



SOUTH GRANVILLE WATER AND SEWER AUTHORITY

PERSONNEL POLICY

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The South Granville Water and Sewer Authority is an “at will” employer. Nothing in this policy creates an employment contract or term between the Authority and its employees. No person has the authority to grant any employee any contractual rights of employment.

**SOUTH GRANVILLE WATER AND SEWER AUTHORITY (SGWASA) PERSONNEL
POLICY**

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GENERAL PROVISIONS

§1 DEFINITIONS.

As used in this chapter, with the exception of §186, Family and Medical Leave, the terms below are defined as follows:

ALLOCATION. The approval of a position by the appropriate authority based upon the needs of the Authority.

APPLICANT. One who places himself or herself in competition for a vacant position by virtue of completing and submitting an application for employment regardless of employment status, i.e., a current Authority employee becomes an applicant when an application for another position is submitted for purposes of that employee's relationship to a vacant position.

ANNUAL INCREMENT. A step increase as determined by the applicable salary plan.

BOARD MEMBERS or SGWASA BOARD. The local government unit charged with the legislative affairs of the South Granville Water and Sewer Authority (SGWASA).

CLASSIFICATION. A position or group of positions having similar duties and responsibilities and requiring similar qualifications which can be properly designated by one title indicative of the nature of work performed having the same treatment with respect to salary.

COMPENSATORY TIME.

Non-exempt employees of a public agency may receive, in lieu of overtime compensation, compensatory time off at a rate not less than one and one-half hours for each hour of employment for which overtime compensation is required by FLSA.

DEMOTION. A change in job responsibility to another position of lesser responsibility and a lower salary grade.

DIRECTOR or DEPARTMENT HEAD. The highest level of supervision or top administrative official of a department of the Authority.

DOWNGRADE. A change that results in a lower grade being assigned to a position based on duties, responsibilities, reorganization, or market surveys.

EXECUTIVE DIRECTOR. The Executive Director of the Authority is the highest level of supervision and highest administrative official of the Authority and is appointed by the Board Members.

FLSA OVERTIME. Time earned at a rate of time and one-half time by a non-exempt employee for hours worked in excess of 40 hours in a workweek.

FLMA. The US Family Medical Leave Act of 1993, with amendment.

FULL-TIME EQUIVALENT (FT). An employee who is in a position for which an average workweek equals at least 40 hours and continuous employment of at least 12 months is required by the Authority.

GRADE. Numerical value assigned to a range.

IMMEDIATE FAMILY. Wife, husband, mother, father, brother, sister, son, daughter, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandmother, grandfather, grandson, granddaughter, step-mother, step-father, step-brother, or step-sister.

MERIT PRINCIPLE. A systematic and uniform method of personnel administration designed to provide objective recruiting, employment, retention, and promotion of those persons best qualified all other factors excluded.

PART-TIME. An employee who is in a position for which an average workweek of at least 20 hours and less than 40 hours and continuous employment of at least 12 months is required by the Authority.

REGULAR POSITION. A position which has been approved by the SGWASA Board Members and which has recurring duties and responsibilities of continuing duration. All rights and privileges of employment as set forth in personnel code attach to such full-time position with benefits.

POSITION. A group of duties and responsibilities assigned to a department based upon the needs of the Authority which may be performed by one or more employees not to exceed the full-time equivalent (FT) of the position.

PRIOR SERVICE CREDIT. A unitized (months and years) system of determination for benefits and eligibility.

PROMOTION. A change in job responsibility to a position of higher responsibility and a higher salary grade as a result of an employee becoming an applicant and being selected to fill a vacant position.

REASSIGNMENT. Intradepartmental change of duty assignment within the same grade and based upon needs of the department in the discretion of the department head.

RECLASSIFICATION. A change in a position from one class to another based on changes in job content such as duty, kind, difficulty, required skill, responsibility of the work performed, reorganization, or market surveys.

REDUCTION IN FORCE. The abolishment of or reduction of a position or some portion of a position based on needs of the organization, work load, and availability of funding.

REORGANIZATION. Due to changes in the organizational needs of the department, the duties and responsibilities or technological requirements of a position may be reclassified, and a position may be abolished in full or in part, or created according to Authority policy.

SALARY PLAN. A schedule of salary ranges assigned to each salary grade.

SALARY RANGE. A range assigned to a grade, including trainee, minimum, and maximum annual salaries.

SHIFT EMPLOYEES. Employees who work a rotating schedule outside a regular 40.0 hour work week.

STRAIGHT TIME. Time for time earned by a non-exempt employee when, due to a holiday or other occasion, the employee's work week adds up to over 40 hours, but the employee does not actually work all of the hours.

TEMPORARY POSITION. An employee appointed to a position for which either the average work week required by the Authority over the course of a year is less than 20 hours, or continuous employment required by the Authority is less than 12 months.

TRANSFER. Change of duty assignment as a result of the employee becoming an applicant and being selected for a vacant position.

TRANSFER EMPLOYEES. Employees who are employed with the State on December 31, 2005 and who accept employment with SGWASA on January 1, 2006 and Employees employed with Granville County on December 31, 2005 and who accept employment with SGWASA on January 1, 2006.

TRAINEE. An employee who does not meet minimum education, experience, or certification requirements for a position but can within a specified period meet the minimum requirements.

TREATMENT. Includes, but is not limited to examinations to determine if a serious health condition exists and evaluations of the condition. Treatment does not include routine physical examinations, eye examinations, or dental examinations. Ordinarily, unless complications arise, the following are examples of conditions that do not meet the definition: common cold, flu, ear aches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, cosmetic treatments, etc.

The following may meet the definition if all of the other conditions of this section are met: restorative dental or plastic surgery after an injury or removal of cancerous growths, mental illness, resulting from stress or allergies, treatment for substance abuse.

UPGRADE. A change that results in a higher grade being assigned to a position with the same job responsibility.

WORK TOWARD. When an employee does not meet minimum requirements of the position and there are lower levels in the series of the classification, then the employee may be assigned to the level of the series for which he or she is qualified and may "work against" the experience and educational requirements of the higher level of the series.

§2 MERIT PRINCIPLE.

All appointments and promotions of Authority employees shall be made solely on the basis of merit and fitness without regard to politics, sex, race, color, age, disability, religious affiliation or national origin. The Authority follows generally accepted classification principles which guarantee that equal pay opportunities are provided for all positions of equal responsibility.

§3 RESPONSIBILITY OF BOARD.

The Board Members shall establish personnel policies, approve any cost-of-living adjustment to the Salary Plan, approve all new positions and shall make and confirm appointments when so specified by law.

§4 RESPONSIBILITY OF EXECUTIVE DIRECTOR.

The Executive Director shall be responsible to the Board Members for the administration of the personnel program and shall have full responsibility for all personnel functions.

§5 EMPLOYEES SUBJECT TO CHAPTER.

The provisions of this policy shall be applicable to all SGWASA employees.

§5.1 At Will Employment

The South Granville Water and Sewer Authority is an “at will” employer. Nothing in this policy creates an employment contract or term between the Authority and its employees. No person has the authority to grant any employee any contractual rights of employment.

§6 AUTHORITY DEFENSE OF EMPLOYEES.

(A) It shall be the policy of SGWASA to defend civil claims or judgments against its officers and employees when they have acted in good faith within the scope of their employment. SGWASA shall provide for this defense by the purchase of insurance or other measures. Further, the Authority will not defend a claim or lawsuit or pay a claim or judgment when the officer or employee willfully:

- (1) Acts or fails to act because of actual fraud, corruption or actual malice.
- (2) Acts or fails to act as a result of or at a time when his self-indulgence substantially impairs his judgment (as, for example, an officer or employee who causes damage or injury while intoxicated or under the influence of drugs while on the job or participating in one’s public capacity).
- (3) Acts or fails to act, except in emergencies or the existence of extenuating circumstances, directly contrary to instruction from his supervisor or directly contrary to advice of the SGWASA Attorney.

- (4) Acts or fails to act in such manner as to constitute a criminal act (as for example, misappropriation of property or funds).

(B) The Executive Director or his designee shall determine whether a claim or suit filed against an officer or employee meets the requirements specified herein for providing a defense for such officer or employee. If the Executive Director or his designee determines that a claim or suit does not meet the requirements specified herein, the affected officer or employee may appeal such determination to the Board Members. The Board shall afford the officer or employee a hearing on the matter and shall decide whether the claim or suit meets the requirements of this resolution.

(C) *Definitions.* For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

OFFICER and **EMPLOYEE.** Present or past members of the Board, officers, or employees, and present or past appointed members of boards, agencies, committees and commissions who might hereafter have claims or judgments entered against them.

(D) The policies specified herein shall not be applicable unless notice of the claim of suit is given to the Board Members through the Executive Director or SGWASA Attorney prior to the time the claim is settled or civil suit is litigated and judgment is entered.

(E) This section shall not be interpreted in any way to relieve an insurance company of its obligations under any insurance policy to protect the interests of any insured under said policy, or to reduce or eliminate the rights of any officer or employee of the Authority against any other party. Except as expressly stated herein, this section is not to be interpreted as a waiver of any right or defenses the Authority has or may have against any party; nor shall the adoption of this section be construed to waive the defense of governmental immunity.

§7 SAFE WORKPLACE POLICY.

SGWASA is committed to making reasonable efforts to provide a safe working environment for its employees.

It is expected that all Authority employees will adhere to this policy. The communication of threats, verbal harassment, physical assaults, or other forms of inappropriate behavior will not be condoned. Employees found in violation will be subject to appropriate discipline as provided for in this Policy. Persons found violating this policy may, at the discretion of the Executive Director, be reported to the appropriate law enforcement authorities for criminal prosecution.

§8 DRESS CODE.

Employees are expected to dress appropriately while on duty. Examples of dress considered inappropriate include clothing with logos that are obscene or in poor taste, physically revealing clothing, or clothing that is not specifically suited to the job.

Office workers are expected to wear professional business or business casual clothes that transmit a professional image to citizens and customers.

All other employees shall wear the approved SGWASA uniform.

Department Managers may authorize casual dress as necessary to achieve departmental objectives, i.e., clean up days.

Should there be a debate as to what is appropriate, the decision of the Executive Director shall be final.

§9 — §28 RESERVED.

CLASSIFICATION PLAN

§29 COVERAGE OF CLASSIFICATION PLAN.

The position classification plan on file in the Executive Director's Office shall be the classification plan of the Authority. This classification plan shall include all classes of positions.

§30 ALLOCATION OF POSITIONS.

The Executive Director with consultation of the appropriate Department Head, shall approve the allocation of each position covered by the classification plan to its appropriate class.

§31 MAINTENANCE OF CLASSIFICATION PLAN.

The Executive Director shall be responsible for the administration and maintenance of the position classification plan. Department heads shall be responsible for bringing to the attention of the Executive Director, any material changes in the nature of the duties, responsibilities, working conditions, or other factors affecting the classification of any existing position.

§32 CLASSIFICATION OF NEW POSITIONS.

The Executive Director, or his designee shall be responsible for studying and establishing the allocations of new positions to the existing classes or to new classes of positions in the Authority's service.

§33 AMENDMENT OF CLASSIFICATION PLAN.

The Executive Director is authorized to amend the classification plan by adding, changing, or deleting classes of positions and salary grades based on internal analysis and market surveys within the authorized budget allocation. The Executive Director shall advise the Board Members of such amendments.

§34 — §39 RESERVED.

§40 --- §49 Reserved.

WAGE AND SALARY ADMINISTRATION

§50 COVERAGE OF THE SALARY PLAN.

The salary plan on file in the Executive Director's Office shall be the salary plan for the Authority. This salary plan shall include all grades for the classes of positions in the classification plan.

§51 MAINTENANCE OF SALARY PLAN.

(A) Each year, prior to the annual budget process, the Executive Director shall review the status of the salary plan and consider any amendments necessary to maintain a current salary structure.

(B) The Executive Director shall make cost-of-living recommendations to the Board Members based upon an annual study of local economic conditions and the financial state of the Authority.

§52 TRANSITION TO NEW SALARY PLAN.

The following four principles shall govern the transition to a new salary plan:

(A) No employee shall receive a salary reduction as a result of the transition to a new salary plan.

(B) All employees being paid at a rate lower than the hiring rate established for their respective classes shall have their salaries raised at least to the new hiring rate for their classes.

(C) All employees being paid at a rate below the maximum rate established for their respective classes shall be paid at a rate listed in the salary schedule; all employees not at a listed rate shall have their salaries raised to a listed rate.

(D) All employees being paid at a rate above the maximum rate established for their respective classes shall be maintained at that salary level until such time as the employees' salary range is increased above the employees' current salary.

§53 PAYMENT AT LISTED RATE.

All employees covered by the salary plan shall be paid at a listed rate within the salary range established for their respective job classifications, except employees in a "trainee" or "work toward" status, or employees whose present salaries are above the established maximum rate.

§54 ENTRANCE AT MINIMUM.

Each employee, except those employees with trainee/work against status, shall be appointed to at least the hiring salary of the range which has been established for the classification of the position. An employee may be hired above the hiring salary, but within the range, with the approval of the Executive Director. Employees hired or promoted into the hiring rate of the pay range shall receive a salary increase to the minimum rate upon successful completion of the probationary period. Employees hired or promoted above the hiring rate shall not receive increases when removed from probationary status.

§55 SALARY OF TRAINEE/WORK AGAINST.

If an applicant does not meet the minimum requirements or has not served in a similar position previously, the starting rate will be at an established trainee rate; usually 5% below the hiring rate of the range. If an applicant has education or experience and that education or experience warrants hiring above the hiring rate, but that applicant does not have the necessary minimum certification(s) for the position, the applicant shall be hired at 5% below what the applicant would have been offered and given a 9 to 18 month probationary period during which to acquire the necessary certification(s). At the end of the probationary period, (1) the employee will be made permanent and given the 5% salary increase if the employee has met all of the requirements of the position or (2) the employee will be terminated if the employee has not met the minimum requirements unless the Executive Director determines that the employee's probationary period should be extended.

§56 LONGEVITY PAY*

Longevity pay is designed for employees who provide long-term service to SGWASA. The longer an employee is with the Authority, the higher the percentage of longevity pay they will receive for his or her commitment. After completing 10 years of total service with the Authority, an employee will begin receiving longevity pay. This is an annual payment based on a percentage of salary. The amounts are:

Years of Qualifying Service	Longevity Pay Rate
10 but less than 15 years	1.50 percent
15 but less than 20 years	2.25 percent
20 but less than 25 years	3.25 percent
25 or more years	4.50 percent

Once an employee becomes eligible, the employee will get his or her total longevity payment each year during the same pay period unless it is delayed by leave without pay. For questions about longevity pay, employees should speak with the Executive Director or his designee to determine his or her individual annual payment period. The usual deductions for federal tax, state tax and state retirement are withheld from this payment.

***Transfer Employees who were State employees on December 31, 2005 will accrue longevity pay at the same rate that they were accruing longevity pay with the State as of December 31, 2005 (i.e. their accrual position will be accepted by SGWASA). Transfer Employees who were State employees on December 31, 2005 will advance within the accrual table of SGWASA based on their employment date with the State. All other employees will accrue at the rate based on their employment date with SGWASA. For accrual dates in 2006, Transfer Employees who were State employees on December 31, 2005 will receive longevity pay from the State from their accrual date in 2005 to December 31, 2005. SGWASA will then pay the employee the portion of his or her longevity pay accruing from January 1, 2006 until the employee's accrual date in 2006.**

§57 — §63 RESERVED.

§64 SALARY OF PART-TIME EMPLOYEES.

The part-time pay of employees without regular status shall be reviewed annually in the budget process and approved by the Board Members.

§65 PAY PERIODS.

(A) All monthly paid employees shall be paid on the last working day of each month for service through the end of that month.

(B) Part-time employees not covered by Section 65(A) shall be paid monthly at the end of each month for hours worked in the previous month.

(C) If payday falls on a Saturday, Sunday or holiday, employees shall be paid on or before the last working day prior thereto.

(D) The monthly paychecks for December will be distributed on December 20th or the last working day prior to that date.

§66 SALARY ADJUSTMENTS.

The Executive Director shall be responsible for implementing all salary adjustments. Employees shall be advised of all salary changes. Salary adjustments may occur as a result of the following:

(A) *Cost-of-living increase:* The SGWASA Board has the authority to grant all employees a cost-of-living increase each fiscal year.

(B) *Performance Based Increase:* A performance increase is awarded in conjunction with the Authority's performance rating system as further described in Section 144.

(C) *Demotion.* An employee shall receive a decrease in salary due to a demotion to a lower salary grade as determined by the department head subject to review and approval by the Executive Director.

(D) *Promotion.* The salary of an employee promoted to a vacant position shall be adjusted within the range, provided the employee meets minimum requirements of the position.

(E) *Negotiated increases.* Other salary increases may be granted from time to time with the approval of the Executive Director. The Executive Director may increase the annual salary of an employee when the employee's position is known to be one that is hard to fill or the market rate exceeds the current rate of pay. The salary increase may not exceed the maximum of the salary range.

(F) *Reclassification.* When a position is reclassified to a higher class, the Executive Director has the discretion to adjust the salary upward, provided that the adjusted salary does not exceed the maximum of the new salary rate, or to leave the salary unchanged except when the salary is below the minimum in which case the salary shall be brought up to the minimum of the new classification. When a position is reclassified to a lower class, the Executive Director has the discretion to reduce the salary within the new grade, or leave the salary unchanged.

(G) *Trainee/work against to full class.* When a trainee/work against meets the minimum requirements for the position (full class), the salary shall be adjusted upward to the minimum of the position's salary range unless otherwise negotiated at the time of hire. Approved leave without pay shall not count as time worked toward meeting the minimum requirements for the position.

(H) *Transfer.* The salary of an employee transferred to a vacant position may be adjusted within

the range as negotiated between employer and employee.

§67 SALARY AT SEPARATION.

The regular payroll check for the current pay period will be distributed on the next regularly scheduled payday following the pay period last worked. The final check received by the employee will include annual leave and compensatory time for overtime amounts due and will be received with the payroll check on the next regularly scheduled payday following the pay period last worked. An employee who separates employment with the Authority will receive a reduction in final pay if there is a negative balance in sick leave or annual leave or as allowed by Article 2A, Chapter 95 of the North Carolina General Statutes..

§68 MANDATORY DEDUCTIONS FROM SALARY.

Deductions which are required by law shall be deducted from employees' pay and shall include:

(A) Federal income tax.

(B) State income tax.

(C) Social Security.

(D) North Carolina Local Government Employees' Retirement System.

§69 — §71 RESERVED.

§72 ADVANCE ON WAGES.

There shall be no advance on wages and no paychecks will be released early.

§73 — §87 RESERVED.

EMPLOYMENT, COMPENSATION, AND EMPLOYEE PERFORMANCE

§88 APPLICABILITY.

The provisions of this sub-chapter shall be applicable to all employees, except those specifically exempted in Section 5.

§89 RECRUITMENT REQUIREMENTS.

Each Department Head shall be responsible for publicizing opportunities and recruiting qualified personnel for all vacant positions authorized by the operating budget of the departments in the Authority, except where the Board Members, upon the recommendation of the Executive Director, freeze a vacant position.

(A) *External advertisement.* Vacant positions to be filled shall be advertised in a manner reasonably likely to reach applicants suited for the particular position and may be publicized by the Authority in a newspaper of county-wide circulation, a trade journal, the local employment office,

designated Authority departments, the Authority's web site, or other media in order to permit an open opportunity for all interested employees and applicants to apply.

(B) *Internal advertisement.* It is the Authority's policy to create career opportunities for its employees whenever possible. Therefore, when a current employee applying for a vacant position is best suited of all applicants, that applicant shall be promoted to that position. The Authority will balance three goals in the employment process: 1) the benefits to employees and the organization of promotion from within; 2) providing equal employment opportunity and a diversified workforce to the community; and 3) obtaining the best possible employee who will provide the most productivity in that position. Therefore, except in rare situations where previous Authority experience is essential or exceptional qualifications of an internal candidate so indicate, the Authority will consider other applicants rather than automatically promote from within. Candidates for promotion shall be chosen on the basis of their qualifications and their work records. Candidates shall apply for promotions using the same application process as external candidates.

(C) Applicants will be considered on the basis of their relative ability, knowledge and skills, educational background, and any special licenses or certifications which may be required.

(D) The selection of applicants will be based upon a relative consideration of their qualifications for the position to be filled. Advantage will be given to applicants determined to be best qualified. Department heads must reasonably document hiring decisions to verify the basis for selection.

(E) The applicant deemed most qualified will be notified of selection and offer of employment by the department head. The documentation of offer and acceptance shall be forwarded to the Executive Director where it shall be placed in the official personnel file.

§90 ELIGIBILITY FOR EMPLOYMENT.

(A) *Constitutional guarantees.* No Authority employee shall be required to belong to any particular political party as a condition of employment; nor shall race, age, sex, color, religion, or national origin be used as a qualifying standard for employment.

(B) *Citizenship and alien registration.* All Authority employees shall be citizens of the United States, or shall submit appropriate documentation of alien employment eligibility pursuant to Title VIII, U.S.C. 1324 et seq.

(C) *Employment of relatives.* The Authority prohibits the hiring and employment of "immediate family" in regular positions within the same work unit. "Work Unit" is defined as a department with fewer than 20 employees or division of a department with more than 20 employees. The Authority also prohibits the employment of any persons into a regular position who is an immediate family member of individuals holding the following positions: SGWASA Board Member, Authority Executive Director, Finance Officer, Clerk to the Board, or Authority Attorney. Otherwise, the Authority will consider employing family members or related persons in the service of the Authority, provided that such employment does not:

- 1) result in a relative supervising relatives;
- 2) result in a relative auditing the work of a relative;
- 3) create a conflict of interest with either relative and the Authority;

or

- 4) create the potential or perception of favoritism.

This provision shall not apply retroactively to anyone employed when the provision is adopted by the Authority.

(D) *Minimum age.* The minimum employment age is 18 years of age.

(E) *Required Licenses and Certifications.* If a position requires a minimum level of licensure or certification and an employee fails to maintain this established level while employed with SGWASA then this failure to maintain licensure or certification shall be grounds for termination.

§91 EMPLOYMENT CATEGORIES.

There are three categories of employment with the Authority: full-time, part-time, and temporary as described in the definitions section above.

§92 RESIGNATION.

An employee who desires to terminate employment with the Authority should submit written notification to the immediate supervisor at least two weeks prior to the intended date of separation. If proper two-week notice is not given, the employee shall forfeit payment for accrued annual leave unless the required notice is waived in the discretion of the Executive Director. An employee who is absent from work for three consecutive work days without reporting to the supervisor the reasons for the absence shall be considered to have separated employment without notice and to have waived payment for accrued annual leave. The Executive Director may waive the notice requirement in cases where immediate separation is in the best interest of the Authority.

§93 — §95 RESERVED.

§96 APPOINTMENT OF DEPARTMENT DIRECTORS AND HEADS.

The Executive Director shall make all appointments of department directors or heads under his or her direction, except those elected or appointed by the Board Members or other boards.

§97 HOURS OF OPERATION.

The regular hours of operation of Authority offices are between the hours of 8:00 a.m. and 5:00 p.m. Monday through Friday. Employees will be given one hour lunch periods. Some facilities may be open for additional hours to accommodate service to the public. When the activities of a particular department require some other schedule to meet work needs, the Executive Director may authorize a deviation from the normal schedule. No Authority office shall be closed at any time without prior knowledge and approval of the Executive Director.

§98 FAIR LABOR STANDARDS ACT.

(A) It is the policy of SGWASA to comply with all the requirements of the Fair Labor Standards

Act (FLSA), 29 U.S.C. section 201 et seq and when anything in this Personnel Policy is in conflict with the FLSA the Authority shall comply in all respects with the FLSA and the portion of this Personnel Policy in conflict with the FLSA shall be deemed to be null and void.

(B) As an integral part of job duties and responsibilities, every department head, supervisor or individual in management position is required to ensure compliance with the applicable standards, regulations and guidelines of this law. All overtime shall be compensated pursuant to those requirements set out in the Fair Labor Standards Act. All compensatory time for overtime hours remaining on an employee's record shall be compensated at the employee's current rate of pay (or as prescribed by FLSA regulations) upon separation.

(C) All employees are encouraged to discuss with their supervisor any employment practices which may be governed by the Fair Labor Standards Act. All prohibitions of retaliation and discrimination specifically set forth in 29 U.S.C. 215 will be strictly adhered to by all agents of the Authority, including department heads, supervisors and individuals in management. There shall be no retaliation by the Authority against any employee who asserts a right or claim under the Fair Labor Standards Act.

§99 WORKWEEK.

Salaried employees shall receive a salary commensurate with the employee's grade for all time worked for the Authority. All employees whose overtime is governed by the Fair Labor Standards Act (FLSA) shall accrue overtime compensation in accordance with the provisions of the FLSA. The standard workweek shall be from 12:01 a.m. on Sunday through 12:00 a.m. on Saturday, unless an alternate schedule has been so designated by the Executive Director. Department directors, supervisors and otherwise exempt employees under the FLSA shall work those necessary hours to ensure satisfactory performance of their departments, but not less than 40.0 hours per week.

§100 OVERTIME FOR FLSA NONEXEMPT EMPLOYEES.

All employees governed by the FLSA shall maintain true, complete, and legible time records. All time worked shall be recorded to the nearest one-quarter hour and shall be submitted to the supervisor in a timely fashion. Supervisors shall arrange the work schedule of their employees to accomplish necessary work within an average workday or workweek, except in those cases where excessive hours of work are necessary. **All overtime work shall be pre-approved by the supervisor except in emergency situations where conditions are such that prior approval cannot be obtained, and in such event approval shall be obtained immediately subsequent to the emergency overtime worked, except when overtime is mandated by shift scheduling. Excessive or ongoing overtime must have written approval by the Executive Director.**

(A) FLSA overtime and Straight Time. Non-exempt employees shall be awarded compensatory time or overtime payments at a rate of time and one-half for hours worked over 40 (FLSA) overtime in a workweek.. Non-exempt employees shall be awarded straight time off at a rate of one to one hours for hours adding up to over 40 hours for the work week when a holiday taken or other occasion causes the total hours to be over 40 but more than 40 hours are not actually worked.

(1) Compensatory time under this section shall be exhausted prior to the approval of annual leave or leave without pay. Emergency leave requests to use compensatory time awarded under this section shall be made by the employee and approved by the supervisor within 30

minutes of the beginning of the workday or shift.

(2) Compensatory time awarded under this section may be used in lieu of sick leave.

(B) *Hours worked.* Hours worked is the time for which an employee is entitled to compensation under the FLSA. Compensation is required for the time an employee is required to be on duty, on the employer's premises, or at a prescribed workplace, and for the time the employee is suffered or permitted to work.

(1) Vacation (annual leave), sick leave, compensatory time and holiday leave will not be considered hours worked for FLSA purposes.

(2) If a nonexempt employee is required to work on an Authority designated holiday, see Section 139, Subsection (D), Item (1).

(3) Training-related time, either to increase efficiency or as required by the employer, is counted as hours worked for purposes of calculating overtime. Time relating to training and educational seminars that are required by the state as a condition of practice of the profession, except to the extent said training-related time is to increase efficiency or is required by the employer, are not considered work time and are not counted as hours worked for the purpose of calculating overtime.

(4) Time spent by an employee during the regular workday adjusting a grievance under the Authority grievance policy is considered hours worked for purposes of calculating overtime.

(5) All travel time which is required by the Authority other than the normal commuting time between home and job is considered hours worked for the purposes of calculating overtime.

(C) *Overtime payments.* Authorization for payment of overtime when the maximum compensatory time ceiling has not been reached shall be made in writing by the Executive Director or his designee.

(D) *Standing authorizations.* Employees or classes of employees may be granted standing authorization for overtime payments by written authorization of the Executive Director or the Director's designee.

(E) *On-call duty.* Employees required to work on-call duty shall receive overtime for all time actually spent in the service of the department in excess of their regular work schedule. A minimum of two hours shall be guaranteed any employee on call when the employee is required to leave home to conduct duties. At no time shall the two hour minimum be allowed to add up to more than twenty four hours in one day.

If the employee is required to leave home, the recording of time shall begin when the employee leaves home and shall conclude when the employee returns home. Telephone calls while on call shall be counted as time worked for the duration of the call.

(1) Employees required to work on-call duty will be compensated for their time on-call in the following manner:

- a) "On-Call Time" compensation is solely intended to compensate the employee for being on-call.
- b) OCT cannot be accumulated during a time when the employee is actually in service of

the department whether this is during their normal work schedule or in service of the department in excess of their regular schedule (i.e. OCT cannot be accumulated while or when other compensation is being accumulated).

- c) OCT compensation will be paid at a price per OCT hour earned as stated in the approved salary scale or taken as time off at a rate of 1 hour off per 1 hour OCT earned.
- d) An employee will earn 1 hour of OCT for every eight (8) hours that he/she is on call.
- e) Any prorating of OCT earned will be done in accordance with the following schedule:

Time on call	OCT earned	Time on call	OCT earned	Time on call	OCT earned	Time on call	OCT earned
		4 hr	30 min	11 hr	1 hr 25 min	18 hr	2 hrs 15 min
< 15 min	0	5 hr	40 min	12 hr	1 hr 30 min	19 hr	2 hrs 25 min
>15< 30 min	5 min	6 hr	45 min	13 hr	1 hr 40 min	20 hr	2 hrs 30 min
>30<60 min	5 min	7 hr	55 min	14 hr	1 hr 45 min	21 hr	2 hrs 40 min
1 hr	10 min.	8 hr	1 hr	15 hr	1 hr 55 min	22 hr	2 hrs 45 min
2 hr	15 min	9 hr	1 hr 10 min.	16 hr	2 hr	23 hr	2 hrs 55 min
3 hr	25 min	10 hr	1 hr 15 min	17 hr	2 hrs 10 min	24 hr	3 hrs

(F) *Accrued compensatory time for overtime at separation.* All accrued compensatory time for overtime hours shall be compensated at the average regular rate received by the employee during the last three years of employment or at the regular rate of pay upon any employee’s separation, whichever is higher, consistent with regular payroll practices.

(G) *Employees shall not volunteer to work overtime without receiving compensation.* All overtime work shall be pre-approved by the supervisor except in emergency situations where conditions are such that prior approval cannot be obtained, and in such event approval shall be obtained immediately subsequent to the emergency overtime worked.

§102 — §103 RESERVED.

§104 DISCIPLINARY ACTION.

(A) Disciplinary Action for Unsatisfactory Job Performance

A regular employee may be placed on disciplinary suspension, demoted, or dismissed for unsatisfactory job performance, if after following the procedure outlined below, the employee's job performance is still deemed to be unsatisfactory. All cases of disciplinary suspension, demotion, or dismissal must be approved by the Executive Director prior to giving final notice to the employee.

(B) Unsatisfactory Job Performance Defined

Unsatisfactory job performance includes any aspects of the employee's job that are not performed as required to meet the standards set by the supervisor. Examples of unsatisfactory job performance include, but are not limited to, the following:

- 1) Demonstrated inefficiency, negligence, or incompetence in the performance of duties;
- 2) Careless, negligent or improper use of Authority property or equipment;
- 3) Physical or mental incapacity to perform duties after reasonable accommodation;
- 4) Discourteous treatment of the public or other employees;
- 5) Absence without approved leave;
- 6) Repeated improper use of leave privileges;
- 7) Habitual pattern of failure to report for duty at the assigned time and place;
- 8) Failure to complete work within time frames established in work plan or work standards; or
- 9) Failure to meet work standards over a period of time.

(C) Communication and Warning Procedures Preceding Disciplinary Action for Unsatisfactory Job Performance

When an employee's job performance is unsatisfactory, or when incidents or inappropriate actions warrant, the supervisor should meet with the employee as soon as possible in one or more counseling sessions to discuss specific performance problems. A brief summary of these counseling sessions should be noted in the employee's file by the supervisor. An employee whose job performance is unsatisfactory over a period of time should normally receive at least two warnings from the supervisor before disciplinary action resulting in dismissal is taken by the Executive Director. In each case, the supervisor should record the dates of discussions with the employee, the performance deficiencies discussed, the corrective actions recommended, and the time limits set. If the employee's performance continues to be unsatisfactory, then the supervisor should use the following disciplinary steps:

- 1) A final written warning from the supervisor serving notice upon the employee that corrected performance must take place immediately in order to avoid suspension, demotion, or dismissal.
- 2) If performance does not improve, a written recommendation should be sent to the Executive Director for disciplinary action such as suspension, demotion, or dismissal.

(D) Disciplinary Action for Detrimental Personal Conduct

With the approval of the Executive Director, an employee may be placed on disciplinary suspension, demoted, or dismissed without prior warning for causes relating to personal conduct detrimental to the Authority service in order to 1) avoid undue disruption of work; 2) to protect the safety of persons or property; or 3) for other serious reasons.

(E) Detrimental Personal Conduct Defined

Detrimental personal conduct includes behavior of such a serious detrimental nature that the functioning of the Authority may be or has been impaired; the safety of persons or property may be or have been threatened; or the laws of the government may be or have been violated. Examples of detrimental personal conduct include, but are not limited to, the following:

- 1) Fraud or theft;
- 2) Conviction of a felony or the entry of a plea of nolo contendere thereto;
- 3) Falsification of records for personal profit, to grant special privileges, or to obtain employment;
- 4) Willful misuse or gross negligence in the handling of Authority funds;
- 5) Willful or wanton damage or destruction to property;
- 6) Willful or wanton acts that endanger the lives and property of others;
- 7) Possession of unauthorized firearms or other lethal weapons on the job;
- 8) Brutality in the performance of duties;
- 9) Reporting to work under the influence of alcohol or drugs or partaking of such while on duty. Prescribed medication may be taken within the limits set by a physician as long as medically necessary;
- 10) Engaging in incompatible employment or serving a conflicting interest;
- 11) Request or acceptance of gifts in exchange for favors or influence;
- 12) Engaging in political activity prohibited by this policy;
- 13) Harassment of an employee or the public with threatening or obscene language and/or gestures;
- 14) Harassment of an employee(s) and/or the public on the basis of sex or any other protected class status; or
- 15) Stated refusal to perform assigned duties or flagrant violation of work rules and regulations.

(F) Pre-Disciplinary Conference.

Before any disciplinary action is taken, whether for failure in personal conduct or failure in performance of duties, the supervisor shall provide the employee with a written notice of proposed disciplinary action, which will include the nature of the proposed action, its recommended effective date, the reasons for the action, and a date and time for a pre-disciplinary conference. At this conference, the employee may present any response to the proposed disciplinary action to the supervisor. The supervisor will consider the employee's response, if any to the proposed disciplinary action, and will, within three working days following the pre-disciplinary conference, notify the employee in writing of the final decision to take disciplinary action. The notice of the final disciplinary action shall contain a statement

of the reasons for the action and the employee's appeal rights. The Executive Director will be provided with a written notice of action taken.

(G) Non-Disciplinary Suspension.

During the investigation, hearing, or trial of an employee on any criminal charge, or during an investigation related to alleged detrimental personal conduct, or during the course of any civil action involving an employee, when suspension would, in the opinion of the supervisor, be in the best interest of the Authority, the supervisor, with the approval of the Executive Director, may suspend the employee for the duration of the proceedings as a non-disciplinary action. In such cases, the Executive Director may:

- 1) Temporarily relieve the employee of all duties and responsibilities and place the employee on paid or unpaid leave for the duration of the suspension, or
- 2) Assign the employee new duties and responsibilities and allow the employee to receive such compensation as is in keeping with the new duties and responsibilities.

If the employee is reinstated following the suspension such employee shall not lose any benefits to which otherwise employee would have been entitled had the suspension not occurred. If the employee is terminated following suspension, the employee shall not be eligible for any pay from the date of suspension; provided, however, all other benefits with the exception of accrued vacation leave and sick leave shall be maintained during the period of suspension.

(H) Appeals.

An employee wishing to appeal a reprimand, a demotion, a suspension, or a dismissal may present the matter using the grievance procedures prescribed in §112.

§105 PERFORMANCE EVALUATION.

The appropriate supervisor or department head shall annually review the performance of each employee within one month of the employee's anniversary date with the Authority. This annual review must take place and the documentation received in the Finance Department prior to the payroll deadline date of the month in which a performance based increase would be due. Performance shall also be evaluated at the time of a transfer or promotion so that the entire year's work history is reflected. The supervisor shall ensure that all changes in employee duties are reviewed and incorporated into a current job description. The performance evaluation shall be placed in the employee's official personnel file in the Finance Department.

§106 — §107 RESERVED.

§108 PROBATIONARY PERIOD.

(A) *Initial probationary period.* A probationary period of nine months shall be served by all employees employed in regular positions in the services of the Authority. The supervisory shall hold a six-month review conference to inform the employee of any unsatisfactory performance. The supervisor shall be responsible for evaluating the performance of the employee during the probationary period and shall complete a performance evaluation prior to the expiration date of the probationary period. The

probationary period shall be extended for the amount of time the employee is on approved leave without pay. Regular status shall be granted at the end of a satisfactory probationary period. With the approval of the Executive Director, probation may be extended an additional 6 months to allow the employee to satisfactorily master the duties of the position. The requirement of annual performance evaluation may be waived by the supervisor if the employee's anniversary date falls within three months of the date of probationary evaluation.

(B) *Probationary period following promotion, transfer or demotion.* A probationary period of no less than three months or more than six months shall be served by all employees promoted, transferred or demoted to a new position. The department head or his designee shall be responsible for evaluating the performance of the employee during the probationary period and shall complete a performance evaluation prior to the expiration date of the probationary period. The probationary period shall be extended for the amount of time the employee is on approved leave without pay. If the employee is in need of acquiring the minimum level of certifications required by the position, the probationary period may be set at 9 to 18 months at the time of the promotion, transfer, demotion. This length of time is to allow the employee adequate time to gain the necessary certification. Regular status shall be granted at the end of a satisfactory probationary period. The requirement of an annual performance evaluation may be waived by the supervisor if the employee's anniversary date falls within three months of the date of probationary evaluation.

(C) Employees hired or promoted into the hiring rate of the pay range shall receive a salary increase to the minimum of the pay range upon successful completion of the probationary period. Employees hired or promoted at more than the minimum of the pay range are not eligible for probationary increases.

§109 RESERVED.

§110 REDUCTION IN FORCE.

In the event that a reduction in force becomes necessary, the procedures listed below shall be followed:

(A) Consideration of organizational needs necessitate a departmental reorganization within parameters set by funding sources.

(B) Determine which position or portion of a position the organization can best do without.

(C) If there is more than one position in a department that could be abolished, then the value of an individual's performance to the organization shall be considered.

(D) All considerations set forth herein being equal, then length of service shall be considered.

(E) No regular employee shall be separated while there are part-time, temporary or probationary employees serving in the same class within the same department, unless the regular employee is not willing to transfer or reassign; or the regular employee does not have the knowledge and skills required to perform the work of an alternate position within the same class within a reasonable period of orientation or training such that would be given to a new employee.

(F) Employees shall be given at least 30-days' notice of the reduction in force.

(G) A regular employee who is separated due to reduction in force shall have the right to appeal in accordance with the grievance procedure, to ensure that reduction in force procedures were followed.

All reduction in force criteria must be approved by the Executive Director before implementing the reduction in force.

§111 DEMOTION.

A demotion is a change in job responsibility to a position of lesser responsibility and a lower salary grade. A department head may demote an employee under the following conditions:

(A) *Nondisciplinary*. When the employee and the employer agree that the employee is unable to perform in the current position, but shows promise of becoming a satisfactory employee in a lesser position, an assignment to a lesser position may be made without an application process; and

(B) *Disciplinary*. When an employee's performance or conduct is sufficient to satisfy grounds for dismissal, a department head may consider demotion in lieu of dismissal.

Cross-reference:

Salary adjustment, see 66.

§112 GRIEVANCE PROCEDURE AND ADVERSE ACTION APPEAL.

(A) Policy.

The grievance procedure is designed to ensure an employee or group of employees a fair impartial and prompt consideration of a problem or dissatisfaction without fear of reprisal. The procedure also encourages employees at all levels to express themselves regarding conditions of work.

The grievance procedure is intended to promote better understanding of policies, practices, and procedures; to instill confidence in employees that fair and impartial treatment will be received; and develop in supervisors a continuing sense of responsibility for maintaining effective working relationships with employees. All employees, including supervisors and department heads, are expected to discuss their problems and concerns with higher management levels. Open two-way communications is a proven factor in reducing and resolving grievances.

(B) Grievance Defined.

A grievance is a claim or complaint by an employee based upon an event or condition, which affects the circumstances under which an employee works, allegedly caused by misinterpretation, unfair application, or lack of established policy pertaining to employment conditions.

Employees utilizing the grievance procedure shall not be subjected to retaliation or any form of harassment from supervisors or employees for exercising their rights under the grievance procedure. Supervisors or other employees who violate this policy shall be subject to disciplinary action up to and including dismissal.

(C) Procedure.

When an employee or group of employees feels the need to resolve a work-related problem, dissatisfaction or complaint, the following procedure is available:

Informal Discussion. Before filing a formal grievance, the employee (or group of employees) and supervisor shall discuss the problem up through the chain of command and seek to resolve it informally. This discussion shall go to a maximum of two levels above the employee's current position level. This action assures that the supervisory staff knows about and has had the opportunity to consider and investigate the problem and to resolve it informally. The employee must request this meeting within five calendar days of the event or working condition occurring. (Ongoing conditions are not subject to this deadline.)

If the employee is grieving a disciplinary action already discussed with the supervisor, the meeting is encouraged, but not mandatory.

Exception: If an employee alleges harassment by the immediate supervisor, an informal discussion will not be required and the employee may file the report with the human resources office, who will initiate a grievance on behalf of the employee.

Formal Grievance.

When an employee has a grievance, the following successive steps are to be taken unless otherwise provided. The number of calendar days indicated for each step should be considered the maximum, unless otherwise provided, and every effort should be made to expedite the process. However, the time limits set forth may be extended by mutual consent. The last step initiated by an employee shall be considered to be the step at which the grievance is resolved. A decision to rescind a disciplinary suspension, demotion or dismissal must be approved by the Executive Director before the decision becomes effective.

Step 1: Immediate Supervisor.

The first step of the formal grievance procedure is for the employee to file a written notice with the supervisor. This notice must be filed within five calendar days of the employee's meeting with the supervisor to discuss the issue or, in a discipline case where no further meeting was held, five calendar days from receipt of the notice of discipline. An employee shall file a written notice with the supervisor within fifteen calendar days from receipt of a discipline notice, or from a related meeting with the supervisor in cases of demotion, suspension, or termination.

Grievances must be filed in writing, stating the problem or complaint and what solution or remedy the employee desires.

The supervisor shall investigate the matter and respond in writing to the employee within five calendar days of receipt of the formal grievance. The response should be signed by the supervisor. In addition, the employee shall sign a copy to acknowledge receipt thereof. The grievance and the supervisor's response should be forwarded to the Executive Director by the supervisor. Time limits for either party may be waived by mutual consent.

The supervisor should, and is encouraged to, consult with any employee of the Authority in order to reach a correct, impartial, fair and equitable determination or decision concerning the grievance. Any employee consulted by the supervisor is required to cooperate to the fullest extent possible.

Step 2: Department Head

If the grievance is not settled at Step 1, the employee may proceed to Step 2. The employee must file in writing a request to proceed to this level with the Department Head. The grievance must be filed within five calendar days of receiving the supervisor's written response. This written request must state the area of disagreement with the supervisor's response at Step 1 and must state the requested remedy or solution desired by the employee.

The Department Head shall review the issues in the grievance, meet with the employee, and respond in writing to the employee within five calendar days of the meeting. The grievance and the Department Head's response shall be forwarded to the Executive Director by the Department Head.

Step 3: Executive Director

If the grievance is not settled at Step 2, the employee may proceed to Step 3, the Executive Director. The employee shall file the grievance in writing with the Executive Director within five calendar days of receipt of the Department Head's written response. As in previous steps, the employee shall be specific as to the solution or further remedy desired and any concerns about the particular points of disagreement with the supervisor's and the Department Head's responses.

The Executive Director shall schedule a hearing with the employee and a representative from the department. The Executive Director shall respond in writing to the employee within ten calendar days of the hearing date. As in previous steps, the time limits for either party to the grievance may be waived by mutual consent. The decision of the Executive Director is final.

Section 4. Grievance and Adverse Action Appeal Procedure for Discrimination

When an employee, former employee, or applicant believes that any employment action discriminates illegally (i.e. is based on age, sex, race, color, national origin, religion, creed, political affiliation, or disability) he or she has the right to appeal such action using the grievance procedure outlined in this policy. While such persons are encouraged to use the grievance procedure, they shall have the right to appeal directly to the Executive Director. An employee or applicant should appeal an alleged act of discrimination within thirty calendar days of the alleged discriminatory action, but may appeal for up to six months following the action.

(D) Back Pay Awards.

The Executive Director may award back pay and benefits to reinstated employees in suspension, demotion, dismissal and discrimination cases.

§113 — §122 RESERVED.

EMPLOYEE BENEFITS AND SERVICES

§123 ELIGIBILITY.

The benefits provided by this sub-chapter shall be applicable to those employees who are employed in full-time, or other regular, probationary and trainee officially budgeted positions. Excluded from this section are part-time and temporary positions. The Family Medical Leave Act of 1993 confers leave for maternity related disability and for compelling family medical reasons to eligible employees, see §186.

§124 ANNUAL LEAVE.

(A) *Leave year.* For the purpose of earning and accruing annual leave, the 12 calendar month period between January 1 and December 31 is established as the leave year.

(B) *Annual leave earned.** Each full-time, regular, probationary, or trainee employee occupying an officially budgeted position shall earn annual leave on a monthly basis in accordance with the following schedule of total service:

Years	Hours Month	Annual
Less than 2 years	7.83	94
2 but less than 5	9.17	110
5 but less than 10	11.17	134
10 but less than 15	13.17	158
15 but less than 20	15.17	182
20 years or more	17.17	206

Annual leave is accrued/earned the 15th of each month. Employees who separate employment prior to the 15th shall not accrue/earn annual leave for that month. Employees who start work after the 15th of the month shall not accrue/earn annual leave for that month.

***Transfer Employees will advance within the accrual table of SGWASA based on their employment date with the State. All other employees will accrue at the rate based on their employment date with SGWASA.**

(C) *Annual Leave procedures.*

(1) Annual leave earned by an employee shall be taken only upon prior approval of the employee's supervisor. An annual leave request of an emergency nature may be made by the employee and approved in the discretion of the supervisor within 30 minutes of the beginning of the workday or shift. The approval or denial of an annual leave request of an emergency nature is in the sound discretion of the supervisor.

- (2) Annual leave may be taken in units of quarter hours.
- (3) Holidays are not charged as annual leave when they occur during a period when an employee is taking annual leave.
- (4) Annual leave shall be transferred to sick leave with notice to the department head, when sick leave has been exhausted.
- (5) Annual leave accruals in excess of 240 hours for all employees shall transfer automatically to sick leave on December 31 of each year.
- (6) When annual leave has been exhausted, the granting of leave without pay is at the discretion of the Executive Director. Leave without pay shall be deducted from the employee's pay during the pay period in which "leave without pay" occurred. *See §138 Leave Without Pay.*
- (7) Annual leave shall not be advanced to any employee.
- (8) If an employee separates from employment when leave without pay has been approved, then the employee's final paycheck shall be reduced proportionately.
- (9) A maximum of 240 hours accrued annual leave for all employees will be paid upon separation from Authority service when the employee gives notice of resignation at least two weeks in advance of the separation date and actually works each scheduled work day of the two week notice period (unless leave is approved by the SGWASA Executive Director or his or her designee) or the employee is involuntarily separated without fault. Leave will be compensated by separate payment on the next regularly scheduled payday. The employee may also request in writing that leave be transferred to another employer. For the purposes hereof, separation for fault shall be dismissal for unsatisfactory job performance or detrimental personal conduct.
- (10) An employee who is involuntarily separated without fault shall be paid for all accrued annual leave not to exceed a maximum of 240 hours. An employee who is separated for fault, i.e. for unsatisfactory job performance or for detrimental personal conduct, shall forfeit all accrued annual leave.
- (11) An employee who must retire due to a disability may transfer annual leave to sick leave and exhaust all leave prior to the effective date of separation.
- (12) An employee may, with approval of the supervisor, take annual leave up to and including the date of separation.
- (13) An employee retains active employment status during a period of annual leave up to and each including the date of separation.
- (14) Upon the death of a regular employee, compensation for accumulated leave shall be paid to the employee's estate or designated beneficiary.

(15) Holidays or regularly scheduled days off which occur during a period of annual leave shall not be charged as annual leave.

(16) It shall be the responsibility of the Payroll Technician to maintain a record of annual leave for each employee, which shall be the responsibility of each supervisor to provide in a timely fashion.

§124.1 TRANSFER OF ANNUAL LEAVE.*

The Authority will accept up to 40.0 hours of annual leave for a new employee who has at least 40.0 hours of annual leave accrued with another local government or the State of North Carolina. Acceptance is pursuant to the Authority receiving official documentation from the former employer verifying the availability of annual leave.

*** Transfer Employees who were State employees on December 31, 2005 will be allowed to transfer all of their annual leave as well as “bonus leave” granted to them by the North Carolina General Assembly on such terms and conditions as the State and SGWASA may mutually agree upon. Prior to January 1, 2006, the Transfer Employees who were State employees on December 31, 2005 will be informed of the terms and conditions upon which they can transfer their annual leave and bonus leave to SGWASA. All other employees may transfer annual leave as set out in §124.1 above.**

§125 SICK LEAVE.

(A) Sick leave is a privilege and abuse of sick leave policies and practices will be considered a disciplinary offense. Sick leave earned by an employee shall be taken only upon prior approval of the employee’s supervisor. Except that sick leave of an emergency nature must be requested by the employee and approved within thirty minutes of the beginning of the workday or shift. The Authority provides eight (8.0) hour’s sick leave each month to each full-time regular, probationary, or trainee employee occupying an officially budgeted position.

Sick leave is accrued/earned the 15th of each month. Employees who separate employment prior to the 15th shall not accrue/earn sick leave for that month. Employees who start work after the 15th of the month shall not accrue/earn sick leave for that month.

(B) An employee may be allowed to use sick leave if the absence is due to:

- (1) Medical and dental appointments of employee or immediate family;
- (2) Sickness or injury which prevents the performance of usual duties;
- (3) Disability;
- (4) Paternity;
- (5) Exposure to a contagious disease when continuing work, in the judgment of a physician, might jeopardize the health of others;
- (6) Quarantine due to a contagious disease in the employee’s immediate family;

(7) Illness in the employee's immediate family which requires the care of the employee;

(8) Death of a member of the employee's immediate family. An absence in excess of three days must be approved by the Department Head;

(c) A supervisor may require a physician's statement when an employee requires sick leave in excess of three (3) consecutive days, when the reason for sick leave is unclear or when sick leave patterns are suspect. The employee shall have 15 days to provide a medical certification and if the employee fails to provide the medical certification within the allowable time, the absence will be considered unexcused and subject to disciplinary action. The Executive Director may require a second opinion in certain circumstances. No sick leave will be charged for a mandatory examination.

(d) The costs of second opinion examinations and other examinations, where the appropriate use of sick leave is in question, shall be borne by the Authority.

(C) *Sick leave procedures.*

(1) Sick leave is cumulative indefinitely.

(2) Sick leave may be taken in units of quarter hours.

(3) On December 31 of each year, sick leave balances are increased by automatic transfers of all annual leave hours in excess of 240 hours for all employees.

(4) When sick leave has been exhausted annual leave shall be transferred to sick. When all paid leave has been exhausted, the granting of leave without pay is at the discretion of the Executive Director. Leave without pay shall be deducted from the employee's pay on a monthly basis. *See §138 Leave Without Pay.*

(5) Sick leave shall not be advanced to any employee.

(6) All benefits to which an employee is entitled continue to accrue while an employee is out of work on sick leave or when sick leave is used to supplement short-term disability or worker's compensation benefits.

(7) An employee may use sick leave to supplement workers' compensation benefits up to 100% of gross salary.

(8) All unused sick leave is lost upon separation of employment, except as specified in the provisions of §125.1 below or when separation is due to retirement.

(9) Holidays or regularly scheduled days off which occur during a period of sick leave shall not be charged as sick leave.

(10) It shall be the responsibility of the Payroll Technician to maintain a record of sick leave for each employee, which shall be the responsibility of each supervisor to provide in a timely fashion.

§125.1 REINSTATEMENT AND TRANSFER OF SICK LEAVE.*

(A) A former employee who is reemployed by the Authority within five years from the date of separation shall be credited with the balance of sick leave at the time of separation, except when the employee retired under the state Local Governmental Employees' Retirement system. If the retired employee returns to regular employment with the Authority, sick leave will begin with a zero balance.

(B) Any former employee of an agency which is a member of the state Local Governmental Employee's Retirement system or the State Teachers' and State Employees' Retirement System or other systems under the Department of State Treasurer, who is hired by SGWASA within 12 months of the termination with the former agency shall be eligible to transfer up to 240 hours of sick leave. A written request for transfer of sick leave must be made to the Executive Director within 30 days employment by SGWASA. Proper documentation as determined by the Finance Department verifying accumulated sick leave hours must be received with the request. Sick leave transferred to the Authority in this manner is subject to all of the provisions of §125.

***Transfer Employees will be allowed to transfer all of their accumulated sick leave to SGWASA. All other employees will adhere to §125.1 REINSTATEMENT AND TRANSFER OF SICK LEAVE above.**

(C) VOLUNTARY SHARED LEAVE PROGRAM

Purpose:

There are occurrences brought about by prolonged medical conditions that cause employees to exhaust all available leave and therefore be placed on leave-without-pay. It is recognized that such employees forced to go on leave-without-pay could be without income at the most critical point in their work life. It is also recognized that fellow employees may wish to voluntarily donate some of their vacation or sick leave so as to provide assistance to a fellow Authority employee. This policy provides an opportunity for employees to assist others affected by a medical condition that requires absence from duty for a prolonged period of time resulting in possible loss of income due to a lack of accumulated leave.

Policy:

In cases of prolonged medical condition an employee may become a recipient of leave transferred from the vacation or sick leave account of another employee. For purposes of this policy, medical condition mean medical condition of an employee or their spouse, parents, children, or other dependents (including step and in-law relationships) that is likely to require an employee's absence from duty for a prolonged period, generally considered to be at least 20 consecutive workdays. If an employee has had previous random absences for the same condition that has caused excess absences, or if the employee has had a previous, but different, prolonged medical condition within the last twelve months, the Executive Director may make an exception to the 20-day period. The intent of this policy is to allow one employee to assist another in case of a prolonged medical condition that results in exhaustion of all earned leave.

General Guidelines:

1. Establishment of a leave bank for use by unnamed employees is expressly prohibited. Leave must be donated on a one-to-one personal basis.
2. An employee may not directly or indirectly intimidate, threaten, coerce, or attempt to intimidate,

threaten, or coerce, any other employee for the purpose of interfering with any right that such employee may have with respect to donating, receiving, or using leave under this program. Such action by an employee shall be grounds for disciplinary action up to and including dismissal on the basis of personal conduct. Individual leave records are confidential and only individual employees may reveal their donation or receipt of leave. The employee donating leave cannot receive remuneration for leave donated.

Eligibility:

1. The employee must be a full-time employee with regular, probationary, trainee or time-limited regular appointment, and who is eligible to receive Health Benefits through the Authority's current Health Policy. (At the time of this draft, this would allow employees to be eligible for this program on the first of the month following the first full month of employment with the Authority).
2. Non-qualifying conditions: The policy will not ordinarily apply to short-term or sporadic conditions or illnesses. This would include such things as sporadic, short-term recurrences of chronic allergies or conditions; short-term absences due to contagious diseases; or short-term, recurring medical or therapeutic treatments. These examples are illustrative, not all inclusive. Each case must be examined and decided based on its conformity to policy intent and must be handled consistently and equitably.
3. If or when questions of eligibility arise, the Executive Director has authority to examine the case and evaluate its conformity to policy intent.

Recipient Guidelines:

1. Participation in this program is limited to 1040 hours per calendar year.
2. Subject to the maximum of 1040 hours, the number of hours of leave an employee can receive is equal to the projected recovery or treatment period, less the employee's combined vacation and sick leave balance as of the beginning of the recovery or treatment period. The employee must exhaust all available leave before using donated leave.
3. At the expiration of the medical condition, any unused leave in the recipient donated leave account shall be treated as follows:
 - A. The recipient's vacation and sick leave account balance shall not exceed a combined total of 40 hours.
 - B. Any additional unused donated leave will be returned to the donor(s) on a prorated basis and credited to the leave account from which it was donated. Fractions of one hour shall not be returned to an individual donor.
4. If a recipient separates due to resignation, death, or retirement from the Authority, participation in the program ends. Donated leave shall be returned to the donor(s) on a prorated basis.

Donor Guidelines:

1. The minimum amount donated is four hours.
2. An employee donating leave to a qualified family member under this program may donate up to a maximum of 1040 hours but may not reduce their sick leave account below 40 hours.
3. The maximum amount of vacation/sick leave allowed to be donated by one individual is not limited per year. However, the amount donated is not to reduce the donor's leave balance below one-half of the annual accrual rate in either the individual's vacation or sick leave account.

Leave Accounting Procedures:

1. To facilitate the administration of the program, the Authority may establish a specific time period during which leave can be donated.
2. Leave transferred under this program will be available for use on a current basis or may be retroactive for up to 30 calendar days to substitute for leave without pay or advanced vacation or sick leave already granted to the leave recipient.
3. Employees who wish to donate leave under this policy may file a leave transfer request with the Executive Director or his designee.

§126-Community Service Leave

SGWASA recognizes the need for volunteers to maintain the quality of life in our Community. As a SGWASA employee, you are encouraged to do volunteer work to support our schools, communities, citizens and non-profit organizations. If you have a full-time or part-time (half-time or more) permanent, probationary, trainee or time-limited appointment, you may take up to 24 hours (prorated at two hours per month for new employees) of paid leave each calendar year for the following reasons:

- To meet with a teacher or administrator concerning your child
- To go to non-athletic functions that are part of the school's academic or artistic program in which your child is participating
- To perform school-approved volunteer work that is approved by a school official
- To perform a service for an approved non-profit, non-partisan community organization*

You must clear this leave with your supervisor in advance. A Supervisor may require some form of documentation from the agency assisted as proof of the assistance. Community Service Leave not taken during the calendar year will be forfeited. If you leave the service of SGWASA, you are not paid for unused Community Service Leave.

Additional time above the 24 hours of paid leave may be requested to perform significant community service activities with provisions to make up the time at a later date. Otherwise, vacation leave must be used for additional volunteer work.

Tutoring and Mentoring Service

An employee may choose to mentor or tutor a student in a school in lieu of using the 24-hour community service leave. Under this option, the employee will receive one hour of community service leave for each week, up to a maximum of 36 hours, that the school is in session. The employee's agency and the school must document this agreement in writing.

Special Community Service Leave Provisions

In addition to the above leave provisions, there are special guidelines that apply to Emergency Services, Blood and Bone Marrow Donorship and Disaster Service Volunteer with the American Red Cross.

- Employees shall be given reasonable time off with pay for whole blood donation, pheresis procedure, bone marrow transplant, and organ donor ship.
- SGWASA may grant leave with pay not to exceed 15 workdays in any 12-month period to participate in specialized disaster relief services with the American Red Cross within the United States.
- The SGWASA Executive Director may establish policies for time off with pay for employees participating in volunteer emergency and rescue services. A bonafide need should be defined as real or eminent danger to life or property.

Before using leave for any of the above special provisions, employees must speak with the supervisor or human resource director for details about SGWASA's policy on emergency services and receive permission from their supervisor or the human resource director.

§127 — §134 RESERVED.

§135 CIVIL LEAVE.

An Authority employee called for jury duty or as a court witness for the federal or state governments, or a subdivision thereof, shall receive leave with pay for such duty during the required absence without charge to accumulated leave. The employee may keep fees and travel allowances received for jury or witness duty in addition to regular compensation; except, that employees must turn over to the Authority any witness fees or travel allowance awarded by that court for court appearances in connection with official duties. While on civil leave, benefits and leave shall accrue as though on regular duty.

§136 MILITARY LEAVE.

(A) *Field training.* Any employee occupying an officially budgeted position, who is a member of the National Guard, Naval Militia, Air National Guard or a reserve component of the U.S. armed forces and who engages in field training, shall be granted military leave of absence for the period of such training. A full-time regular employee shall be supplemented at a rate which is the difference between an employee's daily rate of pay and what that employee received during field training. This supplement shall continue up to a maximum period of 17 calendar days.

(B) *Active Duty.* An employee who has been called into active duty or inducted into the military or naval forces shall automatically be granted an indefinite leave of absence, without pay, for the duration of one term of such active military service. The Board Members from time to time may approve pay and benefits for employees who are called to active duty during national emergencies.

(C) *Reinstatement Following Military Service.* An employee called to extended active duty with the United States military forces, who does not volunteer for service beyond the period for which called, shall be reinstated with full benefits provided the employee:

- 1) Applies for reinstatement within ninety days after the release from military service; and

- 2) (a) Is able to perform the duties of the former position or similar position; or
- 3) (b) Is unable to perform the duties of the former position or a similar position due to disability sustained as a result of military service, but is able to perform the duties of another position in the service of the Authority. In this case the employee shall be employed in such other position as will provide the nearest approximation of the seniority, status, and pay which the employee otherwise would have been provided, if available.

The requirements of this section are subordinate to the requirements of applicable State and Federal law including, but not limited to, the requirements of 38 U.S.C. §4301 *et seq.* and N.C.G.S. §127A-201 *et seq.* If there is any conflict between this policy and state and/or federal law, state and/or federal law shall control.

§137 LEAVE DURING INCLEMENT WEATHER; EMERGENCY CLOSING

SGWASA is a service organization. It's offices and facilities must be open during normal business hours to serve the citizens. These offices will remain open, even in adverse weather, and it is the responsibility of employees to make a good faith effort to come to work during these times.

Employees not working in mandatory operations who anticipate problems in transportation may be permitted to use vacation leave, leave without pay, or make up the time within the following 12-month period, with their supervisor's approval.

Supervisors will make every effort to allow employees to make up time missed for adverse weather; however, employees who are subject to the Fair Labor Standards Act (FLSA) may not work more than 40 hours in a week while making up this time. If transferred to another job, an employee is still responsible for making up the time or claiming it as vacation leave.

§138 LEAVE WITHOUT PAY.

(A) The decision to grant leave without pay is solely at the discretion of the Executive Director. Factors to be considered are necessity, duration of leave, workload, and other factors in the best interest of the Authority. Leave without pay may be granted to employees who have exhausted other forms of leave and do not qualify for leave under the Family and Medical Leave Act.

(B) *Leave without pay procedures.*

(1) Request for leave without pay must be made in writing in a timely fashion prior to the anticipated date.

(2) Accumulated annual leave must be exhausted before leave without pay may be granted.

(3) Accumulated sick leave must be exhausted before leave without pay may be granted in cases of illness where disability is not a factor.

(4) No leave shall be earned during a period of leave without pay.

- (5) An employee on leave without pay status shall be eligible for any continuation of allowable benefits by continuing to pay the employee's share of the cost and the employer's share if applicable.
- (6) When circumstances arise or when conditions exist which cause a need to fill a position left vacant due to leave without pay the employee in leave without pay status shall be notified of the need to fill the position and given an opportunity to return to the position within one week of receipt of notice. If the employee on leave without pay status does not return within the specified time, the position shall become vacant.
- (7) The employee must give a 1-week notice of their intent to return to work. If the employee fails to return to work as agreed, it may be considered a resignation. Failure on the part of the employee to report to work promptly at the expiration of the leave without pay shall be cause for dismissal, except if the reasons for the delay are submitted in advance and approved by the department head.

§138.1 EMPLOYEE EDUCATION.

(A) *Intent.* The Authority educational reimbursement and leave policy is intended to assist its employees in their continuing educational efforts. Employees are encouraged to enhance their knowledge through educational and training experiences so that the public is served at an ever increasing level of excellence. All documentation of completed courses of study shall be forwarded to the Executive Director to be included in the employee's personnel file upon receipt of degree or other certification.

(B) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

EDUCATIONAL LEAVE. Leave taken to enable a regular employee to enroll in a course of study required to maintain current employment status, e.g., licensure or certification requirement, or which addresses training/instruction to upgrade knowledge and skills directly relating to current responsibilities.

(C) *Educational leave; approval by Executive Director.* When an employee pursues a course of study which requires the employee's continued absence from the workplace, e.g., a full semester or quarter, approval for such leave shall be made by the Executive Director.

(D) *Educational leave with pay; approval by department head.*

(1) All educational leave must be approved by the department head prior to enrollment in the course.

(2) Leave with pay may not exceed actual time for classroom instruction in one course (one "course" is defined as a course with a maximum credit of five semester hours, or the equivalent) during the semester or quarter of instruction and a reasonable amount of time for travel to and from the institution and the place of employment. The department head shall determine what is a "reasonable"

amount of travel time, and whether the institution is located within a distance that could be reached in a reasonable amount of time off.

(3) A regular employee on such leave shall continue to earn any benefits to which regular employees are entitled.

(4) Reasonable efforts must be made by the student/employee to schedule required courses outside of the normal workday.

(5) No compensatory time or overtime pay shall be given for course work undertaken after the normal workday.

(E) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

EDUCATIONAL REIMBURSEMENT. The Authority will reimburse educational expenses incurred in a course of study in a field which is required to maintain current status, e.g., licensure or certification requirements, or which addresses training or instruction to upgrade knowledge and skills directly relating to current responsibilities. If the Authority assists with funding an advanced degree, the employee will be required to enter into a contractual agreement ensuring continued employment with the Authority, the duration of which will be mutually agreed upon by the department head and the employee. Any reimbursement by the Authority is intended to supplement and not take the place of other financial support.

(F) *Educational reimbursement.*

(1) The department head has the authority to approve all courses requested for reimbursement based upon appropriate documentation.

(2) Upon successful completion of an Authority approved course as outline in division (D), the Authority may pay the costs of tuition, additional course fees, expenses for books, and other course materials incurred by the employee.

(3) If the employee fails to maintain a “C” average or better in the course, he or she will be required to bear all costs.

(4) Any request for reimbursement of costs must be approved by the department head in advance.

§139 HOLIDAYS.

(A) *Paid holidays observed.* The following paid holidays and such others as the Board Members may designate shall be observed by Authority offices. Holidays begin at 12 a.m. on the observed day and end at 12 p.m. for purposes of record keeping.

(1) New Year’s Day

(2) Martin Luther King, Jr.’s Birthday

- (3) Good Friday
- (4) Memorial Day
- (5) Fourth of July
- (6) Labor Day
- (7) Veterans' Day
- (8) Thanksgiving Day and Thanksgiving Friday
- (9) Christmas Day, according to the following schedule:

<i>When Christmas Falls On:</i>	<i>SGWASA Employees Observe:</i>	<i>These Days:</i>
Sunday	December 22, 23 and 26	Thursday, Friday, Monday
Monday	December 25, 26 and 27	Monday, Tuesday, Wednesday
Tuesday	December 24, 25 and 26	Monday, Tuesday, Wednesday
Wednesday	December 24, 25 and 26	Tuesday, Wednesday, Thursday
Thursday	December 24, 25 and 26	Wednesday, Thursday, Friday
Friday	December 24, 25 and 26	Thursday, Friday, Monday
Saturday	December 23, 24 and 27	Thursday, Friday, Monday

All regular employees shall receive these holidays with pay providing the employee is on active pay status the day before and the day after the holiday period.

(B) Observance of weekend holidays.

If a holiday falls on Saturday the holiday will be observed on the preceding Friday. If a holiday falls on Sunday, the following Monday will be observed as the holiday,

(C) Other religious holidays. Employees may wish to be away from work on certain days for religious observances. Department heads should attempt to arrange the work schedule so that an employee may be granted annual leave when it is requested because the day is a major religious observance for that employee. Annual leave should be denied only when granting such leave would adversely affect services.

(D) Holidays for Nonexempt Employees.

(1) Nonexempt employees will be paid 8.0 hours of holiday pay, at his or her regular rate, for each Authority observed holiday. If a nonexempt employee is required to work on an Authority designated holiday, the hours worked on that day will be paid at a rate of one and one-half the regular rate and compensatory time will accrue at the rate of one to one times the hours worked on the holiday.

§140 HEALTH INSURANCE*.

The Authority shall provide health insurance in an amount equal to a single employee's coverage for all regular, trainee and probationary employees. Any such employee, who is working or on paid leave for one-half or more of the regularly scheduled workdays in a month, shall be eligible for group health insurance.

Any qualified employee wishing to have additional health insurance in the form of parent/child, employee/spouse or family coverage may do so at their own expense and have it payroll deducted. The SGWASA Board may, in its discretion, by resolution vote to pay some portion or all of parent/child, employee/spouse or family coverage but is under no obligation to do so. All new employees shall become eligible for hospitalization insurance after the required waiting period. If an employee is on leave of absence without pay, that employee can remain covered under the Authority's group hospitalization plan, but must pay the entire premium to the Finance Department prior to the first working day of the month he or she is to be covered.

The Authority shall provide health insurance in an amount equal to a single employee's coverage for Board Members and the Authority Attorney, if they so elect, and if permitted by the terms and conditions of the hospitalization and medical insurance being maintained by the Authority.

§140.1 DENTAL INSURANCE. *

The Authority shall provide dental insurance in an amount equal to a single employee's coverage for all regular, trainee and probationary employees. Any such employee, who is working or on paid leave for one-half or more of the regularly scheduled workdays in a month, shall be eligible for dental insurance.

Any qualified employee wishing to have additional dental insurance in the form of parent/child, employee/spouse or family coverage may do so at his or her own expense and have it payroll deducted. All new employees shall become eligible for dental insurance after the required waiting period. If an employee is on leave of absence without pay, that employee can remain covered under the Authority's group hospitalization plan, but must pay the entire premium to the Finance Department prior to the first working day of the month he or she is to be covered.

***Transfer Employees will be covered by all employer paid benefits (hospitalization, dental, disability, etc.) on January 1, 2006 with no lapse in coverage from their benefits with their previous employer. Any employee hired by SGWASA after January 1, 2006 will receive benefits as set forth herein.**

§140.2 DISABILITY INCOME PLAN

The Authority shall provide short-term disability insurance through a private provider and long-term disability coverage through the North Carolina Department of State Treasurer Local Government Disability Retirement Plan for all regular, trainee and probationary employees. Specific information about the short-term plan offered by the Authority is available from the Executive Director or his designee. Information about the coverage available through the North Carolina Department of State Treasurer is available from the Executive Director and from the North Carolina Department of State Treasurer and is available on-line at <http://www.treasurer.state.nc.us/dsthome/RetirementSystems>.

§140.3 OTHER BENEFIT PROGRAMS.

The Authority offers a number of benefits designed to allow employees to meet their own health and welfare needs as well as those of their families. A number of approved payroll deduction plans are available which provide the employee with increased available income and an enhanced ability to save for retirement. Two of these programs are a voluntary 401(k) plan and a Flexible Benefits Program. Each employee is encouraged to make responsible decisions regarding both present needs and future financial stability.

It is in the discretion of the Authority to determine whether to allow the addition of a benefit or service and to provide for payroll deduction. In determining whether to allow for a payroll deduction, the following factors may be considered in total or combination:

- (1) The past performance, financial responsibility and reputation of the organization requesting or receiving such deduction.
- (2) Whether or not the administration of the program would prove to be unduly burdensome to the Authority.
- (3) Whether interest is expressed by a sufficient number of employees representative of all income levels at the Authority.

The Finance Department shall maintain a current index and description of all benefits provided to employees under this sub-chapter. Copies shall be provided to all new employees subject to this sub-chapter, and updates shall be provided annually at the time of benefits enrollment.

§141 RETIREMENT.

All employees join the North Carolina Local Governmental Employees' Retirement System immediately as a condition of employment. All eligible employees shall participate in social security coverage as provided by title II of the Federal Social Security Act as amended. All exclusions contemplated by the Act shall be provided to elective governing officials who are not required to devote a major portion of their time to the duties of their office.

There shall be no mandatory retirement age imposed on employees except in positions where a bona fide occupational qualification exists in compliance with the Age Discrimination in Employment Act Amendment, 29 U.S.C. 621-634.

§142 RESERVED.

§143 EMPLOYEE RECOGNITION.

The Board Members shall from time to time recognize the achievement, accomplishments and contributions of its employees and commend their activities to the community and organization through its official action.

§144 PERFORMANCE BASED ADJUSTMENTS.

Performance based adjustments approved by the Board Members shall be administered by the Executive Director as follows:

(A) Only employees in regular, full-time budgeted positions are eligible to receive performance-based adjustments.

(B) Eligible employees may be considered for a performance-based adjustment after completing 12 months of employment with the Authority at or above the probationary completion level. Employees promoted to a salary at or above the probationary completion level are eligible 12 months from the effective date of the promotion.

(C) The performance pay system will be administered in a fair and equitable manner and consistent with the program as defined in the annually approved budget.

§145 — §158 RESERVED.

PERSONNEL RECORDS AND REPORTS

§159 PERSONNEL RECORDS; PRIVACY ACT.

(A) Personnel records are necessary for the proper administration of the personnel system and will be maintained by the Executive Director or his designee. The Authority shall maintain within personnel records only information which is necessary and relevant to accomplishing legitimate personnel administration needs. It is the responsibility of the Executive Director to assure the sanctity and authenticity of every employee's personnel file.

(B) The personnel files of employees, former employees, or applicants for employment maintained by the Authority are subject to inspection and may be disclosed only as provided by N.C.G.S. §162A-6.1. Those portions of employee files available for public inspection may be inspected, examined, and copied during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Authority may adopt. Any person denied access to the information may apply to the appropriate division of the Court of General Justice for an order compelling disclosure as allowed by N.C.G.S. §162A-6.1(b).

(C) For purposes of this sub-chapter, an employee's personnel file consists of any information of any form gathered by the Authority with respect to that employee. This would include, but would not be limited to, information relating to an employee's application, selection or non-selection, for a vacant position, performance, promotions, demotions, transfers, suspensions, other disciplinary actions, evaluation forms, leave, salary, and termination of employment.

§160 PUBLIC AND CONFIDENTIAL INFORMATION DEFINED.

The privacy of employee personnel records is governed by N.C. Gen. Stat. §162A-6.1. The version of N.C. Gen. Stat. §162A-6.1 in effect as of the date of amendment of this policy is inserted in its entirety below. Employees are cautioned to consult the current version of N.C. Gen. Stat. §162A-6.1 rather than relying of the version inserted below.

§ 162A-6.1. Privacy of employee personnel records.

(a) Notwithstanding the provisions of G.S. 132-6 or any other law concerning access to public records, personnel files of employees, former employees, or applicants for employment maintained by an authority are subject to inspection and may be disclosed only as provided by this section. For purposes of this section, an employee's personnel file consists of any information in any form gathered by the authority with respect to that employee and, by way of illustration but not limitation, relating to his application, selection or nonselection, performance, promotions, demotions, transfers, suspension and other disciplinary actions, evaluation forms, leave, salary, and termination of employment. As used in this section, "employee" includes former employees of the authority.

(b) The following information with respect to each authority employee is a matter of public record:

- (1) Name.
- (2) Age.
- (3) Date of original employment or appointment to the service.
- (4) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the authority has the written contract or a record of the oral contract in its possession.
- (5) Current position.
- (6) Title.
- (7) Current salary.
- (8) Date and amount of each increase or decrease in salary with that authority.
- (9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that authority.
- (10) Date and general description of the reasons for each promotion with that authority.
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the authority. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the authority setting forth the specific acts or omissions that are the basis of the dismissal.
- (12) The office to which the employee is currently assigned.

(b1) For the purposes of this subsection, the term "salary" includes pay, benefits, incentives, bonuses, and deferred and all other forms of compensation paid by the employing entity.

(b2) The authority shall determine in what form and by whom this information will be maintained. Any person may have access to this information for the purpose of inspection, examination, and copying, during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the authority may have adopted. Any person denied access to this information may apply to the appropriate division of the General Court of Justice for an order compelling disclosure, and the court shall have jurisdiction to issue such orders.

(c) All information contained in an authority employee's personnel file, other than the information made public by subsection (b) of this section, is confidential and shall be open to inspection only in the following instances:

- (1) The employee or his duly authorized agent may examine all portions of his personnel file except (i) letters of reference solicited prior to employment, and (ii) information concerning a medical disability, mental or physical, that a prudent physician would not divulge to his patient.
- (2) A licensed physician designated in writing by the employee may examine the employee's medical record.
- (3) An authority employee having supervisory authority over the employee may examine all material in the employee's personnel file.
- (4) By order of a court of competent jurisdiction, any person may examine such portion of an employee's personnel file as may be ordered by the court.
- (5) An official of an agency of the State or federal government, or any political subdivision of the State, may inspect any portion of a personnel file when such inspection is deemed by the official having custody of such records to be inspected to be necessary and essential to the pursuance of a proper function of the inspecting agency, but no information shall be divulged for the purpose of assisting in a criminal prosecution (of the employee), or for the purpose of assisting in an investigation of (the employee's) tax liability. However, the official having custody of such records may release the name, address, and telephone number from a personnel file for the purpose of assisting in a criminal investigation.
- (6) An employee may sign a written release, to be placed with his personnel file, that permits the person with custody of the file to provide, either in person, by telephone, or by mail, information specified in the release to prospective employers, educational institutions, or other persons specified in the release.
- (7) The chief administrative officer, with concurrence of the authority, may inform any person of the employment or nonemployment, promotion, demotion, suspension or other disciplinary action, reinstatement, transfer, or termination of an authority employee and the reasons for that personnel action. Before releasing the information, the chief administrative officer or authority shall determine in writing that the release is essential to maintaining public confidence in the administration of authority services or to maintaining the level and quality of authority services. This written determination shall be retained in the office of the chief administrative officer or the secretary of the authority, and is a record available for public inspection and shall become part of the employee's personnel file.

(d) Even if considered part of an employee's personnel file, the following information need not be disclosed to an employee nor to any other person:

- (1) Testing or examination material used solely to determine individual qualifications for appointment, employment, or promotion in the authority's service, when disclosure would compromise the objectivity or the fairness of the testing or examination process.
- (2) Investigative reports or memoranda and other information concerning the investigation of possible criminal actions of an employee, until the investigation is completed and no criminal action taken, or until the criminal action is concluded.

- (3) Information that might identify an undercover law enforcement officer or a law enforcement informer.
- (4) Notes, preliminary drafts, and internal communications concerning an employee. In the event such materials are used for any official personnel decision, then the employee or his duly authorized agent shall have a right to inspect such materials.

(e) The authority may permit access, subject to limitations it may impose, to selected personnel files by a professional representative of a training, research, or academic institution if that person certifies that that person will not release information identifying the employees whose files are opened and that the information will be used solely for statistical, research, or teaching purposes. This certification shall be retained by the authority as long as each personnel file examined is retained.

(f) An authority that maintains personnel files containing information other than the information mentioned in subsection (b) of this section shall establish procedures whereby an employee, who objects to material in his file on grounds that it is inaccurate or misleading, may seek to have the material removed from the file or may place in the file a statement relating to the material.

(g) A public official or employee who knowingly, willfully, and with malice permits any person to have access to information contained in a personnel file, except as is permitted by this section, is guilty of a Class 2 misdemeanor and is punishable only by a fine not to exceed five hundred dollars (\$500.00).

(h) Any person not specifically authorized by this section to have access to a personnel file designated as confidential, who shall:

- (1) Knowingly and willfully examine in its official filing place; or
- (2) Remove or copy

any portion of a confidential personnel file shall be guilty of a Class 2 misdemeanor and is punishable only by a fine not to exceed five hundred dollars (\$500.00). (1993, c. 505, s. 1; 1994, Ex. Sess., c. 14, ss. 69, 70; 2007-508, s. 8; 2010-169, s. 18(g).)

§161 DESIGNATION OF RECORD CUSTODIAN AND CUSTODIAN'S RESPONSIBILITIES.

The personnel records custodian shall be the Executive Director, whose responsibility it is to maintain a personal file for each Authority employee. The Executive Director may designate an individual or individuals to act as Records Custodian. The Records Custodian is responsible for the proper maintenance and documentation of personnel records procedures in accordance with state and local law.

§162 RESERVED.

§163 REQUEST AND REVIEW PROCEDURE.

(A) All requests for personnel records information must be made in writing to the records custodian. An employee may sign a written letter of consent authorizing release of confidential information to prospective employers, educational institutions or other specified persons or agencies.

(B) If a request is determined by the records custodian to be for public information, the custodian shall, within five working days, provide such public information.

(C) Only individuals contemplated by G.S. §162A-6.1 shall have standing to receive confidential personnel information. Such requests shall be made in writing by the individual having standing and

shall be made on a standard “SGWASA Disclosure of Confidential Information” form, such form to contain the signature of the requesting party. The requesting party shall not disclose such confidential information. The custodian shall, within five working days, provide access to such information.

§164 REMEDIES AND OBJECTIONS

An employee who objects to material in a personnel file may place in the file a statement relating to the material the employee considers to be inaccurate or misleading. The employee may seek the removal of such material in accordance with the following procedure:

(A) A written request containing the employee’s name and identifying the objectionable material with any supporting documentation shall be submitted to the Records Custodian.

(B) The Records Custodian shall notify the Executive Director and the appropriate supervisory personnel of the nature of the complaint and shall within five working days make a determination regarding the disposition of the complaint.

(1) If the complaint is found to be valid the material, to the extent allowed by law, shall either be corrected and returned to the file or removed from the file and destroyed.

(2) If the complaint is found to be invalid the material shall remain in the personnel file and a copy of the employee’s written objection shall be placed in the personnel file.

§165 DESTRUCTION OF RECORDS.

No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. §121-5(B), without the consent of the state department of cultural resources. Whoever unlawfully removes a public record from the office where it is usually kept, or whoever alters, defaces, mutilates or destroys it, will be guilty of a misdemeanor, and upon conviction, will be fined not less than \$10 or more than \$500, as provided in G.S. §132-3.

§166 — §169 RESERVED.

CONFLICT OF INTEREST AND POLITICAL ACTIVITIES

§170 APPLICABILITY.

The provisions of this sub-chapter shall be applicable to all Authority employees subject to this chapter and, where applicable, to its public officials.

§171 POLITICAL ACTIVITY RESTRICTED.

(A) Employees may engage in political activities away from work and outside of working hours in accordance with state and federal laws. Political activity by an employee during working hours or while in the services of the Authority and use of Authority supplies and equipment for political purposes is strictly prohibited.

(B) Employees shall not coerce or compel contributions for political or partisan purposes.

(C) Employees shall not use or give the impression of using official authority or influence for purposes of interfering with or affecting the result of an election or nomination of office.

§172 CONFIDENTIAL INFORMATION.

(A) No employee or official shall use or disclose information gained in the course of employment or by reason of position for purposes of advancing a financial or personal interest, a business entity in which there is an ownership interest, a financial or personal interest of a household member or an Immediate Family member as defined in §1, or any other private or political interest to the detriment of the Authority.

(B) No employee or official shall disclose confidential or privileged information concerning personnel matters, property, contract negotiations, litigation related matters, or other affairs of the Authority which are afforded protection under state law.

§173 GIFTS AND FAVORS.

(A) No Authority employee shall directly or indirectly solicit any gift, or accept or receive any gift having a value of \$20 or more whether in the form of services, loan, travel, entertainment, hospitality, thing or promise or any other form, where the circumstances indicate it is an exchange for an official act or the circumstances indicate it was intended to influence the performance of an official duty or reasonably raises such an inference. Legitimate political contributions shall not be considered as gifts. This section is not intended to prohibit customary gift or favors in circumstances where it is clear that the relationship rather than the official business of the individual concerned is the motivating factor for the gift or favor.

(B) No Authority employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.

§174 DUTY TO DISCLOSE.

Any Authority employee having knowledge of or a reason to know of a potential personal interest, or upon the discovery of a potential personal interest, has an affirmative duty to disclose such personal interest to the Executive Director. Any attempts by any person, firm or corporation to influence the decision of an Authority employee with regard to Authority business must be reported to the Executive Director.

§175 CONFLICTING EMPLOYMENT.

No Authority employee shall engage in or accept employment or render service when such employment or service is incompatible with the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties, unless otherwise permitted by law and unless disclosure is made pursuant to §174.

The work of the Authority shall take precedence over all other occupational interests of employees. Before accepting outside employment, each employee must report all outside employment for salary, wages, or commission, and all self-employment, in advance to the department head. The department head will review such employment for possible conflicts of interest and then submit a record of the employment and the department head's review to the Utilities Director and Executive Director. Outside

employment will not be approved if it involves an actual conflict of interest, a potential conflict of interest, or the appearance of a conflict of interest. Outside employment will not be approved if it might cast the Authority in a negative light. Impermissible conflicts include, but are not limited to:

- a. working for an employer who is in conflict with the Authority or could likely come into conflict with the Authority;
- b. working in a position that creates potential liability against the Authority;
- c. working in a capacity which could affect the decisions of the employee in the normal course of his or her duties, or the decisions of other Authority employees in the conduct of their duties, or which gives the appearance of such influence.

The Executive Director or his designee must approve any outside employment before it begins. Engaging in conflicting or unreported outside employment may subject the employee to disciplinary action up to and including dismissal.

§176 VIOLATIONS.

Any violation of this sub-chapter shall subject an employee to disciplinary action.

§177 — §179 RESERVED.

STATE AND FEDERAL COMPLIANCE

§180 PRIVACY ACT.

As required by N.C.G.S. §162A-6.1, any person may have access to public information as defined by this sub-chapter for the purpose of inspection, examination, and copying during regular business hours, subject only to such rules and regulations for the safekeeping of public records as the Authority may adopt. Any person denied access to any record shall have a right to compel compliance with these provisions by application to a court for writ of mandamus or other appropriate relief.

§181 EMPLOYMENT POLICY AGAINST SEXUAL HARASSMENT.

(A) The Authority opposes sexual harassment by supervisors and co-workers in any form.

(B) *Definition.* For the purpose of this section, the following definition shall apply unless the context clearly indicates or requires a different meaning.

SEXUAL HARASSMENT. Unwelcome sexual advances, requests for sexual favors and other verbal and physical conduct of a sexual nature when:

- (1) Submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; or
- (2) Submission to or subjection to such conduct by an individual is used as the basis for employment decisions affecting such individual; or

(3) Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance; or

(4) Such conduct creates an intimidating, hostile, or offensive work environment for any other employee.

(C) It is SGWASA's policy that our workplace is for work. Our goal is to provide a work environment free of tensions of a sexual nature. SGWASA believes that an atmosphere of tension, caused by unwelcome sexual advances or requests for sexual favors, does not belong in the workplace. Sexual considerations will not be used as the basis for employment decisions affecting any employees.

(D) Any employee who believes he or she is subject to sexual harassment may file a complaint directly with the Executive Director. The Executive Director will conduct an expeditious and confidential investigation into any allegation of sexual harassment and will advise the employee of the outcome of the investigation.

(E) In furtherance of this policy, the Authority prohibits any retaliatory action of any kind taken by an employee of the Authority against any other employee because that person made a charge, testified, assisted or participated in any manner in a hearing, proceeding or investigation of employment discrimination.

§182 NO MANDATORY RETIREMENT AGE.

In compliance with the Age Discrimination in Employment Act as amended (29 U.S.C. 621-634), there shall be not a mandatory retirement age for employees except in positions where bona fide occupational qualification exists.

§183 AMERICANS WITH DISABILITY ACT.

It is the policy of the Authority to comply with the relevant and applicable provisions of the Americans With Disability Act (ADA). The Authority will not discriminate against any otherwise qualified disabled employee or applicant with respect to any terms, privileges, or reasonable accommodation, provided that the individual is otherwise qualified to safely perform the duties and assignments connected with the job and provided that any accommodations made do not require significant difficulty or expense.

§184 FAIR LABOR STANDARDS ACT.

It is the policy of SGWASA to comply with all the requirements of the Fair Labor Standards Act, 29 U.S.C. 201 et seq. All compensatory time for overtime hours remaining on an employee's leave record shall be compensated at the employee's current rate of pay upon separation. All prohibitions of retaliation and discrimination specifically set forth in 29 U.S.C. §215 will be strictly adhered to by all agents of the Authority, including department heads, supervisors and individuals in management.

§185 UNEMPLOYMENT COMPENSATION.

Authority employees who are separated or terminated from employment may apply for unemployment compensation through the local office of the Employment Security Commission. Eligibility for unemployment compensation will be determined by the Employment Security

Commission based upon the facts surrounding the separation or termination.

§186 FAMILY AND MEDICAL LEAVE ACT OF 1993.

Purpose. The Family and Medical Leave Act (FMLA) of 1993 was passed by Congress to balance the demands of the workplace with the needs of families, to promote the stability and economic security of families, and to promote national interests in preserving family integrity; to minimize the potential for employment discrimination on the basis of sex by ensuring generally that leave is available for eligible medical reasons (including maternity related disability) and for compelling family reasons; and to promote the goal of equal employment opportunity for women and men.

Note: This section is meant to be a guide only and is not intended to confer any rights or benefits not granted by the FMLA. If a provision of this section is in conflict with the FMLA, the FMLA controls. Before an employee is granted FMLA leave, the Executive Director shall be notified. All questions about FMLA shall be directed to the SGWASA attorney.

(A) *Definitions.* For the purpose of this section the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ADOPTION. Placement of a child for purposes of legal adoption following the filing of an adoption petition.

CHILD. A son or daughter who is:

- (1) a biological child;
- (2) an adopted child;
- (3) a foster child;
- (4) a step child;
- (5) a legal ward;
- (6) a child of the employee standing in loco parentis;

and who is under 18 years of age unless he/she is incapable of self care because of a mental or physical disability.

FOSTER CARE. Placement of a child as a result of State action, and not an informal arrangement, to take care of another person's child.

HEALTH CARE PROVIDER.

- (1) A doctor of medicine or osteopathy who is authorized to practice medicine or surgery in the State of North Carolina or;
- (2) Any other person determined by statute, credential or licensure to be capable of providing care services.

INTERMITTENT WORK SCHEDULE. A work schedule in which an employee works on an irregular basis and is taking leave in separate blocks of time, rather than one continuous period of time, usually to accommodate some form of regularly scheduled medical treatment.

LIGHT DUTY. A treating physician certifies that an employee may return to work and may perform some less demanding job tasks, but is unable to perform one or more of the essential functions

of the employee's position.

LOCO PARENTIS. Persons who have primary responsibility for the day to day care and financial support of a child, with or without a biological or legal relationship.

PARENT. A biological or adoptive parent, or a person who stood in loco parentis to the employee when the employee was a child, including parent-in-law.

REDUCED WORK SCHEDULE. A work schedule involving less hours than an employee is regularly scheduled to work.

SERIOUS HEALTH CONDITION. An illness, injury, impairment, or physical or mental condition that involves:

(1) any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice or residential medical care facility, and any period of incapacity or subsequent treatment in connection with such inpatient care; or

(2) continuing treatment by a health care provider which includes any period of incapacity (i.e., inability to work, attend school or perform other regular daily activities) due to a health condition (including treatment therefore or recovery there from) lasting more than three consecutive days and any subsequent treatment or period of incapacity relating to the same condition which includes either:

(a) treatment two or more times by or under the supervision of a health care provider; or

(b) treatment by a health care provider one time with a continuing regimen of treatment;

(3) Pregnancy or prenatal care;

(4) Any period of incapacity or treatment due to a "chronic serious health condition", even when the employee or family member does not receive treatment from a health care provider during the absence and even if the absence does not last more than three days, when the "chronic serious health condition" is one which:

(a) requires periodic visits or treatment by a health care provider, or by a nurse or physician's assistant under the direct supervision of a health care provider; and

(b) continues over an extended period of time (including recurring episodes of a single underlying condition); and

(c) which may cause episodic rather than continuing period(s) of incapacity (e.g. asthma, diabetes, epilepsy, etc.)

(5) A regular or long-term condition for which treatment may not be effective (e.g. Alzheimer's, a severe stroke, terminal cancer) but which requires supervision (rather than active treatment) by a health care provider even if the absence does not last more than three days.

(6) Multiple treatments for restorative surgery or incapacity for serious conditions that would likely result in a period of incapacity of more than three consecutive days in the absence of medical intervention or treatment (chemotherapy, radiation, dialysis, etc).

SPOUSE. A husband or wife as recognized by NC State Law.

TWELVE (12) MONTH PERIOD. A “rolling” 12-month period measured backward from the date the employee uses any FMLA leave. Each time an employee takes FMLA leave the remaining leave entitlement would be any balance of the twelve (12) workweek entitlement which has not been used during the preceding twelve (12) months.

WORKWEEK. The number of hours an employee is regularly scheduled to work each week.

(B) Eligibility

(1) Determining Eligibility. An employee’s eligibility for Family/Medical Leave shall be based on the employee’s months of services and hours of work as of the date leave is to commence.

(2) Eligibility Criteria. Any employee, regular, probationary or trainee, who has worked for SGWASA for at least twelve (12) months and who worked at least 1250 hours (vacation, sick, workers’ compensation, disability and other forms of leave are not considered hours worked) over the previous twelve (12) months is entitled to a total of twelve (12) workweeks leave, paid or unpaid, during a 12 month period for one or more of the reasons set forth below:

(a) For the birth of a child and to care for the newborn child after birth, provided leave is taken within a 12-month period following birth; (An expectant mother shall also take FMLA leave pursuant to paragraph B., 2., d. before the birth of the child for prenatal care or pregnancy related disability.

(b) For the placement with the employee of a child for adoption or foster care, including required pre-placement absences, provided the leave is taken within a 12 month period following adoption;

(c) For the employee to care for the employee’s child, spouse, or parent, where that child, spouse, or parent has a serious health condition; or

(d) Because the employee has a serious health condition that makes the employee unable to perform one or more of the essential functions of the employee’s position.

Note: If a husband and wife both work for the Authority and each wishes to take leave for the birth of a child, adoption or placement of a child in foster care, or to care for a parent (not parent in law) with a serious health condition, the husband and wife together may only take a total of twelve weeks FMLA leave.

(C) Leave Charges

(1) Periods of paid leave, periods of leave without pay (including leave without pay while

drawing short-term disability) and absences due to workers' compensation count toward the twelve (12) workweeks to which the employee is entitled.

(2) When an employee return to work on light duty, the time spent working on light duty is counted toward the twelve (12) workweeks to which the employee is entitled.

(3) Employees who have FLSA overtime are not be required to use this time for Family Medical leave; however, FLSA straight time and compensatory time must be exhausted before a period of leave without pay may begin.

(4) Employee leave-charge options:

(a) Birth. For the Birth of a child, the employee shall exhaust all available paid leave with the exception of FLSA overtime before going on leave without pay, except that sick leave shall be used **only** during periods of disability.

(b) Adoption. For the adoption of foster care of a child, the parents shall exhaust all available paid leave with the exception of FLSA overtime before beginning leave without pay.

(c) Illness of Child, Spouse, Parent. For the illness of an employee's child, spouse, or parent, the employee shall exhaust all available paid leave with the exception of FLSA overtime before beginning leave without pay.

(d) Employee's Illness. For the employee's illness, the employee shall exhaust all available paid leave with the exception of FLSA overtime before beginning leave without pay. If the illness extends beyond the 60-day waiting period required for short-term disability, the employee begins receiving short-term disability benefits and may elect to use the balance of paid leave to supplement short-term disability up to 100% of employee's gross salary. When an employee is absent under workers' compensation, the employee may elect to use the balance of sick leave to supplement the workers' compensation benefits up to 100% of the gross salary.

(D) Intermittent Leave or Reduced Work Schedule

Pursuant to this policy, the employee may not take leave intermittently or on a reduced work schedule for child birth and birth related child care or for adoption unless the employee and the department agree otherwise; however, when medically necessary, the employee may take leave intermittently or on a reduced schedule to care for the employee's child, spouse, or parent who has a serious health condition, or because the employee has a serious health condition. If such leave is foreseeable, based on the planned medical treatment, the department may require the employee to temporarily transfer to an available alternative position for which the employee is qualified and which has equivalent pay and benefits and which better accommodate recurring periods of leave.

Only the time actually taken as leave shall be counted toward the twelve (12) weeks of leave to which the employee is entitled when leave is taken intermittently or on a reduced leave schedule.

If an employee works a reduced or intermittent work schedule and does not have leave available to make up the difference between the normal work schedule and the new temporary schedule to bring the number of hours worked up to the regular schedule, the employee's pay status will be changed to reflect the reduction in hours scheduled resulting in a reduction in leave accrual and other benefits not

subject to the Family Medical Leave Act.

(E) Light Duty.

(1) Workers' Compensation. If the treating physician for workers' compensation certifies the employee is able to return to a "light duty" job, the employee may choose to remain out of work on FMLA leave for the remaining portion of the employee's FMLA leave period. As a result of declining "light duty" position, the employee may lose workers' compensation benefits under applicable state law, but is entitled to remain on FMLA leave and is required to exhaust available paid leave before a period of leave without pay may commence. At the end of the 12-week period, if the employee is unable to perform the essential functions of the original position with reasonable accommodation, the employee loses the right to be restored to that original position.

(2) If the employee voluntarily accepts "light duty", the time the employee is on light duty is considered FMLA leave until the end of the 12-week period.

(3) Short Term Disability. If the treating physician certifies the employee is able to return to a "light duty" job, the employee will be subject to the terms of the short term disability plan governing return to work. If an employee returns to work in a "light duty" job, the time the employee is on "light duty" is considered FMLA leave until the end of the 12-week period. The short term disability plan may offer additional protection to the employee beyond the 12-week period under FMLA. For questions about the specifics of the short-term disability plan offered by SGWASA, employees should ask the Executive Director for contact information for the insurance representative handling SGWASA's short-term disability plan.

(F) Department Responsibility. The director shall insure that the notice provided is kept conspicuously posted where it can be seen by employees and job applicants. The director shall also insure that written guidance is provided to all employees and supervisors.

(G) Supervisor Responsibility.

(1) Leave Request. The supervisor shall determine from each employee requesting leave the reason leave is requested. If the employee fails to explain the reason that leave is required, the supervisor may deny leave. It is the responsibility of the supervisor to insure qualifying leave is designated as Family Medical Leave even when an employee would rather not use any of his or her FMLA leave entitlement. If the supervisor believes the reason for the leave may be a qualifying reason under FMLA, the supervisor shall then consult with the Executive Director, his designee, or the SGWASA attorney (if such consultation is approved by the Executive Director) in determining if the employee is eligible for Family Medical Leave on the date the leave will commence and if eligible, in determining that the leave requested is for an FMLA qualifying reason.

(2) Notice of Eligibility. The employee will receive notice from the Executive Director or his designee regarding eligibility for leave under FMLA.

(3) Designation of Leave as FMLA Leave. If information is not sufficient to make a determination, the department shall require the employee to provide additional information.

Once a department has knowledge that the reason leave is being taken is for an FMLA required reason, the supervisor must, within two business days absent extenuating circumstances, insure the employee is notified that the leave is designated and will be counted as FMLA leave. The notice

may be oral or in writing, but must be confirmed in writing no later than the following payday.

If an absence which begins as other than FMLA leave later develops into an FMLA qualifying absence, the entire period which qualifies under FMLA may be counted as FMLA leave. The above notification requirements apply.

(4) Designation of FMLA leave after return to work. The supervisor may not designate leave that has already been taken as FMLA leave after the employee returns to work, with two exceptions:

(a) if an employee is out for a reason that qualifies for FMLA leave and the supervisor does not learn of the reason for leave until the employee returns to work, the supervisor shall designate the leave as FMLA leave within two business days of the employee's return; or

(b) if the supervisor has provisionally designated the leave under FMLA leave and is awaiting receipt from the employee of required certifications.

The employee is not entitled to the protection of FMLA if the employee gives notices of the reason for the leave later than two business days after returning to work.

(H) Employee responsibility. The employee shall give notice of the need for leave under this policy and pursuant to the sections of the code that address the use paid leave. The employee must explain the reasons for the needed leave to allow the department to determine that the leave qualifies under the Act.

(1) Birth, Adoption or Foster Care. An employee must give thirty (30) days advance written notice to the supervisor of the need to take family medical leave when it is foreseeable for the birth or placement of a child for adoption or foster care. If the date of the birth or adoption requires leave to begin in less than thirty (30) days, the employee shall provide such notice no more than two business days after learning of the need for leave except when extraordinary circumstances exist.

(2) Planned Medical Treatment. When medical treatment is of the type which may be planned for the employee's child, spouse or parent or when the employee has a serious health condition, the employee must give thirty (30) days notice if practicable of the intention to take leave. For planned medical treatment, employee consultation with the supervisor prior to the approval of leave is mandatory. The Authority reserves the right to deny leave until thirty (30) days after appropriate notice is provided.

(3) Medical Emergency. In the case of a medical emergency requiring leave because of an employee's own serious health condition or to care for a family member with a serious health condition, such notice must be given as soon as practicable, ordinarily within one or two business days of when the employee learns of the need for leave. In a medical emergency, notice should be given either in person or by phone to the supervisor and may be given by the employee's spouse or other family member if the employee is unable to do so because of a serious health condition.

(4) Extension of Leave. The employee must notify the supervisor immediately of the need to extend family medical leave. Failure to return to work at the expiration of the approved leave period will be deemed a resignation.

(5) Certification. The employee shall provide certification in accordance with the provisions listed under Subpart I of this Section. If the employee does not provide medical certification, the absence will be considered unexcused and subject to disciplinary action.

(I) Certification.

(1) Adoption. The supervisor may require that a claim for leave due to adoption of a child be supported by reasonable proof of that adoption.

(2) Medical Certification. The supervisor may require that a claim for leave because of serious illness of the employee or of the employee's child, spouse or parent be supported by certification from the health care provider. Certification may be required as follows:

(a) When leave is foreseeable and at least 30 days notice has been provided, the employee must provide certification prior to commencement of leave.

(b) When it is not possible to provide the medical certification before the leave begins, the employee must provide the requested certification to the supervisor within 15 days following the request. If the employee does not provide medical certification within the allowable time, the absence will be considered unexcused and subject to disciplinary action.

(c) At the time certification is requested, the employee must be advised of the anticipated consequences of an employee's failure to provide adequate certification. The employee shall be given a reasonable opportunity to correct any incomplete information.

(3) Medical Certification Form. The Executive Director or his designee shall be responsible for developing internal procedures and forms for medical certification which comply with the requirements of the FMLA.

(4) Validity of Certification. The health care provider may be contacted by the Executive Director for clarification or verification of the medical certification.

If the Executive Director has reason to doubt the validity of the medical certification the employee may be required to obtain a second opinion, at the Authority's expense. Pending the receipt of the second (or third) opinion, the employee is provisionally entitled to FMLA leave. If the additional opinion(s) does not ultimately establish the employee's entitlement to FMLA leave, the leave shall not be designated as FMLA leave. If the opinions of the employee's and the Authority's health care providers differ, a third opinion may be required again at the Authority's expense. This third opinion shall be final and binding. The third health care provider must be agreed upon jointly by the Authority and the employee.

(5) Recertification of Medical Conditions. Subsequent recertification to support continuing family medical leave may be required, not more often than every thirty (30) days unless:

-the employee requests an extension of leave,

-circumstances regarding the illness or injury change, or
-information is received which casts doubt upon the continuing validity of the employee's stated reason for the absence.

If the minimum duration specified on a certification is more than 30 days, the Authority may not request recertification until that minimum duration has passed unless one of the above stated reasons exists.

The requested recertification must be provided by the employee within 15 days of the request unless it not practicable under the particular circumstances.

The requested recertification shall be at the employee's expense. No second or third opinion on recertification shall be required.

(6) Fitness for Duty Certification. A fitness for duty certification indicating when and if the employee is able to return to work shall be submitted to Executive Director or his designee prior to the employee's return to work.

(J) Employment and Benefits Protection.

(1) Reinstatement. The employee shall be reinstated to the same position held when the leave began or one of equivalent pay grade, pay, benefits, and other conditions of employment. The department may require the employee to report, at reasonable intervals, the employee's status and intention to return to work. The employee will be required to provide certification to the Executive Director or his designee that he or she is able return to work prior to returning to work.

(2) Health Benefits. The Authority shall maintain coverage for the employee under the Authority's group health plan for the duration of family medical leave as provided to the employee prior to the granting of family medical leave. Such coverage is conditional upon the employee's contribution for other than individual coverage being paid prior to the twenty-fifth (25) of the month preceding the applicable month's coverage. The employee will receive written notice of the terms of the payment of premiums during FMLA leave. The obligation to maintain health insurance coverage stops if an employee's premium payment is more than 30 days late. The Authority will provide 15 days notice that coverage will cease.

If the employee's failure to make the premium payments leads to a lapse in coverage, the employee shall be restored, to the extent allowed by law and by SGWASA's group health insurance plan, to equivalent health coverage upon return to work as if the premium payments had not been missed without any waiting period or preexisting conditions.

The Authority reserves the right to recover the cost of health insurance provided to the employee while on FMLA leave should the employee fail to return to work voluntarily.

(3) The employee may choose to continue at his or her own expense certain other benefits normally provided by the Authority while absent from work on family medical leave.

(K) Records. The Finance Department shall be provided with all documentation of family medical leave. FMLA leave documentation will be maintained in the Finance Department or such other

department as the Executive Director may from time to time designate. Such records shall be maintained for no less than three years and must be available to the Department of Labor upon request.

In addition to the records required by the Fair Labor Standards Act, the Authority must keep records of:

- dates FMLA leave is taken
- hours of leave if less than a full day
- copies of employee notices
- documents describing employee benefits
- premium payments of employee benefits and
- records of any disputes

Records and documents relating to medical certifications, recertification or medical histories of employees or employees' family members, created for purposes of FMLA, shall be maintained as confidential medical records in separate fields/records from usual personnel files, and if ADA is also applicable, such records shall be maintained in conformance with ADA confidentiality requirements, except that:

(1) Supervisors and director will be informed regarding necessary restrictions on the work or duties of an employee and necessary accommodations;

(2) First aid and safety personnel may be informed (when appropriate) if the employee's physical or medical condition might require emergency treatment; and

(3) Government officials investigating compliance with FMLA (or other pertinent law) shall be provided access to relevant information upon request.

(L) Interference with Rights.

(1) Actions Prohibited. It is unlawful to interfere with, restrain, or deny any right provided by this policy or to discharge or in any other manner discriminate against an employee for opposing any practice made lawful by this policy.

(2) Protected Activity. It is unlawful to discharge or in any other manner discriminate against an employee for opposing any practice made lawful by this policy.

(a) Files any civil action, or institutes or causes to be instituted any civil proceeding under or related to this policy.

(b) Releases or intends to release, any information in connection with any inquiry or proceeding relating to any right provided by this policy.

(c) Testifies or intends to testify, in any inquiry or proceeding relating to any right provided under this policy.

(M) Enforcement. A violation of the Family Medical Leave Act of 1993, including denial of requested leave, is not a contested case and creates no right grievance or appeal under the grievance process. Violations are enforced by the U.S. Secretary of Labor ('77 Code, 16-186; 8-2)

§187 — §193 RESERVED.

§194 OCCUPATIONAL SAFETY AND HEALTH ACT.

It is the policy of the Authority to comply in all respects with the 1970 Occupational Safety and Health Act (OSHA). The Executive Director shall establish or approve policies and procedure relative to compliance with OSHA.

§195 ACCIDENTS INVOLVING AUTHORITY EQUIPMENT.

Accidents involving the use of Authority equipment or occurring on Authority property, whether or not they result in injury, shall be reported to the employee's immediate supervisor. The employee and supervisor shall follow Authority policies and procedures for the reporting of accidents.

§196 REPORTING ACCIDENTS.

(A) An employee who is injured in the performance of assigned duties shall immediately report the accident to his or her immediate supervisor and the Executive Director.

(B) The supervisor shall be responsible for ensuring an injury report is completed and submitted to the Executive Director within five days of a reported injury.

(C) State statutes require all accident reports to be filed within five days after knowledge of the accident.

§197 — §200 RESERVED.

Adopted this the 13th day of December, 2005 to be effective January 1, 2006, and hereby **Modified this the 9th day of July 2013.**

Tom Lane, Chairman

Lindsay Mize, Acting Clerk