



# **Personnel Policies and Procedures**

**Revised and Approved**

**July 2021**

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## Ventura County Transportation Commission Personnel Policies and Procedures Manual

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Ventura County Transportation Commission  
**Personnel Policies and Procedures**

The Ventura County Transportation Commission, as a public entity created pursuant to Section 99233.2 and Sections 130050.1, 130054.1, and 130109.1 of the Public Utilities Code, does resolve as follows:

The Ventura County Transportation Commission (VCTC) Personnel Policies and Procedures are adopted to read as follows:

## **Article 1**

### **Introduction and General Statements**

- 1.1 **Purpose:** The purpose of the Personnel Policies and Procedures is to assist the Ventura County Transportation Commission (VCTC) in establishing and maintaining the public trust. The ethical operation of local government requires that elected officials, appointed administrators, and staff possess honesty, integrity, and professionalism, and be competent, impartial, and accountable. This document is a comprehensive set of policies regarding personnel matters that provides the basis for effective employee relations, the attraction and retention of high quality professional staff, and a working environment emphasizing respect in the workplace. VCTC expects its employees to:
- Administer public processes openly, unless the issue is required to be confidential.
  - Approach issues in an open, honest, direct, and unbiased manner, and from the perspective of the public good.
  - Comply with both the letter and the spirit of the laws and policies affecting the applicable operations of government in general and of the Commission specifically.
  - Conduct public deliberations in an atmosphere of mutual respect, consideration, cooperation, and civility.
  - Maintain and apply appropriate technical and professional competence to their respective work.
- 1.2 **Agency:** Ventura County Transportation Commission, hereinafter, “VCTC”, provides transportation-related policies, programs, projects, and services to a variety of people. Employees are VCTC’s representatives when implementing or following policies or performing services.
- 1.3 **Commission:** VCTC’s governing body hereinafter referred to as the Commission) is comprised of representatives from each member organization: one elected representative from each of the following cities: Camarillo, Fillmore, Moorpark, Ojai, Oxnard, Port Hueneme, San Buenaventura, Santa Paula, Simi Valley, and Thousand Oaks; and 5 elected Supervisors from the County of Ventura. One citizen representative of the County, one citizen representative of the cities, and one non-voting Caltrans representative also serve on the Commission.
- 1.4 **Name:** These personnel rules, regulations, and policies (hereafter “policies and procedures”) generally describe the employment relationship between the VCTC and its employees.
- 1.5 **Conflicting Policies and Procedures:** These policies and procedures were established to conform and be complementary to other VCTC policies. In cases where there is deemed to be a conflict between an operational procedure and these policies, the policies shall prevail.
- 1.6 **Applicability of Policies and Procedures:** The provisions of these policies and procedures shall apply to all VCTC employees, excepting any provision that would provide an expectation of ongoing, protected employment status to any person or position designated as “At-Will.”
- 1.7 **Additional Policies and Procedures:** The executive director may issue additional rules or policies as deemed necessary for the efficient administration of VCTC. However, such policies shall not conflict with these policies and procedures. In cases

where there is deemed to be a conflict between the executive director's rules or policies, then these policies and procedures shall prevail.

- 1.8 **Revisions to the Policies and Procedures:** The Commission may from time to time change or revise the policies and procedures described in this document.
- 1.9 **Accessing Policies and Procedures:** These policies and procedures are available to all employees and are posted on the VCTC intranet. Each employee is responsible for reading and complying with them.
- 1.10 **Discrepancies:** In the event there is a discrepancy between the language in these Policies and Procedures and federal or state law, federal or state law shall prevail over these Policies and Procedures.
- 1.11 **Severability:** If any part of these policies and procedures is determined to be unconstitutional or illegal, such part shall be severed from these policies and procedures and the remaining policies and procedures shall be given full force and effect.
- 1.12 **Indemnification:** The Commission shall indemnify and hold the executive director harmless for the lawful administration of these policies and procedures to the full extent of the law unless specifically identified otherwise.
- 1.13 **Word Usage:** The term VCTC or Commission as used in these Policies and Procedures refers to both the Ventura County Transportation Commission and its governing body. Responsibilities and rights of the Commission under these policies and procedures are exercised by the executive director, and may be delegated at the executive director's discretion.
- 1.14 **Executive Director:** The term executive director refers to VCTC's executive director. The executive director may delegate such powers, duties, and authority, as appropriate. When interpreting these policies and procedures, anytime the executive director is listed, it should also be interpreted to mean the delegate of the executive director. The executive director is responsible for the administration of the personnel system. The executive director shall have the authority to appoint, promote, transfer, discipline, and terminate employees of VCTC, in accordance with the personnel practices described in this document, and the administrative code as adopted by the Commission. The executive director, with the authority and direction of the Commission, has all rights not specifically delegated in this document, including, but not limited to:
- The exclusive right to determine the administrative goals and objectives of VCTC.
  - Set standards of performance.
  - Determine the procedures and standards of selection for employment and promotion, under policy oversight of the Commission.
  - Direct employees.
  - Take disciplinary action as appropriate.
  - Lay off employees because of lack of work, lack of funds, or for other legitimate reasons in consultation with the Commission's administrative committee.
  - Maintain the efficiency of VCTC's activities.
  - Determine the methods, means, and staff by which VCTC's activities are conducted.
  - Recommend to the Commission the content of position classifications, salary ranges, and benefits.
  - Exercise control and discretion over the organization.
  - Exercise control over the technology required to perform its goals and objectives.

- 1.15 **Employee Notification of Changes:** These policies and procedures provide procedures for the administration of all matters affecting employee status and activities of the Ventura County Transportation Commission. In the event of any recommended change to these policies or procedures set forth herein, all employees will receive written notification from the executive director, which may be made by e-mail, indicating the changes to be made and the reasons therefore.
- 1.16 **Compliance:** All employees must comply in carrying out the provisions of these Policies and Procedures, and comply with other such management memoranda that the executive director may from time to time issue.
- 1.17 **Violation of Policies and Procedures:** Violations of the provisions of these policies and procedures by any employee shall result in disciplinary action, up to and including dismissal, exercised in accordance with these policies and procedures.
- 1.18 **Standards of Conduct:** Appointments to VCTC positions carry with it certain rights and responsibilities under the law. It is therefore incumbent upon employees to serve the public well and respect the rights of all. To this end, employees are to conduct themselves in a manner that will exemplify such characteristics as courtesy, honesty, integrity, constraint, impartiality, fairness, and dedication to the well being of the public. In addition, no public office is to be used for personal gain or objective or the special benefit of any citizen or citizen group. Employees shall conduct themselves in such a manner as to promote and preserve a level of service and engender confidence in and respect for VCTC and the Commission. The public shall be served with courtesy, impartiality, fairness, and equality under the law at all times. Employees are required to perform the duties to which they are assigned to the best of their ability. Publicly owned or supported property, equipment, vehicles, labor, or services shall be used for public purposes only. On-duty time is to be used for VCTC purposes only.
- 1.19 **Fair Employment:** VCTC shall not discriminate against any applicant or employee in violation of state or federal laws or Commission policies. Nor does the Commission tolerate retaliation against any applicant or employee for filing a discrimination complaint.

## **Article 2 Definitions**

The terms used in these Policies and Procedures shall have the meanings as defined below:

- 2.1 **Advancement (or Salary Advancement):** A salary increase from one salary placement to a higher salary placement in the same pay range.
- 2.2 **Allocation:** The assignment of a single position to its proper class in accordance with the duties performed and responsibilities exercised.
- 2.3 **Anniversary Date:** Date an employee is appointed, promoted, demoted, or reinstated to a position within VCTC.
- 2.4 **Applicant:** Any person submitting formal, completed application materials for employment with VCTC. A candidate shall include, but not necessarily be, an applicant.
- 2.5 **Appointing Authority:** For all staff positions it is the executive director who is the Appointing Authority and the executive director's position shall be appointed by the Commission.
- 2.6 **Appointment:** Placement of a candidate into a position.
- 2.7 **At-Will Employment:** All VCTC employees serve at the pleasure of the executive director, who retains the authority to terminate any such employee at any time with or without notice or cause and without right of appeal, consistent with state and federal laws. At-will employees do not acquire property interest in the positions they hold.
- 2.8 **Commission:** As used in these Policies and Procedures, the Commission refers to Ventura County Transportation Commission and those other agencies as identified in these Policies and Procedures, and is the governing board of the Ventura County Transportation Commission. Responsibilities and rights of the Commission under these Policies and Procedures are exercised by the executive director.
- 2.9 **Compensation:** Salary, wages, fees, benefits, allowances, or monies (other than reimbursed expenses) paid to, or on behalf of, an employee for work services.
- 2.10 **Compensatory Time Off:** Time off in lieu of pay for overtime worked for non-exempt employees.
- 2.11 **Complainant:** An employee or group of employees filing a complaint.
- 2.12 **Complaint:** A complaint is defined as any dispute involving the interpretation, application, or alleged violation of a specific express term of these Policies and Procedures.
- 2.13 **Complaint Procedure:** The systematic means by which an employee may obtain consideration of a complaint.
- 2.14 **Continuous Examination:** An examination which is administered periodically.
- 2.15 **Continuous Service:** Employment without interruption. This includes approved VCTC-paid leaves of absences and leaves of absences to serve in the armed forces of the United States, as provided by Section 395 of the Military and Veterans Code or any other leave as otherwise provided by law.
- 2.16 **Days:** Means calendar days unless otherwise stated.
- 2.17 **Demotion:** The voluntary or involuntary reassignment of an employee from one position to another position having a lower maximum base rate of pay.
- 2.18 **Discharge or Dismissal:** An employee terminated from employment with or without cause.

- 2.19 **Disciplinary Action:** The discharge, demotion, reduction in pay, suspension, or transfer of an employee for disciplinary reasons. Verbal and written counseling sessions, reprimands, or memoranda are not considered disciplinary action.
- 2.20 **Electronic Communication Systems:** The system of devices (including hardware, software, and other equipment) acquired or used by VCTC for the purpose of facilitating the creation, and the transmission and storage of electronic information (including, but not limited to the e-mail system, instant messaging systems, cameras, telephones, pagers, radios, computers and all peripheral devices such as hard drives, disks, tapes, film, compact and digital video discs, and personal digital assistants that are owned, rented or leased by VCTC and that are the property of VCTC).
- 2.21 **Employee Categories:** Defined as follows:
- 2.21.1 **Employee:** An individual occupying a position with VCTC including but not limited to full time, part-time, hourly, contract (other than independent contractors), intermittent, annuitant, and intern positions.
- 2.21.2 **At-Will Employee:** VCTC employees do not acquire property interests in their positions they hold and serve at the pleasure of the executive director, who retains the authority to terminate any such employee at any time with or without notice or cause and without right of appeal.
- 2.21.3 **Annuitant Employee:** An employee who is currently retired from the California Public Employees Retirement System and is eligible to work no more than 960 hours in any fiscal year.
- 2.21.4 **Exempt Employees:** Whether an employee is exempt (salaried) or non-exempt (hourly) is determined by the Fair Labor Standards Act (FLSA). The executive director maintains a list of those positions designated as either exempt or non-exempt. Exempt employees receive no additional compensation for any hours worked beyond their normal workweek.
- 2.21.5 **Independent Contractor:** Is a non-employee of VCTC whose compensation and scope of duties are governed by a separate written contract.
- 2.21.6 **Intern:** A full-time or part-time student enrolled in a high school, college-level degree program, or graduate-level degree program and may work up to 960 hours per fiscal year without being enrolled in the retirement system. Should the intern work more than 960 per fiscal year, such intern shall be enrolled in the retirement system. Interns are only eligible for legally mandated benefits, and are not eligible for regular employee health and welfare benefits.
- 2.21.7 **Miscellaneous Employee:** For CalPERS retirement purposes, this is a non-safety employee who regularly works 20 or more hours per week and receives other health and welfare benefits.
- 2.21.8 **Non-exempt Employee:** Is an employee who is entitled to receive overtime pay when working more than 40 hours in any single workweek, as that law extends or applies to public-sector employees, or as may be provided by VCTC. VCTC provides overtime for non-exempt employees after the employee works more than 40 hours in a workweek. Non-exempt employees shall be compensated for overtime in accordance with the FLSA and California law applying to public agencies.
- 2.21.9 **Probationary Status:** There is no probationary status for any newly hired employees or for newly promoted employees as all employees are at-will.

- 2.21.10 **Regular Full-time Employee:** A full-time employee has an annual work schedule of 2080 hours, including paid time off, which is equivalent to a 40-hour workweek.
- 2.21.11 **Regular Part-time Employee:** A part-time employee has an annual work schedule of between 961 hours and 1819 hours, including any paid time off, if eligible for such.
- 2.21.12 **Temporary Employee:** Is a VCTC employee who is hired for a particular project or a job of limited or definite duration, and does not exceed 960 hours in a paid status in any fiscal year. A temporary employee shall not be entitled to the rights or benefits of full-time or part-time employees, except as expressly agreed to in writing by the executive director.
- 2.21.13 **Volunteer:** This is not an employee but an individual who is providing service without compensation and on such terms and conditions as may be agreed upon in advance by the volunteer and VCTC. Volunteers shall not be entitled to the rights or benefits of full, part-time, temporary, or special employees, except to the extent expressly agreed to in writing by the executive director. Volunteers must, however, follow VCTC policies and procedures.
- 2.22 **Employment Date:** For retirement, sick leave, and other benefit purposes, this is the effective date of an employee's initial appointment to a regular full-time or regular part-time position. This date may be different than employee's anniversary date.
- 2.23 **Examination:** An examination for a position with VCTC that is open to qualified applicants.
- 2.24 **Executive Director:** Is the chief executive officer of VCTC as appointed by the Commission with duties and powers as described in these Policies and Procedures.
- 2.25 **Executive Staff:** Is the executive director and department directors.
- 2.26 **Family Member:** Defined below:
  - 2.26.1 **Domestic Partners:** those persons who are registered, and as defined in California Family Code Section 297 et seq.
  - 2.26.2 **Extended Family Member:** Unless otherwise defined by state or federal law, extended family is limited to spouse, children, father, mother, brother, sister, grandfather, grandmother, grandchild, father-in law, mother-in law, and registered domestic partner.
  - 2.26.3 **Immediate Family Member:** Is the spouse, parent, child, domestic partner, or any child of the employee's domestic partner.
  - 2.26.4 **Legal Dependent:** Is any person defined as legal a dependent under state or federal law, and for the purpose of these Policies and Procedures shall also include domestic partners or any child of domestic partners.
  - 2.26.5 **Discretionary Modifications:** The executive director may modify the above definitions for specific family members on a case-by-case basis.
- 2.27 **Flexible Work Schedules:** A flexible work schedule may be worked by employees with the approval of the executive director. Flexible work schedules are for example 4/10 (4 days a week, 10 hours per day), 9/80, which is 9 hours each day, in a 10-day work period with one day off, that is the flex day off, and split schedules, etc. Flexible works schedules do not provide a greater per day holiday time off. All holidays are paid at 8-hour days. Employees flex day off is earned time off of an 8-hour day per pay period, as approved at the discretion of the executive director.
- 2.28 **Full-time Position:** A position generally requiring a minimum of 2080 hours in a calendar year and 40 hours of work per week each week of a calendar year.

- 2.29 **Initial Appointment:** The first appointment of a person to any position at VCTC.
- 2.30 **Job Sharing Position:** Is a regular VCTC position that is shared by two or more regular part-time employees, who each have at least a minimum 20 hours per week work schedule.
- 2.31 **Layoff:** The separation of employees from the active work force due to lack of work, lack of funds, organizational changes, or the abolition of positions. An employee who is laid off has no bumping rights, no right of appeal, nor any greater rights to return.
- 2.32 **Overtime:** Time worked by non-exempt employees above the minimum 40 hours of straight time during a work week is overtime. Overtime is calculated at 1.5 times the regular hourly rate of pay. Overtime shall be compensated in accordance with the provisions of the Fair Labor Standards Act. For purposes of calculating overtime, time worked includes only those hours in which the employee performs authorized services for VCTC and does not include holidays, jury duty, and other leaves with pay.
- 2.33 **Part-time Position:** A position of less than 35 hours per week but 20 or more hours per week each week of a calendar year. Part-time positions receive pro-rated benefits, unless otherwise established by the executive director. A position less than 20 hours per week falls into a different category.
- 2.34 **Paydays:** Paydays occur on the 10<sup>th</sup> and 25<sup>th</sup> of each month.
- 2.35 **Payperiod:** There are 24 payperiods during each fiscal year. Employees shall be paid on a twice monthly basis. Each month the first payperiod is from the 1<sup>st</sup> to the 15<sup>th</sup>, and paid on the 25<sup>th</sup>, and the second payperiod in the month is from the 16<sup>th</sup> to the end (28<sup>th</sup>, 29<sup>th</sup>, 30<sup>th</sup>, or 31<sup>st</sup>) and paid on 10<sup>th</sup> of the following month.
- 2.36 **Personnel Officer:** The executive director.
- 2.37 **Position:** A group of duties and responsibilities requiring the full-time, part-time, intermittent, intern, contract, or annuitant employment of a person.
- 2.38 **Position Specification:** The written job description, including the title; a statement of the nature of the work, examples of duties and responsibilities, and the requirements that are desirable for the satisfactory performance of the duties of the position.
- 2.39 **Position Title:** The title assigned to a particular position and used for reference to that position.
- 2.40 **Promotion:** The movement of an employee from one position to another position having a higher maximum base rate of pay.
- 2.41 **Reallocation:** The official determination that an employee be assigned to a position different from the one to which it was previously assigned.
- 2.42 **Regular Full-time Service:** is service performed by a regular full-time employee, including paid vacation, sick leave, compensatory time and holidays used by the employee during any relevant period, but excluding any unpaid leave of absence.
- 2.43 **Regular Part-time Service:** Is service performed by a regular part-time employee, excluding any unpaid leave of absence.
- 2.44 **Regular Full-time or Part-time Positions:** Are those positions designated in VCTC's budget.
- 2.45 **Reinstatement:** The return of an employee to a classification in which the employee formerly served, which is at the discretion of the executive director.
- 2.46 **Relief of Duty:** The temporary assignment of an employee to a status of leave with pay.
- 2.47 **Resignation:** Voluntary termination of employment by an employee.



- 2.48 **Selection Process:** The process of testing, evaluating, investigating, and determining the fitness and qualification of applicants for VCTC positions.
- 2.49 **Separation:** Permanently leaving VCTC employment for any reason.
- 2.50 **Staff:** For the purposes of these Policies and Procedures, staff refers to any category of VCTC employee.
- 2.51 **Straight Time:** Required minimum time worked during a given payperiod. Time is calculated at the employee's regular hourly rate.
- 2.52 **Suspension:** The temporary suspension of an employee without pay for disciplinary purposes.
- 2.53 **Termination:** The separation from service with the action initiated by VCTC's executive director.
- 2.54 **Transfer:** A change of an employee from one position to another position with comparable pay and skill requirements.
- 2.55 **Vacancy:** A duly created position which is not occupied and for which funding has been budgeted.
- 2.56 **VCTC Budget:** Is the annual fiscal year budget submitted by the executive director to the Commission for review and approval, which shall include a list of all regular, temporary and part-time positions proposed for the coming fiscal year.
- 2.57 **Workweek:** A normal workweek is 40 hours each week. The work week for all employees is a 7-day period beginning 12:01 a.m., on each Sunday and ending at midnight on each Saturday. Employees, however, may select among flexible work scheduling plans as developed and approved by the executive director. In such cases the work week will be modified from this standard work week.
- 2.58 **Year:** Is defined as follows:
  - 2.58.1 **Anniversary Year** is the annual anniversary of the employee's appointment date (without any unpaid break in service). If the employee has a break in service with an unpaid leave of absence, as allowed by law, the anniversary date may be adjusted.
  - 2.58.2 **Calendar Year** is the period from January 1 to December 31 of each year.
  - 2.58.3 **Fiscal Year** is the period from July 1 to June 30 of each year.
  - 2.58.4 **Service Year** is the employee's work year starting on the employee's original employment date of hire.
- 2.59 **Y-rating:** An action to freeze an employee's salary at the current rate until such time that the top step of the salary range for such position equals or exceeds the employee's salary at the time of the Y-rating action.

### **Article 3** **Executive Director**

- 3.1 **Chief Executive Officer of VCTC:** The executive director is the chief executive officer of the Ventura County Transportation Commission under the direction and control of the Commission, except as otherwise provided in this document. The executive director is responsible for the efficient administration of all VCTC work, under his control. In addition to the general powers as the chief executive officer, including to hire and delegate as appropriate, and not as a limitation thereon, it shall be the executive director's duty to exercise the powers set forth in the following subsections.
- 3.2 **Executive Director Responsibilities:**
- 3.2.1 **Ensure** that all policies, rules, and regulations of the Commission are duly enforced and that all franchises, permits, and privileges granted by and to the Commission are faithfully and fully observed.
  - 3.2.2 **Control** employees and the VCTC organizational structure by appointing, giving direction, training, evaluating, disciplining, transferring, removing, promoting, and demoting employees; and to coordinate, consolidate, or combine VCTC offices, positions, departments, or work units.
  - 3.2.3 **Represent** VCTC in its negotiations and working relationships with any agency, entity, group, or individual, and submit proposals and recommendations to the Commission as deemed necessary or expedient.
  - 3.2.4 **Prepare** and submit a proposed annual budget that includes a salary range table to the Commission for its approval, and to keep the Commission fully advised as to the financial conditions and needs of the organization.
  - 3.2.5 **Create** and implement administrative procedures including, but not limited to, overseeing the purchase of necessary supplies and establishing procedures for other administrative requirements of VCTC, investigating complaints, supervising all VCTC owned property, and any other aspects of the administrative affairs of VCTC.
  - 3.2.6 **Prepare** plans as mandated by voter-approved measures, by other legal requirements, and as mandated by other governmental agencies, including the Countywide Transportation Plan, the Transportation Improvement Program, and all other plans and documents required.
  - 3.2.7 **Delegate** authority, as appropriate, to other VCTC employees.
- 3.3 **Commissioners:** As determined by the Commission and designated within these policies and procedures, the administrative/management role is entrusted to the executive director. Except for the purpose of inquiry or as delegated by the executive director, neither the Commission nor any member thereof shall give orders to subordinates of the executive director. Commission's General Counsel shall be hired by and report to the Commission. Management of the contract for Commission's General Counsel is delegated to the executive director.
- 3.4 **Administration of Personnel Policies and Procedures:** The executive director shall be responsible for administering these Policies and Procedures and as they may be modified from time to time. The executive director is vested with the discretion to take all necessary actions to hire, promote, demote, transfer, evaluate, determine

salary or merit increase, discipline, or discharge any employee, in accordance with these Policies and Procedures and state and federal law.

## **Article 4**

### **At-Will Employment**

**Management and Non-Management Positions:** All employees of VCTC are in at-will positions. The employment of an at-will employee may be terminated at any time, for any reason, and without any requirement of demonstrating “good cause.” At-will employees have no right to appeal any discipline or termination of employment. At-will employees do not acquire a vested interest in the VCTC positions they hold. Employees do not relinquish or forgo any protections, rights, or privileges provided them by federal or state laws, or applicable administrative codes and regulations.

## **Article 5**

### **Recruitment and Selection Practices**

- 5.1 **Recruitment:** VCTC may utilize any legitimate recruitment procedure for attracting qualified applicants. Recruitments may be open or may be limited to VCTC employees. The executive director may make appointments without going through a recruitment procedure, when in the best interest of VCTC. The executive director may use a search firm, a consulting firm, or a temporary employment agency to select candidates for employment.
- 5.2 **Announcement:** Examinations for positions shall be publicized by such methods as deemed appropriate. Recruitments shall be conducted in accordance with equal employment opportunity guidelines as well as appropriate and valid selection procedures.
- 5.3 **Application Materials:** Application materials shall require information covering training, experience, and other pertinent information designed to determine if the applicant can perform the essential job duties. Application materials may include references and background checking, including fingerprints. False information of material fact on application materials may result in rejection or dismissal of the applicant. Applications and examinations are confidential records and shall not be returned to applicants. No applicant shall be required to provide or asked for information that which is prohibited under any state or federal law.
- 5.4 **Disqualification:** Any candidate may be disqualified for any legitimate reason. An applicant has no right to grieve or appeal any such actions. Any of the following reasons may result in disqualification.
- 5.4.1 **Improperly Completed Application:** The applicant did not properly complete the application materials.
- 5.4.2 **Minimum Qualifications:** The application indicates on its face that the applicant does not possess the minimum qualifications for the position.
- 5.4.3 **Essential Duties:** The applicant is unable to perform the essential functions of the position sought, with or without reasonable accommodations.
- 5.4.4 **Illegal Drugs:** The applicant is currently using illegal drugs. VCTC may, as a condition of employment, require a pre-employment drug and alcohol test that complies with federal and state standards and processes.
- 5.4.5 **Conviction of a Crime:** The applicant has been convicted of a crime that may have an adverse impact on the applicant's ability to perform the job for which the applicant is applying.
- 5.4.6 **Legal Right to Work:** The applicant is not legally permitted to work within the United States.
- 5.4.7 **False Statements:** The applicant has made false statement of any material fact or practiced or attempted to practice deception or fraud in making the application for employment.
- 5.4.8 **Material Cause:** Material cause, in the judgment of the executive director, would render the applicant unsuitable for the position, including a prior resignation from VCTC service, termination from VCTC service, or significant disciplinary action.

5.5 **Examinations:**

5.5.1 **Examination Process:** All hiring shall be made according to merit and fitness. VCTC may utilize any legitimate objective method to determine the qualifications of applicants, including without limitation, written tests, physical agility tests, oral examinations, training and experience review, panel interviews, assessment centers, and oral interviews. The selection practices used in the examination process shall be impartial and relate to those subjects that, in the opinion of the executive director fairly measure the relative capacities of the candidates to execute the duties and responsibilities of the class.

5.5.2 **Conduct of Examination:** VCTC staff may hold the selection processes itself or contract with any qualified organization, individual, or firm for preparing and/or administering examinations.

5.5.3 **Notification of Examination Results and Review of Materials:** Examination results are not provided. However, if requested by a candidate, exam results may be provided, within the sole discretion of the executive director.

5.6 **Continuous Recruitments:** When necessary to meet continued requirements for filling positions, the closing date for any selection process may be indefinite and applicants may be tested continuously in such manner and at such times and places as may be determined by the executive director.

5.7 **Background Checks:** VCTC shall have the right to conduct a complete and exhaustive background investigation, on all applicants seeking employment. As part of the pre-employment procedure, applicants may be required to supply references, and submit to a thorough background check, including a criminal background check where applicable, and a medical and/or psychological examination by VCTC-retained medical practitioners. In addition, all candidates must be physically and mentally capable of performing the essential functions of their jobs with or without reasonable accommodation. Background investigations comply with applicable FCRA code sections. Candidates are notified of the proposed background investigations and must sign release forms to authorize the gathering of such information. Any medical or psychological examination shall be conducted only after a conditional job offer has been made, in accordance with applicable law.

5.7.1 **Purpose:** To ensure a safe environment for the public served by VCTC, a safe working environment for all VCTC employees, and to minimize liability by conducting investigative consumer reports in a manner consistent with all applicable state and federal laws.

5.7.2 **Policy:** It is VCTC's policy to conduct investigative consumer reports for all regular full-time and part-time, casual, contract, and such other appointments as determined necessary by the executive director.

5.7.2.1 **Definitions:**

5.7.2.1.1 **Consumer Report:** An investigative consumer report is any written, oral, or other communication that includes information on a candidate's character, general reputation, personal characteristics, or mode of living obtained through any legal means, which is used or expected to be used or collected in whole or in part for the purpose of serving as a

factor in establishing a consumer's eligibility for employment purposes.

- 5.7.2.1.2 **Employment Purposes:** Refers to the use of information for employment, promotion, reassignment, suspected fraud, or misconduct.
- 5.7.2.1.3 **Consumer:** A consumer is any individual who has made an application for employment or who is being considered for employment.
- 5.7.2.1.4 **Reporting Agency:** A consumer-reporting agency is any person, who for monetary fees or dues, engages in whole or in part in the practice of collecting, assembling, evaluating, compiling, reporting, transmitting, transferring, or communicating information concerning consumers for the purposes of furnishing investigative consumer reports to third parties.
- 5.7.2.2 **Procedures:** When a background investigation of an employee or candidate shall be conducted for purposes other than misconduct, the following shall occur.
  - 5.7.2.2.1 **Notification:** Separate from the job application itself, potential candidates will be notified that VCTC will be seeking an investigative consumer report for the previous 7 years. Additionally, official records for the last 3 counties in which the person last lived will be investigated. Standard investigative consumer reports will entail: social security check, criminal history, national wants and warrants, a credit report, driver's license report, and any appropriate job-related report.
  - 5.7.2.2.2 **Written Authorization:** VCTC shall obtain written authorization from the candidate before beginning the investigation. Candidates will be asked to complete the background authorization form prior to the final step in the testing process that will culminate in the establishment of eligibility for the classification being tested. A candidate's failure to sign a release would result in a candidate being disqualified from further consideration. At the candidate's request, results of background investigations will be provided to the candidate; however, any reference check information is not provided.
  - 5.7.2.2.3 **Consumer Reporting Agency:** When ordering the report, VCTC shall inform the candidate that a consumer investigation report will be completed, the name and address of the consumer-reporting agency, the nature and scope of the investigation, and a summary of the consumer's rights under the law (unless the employer has a good faith belief the employee has engaged in misconduct).
  - 5.7.2.2.4 **Candidate Rejection Based on Consumer Report:** In the event VCTC uses the information gathered through the consumer investigation, either in whole or in part, to reject a

candidate for employment, the candidate will be sent an Adverse Action Letter. This letter informs the candidate that the application rejection was influenced by information in a consumer report. The correspondence will include a copy of the consumer report, along with the name and address of the consumer-reporting agency. The letter will also explain the right to dispute the accuracy or completeness of information in the report and to direct any such inquiries to the consumer-reporting agency named in this correspondence.

5.7.2.2.5 **Obligations:** The obligations identified herein shall apply whether the investigative consumer report is prepared by a contracting agency or by VCTC staff.

- 5.8. **Eligibility to Work:** All prospective employees must be able to provide written verification of their right to work in the United States upon appointment.
- 5.9. **Employee Selection:** VCTC's employment processes will be conducted in a manner that is fair, efficient, and results in the employment of qualified candidates.
- 5.10. **Appointment:** Positions may be full-time or part-time, intermittent, short-term, intern, an annuitant, or contractual, depending on VCTC needs.



## **Article 6**

### **Classification and Compensation**

- 6.1 **General Policy:** To facilitate equitable employment and compensation practices, based on job-related qualifications, a classification system has been implemented that groups positions which are similar as to duties performed, degree of supervision, responsibility exercised or required, minimum requirements of education, experience, skill, and other qualifications, so that the same title and schedule of compensation will be applied to each position in the group, and substantially similar measures of required qualifications, and acceptable job performance will also be applied to each position in the group.
- 6.2 **Classification Title:** The title established shall be generally descriptive of the type and level of work performed and shall be used in all VCTC documents applicable to the positions or the employees appointed to it.
- 6.3 **Classification Specification:** The classification specification is intended to clearly set forth the basic work tasks, knowledge, skills, abilities, and employment qualifications applicable to each classification. The specification shall not be construed as an all inclusive list of tasks performed, or be interpreted as restricting the assignment of related tasks not specifically listed therein, or as limiting the authority of supervisors to assign, direct, and control the work of employees.
- 6.4 **Reclassification:** As position duties and general qualifications change from time to time or the needs of the organization change and new duties are added or deleted, it may become necessary to conduct a classification study or job audit to determine the most appropriate classification for a position. The executive director may authorize studies of such a position or positions that shall determine the most appropriate classification based on the findings and recommendations of such a study. Reclassifications are not subject to employee recruitment and promotion procedures.
- 6.5 **Compensation:** The annual budget sets forth the positions approved by the Commission, together with salary ranges and employee benefits. Salary ranges and employee benefits are reviewed and considered by the Commission for adjustment as often as may be recommended by the executive director to maintain market competitiveness and fairness. The budget contains a series of pay ranges listing the bottom step and the top step only. Salary ranges may be expressed in terms of hourly, monthly, or annual rates or any combination of these. Each classification shall be assigned to a range in the pay schedule, and this designation may be modified periodically to reflect Commission-approved general salary adjustments/cost-of-living adjustments, classification actions, or other actions impacting range assignments. VCTC salary schedule does not contain fixed steps nor are fixed steps given within each range. No position shall be assigned a salary not in conformance with the salary range established for its classification. The executive director has authority to compensate employees at any place in the salary range.
- 6.5.1 **Salary and Benefits on Appointment:** An employee may be appointed at any place on the salary schedule for the classification. A regular employee is provided the same general benefits as all other Commission employees, except to the extent approved by the Commission and at the discretion of the executive director, adjustments to benefits, such as leave accrual rates or pro-rata portion of benefit payment, may made be made at the time of appointment.

- 6.5.2 **Salary Advancements:** Salary advancements within an established range shall not be automatic, but shall be based upon satisfactory job performance as determined, and supported in writing, by the employee's supervisor, and approved by the executive director. Merit raises within a salary range are generally no more than 5% and shall not exceed the maximum of the salary range.
- 6.5.3 **Salary Increases After Six Months of Employment:** Employees may be eligible for merit increase six months after the initial appointment, provided that the employee's performance and work habits merit the increase. Advancement to other points on the specific salary range may be made after 12 months of service at each successive salary increase, provided that the employee's performance and work habits merit the increase, as determined by the executive director. Merit increases will be effective on the first full payperiod after the employee's six-month anniversary date.
- 6.5.4 **Salary Upon Promotion:** An employee who is promoted to a position in a class allocated to a higher salary range than the class to which the employee was formerly assigned will receive at least a 2.5% adjustment to compensation and be placed within the higher salary range.
- 6.5.5 **Salary Upon Transfer:** An employee who is transferred from a position to another in the same class or to another position in a class having the same salary range shall be compensated at the same step in the salary range as previously received.
- 6.5.6 **Suspension without Pay:** Any employee who has been suspended for disciplinary reasons shall not receive pay for the duration of the suspension; nor shall any benefits which are calculated upon hours worked be credited to the employee, including, but not limited to, sick leave, vacation, retirement, or disability insurance, during the period of suspension. Should such suspension be later modified or revoked, the employee may be entitled to receive payment to compensate proportionately for loss of income and benefits during the period of suspension.
- 6.5.7 **Salary Upon Demotion:** An employee who is demoted may receive a salary adjustment within the salary range of the new position as determined by the supervisor in consultation with the executive director.
- 6.5.8 **Salary for Portion of Payperiod:** A Fair Labor Standards Act (FLSA) non-exempt employee working on a full-time basis, who works less than a full payperiod, except when on authorized leave of absence with pay, shall receive as compensation for such period an amount equal to the number of hours worked times the employee's hourly rate. For FLSA exempt employees when absent from work for a period of time, leave balances shall be used and the amount of compensation paid to said employee shall not be subject to a deduction. No deduction shall be made from the employee's paycheck even if the employee's absence cannot be covered or paid through accumulated vacation, sick leave, or compensatory time off, unless it is determined in accordance with law that such deduction will not result in the loss of exempt status of the employee.
- 6.5.9 **Salary Upon Re-employment and Reinstatement:** A reinstated or re-employed employee shall be appointed within the appropriate salary range for the position as determined by the executive director, based upon the employee's prior length of service and level of performance.

6.6 **Allowable Deductions From Salaries:** Notwithstanding any other provisions in the policies and procedures, deductions may be taken from the paychecks of FLSA-exempt employees for any of the following reasons:

- When an employee is absent from work for one or more full days for personal reasons other than sickness or disability.
- For absences of one or more full days due to sickness or disability if the deduction is made in accordance with a bona fide plan, policy, or practice of providing compensation for salary lost due to illness.
- To offset amounts employees receive as jury or witness fees or for temporary military duty pay.
- For penalties imposed in good faith for infractions of safety rules of major significance.
- For unpaid disciplinary suspensions of one or more full days imposed in good faith for workplace infractions.
- In the employee's initial or terminal week of employment if the employee does not work the full week.
- For unpaid leave taken by the employee under the federal Family and Medical Leave Act (FMLA).
- For absences due to a budget-required furlough.
- And including but not limited to a failure to report to work on a given workday.

6.7 **Prohibited Deductions From Salaries:** Notwithstanding any other provision in the Policies and Procedures, if an FLSA-exempt employee is absent for one and one-half days for personal reasons, only a deduction for the one full-day absence may be taken. The FLSA-exempt employee must receive a full day's pay for the partial day worked. In no event shall deductions from paychecks of FLSA-exempt employees be taken for any of the following:

- Jury duty on a workday in which the employee does any work.
- Temporary military leave.
- Witness leave on a workday in which the employee does any work, except when the employee has brought the legal action, resulting in the absence.
- Disciplinary action of suspensions less than one full workweek unless the discipline is based on an infraction of workplace conduct rules.

6.8 **Increases in Compensation:** In conjunction with the adoption of the annual budget, the executive director may recommend adjustments to salary ranges.

6.9 **Ventura County Transportation Commission Compensation Philosophy:** VCTC's compensation philosophy is based on its service priorities, fiscal responsibilities (ability to pay), internal relationships, merit, marketplace, and such other relevant factors. The compensation policy ensures that VCTC's financial condition will be maintained and VCTC's practice to compensate employees in accordance with its financial condition. In determining the financial condition, VCTC will consider service priorities, maintenance of adequate reserves, and revenue growth. In addition, the ability to attract, retain, and reward quality employees is part of the compensation policy, which should enhance the Commission's ability to attract, retain, and reward quality staff in order to ensure that VCTC provides the highest-level of service to the public.

## **Article 7 Performance**

- 7.1 **Policy:** VCTC shall provide a professional work environment that encourages and supports fair and equitable treatment of its employees. It also recognizes the importance of employee performance evaluations in sustaining an effective staff, and further, encourages an open, ongoing dialogue between supervisors, managers, and employees. Performance evaluations are completed generally once a year and may be done more frequently at the discretion of the supervisor. Performance evaluations are not, in and of themselves, subject to the complaint procedure.
- 7.2 **Annual Performance Evaluations:** Work planning and performance evaluations are continuous processes and should be documented and discussed with the employee as often as necessary. At a minimum, a work planning and performance evaluation shall occur at least once each fiscal year at any time during the year. For all employees who are at the top of the salary range, performance evaluations may be done annually but no less than once every two years. Each employee shall have an evaluation conducted by his/her immediate supervisor on an acceptable VCTC format, and at a minimum, the document will list the employee's name, title, performance period, reviewer's name, and reviewer's title, as well as reviewer's assessment of employee's performance, current duties and deliverables, and an updated workplan with performance goals for the next performance year. The employee, the supervisor, director, and executive director should sign the document, and the official copy shall be placed in the employee's personnel file.
- 7.2.1 **Ongoing Dialogue:** While official performance reviews will generally occur annually, supervisors should have an ongoing dialogue with staff to ensure that any positive performance is commented upon close to when it occurs, and negative performance is corrected when it occurs.
- 7.2.2 **Annual Compensation Review:** Any salary adjustments must be consistent with the salary schedule for the applicable classification that is submitted as part of the annual budget process and must be as a result of an evaluation.
- 7.3 **Six-month Evaluation:** Newly hired employees shall be evaluated after six months in the position, and then annually each year thereafter.
- 7.4 **Performance Improvement Plan:** The executive director may propose a Performance Improvement Program to improve deficiencies in performance. Such Performance Improvement Program is to be considered part of the evaluation program and is not considered disciplinary action.
- 7.5 **Responding to Performance Evaluations:** If an employee is dissatisfied with the performance evaluation received, within 10-working days, the employee may file a response to that evaluation to the supervisor issuing the evaluation. Within 20 working days of receiving the response, the supervisor will render a written opinion, indicating that said evaluation as written will be kept as is or some modifications to the document will be made. The final evaluation and the employee's response shall be attached together and placed in the employee's personnel file.
- 7.5.1 **Review by the Executive Director:** If the employee is still dissatisfied with the final evaluation, within 10-working days following the date of the supervisor's opinion, a meeting with the executive director may be requested. That meeting shall be held within 20 working days of the request. The executive

director may invite both the employee and the supervisor to the meeting. Within 10-working days of the meeting, the executive director shall render a final and binding decision as to any changes to be made to the final evaluation. Employees reporting directly to the executive director have no other recourse.

7.6 **Personnel Actions-Non-disciplinary**

- 7.6.1 **Resignation:** Employees separating from VCTC employment in good standing are encouraged to submit a letter of resignation to their immediate supervisor. This letter should be submitted no later than 2 weeks in advance of the effective date of separation, except under extraordinary circumstances. The letter of resignation shall be forwarded to the executive director and placed in the employee's personnel file.
- 7.6.2 **Transfer:** The executive director may transfer employees from one position to another position in the same classification or in a comparable classification in which the employee is qualified to perform carrying essentially the same maximum salary. Testing components may be necessary to establish skill-based qualifications, as determined by the executive director.
- 7.6.3 **Voluntary Demotion:** Based upon an employee's request the executive director may demote an employee to a position that is vacated in a classification which carries a lower rate of pay and for which the employee is qualified to perform. No recruitment process will be announced nor will a formal examination be required for the voluntary demotion to occur. At the discretion of the executive director, the employee may either continue to receive his/her current rate of pay for the new position, which shall then be y-rated, or may be placed at the appropriate point on the salary schedule.
- 7.6.4 **Involuntary Demotion (Not Related to a Layoff Action):** Based upon an employee's demonstrated inability to perform the tasks of the assigned position, the executive director may demote an employee to a position in a classification for which the employee is qualified to perform and which carries a lower maximum rate of pay by following the disciplinary procedures outlined in these personnel policies and procedures. No recruitment process or formal examination will be required for the involuntary demotion to be made. At the discretion of the executive director, the employee may either continue to receive his/her current rate of pay, which shall then be Y-rated, or may be placed at the appropriate point on the salary schedule.

**Article 8**  
**Health and Welfare Benefits**

- 8.1 **Qualifying for Benefits:** Certain insurances and other benefits are available to full-time employees with costs shared by VCTC and the employee as defined and provided for in these policies, which may be amended from time to time by the Commission. Regular part-time employees hired after July 1, 2010 may also be eligible to participate in some insurance benefits, with VCTC contributions to premiums prorated to match the employee's scheduled work hours. Increases in the amount or percentage of VCTC contributions to a part-time employee's benefits may be made at the discretion of the executive director.

- 8.2 **Insurance Benefits:** Insurance benefits are afforded full-time regular employees and their eligible dependents as governed by the terms and conditions of the contractual agreements with the benefit providers. Such contracts shall be determined by the Commission in the best interest of VCTC and with regard to the needs of employees. Insurance premiums not paid in whole or part by VCTC shall be the responsibility of the employee. Insurance benefits may include medical, dental, and vision care plans, short-term and long-term disability, life insurance, accidental death and dismemberment, and any other such insurance benefits.
- 8.3 **Optional Benefits:** With Commission approval, the executive director may, at his/her discretion, provide supplemental VCTC-paid benefits such as health education/wellness programs, flexible spending accounts, additional paid leaves, or employee assistance programs.
- 8.4 **Retirement:** All regular full-time and regular part-time VCTC employees shall participate in the Public Employees' Retirement System and shall be governed by its rules and regulations. Employee's retiring from VCTC and eligible for concurrent retirement with CalPERS have the following benefits:
- 8.4.1 **Retirement Formula:** The retirement formula benefit for employees hired prior to 1/1/2013 and for non-new members as defined by the Public Employees' Pension Reform Act of 2012 ("PEPRA") hired on or after 1/1/2013 is 2% at age 60. "New members" as defined by PEPRA are enrolled in a 2% at 62 formula and are subject to all requirements of PEPRA. This includes, without limitation, the equal sharing and contribution requirements in Section 7522.30 (a) and (c).
- 8.4.2 **Sick Leave Service Credit:** Employees retiring may use sick leave to obtain additional service time. This is known as Sick Leave Service Credit.
- 8.4.3 **Single Highest Year:** "CalPERS Classic" employees may choose any single 12-month consecutive period in which to base their retirement calculations. "CalPERS non-Classic" employees hired after 01/01/2013 are subject to a three-year final compensation benefit, consistent with the Pension Reform Act of 2012.
- 8.4.4 **Employer Paid Member Contribution (EPMC):** VCTC pays the "CalPERS Classic" employee's portion of the retirement contribution for employees hired prior to 05/01/2015 as well as the employer's portion. "CalPERS Classic" employees hired after 05/01/2015 are required to pay the full employee's portion of the retirement contribution, regardless of prior CalPERS membership and service. "CalPERS non-Classic" employees hired after 01/01/2013 are required to pay the employee's portion of the retirement contribution, consistent with the Pension Reform Act of 2012.
- 8.4.5 **Other PERS Benefits:** Currently VCTC has contracted with CalPERS to also provide these optional benefits.
- 8.4.5.1 **Pre-tax Service Credit Purchase:** Employees may purchase service credit on a pre-tax basis.
- 8.4.5.2 **Peace Corp Service Credit:** A member may elect to purchase up to three years of service credit for any volunteer service in the Peace Corps, AmeriCorps VISTA (Volunteers In Service To America), or AmeriCorps.
- 8.4.5.3 **Prior Service Credit:** This is service rendered by the employee prior to the effective date of the contract between the Commission and

CalPERS and permits employees to purchase prior service. The member is required to pay the normal employee contributions based on the contribution rate and compensation at date of membership plus interest until the date of completion of payments.

8.4.5.4 **Military Retiree Credit:** Permits certain retired persons to purchase up to four years of service credit for continuous active military or merchant marine service prior to employment.

8.4.5.5 **Military Stats:** A member may elect to purchase up to four years of service credit for any active military or merchant marine service prior to employment.

8.4.5.6 **2% Cost-of-Living Adjustments (COLA):** Beginning the second calendar year after the year of retirement, the retirement and survivor allowances will be annually adjusted by CalPERS on a compound basis of up to 2% maximum.

8.4.5.7 **Retired Death Benefit:** Upon death of a retiree, a one-time lump-sum payment of \$500 will be made to the retiree's designated survivor(s), or to the retiree's estate.

8.4.5.8 **Public Service Layoff:** A member may receive up to one year of public service credit for each period of layoff from employment based on CalPERS requirements and definitions.

8.4.5.9 **Death Benefit Prior to Retirement:** Provides the death benefits being paid to a spouse of a member who died prior to retirement will continue in full should the spouse remarry.

8.5 **Group Health Insurances:** These insurances are subject to the terms and conditions of the specific benefit plans.

8.5.1 **Insurance Premium:** Employees and their eligible dependents shall be provided the minimum PERS medical insurance premium as required by PEMCHA. In addition, VCTC will pay the difference between the minimum PERS medical insurance premium and the full insurance costs for themselves and eligible dependents, with no premium costs to employees.

8.5.2 **Eligibility:** All regular full-time and regular part-time employees are eligible to participate. Part-time employees hired after July 1, 2010 shall have their benefit costs pro-rated and if employee elects coverage, such additional premium costs will be paid by the employee through payroll deductions.

8.5.3 **Coverage:**

8.5.3.1 **Dental and Vision Effective Dates:** Based on the terms and conditions with the provider, generally coverage shall become effective on the first day of the month following the employee's actual start date, and shall terminate on the last day of the month in which the employee leaves employment.

8.5.3.2 **Medical Effective Dates:** Based on the terms and conditions with the provider, generally coverage shall become effective on the first day of the month following the employee's initial appointment date, and shall terminate on the last day of the month following the month in which the employee leaves employment.

8.5.3.3 **Life, AD&D, and Long-term Disability Effective Dates:** Coverage shall become effective on the first day of the month following

the employee's initial appointment date and shall terminate on the last day in which the employee was in paid status.

**8.5.3.3.1 Life and Accidental Death and Dismemberment**

**Insurance:** Coverage for all employees is up to \$125,000.

Employee may purchase additional coverage at their own expense.

**8.5.3.3.2 Long-term Disability Insurance:**

VCTC maintains a long-term disability insurance program for all regular full-time employees. This insurance is intended to cover employees in the event of a long-term injury or illness that is not covered by some other leave benefit or state disability insurance. Eligibility for long-term disability begins after the employee has been absent from work for a certified illness/injury for a minimum of 90 calendar days. The benefit pays up to 2/3rds of the employee's gross monthly salary up to a maximum level of \$6,000 for up to 5 years, depending on employee's age, if employee is certified as disabled. Accumulated sick leave or vacation may be used during the waiting period.

**8.5.4 Other Benefits:** VCTC contributes on the employee's behalf, the employer and employee costs for State Disability Insurance (SDI) and Medicare. Both benefits follow state and federal requirements. For other than full-time and part-time regular employees, and who are not active members in CalPERS, VCTC shall contribute an equal amount as the employee to Social Security as required by Social Security regulations.

**8.5.5. Deferred Compensation Plans:** VCTC participates in a deferred compensation (IRC sec. 457) plans. Employees may contribute pre-tax dollars to the plan based on the terms and conditions of the plan, as well as federal requirements.

**8.5.6 Transportation Benefits:** VCTC provides transit passes to eligible employees, upon request and approved by the employee's immediate supervisor.

**8.5.7 Benefits Types:**

**8.5.7.1 Regular Full-time Employees:** All regular full-time employees are eligible for dental, vision, medical, life, accidental death and dismemberment, and long-term disability insurances.

**8.5.7.2 Regular Part-time Employees:** All regular part-time employees hired after 7/1/2010 are eligible for pro-rated medical, dental, and vision insurances.

**8.5.7.3 Domestic Partner Health Benefits Eligibility:** VCTC provides registered domestic partners and the children of domestic partners, the opportunity to enroll in VCTC's health plans administered by the California Public Employees Retirement system. Domestic partners must meet the requirements for enrollment as stated in Article 9, Section 22873 of the Public Employees Retirement Law, and must submit the required documentation for confirmation.

**8.5.7.3.1 Definition:** For the purpose of providing health care benefits, a domestic partnership is defined as two adults of the same sex, both over the age of 18, and opposite sex domestic partners



where one person is over the age of 62 and who are registered as domestic partners with the State of California.

- 8.5.7.3.2 **Dependent Children:** Children must be economically dependent upon the employee for their financial support and have a parent-child relationship with the employee. Coverage for children will be terminated when the child reaches age 23 (exceptions apply for children with disabilities), or when the child marries.
- 8.5.7.3.3 **Procedures:** Employees may enroll their registered domestic partner and or children of their registered domestic partner on the first day of the month following receipt of the notarized Declaration of Domestic Partner Registration from the Secretary of State. VCTC must receive the declaration within 60 days of issue. A Statement of Financial Liability for Domestic Partner Health Benefits must be completed and signed, along with the declaration, as well as the health enrollment form before enrollment of partner or children.
- 8.5.7.3.4 **Tax Implications:** Federal law does not always recognize domestic partner relationships for tax purposes. Therefore, the value of the additional benefits received by a domestic partner is considered taxable for tax purposes. The tax liability is an “imputed value” based on the fair market value of the benefit of all of the selected coverage, as assigned by the individual plans. However, if the domestic partner qualifies as a dependent for tax reporting requirements under the Internal Revenue Code, the Value of the additional benefits may be exempt for the imputed tax upon proper certification. Imputed earnings are subject to federal tax and are not added to your taxable gross income for California state tax purposes.
- 8.5.7.4 **Change in Relationship:** It is the responsibility of the employee to notify VCTC to cancel a spouse or domestic partner’s coverage if the relationship terminates or when the spouse or domestic partner no longer shares a common residence with employee. It is the responsibility of the employee to notify VCTC to cancel an adult child’s coverage once the adult child reaches the benefit limit. If the employee does not notify VCTC of the termination of the relationship within 31 days of the event, the employee will be held responsible for all costs for medical services received by the spouse or partner and or children of the spouse or partner after the termination of the relationship.
- 8.5.7.5 **COBRA Requirements:** COBRA medical insurance will be offered through CalPERS to employees, and their legal dependents as required by law. Other COBRA required insurance will be offered through VCTC’s insurance plans. In the event of termination of marriages, domestic partnership, the death of the employee, or a depend child reaching the age limit for insurance, under the same conditions used for traditional marriages, COBRA will be offered. Should the spouse or partner elect COBRA, the coverage will continue as required by law. The spouse or partner of the employee pays for COBRA benefits.

- 8.6 **Retiree Medical Benefits:** Those employees hired prior to 7/1/2010 are eligible for full individual medical insurance premiums. VCTC pays the minimum PERS medical insurance contribution for each employee and the difference between the minimum PERS medical insurance contribution and the individual medical insurance premiums. Those employees hired 7/1/2010 or later are eligible for only the minimum PERS medical insurance premium contributions not including any retiree's individual Medicare contribution. VCTC does not provide any other post-retirement benefits.
- 8.7 **Educational Reimbursement Policy:** VCTC encourages employees to pursue their educational goals. Whether it is a specialized training course or part of a degree program, financial assistance to those employees who are pursuing their education is available. Program eligibility and process is outlined below.
- 8.7.1 **Employees Eligibility:** Tuition or workshop refund is available to any regular full-time or part-time employee who has completed six months of service prior to the beginning date of the course. Resignation or discharge of an employee automatically terminates eligibility for participation in the program.
- 8.7.2 **Eligible Courses:** A tuition refund will be given for any pre-approved courses taken at an accredited community college, state college, university, or other pre-approved agencies or organizations. The course must be related to the employee's present job or contribute to her/his career development by enhancing the employee's performance and abilities on the job. Course attendance must be on the employee's own time and should not interfere with her or his regular job.
- 8.7.3 **Procedure:** To participate in the tuition refund program, an interested employee must complete a letter of application to his/her department director indicating the course, costs, and relevancy and attach any brochures, or other printed materials about the course, if available. The department director will approve or reject the application after discussing with the executive director. After completing the course, the participant must submit the appropriate documentation, including receipts, grade reports, etc. to the department head for approval for payment. All records will become part of the employee's personnel file. A new application must be completed and approved each semester or quarter.
- 8.7.4 **Approval:** Employees may be reimbursed for books, tuition, and fees to the maximum amount equal to a part-time student's books, tuition, and fees at the California State University Channel Islands (CSUCI). Reimbursement shall not exceed the Internal Revenue Code's section 127 maximum educational reimbursement amount in any calendar year nor exceed CSUCI's costs for any two semesters in a fiscal year. Reimbursement will be made upon successful completion of the course, provided that the employee submits the following to his/her department director within 30 days of course completion: evidence of earning a grade C or better for the course, or proof of attendance for classes that do not use a formal grading system or a verified statement including adequate receipts of tuition, fees and book expenses. An employee may seek reimbursement for courses taken at an accredited higher education institution in pursuit of an Associates, Bachelors, or Masters degree in a field related to transportation, planning, public policy, or public or business administration.

## **Article 9 Hours of Work and Attendance**

- 9.1 **General Attendance Requirements:** Employees shall normally be in attendance at their work in accordance with VCTC policies regarding hours of work and leaves. Employee attendance records shall be kept and reported via the payroll system.
- 9.9.1 **Workweek:** The basic workweek for full time employees is 40 hours per week, in a 7-day period. VCTC may modify regular working hours for its employees and may require employees to work reasonable overtime and to perform standby responsibilities, as needed.
- 9.9.2 **Work Hours:** VCTC's normal business hours are 8:00 a.m. to 5:00 p.m., Monday through Friday. **The Transit Information Center office hours are from 7:00 a.m. to 6:00 p.m., Monday through Friday.** Working hours are approved by the executive director. Temporary adjustments of working hours may be made by the employee's immediate supervisor.
- 9.9.3 **Meal Periods:** Employees receive a 30 or 60-minute meal period that is not compensable. During the meal period, the employee shall be completely relieved of duties. Only if the employee is authorized in advance and performs work during the meal period, shall he/she be compensated for such time. Meal periods are generally taken about half-way through a normal work day and meal periods not taken may not be used to shorten the workday.
- 9.9.4 **Rest Periods:** Employees shall have a 15-minute rest period for each half of an 8-hour workday. Periodically rest periods may be voluntarily interrupted or cancelled and will not be compensated. The rest periods may not be combined or used to shorten the workday or to use for a lunch period.
- 9.9.5 **Flexible Work Schedules:** The "flex-time" schedule allows flexibility in an employee's working hours within each payperiod and is subject to continued approval by the executive director. All employees must take their authorized flex days off during the payperiod it is earned, with some exceptions that must be pre-approved by the executive director. Request to change a flex day off must be put in writing via e-mail and forwarded to the employee's immediate supervisor at least two working days prior to the schedule changing. Annually, on or about December 1<sup>st</sup> of each year on a VCTC approved form, employees shall indicate in writing the schedule they wish to work the following calendar year. Approval is at the sole discretion of the executive director.
- 9.9.5.1 **Non-exempt Flexible Work Schedules:** If a non-exempt employee forgoes a flexible day off, it is considered overtime, and must be compensated as such. Therefore, no part of a flexible work day off may

be worked without express prior permission of the employee's immediate supervisor.

- 9.9.6 **Time off for Medical/Dental Appointments:** Any employee working a flexible schedule is encouraged to make routine medical and dental appointments on the employee's flex day off. Appointments during the business day should be made, if possible, to minimize interference with office hours. Time off for such appointments shall be charged to sick leave.
- 9.9.7 **Timesheets:** Employees must complete their timesheets each payperiod and must submit to their immediate supervisor immediately after the close of the payperiod.
- 9.9.8 **Requesting Time Off:** All time off shall be requested at least five working days in advance of the asked for time off by submitting appropriate documentation to the employee's immediate supervisor. Exceptions may be made to the time interval for making leave requests. No leaves shall be taken until the employee has received approval for such absence.
- 9.9.9 **Unexpected Absence:** In the event an employee is unable to report to work on a regularly scheduled workday due to unforeseen circumstances, illness, or other event, the employee shall notify his/her supervisor immediately by calling the supervisor's direct phone number prior to the beginning of the employee's work day or when practicable, to report the date, time, reason for absence, and expected return-to-work date. If there has been extenuating circumstances in which the employee or employee's family cannot notify the Commission of the employee's absence in advance or at the beginning of a workday, and these circumstances can be verified by the executive director, the absence will not be deemed an automatic resignation. The executive director's review and decision about any such extenuating circumstances is final. Should the absence be longer than one working day, the employee shall provide his/her supervisor with notice as soon as possible of the expected duration of the absence, and which leave(s) should be charged. A physician's verification for the need for absence based on illness must be made after three working days or at the discretion of the executive director and submitted to the employee's supervisor by e-mail, US mail, fax, or in person.
- 9.9.10 **Extended Absences:** Absences that qualify for state disability insurance, job-incurred disability insurance, or long-term disability must have the required documents of a physician's certification that the employee is unable to work and a request for unpaid leave submitted to the executive director for review, approval, and appropriate processing. Employees on extended absences must keep their supervisor informed of their status and their expected return-to-work date. Employees on extended or intermittent absences who do not qualify for FMLA-related leave shall pay the pro-rated costs of their insurance coverage for any absence period that is not covered by FMLA.
- 9.9.11 **Failure to Report to Work:** Employees who do not report to work as scheduled, and who have not requested leave according to the provisions of these Policies and Procedures, shall be considered to have automatically resigned after one working day has passed without word from the employee or employee's duly authorized representative unless there are extenuating circumstances that can be verified by the executive director. The executive director's review and decision about any such extenuating circumstances is

final. Such an employee will have no right to appeal his/her separation from employment.

9.2 **Timesheets and Recordkeeping:** Timesheets shall be required to be filled out by all employees reflecting the actual number of hours worked on a daily basis by each employee. Timesheets shall be signed by the employee and reviewed and approved by their immediate supervisor and forwarded to payroll in the Finance Department no later than 12:00pm on the day following the close of the payperiod. Failure to follow timesheet reporting requirements could be grounds for discipline. Timesheets and payroll records are maintained for a period of 10 years in compliance with the California Public Utilities Commission regulations.

9.3 **Overtime:**

9.3.1 **General Information:** Employees are responsible for ensuring that advance work planning is done so that overtime is kept to a minimum. For non-exempt employees when it becomes necessary to work overtime, prior approval must be obtained from the employee's immediate supervisor.

9.3.2 **Overtime Compensation:** No non-exempt employee may start work before the appointed time, work through lunch, or work past the appointed ending time without the prior authorization of their immediate supervisor. Non-exempt employees who have worked authorized overtime shall be compensated for such at 1.5 times their actual hourly rate of pay. Compensatory time off may be taken in lieu of paid overtime.

9.3.3 **Compensatory Time Off:** Generally, overtime for non-exempt employees is paid for at the time it is earned during the normal payperiod. However, time off in lieu of overtime pay may be allowed with express permission by the employee's immediate supervisor with notification to the executive director. The maximum compensatory time off that may only be accrued with express permission by the executive director is up to 80 hours in a calendar year on an hour for 1.5 hours basis. Overtime worked beyond the 80 hours compensable time off maximum must be taken in actual pay. Supervisors must approve employee's use of overtime, and must track any compensatory time earned, taken, and paid in lieu compensation.

## **Article 10** **Leaves**

### **10.1 Leaves:**

**10.1.1 General Leave Provisions:** To ensure accountability and the integrity of public service, all employees are expected to account for their absences from work, whether in paid or unpaid leave status.

**10.1.2 Leave Approval:** Leaves shall be subject to approval by the supervisor, and scheduled in advance whenever possible, with due regard for service needs. Use of unauthorized leaves by an employee may result in disciplinary action, up to and including discharge.

**10.1.3 Leave Accounting:** Leave time for all employees is chargeable in increments of .25 hours (15 minutes). VCTC may employ any reasonable measure to ensure employees are properly accounting for leaves, including requiring reasonable proof that the basis for the leave is legitimate. Employees may be required to submit a medical certification of illness supporting a request for sick leave. VCTC may require a fitness-for-duty medical certification from any employee returning from a medical leave. Failure to provide requested medical certifications may result in denial of leave or in denial of reinstatement.

**10.1.4 Leave Accruals:** Employees eligible for accrued leaves shall accumulate leave from the date of the employee's initial appointment until separation from employment. Leave accrues on hours in a paid status. No leaves will accrue when an employee is in an unpaid status unless otherwise required by law.

**10.1.5 Leave Accruals for Part-time Employees:** Part-time, regular employees who are entitled to leaves shall receive the same leave accrual rates on a prorated basis and under the same circumstances as full-time employees. The benefit shall be prorated so that a regular part-time employee is credited with the number of hours that is proportional to the number of hours regularly worked.

**10.1.6 Failure to Comply with Terms of Leave:** If an employee accepts other employment during a leave of absence, except as otherwise provided by state or federal law, or fails to return to work on the next regularly scheduled work day following the expiration of the leave, it will be deemed that the employee has voluntarily terminated employment. Such an employee will have no right to appeal this separation from employment.

**10.1.7 Use of Paid Leaves Prior to Unpaid Leave Usage:** Generally, employees must exhaust all discretionary paid leaves prior to taking time off without pay, except sick leave when the time off is not for an applicable sick leave reason. This requirement may be waived at the executive director's discretion.

**10.1.8 Legal Requirements:** Nothing in this policy shall prevent an employee from receiving a leave of absence required by law.

**10.1.9 Disability Retirement Eligibility:** If an employee is determined to be eligible for PERS disability retirement, the employee shall not be permitted to exhaust paid sick leave balances prior to retiring.

**10.2 Leave Categories:** VCTC provides the following leave categories: vacation leave, administrative leave, bereavement leave, jury duty and witness leave, leave of absence, and sick leave. As required by state and federal law, VCTC also provides military

family leave, pregnancy disability leave and parental leave, job-incurred disability leave, military duty leave, school leave, kin care leave, and time off to vote. VCTC also follows the provisions of the Family and Medical Leave Act as well as the California Family Rights Act.

**10.2.1 Administrative Leave:** Administrative leave is granted in recognition of the extra hours worked by exempt employees, but it is not an hour-for-hour match. Only exempt management employees are granted such leave as they are expected to periodically work additional hours without a resultant equal time off. Each year on January 1<sup>st</sup>, 40 hours of non-accruable Administrative Leave time is credited for each director and manager level position. Employees appointed to a manager or director-level position after the beginning of the calendar year, will have such administrative leave pro-rated based on appointment date. This leave is not accruable and shall be used no later than December 31<sup>st</sup> of each year or leave will be forfeited.

**10.2.2 Annual Vacation Leave:** VCTC provides annual vacation leave which accrues as described in the Salary and Benefits Resolution. The executive director may accelerate or increase vacation accrual rates or may provide a starting balance of vacation leave as part of an employment offer. Earned vacation leave may be taken as it accrues. An employee may take vacation that has not yet been accrued only with prior approval from the executive director. Scheduling of vacations must be made with consideration for the unit's workload, and approved vacation leave may be denied to meet VCTC unexpected operational needs.

**10.2.2.1 Vacation Accrual Rates:** A full-time employee with less than four years of service accrues 80 hours of vacation leave each service year. Thereafter, full-time employees' vacation accrual will increase by eight hours for every year of service, up to a maximum of 160 hours of vacation leave. The accrual schedule is as follows:

1 to 3 years of service	3.34 hours per payperiod
4 years of service	5.00 hours per payperiod
5 years of service	5.34 hours per payperiod
6 years of service	5.67 hours per payperiod
7 years of service	6.00 hours per payperiod
8 years of service	6.34 hours per payperiod
more than 8 years of service	6.67 hours per payperiod.

**10.2.2.2 Maximum Vacation Accrual:** Employees may accrue vacation leave up to the maximum amount of 320 hours except as provided herein. Employees may continue to accrue vacation leave within a particular calendar year above the 320 hour accrual limit, but those hours accrued above the limit during that specific calendar year that are not used by the end of that same calendar year shall be paid out pursuant to Section 10.2.2.5. This amount may be waived by the executive director on a case-by-case basis due to workload, staffing constraints, or unusual vacation plans if requested in advance in writing. Once the maximum accrued leave has been reached, the employee ceases to accrue any additional vacation leave until such time as employee has used enough vacation leave to drop below the not to exceed maximum levels.

- 10.2.2.3 **Accrual Amounts:** Each employee's leave accrual amounts are listed on their paycheck stub. Employees are responsible for tracking their accrual limits and ensuring that any time off that is taken is approved.
- 10.2.2.4 **Vacation Pay on Separation from Service:** Employees who separate from service shall be cashed out of their accrued but unused vacation at the employee's hourly rate at the time of separation from service.
- 10.2.2.5 **Annual Vacation Leave Buy-Out:** Any unused vacation leave accrued within a particular calendar year above the 320 hour accrual limit, as described in Section 10.2.2.2, shall be paid out to the employee in the last pay period of such year. Any vacation leave cashed out shall be calculated based on the employee's then current hourly pay rate.
- 10.2.3 **Bereavement Leave:** In the event of the death of any of the following family members: spouse, domestic partner, child, sister, brother, mother, father, legal guardian, legal dependent, current mother- or father-in-law, grandparent, or grandchild, paid leave not chargeable to sick or vacation leave balances will be granted for a period of up to three scheduled work days upon approval of the executive director in a 30-day period may be granted. Additional leave chargeable to sick leave may be granted, subject to the approval of the executive director.
- 10.2.4 **Holidays:** Paid eight-hour day holidays are provided for regular full-time employees and pro-rated for regular part-time employees.
- 10.2.5 **Jury Duty and Witness Leave:** An employee summoned and required to serve as a juror in a trial, upon notification and appropriate verification submitted to his/her supervisor, may be absent from duty with full pay for up to 10-working days per calendar year. Additional jury duty service may be taken using employee discretionary leaves or without pay (except for jury fees paid by the courts). The employee shall remit, within 15 days of receipt, all fees received for serving as a juror except those fees specifically allowed for mileage and expenses. An employee who is subpoenaed to appear in court in a matter regarding an event or transaction which he/she perceived or investigated in the course of this employment shall do so without loss of compensation, unless it is the employee's own lawsuit. An employee subpoenaed to appear in court in a matter unrelated to his/her official capacity, or who is appearing in court in a matter initiated by the employee, shall be permitted time off without pay, or if the employee chooses, to use accrued vacation for such purpose.
- 10.2.6 **Military Leave:** Military leave shall be granted in accordance with the provisions of state and federal law. An employee requesting military leave shall provide the executive director with a copy of the written military orders stating the start date and anticipated duration of service. Certain military leave shall be paid leave for a period of time as specified in state law. Employees on military leave are entitled to seniority-related benefits, promotional opportunities and reinstatement after return from military leave in accordance with applicable law. As required by law, leave accruals will continue during paid military leave and contributions as appropriate, will be made under the applicable retirement plan. Employees on military leave have options to continue health benefits



coverage, and will be provided with information regarding such options upon making a request for leave.

- 10.2.6.1 **Military Family Leave:** In accordance with the Family and Medical Leave Act (FMLA), eligible employees may use their 12 weeks of FMLA leave for any “qualifying exigency” arising out of a family member’s active military duty. Eligible employees are also permitted to take up to 26 weeks of leave in a single 12-month period to care for a family member who sustains a serious illness or injury while on active military duty.
- 10.2.6.2 **Military Spouse Leave:** In accordance with California Military & Veterans Code, eligible spouses and domestic partners of active members of the military are entitled to up to 10 days of unpaid leave when their spouse or domestic partner, who is in active military service, is on leave.
- 10.2.7 **Other Authorized Leaves:** The executive director may authorize employees to take leave with or without pay for job or employment-related training, education, conferences, or meetings.
- 10.2.8 **Parental Leave (California Paid Family Leave):** After the employee’s pregnancy disability ends, the employee may be eligible for CFRA leave, in accordance with the Family and Medical Leave policy or California Family Leave to care for a newborn. VCTC may require that the employee provide a medical certification indicating when the pregnancy disability ended.
- 10.2.9 **Sick Leave:** Regular full-time, regular part-time employees, and as of July 1, 2015 eligible temporary employees as described in these Policies and Procedures shall be provided sick leave, which is available only for the actual illness or injury of an employee. Employees shall not be entitled to sick leave as a matter of right, but only in accordance with the provisions of law and VCTC policies. Sick leave is accrued at eight hours per month for full-time employees. Eligible part-time employees accrue on a pro-rated basis. Unused sick leave may be accrued without limit. The supervisor is responsible to track and follow up on sick leave absences. Generally, the supervisor shall receive from the employee a verification by a health care provider of the employee’s need for sick leave after three days of absence. However, the supervisor may request, in his/her discretion, that the employee produce a certificate issued by a health care provider or other satisfactory proof of illness for any absence of any length or before sick leave is granted. In addition, the executive director may also direct an employee to attend a physical examination by a VCTC-retained licensed physician, at VCTC expense, to ascertain whether the employee is fit to perform the duties of his/her position.

Eligible temporary employees who work at least 30 days per year will be provided three days (24 hours) of sick leave on their first day of employment to use during their first year of employment. Temporary employee unused sick days will not carry over to subsequent years, but eligible temporary employees will be provided three days (24 hours) of sick leave on each anniversary date of their employment.

- 10.2.9.1 **Sick Leave as Kin Care:** Sick Leave as Kin Care may be used for the employee’s spouse, registered domestic partner, children, parents, or

other legal dependents unless otherwise provided for in these Policies and Procedures or required by law. In cases of illness of a family member, employees are entitled to use not less than up to one-half of the employee's annual sick leave entitlement to attend to the illness of a spouse, domestic partner, parent, or child, in accordance with Labor Code section 233. Additional family sick leave usage for special circumstances may be granted on a case-by-case basis in the discretion of the executive director.

- 10.2.9.2 **Notification of Sick Leave:** When an employee is unable to report for duty due to the employee's own illness or that of a designated family member as defined in Labor Code 233, the employee must notify his/her immediate supervisor as soon as possible. The employee shall report the intended use of sick leave and the reason for the absence. If the supervisor is not immediately available, the employee may leave a voice mail message, unless otherwise directed.
- 10.2.9.3 **Sick Leave Upon Separation from Employment:** An employee shall not receive payment for unused accumulated sick leave upon separation of employment or retirement (either disability or service retirement). With a concurrent retirement from VCTC and CalPERS, any accrued but unused sick leave may be utilized for service credit for retirement purposes as allowed by Public Employment Retirement Law.
- 10.2.9.4 **Unused Sick Leave:** Sick leave for permanent employees may accrue without limit. Temporary employee unused sick leave expires at the end of each year of the temporary employee's employment. An employee shall not receive payment for unused accumulated sick leave upon separation of employment or retirement.
- 10.2.10 **School Leave:** Employees are allowed to take up to 40 hours off per year for school activities for children in kindergarten through 12<sup>th</sup> grade. The employee must use existing vacation or other paid leave (other than sick leave) during such absences, or if no leave available may take unpaid leave at the discretion of the executive director. The employee must give reasonable notice to his/her supervisor of the planned school leave.
- 10.2.11 **State Disability Insurance Leave:** VCTC participates in State Disability Insurance and applicable leaves associated with it. Eligibility for state disability insurance is determined by a state agency.
- 10.2.12 **Time Off to Vote:** If an employee does not have sufficient time outside of working hours to vote at a statewide election, the employee may take up to two hours of working time to enable the employee to vote. The time off for voting shall be only at the beginning or end of a regular working shift, whichever allows the most free time for voting and the least time off from work. In no event is the employee eligible to take off more time than is necessary to vote. The employee shall give the supervisor reasonable notice that time off for voting is desired. Absentee voting is encouraged, if possible.
- 10.2.13 **Leave of Absence:** Before taking any unpaid leaves, employees must use all discretionary (vacation and floating holidays) leaves except sick leave, unless the absence is due to a medically certified illness. The executive director at his/her sole discretion may grant or deny a request for unpaid leave of absence

for a period of not to exceed three months. Upon expiration of an approved leave, the employee shall be reinstated in the position held at the time leave was granted. Employees on unpaid leaves of absence are not entitled to accrue leave benefits, receive any holiday pay, or receive continued funding for health and welfare benefits. Except for employees on family/medical leave, and any other leaves as defined by state and federal law, employees on all other unpaid leaves must contribute all insurance premiums in order to maintain coverage, do not accrue retirement system service credit, and do not continue to accrue seniority, unless provided for by law. Unpaid leave time includes such leaves as job-incurred disability leave, state-provided disability leave, state-provided paid family leave, or any other leave in which an employee is not directly receiving a paycheck for that absence from VCTC.

- 10.2.14 **Unauthorized Leave of Absence:** Any unauthorized leave of absence from duty by an employee shall result in disciplinary action up to and including discharge. Subsequently, such absence may be approved by the executive director with or without pay, where extenuating circumstances are found by the executive director to have existed.
- 10.2.15 **Unpaid Leave:** VCTC provides unpaid time off at the sole discretion of the executive director. Unpaid leave time includes such leaves as job-incurred disability leave, state-provided disability leave, state-provided paid family leave, or any other leave in which an employee is not directly receiving a paycheck for that absence from VCTC. Employees may be granted leaves of absence without pay for up to three months upon written approval of the executive director.
- 10.2.15.1 **Failure to Return from Unpaid Leave:** Upon expiration of an approved unpaid leave, the employee shall be reinstated in the position held at the time leave was granted. Failure of an employee on leave to report to work promptly at the leave's expiration without request and approval for an extension of said leave in writing shall constitute voluntary resignation by the employee. The depositing in the United States mail of a first class letter, postage paid, addressed to the employee's last known address or an e-mail to the employee's last known personal e-mail address, shall be reasonable notice of VCTC's acceptance of the employee's resignation.
- 10.2.15.2 **Benefits While on Unpaid Leave:** Taking unpaid leave may impact certain benefits and employee seniority. Leave hours are accrued only on hours in a paid status. Employees do not accrue vacation, sick, or any other paid time off, and seniority dates and performance evaluation dates may be adjusted. Retirement system service credit does not accrue during any unpaid absence. Any health insurances must be paid by the employee while on an unpaid leave of absence except for those leaves as provided for by law or are FMLA-qualifying.
- 10.2.16 **Worker's Compensation/Job-incurred Disability Leave:** All employees are entitled to workers' compensation insurance benefits in accordance with law. If an employee is injured or made ill arising out of or in the course of work, the employee may file a claim on the approved claim forms with VCTC's workers' compensation claims administrator. Employees are eligible to receive

workers' compensation insurance benefits if the claim is declared compensable under the California workers' compensation laws. Payment of job-incurred disability leave shall be at the amount of temporary disability indemnity received, pursuant to workers' compensation law. If an employee becomes disabled to such an extent that the employee cannot return to work, the employee may be entitled to disability retirement.

10.2.16.1 **Coordinated Compensation:** If an injured employee is eligible for worker's compensation benefits and has accrued sick leave, said employee may have his/her sick leave coordinated with disability payments in order to receive full compensation, subject to any state or federal guidelines.

10.2.16.2 **Partial Day Absences:** Any employee taking a partial day absence for a job-incurred disability claim shall use accrued sick leave. Full day absences may be charged to Job-incurred Disability Leave.

10.2.16.3 **FMLA-qualifying Absences:** Any absence related to an on-the-job claim is considered a qualifying event under VCTC's FMLA policy. VCTC will continue to pay all health insurance premiums while on job-incurred disability leave that is FMLA qualifying.

10.2.16.4 **Exhausted Leaves:** An employee who has exhausted all VCTC leave benefits shall be entitled to only those job-incurred benefits as provided by law.

10.2.16.5 **Subrogation:** In the event that an employee's injury or illness results from the carelessness or negligence of a third party, VCTC shall have the same right of subrogation for reimbursement of salary as does the workers' compensation insurance provider in accordance with applicable law.

10.2.17 **Pregnancy Disability Leave (PDL):**

10.2.17.1 **Eligibility:** Any employee who is disabled because of pregnancy, childbirth, or a related medical condition may be entitled to pregnancy disability leave (PDL). For employees who are also eligible for FMLA/CFRA (California Family Rights Act) leave, PDL is not counted as time used for CFRA leave, but does run concurrently with available FMLA leave.

10.2.17.2 **Reasons for Leave:** This leave is for any period(s) of actual disability caused by pregnancy, childbirth, or related medical conditions. Pregnancy leave does not need to be taken in one continuous period of time but can be taken on an as-needed basis. Time off needed for prenatal care, severe morning sickness, doctor-ordered bed rest, childbirth, and recovery from childbirth are all covered by this leave.

10.2.17.3 **Amount of Leave:** Employees may take up to four months for pregnancy disability. Employees affected by pregnancy or a related medical condition may also be eligible to transfer to a less strenuous or hazardous position or to less strenuous or hazardous duties, if this transfer is medically advisable.

10.2.17.4 **Benefits While On Leave:**

10.2.17.4.1 **Benefits:** Pregnancy leave is unpaid. Employees may use accrued leave as if on FMLA and will receive benefits

pursuant to these Policies and Procedures up through exhaustion of the employees' available FMLA leave. Employees who are not eligible for FMLA leave or who continue taking PDL after they have exhausted their available FMLA leave, shall receive benefits only to the same extent as other similarly situated employees on leave for a disability.

- 10.2.17.4.2 **Accrued leaves:** While on unpaid leave, employees do not accrue vacation, sick, or other paid leave time, and performance evaluation dates may be adjusted, to the same extent as for any other unpaid leaves.
- 10.2.17.5 **Substitution of Paid Accrued Leaves:** Employees taking pregnancy leave may concurrently use any available sick leave, vacation leave, or floating holidays before being eligible for State Disability benefits or before taking the remainder of their leave as an unpaid leave.
- 10.2.17.6 **Employee Notice of Leave:** To the extent possible, employees requesting PDL should notify their immediate supervisor as soon as possible or as soon as they reasonably know an absence is pending.
- 10.2.17.7 **Medical Certification:** VCTC may require an employee requesting PDL to provide certification from the health care provider. The certification should include all of the following:
  - 10.2.17.7.1 **Date:** The date on which the employee became disabled due to the pregnancy.
  - 10.2.17.7.2 **Duration:** The probable duration of the period(s) of disability.
  - 10.2.17.7.3 **Statement:** A statement that, due to the disability, the employee is unable to work at all or to perform any one or more of the essential functions of their position without undue risk to the employee, the successful completion of the pregnancy, or to other persons, or a statement that, due to the pregnancy, a transfer is medically advisable.
- 10.2.17.8 **Reinstatement upon Return from Leave:**
  - 10.2.17.8.1 **Reinstatement to Position:** Upon expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits, and other conditions of employment than if the employee had been continuously employed during the PDL period.
  - 10.2.17.8.2 **Fitness-for-Duty Certification:** As a condition of reinstatement or a transfer, the employee may be asked to provide to the executive director a fitness-for-duty certification from a health care provider that the employee is able to resume work in the position sought. Failure to

provide such certification may result in denial of reinstatement.

10.3 **Family Care and Medical Leave:** Federal and state laws require covered employers to provide unpaid, job-protected leave and may require maintenance of health insurance benefits for eligible employees for the following reasons:

- For a serious health condition that makes the employee unable to perform his/her job.
- To care for the employee's qualifying family member who has a serious health condition.
- For incapacity due to pregnancy, prenatal medical care or child birth.
- To care for the employee's child after birth, or placement for adoption or foster care.
- For qualifying military exigency or caregiver leave.

10.4 **Family and Medical Leave Policy:**

10.4.1 **Family and Medical Leave Policy:** Under the Family and Medical Leave Act (FMLA) and the California Family Rights Act (CFRA), VCTC employees are eligible for FMLA or CFRA leave benefits.

10.4.1.1 **Duration:** Generally, family/medical leave requirements are for periods of up to 12 weeks within a 12-month calendar year, but under some circumstances the law may require such leave for periods of up to 26 weeks in a 12-month period. When medically necessary, family/medical leave may be taken on an intermittent basis or as part of a reduced work schedule. Leave due to qualifying exigencies may also be taken on an intermittent basis. For employees taking such leave for the birth, adoption or foster care placement of a child, the basic minimum duration of the leave is two weeks and the leave must be concluded within one year of the birth or placement for adoption or foster care.

10.4.1.2 **Substitution of Paid Leave:** An employee must use all accrued sick leave and may use any or all accrued paid vacation leave at the beginning of any otherwise unpaid family/medical leave period, except those as provided for by law or code, such as state-provided disability insurance, state-provided family leave, etc.

10.4.1.3 **Notice:** If possible, employees must provide at least 30 days advance notice for foreseeable events such as the expected birth of a child or a planned medical treatment. Employees must make reasonable efforts to schedule leave for planned medical treatment so as not to unduly disrupt the employer's operations. For events which are unforeseeable, the employee must provide notice as soon as practicable and generally must comply with an employer's normal call-in procedures. Failure to comply with notice requirements may result in deferral of the requested leave.

10.4.1.4 **Certification:** Employees may be required to provide certification from a health care provider before a family/medical leave is granted, and periodic recertification supporting the need for continued leave may be required.

- 10.4.1.5 **Reinstatement:** Upon expiration of family/medical leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent employment benefits, pay, and other terms and conditions of employment.
- 10.4.1.6 **Employee Responsibilities:** An employee must notify his/her supervisor of his/her need for family/medical leave, and provide sufficient information for the employer to determine if requested leave is eligible for family/medical leave protection as required by law. An employee must also provide information about the anticipated timing and duration of the leave.
- 10.4.1.7 **Employer Responsibilities:** VCTC will work with employees requesting leave to ascertain their eligibility for such leave. If the employee is eligible, the notice will specify any additional information required as well as the employee's rights and responsibilities. If the employee is not eligible, VCTC will provide a reason for the ineligibility. If eligible, VCTC will notify employees as to how their leaves will be designated and the amount of leave counted against the employee's leave entitlement.
- 10.4.2 **Providing FMLA? Benefits:** VCTC will provide Family and Medical Leave ("FML") benefits to its employees according to the FMLA provisions.
- 10.4.3 **Eligibility:** In order to qualify for Family and Medical Leave, the employee must meet the following conditions:
  - 10.4.3.1 **Employment Period:** The employee must have been employed by VCTC for 12 months.
  - 10.4.3.2 **Working Hours:** The employee must have actually worked at least 1,250 hours during the 12-month period immediately before the date when the leave begins. If an employee is employed but is on leave, any time spent on leave shall not count towards the 1,250 hours.
- 10.4.4 **Type of Leave Covered:** Family and Medical Leave is a leave taken for the following purposes:
  - 10.4.4.1 **Newborn, Adoption, or Foster Care Children:** In order to care for a newborn son or daughter, or for placement of a child for adoption or foster care.
  - 10.4.4.2 **Family Members Covered:** In order to care for a spouse, domestic partner, child, or parent with a serious health condition.
  - 10.4.4.3 **Employee's Own Serious Health Condition:** Because of a serious health condition that makes the employee unable to perform the functions of the employee's position.
  - 10.4.4.4 **Military "Qualifying Exigency Leave":** Necessary leaves that arises from the employee's spouse, son, daughter, or parent being a covered military member on active duty (or having been notified of an impending call or order to active duty).
  - 10.4.4.5 **Military Caregiver Leave:** Leave may be taken for up to 26 workweeks in a single 12-month period to care for a spouse, child, parent, or next of kin who is a covered servicemember with a serious injury or illness.
- 10.4.5 **Policy Definitions:**

- 10.4.5.1 **12-Month Period:** This means a 12-month calendar year period from January 1 of each year to December 31 of the same year.
- 10.4.5.2 **Child:** This means a child under the age of 18 years of age, or 18 years of age or older who is incapable of self-care because of mental or physical disability. An employee's child is one for whom the employee has actual day-to-day responsibility for care and includes a biological, adopted, foster, or step-child.
- 10.4.5.3 **Child Incapable of Self Care:** A child is incapable of self-care if he/she requires active assistance or supervision to provide daily self-care in three or more of the activities of daily living or instrumental activities of daily living, such as caring for grooming, hygiene, and bathing, dressing and eating, cooking, cleaning, shopping, taking public transportation, paying bills, maintaining a residence, and/or using telephones and directories.
- 10.4.5.4 **Parent:** This means a biological parent of an employee or an individual who stood in *loco parentis* (in place of the parent) to an employee when the employee was a child. This term does not include parents-in-law.
- 10.4.5.5 **Spouse:** This means a husband or wife as defined or as recognized as such under California law for purposes of marriage.
- 10.4.5.6 **Domestic Partner:** For this purpose, and any other benefit purpose, this means a domestic partner as defined under California Family Code section 297.
- 10.4.5.7 **Serious Health Condition:** This means an illness, injury, impairment, or physical or mental condition that involves any of the following:
  - 10.4.5.7.1 **Inpatient:** Inpatient care (i.e., overnight stay) in the hospital, hospice, or residential medical care facility, including any period of incapacity (i.e., inability to work, or perform other regular daily activities due to the serious health condition, treatment involved or recovery therefrom).
  - 10.4.5.7.2 **Continuing Treatment by a Health Care Provider:** A serious health condition involving continuing treatment by a health care provider includes any one of or more of the following:
    - 10.4.5.7.3 **Period of Incapacity:** A period of incapacity (i.e., inability to work, or perform other regular daily activities due to serious health condition of more than three consecutive calendar days, and any subsequent treatment or period of incapacity relating to the same condition), that also involves the following:
      - 10.4.5.7.3.1 **Treatment:** Treatment two or more times within a 30-day period of the first day of incapacity, one of which must be within seven days of incapacity, by a health care provider, by a nurse or physician's assistant under direct supervision by a health care provider, or by a provider of health care services (e.g., a physical



therapist) under orders of, or on referral by, a health care provider.

10.4.5.7.3.2 **Treatment Regimen:** Treatment by a health care provider on at least one occasion within seven days of incapacity, which results in a regimen of continuing treatment under the supervision of the health care provider. This includes for example, a course of prescription medication or therapy requiring special equipment to resolve or alleviate the health condition. If the medication is over the counter, and can be initiated without a visit to a health care provider, it does not constitute a regime of continuing treatment.

10.4.5.7.4 **Pregnancy-related Incapacity:** Any period of incapacity due to pregnancy or for prenatal care. (See section 9.16 of these Policies and Procedures for Pregnancy Disability Leave. Pregnancy disability is included as FMLA leave, but not CFRA leave.) Under California law, an employee disabled due to pregnancy is entitled to pregnancy disability leave up to a maximum of four months. After the birth of the baby, the employee is entitled to additional CFRA bonding leave up to a maximum of 12 weeks. However, regardless of the length of time an employee takes leave for pregnancy disability and newborn care, under the FMLA and CFRA, VCTC's obligation to pay for health insurance is limited to a maximum of 12 weeks over a 12-month period.

10.4.5.8 **Chronic Serious Health Condition:** Any period of incapacity or treatment for such incapacity due to a chronic serious health condition. A chronic serious health condition is one which involves the following:

10.4.5.8.1 **Periodic Health Care Visits:** Required periodic visits for treatment by a health care provider, or by a nurse or physician assistant under direct supervision of a health care provider.

10.4.5.8.2 **Continuous:** Continues over an extended period of time (including recurring episodes of a single underlying condition).

10.4.5.8.3 **Episodic:** May cause episodic rather than continuing period of incapacity (e.g., asthma, diabetes, epilepsy, etc.). Absences for such incapacity qualify for leave even if the absence lasts only one day.

10.4.5.9 **Long-term Treatment:** A period of incapacity which is permanent or long-term due to a condition for which treatment may not be effective. The employee or family member must be under the continuing supervision of, but need not be receiving active treatment by a health care provider.

10.4.5.10 **Multiple Treatments:** Any period of absence to receive multiple treatments (including any period of recovery incapacity) by a health

care provider of health care service after an accident or other injury, or for a condition that would likely result in a period of incapacity of more than three consecutive calendar days in the absence of medical intervention or treatment.

- 10.4.5.11 **Health Care Provider:** This means an individual duly licensed as a physician, surgeon, or osteopathic physician or surgeon who directly treats or supervises treatment of a serious health condition; podiatrist, dentist, clinical psychologists, optometrists, and chiropractors (limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by x-ray to exist) authorized to practice in California and performing within the scope of their practice as defined under California law; nurse practitioners and nurse-midwives and clinical social workers who are authorized to practice under California law and who are performing within the scope of their practice as defined under California law; and Christian Science practitioners listed with the First Church of Christ, Scientist in Boston and Massachusetts.

10.4.6 **Amount of Leave:**

- 10.4.6.1 **Leave Amount:** Eligible employees are entitled to up to a total of 12 weeks of leave during a 12-month period. Twelve weeks means the equivalent of 12 of the employee's normally scheduled workweeks. For eligible employees who work more or less than five days a week or who work alternative work schedules, the number of working days that constitute 12 weeks is calculated on a pro rata or proportional basis.

- 10.4.6.2 **Minimum Duration of Leave:** If leave is requested for the birth, adoption, or foster care placement of a child of the employee, basic leave must be concluded within the first year of the birth or placement of the child.

- 10.4.6.3 **Spouses/Domestic Partners Both Employed by VCTC:** In any case in which a husband and wife or domestic partners are both employed by VCTC and are both entitled to leave, the combined number of weeks of leave to which both may be entitled may be limited to 12 weeks during a 12-month period if leave is taken for the birth or placement for adoption or foster care of the employee's child (i.e., bonding leave.) This limitation does not apply to any other type of leave under this policy.

- 10.4.7 **Intermittent Leave or Leave on a Reduced Work Schedule:** If an employee requests leave intermittently (a few days or hours at a time) or on a reduced leave schedule to care for an immediate family member with a serious health condition, the employee must provide medical certification that such leave is medically necessary. Medically necessary means there must be a medical need for the leave and that the leave can best be accomplished through an intermittent or reduced leave schedule. The leave may not exceed a total of 12 weeks over a 12-month period.

10.4.8 **Substitution of Paid Accrued Leaves:**

- 10.4.8.1 **Unpaid Leave:** Leave under this policy is unpaid. However, VCTC shall require an employee to use concurrently all paid accrued leaves

while on Family and Medical Leave as follows: where an employee has accrued sick leave, administrative leave and/or vacation, the Family and Medical Leave shall run concurrently with all such accrued leaves. VCTC shall require the concurrent use of sick leave only when the circumstances warrant the use of such leaves. VCTC shall not require an employee to use compensatory time earned in lieu of overtime concurrently with Family and Medical Leave.

10.4.8.2 **Compensatory Time:** Employees may be allowed to use compensatory time earned in lieu of overtime concurrently with Family and Medical Leave. Employees are required to provide reasonable advance notice to their immediate supervisor of their desire to use compensatory time concurrently with Family and Medical Leave.

10.4.8.3 **Leave Running Concurrently:** If an employee takes a leave of absence for any reason that is FMLA/CFRA-qualifying, VCTC will designate that non-FMLA/CFRA leave as running currently with the employee's 12-week leave entitlement.

10.4.9 **Payment of Health Insurance Premiums While on Leave:**

10.4.9.1 **Health Insurance Coverage:** While an employee is on Family and Medical Leave, VCTC shall maintain the employee's health insurance coverage on the same conditions as if the employee has been continuously employed during the entire leave period. If the employee's leave is unpaid, VCTC shall maintain the employee's health coverage for a maximum of 12 weeks in a 12-month period, unless the employee requests and VCTC agrees, to extend coverage beyond that period. If the employee would normally pay health insurance premiums, VCTC shall require payment from the employee while the employee is on leave.

10.4.9.2 **Disability Plans:** An employee on unpaid leave will not continue to be covered under non-health benefit plans unless the employee makes the appropriate contributions for continued coverage and said continued coverage is permitted by the particular plan(s).

10.4.10 **Medical Certification:**

10.4.10.1 **Written Certification:** Employees who request leave for their own serious health condition, or to care for a child, parent, spouse, or domestic partner who has a serious health condition, must provide written certification from a health care provider of the individual requiring care.

10.4.10.2 **Statement:** If the leave is requested because of the employee's own serious health condition, the certification must include a statement that the employee is unable to work at all or is unable to perform the essential functions of his/her position during the entire period of leave. In cases where employees request intermittent leave, employees must submit medical certification which states that such intermittent leave is needed due to the employee's serious health condition and is medically necessary.

10.4.10.3 **Time to Provide a Certification:**

- 10.4.10.3.1 **Certification Filing Period:** When an employee's leave is foreseeable, the employee should provide the medical certification within 30 days before the leave is due to commence. When this is not possible, the employee must provide certification within the time frame requested by VCTC.
- 10.4.10.3.2 **Consequences for Failure to Provide an Adequate or Timely Certification:** If an employee fails to timely provide a medical certification or provides an incomplete medical certification, VCTC may delay the taking of FMLA/CFRA leave until the required certification is provided.
- 10.4.10.4 **Recertification:**
  - 10.4.10.4.1 **Medical Opinion Review:** If the executive director has reason to doubt the validity of a medical certification provided by an employee, VCTC may require a medical opinion of a second health care provider chosen and paid for by VCTC. If the second opinion is different from the first, VCTC may require the opinion of a third provider jointly approved by VCTC and the employee, but paid for by VCTC. The opinion of the third provider will be binding. An employee may request a copy of the health care provider's opinions when there is recertification.
  - 10.4.10.5 **Recertification:** Recertification may also be requested under any of the following conditions:
    - 10.4.10.5.1 **Changed Request:** When the basis for FMLA request has changed.
    - 10.4.10.5.2 **Extension Requests:** When the employee requests an extension of leave.
    - 10.4.10.5.3 **Reasonable Intervals:** At reasonable intervals requested, but not to be more than every 30 days, unless one of the aforementioned criteria also applies.
- 10.4.11 **Procedures for Requesting Leave:** All employees requesting leave under this policy must submit a proper request for time off as is normally done for any other time off, to their immediate supervisor. Although VCTC recognizes that emergencies arise which may require employees to request immediate leave, employees are required to give as much notice as possible of their need for leave. If leave is foreseeable, at least 30 days notice is requested. In addition, if any employee knows that he/she will need a leave in the future, but does not know the exact date(s) (e.g., for the birth of a child or to take care of a newborn), the employee shall inform his/her immediate supervisor as soon as possible that such leave is needed. Such notice must be submitted in writing. If VCTC determines the notice of the employee is inadequate or the employee knew about the requested leave in advance of the request, the executive director may delay the granting of the leave until he/she can, in its discretion, adequately cover the position.
- 10.4.12 **Accrual of Benefits While on Leave:** Employees will not accrue benefits while in an unpaid leave status, including seniority rights, vacation, and sick

leave accrual. Employee will accrue benefits while using paid leave concurrently with FMLA/CFRA leave.

- 10.4.13 **Right to Reinstatement Upon Return From FMLA Leave:** Upon the expiration of leave, an employee is entitled to be reinstated to the position of employment held when the leave commenced, or to an equivalent position with equivalent benefits, pay, and other terms and conditions of employment. Employees have no greater rights to reinstatement, benefits and other conditions of employment than if the employee had been continuously employed during the Family and Medical Leave period.
- 10.4.14 **Employee's Obligation to Periodically Report on Condition:** An employee on leave is required to periodically report every 30-calendar days on his/her status and within five days of intent to return to work.
- 10.4.15 **Fitness-for-Duty Certification:** As a condition of an employee's reinstatement whose leave was due to the employee's own serious health condition, which made the employee unable to perform his/her job, the employee must obtain and submit to his/her immediate supervisor a fitness-for-duty certification from the employee's health care provider that the employee is able to resume work. This document should be submitted at least five working days prior to the employee's intent to return to work, but if not possible, than it should be submitted no later than the actual day the employee returns to work. Failure to provide such certification may result in denial of reinstatement.
- 10.4.16 **Failure to Return from FMLA Leave:** If an employee uses Family and Medical Leave and fails to return to work, VCTC may recover its share of health care premiums paid on behalf of the employee and employee dependents while the employee was on leave. VCTC reserves the right to seek reimbursement from the employee by any legal means.

## **Article 11 Holidays**

- 11.1. **Holidays:** Each calendar year, the following eight hour holidays with pay shall be observed by VCTC:
- New Year's Day
  - Martin Luther King's Birthday
  - President's Day
  - Memorial Day
  - Independence Day
  - Labor Day
  - Thanksgiving Day
  - Friday after Thanksgiving
  - Christmas Day
  - Three floating holidays
- 11.2. **Holiday Policy:** When a holiday falls on a Sunday, the following Monday shall be observed as the holiday date. When a holiday falls on a Saturday, the preceding Friday shall be observed.
- 11.3. **Floating Holidays:** In addition, employees are entitled to three floating holidays (24 hours) per service year, with hours accrued on a pro-rata basis for those employees hired after the beginning of the calendar year. The floating holiday hours may be taken at the discretion of the employee, with prior approval of his/her supervisor before the end of each calendar year or it will be lost.
- 11.4. **Eligibility:** Employees must have been employed and working, or be in another approved, paid status the day before and the day following the holiday to be eligible to receive holiday pay.
- 11.5. **Holiday Time:** All full-time employees shall receive eight hours of holiday pay for each of the above Holidays at the employee's actual hourly rate of pay. Should a full-time employee work an alternate work schedule, only eight hours of pay will be provided for each set holiday. Part-time employees, who are eligible to receive holiday pay, shall receive holiday pay for each of the above holidays at their regular actual hourly rate of pay, prorated based on their regular work schedule. All other employee types shall not be compensated for holidays.
- 11.6. **Special Holidays:** Special holidays proclaimed by the President of the United States or the Governor of the State of California may be granted upon express approval of the executive director.

## **Article 12**

### **Employment Activities**

- 12.1 **Outside Employment:** No employee shall hold any job or employment outside of VCTC without notifying, in writing, the executive director and without written approval by the executive director. Employees may not engage in any outside employment, enterprise, or activity that the executive director determines is in conflict with or impairs the employee's ability to perform their duties and responsibilities, impacts any aspect of VCTC operations, or has the appearance of being in conflict with their VCTC position.
- 12.1.1 **Incompatible Work:** Employees shall not perform work for compensation outside of his/her VCTC employment where any part of his/her efforts will be subject to approval by any officer, employee, board, executive director, or commission.
- 12.1.2 **Notification:** Employees are required to notify the executive director prior to taking any outside employment of all outside employment they are engaged in so that the outside employment may be assessed for conflicts or impairment of duties.
- 12.1.3 **Workday Activities:** During the workday, employees are expected to devote their time in performing their assigned duties as a VCTC employee. Any outside work, part-time job, hobbies, or personal business must be performed during off-duty hours.
- 12.2 **Employee Notice Requirements:** It shall be every employee's responsibility to notify the executive director of any material change affecting his/her employment status including, but not limited to, any arrests, criminal convictions, change in driver's license status, change of address, and/or medical condition which may affect his/her ability to perform the full scope of the duties of his/her position or which may have direct impact on public and employee safety. VCTC shall ensure each employee's right to privacy by maintaining the confidentiality of this information in a manner consistent with the law.
- 12.3 **Gifts, Payments, and Contributions:** Employees shall adhere to the Fair Political Practices Commission (FPPC) and VCTC adopted rules for accepting and reporting gifts, making contributions and receiving income.
- 12.4 **Workplace Attire:** VCTC will maintain a professional working environment for the benefit of its employees and the public. As public employees and representatives of VCTC, each employee shall present him/herself appropriately and professionally, including but not limited to workplace attire, especially when attending off-site meetings and events. Extremes in dress are not acceptable. If an employee is on the job in inappropriate clothing, in the opinion of the employee's immediate supervisor, a department director, or the executive director, the immediate supervisor may require the employee to change into appropriate work wear. Time off of work to change clothing will not be compensated.
- 12.5 **Fitness for Duty:** VCTC, at its expense, may require an employee to undergo a fitness-for-duty evaluation for any reasonable cause. If the employee is not fit to perform his/her duties with or without reasonable accommodation, VCTC may consider placing the employee in another position, seek the employee's disability retirement, or separate the employee in accordance with applicable law.

12.6 **Confidentiality Policy:**

12.6.1 **Policy:** The public and other parties with whom VCTC does business entrust staff with important information relating to their businesses and lives. It is VCTC policy that all information considered confidential will not be disclosed to external parties or to employees without a “need to know” by those doing business with VCTC or for whom VCTC provides services except to the extent required by law. If there is a question of whether certain information is considered confidential, the employee should first check with his/her immediate supervisor. This policy is intended to alert employees to the need for discretion at all times and is not intended to inhibit normal business communications.

12.6.2 **Protecting Information:** Employees have access to a variety of sensitive and confidential information by virtue of their job assignment. Employees must protect that information from disclosure to anyone, except where that disclosure is required by their jobs or by law. Writing about confidential information for non-work-related business in e-mails, on websites, on social networking sites, in chat rooms, or in blogs is expressly prohibited, as well as verbally communicating such information in person, over the phone, or in any other manner. Additionally, VCTC logos may not be used in any of these forums.

12.6.3 **Confidential Information:** The following types of information should be considered confidential:

- Passwords and access codes.
- Individual employment records.
- Citizen lists, personal information, or histories.
- Financial statements.
- Computer programs and object and source codes.
- Systems and their documentation.
- Other non-public business and technical information, whether related to past, present, or future programs and services.

12.6.4 **Penalties for Disclosing Confidential Information:** Employees who disclose confidential information are subject to disciplinary action up to and including termination of employment.

12.7 **Political Activity Policy:** Except as specifically allowed by law, VCTC employees are prohibited from participating in any political activity while on duty or while performing official business.

12.7.1 **Activities During Working Hours:** Working hours must be devoted to doing the work of VCTC.

12.7.2 **Private Citizen Acknowledgement:** Any correspondence, published articles, website comments, letters to the editor, blogs, and/or participation in public functions expressing the employee’s own personal and/or political views are written or supported by the employee as a private citizen and not as a representative of VCTC.

12.7.3 **No Prohibitions:** This policy does not prohibit employee membership in any political organization, attendance at meetings, expression of views on political matters, or voting in any election. However, employees may not:



- Use their position to promote any specific political action, candidate, or belief.
- Use their position titles in either written or verbal communication concerning political activities or beliefs.
- Attempt to influence subordinate employees into working for or accepting their political beliefs or candidates.
- Conduct personal political activity of any kind during working hours nor use any VCTC property, resources, or office supplies to engage in political activity.

12.8 **Policy on Violations of the Hatch Act:**

12.8.1 **Hatch Act:** VCTC may apply for federal grant funding for a variety of projects. Some of those grant funds may be used for employee compensation. The Hatch Act prohibits government employees who are compensated by federal funding from engaging in partisan political activities, including but not limited to the following:

12.8.2.1 **Membership:** The Act precludes employees from membership in any political organization which advocates the overthrow of our constitutional form of government.

12.8.2.2 **Campaign Contribution Limits:** Employees receiving compensation from federal funds have an annual ceiling of \$5,000 for contributions to the campaign of an individual candidate for federal office.

12.8.2.3 **Guidelines:** Below are some of the guidelines that employees receiving compensation from federal funds need to follow when working or volunteering on a political campaign for federal office. Employees may not:

- Be a candidate in a political election in which any candidate represents a political party.
- Raise money for a partisan political campaign.
- Allow their names to be used in any fundraising appeal on behalf of a partisan political campaign.
- Participate in a phone bank that is engaged in fundraising for a partisan campaign.

12.9 **Nepotism:** It is important that appointments to VCTC positions are free from undue personal or financial influence. Relationships between candidates for employment and current VCTC employees, supervisors, or managers that raise the possibility of a conflict of interest or the perception of undue influence in the hiring decision must be made known to the executive director prior to a job offer being made. The executive director may determine that such employment is not compatible, and may reject the candidate. The decision is at the sole discretion of the executive director. However, if a candidate that has a relative working at VCTC is offered a position, that position will not be assigned, supervised, or managed by their family member, except on a temporary basis in exigent circumstances.

12.10. **Internship Program:** The Internship Program was created to enable the VCTC to recruit, train, and develop an intern's skills in order to prepare him/her for professional, entry-level employment. This program does not guarantee the intern's employment with VCTC, but rather it attempts to assist in an intern's career

development to become an experienced, knowledgeable, and qualified individual capable of competing in the professional job market. When there is a VCTC vacancy, the qualified intern would be afforded the same full and equal consideration for employment as any other applicant under consideration.

12.11 **Personnel Files:** A confidential personnel file is maintained for every employee according to local, state, and federal guidelines. Workers' compensation, medical, and complaint files are maintained separately.

12.11.1 **Personnel File Access:** Employee's own personnel file may be accessed by the employee during normal working hours and by appointment. Access by others to such files is restricted to only the executive director, legal counsel, and applicable finance and human resource staff.

12.11.2 **File Copies:** At the request of an employee, incidental copies of documents in the employee's own personnel file may be made at no charge. More than incidental copies made of anything in the employee's own file will be done for a standard copying fee.

12.11.3 **Disputed Information:** If an employee disputes information contained in his/her own file, the employee shall notify the executive director in writing within 10 working days of learning of the information contained in the file, listing the concerns and the suggested remedy. The executive director will review the request and render a decision within 10 working days. If the executive director concurs with the employee's request, such items will be removed from the file and destroyed or altered, as appropriate.

12.12 **Confidentiality of Medical Information Act:** VCTC has a bona fide business need to collect and review medical information about its employees for various reasons. This policy is established to comply with the State's Confidentiality of Medical Information Act (California Civil Code Section 56, et.seq.), and to protect the confidentiality of medical history, mental condition, physical condition, or treatment, and to limit its use in employment decisions. This policy defines medical information, those employees authorized to access that information, and how it will be stored.

12.12.1 **Medical Information Definition:** The Confidentiality of Medical Information Act (CMIA) broadly defines the term medical information as: "... any individually identifiable information in possession of or derived from a provider of health care regarding a patient's medical history, mental or physical condition, or treatment." This definition *includes* information obtained from pre-employment medical examinations, fitness for duty evaluations, worker's compensation claims, verifications of disability status, and drug and alcohol testing results. In essence, any document produced by a doctor, clinic, hospital, psychiatrist, employee assistance program, substance abuse professional, or testing laboratory is considered a confidential medical record.

12.12.2 **Authorized Use:** To ensure proper handling of employee medical information VCTC authorizes the executive director and department directors and their designees to receive and use this type of information on an as-needed basis.

12.12.3 **Utilization of Medical Information:** VCTC legally receives medical reports or information without the employee's authorization for administering and maintaining any of the following programs:

- Employee benefits plans, including health care plans.

- Plans providing short-term and long-term disability income.
- Worker’s compensation benefits.
- Programs for determining eligibility for paid or unpaid medical leave.
- Fitness-for-duty results that describe the employee’s job-related functional limitations and exclude any diagnosis or statement of cause.
- In a proceeding that is a lawsuit, arbitration, complaint, or other claim wherein the employee has placed in issue his or her medical condition.

12.12.4 **Protecting Employees Medical Information:** To protect employee’s rights under the CMIA, VCTC shall keep the information in a medical file, **in a separate locked file**, apart from personnel files.

12.12.5 **Release of Employee Medical Information:** Should VCTC need medical information about an employee in order to assess accommodation, workplace safety, fitness for duty, etc, the following release of information will be requested from the employee.

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### AUTHORIZATION FOR RELEASE OF MEDICAL INFORMATION

I, \_\_\_\_\_, hereby authorize \_\_\_\_\_  
*(employee name)* *(health care provider)*

to release the medical information described below to the Ventura County Transportation Commission’s executive director.

This authorization is limited to the following types of information: \_\_\_\_\_

The recipient of this information will be using it for the following purpose(s): \_\_\_\_\_

*(e.g., to assess reasonable accommodations)*

This authorization shall expire on *(date)* \_\_\_\_\_

I understand that I have the right to receive a copy of this authorization upon my request. By placing my initials below, I hereby acknowledge that a copy of this authorization has been received. \_\_\_\_\_

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

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- 12.13 **Policy on Workplace Accommodations for Employees with Disabilities:** It is the policy and practice of VCTC to comply fully with the Americans with Disabilities Act (ADA) and ensure equal opportunity in employment for all qualified persons with disabilities. VCTC will not discriminate against any qualified employee or applicant for employment because s/he is related to or associated with a person with a disability. Pre-employment inquiries are made only regarding an applicant's ability to perform the duties of the position, not any disabling condition. Pre-employment physical examinations may be given to all persons entering a position, but only after conditional job offers have been presented. Medical records are maintained in separate and confidential files. This policy is neither exhaustive nor exclusive.
- 12.13.1 **Reasonable Accommodations:** Reasonable accommodations are available to all employees and applicants. All employment decisions are based on the merits of the situation in accordance with defined criteria, not the disability of the individual. Qualified individuals with disabilities are entitled to equal pay and other forms of compensation (or changes in compensation) as well as in job assignments, classifications, organizational structures, position descriptions, and lines of progression. VCTC is committed to taking actions necessary to ensure equal employment opportunity for persons with disabilities in accordance with the ADA and all other applicable federal, state, and local laws.
- 12.13.2 **Overview:** Under the Americans with Disabilities Act (ADA), when an individual with a disability is qualified to perform the essential functions of a job (except for functions that cannot be performed because of related limitations and existing job barriers), an employer must provide a reasonable accommodation (29 C.F.R. Section 1630.2) that would enable this person to perform these functions. The reasonable accommodation should reduce or eliminate barriers between the individual's abilities and requirements for performing the essential job functions. Reasonable accommodation is a modification or adjustment to a job, the work environment, or the way things usually are done that enables a qualified individual with a disability to enjoy an employment opportunity. An equal employment opportunity means a chance to attain the same level of performance or to enjoy equal benefits and privileges of employment as are available to a similarly situated employee without a disability. The ADA requires reasonable accommodation in three aspects of employment:
- Modifications or adjustments to a job application process that enables a qualified applicant with a disability to be considered for the position.
  - Modifications or adjustments to the work environment or to the manner of circumstances under which the position held or desired is customarily performed that enable the qualified individual with a disability to perform the essential functions.
  - Modifications or adjustments that enable a disabled employee to enjoy equal benefits and privileges of employment.
- 12.13.3 **Legal Obligations:** Generally, it is the obligation of an individual with a disability to request a reasonable accommodation. A qualified individual with a disability has the right to refuse an accommodation. However, if the individual cannot perform the essential functions of the job without the

accommodation, he/she may not be qualified for the job. If an employee believes he/she has a disability, the employee may request a reasonable accommodation for that disability. Such requests should be submitted to the employee's immediate supervisor. VCTC may engage in an interactive process with the employee to determine an appropriate reasonable accommodation for the employee in accordance with applicable law. Conditions qualifying as disabilities are defined by the Federal Government.

12.13.4 **Procedures:** VCTC is obligated to make an accommodation only for the known limitations of an otherwise qualified individual with a disability. In general, it is the responsibility of the applicant or employee with the disability to inform VCTC that an accommodation is needed to participate in the application process, to perform essential job functions, or to receive equal benefits and privileges of employment.

12.13.4.1 **Written Submittal:** A qualified applicant or employee with a disability who is requesting a reasonable accommodation must submit in writing a request for such accommodation and the reasons thereof. This request must be submitted to the executive director.

12.13.4.2 **Request Review Period:** Upon receipt of the individual's request for a reasonable accommodation, the executive director has 20 working days to review the request and complete the response. The executive director will consider all of the following when making a decision.

- Have the essential functions of the particular job been determined.
- Has the individual with the disability been consulted to find out his or her specific physical or mental abilities and limitations.
- Have potential accommodations been identified and listed and has the effectiveness of each been assessed in enabling the individual to perform essential job functions.
- Has a mutually agreed-upon accommodation that best serves the needs of the individual been discussed.
- The following recommended agencies have counselors available to assist with reasonable accommodations questions: *Equal Employment Opportunity Commission, State Vocational Rehabilitation Department, Job Accommodation Network.*

12.13.4.3 **Undue Hardship Denial:** If the reasonable accommodation request is denied based on an undue hardship, the reason must be explained the response.

12.13.4.4 **Undue Hardship Accepted:** If the reasonable accommodation request is accepted, the executive director must indicate the date the request will be finalized.

12.13.4.5 **Undue Hardship Appeals:** In those cases where an employee or applicant for employment wishes to appeal the decision, he/she may do so by advising the executive director, in writing within seven working days from receipt of the decision. If the executive director rendered the decision, the appeal shall be addressed by the Commission's Administrative Committee. In either situation, the

executive director or the Administrative Committee has 30 days to render a decision.

## **Article 13**

### **Workplace Respect and Equal Opportunity**

- 13.1 **Respect in the Workplace:** VCTC provides a work environment that encourages respect for each person in the workplace. VCTC employees will conduct their duties and assignments in a way that shows respectful treatment of the public and other employees in accordance with local, state and federal regulations. The conduct of all employees shall be governed at all times by the ordinary and reasonable rules of behavior observed by law-abiding and self-respecting citizens, and shall not reflect unfavorably upon VCTC. This shall apply whether the employee is at work or acting in an official capacity. Respectful treatment of others includes being patient, listening carefully, not overreacting to others, requesting information or materials thoughtfully, treating others as you would want to be treated, not using profanity, keeping voices low and calm, and exercising discretion in all interpersonal interactions. The executive director shall take reasonable and appropriate action to remedy any inappropriate behavior, including such by non-employees present in the work place, as well as contractors, vendors, Commission members, and visitors.
- 13.2 **Equal Opportunity Employer:** VCTC and its employees shall not discriminate against the public, vendors, applicants for employment, or employees based on gender, race, religion, color, age, marital status, disability, sexual orientation, national origin, ethnic group, or any other protected category as provided in local, state, or federal law. VCTC shall provide a work environment that appropriately accommodates employees with disabilities. If an employee believes he/she has a disability, the employee may request a reasonable accommodation for that disability as defined in the section on Policy on Workplace Accommodations for Employees with Disabilities. Such requests should be submitted to the employee's department director. The department director, in consultation with the executive director and/or subject matter experts, may engage in an interactive process with the employee to determine an appropriate reasonable accommodation for the employee in accordance with applicable law.
- 13.3 **Complaint Resolution:** The following expectations are set forth for employee, supervisor, and manager behavior for handling discrimination and harassment complaints, for investigating inappropriate behavior, and for training of employees on this policy. The purpose of these procedures is to reaffirm VCTC's commitment to prohibit and prevent unlawful discrimination (including harassment) in the workplace, to define discrimination and harassment prohibited under this policy, and to identify procedures for resolving complaints of prohibited discrimination and harassment.
- 13.3.1 **Interpretation and Application of Policy:** This policy shall not be construed to create a private or independent right of action. Although this policy is intended to prohibit discrimination consistent with Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, the California Fair Employment and Housing Act, and California Labor Code Section 1102.1, VCTC reserves the right to interpret and apply this policy to provide greater protection than what is afforded under those laws.
- 13.3.2 **Misconduct:** Unlawful harassment and discrimination are considered serious acts of misconduct and will not be tolerated. Employees who violate this policy and engage in acts of unlawful harassment or discrimination of any type, for any

duration, shall be subject to disciplinary action, up to and including termination.

13.3.3 **Non-retaliation:** Retaliation against individuals who complain of unlawful harassment or discrimination or who participate in an investigation into unlawful harassment or discrimination shall not be tolerated. Employees who engage in such acts of retaliation shall be subject to serious disciplinary action, up to and including termination.

13.3.4 **Definitions:**

13.3.4.1 **Harassment:** Depending upon the circumstances, a single act of harassment, as defined below, can violate this policy.

- **Verbal Harassment:** Includes epithets, jokes, comments, or slurs that identify a person on the basis of his/her protected classification, intimate or other nicknames, comments on appearance, including dress or physical features, or stories that tend to disparage those with a protected classification.
- **Visual Forms of Harassment:** Includes gestures, posters, notices, bulletins, cartoons, photographs, drawings, or any other visual media that tend to disparage those with a protected classification.
- **Physical Harassment:** Includes the following conduct taken because of an individual's protected classification: assault, impeding or blocking movement, physically interfering with normal work or movement, pinching, grabbing, patting, propositioning, leering, making express or implied job threats or promises in return for submission of physical acts, mimicking, stalking, or taunting.
- **Sexual Harassment:** Includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature that are an express or implied condition of continued employment or other term and condition of employment.

13.3.4.2 **Retaliation:** Any adverse employment action taken because an employee has reported harassment, or has participated in the complaint procedure. "Adverse employment action" includes any personnel action that has a significant effect upon the terms or conditions of employment.

13.3.5 **Guidelines for Identifying Harassment:** To clarify what constitutes harassment in violation of this policy, the following guidelines shall be used:

13.3.5.1 **Unwelcome Conduct:** Harassment includes any conduct which would be unwelcome to a reasonable person of the recipient's same protected classification and which is taken because of the recipient's protected classification.

13.3.5.2 **Appearance of Consent:** It is no defense that the recipient appears to have voluntarily consented to the conduct at issue. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized.

13.3.5.3 **Lack of Complaints:** Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small,



isolated incidents might be tolerated up to a point. The fact that no one is complaining now does not preclude anyone from complaining if the conduct is repeated in the future.

- 13.3.5.4 **Third-party Observer:** Even visual, verbal, and/or physical conduct between two employees who appear to welcome it can constitute harassment of a third applicant, officer, official, employee, or contractor who observes the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at an individual.
- 13.3.5.5 **Intention:** Conduct can constitute harassment in violation of this policy even if the individual engaging in the conduct has no intention to harass. Even well-intentioned conduct can violate this policy if the conduct is directed at, or singles out a protected classification, and if a reasonable individual would find it offensive or demeaning.
- 13.3.5.6 **Single Act:** A single act can violate this policy and provide grounds for discipline or other appropriate sanctions. Therefore, if employees are in doubt as to whether any particular conduct may violate this policy, they should not engage in the conduct, and should seek guidance from a supervisor.
- 13.3.6 **Reporting Unlawful Harassment or Discrimination:**
  - 13.3.6.1 **Reporting:** Any employee who believes he/she has been unlawfully harassed or discriminated against should promptly report it orally or in writing to the employee's supervisor or the executive director. Complaints about the executive director may be made to the Commission's general counsel.
  - 13.3.6.2 **Receiving Complaints:** Any supervisor or manager who receives a complaint of unlawful harassment/discrimination, or who observes or otherwise learns about unlawfully harassing conduct is required to notify the executive director immediately. Failure to do so may result in disciplinary action.
- 13.3.7 **Remedial Action:**
  - 13.3.7.1 **Action:** Upon receiving complaints of discrimination or harassment, the Commission may undertake an investigation of the complaints. The Commission may retain an outside investigator to conduct the investigation. All complaints shall be investigated to the extent that the executive director deems appropriate. Any investigation and investigation report prepared relating to the complaint shall be kept confidential except as required by law. If harassment or discrimination is found to have occurred in violation of this policy, action shall be taken to ensure or confirm that the harassment or discrimination at issue is stopped. VCTC may take whatever measures are appropriate to ensure its workplaces remain free from unlawful discrimination or harassment.
  - 13.3.7.2 **Disciplinary Action:** Employees found to have engaged in discrimination or harassment covered by this policy may be subject to disciplinary action up to and including termination of employment. First-time violations of this policy, depending on the severity of the conduct, may lead to termination.

- 13.3.7.3 **Dishonest or Uncooperative Behavior:** Employees found to have been dishonest or uncooperative during an investigation into allegations of unlawful harassment or discrimination may be subject to disciplinary action up to and including termination of employment.
- 13.3.8 **No Retaliation:** Employees should feel free to report valid claims of unlawful harassment or discrimination without fear of retaliation of any kind. VCTC will not retaliate against or tolerate retaliation against employees for making any complaint of unlawful harassment in good faith, or against any employee for cooperating in an investigation.
- 13.3.9 **Dissemination:** Policy and complaint procedures are available to employees, and to new employees. From time to time, VCTC may also conduct training for its employees to assist them in learning how to recognize, avoid, and correct harassing and discriminatory behavior.
- 13.3.10 **Department of Fair Employment and Housing (DFEH) and the Equal Employment Opportunity Commission (EEOC):** In addition to notifying VCTC about unlawful harassment or retaliation, an affected employee may also direct his/her complaint to the California DFEH, which has the authority to conduct investigations of the facts. The deadline for filing complaints with the DFEH is one year from the date of the alleged unlawful conduct. The nearest DFEH office can be found by searching the internet, looking in the local telephone directory, or by checking in the copy room where employment-related posters are kept. An employee also has the right to direct his/her complaint to the federal Equal Employment Opportunity Commission (EEOC).
- 13.3.11 **Obligations of Employees:**
- 13.3.11.1 **Know the Policies:** Employees are responsible for knowing VCTC anti-discrimination policy; refraining from discriminatory behavior, including harassment; reporting incidents of discrimination in a timely fashion; cooperating in any investigation concerning allegations of discrimination; and maintaining confidentiality concerning any investigation that is conducted.
- 13.3.11.2 **Communicate:** Employees are also encouraged to communicate with one another to assist co-workers in identifying, avoiding, and addressing behavior that may be perceived as harassing, discriminatory, or otherwise offensive.

## **Article 14**

### **Workplace Safety**

- 14.1 **Workplace Safety:** VCTC is committed to providing a safe and healthful work environment and maintains an employee safety program meeting the requirements of state law. The following expectations are set forth for employee, supervisor, and manager behavior necessary to maintain workplace safety and to train employees in appropriate conduct and responses to medical and other workplace emergencies in compliance with related federal, state, or other local regulations.
- 14.2 **Management Responsibilities:** Management shall be expected to take steps within its control to maintain a safe work environment and to be in compliance with federal and state safety regulations.
- 14.3 **Employee Responsibilities:** Employees shall be expected to obey safety rules, follow established safe work practices, and exercise caution in all their work activities. Employees are also expected to report any unsafe conditions to their immediate supervisor. Employees at all levels who are responsible for correcting unsafe conditions are required to do so. Safety rules are a basic part of the Injury and Illness Prevention Program and employees shall be required to know and follow the safety rules, and management shall enforce them.
- 14.4 **Reporting Injuries:** Work-related injuries should be reported to the employee's supervisor. The report should then be sent immediately to executive director.
- 14.5 **Injury and Illness Prevention Program:** VCTC's Injury and Illness Prevention Program (IIPP) addresses legislation and regulations, and functions as an umbrella program that incorporates the elements of other occupational hazard control programs and procedures (e.g., Hazard Awareness and Communication Program, Chemical Hygiene Plan, etc.). The safety program includes: a written IIPP that provides for identification and correction of safety hazards; video display terminal and computer equipment policy; driver safety standards; and applicable ongoing safety training in compliance with federal and state safety regulations. The intent of the IIPP is to facilitate identification and evaluation of workplace hazards, enable the correction of unsafe conditions, provide a means of communication between employees and management on matters concerning employee safety and health, educate and train employees on health and safety matters, and implement a strategy by which compliance with the regulation can be achieved and documented. The IIPP designates a responsible person (or persons) and a system for:
- Communicating with employees on matters concerning safety and health.
  - Identifying and evaluating workplace hazards.
  - Implementing procedures for injury/illness investigation,
  - Mitigating hazards.
  - Training employees.
  - Maintaining records.
- 14.6 **Automobile Use:** Employees who utilizes their personal vehicle in the performance of their duties must maintain a valid California driver's license at all times, have a satisfactory driving record, and must maintain adequate and appropriate insurance. Employees must comply with all traffic regulations and laws while engaged in driving on work-related business. Only hands-free mobile devices may be used when driving, and no communications device may be used while driving to write, send, or read any

text-based communication. Employees who use a vehicle on work-related business must provide VCTC with a copy of their California driver's license and a copy of a Certificate of Insurance that shows evidence that the employee has comprehensive automobile liability insurance or business automobile liability insurance in an adequate amount. Should the employee be in a vehicle accident while performing VCTC business, for claims processing the employee's own insurance provider is primary and VCTC's insurance provider is secondary.

14.6.1 **Use of Vehicle Safety Belts:** Employees who drive or ride in a Class A or any other vehicle equipped with safety belts on work-related business shall use and ensure that the driver and all passengers use available safety belts in the vehicles being operated. Passengers shall ride only in those positions of a vehicle designed for the carrying of passengers, including approved child safety seats if necessary.

14.6.2 **Vehicle Accidents:** When an accident occurs on the job involving one or more vehicles, the following steps should be taken by employees:

- **Scene:** Secure the scene of the accident.
- **Move Vehicles:** Move any involved vehicles out of the right of way, if possible.
- **Emergency Response:** Call 911 for emergency services if someone appears to be injured or asks that 911 be called.
- **Contact Supervisor:** Contact your supervisor immediately, if communication devices are available.
- **Driver Information:** Exchange driver information and give the other driver a business card.
- **Personal Information:** Obtain the names, phone numbers, addresses, and e-mail addresses of any vehicle occupants, or observers of the accident.
- **Police Report:** Get the number of the police report that will be filed *if* the police respond to the accident.
- **Statements:** Do not make any statements accepting blame, guilt, concerning the assumption of liability. Give out only the required information.
- **Pictures:** Take pictures of the damage and all relevant aspects of the accident (the area where accident occurred, objects blocking view, etc.). If a camera is not immediately available, write down all of the relevant information.
- **Insurance and Legal Requirements:** Follow any insurance and legal requirements, such as immediately notifying your insurance company, VCTC's insurance company through appropriate staff, and the Department of Motor Vehicles.

14.7 **Department of Motor Vehicles Pull Notice Program:** VCTC participates in the California Department of Motor Vehicles (DMV) Pull Notice Program. Under this program the DMV sends VCTC driving records of all employees on an ongoing basis. The executive director reviews the driving records of those employees who are required or expected to drive as part of their condition of employment and will take appropriate action should any of the driving records indicate any of the following: DUI, suspended license, or other serious driving offense (i.e., reckless driving, etc.)

14.8 **Violence in the Workplace Policy:** Acts of violence, whether threatened, gestured, or carried out will not be tolerated in the workplace. Anyone witnessing or becoming the subject of such behavior shall immediately report it to their supervisor for proper investigation. Minimizing the threat of violence is a duty of all employees.

14.8.1 **Notification:** It is the responsibility of all employees to notify a supervisor or the executive director immediately of any violent act or a threat, or if a violent act or threat against themselves, any other employee, or a member of the public occurs in the workplace or is directly associated with their employment. Notification may be made to any of these persons as appropriate and shall be reported as soon as practicable. Retaliation or the threat of retaliation against a person who reports such an incident is unlawful and shall not be tolerated.

14.8.2 **Possession of Inappropriate Items:** Employees shall not possess the following instruments at a worksite or on VCTC property, including parking lots, unless there is a work-related purpose and written approval has been obtained from the employee's supervisor.

- **Firearms:** Any type of firearms.
- **Explosives:** Any type of explosives or ammunition.
- **Fixed Knives:** Fixed blade knives.
- **Folding Knives:** Folding knives with blades over 3.5 inches.
- **Weapons:** Illegal weapons such as defined in Section 12020 of the California Penal Code.

14.8.3 **Disciplinary Action:** VCTC shall take appropriate disciplinary action, up to and including termination of employment, against an employee violating this policy as provided for in these rules.

14.8.4 **Procedures for Imminent or Actual Violent Acts:**

14.8.4.1 **Employee Responsibilities:** An employee who is in immediate apparent danger of a violent act, or another employee who witnesses a violent act or the threat of a violent act shall, whenever possible:

- **Safe Location:** Place yourself in a safe location.
- **Emergency Services:** Call 911 and request the immediate response of a police officer. Be prepared to inform the dispatcher of the circumstances and exact location of where an officer is needed.
- **Contact Supervisor:** Inform your supervisor of the circumstances.
- **Media:** Refer media inquiries to the executive director.
- **Cooperate:** Cooperate fully in any administrative or criminal investigation conducted within this policy and the laws.

14.8.4.2 **Supervisor Responsibilities:**

- **Safe Location:** Place yourself in a safe location.
- **Ensure Safety:** A supervisor who is informed of a violent act or the threat of a violent act shall whenever possible ensure the immediate safety of employees and the worksite by calling 911, and notifying the executive director.
- **Involve Individuals:** If feasible, the supervisor shall have the involved individuals wait in separate rooms or locations until the police take control or remove them from the premises.

- **Restraining Order:** In consultation with the executive director and legal counsel, the supervisor should determine if it is appropriate to obtain a restraining order, other appropriate injunctive, legal, and/or equitable relief.
- **Reassign:** Reassign/relocate employees or job duties, if required.
- **Terminate:** Terminate any business relationship.
- **Take Action:** Take any other action deemed to be necessary or required under the circumstances.
- **Obtain Information:** Obtain basic information from the employee and provide to emergency responders.
- **Media Inquiries:** Refer all media inquiries to the executive director's office for a response.

14.8.5 **Procedures – Preventing Future Violence:**

14.8.5.1 **Reasonable Belief:** Employees who have reason to believe they, or another employee, may be victimized by a violent act sometime in the future, at the workplace, or as a direct result of their employment, shall inform their supervisor immediately so appropriate action may be taken.

14.8.5.2 **Restraining Orders:** Employees who have signed and filed a restraining order, temporary or permanent, against an individual due to a potential act of violence, who would be in violation of the order by coming near them at work, shall immediately supply a copy of the signed order to their supervisor and executive director. A copy will be placed in the employee's personnel file.

14.8.6 **Post-incident Review:**

14.8.6.1 **Policy Evaluation:** The executive director, department head, and the supervisor may conduct a post-incident review and use the review to evaluate this policy and procedure.

14.8.6.2 **Support Systems:** VCTC may determine and oversee any post-incident support systems may be needed.

14.9 **Smoking Policy:** As required by state law, smoking is prohibited in all VCTC facilities, and within 20 feet of any entrances, exits, and windows that can be opened. Smoking is also prohibited while driving or riding in a vehicle on work-related business if in the presence of another VCTC employee who does not smoke.

14.10 **Emergency Service Workers:** All VCTC employees are designated pursuant to state law as emergency service workers and are deputized pursuant to civil defense rules under a declared emergency to carry out the orders of established emergency command sections with the provided limited immunity under the Government Code. Every employee should know where he or she reports in the event of an area-wide emergency. In the event of an emergency or disaster, every employee shall attempt to call in or contact his/her department. Notwithstanding the call-in requirement, all employees are expected in an emergency or disaster to act as follows:

- **Attend** to the immediate physical safety of yourself and those immediately around you.
- **Contact** or see to the safety of your immediate family; develop a family plan and establish a family call-in phone contact in advance, preferably with a relative out of state or out of the region.

- **Report to work** when directed to do so after trying to call in or when called back to work, or report in immediately if unable to contact your department.
- 14.10.1 **Emergency Situations:** In an emergency situation, employees may be assigned to a variety of duties other than their normal assignments but generally related to their knowledge, skills, and abilities under their job class description. Those reporting to another organization shall be treated as VCTC employees assigned to another agency and shall be compensated and otherwise covered as VCTC employees upon proof of service attendance in another agency. Those reporting to work at VCTC shall be governed by established regular time and overtime policies.

## **Article 15**

### **Equipment, Electronic Systems, Communications, and the Internet**

- 15.1 **General Policy:** VCTC uses a variety of equipment, electronic communication systems, and the internet as a means of conducting work. VCTC employees shall use such systems and the internet for research, education, and communication for business and shall do so in a lawful, ethical, and professional manner. VCTC's technical resources, including desktop and portable computer systems, fax machines, internet and web access, voice mail, electronic mail (e-mail), electronic bulletin boards, and its intranet enable employees quickly and efficiently to access and exchange information. In many respects, these tools are similar to other VCTC tools, such as stationary, file cabinets, photocopiers, and telephones. This policy applies to all technical resources that are owned or leased by VCTC, that are used on or accessed from the premises, or that are used for work-related business. This policy also applies to all activities using any the VCTC-paid accounts, subscriptions, or other technical services, such as internet and internet access, voice mail, and e-mail, whether or not the activities are conducted on VCTC premises.
- 15.2 **Definitions:** Electronic systems are defined as all hardware, software, and other electronic communication or data processing devices owned, leased, or contracted for by VCTC and available for official use by employees. This use includes, but is not limited to, electronic mail, voice mail, calendaring systems, and other systems such as the internet.
- 15.3 **Public Disclosure:** Employees who use electronic systems and/or tools provided by VCTC do not have a right of privacy in such uses. Under the Public Records Act, e-mail messages and information generated, received by, or stored in work computers and other electronic systems are public records that may be subject to subpoena or disclosure to the public. In addition, VCTC reserves the right to review, audit, and disclose all matters sent over and/or stored in work systems at any time without advance notice. The executive director retains the right to enter and/or retrieve an employee's electronic communication system, data files, logs, and programs used on VCTC electronic systems. Security features provided by the electronic communication system, such as, passwords, access codes, or delete functions, shall not prevent authorized employees from accessing stored electronic communications. Deletion of e-mail messages or files does not fully eliminate the message from the system.

- 15.4 **Personal Use:** All VCTC property, including work areas, computer systems, office telephones, cellular telephones, modems, facsimile machines, and copying machines must be used properly and maintained in good working order. The data stored on them are and remain at all times VCTC property and should not be considered private or confidential. Employees have no right to privacy as to any information or file transmitted or stored through the computer, voice mail, e-mail, or telephone systems. Any electronically stored information that is created, sent to, or received from others may be retrieved and reviewed when doing so serves the legitimate business interests and obligations of VCTC. Employees should also be aware that, even when a file or message is erased or a visit to a website is closed, it is still possible to recreate the message or locate the website. VCTC reserves the right to monitor use of its technical resources at any time. All information including text and images may be disclosed to law enforcement or to other third parties without prior consent of the sender or the receiver. VCTC reserves the right, at all times and without prior notice, to inspect and search any and all of its property for the purpose of determining whether this policy or any other policies has been violated, or when an inspection and investigation is necessary for purposes of promoting safety in the workplace or compliance with state and federal laws. These inspections may be conducted during or outside of business hours and in the presence or absence of the employee. For purposes of inspecting, investigating, or searching employee files or documents, VCTC may override any applicable passwords, codes, or locks in accordance with the best interests of VCTC, its employees, persons, or visitors. All documentation related to the use of VCTC assets or equipment is the property of VCTC and may be reviewed and used for purposes that VCTC considers appropriate.
- 15.5 **Serial Meetings:** In accordance with the Brown Act (Gov Code section 54950 et seq.), employees must take care to ensure that electronic systems are not used to transmit, either all-at-once or serially, legislative officials' positions on matters of VCTC business to a majority of any body of elected officials, including standing or appointed committees of elected officials.
- 15.6 **Normal Business Hours Usage:** VCTC's electronic systems are provided for the purposes of conducting business. Except for brief, occasional, necessary, or emergency use, the electronic systems shall not be utilized personally during normal business hours. Utilizing non-VCTC software including games or entertainment software is considered an improper use of these electronic systems.
- 15.7 **Account Access:** Employees shall not attempt to gain access to another employees' personal file of electronic mail messages without the latter's express written permission or permission from the immediate supervisor.
- 15.8 **Acceptable Uses:** VCTC's technical resources are provided for the benefit of VCTC and its employees, vendors, and suppliers. These resources are provided for business use and are to be reviewed, monitored, and used only in that pursuit, except as otherwise provided in this policy. While employees are otherwise permitted to use the technical resources for occasional, non-work purposes, employees have no right of privacy as to any information or file maintained in or on VCTC's property or transmitted or stored through the computer, voice mail, e-mail, or telephone systems.
- 15.9 **Prohibited Uses:** The electronic mail and other electronic systems shall not be used in a way that may be disruptive, offensive to others, harmful to morale, violate VCTC policies and procedures, or violate laws. These electronic systems shall not be used to solicit or proselytize others for commercial venture, religious or political causes,



outside organizations, or other non-job-related solicitations. Improper use includes any display or messages that are derogatory, defamatory, obscene, violent, or offensive to employees or the public and/or any messages that are of a sexual or discriminatory nature, including, but not limited to, slurs, offensive jokes, or other offensive language of disparagement of others based on their race, national origin, sex, sexual orientation, age, disability, or religious beliefs. Employees who wish to express personal opinions or conduct personal business on the Internet are encouraged to obtain a personal account with a commercial Internet service provider and access the Internet without using the VCTC's resources and equipment.

- 15.10 **Policy Compliance:** Employees are required to comply with all operational guidelines developed by VCTC. Such guidelines will address operational standards such as: message retention, schedule, copyright issues, use of passwords, system availability, back-up procedures, etc.
- 15.11 **Incidental Use:** While the Commission may allow for incidental and occasional personal use of electronic mail and the internet, messages and internet activity will be treated no differently from other messages and will remain VCTC property as to review and auditing procedures. Such personal use shall only be permitted if it does not interfere with or delay the employee's work or interfere with regular VCTC business and shall comply with all provisions herein. All use of the internet may be periodically reviewed by the executive director.
- 15.12 **Personal Messages:** Employees are encouraged to have their own personal e-mail accounts and to not use VCTC's e-mail for personal business. However, should employees use VCTC's electronic mail system to send or receive personal or private messages, those messages should be removed from the system no later than 30 days after receiving or sending. Employees have no right of privacy to any email, whether personal or business related, in VCTC computers and are encouraged to use personal e-mail addresses for such purposes.
- 15.13 **Copyrighted Materials:** Do not copy and distribute copyrighted material (e.g., software, database files, documentation, articles, graphics files, and downloaded information) through the e-mail system or by any other means unless you have confirmed in advance from appropriate sources that VCTC has the right to copy or distribute the material. Employees are not permitted to copy, transfer, rename, add, or delete information or programs belonging to other users unless given express permission to do so by the owner of such information or programs. Failure to observe copyright or license agreements may result in disciplinary action or legal action from the copyright owner.
- 15.14 **Other Prohibited Uses:** In addition to other prohibited uses, employees shall not:
  - 15.14.1 **Install:** Install programs on computer system (including but not limited to virus checking, games, instant messaging, and screen savers) without the prior written consent of the executive director.
  - 15.14.2 **Copy:** Copy programs for personal use.
  - 15.14.3 **Disclose:** Disclose an account password or otherwise make the account available to others.
  - 15.14.4 **Infringe:** Infringe on others' access and use of computers.
  - 15.14.5 **Excessive Messages:** Send excessive messages, either locally or offsite.
  - 15.14.6 **Unauthorized System Modification:** Unauthorized modification of system facilities, operating systems, or disk partitions.
  - 15.14.7 **Crashing the Network:** Attempt to crash or tie up a computer or network.

- 15.14.8 **Damage:** Vandalize or attempt to damage computing facilities, equipment, software, or computer files.
- 15.14.9 **Intentionally Developing or Using Malicious Programs:** Use of programs that disrupts other computer users, intentionally develop bad or malicious programs, access private or restricted portions of the system, and/or damage system software or hardware components.
- 15.14.10 **Attorney-client Privileged Communication:** Forwarding or reproducing communications marked attorney-client privileged or confidential without the prior consent of the executive director and/or Commission General Counsel.
- 15.14.11 **Federal or State Laws:** Violating any federal, state, or local law in the use of the VCTC's information or communication systems.
- 15.15 **Public Records:** All permanent business records, including those stored on paper and electronic media, may be governed by the mandatory public disclosure requirements of the Public Records Act (Gov Code section 6250 et seq.), and the limited exceptions thereto. If a draft record is retained, it may become a public record subject to disclosure unless it is subject to an exception under the Public Records Act.
  - 15.15.1 **Permanent Records:** All permanent records, whether stored on paper or electronic media, shall not be destroyed unless prior written authorization is obtained pursuant to Government Code Section 34090.
  - 15.15.2 **Public Records Requests:** Public Records requests shall be handled in accordance with Government Code section 6250 et seq.
  - 15.15.3 **Media Disclosure:** VCTC reserves the right for any reason to access and disclose all messages and other information sent or received by electronic means or stored on electronic media.
  - 15.15.4 **VCTC Rights:** Subject to the Public Records Act, VCTC has the right to delete or retain any or all messages or other information sent or received by electronic means or stored on electronic media by an employee who is no longer employed.
- 15.16 **Confidential Information:** E-mail and internet/web access are not entirely secure. Others outside VCTC may be able to monitor your e-mail and web access. Most internet sites maintain logs of visits from users; these logs identify which company, and even which particular person, accessed the service. All employees should safeguard VCTC's confidential information from disclosure.
- 15.17 **Security of Information:** Although employees may have passwords to access computer, voice mail, and e-mail systems, these technical resources belong to VCTC, are to be accessible at all times, and are subject to inspections with or without notice. VCTC may override any applicable passwords or codes to inspect, investigate, or search employee files and messages. All passwords must be made available to executive director upon request and submitted to the information technology staff. Employees are not authorized to provide passwords to anyone outside VCTC and may never access any technical resources using another employee's password. Password composition shall be mandated by information technology staff and changed on a regular schedule.
- 15.18 **Intellectual Property Rights:** No employee shall violate any copyright, software license, or other online information (including, but not limited to, text images, icons, programs, etc.) whether created by VCTC or any other person or entity.
- 15.19 **Audits and Inspections:** The executive director or designee may conduct either routine or unscheduled reviews and inspections of VCTC property including, but not limited to the premises, employee desks and work areas, or electronic communication

systems, devices and data. All employees are required to maintain and enhance VCTC's public image, and to use its technical resources in a productive manner in accordance with this policy. Each employee is responsible for the content of all text, audio, or images that they place or send over VCTC technical resources. Employees may access only files or programs, whether computerized or not, that they have permission to enter. Violations of this policy may result in disciplinary action up to and including termination from employment. In addition, the executive director may advise appropriate legal officials of any illegal violations.

- 15.20 **Cell Phone Policy:** Cell phones or smart phones may be purchased for use, or a stipend provided to executive level positions, and other positions in the discretion of the executive director. Eligible employees may choose a phone stipend or to have a phone purchased by the Commission.
- 15.20.1 **Options:** Based on employee choice, the Commission will provide either cell phones/smart phones or stipend of \$75 per month for VCTC department heads and any other classifications deemed appropriate by the executive director. If an employee chooses the stipend option, the employee is responsible for the costs associated with maintenance, replacement, or the purchasing of additional functions/programs.
- 15.20.2 **Phone Types:** Information technology staff will assist in determining the best types of smart phones for use with the Commission's server and other technology devices, as well as develop appropriate safeguards against unauthorized disclosure or data transmitted to/from the device through secure online systems.
- 15.20.3 **Expectations:** Whether the Commission provides or reimburses for the device, employees are expected to carry it with them at all times during normal working hours when away from the office and to respond to calls or messages as soon as practicable. Reasonable personal use of the device is allowed if the purchased by the Commission.
- 15.20.4 **Public Records:** Text messages, voice messages, and any e-mail correspondence on Commission provided phones are considered public records that may be subject to disclosure.
- 15.20.5 **Misuse:** Misusing the device could result in the Commission removing the purchase or reimbursement option from the employee, and also could include disciplinary action, up to and including termination.

## **Article 16**

### **Separation from Service**

- 16.1 **Resignation:** Employees are encouraged to give at least two weeks' notice when resigning. The resignation becomes effective upon receipt of an oral, written, or e-mailed notice of the resignation. The resignation letter or e-mail should state the effective date and reasons for leaving. Once a resignation becomes effective, it is irrevocable except that the executive director may, in his/her discretion, permit a resignation to be rescinded, subject to conditions.
- 16.2 **Automatic Resignation:** Employees are deemed to have resigned when absent from work without prior authorization for at least one working day unless there are extenuating circumstances that can be verified by the executive director. The executive director's review and decision about any such extenuating circumstances is final. VCTC shall give notice of such automatic resignation. The employee shall have no right of appeal for the automatic resignation in such circumstances.
- 16.3 **Failure to Report:** Failure on the part of an employee, absent without leave, to return to duty within one working day, shall be considered an automatic resignation (and the provisions thereof) and cause for immediate discharge, including failing to show up at any time and/or failing to return after an authorized leave unless there are extenuating circumstances that can be verified by the executive director. The executive director's review and decision about any such extenuating circumstances is final.
- 16.4 **Discharge:** At-will employees may be discharged by the executive director with or without reason or just cause and without right of appeal.
- 16.5 **Reduction in Staff:** VCTC strives to sustain the tenure of its employees, but reserves the right to reduce the number of staff due to a reduction in work programs, for lack of funds, lack of work, changed operational demands, in the interest of economy, or for any other reason. The need to reduce staff size or the administrative decision to alter or change its staff organization plan, or to discontinue any program or programs (as allowable under voter-approved measures) is within the sole and exclusive discretion of the Commission and is not subject to the complaint procedure.
- 16.5.1 **Procedure:** The executive director shall define the work to be performed and the organizational structure necessary to accomplish VCTC's work program. The work program, organizational structure, and layoffs are subject to approval by the Commission. With Commission approval, the executive director may reduce the work force because of reduced budgetary and program resources, the need to reorganize the staff, or to meet changed operational demands. When, in the judgment of the executive director, it becomes necessary to abolish a position or employment due to lack of funds, curtailment of work, organizational changes, or for other business reasons, the employee holding such position or employment may be laid off or demoted without disciplinary action and without the right of appeal of the layoff decision. An employee who is laid off has no bumping rights, nor any greater rights to return status. Layoffs shall be by made in accordance with serving the best needs of VCTC. Employees to be laid off shall be given as much notice as possible, prior to separation and provided the opportunity to present their case under Skelly, as required. Prior to separating regular employees, the executive director shall consider reasonable and feasible alternatives to layoffs.

## **Article 17**

### **Alcohol and Drug-free Workplace**

- 17.1 **Alcohol and Drug-free Workplace:** Pursuant to CFR Title 49 Part 40.655, OMB Circular A-128, the Federal Drug Free Workplace Act of 1988, and the California Drug Abuse Free Workplace Act of 1990, VCTC shall provide a drug- and alcohol-free workplace. Employees and the public expect a drug and alcohol free working environment and VCTC has an obligation to ensure that employees perform their duties safely and effectively. During work hours, no employee shall have in their possession any open containers of intoxicating beverages, be under the influence of alcohol, consume alcohol, or have in his/her possession any illegal drugs in the workplace.
- 17.2 **Reasonable Suspicion:** Upon reasonable suspicion of an employee being under the influence of illegal drugs or alcohol while on duty, VCTC may require the employee to submit to drug and alcohol testing, at VCTC's expense. Employees who decline to submit to such testing may be subject to discipline, up to and including termination of employment. If an employee is misusing alcohol or drugs, VCTC may refer the employee for treatment. This treatment may or may not be covered by VCTC's health plan or the treatment may be at the employee's own expense.
- 17.3 **Unlawful Behavior:** No employee shall unlawfully manufacture, distribute, dispense, possess, use, or be under the influence of any alcoholic beverage, drug, or controlled substance as defined in the Controlled Substances Act and Code of Federal Regulations during work hours or in the workplace.
- 17.4 **Conviction of a Drug-related Offense:** Conviction of a felony for use, offer to sell, purchase or obtain, possession, sale, manufacture, distribution, or dispensation, of illegal drugs, or for abuse of legal drugs in the workplace, shall be grounds for imposing discipline, including termination of employment. Conviction of a misdemeanor for use, offer to sell, purchase or obtain, possession, sale, manufacture, distribution or dispensation of illegal drugs may also be grounds for disciplinary action up to and including termination of employment.  
Employees must notify their immediate supervisor within five working days of any arrest or conviction of a criminal drug statute (whether a felony or a misdemeanor) and any arrest or conviction of a criminal statute relating to alcohol, including but not limited to driving under the influence. Failure to do so is grounds for disciplinary action.
- 17.5 **Inspections:** To fulfill its obligations to provide an alcohol- and drug-free workplace, to respond to alcohol or substance abuse complaints, and to investigate inappropriate behavior that may result from such abuse, the executive director may conduct inspections of VCTC property including, but not limited to the premises, employee desks and work areas, or electronic communication systems. Employees are expected to cooperate with such inspections.
- 17.6 **Reasonable Suspicion of Contractor Employees:** Should a VCTC employee observe inappropriate or suspicious behavior by an employee of a contractor providing safety-sensitive positions for VCTC-funded programs, the employee is immediately to get in touch with his/her supervisor and/or the appropriate contractor management to report the date, time, type of vehicle, and what was seen.

- 17.7 **Alcohol and Drug Policy:** The Commission has a vital interest in providing its employees with safe and healthful working conditions and providing riders and the public with high quality public transportation that is effective, safe and efficient, and therefore is committed to maintaining an illegal drug- and alcohol-free environment to protect employees, passengers, and the public. This policy prohibits the use, possession, sale, manufacture, distribution or dispensation of alcohol or illegal drugs in the workplace. VCTC will not tolerate any alcohol or illegal drug use which may affect job performance or pose a hazard to the safety and welfare of the employee, the public, or other VCTC employees. VCTC will also not tolerate any prescription drug use that may impair an employee's ability to perform safely and effectively on the job. Substance abuse has been found to be a contributing factor to absenteeism, substandard performance, increased potential for accidents, poor morale and impaired public relations. VCTC is therefore committed to maintaining a drug and alcohol-free environment to protect employees, passengers, and the public.
- 17.8 **Alcohol and Drug-free Workplace Awareness Program:** To assist employees to understand and to avoid the perils of alcohol and drug abuse, VCTC shall have an on-going educational effort to help prevent and eliminate alcohol and drug abuse that may affect the workplace. The Alcohol and Drug-free Workplace Awareness program includes the display and distribution of informational material and informs employees about: (1) the dangers of alcohol and drug abuse in the workplace; (2) the consequences of alcohol and/or drug use on personal health safety and the work environment; (3) the manifestation and behavioral cues that may indicate alcohol and/or drug abuse; (4) VCTC's Alcohol and Drug-free Workplace Policy; (5) the availability of treatment and counseling and (6) possible sanctions for violating the Policy.
- 17.9 **Violations of the Policy:** Violations of this policy or interference with or attempts to prevent implementation or enforcement of this policy are subject to disciplinary action up to, and including, termination of employment.
- 17.10 **Safety-Sensitive Positions:** This policy complies with the Federal Transit Administration (FTA) regulations that mandate urine testing and breath alcohol testing for Safety Sensitive Employees and the U.S. Department of Transportation (DOT) standards for the collection and testing of urine and breath specimens. In addition, the DOT enacted The Drug-Free Workplace Act of 1998 (DFWA) which required the establishment of drug-free workplace policies and the reporting of certain drug related offences to the FTA. This policy incorporates those federal requirements. Safety sensitive employees must be free of job impairing substances while on duty, when reporting for duty, or when subject to duty. Currently VCTC does not have any safety-sensitive positions. Should it in the future have safety-sensitive positions, it shall comply with the policy in the attached appendices.

## **Article 18**

### **Fraud Policy**

- 18.1 **Background:** This fraud policy aids in the detection and prevention of fraud against the Commission and provides guidelines and assigns responsibility for the development of controls and conduct of investigations.
- 18.2 **Policy Scope:** This policy applies to any irregularity, or suspected irregularity, involving employees as well as consultants, vendors, contractors, outside agencies doing business with employees of the Commission, and/or any other parties with a business relationship to the Commission. Any investigative activity required will be conducted without regard to the suspected wrongdoer's length of service, position, title, or relationship to VCTC.
- 18.3 **Policy:** Management is responsible for the detection and prevention of fraud, misappropriations, and other irregularities. Fraud is defined as the intentional, false representation, or concealment of a material fact for the purpose of inducing another to act upon it. Each management employee should be familiar with the types of improprieties that might occur within own area of responsibility, be alert for any indication of irregularity, and develop any specific necessary controls to prevent, deter, or identify fraudulent activities. Any irregularity that is detected or suspected must be reported immediately to the executive director, who coordinates all investigations.
- 18.4 **Actions Constituting Fraud:** The terms defalcation, misappropriation, and fiscal or other irregularities refer but are not limited to any of the following:
- Any dishonest or fraudulent act.
  - Misappropriation of funds, securities, supplies, or other assets.
  - Impropriety in the handling or reporting of money or financial transactions.
  - Profiteering as a result of insider knowledge of agency activities.
  - Disclosing confidential and proprietary information to outside parties.
  - Intentionally or recklessly disclosing inaccurate, incorrect, or untruthful information to outside parties to induce inaction or action by another.
  - Accepting or seeking anything of material value from contractors, vendors, or persons providing services/material with the exception of gifts of less than \$50 in value.
  - Destruction, removal, or inappropriate use of records, furniture, fixtures, and equipment.
  - Any similar or related irregularity.
- 18.5 **Other Irregularities:** If there is any question as to whether an action constitutes fraud, including irregularities concerning an employee's moral, ethical, or behavioral conduct, contact the executive director for guidance.
- 18.6 **Investigation Responsibilities:** The executive director has the primary responsibility for the investigation of all suspected fraudulent acts, and may conduct the investigation, select someone else within the organization to conduct the investigation, or have an external provider conduct the investigation. The executive director may perform the investigation, have another commission employee conduct the investigation, use a third-party investigator, or use a contract employee.
- 18.7 **Reporting Procedures:** Any employee who suspects dishonest or fraudulent activity shall notify the executive director immediately, and should not attempt to personally

conduct investigations, interviews, or interrogations related to any suspected fraudulent act. The individual reporting the concern will be informed not to contact the suspected individual in an effort to determine facts or demand restitution and not to discuss the case, facts, suspicions, or allegations with anyone unless specifically asked to do so by human resources.

- 18.8 **Confidentiality:** To the extent that the law permits, the executive director treats as private all information received confidentially. Care will be taken in the investigation of suspected improprieties or irregularities so as to avoid mistaken accusations. All inquiries concerning the activity under investigation from the suspected individual, his or her attorney or representative, or any other inquirer should be directed to the executive director. No information concerning the status of an investigation will be given out. The proper response to any inquiries is: "This is a personnel issue and I am not at liberty to discuss this matter." Under no circumstances should any reference be made to "the allegation," "the crime," "the fraud," "the forgery," "the misappropriation," or any other specific reference. Investigations or their results will not be disclosed or discussed with anyone other than those who have a legitimate need to know.
- 18.9 **Investigating Suspected Fraud:** The executive director or his/her designated representative will have free and unrestricted access to all Commission records and premises, whether owned or rented and the authority to examine, copy, and/or remove all or any portion of the contents of files, desks, cabinets, and other storage facilities on the premises without prior knowledge or consent of any individual who might use or have custody of any such items or facilities when it is within the scope of their investigation.
- 18.10 **Investigation Outcome:** After the conclusion of the investigation, the executive director will make a final determination of action. If the investigation substantiates that fraudulent activities have occurred, reports will be issued to appropriate designated staff and, if applicable, to the Commission's Executive Committee. Decisions to prosecute or refer the examination results to the appropriate law enforcement and/or regulatory agencies for independent investigation will be made in conjunction with legal counsel and the executive director, as will final decisions on disposition of the case.
- 18.11 **Disciplinary Action:** Findings of fraudulent activity could result in disciplinary action, up to and including termination of employment.



## **Article 19**

### **Use of VCTC Credit Cards**

- 19.1 **VCTC Credit Cards:** Credit cards are provided to certain employees to be used for VCTC business. Employees who have cards are designated by the executive director. Those cards may be used by other employees, only with prior approval. All credit cards have purchasing limits that cannot be exceeded.
- 19.2 **Usage:** Credit cards may only be used for VCTC business. At the end of each calendar month, employees authorized cards shall provide any receipts, along with supporting documentation for its use to the finance department.
- 19.3 **Business Travel:** Credit cards may be used for business travel. Upon returning from business travel, an itemized accounting as well as all receipts must be provided to the finance department.
- 19.4 **Misplaced or Lost Cards:** Immediately upon realizing that the credit card is missing, report it to the financial institution issuing the card, as well as to finance.
- 19.5 **Misuse of VCTC Credit Cards:** Using VCTC credit cards for personal activities will result in disciplinary action. Failing to provide receipts and supporting documentation, losing a card and not reporting it, or any misuse of the card may result in the removal of credit card privileges and/or disciplinary action.

## **Article 20**

### **Travel and Training Policy**

- 20.1 **Travel and Training:** VCTC is committed to ensuring that its employees receive adequate training to perform their jobs. Training and travel are subject to management approval and any training opportunities that occur during normal work hours require approval by the executive director.
- 20.1.1 **Training Budget:** Departments are required to forecast employee travel costs and incorporate those costs as part of their budget process.
- 20.1.2 **Sufficient Funds:** Travel and training requests will be approved only if there are sufficient funds in the departmental budget to cover all associated expenses.
- 20.2 **Minimizing Lost Work Time:** VCTC generally requires that training, and attendant travel, be scheduled in a way that will minimize expense.
- 20.3 **Mileage Rate:** VCTC applies the IRS mileage rate when compensating employees for travel done in employee's own vehicle.
- 20.4 **Cost-effective Travel:** VCTC business travel shall be carried out in an efficient, cost-effective manner resulting in the best value. Teleconferencing should be considered when possible. Employees are expected to exercise good judgment and show proper regard for economy when incurring expenses in connection with the conduct of official business. Fines levied or parking and traffic violations will not be paid or reimbursed.
- 20.5 **Authorization:** All travel, as defined below, will require submission and prior approval. Travel Authorizations are not required for attendance at regularly-scheduled professional meetings, such as those held monthly or quarterly, local breakfast or lunch meetings, or project site meetings. If a meal is a mandatory condition of attending a business meeting or function, the employee may be reimbursed for the full cost of the meal. All Travel Authorizations begin at the department level and whenever possible, should be executed at least one month in advance to allow for review and approval. Employee travel requires approval according to the following guidelines:
- 20.5.1 **Department Director Approval:** Each travel request should include to where the travel will be, for what purpose, and the likely costs. One-day travel is approved at the department director level.
- 20.5.2 **Executive Director Approval:** For anything other than one-day travel, the travel request is forwarded to the executive director's office for approval.
- 20.5.3 **Actual Travel Requests:** Travel Requests should be accompanied by an official flyer or program registration, e.g., an official flyer or program from the organization conducting the training or meeting and an agenda detailing the schedule of events must be submitted with the initial travel request. A meeting brochure/flyer should reference travel location, dates, times, and cost. Information regarding meals included with the cost of registration should be highlighted.
- 20.6 **Travel Guidelines for Allowable Travel:** Allowable travel is for such work-related items as:
- 20.6.1 **Legislators:** Communicating with representatives of local, regional, state, and the federal government on policy positions.
- 20.6.2 **Professional Organizations:** Serving on professional organizations or governmental committees, boards, or task forces.

- 20.6.3 **Conferences:** Attending educational seminars, conferences, or organized educational activities designed to improve skill levels or provide information on topics important to VCTC.
- 20.6.4 **Research:** Preparing research for projects or implementing adopted plans, policies, goals, or programs.
- 20.6.5 **Meetings:** Attending meetings involving activities or decisions important to VCTC interests, consistent with adopted plans, policies, goals, or programs.
- 20.6.6 **Events:** Attending events where VCTC is a formal sponsor or participant, or in performance of official duties.
- 20.6.7 **Community Groups:** Communicating with individuals or representatives of community groups on policy positions adopted by or under consideration by VCTC.
- 20.6.8 **Employee Recognition:** Recognizing employee service to VCTC.
- 20.6.9 **Other Business Activities:** Engaging in other business related activities with a direct connection to the implementation of adopted plans, policies, goals, or programs.
- 20.7 **Government or Group Transportation and Lodging Rates:** It is the policy to use discounted government or sponsoring group rates for transportation, whenever these are offered and available.
  - 20.7.1 **Sponsored Lodging Costs:** When conference or training sponsors have made arrangements for lodging, employees shall stay at one of these facilities and the cost should not exceed the maximum group rate published. In the event that rooms are not available at one these facilities, employees should stay at a comparable facility at a comparable cost, not to exceed the maximum group rate published by the sponsor. Employees should use the following guidelines when selecting lodging:
    - Conference rate.
    - Government rate.
    - Nearest affordable hotel.
- 20.8 **Meal Guidelines for Local Meeting and Training Costs:** With receipts, reasonable meal costs will be allowed.
  - 20.8.1 **Allowable Meal Expenses:** Meals not incurred as part of overnight travel are limited to activities outside of normal duties, such as business-related meetings held before or after regular working hours (including working lunches where this is the only time available) or extended overtime due to special projects or emergencies.
  - 20.8.2 **Unallowable Meal Expenses:** Meal reimbursements are not allowed as part of routine daily work assignments, unless part of the registration cost or the meal is served on site as part of the program.
  - 20.8.3 **Daily Business Meals:** Employees participating business meals, attending meetings, or joining in other daily business events, shall submit a receipt for any such meals occurring as part of the business event.
- 20.9. **Expense Guidelines:**
  - 20.9.1 **Transportation:** Public transportation should be used whenever possible unless there is a valid reason for using private transportation.

- 20.9.2 **Determining Best Mode of Travel:** In determining the appropriate mode of travel, the increased time for automobile travel should be weighed against the potential for lost work time, overtime, or increased lodging costs.
- 20.9.3 **Travel Time:** Travel time will not exceed one day in each direction when in route to and from business, conferences, or meetings and all travel will generally be the mode that is the least costly.
- 20.9.4 **Carpool:** When a personal vehicle is used for travel, employees should make every effort to travel together or carpool whenever possible. Reimbursement of mileage will be made only to the employee driving his/her personal vehicle.
- 20.9.5 **Driving Routes:** Employees may be reimbursed for travel when driving their own vehicles based on the most direct route, the route with less congestion, or any other practicable reason for that route.
- 20.9.6 **Mileage Reimbursement:** Mileage reimbursement for use of a personal vehicle is based on the applicable Federal Internal Revenue Service Mileage Rates in existence at the time of travel for actual mileage as estimated on MapQuest or some other similar mapping and mileage software. Only one type of mechanism (software or actual odometer readings) may be used per trip.
- 20.9.7 **Air, Train, or Personal Vehicle:** Allowance for air and train travel is based on actual round-trip coach fare, tourist class, or by the least costly method. Employees are expected to make an effort to take advantage of discounts and special fares whenever available for reasonable and convenient times. Travel by personal vehicle should not exceed cost of airfare or train fare. Therefore, if an employee chooses to drive their personal vehicle rather than fly to their destination, mileage only up to the lowest round trip airfare available will be reimbursed. A copy of the internet airfare quote should be attached for comparison to the mileage estimate.
- 20.9.8 **Taxi, Shuttle, or Vehicle Rental:** Employees are encouraged to use discretion prior to choosing a taxi or car rental. Shuttle, bus, taxi, or other public transportation should be used between airport, hotel, and conference or training site whenever available. Taxi service and vehicle rentals should only be used when no other convenient, less costly transportation is available or used at times when it would be faster or safer for the person travelling. Tips and gratuities associated with taxi or shuttle service should be included in the receipt.
- 20.9.9 **Parking Expenses:** Parking associated with travel, including parking at the airport hotel, and conference or training site with receipts being provided. If self-parking is offered, the cost of valet parking over and above what would normally be charged for self-parking, will be at the expense of the employee.
- 20.9.10 **Personal Entertainment and Alcohol Consumption:** No reimbursements will be made for personal entertainment, such as extra conference tour packages, in-room or pay-per-view movies or alcohol, including alcohol consumed with meals.
- 20.9.11 **Tips and Gratuities:** Reasonable expenses for tips and gratuities are allowed for hotel and transportation purposes, such as for bell captains, housecleaning services, etc.
- 20.10. **Post-travel Expense Report Processing and Receipts:** Within a reasonable period, but no more than at the first of the next calendar month following the dates of travel, expense reimbursement forms shall be completed and submitted.

- 20.10.1 **Receipts:** Receipts must be submitted for all expenses. All receipts pertaining to travel must accompany the Expense Report for payment/reimbursement, including registration, lodging, transportation (plane, train, bus, etc.), rental car, printed MapQuest estimate for mileage reimbursement, parking, gasoline receipts, and miscellaneous credit card receipts, meal receipts.
- 20.10.2 **Missing Receipts:** In the event that receipts are not available for all costs other than meals, an employee must provide a written explanation of the circumstances as to why this is the case and reason the expense was incurred to the employee's immediate supervisor.
- 20.10.3 **Combining VCTC Business With Personal Travel:** If an employee takes time away from official business for personal matters, or if an employee delays returning to work after completion of business, expenses incurred during that time are not reimbursable. If the extended period occurs during regularly scheduled working hours, the employee's leave time will be counted as vacation.

## **Article 21 Discipline**

- 21.1 **Disciplinary Action:** The executive director is vested with the discretion to take all necessary actions to discipline or discharge any employee, in accordance with state and federal law. The executive director shall notify the Commission of any significant disciplinary action that includes salary reduction, time off without pay, demotions, or dismissal taken under this section.
- 21.2 **Types of Discipline:** The executive director may invoke disciplinary action for a violation of a law, rule, regulation, policy, procedure, or practice and may impose disciplinary actions, such as: suspension without pay; reduction in pay; demotion; or termination of employment. Actions, such as an oral reprimand or written reprimand are considered predisciplinary. All written correspondence to an employee about performance, work habits, or any other work-related issue will be placed in the employee's personnel file.
- 21.3 **Written Notice:** The executive director will provide written notice to the employee of the intention to discipline for cause. The written notification will explain the incident, regulation, policy, or rule violation, and the proposed discipline. Such notice shall include a statement of the reason(s) for the proposed action and the ground(s) for the discipline being considered. In addition, VCTC will provide the employee the right to respond, either verbally or in writing, to the proposed discipline within five working days from the date of the notification. The employee shall have the right to have a representative present if the employee desires to respond verbally.
- 21.4 **Grounds for Disciplinary Action:** Causes for disciplinary action against any employee may include, but shall not be limited to, the following:
- Failing to report to work.
  - Failing to return from leave as expected.
  - Misstatements or omissions of fact in completion of the employment application or to secure appointment to a VCTC position.
  - Furnishing knowingly false information in the course of the employee's duties and responsibilities.
  - Inefficiency, incompetence, carelessness, or negligence in the performance of duties.
  - Violation of safety rules.
  - Violation of any of the provisions of these Policies and Procedures or other VCTC policies.
  - Inattention to duty.
  - Tardiness, overstaying lunch periods, or leaving the worksite early.
  - Being under the influence of an intoxicating beverage, illegal drugs, non-prescription drugs, or prescription drugs not authorized by the employee's physician, while on duty or on work property.
  - Disobedience to proper authority, refusal or failure to perform assigned work, to comply with a lawful order, or to accept a reasonable and proper assignment from an authorized supervisor.
  - Any violation of VCTC's harassment or retaliation policies.
  - Unauthorized soliciting on VCTC property.

- Unauthorized absence without leave; failure to report after leave of absence has expired or after a requested leave of absence has been disapproved, revoked, or canceled, or any other unauthorized absence from work.
  - Conviction of a felony, or a misdemeanor involving moral turpitude, or a violation of a federal, state, or local law which negatively impacts the employee's ability to perform his/her job or brings discredit to VCTC.
  - Discourteous or offensive treatment of the public or other employees.
  - Falsifying any VCTC document or record.
  - Misuse of VCTC property, improper or unauthorized use of equipment or supplies, damage to or negligence in the care and handling of VCTC property.
  - Fighting, assault, and/or battery in the workplace.
  - Working overtime without authorization.
  - Theft or sabotage of VCTC property.
  - Sleeping on the job, except as specifically authorized.
  - Accepting gifts, bribes, or kickbacks for performance of VCTC duties or for granting special favors.
  - Gambling in the workplace or by using VCTC equipment.
  - Engaging in outside employment which conflicts with an employee's responsibilities.
  - Intimidation of or interference with the rights of any employee.
  - Any other activity or conduct that creates a conflict of interest with VCTC's work, causes discredit to VCTC, negatively impacts the effective performance of VCTC's functions, or is not compatible with good public service or the interests of VCTC.
  - Abusive or intemperate language toward or in the presence of others in the workplace.
  - Failure to obtain and/or maintain minimum qualifications for a position, including licenses or certificates.
  - Any other conduct of equal gravity to the reasons enumerated above as determined by VCTC.
- 21.5 **Employee Review:** When requested, employees shall be given an opportunity to review the documents or materials upon which the proposed disciplinary action is taken.
- 21.6 **Relief of Duty:** The executive director may place an employee on administrative leave with pay pending an investigation in order to determine if disciplinary action is to be taken.
- 21.7 **Appeal Rights:** Employees have the right to file a petition for a writ of mandamus challenging any disciplinary action against him/her in the manner provided by law.
- 21.8 **Administrative Committee Appeals:** No appeals may be made of oral or written reprimands. Appeals of other disciplinary actions imposed by the executive director may be made in writing to the Administrative Committee within five working days from the date of the notification of imposition. The decision of the Administrative Committee is final and may not be further appealed to VCTC. The Administrative Committee is defined in the VCTC Administrative Code section I.3.a.1.

## **Article 22**

### **Complaint Procedure**

- 22.1 **Complaints:** This complaint procedure is intended to ensure that every reasonable effort will be made to resolve problems as near as possible to the point of origin.
- 22.2 **Complaint Definition:** Subject to the exclusions listed in this article, a complaint is defined as any dispute involving the interpretation, application, or alleged violation of a specific express term of these policies and procedures, or any dispute regarding imposed disciplinary action.
- 22.3 **Eligibility to File a Complaint:** Only employees who are adversely affected by VCTC's act or omission are eligible to file a complaint.
- 22.4 **Exclusions from the Complaint Procedure:** The following matters are excluded from the definition of a Complaint.
- Requests for changes in wages, hours, or working conditions.
  - The content of employee evaluations or performance reviews.
  - Challenges to reclassification, layoff, transfer, denial of reinstatement.
  - Challenges to examinations or appointment to positions.
  - Challenges to this complaint procedure.
- 22.5 **Procedure:** The complaint procedure shall consist of the following steps:
- Step 1 Informal Complaint:** Employees shall bring their informal grievances to the attention of their supervisor within five working days of the occurrence of the act causing the basis for the complaint.
- Step 2 Formal Complaint:** If the complaint is not resolved at this step within 15 working days of the date the complaint was raised with the immediate supervisor, the employee shall have the right to submit a formal written complaint to the employee's immediate supervisor. The formal written complaint shall be presented in writing within 15 working days after the date upon which the grieving employee informally discussed and failed to resolve the complaint with his/her immediate supervisor. Failure to do so will result in waiver of the right to pursue the complaint. The written complaint shall contain the following information:
- **Complainant's Name:** The name and signature of the complainant.
  - **Job Title:** The specific title of the complainant.
  - **Immediate Supervisor:** The name of the immediate supervisor and immediate supervisor of the complainant.
  - **Nature of Complaint:** A statement of the nature of the complaint, including date and place of occurrence.
  - **Violation:** The specific provision, policy, or procedure alleged to have been violated.
  - **Remedies:** The remedies sought by the complainant.
- Step 3 Response to Formal Complaint:** Within 15 working days of receipt of the written complaint, the immediate supervisor shall submit to the employee an answer in writing. If the complaint is not resolved at this level, the employee shall have five working days from receipt of the answer in which to file a written appeal to the executive director.



**Step 4 Executive Director Response:** The executive director shall respond to the complaint in writing within 15 working days of receipt. Within this period, at the executive director's discretion, an informal hearing involving the parties to the dispute may be conducted.

**Step 5 Appeals:** Appeals are sent in a sealed envelope marked confidential to the Administrative Committee Chairperson. Appeals of grievances upheld by the executive director must be made in writing to the Administrative Committee Chairperson within five working days of the receipt of the executive director's decision. The Administrative Committee shall respond to the complaint in writing within 15 working days of its receipt. The decision of the Administrative Committee is final and may not be further appealed. The Administrative Committee is defined in the VCTC administrative code.

22.6 **Representation:** The complainant is entitled to representation of his/her choice at any point in the complaint procedure. If the representative is a fellow employee, that employee shall receive time off from his/her work assignment for the time of the complaint meeting or hearing plus reasonable travel time. The complainant must inform the executive director whether he/she will be represented at any meeting regarding the complaint, along with the identity of the representative, at least 48 hours prior to the complaint meeting.

22.7 **Waiver of Complaint:** Failure by the complainant to appeal his/her complaint to the next step within the specified time limits of this article shall constitute a waiver of the right to pursue the complaint further, unless an extension of time to a definite date was granted by the appropriate VCTC employee. Failure by VCTC to respond to the complaint within any of the specified time lines shall entitle the complainant to appeal to the next level of review as defined within this policy. Additionally, failure on the part of an employee to appear for any scheduled meeting without reasonable notification may, in VCTC's discretion, result in VCTC's denial of the complaint.

22.8 **No Retaliation:** Employees shall not be penalized or retaliated against in any way for using the complaint procedures, or testifying as a witness in a complaint proceeding.

## **Appendix A**

### **Alcohol and Drug-free Workplace Policy for Safety-Sensitive Positions**

A.1 **Alcohol and Drug-free Workplace:** Pursuant to OMB Circular A-128, the Federal Drug Free Workplace Act of 1988, and the California Drug Abuse Free Workplace Act of 1990, VCTC shall provide a drug- and alcohol-free workplace. Employees and the public should expect a drug and alcohol free working environment and VCTC has an obligation to ensure that employees perform their duties safely and effectively. During work hours, no employee shall have in their possession any open containers of intoxicating beverages, be under the influence of alcohol, consume alcohol, or have in his/her possession any illegal drugs.

A.1.1 **Suspicion:** Upon reasonable suspicion of an employee being under the influence of illegal drugs or alcohol while on duty, VCTC may require the employee to submit to drug and alcohol testing, at VCTC's expense. Employees who decline to submit to such testing may be subject to discipline, up to and including termination of employment. If an employee is misusing alcohol or drugs, VCTC may refer the employee for treatment. This treatment may or may not be covered by VCTC's health plan or the treatment may be at the employee's own expense.

A.1.2 **Unlawful Behavior:** No employee shall unlawfully manufacture, distribute, dispense, possess, use, or be under the influence of any alcoholic beverage, drug, or controlled substance as defined in the Controlled Substances Act and Code of Federal Regulations during work hours or in any workplace.

A.1.3 **Inspections:** To fulfill its obligations to provide an alcohol and drug free workplace, to respond to alcohol or substance abuse complaints, and to investigate inappropriate behavior that may result from such abuse, the executive director may conduct inspections of VCTC property including, but not limited to the premises, employee desks and work areas, or electronic communication systems. Employees are expected to cooperate with such inspections. Violations of this policy or interference with or attempts to prevent implementation of this policy are subject to disciplinary action up to, and including, termination of employment.

A.2 **Alcohol and Drug Policy:**

A.2.1 **Policy Statement:** Ventura County Transportation Commission has a vital interest in providing its employees with safe and healthful working conditions and providing riders and the public with high quality public transportation that is effective, safe and efficient. VCTC will not tolerate any alcohol or drug use which may affect job performance or pose a hazard to the safety and welfare of the employee, the public, other VCTC employees.

Substance abuse has been found to be a contributing factor to absenteeism, substandard performance, increased potential for accidents, poor morale and impaired public relations. VCTC is therefore committed to maintaining a drug and alcohol- free environment to protect employees, passengers, and the public. Safety sensitive employees must be free of job impairing substance on duty when reporting for duty and subject to duty. With this objective in mind, VCTC

has established the following Policy with regard to the use, possession, sale, manufacture, distribution or dispensation of alcohol or drugs.

This policy complies with the Federal Transit Administration (FTA) regulations that mandate urine testing and breath alcohol testing for Safety Sensitive Employees and the U.S. Department of Transportation (DOT) standards for the collection and testing of urine and breath specimens. In addition, the DOT enacted The Drug-Free Workplace Act of 1998 (DFWA) which required the establishment of drug-free workplace policies and the reporting of certain drug related offences to the FTA. This policy incorporates those federal requirements.

- A.2.2 **Applicability:** This policy applies only as mandated by Federal Transit Administration (FTA) requirements. Accordingly, mandatory urine and breath alcohol testing program applies only to VCTC employees occupying safety sensitive positions such as bus drivers, dispatchers, bus driver supervisors, mechanics, mechanic supervisors and any other employee though course of employment required to hold a class B (formerly Class 2) driver's license. The policy also applies to volunteers required to hold a class B driver's license. The general drug and alcohol free workplace policies apply to all commission employees and volunteers when they are on VCTC property or when performing any VCTC business.

An employee violating this policy is subject to disciplinary action up to and including termination of employment.

- A.2.3 **Responsibilities:**

A.2.3.1 **Employees:** Employees at all levels are responsible for reading, understanding and adhering to this Policy. Each employee shall receive a copy of this policy.

A.2.3.2 **Managers and Supervisors:** will be held strictly accountable for the consistent application and enforcement of the policy. Any manager/supervisor who knowingly disregards the requirements of this Policy, or who is found to deliberately misuse the Policy in regard to subordinates, shall be subject to discipline up to and including termination of employment.

- A.2.4 **Definitions Used in the Policy:** The following phrases have specific meanings when used in this policy:

A.2.4.1 **Alcohol Misuse:** Occurs when an employee arrives at the work site with alcohol in his/her system or the odor of alcohol on his/her breath; consumes a beverage containing alcohol while on duty or subject to duty; or during coffee or lunch breaks; or is late to work or absent from work due to the consumption of alcohol.

A.2.4.2 **BAT:** Breath Alcohol Technician.

A.2.4.3 **Contract Service Provider:** A company or agency which provides mass transportation services under contract to VCTC.

A.2.4.4 **DHHS:** The United States Department of Health and Human Services.

A.2.4.5 **DOT:** The United States Department of Transportation

A.2.4.6 **Evidential Breath Testing (EBT) Device:** A device approved by the National Highway Traffic Safety Administration (NHTSA) for the

evidential testing of breath and placed on NHTSA's "Conforming Products List of Evidential Breath Measurements Devices."

- A.2.4.7 **FTA:** Federal Transit Administration.
- A.2.4.8 **Illegal Drug:** Any drug: (a) which is not legally obtainable; or (b) which is legally obtainable but has not been legally obtained or is not being used for its prescribed purposes.
- A.2.4.9 **Legal Drug:** Any drug prescribed by a physician for the employee or any over-the-counter drug which has been legally obtained which is being used for the purpose for which it has been prescribed of manufactured. A drug which is legally obtainable but has not been legally obtained or is not being used for its prescribed purposes is an illegal drug, not a legal drug, under this policy.
- A.2.4.10 **Medical Review Officer (MRO):** A licensed physician appointed by VCTC or contract service provider who has knowledge of substance abuse disorders and appropriate medical training to interpret and evaluate an employee's positive alcohol and/or drug test result and determine whether the employee has passed the test. The MRO will also determine (when such a determination is requested) whether an employee who is taking a legal drug(s) may work while under the influence of such drug(s). Although an employee may be terminated for any violation of this Policy, if an employee is suspended or placed on leave of absence, the MRO will determine when the employee may return to duty.
- A.2.4.11 **Positive Alcohol Test:** The presence of alcohol in a body at a concentration of 0.02 or greater as measured by an Evidential Breath Testing (EBT) Device.
- A.2.4.12 **Positive Drug Test:** Any urine that is chemically tested (screened and confirmed) which shows the presence of controlled substances and is verified by the MRO.
- A.2.4.13 **Safety Sensitive Position:** Any position which entails any duty related to the safe operation of VCTC's mass transportation service including: (a) operation of a revenue service vehicle, whether or not such vehicle is in revenue service; (b) controlling dispatch or movement of a revenue service or equipment used in revenue service; (c) maintaining revenue service vehicles or equipment used in a revenue service; (d) carrying a firearm for security purposes; or (e) supervising an employee who performs a function in (a) through (d) above. No VCTC position is classified as safety sensitive.
- A.2.4.14 **Substance Abuse Professional (SAP):** Unless otherwise noted, a VCTC authorized licensed physician or a licensed or certified psychologist, social worker, employee assistance professional, or a certified addiction counselor, with knowledge of and clinical experience in the diagnosis and treatment of alcohol and drug related disorders.
- A.2.4.15 **Under the Influence:** The use of any alcohol beverage or any illegal drug or substance, or the misuse of any prescribed drug, in any manner and to a degree that impairs the employee's work performance or ability to use VCTC property or equipment safely.
- A.2.4.16 **Drug-free Awareness Program:** To assist employees to understand

and to avoid the perils of alcohol and drug abuse, VCTC shall have an on-going educational effort to help prevent and eliminate alcohol and drug abuse that may affect the workplace. The Drug-free Awareness program includes the display and distribution of informational material and informs employees about: (1) the dangers of alcohol and drug abuse in the workplace; (2) the consequences of alcohol and/or drug use on personal health safety and the work environment; (3) the manifestation and behavioral cues that may indicate alcohol and/or drug abuse; (4) VCTC's Alcohol and Drug Policy; (5) the availability of treatment and counseling and (6) possible sanctions for violating the Policy.

**A.2.5 On-the-job Use, Possession, Sale, or Being Under the Influence of Alcohol or Drugs:**

**A.2.5.1 Alcohol:** The possession, consumption, or sale of any amount of alcoholic beverage while at work or on VCTC property is prohibited for all employees. Additionally, alcohol in an employee in a Safety Sensitive Position is prohibited at any time while she or he is on duty. Employees must refrain from alcohol consumption within four hours prior to reporting to work or during the hours that she or he is subject to duty. They must also refrain from alcohol use for eight hours following an accident. Alcohol in an employee not in a Safety Sensitive Position while performing VCTC business or while on VCTC property is prohibited to the extent that such alcohol may have a material, adverse effect on the safety of that employee's co-workers, riders, or members of the general public, the employee's job performance, the safe, efficient operation of VCTC's facilities or VCTC image.

**A.2.5.2 Legal Drugs:** The use or being under the influence of a legal drug by any employee, while performing VCTC business or while on VCTC property, is prohibited to the extent that such use or influence may have a material, adverse effect on the safety of the employee, coworkers, riders, or members of the public, the employee's job performance, the safe and efficient operation of VCTC facilities, or VCTC image.

Additionally, an employee in a Safety Position must receive authorization from his/her supervisor prior to taking any legal drug which may cause drowsiness or which may otherwise impair to any extent the employee's ability to safely and efficiently perform his/her job. To obtain such authorization, an employee in a Safety Sensitive Position is required to: (1) have her/his doctor complete and sign Attachment A, Medical Authorization Regarding Prescription and Over-the-Counter Drugs, (2) attach a copy of the prescription or bottle label with the employee's name on it, and (3) submit the form to her/his supervisor.

The supervisor may authorize the employee to work while under the influence of a legal drug upon receipt of a fully completed and signed authorization form which states to the executive director's satisfaction that the employee will not be impaired in the performance of her or his

duties. However, VCTC retains the right to not authorize an employee to take a legal drug while on duty or to revoke any previous authorization, despite the submission of a completed authorization form, if VCTC's MRO so advises. VCTC in its discretion, may request the MRO to issue an independent decision as to whether an employee in a Safety Sensitive Position may work while under the influence of a legal drug. VCTC may request such an independent decision, which will be binding on the employee, at any time and to any employee in a Safety Sensitive Position who is working or intends to work while under the influence of a legal drug. In making such an independent determination, the MRO is not bound in any way by the opinion of the employee's personal doctor and may require the employee to submit to a physical examination by a VCTC or Contract Service Provider-selected physician to ensure that the drug does not impair job performance.

If the MRO determines that an employee in a Safety Sensitive Position should not work while under the influence of the legal drug, or if the employee fails to obtain authorization to take such drug from her or his supervisor in accordance with these provisions, the employee may be required to take a leave of absence or comply with other appropriate action determined by management and will be subject to discipline.

**A.2.5.3 Illegal Drugs:** The use, sale, purchase, offer to sell or purchase, transfer, possession, manufacture, distribution, or dispensation of an illegal drug by an employee while in a VCTC facility or on VCTC property or while performing VCTC business or performing contracted service for VCTC is strictly prohibited. The use and ingestion of illegal drugs or metabolites is prohibited at all times, whether on or off duty.

No employee shall bring drug paraphernalia which is used in the storage, concealment, injection, ingestion or consumption of illegal drugs onto VCTC premises or property.

**A.2.6 Alcohol and Drug Testing:** At its discretion, VCTC may conduct alcohol and drug testing when circumstances warrant or may be required by applicable law or regulations. Accordingly, a positive alcohol or drug test administered under this Policy is a violation of this Policy and will result in disciplinary action including termination.

Tests for alcohol concentration will be conducted utilizing a National Highway Traffic Safety Administration (NHTSA)-approved Evidential Breath Testing (EBT) device operated by a qualified Breath Alcohol Technician (BAT). If the initial test indicates an alcohol concentration of 0.02 or greater, a second test will be performed to confirm the results of the initial test. A confirmed alcohol concentration of 0.02 or greater will be considered a positive test and a violation of this policy. The testing procedure is described in Attachment D.

Drug testing is a two-stage process utilizing a urine specimen. First a screening test using an immunoassay technique is performed. If it is positive for one or more drugs, a confirmation test is performed for each identified drug using

state-of-the-art gas chromatography/ mass spectrometry (GC/MS) analysis. The testing procedure is described in Attachment D.

Pursuant to the DOT and FTA regulations, the drugs or classes of drugs to be tested are as follows:

Amphetamines/methamphetamine  
Cocaine  
Marijuana  
Opiates (Morphine, Codeine, Heroin)  
Phencyclidine (PCP)

Any employee who refuses to comply with a request for testing, who provides false information in connection with a test, or who attempts to falsify test results through tampering, contamination, adulteration, or substitution shall be subject to discharge proceedings. Any employee who is unable to provide the required volume of breath without a valid, verified medical reason, who does not report to the collection site in the time allotted, or leaves the scene or an accident without valid reason before tests have been conducted, will be considered to have refused the test and will be in violation of this Policy.

The privacy of the employees shall be protected at all times. VCTC will adhere to all standards of confidentiality regarding employee testing.

**A.2.6.1 Pre-employment and Transfer to a Safety-Sensitive Position**

**Testing:** At its discretion, VCTC may conduct pre-employment physical examinations and testing practices designed to prevent hiring persons who use illegal drugs and/or persons whose use of alcohol or legal drugs indicates a potential for impaired or unsafe job performance. An individual will not be hired unless the individual passes an alcohol and drug test administered in accordance with this Policy. If an applicant does not pass an alcohol and drug test, he or she must wait twelve (12) months before reapplying and then must present evidence of completion of an alcohol and/or drug rehabilitation program which is acceptable to VCTC before she or he is eligible to apply.

An employee who is transferred to a Safety Sensitive Position must first pass an alcohol and drug test administered in accordance with this Policy. The actions specified in section XI.B will apply if the test results are positive for alcohol or an illegal drug.

**A.2.6.2 Testing at Time of DMV Recertification or Annual or Biannual Physical Examination For a Safety Sensitive Position:**

VCTC will require an alcohol and drug test as part of an employee's DMV Recertification examination or, for any employee who is not required to be DMV certified, at her or his annual biannual physical examination as applicable.

**A.2.6.3 Reasonable Suspicion Testing:** VCTC will require an alcohol and drug test of any employee who is reasonably suspected of violating this Policy, including but not limited to, any employee suspected of

possessing, using or being under the influence of an illegal drug, a legal drug if such use would violate this Policy, or alcohol while on duty or on VCTC property. Examples of reasonable suspicion include, but are not limited to the following:

- Physical signs and symptoms consistent with prohibited substance abuse, or misuse of alcohol, e.g., odor of alcohol, slurred speech, or lack of coordination.
- Evidence of the manufacture, distribution, dispensing, possession, or use of controlled substances, drugs, alcohol, or other prohibited substances.
- Occurrence of a serious or potentially serious industrial accident that may have been caused by the employee's use of alcohol or drugs.
- Fights (to mean physical contact), assaults, and flagrant disregard or violation of established safety, security, or other operating procedures.

A.2.6.4 **Post-accident Testing:** An employee who either contributed to, or cannot be completely discounted as a contributing factor to, an accident involving a VCTC contracted vehicle or VCTC revenue service vehicle whether or not on VCTC business, may be administered an alcohol and drug test at the discretion of VCTC. And will be tested if the following occurs:

- Resulted in death or physical injury requiring treatment by a medical treatment facility.
- Resulted in property damage, will be required to take an alcohol and drug test.

A decision will be made as to whether to administer an alcohol and drug test after an accident by a supervisor who was not involved in the accident, and based on the best information available at the time. Following an accident, the employee(s) shall be tested immediately, but not to exceed eight hours for alcohol testing and 32 hours for drug testing. Any employee(s) who leaves the scene of the accident without prior authorization will be considered to have refused the test and could be subject to termination.

A.2.6.5 **Return-to-Duty/Follow-up Testing:** Generally, an employee may be terminated for any violation of this Policy. However, in the event an employee is suspended or placed on a leave of absence for a violation of this Policy, she or he may not return to work until she or he passes an alcohol and drug test and the SAP has evaluated the employee to determine whether the employee has followed the recommendation of the SAP including participation in a rehabilitation program.

An employee who is placed on a leave of absence following her or his entry into the EAP for substance abuse problems must pass an alcohol and drug test and must execute the Behavioral Contract (Attachment B) before she or he may return to duty. This contract allows Management the option to administer unannounced alcohol and/or drug tests to the



employee for up to five years after the employee returns to duty. Follow-up testing is separate from and in addition to the regular random testing of safety-sensitive employees.

A.2.6.6 **Random Testing:** Only those employees who perform or whose job description includes the performance of safety-sensitive functions will be subject to random, unannounced testing using a computer-based random-number selection method in accordance with FTA regulations. Random testing may include an alcohol test, a drug screen or both. Each such employee shall have an equal chance at selection and shall remain in the pool even after being tested. Random Testing will be administered at random times during the day to avoid predictability.

A.2.6.7 **Employee Requested:** After notification by the MRO or the Manager/Supervisor of a confirmed or verified positive drug test result, an employee may request that an additional test be conducted at a different DHSS-certified laboratory specified by VCTC. The test shall be conducted on the split sample that was provided at the same time as the original or primary sample. The employee's request must be made to the MRO or manager/supervisor within 72 hours of notice of the initial results.

All costs for the employee-requested testing, including the transportation of the split specimen to the secondary laboratory, shall be paid by the employee. The second test will be a test only for the presence of the prohibited substance(s) in the specimen.

A.2.7 **Off-the-Job Involvement with Alcohol or Drugs:** Off-the-job use of alcohol or illegal drugs which results in an employee being under the influence of alcohol or drugs while on duty is considered "on-the-job" use of alcohol or drugs and will be treated accordingly.

A.2.8 **Conviction of a Drug-related Offense:** Conviction of a felony for use, offer to sell, purchase or obtain, possession, sale, manufacture, distribution, or dispensation, of illegal drugs, or for abuse of legal drugs in the workplace, shall be grounds for imposing discipline, including termination of employment. Conviction of a misdemeanor for use, offer to sell, purchase or obtain, possession, sale, manufacture, distribution or dispensation of illegal drugs may also be grounds for disciplinary action up to and including termination of employment.

Employees must notify their immediate supervisor within five working days of any arrest or conviction of a criminal drug statute (whether a felony or a misdemeanor) and any arrest or conviction of a criminal statute relating to alcohol, including but not limited to driving under the influence. Failure to do so is grounds for disciplinary action.

A.2.9 **Inspections:** When there is reason to believe that an employee or group of employees may be in possession of alcohol or illegal drugs on VCTC property, the employee(s) is (are) required, as a condition of employment, to submit to reasonable inspections of clothing, personal containers, purses, lunch boxes, briefcases or other containers (while on VCTC property). As a condition of

employment, refusal to consent to an inspection upon appropriate request by a VCTC will result in termination of employment.

An inspection must be authorized by the executive director or a High-level Contract Service Provider manager/director.

**A.2.10 Disciplinary Actions for Violation of the Policy:** In general, violation of any portion of this Policy may result in termination of employment.

**A.2.10.1 Failure to Pass Pre-Employment Alcohol and/or Drug Test:**  
An applicant whose test results are positive for alcohol or illegal drug will not be hired.

**A.2.10.2 Failure to Pass Transfer, Reasonable Suspicion, Post Accident, Return-to-Duty, or Random Alcohol and/or Drug Test:**

- **FTA Requirements:** A safety-sensitive employee who has a positive alcohol or drug test shall be immediately removed from duty. Furthermore, a safety-sensitive employee who has a verified positive drug test or an alcohol concentration of greater than .04 shall be referred to a SAP for evaluation and informed of available educational and rehabilitation programs.
- **VCTC Requirements:** Employees transferring into a Safety Sensitive Position who fail an alcohol/drug test shall not be allowed to transfer into that position and will be referred to a SAP for evaluation and informed of available educational and rehabilitation programs. An employee in a Safety Sensitive Position whose test results are positive for alcohol or illegal drugs will be discharged. Positive alcohol and drug test results for any employees not in a Safety Sensitive Position will be reviewed on a case-by-case basis to determine the appropriate level of discipline, which may include discharge. Any employee in a Safety Sensitive Position whose test results are positive for a legal drug which has not been approved by VCTC for use by that employee at work (or such authorization has been revoked) may be suspended without pay pending the employee obtaining such approval. It is mandatory for an employee in a Safety Sensitive Position to obtain approval by submitting a completed medical authorization form (Attachment A) to her or his supervisor within 48 hours. Upon receiving VCTC's approval, the employee may return to duty, but will be subject to further discipline including termination if he or she commits any further violation of this Policy. Additionally, discipline will be applied for failure to submit the Attachment A form. If the employee fails to timely obtain such approval, he or she can be terminated.

**A.2.10.3 Failure to Pass Drug or Alcohol Test at Time of DMV Recertification or Annual or Biannual Physical Examination:**

- **FTA Requirements:** A safety-sensitive employee who has a positive alcohol or drug test shall be immediately removed from

duty. Furthermore, a safety-sensitive employee who has a verified positive drug test or an alcohol concentration of greater than .04 shall be referred to a SAP for evaluation and informed of available educational and rehabilitation programs.

- **VCTC Requirements:** If an employee's test results at the time of DMV Recertification or an annual or biannual physical examination are positive for alcohol or any illegal drugs, the employee will be suspended without pay and required to enter into an Alcohol and Drug Behavioral Contract (Attachment B). Pursuant to such contract, the employee must enter a VCTC approved substance abuse treatment program and provide verification of such to VCTC. If the employee refuses to comply with VCTC's requirement to enter a VCTC approved Substance Abuse Program and sign a Behavioral Contract, her or his employment will be terminated.

If an employee is participating in a VCTC approved treatment program, and that treatment requires hospitalization, the employee may use available sick leave and/or vacation time to the extent sick leave and/or vacation time is available. All such treatment must be documented by the hospital.

The employee must take a follow-up alcohol and drug test when, designated by VCTC, not sooner than 30 days and no longer than 35 days from the date of the first test. If the employee does not take the second test when and as designated by VCTC his or her employment will be terminated.

If the second test is positive for any alcohol or illegal drug, the employee's employment will be terminated. If the second test is negative, then the employee may return to duty on behavioral Contract. Violation of the contract will result in termination.

Should the employee have a positive alcohol or drug test at any subsequent DMV Recertification or annual or biannual physical examination, his or her employment will be terminated.

If an employee's test results at the time of DMV Recertification or annual or biannual physical examination are positive for an illegal drug, the action taken by VCTC or Contract Service Provider is as previously described.

A.3 **Condition of Employment:** Compliance with VCTC's Alcohol and Drug Policy is a condition of employment for all employees as described above. Failure or refusal of an employee to cooperate fully or follow any prescribed course of substance abuse treatment could lead to termination of employment.

A.4 **Reservation of Rights:** VCTC reserves the right to interpret, change or rescind this Policy in whole or part without notice. Nothing contained in this Policy alters an employee's status which, for any employee not covered by a collective bargaining agreement or other written employment contract, is at-will. At-will employment

means that the employee remains free to resign his or her employment at any time and for any or no reason and VCTC retains the right to terminate the employee at any time, for any reason, without notice as applicable.

**Appendix A**  
**ATTACHMENT A**  
**MEDICAL AUTHORIZATION REGARDING**  
**PRESCRIPTION AND OVER-THE-COUNTER DRUGS**

I, \_\_\_\_\_ (physician's name) am aware of the job duties of  
\_\_\_\_\_ (employee's name) at Ventura County Transportation Commission.

I have supplied for such employee the medication below on: \_\_\_\_\_

Dosage: \_\_\_\_\_ Duration to be Taken: \_\_\_\_\_

Instructions for use: \_\_\_\_\_

Condition Medication is being used to Treat: \_\_\_\_\_

It is my opinion that, if taken in accordance with the above directions, the medication should not materially impair the employee's ability to perform his/her job competently and safely.

Physician's Signature: \_\_\_\_\_

Physicians Name (Printed) \_\_\_\_\_

Physician's Telephone Number: \_\_\_\_\_ Date: \_\_\_\_\_

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**TO BE COMPLETED BY EMPLOYEE:**

I HEREBY AUTHORIZE VENTURA COUNTY TRANSPORTATION COMMISSION TO OBTAIN INFORMATION FROM MY PHYSICIAN ABOUT THIS AUTHORIZATION. I UNDERSTAND THAT IT IS MY OBLIGATION TO INFORM VENTURA COUNTY TRANSPORTATION COMMISSION OF ANY MEDICATION I INTEND TO TAKE FOR REVIEW AND DETERMINATION OF MY ELIGIBILITY FOR WORK.

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

Employee's Name Printed: \_\_\_\_\_

Date: \_\_\_\_\_

EMPLOYEE MUST ATTACH A COPY OF PRESCRIPTION INSTRUCTIONS OR PRESCRIPTION LABEL AT THE TIME THIS FORM IS FILED WITH THE SUPERVISOR.

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**HUMAN RESOURCES**

- Reviewed for multiple medications
- Date Received \_\_\_\_\_
- Time Received \_\_\_\_\_
- Approved
- Not Approved
- Initials \_\_\_\_\_

**Appendix A**  
**ATTACHMENT B**  
**VENTURA COUNTY TRANSPORTATION COMMISSION**  
**ALCOHOL AND DRUG BEHAVIORAL CONTRACT**

I understand that I will be allowed to continue my employment with Ventura County Transportation Commission if I will participate in and submit continuing documentation on a monthly basis of my participation in a VCTC approved substance abuse treatment program. Additionally, upon successful completion of said program, I will provide the necessary documentation of such.

I agree not to use illegal drugs, including marijuana, or alcohol.

I understand that in order to return to my employment, I must submit to additional alcohol/drug test(s) and that such test(s) demonstrate there is no trace of alcohol or a drug or metabolite of any drug in my system.

I also understand that during the 60 months following my return to work I may be tested without prior notice and if there is any trace of drug or metabolites and/or alcohol in my system, my employment with Ventura County Transportation Commission will be terminated. I also understand that refusal to submit to such a test will result in the termination of my employment.

I understand and agree to all the above conditions. I also understand and agree that failure to meet all terms and conditions of this commitment will result in the termination of my employment, with no Hearing Before Discharge and no right of appeal through the complaint procedure.

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Employee (signature) Date

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Supervisor (signature) Date

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Department Director (signature) Date

## **Appendix A ATTACHMENT C ALCOHOL FACT SHEET**

Alcohol is a socially acceptable drug that has been consumed throughout the world for centuries. It is considered a recreational beverage when consumed in moderation for enjoyment and relaxation during social gatherings. However, when consumed primarily for its physical and mood-altering effects, it is a substance of abuse. As a depressant, it slows down physical responses and progressively impairs mental functions.

### Signs and Symptoms of Use

- Dulled mental processes
- Lack of coordination
- Possible constricted pupils
- Sleepy or stuporous condition
- Slowed reaction rate
- Slurred speech

Health Effects: The chronic consumption of alcohol (average of three 12-oz. servings of beer per day, 1 ounce of whiskey, or six ounces of wine) over time may result in the following health hazards:

- Decreased sexual functioning
- Dependency (up to 10 percent of all people who drink alcohol become physically and/or mentally dependent on alcohol and can be termed “alcoholic”)
- Fatal liver diseases
- Increased cancers of the mouth, tongue, pharynx, esophagus, rectum, breast, and malignant melanoma
- Kidney disease
- Pancreatitis
- Spontaneous abortion and neonatal mortality
- Ulcers
- Birth defects (up to 54 percent of all birth defects are alcohol-related)

### Social Issues

- Two-thirds of all homicides are committed by people who drink prior to the crime.
- Two to three percent of the driving population is legally drunk at any one time. This rate is doubled at night and on weekends.
- Two-thirds of all Americans will be involved in an alcohol-related vehicle accident during their lifetimes.
- The rate of separation and divorce in families with alcohol dependency problem is 7 times the average.
- Forty percent of family court cases are alcohol problem related.
- Alcoholics are 15 times more likely to commit suicide than are other segments of the population.
- More than 60 percent of burns, 40 percent of falls, 69 percent of boating accidents, and 76 percent of private aircraft accidents are alcohol-related.

### The Annual Toll

- 24,000 people will die on the highway due to the legally impaired driver.
- 12,000 more will die on the highway due to the alcohol-affected driver.
- 15,800 will die in non-highway accidents.
- 30,000 will die due to alcohol-caused liver disease.
- 10,000 will die due to alcohol-induced brain disease or suicide.
- Up to another 125,000 will die due to alcohol-related condition or accidents.

### Workplace Issues

- It takes one hour for the average person (150 pounds) to process one serving of an alcoholic beverage from the body.
- Impairment in coordination and judgment can be objectively measured with as little as two drinks in the body.
- A person who is legally intoxicated is 6 times more likely to have an accident than a sober person.

**Appendix A**  
**ATTACHMENT D**  
**ALCOHOL AND CONTROLLED SUBSTANCES**  
**TESTING PROCEDURES AND POLICIES**

**INTRODUCTION:**

The Ventura County Transportation Commission (VCTC) shall implement and enforce the procedures for transportation workplace testing as set forth in 49 CFR Part 40. These procedures include but are not limited to the following information. In all cases, the requirements of 49 CFR Part 40 shall be followed.

**CONTROLLED SUBSTANCES TESTING:**

**Applicable Drugs:**

1. Employees subject to controlled substances testing shall be tested for the following substances:
  - Marijuana
  - Cocaine
  - Opiates
  - Amphetamines
  - Phencyclidine (PCP)
2. Although the specimen will not be analyzed specifically for adulterants, the lab may conduct adulteration checks (PH, specific gravity or creatinine). The test may be canceled if adulterants are detected. The lab is permitted to check for adulterants as per Federal Department of Transportation (DOT) guidelines.

**Specimen Collection Procedures:**

1. The collection shall take place in a secure location to prevent unauthorized access during the collection process.
2. The specimen shall be kept in sight of the employee and the collection site person until it is sealed and ready for shipment.
3. Employees shall have individual privacy when providing a specimen except when:
  - a. The employee presents a specimen that is outside the accepted temperature range and he/she refuses to have an oral body temperature measurement, or the body temperature measurement varies more than 1° C or 1.8° from the specimen temperature.
  - b. The collector observes the employee attempting to adulterate or substitute the specimen.
  - c. The employee's last provided specimen was determined to be diluted.
  - d. The employee has previously had a verified positive test.In a. and b. above, the employee must provide a specimen under direct observation. In c. and d. above, the employer may require a direct observation collection.
4. The following specific procedures will be followed during the collection process:
  - a. The employee must submit identification to the collector. The collection shall not proceed until a positive identification is made.
  - b. The employee will not be required to undress, or to change into an examination gown. Only outer garments should be removed, i.e., jackets, etc.



- c. The donor shall be required to wash his/her hands prior to urination and shall not have access to any water sources until the specimen has been collected.
  - d. A bluing agent shall be added to the toilet bowl and the donor may flush the toilet only after releasing the specimen to the collector.
  - e. The specimen must be at least 45 ml to be acceptable.
  - f. The collector must measure the specimen temperature within four minutes of urination to determine sample acceptability.
5. If the donor cannot provide a sufficient volume of urine, he/she shall remain at the collection site and be provided not more than twenty-four ounces of fluids to drink. The donor shall have a period of up to two hours to produce an acceptable sample. If the donor is unable to produce a sample without a valid medical reason VCTC may consider the circumstances to be a refusal to test.
  6. The specimen shall be divided into two parts. The collector shall pour 30 ml of urine from the specimen bottle into a second specimen bottle, to be used as the primary specimen. The remainder of the urine, at least 15 ml, shall be poured into another container to be used as the split sample.
  7. Both samples shall be shipped in a single shipping container with the appropriate chain of custody forms.
  8. The collector and donor must be present together to complete the following process.
    - a. Seal and label the specimen bottle.
    - b. Donor initials the bottle label or seal.
    - c. The chain of custody forms must be signed and dated.
  9. If an employee refuses to cooperate with the collection process the collector shall notify the employer representative and note the non-cooperation on the custody and control form.

### **Split Sample**

- If the test result of the primary specimen is positive, the employee may request that the MRO direct that the split specimen be analyzed.
- The split sample analysis will be conducted by a DHHS-certified laboratory who will analyze the sample for presence of the drug(s) for which a positive result was obtained in the primary sample.
- If the result of the test of the split sample fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test and report the cancellation to VCTC.
- After the MRO notifies the employee of a positive result for the presence of a drug(s) in the primary sample, the employee has up to seventy-two hours to request analysis of the split sample.

**Special VCTC Provision:** All costs associated with the analysis of the split sample shall be the responsibility of the employee.

**“Dilute Negative Drug Tests (49 CFR 40.197):** If contractor is informed that a negative drug test is dilute, the following guidelines apply:

- A retest is required for all random, post-accident, reasonable suspicion, return to duty and follow up testing. The second test will become the test of record.
- If the second test is reported as negative and dilute, it will be treated as a negative test.
- If an employee declines to take a retest, it will be considered a refusal to test.

## **ALCOHOL TESTING**

### **Testing Procedures**

- The test shall take place in a secure location that affords visual and aural privacy to prevent unauthorized persons from seeing or hearing test results.
- When an employee enters the testing location, the BAT will require him/her to provide positive identification. The test shall not proceed until positive identification of the employee is made.
- An individually sealed mouthpiece shall be opened in view of the employee and then attached to the testing unit.
- The employee shall be required to blow forcefully into the mouthpiece for at least six seconds or until an adequate amount of breath has been obtained.
- The employee shall be shown the result both on the testing unit and the recording form. The employee shall verify both results are the same. If a result printed by the testing unit does not match the displayed result, the BAT shall declare the test invalid.
- If the result of the screening test is less than 0.02 breath alcohol concentration, no other testing will be conducted.
- If the result of the screening test reflects an alcohol concentration of 0.02 or greater, a confirmation test shall be performed.
- Prior to conducting the confirmation test the employee may not eat, drink, or place anything in his/her mouth. If possible, the employee should not belch during the waiting period. The confirmation test shall be conducted no less than fifteen minutes and no more than twenty minutes from the screening test. The fifteen minutes waiting period is provided for the employee's benefit. This time period allows for the dissipation of any mouth alcohol, thereby helping to prevent an artificially high reading.
- In the event the screening and the confirmation test results do not match, the confirmation results will be considered the final results.
- If the employee refuses to sign the breath alcohol testing form or fails to provide an adequate amount of breath without a valid medical reason, VCTC may determine the circumstance to be a refusal to test.

### **Inability to Provide Adequate Breath:**

- If the employee fails to provide an adequate amount of breath he/she shall provide VCTC with an evaluation from a licensed physician, who is acceptable to VCTC, concerning the employee's medical ability to provide adequate breath.
- If the physician determines there is a valid medical reason precluding the employee from providing adequate breath then the employee's failure shall not be deemed a refusal to test.
- If the physician is unable to determine a valid medical reason, the employee's failure to provide adequate breath shall be considered a refusal to test.

For any questions, concerns, or comments regarding this drug policy, contact Peter De Haan at (805)642-1591, ext. 106.

**Appendix A**  
**ATTACHMENT E**  
**SAFETY-SENSITIVE POSITIONS**  
**VCTC CONTRACTED SERVICE PROVIDERS**

The following VCTC Contracted Service Provider positions are considered “safety-sensitive” and are, therefore, subject to the VCTC Drug & Alcohol Policy:

Operate Revenue Vehicles:

- Bus Operator Part Time
- Bus Operator Full Time
- Bus Operator Trainee Part time
- Bus Operator Trainee Full time
- Mechanic

Maintain Revenue Vehicles:

- Mechanic Trainee
- Maintenance Assistant

Dispatch Revenue Vehicles:

- Bus Operations Supervisor
- Bus Operations Dispatcher