work products are the sole property of Metro, regardless of whether the information is stored, accessed or transmitted via Metro-owned or personally owned devices such as computers, tablets, and cell phones.
  - a. No part of Metro agency systems or information is or may become the private property of any system user.
  - b. Metro owns all legal rights to control, transfer, or use all or any part or product of its systems.

- c. Metro is under no obligation to store or forward the contents of an individual's email inbox, outbox or contact list either during or after their employment.
22. Use of Metro information systems must comply with copyrights, licenses, contracts, intellectual property rights and laws associated with data, software programs and other materials made available through those systems.
23. Users must comply with Metro's records retention policies.

## **Responsibilities**

### Employees:

- Take reasonable steps to ensure the physical security of Metro technology assets and passwords and report missing, lost or stolen Metro technology assets to their supervisor immediately.
- Use Metro technology assets in a manner consistent with the Acceptable Use Policy, seeking answers to any questions about the policy from their supervisor or the IS help desk as needed.

### Supervisors:

- Ensure that authorized users have received training on acceptable use through the Metro Learning Center software or have received and signed a hard copy of the policy.
- Submit new account request forms for new employees.
- Review and update employee access when requested.
- Ensure employees are using Metro technology assets in a manner consistent with the Acceptable Use Policy and guard against inappropriate use of such assets by employees.
- Coordinate with the agency's Information Services and Human Resources Departments on violations of acceptable use of Metro technology assets.

### Department directors:

- Ensure that department purchases for Metro technology assets are restricted to only those necessary for the conduct of official business and that standards for hardware and software are followed.
- Ensure appropriate usage of Metro technology assets and compliance with applicable rules and policies.

### Information Services:

- Implement firewall, anti-virus, role provisioning, password controls, web surfing and Email filtering mechanisms, ensure their maintenance, and monitor logs and reports for system performance and compliance.
- Report policy violations to the Human Resources Department and/or supervisory staff as appropriate.

- Create hardware and software standards with the help of a technical standards committee and publish hardware and software standards on at least an annual basis.
- Review policy annually to determine applicability. Publicize new guidance on the intramet and by email.
- Update filters by employee or group to include items required as part of the job when directed by a manager.

Human Resources Department:

- Alert Information Services of policy violations when appropriate.

**Related References**

- Information Services Department intramet page:  
<http://imet.metro-region.org/index.cfm/go/by.web/id=3265>
- Social Media policy

# Metro | *Policies and procedures*

**Subject** Social Media Policy  
**Section** Communications; Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer

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## **POLICY**

*Metro recognizes the value of social media in connecting with the citizens of the Metro region. Metro finds social media to be a valuable tool to further the goals of the Metro Compass. This policy establishes expectations for employee use of social media. Metro has an overriding interest in what is "spoken" on behalf of Metro on social media sites.*

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## **Applicable to**

All employees.

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

## **Definitions**

**Social Media:** Primarily internet and mobile-based tools for sharing and discussing information. The term most often refers to activities that integrate technology and social interaction. Examples include but are not limited to:

- a. Weblogs: blogs, vlogs, microblogs
- b. Wikis
- c. Social bookmarking
- d. Social networking
- e. Podcasts
- f. Videos

**Social Media Site:** A website that leverages social media tools for its visitors. Examples include but are not limited to:

- a. Facebook
- b. Twitter
- c. LinkedIn
- d. YouTube
- e. MySpace
- f. Flickr
- g. Wikipedia

**Moderator:** A Metro employee authorized to moderate public comments on a Metro social media account.

User: A Metro employee authorized to post or publish to a Metro social media account.

Public Record: As defined by Oregon Revised Statutes (ORS) 192.005(5), a public record is “a document, book, paper, photograph, file, sound recording or machine-readable electronic record, regardless of physical form or characteristics, made, received, filed or recorded in pursuance of law or in connection with the transaction of public business, whether or not confidential or restricted in use.”

### **Guidelines**

1. All Metro social media users and moderators shall comply with this policy and the laws cited herein as well as the Metro Charter, Code and other applicable policies. Applicable policies include but are not limited to the Metro Email/Voicemail Policy, Network Access Policy, Restrictions on Political Campaigning by Public Employees, Discrimination and Harassment Policy, and the Code of Ethics.

### **Personal Use of Social Media**

2. Metro employees using social media for personal use outside of work are cautioned not to give the false impression that they are speaking on behalf of Metro. The intention of this provision is to avoid misleading the public.
  - a. Employees shall avoid using Metro-generated content, including Metro’s logo, venue logos, or other Metro branding, in a way that may lead a reader to believe they are viewing Metro’s official website.
  - b. Employees who are known by the public to be Metro employees are encouraged to include a disclaimer on their personal social media accounts stating that the opinions and posts contained there are personal and are not endorsed by Metro.
3. Metro employees using social media shall have no expectation of privacy for any data posted during work time or while using Metro equipment.
4. Metro employees using social media for personal use outside of work may be subject to discipline for posts on personal blogs, profiles, and other social media accounts that are related to Metro and adversely impact the Metro work environment. Examples of social media conduct for which an employee may be disciplined include disclosing confidential information or threatening, harassing, or violating the privacy of others at Metro.

For the purposes of this provision, confidential information includes the following:

- a. Other employees’ identifiable personal information, such as medical information and social security numbers, unless permission is specifically granted by the employee;
- b. Information about confidential personnel matters, such as disciplinary information or information about job applicant performance during the selection and hiring process, unless permission is specifically granted by the employee;

- c. Information about interview or test questions used in the selection process that may provide an unfair advantage during the hiring process;
  - d. Information about security measures in place to protect employees, the public, and/or Metro assets;
  - e. Information that is subject to attorney-client privilege;
  - f. Any other information that is required to be kept confidential by law or Metro policy.
5. This policy is not intended to restrict employees from legally protected speech, such as engaging in concerted labor activity or speaking as a private citizen on matters of public concern. Employees will not be disciplined for such conduct. Determinations under this provision will be made by the Office of Metro Attorney in accordance with applicable law.

## **Procedures**

### **Using Metro's Social Media Channels**

1. A department or venue may enter into an agreement with a social media site to create a forum for interacting with the public when there is a proven need to do so and staff capacity to regularly update and moderate the online conversation.
2. To request permission for access to a social media site, employees must fill out the attached Social Media Access Request form and submit it, with supervisor and manager approval, to the Communications Director. If the Communications Director authorizes the Social Media Access Request, social media content management will be formally added to the individual employee's job description.
3. Users must familiarize themselves and comply with all Terms of Use of the social media host site. Each user shall retain a copy of the host's Terms of Use and be alert to any modification to those terms. Departments may establish their own procedures for monitoring changes to host sites' Terms of Use.
4. Whenever possible, all Metro social media accounts will display the Metro logo and tag "Making a great place" for consistency and authenticity. Metro has ownership of the Metro logo, which can only be used by Metro for Metro business. Venues that choose to display their own venue logo instead of the Metro logo shall ensure the registration of their trademark logo with the State of Oregon.
5. Users who are authorized to establish or maintain a Metro social media account shall ensure that all public comment capabilities are disabled unless they are essential to the purpose of the social media account. If public comments are enabled, the following steps must be taken:

- a. If possible, use a “click to agree” disclaimer that includes the Social Media Terms of Use, Prohibited Content and Disclaimer statement.
  - b. If there is no “click to agree” function available, the Social Media Terms of Use, Prohibited Content and Disclaimer statement must be posted in a conspicuous location on the profile or information page for the social media site.
  - c. If the formatting of the social media site cannot accommodate the full text of the Social Media Terms of Use, Prohibited Content and Disclaimer statement in a prominent location on the account, the user must include a hyperlink to the full disclaimer in a prominent location on the site.
6. Each Metro social media account shall prominently post one of the two following Terms of Use, Prohibited Content and Disclaimer statements:

Metro - Social Media Terms of Use, Prohibited Content and Disclaimer

We welcome you and your comments to Metro’s [Social Media account type]. The purpose of this site is to [mission / purpose of page]. We encourage you to submit your questions, comments, and concerns, but please note this is a moderated online discussion site and is not a public forum.

Metro reserves the right to delete submissions that contain vulgar language, personal attacks of any kind, or offensive comments that target or disparage any ethnic, racial, sexual or religious group. Further, Metro also reserves the right to delete comments that are: (i) spam or include links to other sites; (ii) off topic; (iii) advocate illegal activity; (iv) promote particular services, products, or political organizations or campaigns; (v) contain personal attacks; (vi) contain confidential or proprietary information; (vii) raise privacy concerns; (viii) identify a minor; or (ix) infringe on copyrights or trademarks.

Metro does not endorse or sponsor any comment made on this site by parties other than Metro. Such comments do not reflect the opinions and position of the Metro regional government or its officers and employees. If you have any questions concerning the operation of this online moderated discussion site, please contact \_\_\_\_\_ at phone/email\_\_\_\_\_. The comments made on this site may be considered public records and may be maintained and reproduced.

or

Metro - Social Media Terms of Use, Prohibited Content and Disclaimer

We strive to provide our guests with a positive experience when visiting our venues and websites. Please post respectfully.

This site is for your comments, questions, and concerns relating to [insert

specific mission/purpose of the applicable Visitor Venue's page]. We encourage your input, but please note this is a moderated online discussion site and not a public forum.

[Applicable Visitor Venue] reserves the right to remove submissions that contain vulgar language, personal attacks of any kind, or offensive comments that target or disparage any ethnic, racial, sexual or religious group.

[Applicable Visitor Venue] also reserves the right to delete comments that are: (i) spam or include links to other sites; (ii) off topic; (iii) advocate illegal activity; (iv) promote particular services, products, or political organizations or campaigns; (v) contain personal attacks; (vi) contain confidential or proprietary information; (vii) raise privacy concerns; (viii) identify a minor; or (ix) infringe on copyrights or trademarks.

The comments expressed on this site do not reflect the opinions and position of the [applicable Visitor Venue] or its officers and employees. If you have any questions concerning the operation of this online moderated discussion site, please contact \_\_\_\_\_ at phone/email\_\_\_\_\_. The comments made on this site may be considered public records and may be maintained and reproduced by [insert Visitor Venue].

7. If outside links are permitted, the Metro social media account shall prominently post the following "Links Disclaimer":

Metro – Outside Links Disclaimer

Links to external Internet sites do not constitute Metro's endorsement of the content of those sites, policies, or statements contained therein. Web links are often updated or deleted, and the user is cautioned to conduct his/her own research before following a link contained herein or elsewhere.

8. Metro's social media channels are designed to be moderated discussion sites rather than public forums. A moderator shall delete, in their entirety, any comments that violate the Social Media Terms of Use and Prohibited Content statement. A copy of all deleted comments shall be retained for Metro's records, including the date, time, and identity of the poster, when available, and a brief description of why the comment violates the Metro comment policy.
9. Moderators shall not discriminate against public speech based on content or viewpoint except as provided in the Social Media Terms of Use and Prohibited Content statement.
10. Users shall establish social media accounts using a Metro or venue email address. Using a Metro or venue email address will ensure that:
  - a. Personal and professional communications are separated;
  - b. Metro is able to back up public conversations because of Metro's ownership and control of the email address;

- c. Metro has access to the social media account when the employee is out on vacation or otherwise away from the office; and
  - d. Metro and the public can determine that the social media account is legitimately Metro's (and not a rogue site generated from a private email address).
- 11. All users shall be trained on appropriate and effective use of social media in order to meet Metro's goals. Only those employees who are both authorized and trained shall engage in social media activities on Metro's behalf.
- 12. Users shall not make any posts on Metro's social media sites that include the following:
  - a. Confidential information;
  - b. Nonpublic or otherwise sensitive information;
  - c. Defamatory, libelous, offensive or demeaning material;
  - d. Inaccurate or misleading information;
  - e. Information that would invade the privacy of others;
  - f. Information or opinions related to legal matters, litigation or parties involved in legal or litigation matters;
  - g. Statements promoting or opposing election petitions, candidates, political committees or ballot measures in violation of restrictions on political campaigning by public employees;
  - h. Personal matters regarding yourself or others;
  - i. Illegal or banned substances and narcotics;
  - j. Pornography or other offensive or illegal materials; or
  - k. Uncivil, tactless, incendiary or combative statements.
- 13. Each user is responsible for publishing accurate and clear information to social media accounts and quickly making corrections or clarifications as needed. Users must clearly indicate corrections and clarifications and include the time and reason for the correction or clarification.

#### **Records Retention Requirements**

- 1. Users and moderators must maintain and preserve records in compliance with Oregon public records law, ORS 192.001 *et seq.* Metro is required to maintain records for the period provided in the retention schedule for that type of record.
  - a. In some instances, individual departments have their own records retention schedules for their records. These must be approved by the State where they

differ from what is found in the state statute. Users and moderators must be familiar with their department's record retention schedules and preserve records in accordance with those schedules.

- b. The public records law applies whether the site is hosted by Metro or a third party.
2. **Managing Social Media Content that is Officially Maintained Elsewhere.** Under the ORS definition, a public record does *not* include: "Extra copies of a document, preserved only for convenience of reference" (ORS 192.005(5)(d)). Users can greatly simplify their retention responsibilities by using Social Media applications exclusively to provide the public with links or references to content that is officially maintained elsewhere. Using this approach, the links or references posted on Social Media sites would be considered convenience copies that need to be retained only "as needed" or "until superseded."
3. **Managing "Original" Social Media Content.** It is possible that users will publish original content via social media, and that content requires retention. Public comments to Metro social media sites may also constitute a public record. Almost all of this "original" content will fall into one of the categories below.
  - a. **Speeches/Statements/News Releases/Program Activity Records:** For retention purposes, a Metro blog posting (for example) is the equivalent of a public speech. An on-the-spot written or photographed account of a Metro event or summary of Metro activities pushed out via any social media will be considered a "report." If any of these statements or reports contains policy or historically significant content, they must be retained permanently. Otherwise, they have a two-year retention from the time they are "published."
  - b. **Correspondence:** Incoming messages from the public that arrive via a Metro social media site will be treated as correspondence. For correspondence that originates on a Metro social media site and that merits a response to an individual (as opposed to a public posting), the user would be advised to take that correspondence "offline" and, if possible, communicate directly with the individual and maintain that correspondence using established procedures for correspondence management. Much of the correspondence between elected officials and the public is considered "policy and historical" and warrants permanent retention.
  - c. **Content Associated with a Specific Function or Activity:** If a user establishes a social media site as a public entry point to solicit specific information (e.g. conducting a poll) or launch a process (e.g. placing an order), the information received must then be retained along with other records associated with that function or activity using the appropriate retention schedule.
4. **Preserving Social Media Content – Technology.** Metro does not currently endorse a single, preferred method of capturing and preserving social Media content. Before activating a social media account, users must consult with Information Services and the Metro Records Officer to create a plan for managing any content that constitutes an official Metro record.

## **Responsibilities**

### Employees:

- Become familiar with this policy and comply with its terms.
- Refrain from representing comments on a non-Metro site as Metro-endorsed or as acting in the capacity of a Metro representative.

### Supervisors and Managers:

- Oversee employee compliance with this policy.
- Provide preliminary approval of Social Media Access Requests before they are submitted to the Communications Department.
- Consult with the Office of Metro Attorney before disciplining an employee for personal social media use.

### Communications Department:

- Approve or deny Social Media Access Requests.
- In consultation with the Office of Metro Attorney, provide guidance to social media users and moderators as needed.

## **References**

Record Retention Policy: Executive Order No. 91  
Oregon public records laws, ORS 192.001 *et seq.*  
Oregon restrictions on political campaigning by public employees, ORS 260.432.

## **Attachment**

Social Media Access Request Form and Policy Compliance Agreement

*Attachment removed - copies available from Human Resources or on HR intramet page.*

 Metro | *Policies and procedures*

**Subject** Outside Employment  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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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 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. The supervisor must provide the employee with a written response within 14 days of the request and maintain a copy in the supervisory working file. 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*

**Subject** Work Schedules  
**Section** Human Resources  
**Approved by** MERC Commission

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**EXCERPT FROM MERC PERSONNEL POLICIES (2007; updated 2013)**

*Policy is under review. Numbering has been changed from original manual; content is from former Section 16.0, MERC Personnel Policies (2007).*

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**WORK SCHEDULES**

1. The normal workweek shall be 40 hours, Thursday through Wednesday. In order to provide the best service to the public, facility directors may establish operating schedules for departments that vary from the normal work schedule. Nothing contained in this section or elsewhere in the Personnel Policies shall be construed as any guarantee of hours of work per day or per week.

- a. Flexible Work Schedules

Supervisors and managers may establish employee work schedules, which vary from the normal work schedule. The Facility Director or designee must approve all flexible work schedules.

- b. Job Share **REPLACED** – See *Job Sharing policy (Oct. 2013)*

<DELETION>

- c. Telecommuting

Telecommuting is defined as transportation and work alternatives that substitute home-to-work commuting with working at home or at satellite work locations. In order to telecommute an employee must receive written authorization by the Facility Director.

- d. Part-time Positions

With the written agreement of the Facility Director(s) and supervisor(s), part-time non-benefited positions may be combined to increase an employee's hours but not for the purpose of receiving benefits.

- e. Lunch and Breaks

All employees shall be allowed a lunch break of at least thirty (30) minutes, but not more than one hour for every work shift of at least six hours. All employees are

entitled to a fifteen (15) minute paid break period for every four-hour segment or major portion thereof in the work period. If an employee works a shift longer than 10 hours they are entitled to three paid rest breaks.

 Metro | *Policies and procedures*

**Subject** Overtime  
**Section** Human Resources  
**Approved by** MERC Commission

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**EXCERPT FROM MERC PERSONNEL POLICIES (2007)**

*Policy is under review. Numbering has been changed from original manual; content is from former Sections 16.10 – 16.12, MERC Personnel Policies (2007).*

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**OVERTIME**

**1. Overtime – Non-represented Non-exempt Employees**

- a. At a minimum the Commission shall pay overtime rates in accordance with applicable law with regard to payment of overtime wages. The Commission may choose to exceed the law.
- b. No overtime shall be worked by non-exempt employees without the prior approval of the department head or their designee.
- c. Overtime shall be paid at the rate of time and one-half (1 1/2) for the time actually worked in excess of the regularly scheduled forty (40) hours in one week. The workweek for MERC staff begins at 12:00 a.m. Thursday and ends at 11:59 p.m. on Wednesday.
- d. For the purpose of computing overtime, hours worked shall include only time actually worked by the employee, and shall not include holiday pay, vacation pay, sick pay, compensable on-the-job injury pay, or leaves of any type.

**2. Overtime – Represented Non-exempt Employees**

For represented non-exempt employees, the Commission shall pay overtime rates in accordance with applicable law or as required by the applicable collective bargaining agreements, whichever is greater.

**3. Exempt Employees**

- a. Exempt employees are not subject to overtime pay. It is understood that an exempt employee may have to work on occasion beyond business hours and that extra work hours beyond the usual workday or workweek are part of the job expectations for an exempt employee. Time worked on a holiday may be taken at a later date upon the approval of the supervisor.

- b. At the department head's discretion, some unrecorded personal time off may be utilized to accommodate a reasonable balance of flexible working hours. Recorded time off is not appropriate.
- c. The Commission expects that exempt employees will fulfill their position responsibilities and that their work performance will be evaluated by overall results, rather than merely by the number of hours worked. For this reason, infrequent absences of less than a half-day by an exempt employee that do not negatively impact expected work performance and productivity will not be tracked or covered through the use of leave accruals.

However, when an exempt employee has an absence of four hours or more, such absence should be covered through the appropriate leave accruals. Absences of less than a full day in cases where there are not available leave accruals must not result in salary reduction, and supervisors and exempt employees should explore options available to meet productivity expectations, such as flexing a particular week's schedule. Absences of a full day or more, where there are no available leave accruals, may result in reduction in salary earned for that pay period when authorized by the Facility Director or designee.

- d. Exempt employees are expected to complete their job in whatever amount of time it takes. If an exempt employee routinely completes their work in less than 40 hours a week their workload maybe adjusted by the supervisor, manager or Facility Director.

Excessive absences may indicate a work performance problem that should be addressed through performance evaluation and, if necessary, the disciplinary process.

- e. In accordance with law, exempt employees may not be suspended without pay except in increments of one week or more.

# Metro | Policies and procedures

**Subject** Religious Accommodation  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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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 employees and interns.

*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' and interns' 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 employee's requested 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 individual'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 individual because of his or her religion or because he or she has requested or received an accommodation under this policy. Anyone who experiences or observes discrimination, harassment, or retaliation on the basis of religious beliefs or requests for religious accommodation should report the offending conduct using the procedures specified in Metro's Discrimination and Harassment Policy.

### **Procedures**

1. An employee or intern 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 or intern 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 will coordinate an interactive process to determine whether a mutually acceptable alternative accommodation is available.
5. The HR Benefits Manager may require 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 or intern of whether a requested or alternative accommodation will be granted.
8. The employee or intern is required to comply with all applicable 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. Anyone with concerns about the religious accommodation process may contact the Director of Human Resources or Office of Metro Attorney to discuss the matter.

## **Responsibilities**

### Employee/Intern:

- 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 of any requests for religious accommodation.
- Work with the HR Benefits Manager to determine the impact of the requested accommodation on operations.

### Human Resources Department:

- Contact the employee or intern and engage in an interactive process to determine whether a reasonable accommodation is appropriate.
- Request documentation as necessary to certify 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 or intern of the decision and discuss possible alternative accommodations if the requested accommodation is denied.

## **References**

ORS 659A.030; ORS 659A.033

2013 Oregon Laws Ch. 379 (House Bill 2669)

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

# Metro | *Policies and procedures*

**Subject** Americans with Disabilities Act (ADA)  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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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 individuals with disabilities to perform the essential functions of their positions and enjoy equal benefits and privileges of employment.*

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## **Applicable to**

All employees, interns and applicants.

*Where provisions of an applicable collective bargaining agreement directly 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.

**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 others 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 individual 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 individual: An individual 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 position or the work environment that will enable a qualified individual 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 enjoyed by those 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 individual 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, intern or applicant because the individual 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, interns and applicants with disabilities unless to do so would result in an undue hardship. When an otherwise qualified employee or intern has a disability, Metro will engage in an interactive process 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, internship 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 and interns**

2. An individual with a disability may request an accommodation if needed to perform the essential functions of his or her position.
  - a. The individual should initiate the request by contacting his or her supervisor or the Human Resources Benefits Manager.
  - b. Upon receipt of a request for accommodation, the supervisor shall immediately notify the HR Benefits Manager.
3. The employee or intern 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 position and to identify reasonable adjustments or changes that may allow the individual to perform these essential functions.
  - a. Prior to the meeting, HR will inform the individual that they may have a union representative, family member, or other appropriate person present during interactive process meetings.
  - b. An employee or intern 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 or intern re-initiates a request. HR will twice seek to initiate such a dialogue before closing the matter due to 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 or intern's health care provider and will request a signed medical release from the employee or intern. The release will authorize the health care provider to provide a medical opinion and relevant medical information as to whether the individual 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 or intern 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 an opportunity to provide the missing information.
    - i. With the employee's or intern's written 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 or intern 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 or intern, and the supervisor will meet to discuss the requested accommodation and, if appropriate, other potential accommodations that may allow the employee or intern to perform the essential functions of his or her position. HR and the employee's supervisor will jointly determine if a reasonable accommodation is available, and if so, they will arrange for timely implementation.
4. If a reasonable accommodation cannot be made so that an 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.
5. 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 an 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.
6. 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.
  - a. An employee who has a disability that may cause performance or conduct problems is encouraged to seek reasonable accommodation before problems arise.
  - b. Consistent with the ADA, Metro will not accommodate or extend job protections based on current use of illegal drugs.
7. Information obtained regarding an individual's medical condition or history 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 individual's duties 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.
8. Anyone with concerns about the ADA process, including the outcome of the interactive process, may contact the Director of Human Resources or Office of Metro Attorney to discuss the matter.
9. Anyone who experiences or observes 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/Intern:**

- 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 or intern and HR regarding reasonable accommodation.
- Coordinate with the Human Resources Department and the employee or intern 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 medical information.

HR Benefits Manager:

- Provide the employee or intern with the appropriate forms to obtain medical documentation.
- Obtain necessary medical information from the applicable 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 or intern and the supervisor to determine if reasonable accommodation(s) can be made.
- Coordinate implementation of any necessary accommodations.
- Maintain medical information in a confidential file separate from the 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).

2013 Oregon Laws Ch. 379 (House Bill 2669)

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

# Metro | Policies and procedures

**Subject** Family and Medical Leave  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*It is the policy of Metro to grant Family and Medical Leave to eligible employees in accordance with federal and state law. Family and Medical Leave is intended to ensure that eligible employees have the opportunity to take protected leave to care for oneself or a family member with a serious illness or injury, to care for a sick child, and/or to care for a newborn child, newly adopted child, or newly placed foster child in the employee's home. In addition, the Family and Medical Leave Act provides protected leave for eligible employees to care for family members who are covered military service members or veterans recovering from a serious illness or injury sustained in the line of duty and to handle exigencies related to active duty. The Oregon Family Leave Act also provides protected bereavement leave to grieve the death of an immediate family member. Employees may also be entitled to protected leave for additional purposes under other federal and state laws and Metro policies. Lastly, represented employees may have greater leave rights under their applicable collective bargaining agreement with Metro.*

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## **Applicable to**

All employees.

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

## **Types of Leave Covered By This Policy**

**Serious Health Condition Leave:** An eligible employee may take leave on a continuous or intermittent basis for his or her own serious health condition or to care for an immediate family member with a serious health condition.

**Parental Leave:** An eligible employee may take leave to care for a newborn, newly adopted or newly placed foster child. Parental Leave may be taken any time within 12 months of the birth, adoption, or placement of the child. Parental Leave may also be used to complete legal procedures prior to the adoption.

**Sick Child Leave:** An eligible employee may take leave to care for their child due to a non-serious health condition requiring home care. Non-serious health conditions include a cold, the flu, or a condition not requiring hospitalization. Metro may request a doctor's note after the fourth occurrence of such leave.

### Military Family Leave:

Caregiver Leave. Leave to care for a military service member or veteran who is undergoing medical treatment, recuperation, or therapy, is otherwise in outpatient status, or is otherwise on the temporary disability retired list, for a serious illness or injury incurred or aggravated in the line of covered active duty. For purposes of caregiver leave, an eligible employee is the spouse, son, daughter, parent or “next of kin” of the military service member. Eligible employees may take up to 26 weeks of leave during a single rolling consecutive 12-month period for this reason. Leave to care for a military service member, when combined with all other Family and Medical Leave, may not exceed 26 weeks in a single 12-month period.

Qualifying Exigency Leave. Leave allows eligible employees to take up to 14 days to handle exigencies related to a family member’s active duty military service or call to active duty. Qualifying exigency leave is specifically intended to cover events other than medical needs, including making financial, legal or childcare arrangements or to facilitate rest and recuperation. Eligible employees may also take leave to care for a military member’s parent who is incapable of self-care when the care is necessitated by the member’s covered active duty. For purposes of exigency leave, an eligible employee is a spouse, son, daughter, or parent of a military service member on active duty (or notified of an impending call or order to active duty) in support of a contingency operation. Metro and the employee must agree to both the timing and duration of any such leave. This leave will be counted against the employee’s 12-week FMLA leave entitlement.

*Note: Military service members, veterans, and their families have additional employment rights, including protected leave rights, under other laws and Metro policies. Please contact the Human Resources Department if you have any questions related to military service, military leave, or veteran status.*

Bereavement Leave: Leave taken by an eligible employee to grieve the death of an immediate family member; to make necessary arrangements related to the death; and/or to attend the funeral or alternative ceremony. An eligible employee is entitled to take up to two weeks of unpaid leave per death, up to a maximum of 12 weeks per leave year. OFLA bereavement leave must be completed within 60 days after the date on which the employee receives notice of the death. The leave will be counted against the employee’s 12-week OFLA leave entitlement. OFLA bereavement leave does not alter or expand any paid funeral or bereavement leave that may be available under Metro policies or collective bargaining agreements and runs concurrently with any paid leave.

### **Definitions**

Family and Medical Leave: Leave rights are governed by both the federal Family and Medical Leave Act (FMLA) and the Oregon Family Leave Act (OFLA). Family and Medical Leave is protected leave that allows a covered employee extended time off work on a continuous or intermittent basis under the following circumstances:

- a. to receive treatment or recover from a serious health condition as defined under applicable law;
- b. to respond to a serious health condition of an immediate family member;
- c. for the birth of a child, or placement with the employee of a child under the age of 18 (or older if the child is mentally or physically disabled) for adoption or foster care;

- d. to care for a sick child;
- e. to care for a spouse, son, daughter, parent, or next of kin who is a covered military service member recovering from a serious illness or injury sustained in the line of duty;
- f. to handle qualifying exigencies arising from the fact that the employee's spouse, son, daughter or parent is a covered service member who is on active military duty, or who has been notified of an impending call to active duty status; or
- g. to grieve, attend the funeral, and/or make necessary arrangements related to the death of an immediate family member.

Eligible employees have reinstatement and/or reemployment rights after using Family and Medical Leave. An employee's benefits remain in place while he or she is off work on approved Family and Medical Leave. Family and Medical Leave must be paid from accrued leave time. Once paid leave accrual is exhausted, approved Family and Medical Leave shall be unpaid.

Eligible Employee: Specific eligibility requirements apply under state and federal law. Metro's Human Resources Department will review all leave applications and determine eligibility consistent with state and federal law.

- a. To qualify for FMLA, an employee must have been employed by Metro for a total of at least 12 months (if months are non-consecutive, there can be no more than a seven year break in service), and must have worked at least 1250 hours during the 12-month period immediately preceding the leave.
  - i. Periods of absence due to service covered by the Uniformed Services Employment and Reemployment Rights Act are counted in determining an employee's eligibility for FMLA leave.
- b. To qualify for OFLA, employees must have been employed by Metro for a period of 180 calendar days immediately preceding the date leave begins, and must have worked an average of 25 hours per week during the preceding 180-day period. If the leave is to care for a newborn child or newly placed adopted or foster child, case employees must meet the 180-day requirement only.

Health Care Provider: A person who is primarily responsible for providing health care to an eligible employee or family member; who is a licensed physician, podiatrist, dentist, psychologist, optometrist, naturopath, registered nurse, nurse practitioner, direct entry midwife, certified nurse midwife nurse practitioner, regulated social worker, or chiropractic physician (only to the extent that treatment consists of manual manipulation of the spine to correct a subluxation demonstrated to exist by x-ray); and who is performing within the scope of his or her license. A person who is primarily responsible for treatment solely through spiritual means, such as a Christian Science practitioner, may also be considered a health care provider.

Immediate Family Member: Immediate family members include the employee's spouse, child (biological, adopted, foster step, or for whom the employee stands *in loco parentis*), parent (or individual standing *in loco parentis* of the employee); parent-in-law, grandparent, grandchild, domestic partner, and child or parent of a domestic partner.

Rolling Consecutive Twelve Month Period: Each 12-month period begins on the date of the first day leave is actually taken. Leave taken for any qualifying reason during that 12-month

leave year will be deducted from the 12-week leave allowance. Once the period has expired, the 12-month period recommences with the first day of the next Family and Medical Leave taken.

Serious Health Condition: An illness, injury, impairment, or physical or mental condition that involves one of the following:

- a. Hospital Care/Inpatient Care. Hospital Care/Inpatient Care is an overnight stay in a hospital, hospice, or residential medical care facility, including any period of incapacity or subsequent treatment in connection with, or consequent to, such inpatient care.
- b. Absence Plus Treatment. A period of incapacity of more than three consecutive calendar days (including any subsequent treatment or period of incapacity relating to the same condition), that also involves:
  - i. Treatment two or more times within 30 days of the first day of incapacity, unless extenuating circumstances exist, by a health care provider, by a nurse or physician's assistant under direct supervision of a health care provider, or by a provider of health care services (e.g. a physical therapist) under orders of, or on referral by, a health care provider; or
  - ii. Treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.
- c. Pregnancy Disability or Prenatal Care. Any period of incapacity due to pregnancy or leave for prenatal care.
- d. Chronic Conditions Requiring Treatments. A chronic condition which:
  - i. Requires periodic visits for treatment by a health care provider, or by a nurse or physician's assistant under direct supervision of a health care provider;
  - ii. Continues over an extended period of time; and
  - iii. May cause episodic rather than a continuing period of incapacity (e.g. asthma, diabetes, epilepsy, etc.).
- e. Permanent/Long-term Conditions Requiring Supervision. A period of permanent and long-term incapacity due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by, a health care provider. Examples include Alzheimer's, a severe stroke, or the terminal stages of a disease.
- f. Multiple Treatments (Non-Chronic Conditions). Any period of absence to receive multiple treatments (including any associated period of recovery) by a health care provider or by a provider of health care services under orders of, or on referral by, a health care provider, either for restorative surgery after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment, such as cancer (chemotherapy, radiation, etc.), severe arthritis (physical therapy), and kidney disease (dialysis).

## Procedures

1. Generally, eligible employees may take a maximum of 12 weeks of Family and Medical Leave within a rolling forward, consecutive 12-month period. Each 12-month period begins on the first day of actual leave taken. Leave may be taken continuously, intermittently, or, under certain circumstances, on a reduced workweek schedule. Except for limited circumstances, Federal Family and Medical Leave typically runs concurrently with other leaves, including time loss for Workers' Compensation. Oregon

Family and Medical Leave typically runs concurrently with other leaves except Workers' Compensation leave.

2. Eligible employees who work less than 40 hours per week will have a pro-rated number of hours available based on the average hours worked over the previous 12 months.
3. Employees initially request leave through Metro's electronic timekeeping system. Employees without electronic access may request leave using a **Leave Request Form**, available from the Human Resources Department. This requires approval by the immediate supervisor. The approved leave request is then forwarded to Human Resources to determine if the employee is eligible under FMLA/OFLA. When the need for Family and Medical Leave can be anticipated, the employee should submit a leave request to his or her supervisor at least 30 days prior to the commencement of the leave. If leave is unexpected, notice should be provided as soon as possible.
4. Notification of eligibility will occur within 5 days of receipt of the leave request. At that time, the appropriate **Certification Form** will be sent to the employee.
  - a. An employee requesting leave related to a family member's or his or her own serious health condition will receive a Medical Certification Form, which he or she may forward to their treating medical provider to certify the need and duration of leave.
  - b. An employee requesting Sick Child Leave may be asked for medical verification after the 4<sup>th</sup> occurrence.
  - c. An employee requesting Military Family Leave for exigencies unrelated to a serious health condition may provide a copy of the service member's military orders as certification of the need for leave.
  - d. An employee requesting Bereavement Leave may provide a copy of a death certificate, obituary notice, funeral announcement, or other similar documents that can confirm eligibility for leave.
5. In an emergency, an employee may initially make a verbal request for Family and Medical Leave to Human Resources or his or her supervisor. The employee must provide enough information to put Human Resources on notice that protected Family and Medical Leave is requested or may be appropriate under the circumstances. A verbal request must be followed up with the completed Certification Form within 15 calendar days of receiving the request for certification.
6. Human Resources will notify the employee whether or not his or her time off from work qualifies as protected leave.
7. Failure to complete the Medical Certification Form in full and timely submit it to Human Resources may result in the delay of leave approval. It is the employee's responsibility to make sure the health care provider completes the form in full, including specific information regarding requested leave dates, times, and frequency.
8. Metro reserves the right to place employees who fail to return the Medical Certification Form on FMLA.
9. Metro may provide a temporary reassignment for a pregnant employee unable to perform her job duties without significant risk to the health and safety of the employee and the pregnancy, if there is suitable, available work for which the employee is qualified to perform, and the reassignment can be reasonably accommodated. If there is no suitable, available work for which the employee is qualified for temporary reassignment, Metro shall provide a pregnancy leave of absence if the leave can be reasonably accommodated.

10. An employee who takes Family and Medical Leave has a duty to make reasonable efforts to schedule medical treatment or supervision on days off or around their current work schedule, subject to the approval of the health care provider, in order to minimize disruption of Metro's operations.
11. Employees on leave must follow the call-in procedures in their respective collective bargaining agreement, non-represented employee policy and/or work rule. Employees must provide sufficient information to communicate that the absence is for a purpose covered by protected leave.
12. Family and Medical Leave must be paid from accrued personal leave time. Once paid leave accrual is exhausted, approved Family and Medical Leave shall be unpaid.
13. Health and welfare coverage will continue at the same level of benefits and contributions for employees on Family and Medical Leave as for active benefit-eligible employees. Employees taking approved leave without pay are required to make direct payment to Metro for their premium payments on elected benefits.
14. If an employee fails to return from leave, Metro is entitled to recover the full amount of health premiums the agency paid on behalf of the employee while on leave, except in cases where the employee fails to return due to their own serious health condition.
15. Prior to returning to work from leave for an employee's own serious health condition, the employee will be required to submit a release for work from their health care provider to the Human Resources Department. The Human Resources Department will then review the release and file it in the employee's confidential medical file.
16. An employee returning from Family and Medical Leave shall be reinstated with no greater or lesser rights in employment than if the employee had not taken the leave.
17. Employees who do not return to work by the date specified by their health care provider may be disciplined, up to and including dismissal.
18. No employee will be subject to retaliation for taking or inquiring about protected leave.

## **Responsibilities**

### Employees:

- Request the leave through Metro's timekeeping system or by completing a Leave Request Form and obtain the appropriate supervisor authorization. This leave form is then sent to the Human Resources Department to determine eligibility. Become familiar with the Leave packet that includes Frequently Asked Questions, Your Rights Under FMLA, and the certification form that will be sent to you if it is determined you are eligible for leave.
- If you are requesting Family and Medical Leave for your own or a family member's serious health condition, you are required to provide medical certification. Such medical certification shall come from an approved health care provider and must be submitted to the Human Resources Department 30 days prior to the anticipated leave, or in the case of emergency leave, no later than 15 days of the receipt of certification.
- Employees are responsible for ensuring the medical certification is completed in full by the treating provider including the dates of absence, anticipated date of return and any intermittent frequency for leave. Leave approval may be delayed if the medical certification is not complete.

- If an employee's anticipated return to work date changes, he or she shall immediately notify Human Resources by providing a written medical update from the approved health care provider.
- Upon approval, the FMLA letter will include your return to work date and requirements to provide a physician's release for duty, if necessary.
- Complete Kronos coding appropriately. If you have any questions, be sure to check with your department timekeeper.
- If you are requesting intermittent Family and Medical Leave, you are still required to provide 30 days advance notice when at all possible. You must also follow the call-in procedures in your respective collective bargaining agreement, non-represented employee policy and/or work rule. You must provide sufficient information to communicate that the absence is for a purpose covered by protected leave. When possible, physician's visits and care for family members should be scheduled around your work schedule to minimize disruptions of Metro's operations.
- Metro will periodically request recertification as necessary. Periodically check in with the supervisor as to return to work status while on leave.

Supervisors:

- Notify the Benefits Manager and the employee when you think an employee may be on leave that would qualify as Family and Medical Leave and forward approved Leave Request Forms to Human Resources.
- Communicate with the Benefits Manager on staffing issues and the employee's return to work timeline.
- If an employee directly provides you medical paperwork, forward it to the Benefits Manager; do not keep it in the employee file on site.

Human Resources:

- Within 5 days of the receipt of a Leave Request Form or electronic leave request, Human Resources will provide an employee with initial eligibility determination and a Family and Medical Leave certification form.
- Within 10 days of receipt of the Medical Certification form, Human Resources will determine if the situation qualifies under Family and Medical Leave and notify the employee and the supervisor of its determination or need for further information.
- Notify an employee and supervisor 30 days prior to the end of the allowable Family and Medical Leave.
- Notify an employee if they are in a leave without pay status and are required to pay their portion of Health & Welfare benefits and any supplemental life insurance. If appropriate, provide notice for availability of Long Term Disability insurance.
- Maintain all medical information in a confidential medical file in Human Resources.
- Metro may request a second or third opinion regarding a Medical Certification Form. Metro may also request recertification if an employee requests an extension of leave, the duration or nature of the condition has changed significantly or Metro receives information contrary to the employee's reason for the absences.
- If an employee requests additional leave time beyond that provided under FMLA/OFLA, Human Resources will discuss with the employee all available options, including those provided under the Americans with Disabilities Act.

## References

Oregon Family Leave Act, ORS 659A.150 – 659A.186.

Family and Medical Leave Act, 29 USC Ch. 28

<http://www.dol.gov/whd/regs/compliance/posters/fmlaen.pdf>

[http://www.oregon.gov/BOLI/TA/docs/OFLA\\_Poster\\_2014.pdf](http://www.oregon.gov/BOLI/TA/docs/OFLA_Poster_2014.pdf)

# Metro | *Policies and procedures*

**Subject** Jury Duty and Witness Leave  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*It is Metro's policy to comply with Oregon law allowing employees to take leave from work for jury duty without the loss of any employment benefits. Metro also provides leave to employees who are subpoenaed as witnesses. Benefits-eligible regular status and limited duration employees will be granted paid leave for jury duty and qualifying witness service.*

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## **Applicable to**

Excused leave: All employees.

Paid leave in addition to accruals: Regular status and limited duration employees who are eligible to receive benefits from Metro.

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

## **Definitions**

Subpoena: An order issued by the court requiring you to appear in person at a certain place, date and time to testify as a witness about a particular case.

## **Guidelines**

1. All Metro employees will be excused from work when summoned for jury duty or subpoenaed to appear as a witness before a court, legislative committee or judicial or quasi-judicial body in a matter in which the employee is not a party.
2. Paid leave will be granted to benefits-eligible regular status and limited duration employees during jury duty or witness service except as specified below. Paid leave granted under this provision is in addition to the employee's regularly accrued paid leave.
3. With the employee's agreement, Metro may petition for removal of an employee from jury duty if the employee's absence would cause an undue hardship to Metro's operations.
4. Metro will not coerce or retaliate against employees due to their jury or witness service.
5. If an employee is required to appear in a matter in which he or she is a party, time off may be granted subject to attendance policies and work rules. Such time off must be paid from the employee's accrued paid time off. If the employee does not have accrued time off, the leave will be unpaid.

6. If an employee is required to appear in court or before another government body in connection with his or her assigned duties, such time (including travel time) will be paid work time. The employee will pay to Metro any fees received for this service.
7. Employees who are required to appear in court in connection with their status as a victim of a personal felony, domestic violence, sexual assault, harassment or stalking may have additional rights under other Metro policies. Please see Metro's Crime Victims' Leave Policy and Domestic Violence, Sexual Assault, Harassment and Stalking Protections Policy or contact the HR Department for more information.

## Procedures

1. An employee summoned for jury duty or subpoenaed as a witness should notify his or her supervisor as soon as possible and provide a copy of the jury summons or subpoena. The employee should request leave using Kronos or with a leave request form if they do not have access to Kronos.
2. The excused period of leave is the amount of time the employee is required to be present for jury or witness service during his or her regular work hours. Paid leave will be granted to benefits-eligible regular status and limited duration employees for jury duty or witness service in addition to the employee's regularly accrued paid leave time.
  - a. If the employee serves for less than a full day and works for the remainder of the day, leave will also include reasonable travel time to or from the employee's work site.
  - b. An employee who is released from jury or witness service with four hours or more remaining in his or her shift will be expected to return to work for the remainder of the shift unless the supervisor determines in advance that an exception should be made due to staffing adjustments made to accommodate the leave.
  - c. An employee who is released from jury or witness service with fewer than 4 hours remaining in his or her shift must consult with his or her supervisor for instruction on whether to return to work for the remainder of the day.
  - d. If an employee serves for less than a full day but the supervisor directs him or her to stay home for the remainder of the shift, paid jury duty/witness leave will apply.
  - e. If an employee serves for less than a full day but chooses not to return to work, the remaining period of the workday will be unpaid unless the employee chooses to use accrued paid leave time.
  - f. Employees who work non-standard shifts should consult with their supervisor. The employee's supervisor may approve a temporary shift change or partial paid leave if appropriate under the circumstances.
3. An employee on leave for jury duty service will have his or her benefits continue for the duration of jury service and witness leave.
4. If it is permitted by the applicable court or forum, an employee granted paid leave to serve as a juror or witness must waive all fees received for this service, with the exception of travel allowance. If the court or forum does not allow fees to be waived, employees receiving paid leave must pay any fees other than travel allowance to Metro.
  - a. Fees should be remitted by signing over the check to Metro and delivering it to the Metro Financial and Regulatory Services Department, Accounts Receivable.
  - b. Employees who take unpaid leave or who serve as a juror or witness on their own time or while on accrued leave may keep all fees associated with this service.

5. An employee on jury duty or witness leave must keep his or her supervisor informed of any changes to his or her anticipated return date and time. If the duration of leave is not known at the outset, the employee should follow regular call-in procedures.

## **Responsibilities**

### Employee:

- Notify your supervisor if leave is needed to serve as a juror or witness.
- Give a copy of the jury summons or witness subpoena to your supervisor as soon as possible.
- Code leave time as jury duty leave in Kronos or notify your supervisor if assistance with Kronos is needed while on leave.
- Keep your supervisor informed of any changes to your anticipated return date. If you are released from witness or jury service after a partial day, return to work or contact your supervisor for instruction in accordance with this policy.
- Waive or pay to Metro any fees, other than travel allowance, received in connection with jury or witness service for which paid leave is awarded.
- If you experience any adverse employment action or negative treatment as a result of taking leave under this policy, report it following the procedures outlined in Metro's Discrimination and Harassment Policy.

### Supervisor:

- Coordinate with the Department Director to ensure that operational needs are met while the employee is on leave.
- Ensure that leave is coded appropriately in Kronos.

### Department Director:

- Petition the court to excuse an employee from jury service if the employee's absence would constitute an undue hardship.

### Financial and Regulatory Services - Accounts Receivable:

- Receive and process jury and witness fees.

## **References**

ORS 10.061 (jury duty fees); ORS 10.090 (jury duty employment protections)

Metro Discrimination and Harassment Policy

# Metro | Policies and procedures

**Subject** Military Leave – Servicemembers and Families  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

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

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## **Applicable to**

Protected leave: Employees who are U.S. military servicemembers, veterans, or spouses or domestic partners of servicemembers.

Non-discrimination: All employees, interns, volunteers and applicants.

*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**

2. Military servicemembers, veterans, members of an organized state militia, and the spouses and domestic partners of U.S. servicemembers 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.
3. 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 servicemembers or veterans recovering from a serious illness or injury sustained or aggravated in the line of covered active duty, and to handle exigencies related to the servicemember's call to active duty. Please see Metro's Family and Medical Leave Policy for more information.
4. 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**

5. 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.
6. Disabled servicemembers 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 and interns 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**

2. **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.
3. 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 servicemembers to refresh or upgrade their skills to help qualify for reinstatement or reemployment.
  - d. If the servicemember is unable to return to his or her former position, for example due to disability, Metro will make reasonable efforts to reemploy the servicemember 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 servicemember. 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 servicemember if the position no longer exists.

4. Pay status:

- a. Servicemembers, 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.

5. Notification requirements before taking leave: Servicemembers 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.

6. 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.

7. 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**

- 8. 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.
- 9. 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 servicemember's deployment and/or while the servicemember 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.
10. 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.
  11. 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**

12. 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.
13. An eligible employee may take up to 14 weeks of leave to recover or seek treatment for a qualifying illness or injury.
14. Veterans' 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 servicemember on leave understands the servicemember'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



## Metro | Policies and procedures

<b>Subject</b>	Domestic Violence, Sexual Assault, Criminal Harassment and Stalking Protections
<b>Section</b>	Human Resources
<b>Approved by</b>	Martha Bennett, Chief Operating Officer; MERC Commission

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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 victims and provides reasonable workplace accommodations to protect their safety. Eligible employees and interns may also be entitled to reasonable leave from work to address safety-related matters.*

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### **Applicable to**

All employees and interns.

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

### **Definitions**

#### Eligible Employee/Intern:

- a. Safety Accommodation: A victim of domestic violence, sexual assault, criminal harassment or stalking as defined by applicable law.
- b. Protected Leave from Work: 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.

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 individuals 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 individuals reasonable leave from work to address safety-related matters, as described below, related to domestic violence, sexual assault, criminal harassment or stalking.
  - a. An employee must use fifty percent (50%) of accrued leave available 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 and interns 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 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 individual is a victim of domestic violence, sexual assault, criminal harassment or stalking, or because he or she has inquired about, requested or taken leave under this policy.
3. Anyone who experiences or observes 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 or intern may request a safety accommodation or protected leave by contacting his or her supervisor or the Human Resources (HR) Department. Written or verbal notice should be provided 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 or intern 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 or intern 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 will coordinate an interactive process to determine whether a mutually acceptable alternative accommodation is available.
8. Metro may request documentation to confirm eligibility. Metro may, in its discretion, approve an accommodation request on the basis of verbal statements without requesting documentation. Any of the following documents may be provided 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 or intern 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 individual 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 or intern is required to comply with all applicable policies and work rules while the request for accommodation is under consideration, or if the request is denied.
13. Anyone with concerns about the accommodation or leave process may contact the Director of Human Resources or Office of Metro Attorney to discuss the matter.
14. All documents regarding 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 victim or his or her 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 victim or his or her minor child or dependent.
  - c. To obtain, or to assist the individual'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 individual 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 an employee's attendance record for purposes of discipline or performance evaluations.
20. Employees who are crime victims may also be covered by Metro's Crime Victims' Leave Policy.

### **Restraining Orders**

21. All employees or interns 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/Intern:

- Contact your immediate supervisor or the 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 applicable 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 individuals 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 or intern and engage in an interactive process to determine whether a reasonable accommodation is appropriate.
- Request documentation as necessary to certify 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 individual of the decision and discuss possible alternative accommodations if the requested accommodation is denied.
- 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 victim or required by law.
- Coordinate posting of information as required by law.

**References**

ORS 659A.270 to 659A.290

2013 Oregon Laws Ch. 379 (House Bill 2669)

2013 Oregon Laws Ch. 321 (House Bill 2903)

Crime Victims' Leave Policy

Discrimination and Harassment Policy

Family and Medical Leave Policy

# Metro | *Policies and procedures*

**Subject** Equal Opportunity and Affirmative Action  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*It is the policy of Metro to ensure that equal employment opportunity exists for all applicants, employees and interns without regard to race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability, veteran status, or any other status protected by law. Equal opportunity and consideration will be given in all phases of employment, including recruiting, selecting, hiring, transferring, promoting, compensating and terminating employees. Metro maintains an affirmative action plan to foster inclusion of under-represented groups in the workforce.*

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## **Applicable to**

All employees, interns and applicants.

## **Definitions**

**Equal Opportunity:** Fair treatment of applicants, interns and employees in all aspects of personnel administration without regard to race, color, religion, sex, national origin, age, marital status, familial status, gender identity, sexual orientation, disability, veteran status, or any other protected class under state and/or federal law.

**Affirmative Action:** A set of specific and result-oriented procedures through which Metro works to promote equal employment opportunities and non-discriminatory practices.

**Affirmative Action Plan:** The affirmative action plan informs and directs the organization to foster inclusion of under-represented groups in the workforce. It includes a biennial report outlining Metro's utilization of women and minorities in its workforce as it compares to the availability of qualified women and minorities in their respective recruitment area. Goals and action items are established based on the utilization data and the Diversity Action Plan.

## **Guidelines**

1. All Metro employees will work to promote the intent and requirements of this policy in all employment, employee relations, internships and personnel practices.
2. Recruitment, selection, and promotion of employees will be based on the employee's knowledge, skills, and abilities as they relate to the requirements of the job, and will be administered without regard to any legally protected class except where there is a bona fide occupational qualification. All other aspects of personnel administration will be administered based on job-related criteria or seniority. Metro internships will also comply with all applicable laws and policies related to equal opportunity and non-discrimination.

## Procedures

1. Metro will update and distribute an agency affirmative action plan on a regular basis; analyze the plan to identify underutilization of women and minorities in the workforce; and provide outreach to underutilized groups.
2. Metro will regularly review recruitment and selection procedures and other personnel processes for instances of perceived disparate impact on protected groups and will revise procedures and processes as appropriate to maintain equity.
3. Metro will provide a complaint procedure to address complaints of discrimination and harassment and will investigate and address complaints as appropriate. (Metro's Discrimination and Harassment policy outlines the complaint procedure).
4. The Human Resources Director will serve as the agency's designated Affirmative Action Officer, and will manage and implement Metro's Affirmative Action Plan.

## Responsibilities

### Employees:

- Help ensure that the work environment is free of discrimination and harassment.
- Adhere to this policy by supporting equal opportunity for all employees and interns.
- Refrain from engaging in harassment and discrimination.
- Uphold all employee values, specifically that of respect.

### Supervisors:

- Make employment-related decisions based on job-related criteria.
- Seek assistance from Human Resources as needed to understand and carry out responsibilities as they relate to equal opportunity.
- Monitor the workplace to help ensure there is no harassment or discrimination.

### Human Resources Department:

- Undertake a program of affirmative action to communicate, particularly to minorities, women, persons with disabilities, and veterans, that employment opportunities are available based on individual merit, and to actively encourage all persons to seek employment and to strive for advancement.
- Update the Affirmative Action Program Utilization and Availability Analysis every two years or as required to maintain effective conformance with this equal opportunity policy.
- Determine appropriate steps and take necessary action if a complaint is initiated relating to this policy.

## References

- Metro Affirmative Action Plan
- Discrimination and Harassment Policy

# Metro | Policies and procedures

**Subject** Criminal Background Check  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*In order to protect the wellbeing of its employees and the public and safeguard agency assets, Metro will conduct criminal background checks on all internal and external applicants selected as finalists for Metro positions, including internships and volunteer positions. In addition, this policy provides that current employees have an ongoing duty to disclose certain criminal convictions and other information as described below. The criminal background check is intended to assess individuals' fitness for complying with the job requirements. This policy is administered by the Human Resources Department with oversight by the Office of Metro Attorney.*

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## **Applicable to**

Current employees and internal and external applicants for Metro positions, including internships and volunteer positions.

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

## **Definitions**

**Arrest:** A criminal charge that may or may not have resulted in immediate incarceration or a subsequent conviction.

**Child Care Division Central Background Registry:** A registry maintained by the State of Oregon to ensure that all individuals working in or associated with childcare facilities and education programs receive criminal history and child protective services record checks.

**Direct Unsupervised Access:** Contact with children that provides an employee, volunteer or intern with the opportunity for personal communication or touch when not under the direct supervision of a childcare provider or another employee. *OAR 414-061-0020.*

**Fair Credit Reporting Act (FCRA):** FCRA is a federal law that regulates how consumer-reporting agencies use personal information.

## **Guidelines**

1. A criminal background check will be conducted for all applicant finalists for Metro jobs. Individuals who do not disclose all convictions requested on the application form may

be denied employment due to falsification of the application, as well as denied other employment opportunities for six months afterwards. Omissions discovered after employment may result in termination.

2. Finalists for positions with direct unsupervised access to children will be required to register with the State of Oregon's Child Care Division Central Background Registry.
3. Current employees are required to disclose criminal convictions that are drug-related or that relate to the qualifications or duties of their position. Current employees whose essential functions include driving, safety and security, financial and fiduciary responsibility, or direct unsupervised access to children must also disclose arrests that relate to these functions.

### **Procedures**

1. A criminal conviction will not necessarily bar an employee from hire or continued employment with Metro. HR will consider the following criteria when reviewing a conviction record:
  - a. Nature, gravity and frequency of the offense;
  - b. Duties of the position the employee holds or for which the candidate is applying;
  - c. Age of the individual at the time of conviction;
  - d. Time that has passed since the conviction;
  - e. Rehabilitation and/or other court-ordered treatment completed, if any;
  - f. Employee's entire work record or the applicant's work qualifications in total, rather than only one aspect of the individual's history.
2. An applicant who is still on probation or parole may be denied employment based on the above criteria. If a pre-employment arrest leads to a conviction after hire, it will be evaluated by Human Resources and the Office of Metro Attorney.
3. In addition to convictions, finalists for positions that involve financial or fiduciary responsibilities, safety and security, or direct unsupervised access to children may be denied a position because of underlying conduct leading to arrest in certain very limited circumstances. While an arrest itself is not a bar to employment, employment may be denied if the conduct underlying the arrest makes the individual unfit for the specific position. A consultation with the Office of Metro Attorney is required prior to rendering a no-hire decision based on an arrest record or an "open case" with Child Protective Services.
4. Metro may conduct a criminal background check for current employees who transfer or promote to, or work out of class in, positions with responsibilities that include safety and security, financial or fiduciary duties, or direct unsupervised access to children. A criminal background check may also be conducted if there is reason to believe that an arrest or undisclosed conviction has occurred that may be relevant to the safety of employees and customers or to the integrity of the organization.
5. All finalists will be provided a disclosure and will be required to sign a consent form for a background check. Metro will contract with an outside vendor to conduct criminal

background checks. All background checks will comply with Fair Credit Reporting Act (FCRA) requirements. If a finalist is not hired due to the background check, he or she will receive an “adverse action letter” including a notice of the individual’s right to obtain a free copy of the report from the agency and to dispute with the agency the accuracy or completeness of the information. The agency can then conduct a reasonable reinvestigation to determine whether the disputed information is inaccurate. If it is determined that the initial information was inaccurate, Metro may choose to hire the finalist.

6. Current employees must self-report criminal convictions that are drug-related or that relate to the qualifications or duties of the employee’s position. Reports should be made to Human Resources or the Office of Metro Attorney within 5 calendar days of conviction. This requirement is consistent with the Drug-Free Workplace Act, which imposes specific reporting requirements on federal grantees and contractors for drug-related convictions.
7. At the time of the standard pre-employment background check procedures, Human Resources will complete a driving record check. Finalists whose primary and essential duty will be driving a vehicle for Metro must successfully pass the driving record check. If the driving record does not meet Metro standards, Human Resources will reject the applicant.
8. An employee who drives for Metro as a primary function of his or her position must report all driving-related arrests and suspensions (in addition to convictions) within 5 calendar days.
9. An employee whose essential functions include safety and security, financial and fiduciary responsibility, or direct unsupervised access to children must report all arrests (in addition to convictions) related to these functions within 5 calendar days.
10. If a current employee’s background check or self-report discloses a conviction or arrest that is relevant to the employee’s ability to perform in his or her current position, the employee’s employment in that position may be impacted. OMA and HR will evaluate such situations and determine the appropriate outcome.

#### **Expunged records**

11. Applicants and employees shall not report convictions that have been expunged by a court.

#### **Responsibilities**

All applicants are required to disclose convictions and sign a background check authorization form in order to proceed in the hiring process. Applicants may be asked to provide supplemental information and should do so in a timely manner to be considered further for employment.

#### Employees:

- Report any criminal convictions that are drug-related or that relate to the qualifications or duties of the employee’s position to Human Resources or the Office of the Metro Attorney within 5 calendar days of conviction.
- Report driving-related arrests, suspensions and convictions within 5 calendar days if the employee drives for Metro as a primary function of his or her position.

- Report arrests within 5 days if they relate to the employee's essential functions related to safety and security, financial and fiduciary responsibility, or direct unsupervised access to children.
- Refrain from conducting their own unofficial background checks on potential employees.

Supervisors:

- Make offers contingent upon passing background checks and other pre-employment screenings.
- Hire a finalist only after receiving notification from HR that the finalist has successfully passed all applicable background checks.
- Ensure confidentiality of information.

Human Resources:

- Be responsible for the background check process. HR staff are the only persons authorized to administer the process and obtain information related to background checks.
- Provide finalists with information about their rights under FCRA and disclose that a "consumer report" will be obtained for employment purposes, when applicable.
- Ensure confidentiality and prompt processing of the information.

Office of Metro Attorney:

- Provide legal counsel to Human Resources to guide decision-making under this policy.
- Determine applicants' suitability for employment based on the information obtained through the recruitment process and forward recommendations to HR.

# Metro | *Policies and procedures*

**Subject** Payroll Procedures  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*Metro maintains payroll schedules and policies that ensure employees are paid in accordance with legal requirements.*

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### **Applicable to**

All employees.

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

### **Definitions**

Payday: The calendar date on which checks are issued to employees.

Off-Cycle Checks: Checks issued on dates other than scheduled paydays. Due to bank timing constraints, direct deposit is not available for off-cycle payments.

Kronos: The software timekeeping system used by Metro to record employees' time worked, exception hours, and how that time should be allocated to funds, departments, programs, and projects.

Kronos Help Desk: The email inbox for all Kronos related questions, corrections, or issues (kronoshelpdesk@oregonmetro.gov).

### **Guidelines**

The Payroll Division will administer all functions of payroll within legal guidelines, ensuring employees are paid as directed by statutes, policies and collective bargaining agreements. All lawful withholdings and authorized deductions will be subtracted from gross earnings.

### **Procedures**

#### **Paychecks**

1. Employees shall be paid twice monthly on the 10<sup>th</sup> and 25<sup>th</sup> of the month.

- a. In the event the normal payday falls on a holiday, the payday shall be the workday before the holiday.
  - b. If the normal payday falls on a Saturday or a Sunday, the payday shall be the prior Friday.
2. Payroll deductions will be made for income tax withholding, workers' compensation insurance, and other deductions mandated by federal or state law. Other deductions that may be withheld include (but are not limited to):
  - a. health, dental, and vision insurance;
  - b. life insurance;
  - c. long-term disability, accidental death and dismemberment insurance;
  - d. 401(k) and Section 457 plan deductions;
  - e. Flexible Spending Account deductions;
  - f. PERS contributions;
  - g. union dues;
  - h. uniform deposits;
  - i. parking deductions; and
  - j. charitable donations, if requested by the employee and approved by the Chief Operating Officer.
3. Employees being paid by direct deposit will have their pay information available in printable format via PeopleSoft Self Service by 8am on payday. If a printed pay statement ("advice") is desired, the employee must request this service using Metro-provided forms.
4. Paychecks and pay statements will be distributed or made available to all departments no later than 11am on scheduled paydays. Individual distribution procedures are determined at the department level. Individual employees may not pick up paychecks directly from the Payroll Division, except that an employee may request Payroll to hold his or her final check for pick-up.

### **Underpayments**

5. The Payroll Division will remedy any underpayments as soon as possible after they are discovered and confirmed.
6. If an employee believes he or she has been underpaid, it is the employee's responsibility to notify his or her Supervisor, who will in turn notify the Payroll Division. If the Supervisor is unavailable, the employee may contact the Payroll Division directly.
7. Payroll will determine, in consultation with the Supervisor, whether there has been an underpayment.
8. If an underpayment has occurred as a result of incorrect Kronos data, the Supervisor will notify the Kronos Help Desk via email. The email must contain the following information:
  - a. Employee Name;
  - b. Employee ID;
  - c. Date of error;

- d. Explanation of correction needed; and
  - e. Account code change, if needed.
9. Once the Supervisor has notified the Kronos Help Desk of the error, Payroll staff will enter a historical edit into Kronos to record the correction.
  10. If the underpayment is not in dispute and the underpaid amount is more than 5% of the employee's current gross wages per pay period, an off-cycle check will be issued within 3 business days. If an undisputed underpayment is less than 5% of gross wages, the unpaid amount will be included on the next regular paycheck.
  11. If the Supervisor believes that the employee was paid correctly, the Supervisor will meet with the employee to explain why there is no underpayment. If the employee disagrees with this determination, he or she may follow the grievance procedure outlined in an applicable collective bargaining agreement or contact the Human Resources (HR) Department.

### **Overpayments**

12. Employees who are overpaid are required to repay Metro for any overpayment, regardless of the cause of overpayment.
13. If any employee believes he or she has been overpaid, it is the employee's responsibility to notify his or her supervisor immediately upon discovering the error. If the supervisor is not available, notification should be made to the Payroll Division.
14. Payroll will calculate the overpayment amount, identify the cause of the overpayment, and notify the employee in writing. The employee will be asked to sign an agreement acknowledging the overpayment and agreeing to a repayment schedule.
15. If the employee disagrees with the determination that an overpayment has occurred, he or she may follow the grievance procedure outlined in an applicable collective bargaining agreement or contact the HR Department.
16. Once a signed repayment agreement is received from the employee, Metro will collect funds from the employee until the overpayment is repaid in full. If authorized by a collective bargaining agreement, repayment will be made by payroll deduction.
17. If an employee's employment at Metro ends before an overpayment is fully collected, Metro may pursue legal options to collect the funds. Legal options may include the use of a collection agency or a private action in court.

### **Final Paychecks**

18. Supervisors must immediately contact the Kronos Help Desk to notify the Payroll Division of any upcoming voluntary or involuntary terminations so that employees receive their final checks in a timely manner as outlined by state law.
19. The termination date should ordinarily be the last date the employee is present at work and may not be extended by leave time or holidays. The HR Department may approve an exception to this rule in unusual circumstances, such as when an employee on leave is unable to return.
20. Supervisors will have all hours recorded and approved in Kronos no later than 10am on the employee's final day of employment.
21. Once Kronos time is approved, Payroll will process a final off-cycle check for the remaining wages due, minus all lawful taxes and deductions.

22. Payroll staff will mail or hold the check for pickup as directed by the employee.

### **Responsibilities**

#### Employees:

- Record accurate time for hours worked and leave taken in the Kronos time entry system by the end of the pay period as established by Payroll.
- Verify the accuracy of paychecks received.
- Notify Supervisor of any possible payroll errors. If the supervisor is unavailable, notify the Payroll Division.

#### Supervisors:

- Verify the accuracy of time reported by employees and approve time reports by the deadline established by Payroll.
- Notify Payroll via the Kronos Help Desk immediately after learning of any Kronos error that needs to be corrected.
- Notify the Payroll Division of any upcoming voluntary or involuntary terminations.

#### Payroll Division:

- Verify the accuracy of paychecks to data reported. Investigate and resolve any reports of overpayment or underpayment and refer matters to the HR Director or Office of Metro Attorney as appropriate.
- Disburse payroll checks and pay statements to departments for distribution to employees in accordance with this policy. Hold or mail final checks as requested by the employee.
- Obtain written authorization for deductions if required by law or Metro policy.

# Metro | *Policies and procedures*

**Subject** Whistleblowing (Reporting Improper Conduct)  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*It is Metro's policy to promote ethical behavior and to comply with Oregon's Whistleblower Law. Employees, interns, volunteers and contractors are encouraged to report improper or unlawful conduct and may do so anonymously. Such reports serve the public interest and assist Metro in meeting high standards of public accountability. No employee or intern will be subject to disciplinary action or retaliation for making a good faith report or disclosure under this policy or for initiating or aiding in a criminal or civil proceeding.*

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## **Applicable to**

All employees, interns and contractors performing services for Metro.

Volunteers are also encouraged to report improper or unlawful conduct using the procedures described in this policy.

## **Definitions**

Disclosure: A formal or informal internal or extra-agency communication.

Employees: For the purposes of the Oregon whistleblower law, "employees" include contractors and their employees in addition to individuals who are employed directly by Metro.

Good faith: A sincere belief or motive.

Reckless disregard for truth or falsity: A conscious disregard of a substantial and justifiable risk that the information disclosed is false.

Reporter: An individual who makes a report or disclosure under this policy.

## **Guidelines**

1. Metro encourages its employees, interns, volunteers and contractors to notify Metro of improper or unlawful government action by Metro or its officials or employees.
2. No employee or intern will be subject to discipline or other retaliation for disclosing information he or she reasonably believes is evidence of:
  - a. A violation of any federal or state law, rule, or regulation by the agency;

- b. Serious agency misconduct that could undermine Metro’s ability to fulfill its public mission;
  - a. Gross misuse or waste of public resources or funds;
  - b. Abuse of authority in connection with the administration of a public program or the execution of a public contract; or
  - c. A substantial and specific danger to public health or safety resulting from agency action.
- 3. No employee or intern will be subject to discipline or other retaliation for initiating or aiding in criminal, civil, or administrative legal proceedings in good faith.

## **Procedures**

### **Reporting improper or unlawful conduct:**

1. Employees, interns, volunteers and contractors are encouraged to notify Metro of improper or unlawful actions in any Metro facility or department.
  - a. Reports may be made to any Metro manager, the Human Resources (HR) Department, and/or the Office of Metro Attorney (OMA).
  - b. Reports also may be made confidentially using Metro’s Ethics Line, which can be accessed online at [metroethicsline.org](http://metroethicsline.org), or by calling (888) 299-5460.
    - i. The Ethics Line is administered by the Metro Auditor’s Office. The auditor contracts with a hotline vendor, EthicsPoint, to maintain the reporting system and ensure confidentiality. EthicsPoint does not reveal the reporting party’s identity to Metro.
2. Metro will not discipline or retaliate against an employee or intern for making a good faith report under this policy. Employees will be subject to discipline only if:
  - a. The information disclosed is known by the employee or intern to be false, or is disclosed with reckless disregard for its truth or falsity; or
  - b. The disclosed information relates to the employee’s or intern’s own violations, mismanagement, gross waste of funds, abuse of authority, or endangerment of the public health or safety, in which case the employee or intern may be disciplined for the underlying conduct.
3. During its investigation of any disclosure listed above, Metro will not identify the individual making the disclosure without his or her written consent unless such identification is necessary to an investigation or legal process and allowable by law. In that case, Metro will protect the reporter’s confidentiality to the greatest extent possible without impairing the investigation or legal process.

### **Initiating or Aiding Administrative, Criminal or Civil Proceedings**

4. Metro will not discriminate or retaliate against an employee or intern because he or she has in good faith:
  - a. Reported criminal activity (or activity he or she believes to be criminal) to any person or caused criminal charges to be filed against any person;
  - b. Cooperated with a criminal investigation or testified at a criminal trial;

- c. Initiated, cooperated with, or testified at a civil administrative or court proceeding;
- d. Opposed harassment, discrimination, or other conduct prohibited by civil rights laws;
- e. Discussed, inquired about, or brought a claim for unpaid wages.

**Legislative Testimony**

- 5. Metro will not prohibit, discourage, or otherwise interfere with an employee or intern responding to a legislative request to discuss the activities of Metro or any other political subdivision of the state.
  - a. An employee or intern is not required to inform Metro before engaging in the requested legislative discussion, unless the legislative request for information is directed to Metro and the employee or intern is responding on behalf of Metro.
  - b. Notwithstanding this policy, employees and interns are not permitted to:
    - i. Represent their personal opinions as the opinions of the agency;
    - ii. Disclose information required to be kept confidential by law;
    - iii. Disclose records exempt from disclosure, except as provided by law;
    - iv. Disclose information of an advisory nature to the extent that it is preliminary to any final agency determination of policy or action and covers other than purely factual materials.
  - c. Absences to testify before a legislative committee will be excused. Employees may take unpaid leave or use any type of accrued paid time off other than sick leave. Employees and interns are not required to disclose the purpose of the absence. Employee testimony on behalf of Metro is paid work time.

**Whistleblowing in general**

- 6. Employees and interns are not required to notify Metro before engaging in activities protected under this policy and will not face discipline if they choose not to do so; however, Metro encourages individuals to bring problems to its attention so they can be addressed promptly. As noted above, reports may be made confidentially using the Ethics Line.
- 7. Discrimination, harassment, and retaliation are prohibited for activities undertaken in good faith under this policy even if the underlying complaint or report is ultimately not substantiated.
- 8. Anyone who experiences or observes discrimination, harassment, or retaliation on the basis protected activity under this policy should report the offending conduct using the procedures specified in this policy or in Metro’s Discrimination and Harassment Policy.

**Responsibilities**

**Employee/Intern/Volunteer:**

- Report illegal and unethical conduct by notifying a Metro manager, the Human Resources Department or the Office of Metro Attorney, or by using Metro’s Ethics Line.

- Notify a Metro manager, the Human Resources Department, or the Office of Metro Attorney if you observe or become aware of any conduct that may constitute discrimination, harassment or retaliation for protected activity under this policy.

Supervisor/Manager/Department Director:

- Ensure that no employee or intern is subject to discipline, harassment or other retaliatory action for engaging in protected activity under this policy. Contact Human Resources immediately if you observe or become aware of any conduct that may constitute harassment or retaliation for protected activity under this policy.
- Cooperate with ethics investigations while protecting the reporter's confidentiality.

Human Resources Department:

- Cooperate with ethics investigations while protecting the reporter's confidentiality.
- Investigate any complaints of retaliation in violation of this policy.

**References**

ORS 659A.199 – 659A.236 (Oregon Whistleblower Law)

ORS 659A.030(1)(f) (prohibiting retaliation for opposing unlawful conduct)

OAR 839-010-0000 – 839-010-0140 (BOLI administrative rules)

ORS chapter 244 (Oregon Government Ethics Law)

OAR chapter 199 (Oregon Government Ethics Commission Administrative Rules)

Metro Ethics Hotline: metroethicsline.org; (888) 299-5460

Metro Ethics Employee Q&A (on Intranet)

# Metro | *Policies and procedures*

**Subject** Temporary and Seasonal Employee Policy  
**Section** Human Resources  
**Approved by** Dan Cooper, Acting Chief Operating Officer

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## **POLICY**

*Metro hires temporary and seasonal employees to meet short-term, non-reoccurring or seasonal workload needs that are vital to the organization.*

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### **Applicable to**

All employees who are hired to work in a temporary or seasonal assignment.

### **Definitions**

Temporary Employee: An employee hired for the purpose of meeting emergency, non-recurring or short-term workload needs, or to replace an employee during an approved leave period.

Seasonal Employee: An employee hired to work during peak seasons of the year and who may be scheduled as needed during the remainder of the year.

Regular Employee: An employee who is appointed to fill a budgeted position, has passed a probationary period, and who is not temporary or seasonal.

Competitive recruitment: A recruitment for which a candidate submitted an application through an open recruitment process (either internal or external), interviewed for a position, and was selected for the position.

Non-recurring workload: Hires and assignments are made and budgeted to meet workload needs and are intended to stay within the 1040 hour limitation.

### **Guidelines**

1. Temporary employees shall be employed by Metro for non-recurring workload needs on a short-term basis not to exceed 1040 hours within 12 months from the date of hire. Temporary positions are not intended to undermine the competitive recruitment process, to replace regular employees, or to diminish regular employees' wages, hours or other conditions of work.
2. Temporary and seasonal employees are not eligible for an internal only recruitment unless hired as a result of a competitive recruitment. Temporary and seasonal employees work at-will, and are not guaranteed at any set number of hours.

## Procedures

1. A hiring manager shall notify Human Resources when a need for a temporary employee arises. Human Resources will conduct a competitive recruitment for temporary and seasonal employees.
2. If the department's need for temporary assistance is urgent, Human Resources will contact a temporary agency to request qualified candidates. If the temporary agency is not able to provide a qualified candidate for the position, a hiring manager may directly appoint a person to the temporary position provided the candidate possesses the specialized knowledge, skills and abilities required for the role.
3. All temporary or seasonal employees are required to pass the background check prior to employment regardless of the recruitment method used.
4. Human Resources will help the department prepare offer letters, which should be completed for all temporary positions. Offer letters should clearly state employment terms including the start date and anticipated end date of the position. If the end date is not certain, the offer will be for a duration not to exceed 1040 hours within 12 months from date of hire.
5. The department and Human Resources will ensure that any pay adjustments will be applied consistently to prevent inequity and adverse impact. With budget approval, supervisors have discretion to pay returning employees above the minimum pay or step in the respective range.
6. In a case in which a temporary employee is not fulfilling the full responsibilities of a regular classification employee, Human Resources, in consultation with the department, may create temporary classifications at a lower pay range.

## Responsibilities

### Employee:

- Maintain limit on work hours unless an extension has been authorized by management and, if the temporary employee is filling a position that would otherwise fall within the bargaining unit, agreed to by the union.
- No temporary or regular employee working directly for Metro shall report to work or engage in work with a temporary employment agency in a Metro assignment.

### Supervisor:

- Anticipate and budget total costs of temporary and seasonal hires. This assessment includes potential PERS and unemployment costs.
- At the start of employment, a manager should indicate if a temporary employee is projected to reach the PERS threshold of 600 hours and 12 months of service, and manage hours appropriately.
- Ensure that a temporary employee's period of employment does not exceed the 1040 hour limit.
- If there is an emergency that may make it necessary to use a temporary employee for more than 1040 hours, prior to exceeding the limit, request approval from the department director and Human Resources to extend the hours.
- Ensure there is a distinction between regular staff and temporary staff with clear roles and responsibilities. Make it clear to all regular staff what the appropriate duties are for temporary employees.

- When work is offered to a temporary or seasonal employee and they decline the offer or report in advance that they will be unavailable for work, make note of that information and report it to Human Resources.
- Notify Human Resources if a temporary employee will not be called back for thirty days or more. Human Resources will then terminate the employee from the Human Resource Information System.

Human Resources:

- Manage and conduct competitive recruitments for temporary and seasonal employees.
- Track all temporary hours based on hours from time of hire and notify departments and hiring managers appropriately.
- Draft hire letters for the managers for temporary employees.
- Ensure that no contract is entered into with a temporary employment agency for services that would result in a temporary or regular Metro employee working concurrently for Metro and a temporary employment agency.
- Administer compensation for temporary employees in accordance with applicable policies and procedures.

**References**

Recruitment and Selection Manual

# Metro | *Policies and procedures*

**Subject** Internships  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*Metro offers internships to promote community engagement and provide training opportunities for students and other members of the public. Internships may be paid or unpaid.*

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### **Applicable to**

All departments.

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

### **Definitions**

**Internship:** A training opportunity for the educational benefit of the intern. Internships may be paid or unpaid; however, unpaid internships must comply with legal requirements to ensure that an employment relationship is not created under state and federal wage and hour laws.

### **Guidelines**

1. Metro departments may offer internships for students and/or other members of the public. Internships must provide educational experiences to the intern, and may be paid or unpaid.
2. Paid interns are employees of Metro and are subject to all applicable Metro personnel policies, work rules and procedures.
3. Unpaid interns are subject to Metro's personnel policies only where noted in the policies or otherwise provided by law. Unpaid interns may also be required to follow department procedures applicable to their work.
4. Interns are expected to meet the performance and conduct standards applicable to the internship opportunity and to fulfill their agreed commitments.

### **Procedures**

1. A department may offer internship opportunities at the discretion of the Department Director in consultation with the Human Resources Department.

- a. Relevant considerations include the department's supervisory capacity, the availability of educational work assignments, and the potential benefits to Metro and its constituent communities, such as promoting interest in Metro and increasing the diversity of applicant pools for regular employment.
  - b. An internship may be offered in collaboration with a school or other partner organization as long as the collaboration is consistent with Metro's mission and the internship complies with applicable law and Metro policies.
  - c. The Department Director or other designated hiring manager will determine whether the internship will be paid or unpaid. For paid internships, the rate of pay will be determined in consultation with HR.
2. The hiring manager must consult with the HR Recruitment Analyst before offering an internship. Recruitment and selection of interns will typically be in accordance with Metro's Recruitment and Selection policy.
  - a. The HR Department may approve modified procedures if appropriate, consistent with applicable law. For example, modified procedures may be necessary to facilitate collaboration with a school or other partner organization.
  - b. Interns who are over 18 years old must receive a background check.
  - c. Unpaid interns must sign an Acknowledgment of Unpaid Internship form on or before the date the internship begins.
3. Unpaid internships must comply with state and federal legal requirements. By law, unpaid internships must meet the following criteria:
  - a. The internship must supplement training that would be given in an educational environment, even though it includes actual Metro operations;
  - b. The internship experience must be for the benefit of the intern;
  - c. The intern must not displace regular part-time or full-time employees;
  - d. The intern must work under close supervision of existing staff;
  - e. Metro should derive no immediate advantage from the intern's activities, and on occasion its operations may actually be impeded;
  - f. The intern is not entitled to a job at the conclusion of the internship (he or she may apply for future opportunities in accordance with regular procedures);
  - g. Metro and the intern agree in writing that the intern is not entitled to wages for the time spent in the internship.
4. Paid interns are subject to all applicable Metro personnel policies, work rules and procedures. Departments are responsible for ensuring that paid interns review Metro's personnel policies, consistent with policy review and acknowledgment requirements for all Metro employees.
5. Departments are responsible for providing unpaid interns with an opportunity to review all applicable policies, work rules and procedures, including but not limited to the following:
  - a. Americans with Disabilities Act policy;
  - b. Criminal Background Check policy;
  - c. Discrimination and Harassment policy;
  - d. Domestic Violence, Sexual Assault, Criminal Harassment and Stalking Protections;
  - e. Driving and Vehicle Use policy (if applicable);
  - f. Information Technology: Acceptable Use policy (if applicable);
  - g. Military Servicemembers and Families – Leave Rights and Accommodation policy;

- h. Religious Accommodation policy
  - i. Whistleblowing (Reporting Improper Conduct) policy;
  - j. Workplace Violence policy;
  - k. All safety rules and procedures applicable to the assignment;
  - l. All conduct and performance standards, procedures, and other information applicable to the assignment.
6. Metro is legally restricted from providing direct or indirect compensation to its unpaid interns. Supervisors must request review from the Office of Metro Attorney (OMA) before offering new discounts, privileges, or other benefits to unpaid interns.
  7. Supervisors are required to track unpaid interns' work hours and report this information to the HR Department Payroll Division no later than 10 calendar days after the end of each quarter for workers' compensation purposes.
  8. An intern may be removed from his or her assignment with or without notice for any lawful, non-discriminatory reason. Removal may be appropriate in the event of conduct or performance problems or changing operational needs. Supervisors of interns must consult with the HR Department and/or OMA before removing an intern.
  9. Interns may contact their supervisor or HR with any questions or concerns.

## **Responsibilities**

### Supervisors and Managers:

- Consult with the Department Director and HR Recruitment Analyst before offering an internship.
- Work with Information Services and Facilities staff to arrange appropriate work space, equipment, and network access for the intern.
- Manage internships in accordance with applicable law and Metro policies. Consult with HR and OMA as needed and/or as directed by this policy.
- Ensure that unpaid interns have signed an Acknowledgment of Unpaid Internship and submitted it to HR on or before the date the internship begins.
- Provide interns with all applicable policies and procedures.
- Track unpaid interns' work hours and report this information to the HR Department Payroll Division no later than 10 calendar days after the end of each quarter.

### Human Resources Department:

- Advise staff and interns on policies as needed.
- Conduct appropriate background checks on potential interns.
- Obtain interns' signatures on Acknowledgment of Unpaid Internship forms and maintain files.
- Evaluate practices for consistency with the values and goals of the Metro Diversity Action Plan and advise hiring managers accordingly.

- Provide Equal Employment Opportunity disclosure and track demographics and other data as outlined in the Diversity Action Plan.

Interns:

- Sign and submit an Acknowledgment of Unpaid Internship on or before the first day of your internship.
- Comply with all applicable policies and procedures.
- Promptly advise your supervisor or his/her designee of any changes to your availability.
- Contact your supervisor or the HR Department with any questions or concerns.

**References**

Fair Labor Standards Act

Oregon House Bill 2669 (2013)

Americans with Disabilities Act policy

Criminal Background Check policy

Discrimination and Harassment policy

Domestic Violence, Sexual Assault, Criminal Harassment and Stalking Protections;

Driving and Vehicle Use policy

Information Technology: Acceptable Use policy

Military Servicemembers and Families – Leave Rights and Accommodation policy

Religious Accommodation policy

Whistleblowing (Reporting Improper Conduct) policy

Workplace Violence policy

**Attachment**

Acknowledgment of Unpaid Internship form

*Attachment removed - copies available from Human Resources or on HR intranet page.*

# Metro | *Policies and procedures*

**Subject** Resignation and Retirement  
**Section** Human Resources  
**Approved by** Martha Bennett, Chief Operating Officer; MERC Commission

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## **POLICY**

*This policy outlines procedures and responsibilities in the event of resignation or retirement.*

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### **Applicable to**

All employees.

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

### **Procedures**

1. Metro requests that employees provide a minimum of 14 calendar days' notice of resignation or retirement unless there is a contract or other agreement specifying a different timeframe.
2. Notice of resignation or retirement may be provided verbally or in writing to an employee's supervisor or manager.
3. After receiving notice of resignation or retirement, the supervisor must:
  - a. Immediately notify the Payroll Division via the Kronos Help Desk in order to ensure timely processing of the employee's final paycheck. Please see Metro's Payroll Policy for more information on final paychecks.
  - b. Forward an employee's resignation notice (if any) to the HR Department as soon as possible. If notice of resignation or retirement is given verbally, the supervisor must email the Human Resources (HR) Department to confirm the date and circumstances of the notice and the proposed effective date of the resignation or retirement.
  - c. Complete all applicable close-out procedures listed on the Departing Employee Checklist, available from the HR Department.

4. The effective date of resignation or retirement should ordinarily be the last date the employee is present at work and not extended by leave time or holidays. The HR Department may approve an exception to this rule in unusual circumstances, such as when an employee on leave is unable to return.
5. If an employee who has given notice of resignation or retirement seeks to rescind the notice, the decision whether to accept the rescission is at the discretion of the Department Director based on business need.
6. The HR Department will invite the employee to complete an exit interview or take similar steps to understand the employee's reasons for resigning. Employees are welcome to contact HR to request an exit interview.
7. Employees must return their employee identification cards and all other Metro property, including keys, uniforms, purchasing cards, tools and equipment, by the end of their last day of employment.
8. If contacted for an employment reference, Metro will provide the employee's dates of employment, positions held, and salary history. Metro may agree to provide additional information if requested by the employee.

## **Responsibilities**

### Employees:

- Provide 14 calendar days' notice of resignation if possible.
- Turn in your identification card and all other Metro property by the end of your last day of work.
- Contact the HR Department with any questions relating to benefits.

### Supervisors:

- Notify the Payroll Division via the Kronos Help Desk and the HR Department upon receipt of a notice of resignation.
- Complete applicable close-out procedures listed on the Departing Employee Checklist.
- Limit employment references to the information specified in this policy, or direct inquires to the HR Department.

### Human Resources Department:

- Process separation in applicable HR systems.
- Payroll Division: process employee's final check.
- Provide relevant benefits information.
- Conduct exit interview if requested or otherwise appropriate.