

**LOCAL AGENCY FORMATION COMMISSION OF
ORANGE COUNTY**

REGULAR MEETING AGENDA

**Wednesday, March 13, 2024
8:15 a.m.**

**County Administrative North (CAN)
First Floor Multipurpose Room 101
400 W. Civic Center Drive, Santa Ana, CA 92701**

Any member of the public may request to speak on any agenda item at the time the Commission is considering the item.

1. CALL THE MEETING TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

4. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION

(Communications received after agenda distribution for agenda items.)

5. PUBLIC COMMENT

This is an opportunity for members of the public to address the Commission on items not on the agenda, provided that the subject matter is within the jurisdiction of the Commission and that no action may be taken by the Commission on off-agenda items unless authorized by law.

6. CONSENT CALENDAR

a.) February 14, 2024 – Regular Commission Meeting and Study Session Minutes

The Commission will consider approval of the February 14, 2024 meeting and session minutes.

7. PUBLIC HEARING

a.) Fiscal Year 2024-25 OC LAFCO Proposed Budget and Fee Schedule

The Commission will consider adoption of the Proposed FY 2024-25 OC LAFCO Budget and resolution approving the agency's fee schedule.

8. COMMISSION DISCUSSION AND ACTION

a.) Legislative Report (March 2024)

The Commission will receive an update and consider adopting positions on proposed legislation of LAFCO interest.

b.) Processing Incorporation Applications and Implementing Revenue Neutrality Provisions Policy

The Commission will consider proposed amendments to the policy and procedural guidelines for processing incorporation applications.

c.) Personnel Policies and Procedures

The Commission will consider proposed amendments to the Personnel Policies and Procedures.

d.) California Public Records Act and Records Retention and Destruction Policies

The Commission will consider proposed amendments to the policies and procedural guidelines involving the accessibility, retention, and destruction of the agency's records.

9. COMMISSIONER COMMENTS

This is an opportunity for Commissioners to comment on issues not listed on the agenda, provided that the subject matter is within the jurisdiction of the Commission. No discussion or action may occur or be taken except to place the item on a future agenda if approved by the Commission majority.

10. EXECUTIVE OFFICER'S REPORT

Executive Officer's announcement of upcoming events and brief report on activities of the Executive Officer since the last meeting.

a.) LAFCO and Water Systems Consolidation

The Executive Officer will provide highlights of a report prepared by the University of California Berkeley, Division of Agriculture and Natural Resources.

11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

No informational items and announcements.

12. CLOSED SESSION

No closed session items scheduled.

13. ADJOURNMENT OF REGULAR COMMISSION MEETING

The next Regular Commission Meeting will be held on Wednesday, April 10, 2024 at 8:15 a.m. at the County Administrative North (CAN), First Floor Multipurpose Room 101, 400 W. Civic Center Drive, Santa Ana, CA 92701.

PUBLIC PARTICIPATION:

The Local Agency Formation Commission of Orange County welcomes your participation. The public may share general comments or comments on agenda items through the following options:

- 1) **In-person** comments may be provided during the general comment period on off-agenda items and during the hearing of a specific agenda item. In accordance with the OC LAFCO guidelines, each speaker's comments may not exceed three (3) minutes for the respective item. If you have documents for the Commission, please bring 15 copies and submit to the Commission Clerk for distribution.
- 2) **Written** general comments or comments on specific agenda items may be submitted by email to the Commission Clerk at ccarter-benjamin@oclafco.org. Comments received no less than twenty-four (24) hours prior to the regular meeting will be distributed to the Commission and included in the record.

Pursuant to Government Code Section 54957.5, public records that relate to open session agenda items that are distributed to a majority of the Commission less than seventy-two (72) hours prior to the meeting will be made available to the public on the OC LAFCO website at www.oclafco.org.

State law requires that a participant in an OC LAFCO proceeding who has a financial interest in a decision and who has made a campaign contribution of more than \$250 to any commissioner in the past year must disclose the contribution. If you are affected, please notify the Commission's staff before the hearing.

AMERICANS WITH DISABILITIES ACT (ADA)

All regular meeting agendas and associated reports are available at www.oclafco.org. Any person with a disability under the Americans with Disabilities Act (ADA) may receive a copy of the agenda or associated reports upon request. Any person with a disability covered under the ADA may also request a disability-related modification or accommodation, including auxiliary aids or services, to participate in a public meeting. Requests for copies of meeting documents and accommodations shall be made with OC LAFCO staff at (714) 640-5100 at least three business days prior to the respective meeting.

2024 MEETING AND EVENTS CALENDAR

Approved November 8, 2023

2024



January						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

April						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

July						
S	M	T	W	T	F	S
	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31			

October						
S	M	T	W	T	F	S
		1	2	3	4	5
6	7	8	9	10	11	12
13	14	15	16	17	18	19
20	21	22	23	24	25	26
27	28	29	30	31		

February						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29		

May						
S	M	T	W	T	F	S
			1	2	3	4
5	6	7	8	9	10	11
12	13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

August						
S	M	T	W	T	F	S
				1	2	3
4	5	6	7	8	9	10
11	12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

November						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

March						
S	M	T	W	T	F	S
					1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30
31						

June						
S	M	T	W	T	F	S
						1
2	3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

September						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30					

December						
S	M	T	W	T	F	S
1	2	3	4	5	6	7
8	9	10	11	12	13	14
15	16	17	18	19	20	21
22	23	24	25	26	27	28
29	30	31				

- OC LAFCO Regular Meeting (*begins at 8:15 a.m.*)
Location: County Administrative North, First Floor Multipurpose Room 101, 400 W. Civic Center Dr., Santa Ana, CA 92701.
- Office closure due to legal holidays and flexible work schedule.
- CALAFCO Annual Conference - October 16 - 18, 2024 at Tenaya Lodge at Yosemite.

DRAFT MINUTES

OC LAFCO REGULAR MEETING AND STUDY SESSION

Wednesday, February 14, 2024
8:15 a.m.

County Administrative North (CAN)
First Floor Multipurpose Room 101
400 W. Civic Center Drive, Santa Ana, CA 92701

1. CALL TO ORDER

Chair Wagner called the meeting of the Local Agency Formation Commission of Orange County (OC LAFCO) to order at 8:15 a.m.

2. PLEDGE OF ALLEGIANCE

Commissioner Moore led the Pledge of Allegiance.

3. ROLL CALL

The following Commissioners were present:

City Members

Wendy Bucknum (**Vice Chair**)
Bruce Whitaker
Carol Moore (**Alt.**)

County Member

Donald P. Wagner (**Chair**)

Special District Members

Douglass Davert
James Fisler
Kathryn Freshley (**Alt.**)

Public Members

Derek J. McGregor
Lou Penrose (**Alt.**)

The following staff members and general counsel were present:

- Executive Officer Carolyn Emery
- Assistant Executive Officer Luis Tapia
- Policy Analyst II Gavin Centeno
- Commission Clerk Cheryl Carter-Benjamin
- General Counsel Scott Smith

**4. ANNOUNCEMENT OF SUPPLEMENTAL COMMUNICATION
(Received After Agenda Distribution)**

The Commission Clerk noted that no supplemental communication was received.

5. PUBLIC COMMENT

Chair Wagner requested public comments on any non-agenda items. The Commission Clerk noted that there were no requests to speak from the public.

Chair Wagner closed the hearing of public comments.

6. CONSENT CALENDAR

Chair Wagner called for a motion on the consent calendar. There was no discussion from Commissioners, and the Commission Clerk noted no requests received to speak on the item. **Commissioner McGregor** motioned for approval of the consent calendar, and **Commissioner Whitaker** seconded the motion.

6a. – January 10, 2024 - Regular Commission Meeting Minutes

6b. – Legislative Report (February 2024)

MOTION: Approve the Consent Calendar. (Derek J. McGregor)
SECOND: Bruce Whitaker
FOR: Derek J. McGregor, Bruce Whitaker, Wendy Bucknum, Douglass Davert,
James Fisler, Donald P. Wagner
AGAINST: None
ABSTAIN: None

MOTION PASSED: 6-0.

7. PUBLIC HEARING

No public hearing items scheduled.

8. COMMISSION DISCUSSION AND ACTION

No action items scheduled.

9. COMMISSIONER COMMENTS

There were no general comments from Commissioners.

10. EXECUTIVE OFFICER’S REPORT

The Executive Officer noted that there were no additional items to report.

11. INFORMATIONAL ITEMS & ANNOUNCEMENTS

No informational items and announcements scheduled.

12. CLOSED SESSION

No closed session items scheduled.

13. NOTICE OF ADJOURNMENT OF THE REGULAR MEETING TO THE STUDY SESSION ON DRAFT COMMISSIONER HANDBOOK

Chair Wagner adjourned the Regular Commission Meeting to the Commission study session on the draft Commissioner handbook at 8:18 a.m.

14. STUDY SESSION ON DRAFT COMMISSIONER HANDBOOK

Chair Wagner gave opening comments and noted the presence of Consultant Bill Kelly, who will facilitate the study session and introduce the draft Commissioner Handbook.

Commissioner Penrose departed meeting at 9:05 a.m.

Commissioners and staff participated in an exercise led by Mr. Kelly involving identifying communication styles. Mr. Kelly noted that the exercise is intended to assist with understanding the varying interpersonal styles of Commissioners and staff.

He then introduced a draft handbook containing tools intended to define the manner for conducting the affairs of the Commission. Mr. Kelly provided an overview of each section of the handbook and requested Commissioners to review the draft and bring comments for discussion at the Commission’s regular April meeting. Commissioners provided general comments. Executive Officer Carolyn Emery provided general comments and noted discussion of the handbook would be scheduled for the April 10 regular meeting.

15. ADJOURNMENT OF STUDY SESSION

Chair Wagner adjourned the Study Session at 9:35 a.m. to the March 13, 2024 Regular Meeting.

Donald P. Wagner, Chair
Orange County Local Agency Formation Commission

ATTEST:

By: _____
Cheryl Carter-Benjamin
Commission Clerk

REGULAR MEMBERS

CHAIR

Donald P. Wagner
County Member

VICE CHAIR

Wendy Bucknum
City Member

IMMEDIATE PAST CHAIR

Douglass Davert
Special District Member

James Fisler

Special District Member

Derek J. McGregor

Public Member

Bruce Whitaker

City Member

VACANT

County Member

ALTERNATES

Kathryn Freshley

Special District Member

Carol Moore

City Member

Lou Penrose

Public Member

VACANT

County Member

STAFF

Carolyn Emery

Executive Officer

Scott Smith

General Counsel

MEETING DATE: March 13, 2024

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer
Assistant Executive Officer
Accountant

SUBJECT: Proposed Fiscal Year 2024-25 OC LAFCO Budget
and Fee Schedule

7a | Public
Hearing

BACKGROUND

The State Government Code Section 56381(a) requires the Commission to hold a public hearing to adopt a proposed annual budget. The proposed FY 2024-25 budget is presented in line-item detail and referenced as **Attachment 1** for Commission review and consideration.

In February, staff met with the Commission's Executive Committee to discuss and review the proposed budget. In accordance with the Commission's Bylaws, the Executive Committee is comprised of the Chair (Donald Wagner), Vice Chair (Wendy Bucknum) and Immediate Past Chair (Douglass Davert) and responsible for reviewing the proposed agency budget and serving in an advisory role on this matter to the full Commission. Upon approval by the Commission, the proposed budget will be distributed for review and comment to the Board of Supervisors, the cities, and the independent special districts. Subsequently, the final budget, together with any submitted comments and changes, if applicable, will be considered by the Commission at a second public hearing during the May 8, 2024 regular meeting.

Fee Schedule Resolution

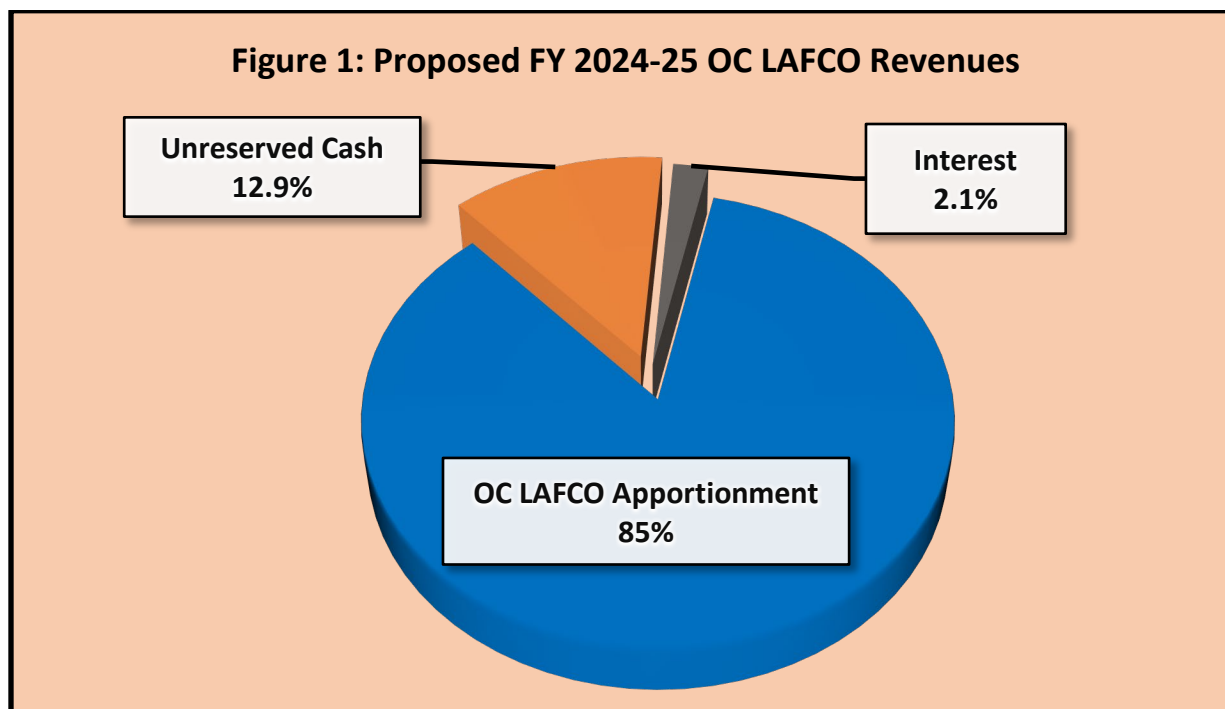
The OC LAFCO Fee Schedule, originally established in 1995, is structured to ensure that the agency is recovering actual costs associated with processing an application. The Fee Schedule includes application processing fees and charges and reflects the current rates for staff and legal counsel direct costs. There are no changes to the fee schedule being proposed, and recommended actions include adopting the Fee Schedule Resolution (**Attachment 3**) for charges that would be effective July 1, 2024.

FY 2024-25 OC LAFCO PROPOSED BUDGET

The proposed FY 2024-25 budget is balanced; the expected expenditures are funded by the projected ongoing revenues with a drawdown of unreserved cash. The proposed budget totals \$1,860,050, resulting in an overall increase of 6.6 percent from the FY 2023-24 budget. The following provides a description and discussion of the revenues, expenditures and reserves contained in the FY 2024-25 proposed budget.

REVENUES

Revenues in the proposed budget for FY 2024-25 total \$1,860,050 and include three categories: (1) OC LAFCO apportionment (funded by the County, cities, and independent special districts in accordance with Government Code Section 56381, (2) Interest, and (3) Unreserved Cash. As depicted in *Figure 1*, the OC LAFCO apportionment constitutes approximately 85 percent of the proposed revenues, with the remaining revenues attributed at 12.9 percent to the unreserved cash, and 2.1 percent expected from interest revenue.

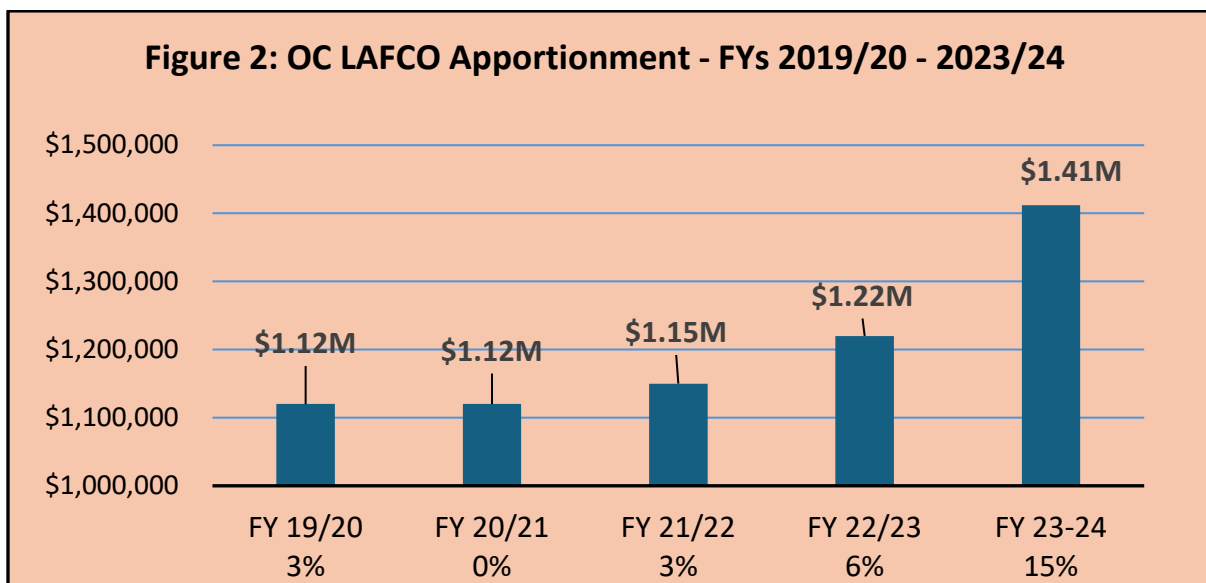


(1) OC LAFCO Apportionment

As represented in Figure 1, the agency's apportionment is the primary revenue source for OC LAFCO. Funded in three parts, the total apportionment for FY 2024-25 of \$1,581,320, to be collected from the County, cities, and independent special districts, reflects an overall increase of 12 percent (\$169,430) from the FY 2023-24 budget. Initially, the apportionment is attributed at one-third to the County, cities and independent special districts. Subsequently, the individual amount due from each city and independent special district is calculated by the County Auditor-

Controller using the formulas adopted by the City Selection Committee and the Independent Special District Selection Committee, respectively. The individual apportionments for the cities and special districts for FY 2024-25 are delineated in **Attachments 1B and 1C**.

For many prior budget cycles, the apportionment paid by the local agencies experienced zero to 15 percent increases through the use of the agency's unreserved cash, as shown in *Figure 2* below. As the agency's unreserved cash continues to decrease to Commission-approved reserve policy levels, the funding apportionment is expected to experience increases in order to fully fund the OC LAFCO budget.



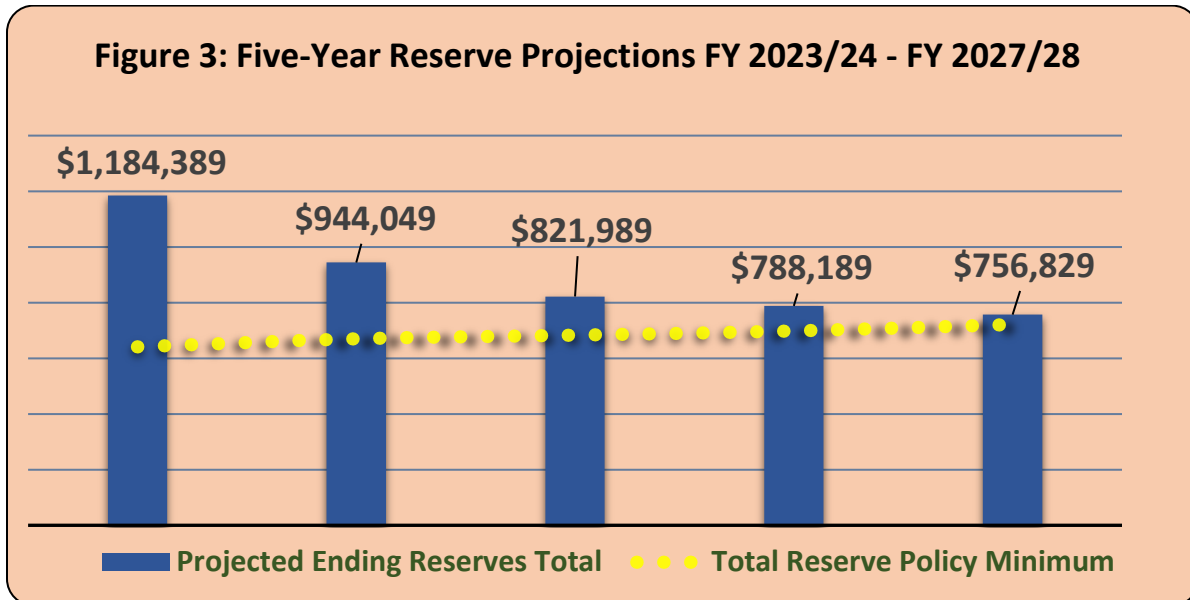
(2) Interest

This revenue category includes interest earned from the agency's savings account, payroll account and two investment accounts – the Local Agency Investment Fund and the Orange County Fund. Since the Commission receives an influx of revenues in the beginning of each fiscal year from the funding agencies, the apportionment is deposited into the highest interest earning accounts. Throughout the fiscal year, OC LAFCO staff, in consultation with the agency's independent accounting staff, withdraw funds from the accounts to cover the agency's operational expenses. Given the current market rates, the proposed FY 2024-25 budget projects that interest earned on the agency's investment accounts will generate \$38,390 or approximately 2.1 percent of the annual revenue.

(3) Unreserved Cash

The OC LAFCO reserve policy specifies minimum balances of \$100,000 for contingency reserves, \$75,000 for litigation reserves, and \$30,000 for unfunded liability reserves. Additionally, the Commission's policy mandates that three months of operational expenses be maintained in the reserve account, which for FY 2024-25, amount to \$465,013. Unreserved cash is any balance available above the minimum specified in the reserve policy. The proposed FY 2024-25 budget revenue assumptions include \$240,340 from the unreserved cash, which represents

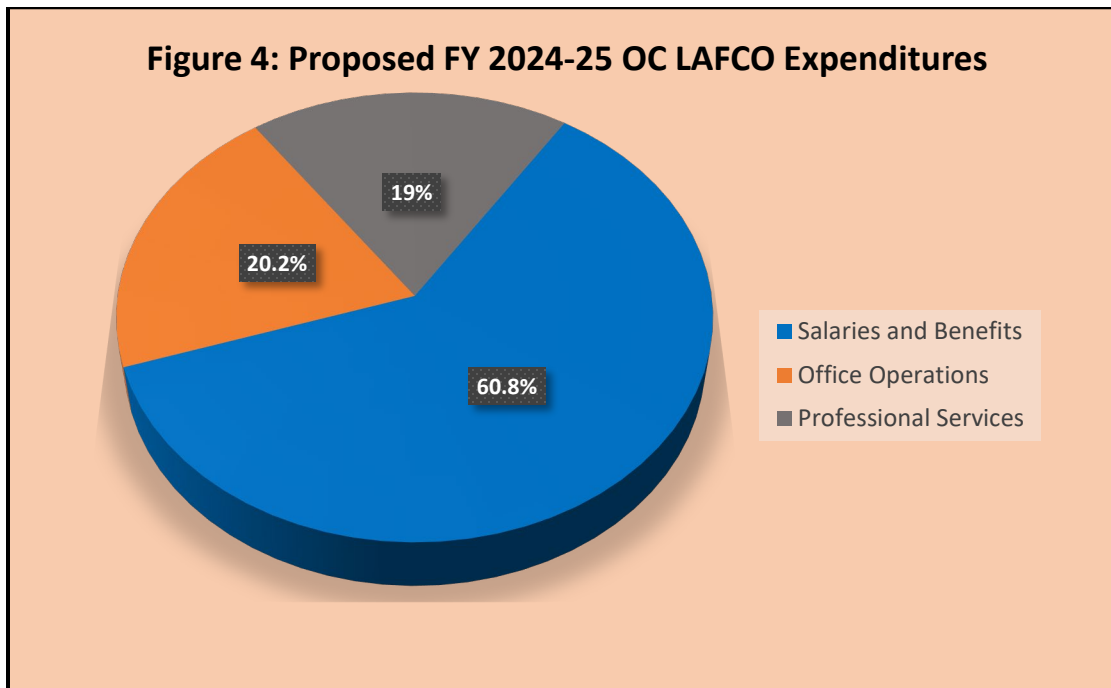
approximately 12.9 percent of the total revenues. As already stated, over past fiscal cycles, it has been the practice of the Commission to use the unreserved cash as part of the revenue assumptions until the agency reaches reserve levels delineated in the OC LAFCO reserve policy. As represented in *Figure 3*, it is expected that this will occur by FY 2027-28.



EXPENDITURES

The proposed budget expenditures reflect the resources necessary to support the agency's operations and effectively manage the mandated projects that are not supported by applicant fees, such as preparing updates of agencies' spheres of influence, conducting municipal service reviews and the Unincorporated Areas Program.

The proposed budget includes adjustments to specific expenditure categories based on the national Consumer Price Index (CPI), past trending, actual expenditures and the budget instructions from the County for benefit costs. The Commission expenses are described in three categories: (1) Salaries and Benefits, (2) Office Operations, and (3) Professional Services. The percentage of each category is depicted in *Figure 4* and described briefly in the following sections.



(1) Salaries & Benefits

The proposed FY 2024-25 budget for salaries and benefits for five full-time professional staff and any temporary or seasonal staff total \$1,131,590, which is an overall increase of 8.2 percent from the budgeted amount in the current fiscal year. In addition to benefits costs, the projections for this budget line item include a Cost-of-Living Adjustment (COLA) of 4.25 percent and projected merit adjustments of up to three percent. Assumptions for employee benefits (health, dental, life and disability insurance, and retiree health) are based on information provided by the County of Orange, which provides these benefits to OC LAFCO employees through a contractual agreement.

In accordance with best budgeting practices, the proposed budget provides for fully funding all staff positions. However, when personnel or other costs are associated with a project application, those costs are tracked in a special fund and reimbursed through the fees collected from the applicant. An accounting of the fees collected, personnel or other costs applied, and the balance remaining in these special funds are provided quarterly and annually to the Commission in the financial reports and the audited financial statements, respectively. Any adjustments in staff costs to the General Fund generated by the application of costs to a project special fund will effectively result in a reduction in the amount that will be drawn down from the unreserved cash at the end of the fiscal year. It is expected in the coming fiscal year that staff costs attributed to application fees will decrease significantly in comparison to recent prior years based on anticipated applications.

(2) Office Operations & Supplies

Overall, the Commission operations reflect prudent management of agency expenses. The following provides general discussion of line items experiencing changes in appropriations from the current year budget:

➤ **Internet and Electronic Services (line item 5151)**

This line item includes funding for costs incurred for the usage and technical support for the agency's electronic devices and internet services. The proposed increase of approximately \$4K for this line item is attributed to necessary equipment purchases.

➤ **Registration and Travel (line item 5800)**

This line item allocates funding for participation of Commissioners and staff in the CALAFCO annual conference and staff workshop, board meetings and other business-related meetings and activities. The proposed budget amounts vary from year to year based on the location and anticipated participation involving these events. The 2024 CALAFCO conference will take place in Yosemite at the Tenaya Lodge this Fall, and the staff workshop will take place in Temecula in Riverside County in Spring of 2025. Costs for these events are projected as some areas have not yet been finalized by CALAFCO.

(3) Professional

The Commission's staff performs the majority of the administrative and project-related work; however, the agency continues to utilize professional services for certain ongoing and project-related support. Ongoing administrative expenses for this line item include the Commission's accountant, general counsel, auditor and human resources support. The FY 2024-25 proposed budget allocation for this category includes the following: legal services (\$60,000); audit and accounting services (\$57,000), and human resources (\$35,000). Project-related professional services include ongoing maintenance and improvements to the website, continued evolution of the fiscal indicators web-based program, and preparation of the fourth cycle municipal service reviews and other studies, reports and services as required. The proposed allocation for that line item is \$200,000.

OC LAFCO THREE-YEAR PROJECTIONS

The three-year projections are intended to anticipate future changes to the OC LAFCO budget. Additionally, the projections provide the funding agencies with budget projections beyond a single fiscal year. The three-year budgetary projections provided in **Attachment 2** indicate potential apportionment increases ranging between five and 12 percent. The projections use the FY 2024-25 proposed budget as a baseline with personnel expenditures increased annually by the CPI and operational expenditures adjusted annually by factors such as current trends, contractual obligations for office and equipment leases, or the CPI. The projections reflect a transitional decrease of the use of the agency's unreserved cash to the OC LAFCO apportionment

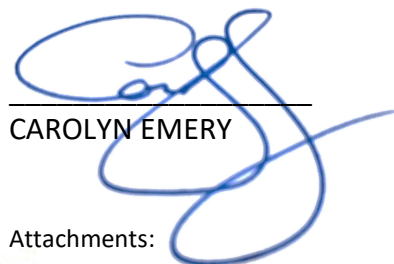
and interest revenue representing the agency's sole revenue sources. The projections for each respective fiscal year are subject to change and are used for trending purposes only.

RECOMMENDED ACTIONS

Staff recommends the Commission:

1. Adopt the Proposed FY 2024-25 Budget and direct the Executive Officer to distribute the document for review and comment to the Board of Supervisors, cities, and independent special districts.
2. Direct staff to schedule a public hearing, per Government Code Section 56381, for consideration and adoption of the Final FY 2024-25 OC LAFCO Budget at the May 8, 2024 regular meeting.
3. Adopt OC LAFCO Resolution No. CP 24-03 approving the OC LAFCO Fee Schedule, effective July 1, 2024.

Respectfully submitted,



CAROLYN EMERY



LUIS TAPIA



SCOTT NELSEN

Attachments:

1. Proposed FY 2024-25 OC LAFCO Budget
 - A. FY 2024-25 Budget Categories
 - B. OC LAFCO City Apportionments for FY 2024-25 (prepared by the County Auditor-Controller)
 - C. OC LAFCO Special District Apportionments for FY 2024-25 (prepared by County Auditor-Controller)
2. Three-year OC LAFCO Budget Projections (FYs 2025/26- 27/28)
3. OC LAFCO Resolution No. CP 24-03



Orange County Local Agency Formation Commission
Proposed Budget
 Fiscal Year 2024/25

	FY 23/24 Adopted Budget	FY 24/25 Proposed Budget	\$ Budget Variance	% Budget Variance
<i>Apportionment Increase Factor (%)</i>				
	15.0%	12.0%		
1 Revenue & Cash Reserves Use / (Addition)				
2 Cash Reserves Use / (Addition)	\$ 318,390	\$ 240,340	\$ (78,050)	-24.5%
3 4000 LAFCO Apportionment	1,411,890	1,581,320	169,430	12.0%
4 4200 Interest	14,200	38,390	24,190	170.4%
5 Total Revenue & Cash Reserves Use / (Addition)	1,744,480	1,860,050	115,570	6.6%
6 Expense				
7 Salaries & Benefits				
8 5000 Salaries	621,200	657,300	36,100	5.8%
9 5010 Hourly Employees	20,800	20,800	-	0.0%
10 5106 Retirement	247,700	265,900	18,200	7.3%
11 5109 Retiree Health Benefits	22,000	22,000	-	0.0%
12 5108 Health Insurance	68,500	88,900	20,400	29.8%
13 5110 Dental Insurance	6,900	11,600	4,700	68.1%
14 5112 Life Insurance	420	420	-	0.0%
15 5118 Unemployment Insurance	620	200	(420)	-67.7%
16 5119 Health Reimbursement Arrangement	-	7,800	7,800	0.0%
17 5102 Optional Benefit Plan	18,500	18,500	-	0.0%
18 5104 Deferred Compensation	17,900	19,000	1,100	6.1%
19 5116 Medicare	9,400	10,200	800	8.5%
20 5114 Worker's Compensation	2,550	-	(2,550)	0.0%
21 5120 Salary Continuance	1,560	1,650	90	5.8%
22 5122 Accidental Death Insurance	120	120	-	0.0%
23 5125 Executive Car Allowance	7,200	7,200	-	0.0%
24 Salaries & Benefits Total	1,045,370	1,131,590	86,220	8.2%
25 Operations, Prof. Services & Other				
26 Office Operations				
27 5150 Information Technology	32,850	21,600	(11,250)	-34.2%
28 5151 Internet & Electronic Services	16,480	20,500	4,020	24.4%
29 5200 County Charges	10,300	12,000	1,700	16.5%
30 5250 Insurance	14,030	15,760	1,730	12.3%
31 5350 Membership/Subscriptions	39,900	40,400	500	1.3%
32 5450 Office Equipment/Supplies	24,100	26,100	2,000	8.3%
33 Professional Services				
34 5510 Legal	60,000	60,000	-	0.0%
35 5520 Audit/Accounting	53,000	57,000	4,000	7.5%
36 5530 Human Resources	20,000	35,000	15,000	75.0%
37 5540 Other Professional	180,000	200,000	20,000	11.1%
38 Other Expense				
39 5535 Mapping	13,900	4,000	(9,900)	-71.2%
40 5550 Investment Admin Fees	850	850	-	0.0%
41 5600 Public Noticing / Communications	14,800	12,000	(2,800)	-18.9%
42 5610 Unincorporated Areas Program	18,000	11,000	(7,000)	-38.9%
43 5650 Rents/Improvements/Maintenance	111,600	115,000	3,400	3.0%
44 5675 Equipment Leases & Maintenance	7,700	8,100	400	5.2%
45 5700 Commissioner/Staff Expenses	7,000	5,000	(2,000)	-28.6%
46 5710 Commission Stipends & Taxes/Fees	16,000	16,450	450	2.8%
47 5750 Professional Development	25,000	20,000	(5,000)	-20.0%
48 5800 Registration/Travel	21,300	35,300	14,000	65.7%
49 5850 Commission Meeting Expenses	12,300	12,400	100	0.8%
50 Operations, Prof. Services & Other Total	699,110	728,460	29,350	4.2%
51 Total Expense	1,744,480	1,860,050	115,570	6.6%
52 Net Budget	\$ -	\$ -	\$ -	0%



Orange County Local Agency Formation Commission
Proposed Budget
 Fiscal Year 2024/25

	FY 23/24 Adopted Budget	FY 24/25 Proposed Budget
Projected Cash Reserves		
Reserved Cash		
Contingency Reserve	100,000	\$ 100,000
Litigation Reserve	75,000	75,000
Unfunded Liability Reserve	30,000	30,000
Operating Reserve (25% Budgeted Expenses)	436,120	465,013
Total Reserved Cash	641,120	670,013
Unreserved Cash		
Balance at the Beginning of FY	825,635	514,377
Addition / (Drawdown) to Unreserved Cash	(318,390)	(240,340)
Total Unreserved Cash	507,245	274,037
Total Projected Cash Reserves	\$ 1,148,365	\$ 944,049

OC LAFCO FY 2024-25 BUDGET CATEGORIES

REVENUES

The following summarizes the revenue categories of the OC LAFCO Budget:

4000 OC LAFCO Apportionment

These funds are provided by the County, independent special districts and cities. The County pays 1/3 of the total apportionment cost. The cost allocation formulas for the cities and special districts are in accordance with the alternative formulas adopted by the City Selection Committee and the Independent Special Districts Selection Committee respectively.

4050 Filing Fees

These funds are provided by incoming project applications, including but not limited to annexations, reorganizations, incorporations, dissolutions, and consolidations. Filing fees vary with each project received and are not budgeted as revenue due to the uncertainty of when applications will be filed. Filing fees are collected to offset OC LAFCO salaries, benefits and other expenditures associated with applications.

4150 Miscellaneous Revenue

These funds are incurred by nonoperational income including but not limited to reimbursements.

4200 Interest

These funds are the interest earned from the agency's bank and County payroll accounts and investment portfolio, including the Local Agency Investment Fund (LAIF) and Orange County Fund (OC Fund).

EXPENDITURES

The following summarizes the expenditure categories of the OC LAFCO Budget:

5000-5125 Salaries and Benefits

These categories include costs incurred for OC LAFCO employee salaries and benefits, including retirement, life, accidental and disability insurance, health and dental insurance, and Medicare. OC LAFCO contracts with the County of Orange for payroll and benefit services.

5150 Information Technology

This category includes costs incurred for the technical support for regular maintenance and upgrades to the OC LAFCO computer systems and website. OC LAFCO contracts with independent consultants for IT and website services.

5151 Internet and Electronic Services

This category includes costs for the usage, technical support, equipment, leasing and maintenance of business electronic devices and internet services.

OC LAFCO FY 2024-25 BUDGET CATEGORIES

5200 County Charges

This category includes costs incurred for payroll processing, records archiving and storage, and billing, collection and intranet services provided by the County of Orange.

5250 Insurance

This category includes costs incurred for insurance coverage. OC LAFCO contracts with the County and a joint powers authority for the following coverages for instances that occur during the general operation of the agency.

- General Liability– Includes coverage for personal injury (including bodily injury and property damage), non-owned auto liability, public officials’ errors and omissions and employment practices liability.
- Crime – Includes coverage for employee or non-employee theft, burglary, forgery or alteration, computer fraud, funds transfer fraud.
- Property - Includes per occurrence, all perils coverage for damage to property including personal property and business interruption coverage.
- Workers’ Compensation – Includes coverage for employees involving work-related injuries.

5350 Membership/Subscriptions

This category includes memberships and subscriptions fees to CALAFCO, CSDA, OCBC, CDR and other applicable memberships.

5450 Office Equipment and Supplies

This category includes costs incurred for the purchase of office supplies and equipment, computers, and software that support agency operations.

5500 Professional Services

This category includes costs incurred for professional services provided to OC LAFCO. The following are subcategories for professional services:

- ✓ **5510 Legal** – OC LAFCO general counsel services.
- ✓ **5520 Auditing/Accounting** – Bookkeeping, accounting and auditing services. OC LAFCO audited financial statements are prepared by an independent auditor.
- ✓ **5530 Human Resources** – Personnel services that may be provided by an independent consultant for assistance with recruitment, employment labor, professional development and other human resource areas.
- ✓ **5535 Mapping** – OC LAFCO’s Geographic Information System (GIS) and other mapping programs.

OC LAFCO FY 2024-25 BUDGET CATEGORIES

- ✓ **5540 Other Professional Services** – Consulting and professional services for meeting facilitation, peer reviews, and preparation of Municipal Service Reviews, fiscal studies and other studies, reports and projects.

5550 Investment Admin Fees

This category includes costs incurred for administrative fees charged by the County of Orange for financial services related to the investment and payroll accounts.

5600 Public Noticing/Communications

This category includes costs incurred for required legal notices and other communications for Commission-initiated and other projects (e.g., spheres of influence reviews and updates, municipal service reviews, and annual budget adoption) that are not reimbursable through application fees.

5610 Unincorporated Areas Program

This category includes costs incurred for the processing of applications under the Commission's Unincorporated Areas Program.

5650 Rents/Improvements/Maintenance

This category includes costs for leasing, improvements, and maintenance of OC LAFCO office space.

5675 Equipment Leases/Maintenance

This category includes costs for leasing and maintenance of the OC LAFCO copier and printers.

5700 Commissioner/Staff Expenses

This category includes miscellaneous business expenses incurred by Commissioners and staff.

5710 Commissioner Stipends & Taxes/Fees

This category includes Commissioner meeting stipends and related employment taxes and fees.

5750 Professional Development

This category includes costs related to employee professional development (e.g., college/university degree programs and courses, certificate programs, leadership seminars).

5800 Transportation/Travel/Registration

This category includes costs incurred for registration, transportation, and travel expenses for commissioners and staff to attend CALAFCO conference, workshop, and board meetings and other business-related meetings and activities.

5850 Commission Meeting Expenses

This category includes costs incurred for communications, room rental, parking and miscellaneous expenses for Commission meetings.

OC LAFCO FY 2024-25 BUDGET CATEGORIES

RESERVES**Contingency Reserve**

Restricted funds used to cover any unforeseen future agency loss and/or urgency (i.e., property or equipment damage, loss or theft).

Reserve for Litigation

Restricted funds used for costs related to agency litigation not covered by application fees and deposits.

Unfunded Liability Reserve

Restricted funds used to offset anticipated agency liabilities (i.e., employee compensated absences).

OC LAFCO FY 2024-25 City Allocations

City	FY 2024-25 City Allocation
Aliso Viejo	\$ 8,258.01
Anaheim	55,434.05
Brea	9,874.46
Buena Park	13,300.65
Costa Mesa	18,308.17
Cypress	8,047.16
Dana Point	6,079.30
Fountain Valley	9,716.33
Fullerton	24,211.77
Garden Grove	26,021.50
Huntington Beach	32,118.37
Irvine	57,507.33
Laguna Beach	5,622.47
Laguna Hills	5,815.75
Laguna Niguel	12,510.00
Laguna Woods	3,145.07
La Habra	9,769.04
Lake Forest	15,813.20
La Palma	2,389.55
Los Alamitos	2,776.10
Mission Viejo	16,779.57
Newport Beach	18,466.30
Orange	24,897.01
Placentia	8,398.57
Rancho Santa Margarita	9,839.32
San Clemente	13,529.07
San Juan Capistrano	8,925.67
Santa Ana	44,206.68
Seal Beach	6,852.39
Stanton	5,604.90
Tustin	13,037.11
Villa Park	1,370.48
Westminster	13,950.75
Yorba Linda	14,530.57
TOTAL	\$ 527,106.67

OC LAFCO FY 2024-25 Special District Allocations

District	ISDOC Formula Calculation FY 2024-25
Silverado-Modjeska Rec. & Park	\$ 632.53
Surfside Colony Stormwater	632.53
Surfside Colony CSD	632.53
Rossmoor/Los Alamitos Area Sewer District	3,057.22
Capistrano Bay CSD	3,057.22
Rossmoor CSD	3,057.22
Three Arch Bay CSD	3,057.22
Emerald Bay CSD	3,057.22
Buena Park Library District	3,057.22
Placentia Library District	3,057.22
Orange County Cemetery District	4,585.83
Orange County Vector Control District	6,114.44
Total Non-Enterprise Districts	\$ 33,998.40
Sunset Beach Sanitary District	6,114.44
Serrano Water District	18,290.60
East Orange Co. Water District	24,352.33
Midway City Sanitary District	24,352.33
Trabuco Canyon Water District	24,352.33
Costa Mesa Sanitary District	24,352.33
El Toro Water District	30,466.77
Mesa Water District	30,466.77
Yorba Linda Water District	36,528.49
South Coast Water District	36,528.49
Moulton Niguel Water District	42,642.93
Santa Margarita Water District	42,642.93
Municipal Water District of O.C.	48,651.94
Orange County Water District	48,651.94
Irvine Ranch Water District	54,713.65
Total Enterprise Districts	\$ 493,108.27
Total Special Districts	\$ 527,106.67



Orange County Local Agency Formation Commission
Proposed Budget
 Fiscal Year 2024/25-2027-28

		FY 24/25 Proposed Budget	FY 25/26 Projection	FY 26/27 Projection	FY 27/28 Projection
<i>Apportionment Increase Factor (%)</i>		<i>12.0%</i>	<i>12.0%</i>	<i>8.5%</i>	<i>5.0%</i>
1	Revenue & Cash Reserves Use / (Addition)				
2	Cash Reserves Use / (Addition)	\$ 240,340	\$ 122,060	\$ 33,800	\$ 31,360
3	4000 LAFCO Apportionment	1,581,320	1,771,080	1,921,620	2,017,700
4	4200 Interest	38,390	19,300	17,300	16,400
5	Total Revenue & Cash Reserves Use / (Addition)	1,860,050	1,912,440	1,972,720	2,065,460
6	Expense				
7	Salaries & Benefits				
8	5000 Salaries	657,300	693,500	731,700	768,300
9	5010 Hourly Employees	20,800	22,000	23,300	24,500
10	5106 Retirement	265,900	280,500	296,000	310,800
11	5109 Retiree Health Benefits	22,000	23,100	24,300	25,600
12	5108 Health Insurance	88,900	93,400	98,100	103,100
13	5110 Dental Insurance	11,600	11,990	12,400	12,900
14	5112 Life Insurance	420	450	480	510
15	5118 Unemployment Insurance	200	210	220	300
16	5119 Health Reimbursement Arrangement	7,800	7,800	7,800	7,800
17	5102 Optional Benefit Plan	18,500	18,500	18,500	18,500
18	5104 Deferred Compensation	19,000	20,050	21,160	22,300
19	5116 Medicare	10,200	10,700	11,300	11,800
20	5114 Worker's Compensation	-	-	-	-
21	5120 Salary Continuance	1,650	1,740	1,830	2,000
22	5122 Accidental Death Insurance	120	130	140	150
23	5125 Executive Car Allowance	7,200	7,200	7,200	7,400
24	Salaries & Benefits Total	1,131,590	1,191,270	1,254,430	1,315,960
25	Operations, Prof. Services & Other				
26	Office Operations				
27	5150 Information Technology	21,600	12,200	12,600	12,900
28	5151 Internet & Electronic Services	20,500	21,100	21,700	22,200
29	5200 County Charges	12,000	12,300	12,700	13,000
30	5250 Insurance	15,760	16,200	16,700	17,100
31	5350 Membership/Subscriptions	40,400	41,410	42,450	43,300
32	5450 Office Equipment/Supplies	26,100	26,760	27,430	28,000
33	Professional Services				
34	5510 Legal	60,000	60,000	60,000	61,200
35	5520 Audit/Accounting	57,000	58,430	59,900	61,100
36	5530 Human Resources	35,000	10,880	11,160	11,400
37	5540 Other Professional	200,000	200,000	200,000	204,000
38	Other Expense				
39	5535 Mapping	4,000	4,100	4,210	4,300
40	5550 Investment Admin Fees	850	880	910	1,000
41	5600 Public Noticing / Communications	12,000	12,300	12,610	12,900
42	5610 Unincorporated Areas Program	11,000	11,000	11,000	11,000
43	5650 Rents/Improvements/Maintenance	115,000	118,700	122,100	125,900
44	5675 Equipment Leases & Maintenance	8,100	8,310	8,520	8,700
45	5700 Commissioner/Staff Expenses	5,000	5,200	5,400	5,600
46	5710 Commission Stipends & Taxes/Fees	16,450	16,900	17,400	17,800
47	5750 Professional Development	20,000	20,500	21,100	21,600
48	5800 Registration/Travel	35,300	36,200	37,200	38,000
49	5850 Commission Meeting Expenses	12,400	12,800	13,200	13,500
50	Operations, Prof. Services & Other Total	728,460	721,170	718,290	749,500
51	Total Expense	1,860,050	1,912,440	1,972,720	2,065,460
52	Net Budget	\$ -	\$ -	\$ -	\$ -



Orange County Local Agency Formation Commission
Proposed Budget
 Fiscal Year 2024/25-2027-28

	FY 24/25 Proposed Budget	FY 25/26 Projection	FY 26/27 Projection	FY 27/28 Projection
Projected Cash Reserves				
Reserved Cash				
Contingency Reserve	\$ 100,000	\$ 100,000	\$ 100,000	\$ 100,000
Litigation Reserve	75,000	75,000	75,000	75,000
Unfunded Liability Reserve	30,000	30,000	30,000	30,000
Operating Reserve (25% Budgeted Expenses)	465,013	478,110	493,180	516,365
Total Reserved Cash	670,013	683,110	698,180	721,365
Unreserved Cash				
Balance at the Beginning of FY	514,377	260,939	123,809	66,824
Addition / (Drawdown) to Unreserved Cash	(240,340)	(122,060)	(33,800)	(31,360)
Total Unreserved Cash	274,037	138,879	90,009	35,464
Total Projected Cash Reserves	\$ 944,049	\$ 821,989	\$ 788,189	\$ 756,829

CP 24-03

**RESOLUTION OF THE LOCAL AGENCY FORMATION COMMISSION
OF ORANGE COUNTY, CALIFORNIA
UPDATING THE OC LAFCO FEE SCHEDULE**

March 13, 2024

On motion of _____ duly seconded and carried, the following resolution was adopted:

WHEREAS, California Government Code Section 56383 allows for a Local Agency Formation Commission to establish a schedule of fees for the costs of proceedings; and

WHEREAS, it is the Commission's policy that fees should be based on actual processing costs plus the costs of necessary indirect and administrative functions; and

WHEREAS, the Executive Officer gave notice of this matter in the manner required by law; and

WHEREAS, the Commission complied with the requirements of Government Code Section 66016; and

WHEREAS, the Commission discussed and considered all written testimony for and against this matter including, but not limited to, the staff report and recommendations from the Executive Officer.

NOW, THEREFORE, the Local Agency Formation Commission of Orange County based on the findings, discussion, and conclusions set forth in the staff report, which is

incorporated herein by this reference, DOES HEREBY RESOLVE, DETERMINE and ORDER as follows:

1. The fee schedule set forth in Attachment 1 attached hereto is hereby adopted, to become effective on July 1, 2024.
2. The fees set forth in Attachment 1 attached hereto do not exceed the estimated reasonable costs of providing the services for which the fees are charged and are necessary to pay the costs of operations related to filing and processing applications to the Local Agency Formation Commission of Orange County.

AYES:

NOES:

STATE OF CALIFORNIA)

) SS.

COUNTY OF ORANGE)

I, Donald Wagner, Chair of the Local Agency Formation Commission of Orange County, California, hereby certify that the above and foregoing resolution was duly and regularly adopted by said Commission at a regular meeting thereof, held on the 13th day of March 2024.

IN WITNESS WHEREOF, I have hereunto set my hand this 13th day of March 2024.

Donald P. Wagner
Chair of the Local Agency Formation Commission
of Orange County

By: _____
Donald P. Wagner

LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY
SCHEDULE OF FILING AND PROCESSING FEES

Effective July 1, 2024

FEE SCHEDULE OVERVIEW

In accordance with Government Code Section 56383, the Commission may establish a schedule of fees and a schedule of service charges for the Local Agency Formation Commission of Orange County (OC LAFCO) proceedings. The submission of an application to OC LAFCO is not officially accepted for processing until the filing fee deposits have been received by the agency. The fees associated with an application or petition are calculated on a time and materials schedule as detailed in the Fee Schedule.

PROVISIONS

1. Additional Deposits:

- a. The Executive Officer may require an additional deposit from applicants to cover actual costs for review and processing of any application if the Executive Officer determines the project is extraordinary in scope. For example, the Executive Officer may determine that the processing of the proposal will require advice and counsel from OC LAFCO's General Counsel beyond routine review of the Executive Officer's report, Commission resolutions, and agenda materials. Further, OC LAFCO reserves the right to require reimbursement for additional expenses not listed in the fee schedule but incurred as a result of processing an application.
- b. If the actual charges exceed the amount of the deposit, the applicant or petitioner shall be notified and shall pay the excess within 15 days of receipt of a statement from OC LAFCO. Failure to pay may be cause for delay and/or denial of the application/petition, and no proceeding or application shall be completed until all fees due have been paid in full.

2. Indemnification Agreement Requirement

As a condition of approval of any change of organization or reorganization, out-of-agency service agreement, sphere of influence or municipal service review by OC LAFCO, the applicant(s) and real party(ies) in interest are required to defend, indemnify, hold harmless, and release OC LAFCO and its agents, officers, attorneys, and employees from any claim, action, or proceeding against OC LAFCO, and its agents, officers, attorneys, and employees to attack, set aside, void, or annul the approval of OC LAFCO concerning the proposal or any action relating to, or arising out of, such approval. In accordance with the Commission's Policy for Indemnification of OC LAFCO by Applicants (adopted March 8, 2000), the applicant(s) and real party (ies) in interest are required to submit a signed indemnification agreement as part of the application.

ORANGE COUNTY LAFCO FEE SCHEDULE

OC LAFCO PROCESSING FEES

TYPE OF ACTION	COST SCHEDULE	INITIAL DEPOSIT
Change of Organization (e.g., annexation or detachment)	Time and Materials	\$4,600
Change of Organization with Sphere of Influence Change	Time and Materials	\$5,600
Reorganization (two or more changes of organization/sphere of influence change)	Time and Materials	\$7,900
District Formations or Consolidations	Time and Materials	\$10,000
District Dissolutions, Mergers, or Establishment of a Subsidiary District	Time and Materials	\$7,900
City Incorporations/Dis-incorporations <i>(Also see additional project completion fees.)</i>	Time and Materials	\$10,000
Activation of Latent Powers	Time and Materials	\$7,900
Request for Municipal Service Review and/or Sphere of Influence Review/Update	Time and Materials	\$7,900
Out-of-Agency Service Agreement	Time and Materials	\$4,600
Request for Reconsideration	Time and Materials	\$3,200
Request for Extension of Time to Complete Proceedings	Time and Materials	\$1,000

OC LAFCO STAFF/LEGAL COUNSEL BILLING RATES

OC LAFCO Staff Rate	Fully Burdened Hourly Rate*
OC LAFCO Legal Counsel	Actual Costs*

*See Exhibit A.

PROJECT COMPLETION FEES AND CHARGES

Public Noticing and Publication Costs	Actual Costs <i>(Based on noticing required by Government Code Section 56661)</i>
State Board of Equalization Fees	Actual Costs <i>(Payable to the State Board of Equalization and based on their latest fee schedule.)</i>
Compliance with California Environmental Quality Act (CEQA)	Actual Costs <i>(May include OC LAFCO staff time to prepare environmental documentation, actual consultant costs, and appropriate filing fees. Department of Fish and Wildlife filing fees are required to be paid at the time OC LAFCO files the Notice of Determination with the Clerk of the Board. The fees listed below include the county's \$50 filing fee and are current as of January 1, 2021)</i> <ul style="list-style-type: none"> a. Negative Declaration: \$2,764 b. Environmental Impact Report: \$3,839.25
Comprehensive Fiscal Analysis for Incorporation or Disincorporation Proposals	Actual Costs <i>(A \$50,000 deposit is required at the time the application is submitted. All excess costs will be the responsibility of the project proponent; any balance will be refunded at the conclusion of the project.)</i>
State Controller's Fiscal Review for Incorporations	Actual Costs <i>(A \$25,000 deposit is required at the time a Request for State Controller Review is submitted. All excess costs will be the responsibility of the project proponent, any balance will be refunded at the conclusion of the project.)</i>
Registrar of Voters – Verification of Signatures	Actual Costs
Special Legal Counsel Costs	Actual Costs
Consultants	Actual Costs

MATERIALS CHARGES

Reproduction and Faxing Costs	Actual Cost*
Postage or Overnight Service	Actual Cost
Monthly Agenda Packet (hard copy)	Actual Cost *

*See Exhibit A.

EXHIBIT A
ORANGE COUNTY LAFCO FEE SCHEDULE
DIRECT COSTS

Effective July 1, 2024

1. Fully burdened staff hourly rates:

Position	Hourly Rate
Executive Officer	\$ 210
Assistant Executive Officer	\$ 117
Policy Analyst*	\$ 67-77
Commission Clerk	\$ 75

*Analyst I and Analyst II Class Series

2. Legal Counsel Hourly Rates: \$296 (OC LAFCO-initiated services)
 \$607.50 (project applicant-initiated services)
3. Reproduction Cost - 0.25 per page
4. Audio Disc Reproduction Cost - \$15

REGULAR MEMBERS

CHAIR

Donald P. Wagner
County Member

VICE CHAIR

Wendy Bucknum
City Member

IMMEDIATE PAST CHAIR

Douglas Davert
Special District Member

James Fisler

Special District Member

Derek J. McGregor

Special District Member

Bruce Whitaker

City Member

Vacant

County Member

ALTERNATES

Kathryn Freshley

Special District Member

Carol Moore

City Member

Lou Penrose

Public Member

Vacant

County Member

STAFF

Carolyn Emery

Executive Officer

Scott Smith

General Counsel

MEETING DATE: February 14, 2024

8a | Commission
Discussion

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer
Assistant Executive Officer

SUBJECT: Legislative Report (February 2024)

BACKGROUND

The last day for members of the Assembly and Senate to introduce new bills to the Legislature for the 2024 legislative session was February 16. The Legislature received a total of 2,124 newly introduced bills, a minor reduction in submittals compared to the 2,632 bills introduced during last year's session. In the coming weeks, proposed legislation will make its way through the various committees with a deadline of May 24 for bills to pass out of their house of origin.

At the most recent meeting of the CALAFCO Legislative Committee on February 16, there was continued discussion on progress of the Omnibus Bill and proposed legislation involving indemnification of LAFCOs by applicants, as both bills made it through the assignment of bill numbers (AB 3277 and SB 1209).

This report provides highlights of current language for AB 3277 and SB 1209 and summaries of other efforts of LAFCO interest.

LEGISLATION OF LAFCO INTEREST

AB 805 (Arambula) Sewer Service: Disadvantaged Communities

During the 2023 legislative session, this bill focused on consolidating failing sewer systems serving disadvantaged communities. However, the bill failed to move forward by not meeting committee deadlines and became a two-year bill. Recently amended, the bill proposes to allow the State Water Resources Control Board to designate an "Administrator" for an inadequate sewer system or a sewer system that has demonstrated reasonable potential to cause sewer service violations serving a disadvantaged community within incorporated or unincorporated territory. Accordingly, an "Administrator" is defined as the person whom the State Water Board has determined is competent to perform

administrative, technical, operational, legal, or managerial services. The State Board would work closely with the Administrator and the communities served by the inadequate or failing sewer system to improve within the shortest practical time adequate technical, managerial and financial capacity for the sewer system to deliver adequate sewer service and until the Administrator is no longer necessary.

At their February 16 meeting, the CALAFCO Legislative Committee voted to request the author amend the bill language to include a requirement for the State Board to consult with the local LAFCO in designating an Administrator for an inadequate or failing sewer system. The committee's recommendation for CALAFCO to adopt a "support if amended" position on AB 805 will be considered by the CALAFCO Executive Board at their next meeting on April 12. CALAFCO staff will be submitting proposed language to the bill author for consideration.

OC LAFCO staff supports an amendment to AB 805 to include consulting by the State Board with the local LAFCO as it aligns with the Commission's legislative policy to support legislation that encourages collaboration among LAFCOs, special districts and the public to address municipal service deficiencies. Staff is recommending the Commission adopt a **Watch** position on the bill at this time to allow for the bill author's response to CALAFCO's request. Staff will provide an update to the Commission on this effort in the April legislative report.

RECOMMENDED ACTION: Adopt a **Watch** position on AB 805.

SUPPORT: None on record.

OPPOSE: None on record.

BILL LOCATION/STATUS: Assembly Committee on Appropriation. No hearing date scheduled at the time of agenda distribution.

AB 3277 (Assembly Local Government Committee): Districts Property Tax

The Omnibus Bill is the annual legislation co-sponsored by CALAFCO and the Assembly Committee on Local Government to introduce technical and non-substantive amendments to the CKH Act that address minor inconsistencies and provide clarification to remove any ambiguity in the law. Currently, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) provides LAFCOs with the authority to process proposals for the formation of a district. For this change of organization, LAFCOs are required to determine the property tax exchange when the affected agency is seeking a share of the one percent ad valorem property tax. AB 3277 proposes to amend the CKH Act to allow LAFCOs to exclude this requirement if the affected agency is not seeking a share of the one percent ad valorem property tax.

The proposed amendment eliminates an unnecessary process during the formation of a special district when a proposal does not require the analysis to determine the share of the one percent ad valorem property tax. The amendment aligns with the Commission's legislative policy to

support legislation that enhances LAFCO's authority and implementation of the CKH Act. Therefore, staff is recommending the Commission adopt a **Support** position on AB 3277.

RECOMMENDED ACTION: Adopt a **Support** position on AB 3277.

SUPPORT: California Association of Local Agency Formation Commission.

OPPOSE: None on record.

BILL LOCATION/STATUS: Assembly. No hearing date scheduled at the time of agenda distribution.

SB 1209 (Cortese) Local Agency Formation Commission: Indemnification

Existing state law explicitly gives counties, cities, and special districts the authority to require an applicant to indemnify the public agency against litigation. Based on a recent ruling by the California Court of Appeals in the case of San Luis Obispo LAFCO v. City of Pismo Beach, the court opined that it was not the authority of LAFCOs to require indemnification by the applicant as a condition of processing an application. While OC LAFCO and several other LAFCOs have a local policy involving applicant indemnification, SB 1209 proposes an amendment to State law that would explicitly authorize LAFCOs to require applicants to indemnify the Commission against litigation.

Staff recommends the Commission adopt a **Support** position on SB 1209 as it aligns with the Commission's legislative policy to support legislation that is consistent with current OC LAFCO policy and would further implementation of the CKH Act.

RECOMMENDED ACTION: Adopt a **Support** position on SB 1209.

SUPPORT: California Association of Local Agency Formation Commission.

OPPOSE: None on record.

BILL LOCATION/STATUS: Senate Local Government Committee. No hearing date scheduled at the time of agenda distribution.

CALAFCO LEGISLATIVE EFFORT


Since the 2019 legislative session, CALAFCO and San Diego LAFCO have been working collaboratively on an effort to seek an amendment to clarify LAFCO's authority to determine exemption status for out-of-agency arrangements per the provisions included in the CKH Act. Over this time, CALAFCO and San Diego LAFCO have conducted outreach to multiple agencies (California Special Districts Association, League of California Cities, California State Association of Counties and Association of California Water Agencies), developed a white paper, and held

several discussions with legislative staff and potential bill authors. However, the effort has been further delayed due to other CALAFCO legislative priorities. CALAFCO staff will be discussing status of the effort, including expected opposition, with the CALAFCO Executive Board on April 12. Staff will continue to monitor and keep the Commission apprised of this effort.

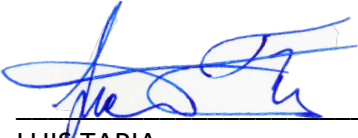
RECOMMENDED ACTIONS

1. Adopt a **Watch** position on AB 805.
2. Adopt a **Support** position on AB 3277 and SB 1209.
3. Direct staff to send position letters to respective bill authors.

Respectfully Submitted,



CAROLYN EMERY



LUIS TAPIA

Attachments:

1. Assembly Bill 805 (Arambula)
2. Assembly Bill 3277(Local Government Committee)
3. Senate Bill 1209 (Cortese)

Exhibits:

- A. Letter of Support – AB 3277
- B. Letter of Support – SB 1209


[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)

AB-805 Sewer service: disadvantaged communities. (2023-2024)

SHARE THIS:



Date Published: 01/22/2024 02:00 PM

AMENDED IN ASSEMBLY JANUARY 22, 2024

AMENDED IN ASSEMBLY MARCH 09, 2023

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 805

Introduced by Assembly Member Arambula

February 13, 2023

An act to amend Sections ~~116682 and 116686 of the Health and Safety Code, relating to drinking water. 13288 and 13442 of, and to add Section 13289.5 to, the Water Code, relating to water quality, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 805, as amended, Arambula. ~~Drinking water consolidation: sewer service.~~ *Sewer service: disadvantaged communities.*

~~Existing law, the California Safe Drinking Water Act, provides for the operation of public water systems and imposes on the State Water Resources Control Board various responsibilities and duties. The act authorizes the state board to order consolidation with, or extension of service from, a receiving water system in either of the following circumstances: (1) a public water system or state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, or is an at-risk water system, or (2) a disadvantaged community, in whole or in part, is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water, or are at-risk domestic wells.~~

~~This bill would authorize the state board, if sufficient funds are available, to order consolidation of sewer service along with an order of consolidation of drinking water systems when both of the receiving and subsumed water systems provide sewer service and after the state board engages in certain activities, including, but not limited to, consulting with the relevant regional water board and the receiving water system and conducting outreach to ratepayers and residents served by the receiving and subsumed water systems, as provided.~~

~~Existing law authorizes the state board, if sufficient funds are available, to contract with, or provide a grant to, an administrator to provide administrative, technical, operational, legal, or managerial services, or any combination of these services to a designated water system to assist with the provision of an adequate supply of affordable, safe drinking water.~~

~~The bill would also authorize the state board to require the administrator to provide administrative, technical, legal, or managerial services for any sewer service provided by the designated water system.~~

Under existing law, the State Water Resources Control Board and the 9 California regional water quality control boards regulate water quality in accordance with the Porter-Cologne Water Quality Control Act and the federal Clean Water Act. Existing law authorizes a regional board to order the provision of sewer service by a receiving sewer system, as defined, to a disadvantaged community served by an inadequate onsite sewage treatment system, as defined.

This bill would authorize the state board to require a sewer service provider to contract with an administrator designated or approved by the state board for administrative, technical, operational, legal, or managerial services to assist a designated sewer system with the provision of adequate sewer service, as defined. The bill would also authorize the state board to order a designated sewer system to accept those services, including full management and control of all aspects of the designated sewer system, from an administrator. The bill would define "designated sewer system" for these purposes as a sewer system that serves a disadvantaged community and that the state board finds to be either an inadequate sewage treatment system or a sewer system that has demonstrated difficulty in maintaining technical, managerial, and financial capacity to prevent fraud and mismanagement, or a sewer system that voluntarily accepts financial assistance for the provision of adequate sewer service.

The bill would require the state board to take specified actions before determining that a sewer service provider is a designated sewer system, including providing the sewer service provider an opportunity to show that it has taken steps to timely address its failure to provide adequate sewer service, conducting a public meeting, and providing an opportunity for public comment. The bill would authorize the state board to grant specified authority over the designated sewer system to the administrator, including the authority to expend money for various purposes and to set and collect sewer rates and fees, subject to approval by the state board. The bill would require the state board to work with the administrator and the communities served by the designated sewer system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver adequate sewer service so that the services of the administrator are no longer necessary.

Existing law creates the State Water Pollution Cleanup and Abatement Account in the State Water Quality Control Fund and continuously appropriates moneys in the account to the state board for specified purposes, including providing grants for cleaning up a waste, abating the effects of a waste on waters of the state, or addressing an urgent drinking water need, as provided.

This bill would authorize the state board to also use moneys in the account to provide grants to administrators to provide administrative, technical, operational, legal, or managerial services to a sewer service provider. By expanding the purposes for which moneys in a continuously appropriated account may be spent, the bill would make an appropriation.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: ~~majority~~2/3 Appropriation: ~~no~~yes Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. *Section 13288 of the Water Code is amended to read:*

13288. For purposes of this chapter, the following definitions apply:

(a) "Adequate sewer service" means sanitary sewer service provided by a sewer service provider that does not have the potential to cause a violation of water quality objectives, impair present or future beneficial uses of water, cause pollution, nuisance, or contamination of waters of the state, or unreasonably degrade the waters of the state.

(b) "Administrator" means a person whom the state board has determined is competent to perform the administrative, technical, operational, legal, or managerial services required for purposes of this chapter, pursuant to criteria set forth in the handbook described in subdivision (h) of Section 13289.5.

~~(a)~~

(c) "Affected residence" means a residence within a disadvantaged community that may be subject to provision of sewer service pursuant to this chapter.

~~(b)~~

(d) "Affected resident" means a resident or a property owner of an affected residence.

~~(e)~~

(e) "Annexation" has the same meaning as set forth in Section 56017 of the Government Code.

(f) "Designated sewer system" means a sewer system that serves a disadvantaged community and that the state board finds to be either an inadequate sewage treatment system or a sewer system that has demonstrated difficulty in maintaining technical, managerial, and financial capacity to prevent fraud and mismanagement. "Designated sewer system" also includes a voluntary participant.

~~(d)~~

(g) "Disadvantaged community" means a disadvantaged community as defined in Section 79505.5.

~~(e)~~

(h) "Extension of service" has the same meaning as set forth in Section 56133 of the Government Code.

~~(f)~~

(i) "Inadequate onsite sewage treatment system" means an onsite sewage treatment system that has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, or to cause pollution, nuisance, or contamination of waters of the state.

(j) "Inadequate sewage treatment system" means a sewer system that has the reasonable potential to cause a violation of water quality objectives, to impair present or future beneficial uses of water, or to cause pollution, nuisance, or contamination of waters of the state.

~~(g)~~

(k) (1) "Onsite sewage treatment system" means an onsite sewage treatment system, as defined in Section 13290, that is not operated by a local agency, as defined in Section ~~56064~~ 56054 of the Government Code, or a utility regulated by the Public Utilities Commission.

(2) "Onsite sewage treatment system" includes, but is not limited to, a septic tank, cesspool, leach field, and seepage pit.

~~(h)~~

(l) "Provision of sewer service" means the provision of sanitary sewer service, including the collection or treatment of sewage, to a disadvantaged community by any of the following processes:

- (1) Annexation where the receiving sewer system is a special district.
- (2) Extension of service where the receiving sewer system is a city, county, or special district.
- (3) Additional sewer service provided within city, county, or special district boundaries.

~~(i)~~

(m) "Receiving sewer system" means the sewer system that provides service to a disadvantaged community pursuant to this chapter.

(n) "Sewer service provider" means any local agency that provides sanitary sewer service.

~~(j)~~

(o) "Special district" means a special district as defined in Section 56036 of the Government Code.

(p) "Voluntary participant" means the owner of an onsite sewage treatment system or sewer service provider who has agreed to accept financial assistance for the provision of adequate sewer service.

SEC. 2. Section 13289.5 is added to the Water Code, immediately following Section 13289, to read:

13289.5. (a) (1) For a designated sewer system, the state board may do any of the following:

(A) (i) Require a sewer service provider to contract with an administrator designated or approved by the state board for administrative, technical, operational, legal, or managerial services, or any combination of those services, to assist the designated sewer system with the provision of adequate sewer service.

(ii) To fulfill the requirements of this section, a sewer service provider may contract with more than one administrator, but only one administrator may be used to provide services to a given designated sewer system. An administrator that is not designated or approved by the state board shall not be used for purposes of this section.

(iii) An administrator may provide services to more than one designated sewer system.

(B) Order a designated sewer system to accept administrative, technical, operational, legal, or managerial services, including full management and control of all aspects of the designated sewer system, from an administrator selected by the state board.

(C) Order a designated sewer system to accept administrative, technical, operational, legal, or managerial services from an administrator appointed by the state board for full oversight of construction or development projects related to an annexation or extension of service, including, but not limited to, accepting loans and grants issued by the state board and entering into contracts on behalf of the designated sewer system.

(2) In performing its duties pursuant to paragraph (1), the state board may use criteria from the handbook adopted pursuant to subdivision (g) of Section 116686 of the Health and Safety Code.

(b) The state board shall do all of the following before determining that a sewer service provider is a designated sewer system:

(1) Provide the sewer service provider with notice and an opportunity to show that the sewer service provider has taken steps to timely address its failure to provide adequate sewer service.

(2) (A) Conduct a public meeting in a location as close as feasible to the affected community.

(B) The state board shall make reasonable efforts to provide a 30-day notice of the public meeting to affected ratepayers, renters, and property owners.

(C) The state board shall provide representatives of the sewer service provider, affected ratepayers, renters, and property owners with an opportunity to present oral and written comments at the public meeting.

(D) The state board shall provide an opportunity for public comment at the meeting.

(3) Provide the public with an opportunity to submit comments by mail or electronically during the 30-day notice period and for at least one week after the public meeting described in paragraph (2).

(c) The state board shall make financial assistance available to an administrator of a designated sewer system, as appropriate and to the extent that funding is available.

(d) The authority granted to an administrator by the state board pursuant to subdivision (a) may include, but is not limited to, the authority to do all of the following:

(1) Expend available money for capital infrastructure improvements that the designated sewer system needs to provide adequate sewer service.

(2) Set and collect user sewer rates and fees, subject to approval by the state board. The state board shall consider affordability when approving sewer rates and fees. The provisions of this section are subject to all applicable constitutional requirements, including Article XIII D of the California Constitution.

(3) Expend available money for operation and maintenance costs of the designated sewer system.

(4) Expend available money necessary for an annexation or extension of service, including conducting feasibility or planning studies, or addressing outstanding technical or legal issues.

(e) The state board shall work with the administrator of a designated sewer system and the communities served by that designated sewer system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver adequate sewer service so that the services of the administrator are no longer necessary.

(f) A designated sewer system shall not be responsible for any costs associated with an administrator that are higher than the costs necessary to maintain the designated sewer system and provide adequate sewer service.

(g) A designated sewer system shall be responsible for funding the activities of an administrator to provide administrative, technical, operational, legal, or managerial services, or any combination of those services, to the designated sewer system. The state board shall not be responsible for providing funding for those activities.

(h) Before ordering a designated sewer system to accept administrative, technical, operational, legal, or managerial services from an administrator pursuant to subdivision (a), the state board shall develop standards, terms, and procedures, to be incorporated in the handbook adopted pursuant to subdivision (g) of Section 116686 of the Health and Safety Code, consistent with the process provided in subdivision (a) of Section 116760.43 of the Health and Safety Code, for all of the following:

(1) Ensuring compliance with subdivision (f).

(2) Providing opportunity for public comment on the selection of an administrator and the services to be provided.

(3) Providing public access to budgets, ownership and financial information, and other documents and records related to the provision of sewer service to affected residences and to the management of the designated sewer system by the administrator.

(4) Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated sewer system for significant decisions or actions made on behalf of the designated sewer system, including, but not limited to, establishing operating budgets, altering sewer rates, adopting system policies, entering into long-term contracts or financing commitments, and developing system projects or plans.

(5) Formal requests to the state board to reverse or modify a decision of an administrator or to request substitution of an administrator.

(6) Ensuring an administrator acts in the best interests of the community served.

(7) Development and approval of a post-administrator sewer service plan to ensure compliance with subdivision (e). Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options.

(i) An administrator appointed pursuant to this section for a designated sewer system shall not be liable for claims by past or current ratepayers, or by those affected by the sewer service provided by the designated sewer system, in either of the following circumstances:

(1) If good faith, reasonable effort, and ordinary care were used by the administrator to assume possession of, or to operate, the sewer service provider.

(2) For any injury or damages that occurred before the commencement of the operation period.

(j) This section does not limit or supersede any other law authorizing claims against the state board or providing a defense to liability, and shall not be construed to create any new or expanded basis for liability.

(k) Nothing in this section shall be construed to do any of the following:

(1) Relieve a sewer service provider or any other entity from complying with any provision of federal or state law, including those pertaining to water quality.

(2) Impair any cause of action by the Attorney General, a district attorney, a city attorney, or other public prosecutor, or impair any other action or proceeding brought by, or on behalf of, a regulatory agency.

(3) Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.

(4) Relieve any person or entity from liability for action or inaction in bad faith, or without reasonable effort or ordinary care.

(l) Nothing in this section shall absolve, indemnify, or protect a prior operator, designated sewer system, or individual from liability based on an act or failure to act prior to the operation period.

(m) Administrative and managerial contracts pursuant to this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.

(n) This section does not apply to a charter city, charter county, or charter city and county.

(o) For purposes of this section, an administrator is authorized to act on behalf of an affected residence to the same extent, and in the same manner, as a designated sewer system with the consent of the affected residence.

SEC. 3. *Section 13442 of the Water Code is amended to read:*

13442. (a) Upon application by an eligible entity, as described in subdivision (b), the state board may approve the payment of grant moneys from the account to that entity to assist in cleaning up a waste, abating the effects of a waste on waters of the state, *addressing actions required pursuant to Section 13289.5*, or addressing an urgent drinking water need without regard to whether the need for drinking water is a result of the discharge of waste.

(b) An entity is eligible to apply for funding pursuant to this section if that entity has authority to undertake the activity described in subdivision (a) for which it seeks moneys and the entity is any of the following:

(1) A public agency.

(2) A tribal government that is on the California Tribal Consultation List maintained by the Native American Heritage Commission and is a disadvantaged community, as defined in Section 79505.5, that agrees to waive tribal sovereign immunity for the explicit purpose of regulation by the state board pursuant to this division.

(3) A not-for-profit organization serving a disadvantaged community, as defined in Section 79505.5.

(4) A community water system, as defined in Section 116275 of the Health and Safety Code, that serves a disadvantaged community, as defined in Section 79505.5.

(5) An administrator, as defined in Section 13288.

(c) An eligible entity shall not become liable to the state board for repayment of moneys paid to the entity under this section and expended in accordance with the state board's approval of payment, but this shall not be a defense to an action brought pursuant to subdivision (c) of Section 13304 for the recovery of moneys paid under this section.

(d) Projects using moneys that are paid to an eligible entity pursuant to this section shall be exempt from state contracting and procurement requirements set forth in the Government Code and the Public Contract Code to the extent necessary to take immediate action to protect public health and safety.

(e) The state board may adopt guidelines for the allocation and administration of these moneys that shall not be subject to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

SEC. 4. *This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:*

In order to authorize the State Water Resources Control Board to take appropriate action as soon as possible to ensure that adequate, sanitary sewer service is provided to communities, it is necessary for this act to take effect immediately.

~~SECTION 1. Section 116682 of the Health and Safety Code is amended to read:~~

~~116682.(a)(1)The state board, in circumstances described in subparagraph (A) or (B), may order consolidation with a receiving water system as provided in this section and Section 116684. The consolidation may be physical or operational. The state board may also order the extension of service to an area within a disadvantaged community that does not have access to an adequate supply of safe drinking water so long as the extension of service is an interim extension of service in preparation for consolidation. The consolidation shall occur within six months of the initiation of the extension of service. The state board may set timelines and performance measures to facilitate completion of consolidation:~~

~~(A)A public water system or a state small water system, serving a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water, or is an at-risk water system.~~

~~(B)A disadvantaged community, in whole or in part, is substantially reliant on domestic wells that consistently fail to provide an adequate supply of safe drinking water, or are at-risk domestic wells.~~

~~(2)No later than July 1, 2020, the state board shall develop and adopt a policy that provides a process by which members of a disadvantaged community may petition the state board to consider ordering consolidation. The state board shall adopt the policy in a policy handbook consistent with the process provided for in subdivision (a) of Section 116760.43.~~

~~(b)Before ordering consolidation or extension of service as provided in this section, the state board shall do all of the following:~~

~~(1)Encourage voluntary consolidation or extension of service.~~

~~(2)Consider other enforcement remedies specified in this article.~~

~~(3)Consult with, and fully consider input from, the relevant local agency formation commission regarding the provision of water service in the affected area, the recommendations for improving service in a municipal service review, whether the consolidation or extension of service is cost effective, and any other relevant information.~~

~~(4)Consult with, and fully consider input from, the Public Utilities Commission when the consolidation would involve a water corporation subject to the commission's jurisdiction. If a receiving water system is regulated by the Public Utilities Commission, the state board shall inform the commission at least 60 days before the consolidation order, and upon issuance of the order the commission shall open a proceeding to determine cost allocation, ratemaking, and commission public participation requirements for the consolidation process.~~

~~(5)Consult with, and fully consider input from, the local government with land use planning authority over the affected area, particularly regarding any information in the general plan required by Section 65302.10 of the Government Code.~~

~~(6)Consult with, and fully consider input from, the potentially receiving water system and all public water systems in the chain of distribution of the potentially receiving water system. The input from the potentially receiving water system may include, but is not limited to, information related to the classification of the potentially subsumed water system as an at-risk water system or a state small water system or of at-risk domestic wells.~~

~~(7)Consult with, and fully consider input from, any groundwater sustainability agency in a basin that provides groundwater supply, in whole or in part, to the affected area.~~

~~(8)(A)Notify the potentially receiving water system and the potentially subsumed water system, if any, and establish a reasonable deadline of no less than six months, unless a shorter period is justified, for the potentially receiving water system and the potentially subsumed water system, if any, to negotiate consolidation or another means of providing an adequate supply of safe drinking water.~~

~~(B)During this period, the state board shall provide technical assistance and work with the potentially receiving water system and the potentially subsumed water system to develop a financing package that benefits both the receiving water system and the subsumed water system.~~

~~(C)Upon a showing of good cause, the deadline may be extended by the state board at the request of the potentially receiving water system, potentially subsumed water system, the local agency formation commission with jurisdiction over the potentially subsumed water system, or the Public Utilities Commission.~~

~~(9)Consider the affordability of the anticipated monthly rates for drinking water service to residential customers of the potentially subsumed water system.~~

~~(10)(A)Hold at least one public meeting at the initiation of this process in a place as close as feasible to the affected areas. The state board shall make reasonable efforts to provide a 30-day notice of the meeting to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and all affected local government agencies and drinking water service providers. The 30-day notice shall include information about water quality concerns in the area, relevant information about health effects of water contaminants, and information about opportunities for consolidation or extension of service to address water quality issues. The meeting shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, the potentially receiving water system, and the public an opportunity to present oral and written comments.~~

~~(B)The state board shall provide an opportunity to submit comments by mail or electronically during the notice period and for at least one week after the meeting.~~

~~(C)The state board shall review comments received during the meeting and received by mail and electronically during the notice period and for one week after the public meeting.~~

~~(11)If the potentially subsumed water system to be consolidated into the receiving water system is an at-risk water system, the state board shall do all of the following:~~

~~(A)Conduct outreach to ratepayers and residents served by the at-risk water system, including identifiable local community groups. These outreach efforts shall gauge community support for consolidation of the at-risk water system. The state board shall consider the results of this outreach when deciding whether to order consolidation of the at-risk water system.~~

~~(B)Consider any petition submitted pursuant to paragraph (2) of subdivision (a) by members of a disadvantaged community served by the at-risk water system.~~

~~(C)(i)If the potentially subsumed water system contends during the initial written comment period set forth in subparagraph (B) of paragraph (10) that it is not an at-risk water system, the state board shall consider during a public meeting any information provided by the potentially subsumed water system in support of its contention that it is not an at-risk water system.~~

~~(ii)The state board shall make reasonable efforts to provide a 30-day notice of the public meeting described in clause (i) to the ratepayers, renters, and property owners to receive water service through service extension or in the area of the subsumed water system and all affected local government agencies and drinking water service providers.~~

~~(c)If a consolidation or other means of providing an adequate supply of safe drinking water has not been negotiated by the potentially receiving water system and the potentially subsumed water system before the expiration of the deadline set by the state board pursuant to paragraph (8) of subdivision (b), the state board shall do the following:~~

~~(1)Consult with the potentially receiving water system and the potentially subsumed water system, if any.~~

~~(2)(A)If the consolidation has not concluded within six months following the first public meeting held pursuant to paragraph (10) of subdivision (b), conduct a public meeting in a location as close as feasible to the affected communities. The meeting shall be held after the state board has made the findings described in subdivision (d):~~

~~(B)The state board shall make reasonable efforts to provide a 30-day notice of the meeting to the ratepayers, renters, property owners to receive water service through service extension or in the area of the subsumed water system, and the public, and to all affected local government agencies and drinking water service providers.~~

~~(C)The meeting shall provide representatives of the potentially subsumed water system, affected ratepayers, renters, property owners, and the potentially receiving water system an opportunity to present oral and written comments:~~

~~(D)The meeting shall provide an opportunity for public comment.~~

~~(3)The state board shall make reasonable efforts to ensure that a receiving water system and a subsumed water system are informed on a regular basis of progress regarding actions taken pursuant to this section.~~

~~(d)Before ordering consolidation or extension of service, the state board shall find all of the following:~~

~~(1)The potentially subsumed water system has consistently failed to provide an adequate supply of safe drinking water or it is at risk of doing so, as determined by the state board.~~

~~(2)Reasonable efforts to negotiate voluntary consolidation or extension of service were made.~~

~~(3)Consolidation of the receiving water system and subsumed water system or extension of service is appropriate and technically and economically feasible. In making this finding, the state board shall consider how many owners of dwelling units served by domestic wells in the service area have provided, or are likely to provide, written consent to extension of service. The state board need not find that any specific percentage of the owners of dwelling units served by domestic wells in the service area are likely to consent to the consolidation or extension of service to serve their dwelling unit.~~

~~(4)There is no pending local agency formation commission process that is likely to resolve the problem in a reasonable amount of time.~~

~~(5)Concerns regarding water rights and water contracts of the subsumed and receiving water systems have been adequately addressed.~~

~~(6)Consolidation or extension of service is an effective and cost-effective means to provide an adequate supply of safe drinking water.~~

~~(7)The capacity of the proposed interconnection needed to accomplish the consolidation is limited to serving the current customers of the subsumed water system, infill sites within the community served by the subsumed water system, residents of disadvantaged communities in existence as of the date of consolidation and that are located along the service line connecting the subsumed water system and the receiving water system, and vacant lots within the community served by the subsumed water system that are zoned to allow residential use and have no more than one other vacant lot between that parcel and an infill parcel, including capacity needed for services such as firefighting.~~

~~(e)Upon ordering consolidation or extension of service, the state board shall do all of the following:~~

~~(1)As necessary and appropriate, as determined by the state board, compensate the receiving water system for any capacity lost as a result of the consolidation or extension of service either by paying the water system's capacity charge set out in the water system's adopted rate structure or by providing additional capacity needed as a result of the consolidation or extension of service, and by paying legal fees. When the receiving water system is compensated for capacity lost by payment of a capacity charge, the capacity charge shall be paid only to the extent that it does not exceed the reasonable cost of providing the service in accordance with Section 66013 of the Government Code. If capacity beyond what is needed for consolidation is provided by a project funded through the state board, the state board shall retain an option to use that capacity for future consolidations, without paying additional capacity charges, for five years, unless it releases that option in writing. Funding pursuant to this paragraph is available for the general purpose of providing financial assistance for the infrastructure needed for the consolidation or extension of service and does not need to be specific to each individual consolidation project. The state board shall provide appropriate financial assistance for the water infrastructure needed for the consolidation or extension of service. The state board's existing financial assistance guidelines and policies shall be the basis for the financial assistance.~~

~~(2)Ensure payment of standard local agency formation commission fees caused by state board-ordered consolidation or extension of service.~~

~~(3)Adequately compensate the owners of a privately owned subsumed water system for the fair market value of the system, as determined by the Public Utilities Commission or the state board.~~

~~(4)Coordinate with the appropriate local agency formation commission and other relevant local agencies to facilitate the change of organization or reorganization.~~

~~(5)If ordering consolidation or extension of service between two water systems, consider any existing domestic wells within the service area that could also be subject to consolidation or extension of service pursuant to this section.~~

~~(6)If ordering consolidation or extension of service to a community containing residences served by domestic wells, promptly take all reasonable steps to obtain written consent to the consolidation or extension of service from an owner of each residence served by a domestic well.~~

~~(f)If funds are appropriated for this purpose, the state board may make funds available for the purposes of subdivision (e), as necessary and appropriate, to the receiving water system, the subsumed water system, or an administrator providing full oversight of construction or development projects related to a consolidation or extension of service.~~

~~(g)(1)For purposes of this section, fees, charges, and terms and conditions that may be imposed on new and existing customers of a receiving water system shall be subject to the following limitations:~~

~~(A)The consolidated water system shall not increase charges on existing customers of the receiving water system solely as a consequence of the consolidation or extension of service unless the customers receive a corresponding benefit.~~

~~(B)Except as provided in paragraph (2), fees or charges imposed on a customer of a subsumed water system~~

~~shall not exceed the costs of the service.~~

~~(C)Except as provided in paragraph (2), the receiving water system shall not charge any fees to, or place conditions on, customers of the subsumed water system that it does not charge to, or impose on, new customers that are not subject to the consolidation with the receiving water system.~~

~~(2)(A)Notwithstanding subparagraph (B) or (C) of paragraph (1), if costs incurred by the receiving water system in completing the consolidation or extension of service are not otherwise recoverable as provided in subparagraph (B) of this paragraph, the receiving water system may charge fees to customers of the subsumed water system to recover those costs.~~

~~(B)A receiving water system shall not charge a fee pursuant to subparagraph (A) for costs that are otherwise recoverable from the state, the federal government, programs administered by local agencies, parties responsible for causing contamination that the consolidation or extension of service is designed to address, or other sources, as determined by the state board.~~

~~(h)The state board shall not, pursuant to this section, fund public works or upgrades unrelated to the delivery of an adequate supply of affordable, safe drinking water, including, but not limited to, the installation of streetlights, sidewalks, curbs, and gutters. A local agency's decision whether to provide these public works or upgrades shall not delay the consolidation or extension of service.~~

~~(i)When a public water system is operated by a local educational agency, the state board may order a receiving water system to consolidate or extend service to a public water system operated by a local educational agency pursuant to this section if both the following additional conditions are met:~~

~~(1)The local educational agency serves students from one or more census blocks that are disadvantaged communities.~~

~~(2)The state board obtains a written determination from the local educational agency that the state board's analysis in the financing package, developed pursuant to subparagraph (B) of paragraph (8) of subdivision (b), indicates that consolidating or extending service would not result in additional unacceptable costs to the local educational agency and would result in safe drinking water being available to the local educational agency.~~

~~(j)An order pursuant to this section shall not require consolidation or extension of service to a residence served solely by a domestic well until an owner of the affected residence provides written consent to the consolidation or extension of service. Any domestic well owner within the consolidation or extended service area that does not provide written consent shall be ineligible, until the consent is provided, for any future water-related grant funding from the state other than funding to mitigate a well failure, disaster, or other emergency.~~

~~(k)A finding that a disadvantaged community, in whole or in part, is substantially reliant on at-risk domestic wells shall be based on the maps created pursuant to paragraph (1) of subdivision (a) of Section 116772 and inspection or testing of the domestic wells showing an imminent risk of failing to provide an adequate supply of safe drinking water.~~

~~(l)The state board may prioritize consolidation of an at-risk water system that has historically been overburdened by pollution and industrial development or faced other environmental justice hurdles.~~

~~(m)Division 3 (commencing with Section 56000) of Title 5 of the Government Code does not apply to an action taken by the state board pursuant to this section.~~

~~(n)If sufficient funding is available, the state board may order consolidation of sewer service along with an order of consolidation of drinking water pursuant to this section, when both the subsumed water system and receiving water system provide sewer service, after doing all of the following:~~

~~(1)Consulting with, and fully considering input from, the relevant regional water board.~~

~~(2)Consulting with, and fully considering input from, the receiving water system.~~

~~(3)Conducting outreach to ratepayers and residents served by the receiving water system and subsumed water system, including identifiable local community groups. These outreach efforts shall gauge community support for consolidation of the subsumed water system. The state board shall consider the results of this outreach when deciding whether to order consolidation of the sewer services of the subsumed water system.~~

~~SEC. 2. Section 116686 of the Health and Safety Code is amended to read:~~

~~116686.(a)(1)To provide an adequate supply of affordable, safe drinking water to disadvantaged communities, voluntary participants, and public water systems that have demonstrated difficulty in maintaining technical, managerial, and financial capacity and to prevent fraud, waste, and abuse, the state board may do any of the following, if sufficient funding is available:~~

~~(A)(i)Contract with, or provide a grant to, an administrator to provide administrative, technical, operational, legal, or managerial services, or any combination of those services, to a designated water system to assist the designated water system with the provision of an adequate supply of affordable, safe drinking water, which services may include steps necessary to enable consolidation:~~

~~(ii)To fulfill the requirements of this section, the state board may contract with more than one administrator, but only one administrator may be assigned to provide services to a given designated water system:~~

~~(iii)An administrator may provide services to more than one designated water system:~~

~~(B)Order a designated water system to accept administrative, technical, operational, legal, or managerial services, including full management and control of all aspects of the designated water system, from an administrator selected by the state board:~~

~~(C)Order a designated water system to accept administrative, technical, operational, legal, or managerial services from an administrator appointed by the state board for full oversight of construction or development projects related to a consolidation or extension of service, including, but not limited to, accepting loans and grants issued by the state board and entering into contracts on behalf of the designated water system:~~

~~(2)In performing its duties pursuant to paragraph (1), the state board may use criteria from the handbook adopted pursuant to subdivision (g):~~

~~(3)When contracting with, or ordering a designated water system to accept, an administrator pursuant to paragraph (1), the state board may also require the administrator to provide administrative, technical, legal, or managerial services for any sewer service provided by the designated water system:~~

~~(b)Unless the state board has already held a public meeting pursuant to subdivision (b) of Section 116682, the state board shall do all of the following to determine that a public water system or state small water system is a designated water system:~~

~~(1)Provide the public water system or state small water system with notice and an opportunity to show either of the following:~~

~~(A)That the public water system or state small water system has neither consistently failed to provide an adequate supply of affordable, safe drinking water nor is it an at-risk water system:~~

~~(B)That the public water system or state small water system has taken steps to timely address its failure to provide an adequate supply of affordable, safe drinking water and that it is not an at-risk water system:~~

~~(2)(A)Conduct a public meeting in a location as close as feasible to the affected community:~~

~~(B)The state board shall make reasonable efforts to provide a 30-day notice of the public meeting to affected ratepayers, renters, and property owners:~~

~~(C)The state board shall provide representatives of the public water system or state small water system, affected ratepayers, renters, and property owners with an opportunity to present oral and written comments at the public meeting:~~

~~(D)The state board shall provide at the meeting an opportunity for public comment:~~

~~(3)Provide the public with an opportunity to submit comments by mail or electronically during the 30-day notice period and for at least one week after the public meeting described in paragraph (2):~~

~~(4)If the public water system is operated by a local educational agency, obtain the local educational agency's agreement, in writing, to the appointment of an administrator:~~

~~(c)The state board shall make financial assistance available to an administrator of a designated water system, as appropriate and to the extent that funding is available:~~

~~(d)The authority granted to an administrator by the state board pursuant to subdivision (a) may include, but shall not be limited to, the authority to do all of the following:~~

~~(1) Expend available moneys for capital infrastructure improvements that the designated water system needs to provide an adequate supply of affordable, safe drinking water or to execute a consolidation ordered pursuant to Section 116682.~~

~~(2) Set and collect user water rates and fees, subject to approval by the state board. The state board shall consider affordability when approving water rates and fees. The provisions of this section are subject to all applicable constitutional requirements, including Article XIII D of the California Constitution.~~

~~(3) Expend available moneys for operation and maintenance costs of the designated water system.~~

~~(4) Expend available moneys necessary to achieve consolidation, including conducting feasibility or planning studies, or addressing outstanding technical or legal issues.~~

~~(e) The state board shall work with the administrator of a designated water system and the communities served by that designated water system to develop, within the shortest practicable time, adequate technical, managerial, and financial capacity to deliver an adequate supply of affordable, safe drinking water so that the services of the administrator are no longer necessary.~~

~~(f) A designated water system shall not be responsible for any costs associated with an administrator that are higher than the costs necessary to maintain the designated water system and provide an adequate supply of affordable, safe drinking water or provision of sewer service.~~

~~(g) Before ordering a designated water system to accept administrative, technical, operational, legal, or managerial services from an administrator pursuant to subdivision (a), the state board shall develop standards, terms, and procedures in a handbook adopted consistent with the process provided for in subdivision (a) of Section 116760.43 for all of the following:~~

~~(1) Ensuring compliance with subdivision (f).~~

~~(2) Providing opportunity for public comment on the selection of an administrator and the services to be provided.~~

~~(3) Providing public access to budgets, ownership and financial information, and other documents and records related to the provision of water service to the designated water system or affected residences and to the management of the designated water system by the administrator.~~

~~(4) Providing regular public meetings, notifications, opportunities for public comment, and other forms of engagement with customers of the designated water system for significant decisions or actions made on behalf of the designated water system, including, but not limited to, establishing operating budgets, altering water rates, adopting system policies, entering into long-term contracts or financing commitments, and developing system projects or plans.~~

~~(5) Formal requests to the state board to reverse or modify a decision of an administrator or to request substitution of an administrator.~~

~~(6) Ensuring an administrator acts in the best interests of the community served.~~

~~(7) Development and approval of a post-administrator drinking water service plan to ensure compliance with subdivision (e). Development of the plan shall include, but is not limited to, an evaluation of long-term public governance or community ownership options.~~

~~(h) An administrator appointed pursuant to this section for a designated water system shall not be liable for claims by past or existing ratepayers, or those who consumed water provided through the designated water system, if good faith, reasonable effort, and ordinary care were used by the administrator to assume possession of, or to operate, the designated water system.~~

~~(i) An administrator appointed pursuant to this section for a designated water system shall not be liable for claims by past or existing ratepayers, or those who consumed water provided through the designated water system, for any injury or damages that occurred before the commencement of the operation period.~~

~~(j) This section does not limit or supersede any other law authorizing claims against the state board or providing a defense to liability, and shall not be construed to create any new or expanded basis for liability.~~

~~(k) Nothing in this section shall be construed to do any of the following:~~

~~(1)Relieve a water district, water wholesaler, or any other entity from complying with any provision of federal or state law, including those pertaining to drinking water quality.~~

~~(2)Impair any cause of action by the Attorney General, a district attorney, a city attorney, or other public prosecutor, or impair any other action or proceeding brought by, or on behalf of, a regulatory agency.~~

~~(3)Impair any claim alleging the taking of property without compensation within the meaning of either the Fifth Amendment to the United States Constitution or Section 19 of Article I of the California Constitution.~~

~~(4)Relieve any person or entity from liability for action or inaction in bad faith, or without reasonable effort or ordinary care.~~

~~(l)Nothing in this section shall absolve, indemnify, or protect a prior operator, designated water system, or individual from liability based on an act or failure to act prior to the operation period.~~

~~(m)Administrative and managerial contracts pursuant to this section shall be exempt from Chapter 2 (commencing with Section 10290) of Part 2 of Division 2 of the Public Contract Code and may be awarded on a noncompetitive bid basis as necessary to implement the purposes of this section.~~

~~(n)For purposes of this section, a local government, as defined in Article XIII C of the California Constitution, that sets water rates in accordance with Article XIII D of the California Constitution shall be deemed to be providing affordable water.~~

~~(o)This section does not apply to a charter city, charter county, or charter city and county.~~

~~(p)(1)For purposes of this section, an administrator is authorized to act on behalf of an affected residence to the same extent, and in the same manner, as a designated water system with the consent of the affected residence.~~

~~(2)For purposes of this section, where an administrator is authorized to act on behalf of a designated public water system, it may also act on behalf of a voluntary participant.~~

~~(q)The Legislature finds and declares that the funding provided to a state small water system, affected residence, public water system, voluntary participant, or administrator for purposes of this section serves a public purpose and does not constitute a gift of public funds within the meaning of Section 6 of Article XVI of the California Constitution.~~

~~(r)For purposes of this section, the following terms have the following meanings:~~

~~(1)"Administrator" means a person whom the state board has determined is competent to perform the administrative, technical, operational, legal, or managerial services required for purposes of this section, pursuant to criteria set forth in the handbook adopted pursuant to subdivision (g). Notwithstanding any other law, a privately owned public utility may serve as an administrator for purposes of this section.~~

~~(2)"Designated water system" means any of the following:~~

~~(A)A public water system or state small water system that has been ordered to consolidate pursuant to Section 116682.~~

~~(B)A public water system or state small water system that serves a disadvantaged community and that the state board finds consistently fails to provide an adequate supply of affordable, safe drinking water.~~

~~(C)An at-risk water system.~~

~~(3)"Voluntary participant" means the owner of a domestic well or state small water system who has agreed to accept financial assistance pursuant to Chapter 4.6 (commencing with Section 116765) for the provision of an adequate and affordable supply of safe drinking water.~~


[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)

AB-3277 Local agency formation commission: districts: property tax. (2023-2024)

SHARE THIS:



Date Published: 02/27/2024 09:00 PM

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

ASSEMBLY BILL

NO. 3277

Introduced by Committee on Local Government

February 27, 2024

An act to amend Section 56810 of the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 3277, as introduced, Committee on Local Government. Local agency formation commission: districts: property tax.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, establishes the sole and exclusive authority and procedures for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts. Existing law requires proceedings for the formation of a district to be conducted as authorized by the principal act of the proposed district, and authorizes the local agency formation commission in each county to serve as the conducting authority, as specified. Existing law requires a commission to determine the amount of property tax revenue to be exchanged by an affected local agency, as specified, if the proposal includes the formation of a district, as defined.

This bill would, instead, require a commission to determine the amount of property tax revenue to be exchanged by an affected local agency if the proposal includes the formation of a district and the applicant is seeking a share of the 1% ad valorem property taxes. By adding to the duties of a local agency formation commission, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56810 of the Government Code is amended to read:

56810. (a) (1) If the proposal includes the incorporation of a city, as defined in Section 56043, the commission shall determine the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section and Section 56815.

(2) If the proposal includes the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, *and if the applicant is seeking a share of the 1 percent ad valorem property taxes*, the commission shall determine the amount of property tax to be exchanged by the affected local agency pursuant to this section.

(b) The commission shall notify the county auditor of the proposal and the services which the new jurisdiction proposes to assume within the area, and identify for the auditor the existing service providers within the area subject to the proposal.

(c) If the proposal would not transfer all of an affected agency's service responsibilities to the proposed city or district, the commission and the county auditor shall do all of the following:

(1) The county auditor shall determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 93 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by each affected local agency in the prior fiscal year. For purposes of making this determination and the determination required by paragraph (3), "total amount of revenue from all sources available for general purposes" means the total amount of revenue which an affected local agency may use on a discretionary basis for any purpose and does not include any of the following:

(A) Revenue which, by statute, is required to be used for a specific purpose.

(B) Revenue from fees, charges, or assessments which are levied to specifically offset the cost of particular services and do not exceed the cost reasonably borne in providing these services.

(C) Revenue received from the federal government which is required to be used for a specific purpose.

(2) The commission shall determine, based on information submitted by each affected local agency, an amount equal to the total net cost to each affected local agency during the prior fiscal year of providing those services which the new jurisdiction will assume within the area subject to the proposal. For purposes of this paragraph, "total net cost" means the total direct and indirect costs that were funded by general purpose revenues of the affected local agency and excludes any portion of the total cost that was funded by any revenues of that agency that are specified in subparagraphs (A), (B), and (C) of paragraph (1).

(3) The commission shall multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by each affected local agency during the prior fiscal year within the area subject to the proposal. The county auditor shall adjust the amount described in the previous sentence by the annual tax increment according to the procedures set forth in Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code, to the fiscal year in which the new city or district receives its initial allocation of property taxes.

(4) For purposes of this subdivision, in any county in which, prior to the adoption of Article XIII A of the California Constitution, and continuing thereafter, a separate fund or funds were established consisting of revenues derived from the unincorporated area of the county and from which fund or funds services rendered in the unincorporated area have been paid, the amount of property tax revenues derived pursuant to paragraph (3), may, at the discretion of the commission, be transferred to the proposed city over a period not to exceed 12 fiscal years following its incorporation. In determining whether the transfer of the amount of property tax revenues determined pursuant to paragraph (3) shall occur entirely within the fiscal year immediately following the incorporation of the proposed city or shall be phased in over a period not to exceed 12 full fiscal years following the incorporation, the commission shall consider each of the following:

(A) The total amount of revenue from all sources available to the proposed city.

(B) The fiscal impact of the proposed transfer on the transferring agency.

(C) Any other relevant facts which interested parties to the exchange may present to the commission in written form.

The decision of the commission shall be supported by written findings setting forth the basis for its decision.

(d) If the proposal would transfer all of an affected agency's service responsibilities to the proposed city or district, the commission shall request the auditor to determine the property tax revenue generated for the affected service providers by tax rate area, or portion thereof, and transmit that information to the commission.

(e) The executive officer shall notify the auditor of the amount determined pursuant to paragraph (3) of subdivision (c) or subdivision (d), as the case may be, and, where applicable, the period of time within which and the procedure by which the transfer of property tax revenues will be effected pursuant to paragraph (4) of subdivision (c), at the time the executive officer records a certificate of completion pursuant to Section 57203 for any proposal described in subdivision (a), and the auditor shall transfer that amount to the new jurisdiction.

(f) The amendments to this section enacted during the 1985–86 Regular Session of the Legislature shall apply to any proposal described in subdivision (a) for which a certificate of completion is recorded with the county recorder on or after January 1, 1987.

(g) For purposes of this section, "prior fiscal year" means the most recent fiscal year for which data on actual direct and indirect costs and revenues needed to perform the calculations required by this section are available preceding the issuance of the certificate of filing.

(h) An action brought by a city or district to contest any determinations of the county auditor or the commission with regard to the amount of property tax revenue to be exchanged by the affected local agency pursuant to this section shall be commenced within three years of the effective date of the city's incorporation or the district's formation. These actions may be brought by any city that incorporated or by any district that formed on or after January 1, 1986.

(i) This section applies to any city that incorporated or district that formed on or after January 1, 1986.

(j) The calculations and procedures specified in this section shall be made prior to and shall be incorporated into the calculations specified in Section 56815.

SEC. 2. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.


[Home](#)
[Bill Information](#)
[California Law](#)
[Publications](#)
[Other Resources](#)
[My Subscriptions](#)
[My Favorites](#)

SB-1209 Local agency formation commission: indemnification. (2023-2024)

SHARE THIS:



Date Published: 02/15/2024 09:00 PM

CALIFORNIA LEGISLATURE— 2023–2024 REGULAR SESSION

SENATE BILL
NO. 1209

Introduced by Senator Cortese

February 15, 2024

An act to add Section 56383.5 to the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

SB 1209, as introduced, Cortese. Local agency formation commission: indemnification.

Existing law, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, provides the exclusive authority and procedure for the initiation, conduct, and completion of changes of organization and reorganization for cities and districts, except as specified. The act continues in existence in each county a local agency formation commission (LAFCO) that consists of members appointed, as specified, and oversees those changes of organization and reorganization. The act authorizes a LAFCO to, among other things, review and approve with or without amendment, wholly, partially, or conditionally, or disapprove proposals for changes of organization or reorganization, as specified.

This bill would authorize a LAFCO to require, as a condition for, among other things, processing a change of organization or reorganization, that the applicant agrees to defend, indemnify, and hold harmless the LAFCO, its agents, officers, and employees from and against any claim, action, or proceeding, as specified, arising from or relating to the action or determination by the LAFCO.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 56383.5 is added to the Government Code, to read:

56383.5. The commission may require, as a condition for processing a change of organization or reorganization, a sphere amendment or a sphere update, or any other action or determination requested from the commission, that the applicant agrees to defend, indemnify, and hold harmless the commission, its agents, officers, and employees from any claim, action, or proceeding against the commission, its agents, officers, or employees arising from or relating to the action or determination by the commission.

REGULAR MEMBERS

CHAIR

Donald P. Wagner

County Member

VICE CHAIR

Wendy Bucknum

City Member

IMMEDIATE PAST CHAIR

Douglass Davert

Special District Member

James Fisler

Special District Member

Derek J. McGregor

Public Member

Bruce Whitaker

City Member

VACANT

County Member

ALTERNATES

Kathryn Freshley

Special District Member

Carol Moore

City Member

Lou Penrose

Public Member

VACANT

County Member

STAFF

Carolyn Emery

Executive Officer

Scott Smith

General Counsel

March 13, 2024

Honorable Juan Carillo, Chair
Assembly Local Government Committee
1020 N Street
Sacramento, CA 95814

RE: **Support** – AB 3277 (Committee on Local Government)
Omnibus Bill

Dear Chair Carillo:

The Local Agency Formation Commission of Orange County (OC LAFCO) is pleased to support the Assembly Local Government Committee Omnibus Bill (AB 3277), sponsored by the California Association of Local Agency Formation Commissions (CALAFCO).

AB 3277 proposes a technical and non-substantive change to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act), which governs the work of LAFCOs. The CKH Act provides LAFCOs with the authority to process proposals for the formation of a district. In part to the formation of a district, LAFCOs are required to determine the property tax exchange when the affected agency is seeking a share of the one percent ad valorem property tax. The proposed amendment would allow LAFCOs to exclude the requirement of determining the property tax revenue to be exchanged if the affected agency is not seeking a share of the one percent ad valorem property tax.

The Commission appreciates the effort of CALAFCO and the Committee's authorship of this bill and support of the mission of LAFCOs.

Respectfully,

Donald P. Wagner
Chair

cc: Members, Assembly Committee on Local Government
Jimmy MacDonald, Consultant, Assembly Local Government Committee
Rene La Roche, Executive Director, CALAFCO
Orange County Legislators

REGULAR MEMBERS

CHAIR

Donald P. Wagner

County Member

VICE CHAIR

Wendy Bucknum

City Member

IMMEDIATE PAST CHAIR

Douglass Davert

Special District Member

James Fisler

Special District Member

Derek J. McGregor

Public Member

Bruce Whitaker

City Member

VACANT

County Member

ALTERNATES

Kathryn Freshley

Special District Member

Carol Moore

City Member

Lou Penrose

Public Member

VACANT

County Member

STAFF

Carolyn Emery

Executive Officer

Scott Smith

General Counsel

March 13, 2024

Senator David Cortese
California State Senate
1021 O Street, Suite 6630
Sacramento, CA 95814

RE: **Support** – SB 1209 (Cortese) Local Agency Formation
Commission: Indemnification

Dear Senator Cortese:

The Local Agency Formation Commission of Orange County (OC LAFCO) is pleased to support Senate Bill 1209, sponsored by the California Association of Local Agency Formation Commissions (CALAFCO). SB 1209 proposes an amendment to State law that would explicitly authorize LAFCOs to require applicants to indemnify the Commissions against litigation. The proposed amendment seeks similar authority to that granted to counties, cities, and special districts.

SB 1209 addresses a decision made by the California Second District Court of Appeals in the case of San Luis Obispo LAFCO v. City of Pismo Beach. The court opined that it was not the authority of LAFCOs to require indemnification by the applicant as a condition of processing an application. Absent the indemnification authority and considering LAFCO funding is statutorily provided in three parts from the county, cities and special districts within a county, the costs to defend litigation would be absorbed by all of LAFCO's funding agencies.

Consequently, SB 1209 would provide LAFCOs the authority to require indemnification from applicants, which prevents costs associated with defending LAFCOs from litigation and removes the possibility of an applicant seeking litigation based on the recent court decision to challenge a decision made by LAFCOs.

OC LAFCO supports the effort of SB 1209 and appreciates your authorship of this important legislation.

Respectfully,

Donald P. Wagner
Chair

cc: Anton Favorini-Csorba, Consultant, Senate Republican Caucus
Rene La Roche, Executive Director, CALAFCO
Orange County Legislators

REGULAR MEMBERS

CHAIR
Donald P. Wagner
County Member

VICE CHAIR
Wendy Bucknum
City Member

IMMEDIATE PAST CHAIR
Douglass Davert
Special District Member

James Fisler
Special District Member

Derek J. McGregor
Special District Member

Bruce Whitaker
City Member

Vacant
County Member

ALTERNATES

Kathryn Freshley
Special District Member

Carol Moore
City Member

Lou Penrose
Public Member

Vacant
County Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

MEETING DATE: March 13, 2024

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer
Policy Analyst II

SUBJECT: Policy and Procedural Guidelines for Processing
Incorporation Applications and Implementing
Revenue Neutrality Provisions

BACKGROUND

Periodically, the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (CKH Act) is modified, requiring the Commission to amend an agency’s respective policy. This report includes recommended amendments to the “Policy and Procedural Guidelines for Processing Incorporation Applications and Implementing Revenue Neutrality Provisions” to align with current State law and local policy. The policy was originally adopted by the Commission in 1990, and in 1998, state provisions involving revenue neutrality for proposed incorporations were appended to the policy. For ease of review, proposed amendments to the policy are indicated in redline format in Attachment 1 and are summarized in the table below.

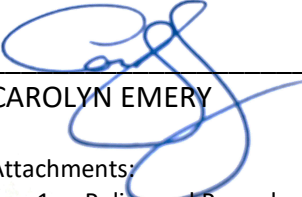
PROPOSED POLICY AMENDMENTS		
SECTION	PAGE	AMENDMENT SUMMARY
Section I: Prefiling Meeting	1	Updated language that outlines prefiling requirements for incorporation proponents.
Section VI: Public Hearing Process	9	Updated language to align with current state law.
Section VII: Request for Reconsideration	9	Updated language to align with current state law.

RECOMMENDED ACTION

Staff recommends the Commission:

1. Adopt the Policy and Procedural Guidelines for Processing Incorporation Applications and Implementing Revenue Neutrality Provisions, as amended.

Respectfully Submitted,



CAROLYN EMERY



GAVIN CENTENO

Attachments:

1. Policy and Procedural Guidelines for Processing Incorporation Applications and Implementing Revenue Neutrality Provisions (Redline)
2. Policy and Procedural Guidelines for Processing Incorporation Applications and Implementing Revenue Neutrality Provisions (As Amended)

Policy and Procedural Guidelines for Processing Incorporation Applications and Implementing Revenue Neutrality Provisions

I. PRE-FILING ~~MEETING ADVISORY TEAM CONSULTATION~~

Prior to initiating an incorporation proposal, the ~~Commission shall make available to the~~ incorporation proponents ~~shall participate in a pre-filing meeting with OC LAFCO staff a team of independent experts in municipal finance and/or city management to provide receive~~ an overview of ~~the incorporation process, associated costs and relative laws, city government, laws, and current regional and statewide financial trends affecting cities and their long-term fiscal viability.~~ The ~~advisory team consultation- pre-filing meeting~~ will be at no cost to the ~~applicant or OC LAFCO proponents.~~

II. FILING MATERIALS

Prior to initiation and filing of any documents, a meeting with the incorporation applicants and OC LAFCO staff to discuss the incorporation process, required documents and schedule of payment of all fees and other costs associated with the proposed incorporation is highly advised.

Required filing materials include:

- A. Resolution of Application, Landowner Petition, or Registered Voter Petition
- B. Completed Justification of Proposal Questionnaire
- C. Boundary Map
- D. Filing Fee
- E. Preliminary Feasibility Analysis

After receipt of above filing materials, OC LAFCO staff will review for completeness and initiate the development of a Comprehensive Fiscal Analysis (CFA) and related CEQA documents.

III. CONTENTS OF THE COMPREHENSIVE FISCAL ANALYSIS

At a minimum, the Comprehensive Fiscal Analysis must contain the following information:

- A. The costs to the proposed city of providing public services and facilities during the ten (10) fiscal years following incorporation.
- B. The revenues of the proposed city during the ten (10) fiscal years following incorporation.
- C. The effects on costs and revenues of any affected local agency during the ten (10) fiscal years following incorporation.
- D. An analysis, consistent with Government Code Section 56815, ensuring that the revenues currently received by the local agency transferring the affected territory, that but for the operation of this section, would accrue to the local agency receiving the affected territory are substantially equal to the expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory unless the Commission finds either that the county and all of the subject agencies agree to the proposed transfer or that the negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Government Code Section 56886.
- E. Any other information and analysis needed to make the following findings:
 - Proposal is consistent with the intent of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
 - Proposal is consistent with the spheres of influence of all affected local agencies.
 - The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the ten (10) fiscal years following incorporation. The definition of reasonable reserve will be subject to the specific conditions associated with the proposed incorporation proposal.

IV. REVIEW OF FILING MATERIALS

A. Petition

If the proposal is filed by registered voter petition, OC LAFCO will submit the petitions to the Registrar of Voters for verification. This process can take from a few weeks to months depending on the workload at the Registrar's Office and the number of

signatures to verify. The Registrar will charge OC LAFCO a verification fee for each signature that is submitted to them. OC LAFCO will recover this charge from the incorporation applicant. If the Registrar determines that there are an insufficient number of valid signatures, the incorporation applicants have an additional 15 days to acquire the sufficient number of valid signatures.

In addition, the petition will be verified by OC LAFCO staff to ensure consistency with Section 56700 of the California Government Code.

B. Resolution

If the proposal is filed by resolution, OC LAFCO staff will review the resolution to ensure it is in accordance with the relevant sections of the California Government Code.

C. Justification of Proposal Questionnaire

OC LAFCO staff will review the questionnaire for accuracy and completeness. All affected local agencies and interested parties will also review the questionnaire for potential impacts. The results of this review will be included within the OC LAFCO staff report to the Commission.

D. Boundary Map

OC LAFCO staff, affected local agencies, and interested parties will review the boundary map to determine consistency with existing local agencies and to ensure that the boundaries are logical and reasonable.

A more detailed map and legal description meeting the requirements of the Orange County Surveyor's Office and the State Board of Equalization will need to be completed prior to the incorporation proposal being set for election.

E. Comprehensive Fiscal Analysis

Upon receipt of the Comprehensive Fiscal Analysis (CFA), OC LAFCO staff will publish a legal notice setting a thirty (30) day review period for the CFA. This legal notice will be published at least fifteen (15) days prior to the commencement of the thirty-day review period in accordance with Section 56153 of the California Government Code and mailed to all affected local agencies and any persons requesting special notice who has filed a written request for special notice with the Executive Officer.

Prior to the conclusion of the thirty-day review period, OC LAFCO staff will issue a preliminary analysis of the CFA, specifying portions of the CFA which OC LAFCO staff believes are inaccurate, without sufficient documentation, or otherwise lacking reliability. During the thirty-day review period, any person can request that the State

Controller's Office review the CFA in accordance with Section 56801 of the California Government Code. The request must be accompanied by a deposit, in the amount to be determined by the Executive Officer, to cover the costs of the Controller's review. The request for the Controller's review should specify the portion or portions of the CFA to be reviewed and a brief explanation of why the review is being requested. This information will assist the Controller in completing a timely review of the CFA and help to reduce the costs of the review to the requesting party. No requests for Controller's review will be accepted after 5:00 p.m. on the final day of the thirty-day review period.

F. California Environmental Quality Act (CEQA)

OC LAFCO staff will review the incorporation proposal in regard to the requirements of CEQA. Depending on the specific circumstances of each incorporation proposal, either a Negative Declaration or an Environmental Impact Report (EIR) will be prepared.

The applicants will be responsible for all costs of preparing the required environmental review documents under CEQA in accordance with OC LAFCO's Schedule of Filing and Processing Fees.

V. REVENUE NEUTRALITY

The provisions of Government Code Section 56815 declare the intent of the Legislature that the incorporation of new cities results in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city and other subject agencies and as a result minimize the long term negative fiscal effects incorporations have on counties.

Uncertainties likely to arise in the interpretation of Government Code Section 56845 may act to impede incorporation of viable cities and/or invite inter-jurisdictional disputes following incorporation. The purpose of this policy is to establish incorporation guidelines that provide a framework for the development of terms and conditions related to the balancing of revenues and service responsibilities, otherwise known as "revenue neutrality," and to:

- Institute a process for analysis and mitigation of the fiscal impacts of incorporation on the county that results in stable, predictable financial outcomes for both the county and the new city.
- Define the terms and budget items to be negotiated under revenue neutrality requirements of Government Code Section 56815.
- Mitigate potential fiscal losses to the county without making incorporation impossible for local communities ready for self-governance or precluding an adequate fiscal base for new cities.

- Specify how participants in the incorporation process can develop proposed terms and conditions of incorporation that will meet revenue neutrality criteria and the standards of this commission in making the findings required by Government Code Sections 56815 and 56375 for approval of incorporations.

It is the policy of this Commission that implementation of revenue neutrality provisions of Government Code Section 56815 shall ensure adequate protection of the financial stability of the county and other affected agencies while at the same time permitting the incorporation of communities demonstrating the necessary resources and capacities for self-governance. The legislative mandates for achieving revenue neutrality shall be implemented through a rational and predictable process for gathering information, determining the appropriate content of revenue neutrality agreements and providing for the revision of those agreements.

Figure 1 illustrates the portions of the incorporation process involving the development of revenue neutrality actions that must be taken by the Commission. Incorporation proponents are required to submit a preliminary fiscal analysis (PFA) for evaluation by OC LAFCO staff. The PFA is augmented by OC LAFCO staff as necessary with county revenue and departmental cost data, the calculation of the property tax allocation and analysis of fiscal and service level assumptions. The PFA is used as a starting point for the comprehensive fiscal analysis prepared by the Executive Officer or her designee. OC LAFCO staff convenes a revenue neutrality negotiating committee composed of representatives of the county, other affected agencies and the chief petitioners for the incorporation when the first draft of the comprehensive fiscal analysis is available. OC LAFCO staff will attend meetings of this committee in order to facilitate discussions and compliance with this policy.

The revenue neutrality committee will have an initial period of 45 days to negotiate an agreement to meet the requirements of Government Code Section 56815. At the conclusion of negotiations or the end of the 45-day negotiating period, OC LAFCO Executive Officer will certify that an agreement has been reached or has not been reached. If any agreement is reached, ratification by resolution of the County Board of Supervisors and by letter of the incorporation committee is returned to OC LAFCO staff for inclusion in the comprehensive fiscal analysis, staff report and recommendations.

If the negotiating parties do not reach an agreement, the status of the negotiations will be referred to the Commission for workshop discussion of outstanding issues at the first available meeting as determined by the Executive Officer. If revenue neutrality issues are not resolved during the course of the workshop, the Commission will direct the negotiating committee to resume negotiations for an additional 45-day period.

If no agreement is reached by the revenue neutrality committee and ratified by the County Board of Supervisors and the incorporation committee after two negotiating periods, OC LAFCO staff will draft proposed terms and conditions for use in the comprehensive fiscal analysis and for recommendation to the Commission at its public hearing.

Revenue neutrality agreements should adhere to the standards for content described in this policy. Such agreements should include a description of methodologies and assumptions leading up to the terms of the agreement. Revenue neutrality agreements should also provide for a process of adjustment after incorporation in order to account for unforeseen economic or legislative events significantly affecting the flow of local revenue.

A. Content and Analytical Standards:

The provisions of revenue neutrality agreements negotiated pursuant to this policy shall adhere to the following standards:

1. Revenue neutrality agreements shall be based on county costs and revenues for the most recent prior year for which data are available. Only identifiable and recurring revenues and expenditures should be evaluated for purposes of determining revenue neutrality. Anticipated or projected revenue growth should not be included.
2. Expenditures for services transferred to a new city should be evaluated on a “net cost” basis. Services funded on a full cost recovery basis (such as building inspection) are by definition revenue neutral and should not be included in the analysis.
3. Costs of capital improvements are not recurring costs and should not be included.
4. Countywide costs for regional services and administrative functions, which are required to support county governance of both incorporated and unincorporated areas, should not be included in defining services transferred to the new city.
5. Inflationary factors should not be included in the analysis of revenue neutrality provisions unless the resulting agreement provides for annual adjustment for mitigation payments based on actual data.
6. Restricted and unrestricted revenues should be evaluated separately. An agency may pay a portion of its annual revenue neutrality payment with restricted funds if both agencies agree, and a legal exchange mechanism can be created.

B. Permissible Types of Terms and Conditions

Terms and conditions for implementation of revenue neutrality may include provisions for tax sharing agreements, lump-sum payments, payments over a fixed period of time, modification of incorporation boundaries or any other terms and conditions permitted under Government Code Section 56815.

C. Duration of Fiscal Impact Mitigation

The term of mitigation payments may be either ongoing or limited to a specific number

of years. Ongoing revenue neutrality agreements may provide for the permanent sharing of revenues between the new city and affected agencies. Agreements that limit revenue neutrality payments should establish the term of payments in the following steps:

1. Determine the annual net revenue loss to the County and other affected agencies resulting from the proposed incorporation.
2. Determine a lump sum sufficient to yield in interest funds equal to the annual net revenue loss to the County and other affected agencies.
3. The duration of mitigation payments will be calculated using the annual mitigation payment amount and inflation and discount rates established by negotiation.

D. Method of Annual Payment

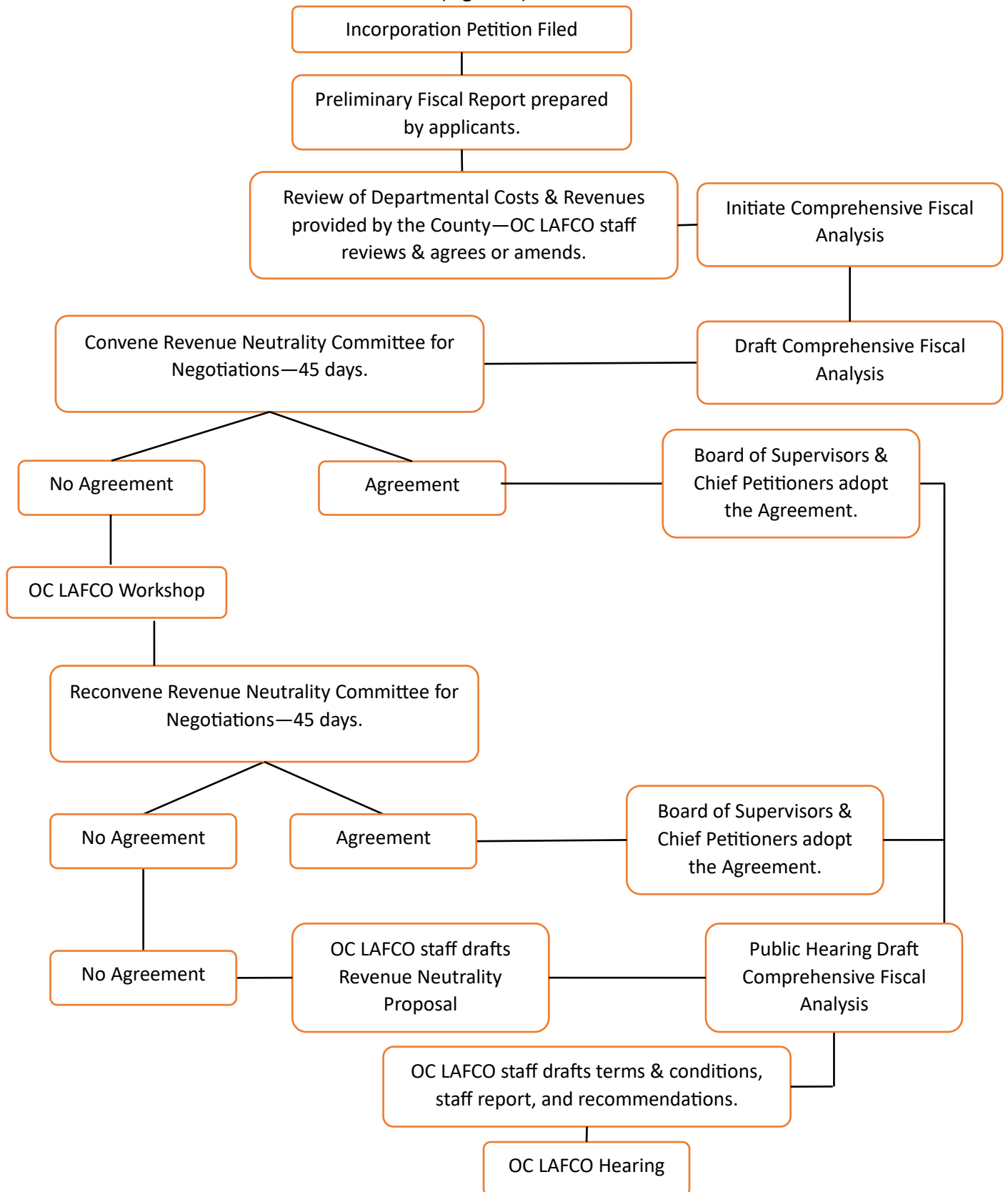
In instances in which revenue neutrality requires tax sharing or mitigation payments to the county, payment should be affected as directly from the revenue source as permitted by State law.

E. Effective Date of Incorporation

The effective date of incorporation should be considered in revenue neutrality agreements. The effective date should be set to establish adequate initial account balances for the new city as it assumes service responsibilities but should not otherwise conflict with the intent of fiscal neutrality.

REVENUE NEUTRALITY NEGOTIATIONS & FISCAL ANALYSIS PROCESS

(Figure 1)



VI. PUBLIC HEARING PROCESS

The incorporation proposal will be considered by OC LAFCO at a minimum of one but most likely several public hearings. These hearings will address the various factors required to be considered in Government Code Section 56720, the Comprehensive Fiscal Analysis, the OC LAFCO staff report, the Controller's review (if appropriate), and any other relevant information.

~~If the incorporation proposal is approved, the approving resolution will be transmitted to the County Board of Supervisors who will conduct the "protest hearing." If the incorporation proposal is approved, the Commission shall order the incorporation subject to the confirmation of the voters within the affected territory. A protest proceeding shall not be conducted.~~

If the incorporation proposal is disapproved, no new proposal which is the same or substantially the same may be filed for one year. Although, the Commission may waive this waiting period.

VII. REQUEST FOR RECONSIDERATION

Within thirty (30) days following the adoption of the OC LAFCO resolution either approving or disapproving the proposal, ~~or prior to the County Board of Supervisors conducting the protest hearing, whichever occurs first,~~ any interested party can file a written request with the Commission to reconsider ~~their~~ its action. Such a request requires the payment of a fee as determined by the OC LAFCO Schedule of Filing and Processing Fees in effect at that time. Upon receipt of a timely request, OC LAFCO will hold a legally noticed (at least 21 days prior to the hearing) public hearing on the reconsideration request. At the reconsideration hearing, OC LAFCO may approve, deny, or continue the reconsideration request.

Originally Adopted: 1990 (Incorporation Processing)
1998 (Revenue Neutrality)

Last Reviewed: ~~3/8/2023~~ 3/13/2024

Last Revised: ~~2/8/2012~~ 3/13/2024

Policy and Procedural Guidelines for Processing Incorporation Applications and Implementing Revenue Neutrality Provisions

I. PRE-FILING MEETING

Prior to initiating an incorporation proposal, the incorporation proponents shall participate in a pre-filing meeting with OC LAFCO staff to receive an overview of the incorporation process, associated costs and relative laws. The pre-filing meeting will be at no cost to the proponents.

II. FILING MATERIALS

Prior to initiation and filing of any documents, a meeting with the incorporation applicants and OC LAFCO staff to discuss the incorporation process, required documents and schedule of payment of all fees and other costs associated with the proposed incorporation is highly advised.

Required filing materials include:

- A.** Resolution of Application, Landowner Petition, or Registered Voter Petition
- B.** Completed Justification of Proposal Questionnaire
- C.** Boundary Map
- D.** Filing Fee
- E.** Preliminary Feasibility Analysis

After receipt of above filing materials, OC LAFCO staff will review for completeness and initiate the development of a Comprehensive Fiscal Analysis (CFA) and related CEQA documents.

III. CONTENTS OF THE COMPREHENSIVE FISCAL ANALYSIS

At a minimum, the Comprehensive Fiscal Analysis must contain the following information:

- A. The costs to the proposed city of providing public services and facilities during the ten (10) fiscal years following incorporation.
- B. The revenues of the proposed city during the ten (10) fiscal years following incorporation.
- C. The effects on costs and revenues of any affected local agency during the ten (10) fiscal years following incorporation.
- D. An analysis, consistent with Government Code Section 56815, ensuring that the revenues currently received by the local agency transferring the affected territory, that but for the operation of this section, would accrue to the local agency receiving the affected territory are substantially equal to the expenditures, including direct and indirect expenditures, currently made by the local agency transferring the affected territory for those services that will be assumed by the local agency receiving the affected territory unless the Commission finds either that the county and all of the subject agencies agree to the proposed transfer or that the negative fiscal effect has been adequately mitigated by tax sharing agreements, lump-sum payments, payments over a fixed period of time, or any other terms and conditions pursuant to Government Code Section 56886.
- E. Any other information and analysis needed to make the following findings:
 - Proposal is consistent with the intent of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000.
 - Proposal is consistent with the spheres of influence of all affected local agencies.
 - The proposed city is expected to receive revenues sufficient to provide public services and facilities and a reasonable reserve during the ten (10) fiscal years following incorporation. The definition of reasonable reserve will be subject to the specific conditions associated with the proposed incorporation proposal.

IV. REVIEW OF FILING MATERIALS

A. Petition

If the proposal is filed by registered voter petition, OC LAFCO will submit the petitions to the Registrar of Voters for verification. This process can take from a few weeks to months depending on the workload at the Registrar's Office and the number of signatures to verify. The Registrar will charge OC LAFCO a verification fee for each signature that is submitted to them. OC LAFCO will recover this charge from the incorporation applicant. If the Registrar determines that there are an insufficient

number of valid signatures, the incorporation applicants have an additional 15 days to acquire the sufficient number of valid signatures.

In addition, the petition will be verified by OC LAFCO staff to ensure consistency with Section 56700 of the California Government Code.

B. Resolution

If the proposal is filed by resolution, OC LAFCO staff will review the resolution to ensure it is in accordance with the relevant sections of the California Government Code.

C. Justification of Proposal Questionnaire

OC LAFCO staff will review the questionnaire for accuracy and completeness. All affected local agencies and interested parties will also review the questionnaire for potential impacts. The results of this review will be included within the OC LAFCO staff report to the Commission.

D. Boundary Map

OC LAFCO staff, affected local agencies, and interested parties will review the boundary map to determine consistency with existing local agencies and to ensure that the boundaries are logical and reasonable.

A more detailed map and legal description meeting the requirements of the Orange County Surveyor's Office and the State Board of Equalization will need to be completed prior to the incorporation proposal being set for election.

E. Comprehensive Fiscal Analysis

Upon receipt of the Comprehensive Fiscal Analysis (CFA), OC LAFCO staff will publish a legal notice setting a thirty (30) day review period for the CFA. This legal notice will be published at least fifteen (15) days prior to the commencement of the thirty-day review period in accordance with Section 56153 of the California Government Code and mailed to all affected local agencies and any persons requesting special notice who has filed a written request for special notice with the Executive Officer.

Prior to the conclusion of the thirty-day review period, OC LAFCO staff will issue a preliminary analysis of the CFA, specifying portions of the CFA which OC LAFCO staff believes are inaccurate, without sufficient documentation, or otherwise lacking reliability. During the thirty-day review period, any person can request that the State Controller's Office review the CFA in accordance with Section 56801 of the California Government Code. The request must be accompanied by a deposit, in the amount to be determined by the Executive Officer, to cover the costs of the Controller's review. The

request for the Controller’s review should specify the portion or portions of the CFA to be reviewed and a brief explanation of why the review is being requested. This information will assist the Controller in completing a timely review of the CFA and help to reduce the costs of the review to the requesting party. No requests for Controller’s review will be accepted after 5:00 p.m. on the final day of the thirty-day review period.

F. California Environmental Quality Act (CEQA)

OC LAFCO staff will review the incorporation proposal in regard to the requirements of CEQA. Depending on the specific circumstances of each incorporation proposal, either a Negative Declaration or an Environmental Impact Report (EIR) will be prepared.

The applicants will be responsible for all costs of preparing the required environmental review documents under CEQA in accordance with OC LAFCO’s Schedule of Filing and Processing Fees.

V. REVENUE NEUTRALITY

The provisions of Government Code Section 56815 declare the intent of the Legislature that the incorporation of new cities results in a similar exchange of both revenue and responsibility for service delivery among the county, the proposed city and other subject agencies and as a result minimize the long term negative fiscal effects incorporations have on counties.

Uncertainties likely to arise in the interpretation of Government Code Section 56845 may act to impede incorporation of viable cities and/or invite inter-jurisdictional disputes following incorporation. The purpose of this policy is to establish incorporation guidelines that provide a framework for the development of terms and conditions related to the balancing of revenues and service responsibilities, otherwise known as “revenue neutrality,” and to:

- Institute a process for analysis and mitigation of the fiscal impacts of incorporation on the county that results in stable, predictable financial outcomes for both the county and the new city.
- Define the terms and budget items to be negotiated under revenue neutrality requirements of Government Code Section 56815.
- Mitigate potential fiscal losses to the county without making incorporation impossible for local communities ready for self-governance or precluding an adequate fiscal base for new cities.
- Specify how participants in the incorporation process can develop proposed terms and conditions of incorporation that will meet revenue neutrality criteria and the standards of this commission in making the findings required by Government Code

Sections 56815 and 56375 for approval of incorporations.

It is the policy of this Commission that implementation of revenue neutrality provisions of Government Code Section 56815 shall ensure adequate protection of the financial stability of the county and other affected agencies while at the same time permitting the incorporation of communities demonstrating the necessary resources and capacities for self-governance. The legislative mandates for achieving revenue neutrality shall be implemented through a rational and predictable process for gathering information, determining the appropriate content of revenue neutrality agreements and providing for the revision of those agreements.

Figure 1 illustrates the portions of the incorporation process involving the development of revenue neutrality actions that must be taken by the Commission. Incorporation proponents are required to submit a preliminary fiscal analysis (PFA) for evaluation by OC LAFCO staff. The PFA is augmented by OC LAFCO staff as necessary with county revenue and departmental cost data, the calculation of the property tax allocation and analysis of fiscal and service level assumptions. The PFA is used as a starting point for the comprehensive fiscal analysis prepared by the Executive Officer or her designee. OC LAFCO staff convenes a revenue neutrality negotiating committee composed of representatives of the county, other affected agencies and the chief petitioners for the incorporation when the first draft of the comprehensive fiscal analysis is available. OC LAFCO staff will attend meetings of this committee in order to facilitate discussions and compliance with this policy.

The revenue neutrality committee will have an initial period of 45 days to negotiate an agreement to meet the requirements of Government Code Section 56815. At the conclusion of negotiations or the end of the 45-day negotiating period, OC LAFCO Executive Officer will certify that an agreement has been reached or has not been reached. If any agreement is reached, ratification by resolution of the County Board of Supervisors and by letter of the incorporation committee is returned to OC LAFCO staff for inclusion in the comprehensive fiscal analysis, staff report and recommendations.

If the negotiating parties do not reach an agreement, the status of the negotiations will be referred to the Commission for workshop discussion of outstanding issues at the first available meeting as determined by the Executive Officer. If revenue neutrality issues are not resolved during the course of the workshop, the Commission will direct the negotiating committee to resume negotiations for an additional 45-day period.

If no agreement is reached by the revenue neutrality committee and ratified by the County Board of Supervisors and the incorporation committee after two negotiating periods, OC LAFCO staff will draft proposed terms and conditions for use in the comprehensive fiscal analysis and for recommendation to the Commission at its public hearing.

Revenue neutrality agreements should adhere to the standards for content described in this policy. Such agreements should include a description of methodologies and assumptions leading up to the terms of the agreement. Revenue neutrality agreements should also

provide for a process of adjustment after incorporation in order to account for unforeseen economic or legislative events significantly affecting the flow of local revenue.

A. Content and Analytical Standards:

The provisions of revenue neutrality agreements negotiated pursuant to this policy shall adhere to the following standards:

1. Revenue neutrality agreements shall be based on county costs and revenues for the most recent prior year for which data are available. Only identifiable and recurring revenues and expenditures should be evaluated for purposes of determining revenue neutrality. Anticipated or projected revenue growth should not be included.
2. Expenditures for services transferred to a new city should be evaluated on a “net cost” basis. Services funded on a full cost recovery basis (such as building inspection) are by definition revenue neutral and should not be included in the analysis.
3. Costs of capital improvements are not recurring costs and should not be included.
4. Countywide costs for regional services and administrative functions, which are required to support county governance of both incorporated and unincorporated areas, should not be included in defining services transferred to the new city.
5. Inflationary factors should not be included in the analysis of revenue neutrality provisions unless the resulting agreement provides for annual adjustment for mitigation payments based on actual data.
6. Restricted and unrestricted revenues should be evaluated separately. An agency may pay a portion of its annual revenue neutrality payment with restricted funds if both agencies agree, and a legal exchange mechanism can be created.

B. Permissible Types of Terms and Conditions

Terms and conditions for implementation of revenue neutrality may include provisions for tax sharing agreements, lump-sum payments, payments over a fixed period of time, modification of incorporation boundaries or any other terms and conditions permitted under Government Code Section 56815.

C. Duration of Fiscal Impact Mitigation

The term of mitigation payments may be either ongoing or limited to a specific number of years. Ongoing revenue neutrality agreements may provide for the permanent sharing of revenues between the new city and affected agencies. Agreements that limit revenue neutrality payments should establish the term of payments in the following

steps:

1. Determine the annual net revenue loss to the County and other affected agencies resulting from the proposed incorporation.
2. Determine a lump sum sufficient to yield in interest funds equal to the annual net revenue loss to the County and other affected agencies.
3. The duration of mitigation payments will be calculated using the annual mitigation payment amount and inflation and discount rates established by negotiation.

D. Method of Annual Payment

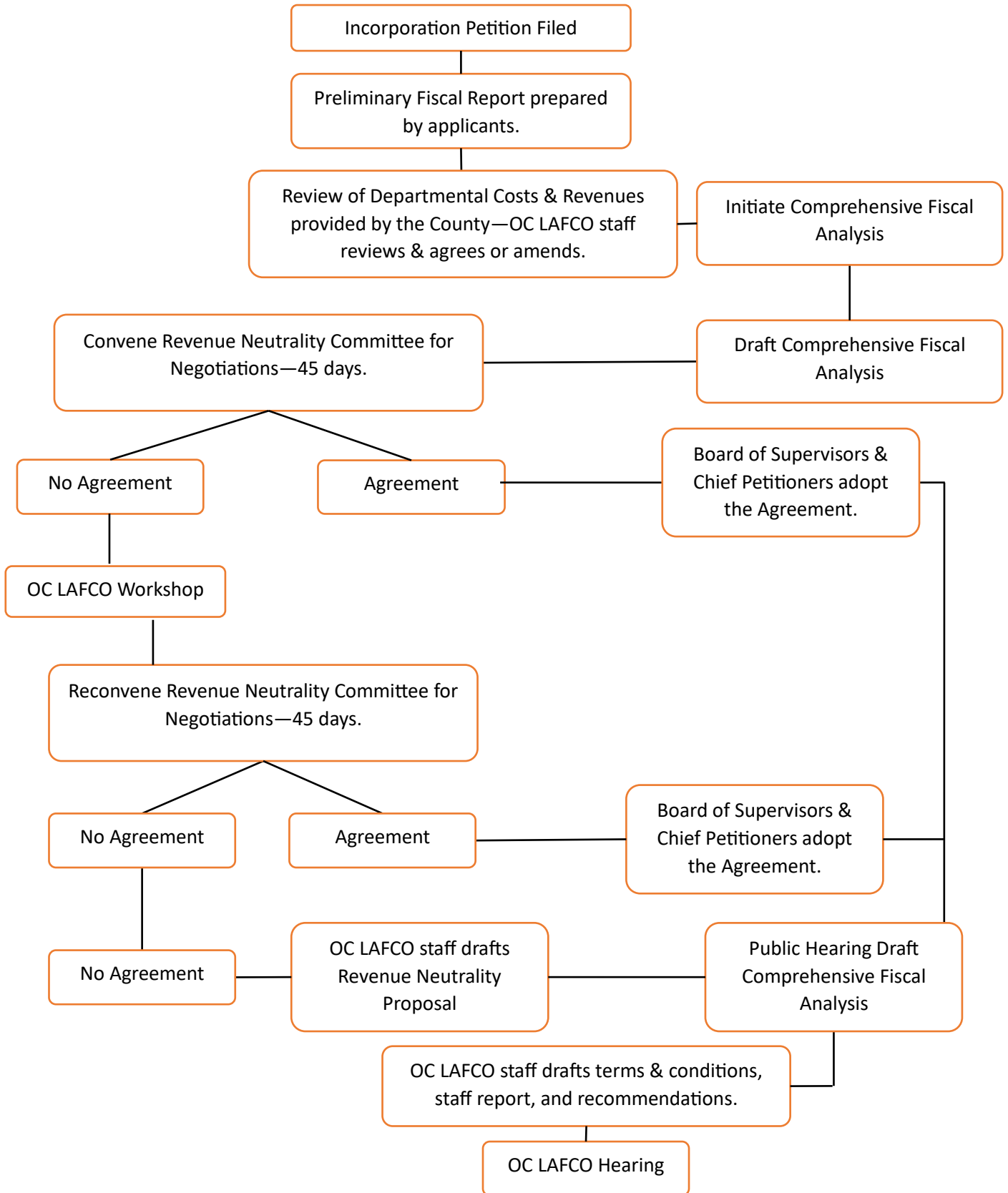
In instances in which revenue neutrality requires tax sharing or mitigation payments to the county, payment should be affected as directly from the revenue source as permitted by State law.

E. Effective Date of Incorporation

The effective date of incorporation should be considered in revenue neutrality agreements. The effective date should be set to establish adequate initial account balances for the new city as it assumes service responsibilities but should not otherwise conflict with the intent of fiscal neutrality.

**REVENUE NEUTRALITY NEGOTIATIONS &
FISCAL ANALYSIS PROCESS**

(Figure 1)



VI. PUBLIC HEARING PROCESS

The incorporation proposal will be considered by OC LAFCO at a minimum of one but most likely several public hearings. These hearings will address the various factors required to be considered in Government Code Section 56720, the Comprehensive Fiscal Analysis, the OC LAFCO staff report, the Controller's review (if appropriate), and any other relevant information.

If the incorporation proposal is approved, the Commission shall order the incorporation subject to the confirmation of the voters within the affected territory. A protest proceeding shall not be conducted.

If the incorporation proposal is disapproved, no new proposal which is the same or substantially the same may be filed for one year. Although, the Commission may waive this waiting period.

VII. REQUEST FOR RECONSIDERATION

Within thirty (30) days following the adoption of the OC LAFCO resolution either approving or disapproving the proposal, any interested party can file a written request with the Commission to reconsider its action. Such a request requires the payment of a fee as determined by the OC LAFCO Schedule of Filing and Processing Fees in effect at that time. Upon receipt of a timely request, OC LAFCO will hold a legally noticed (at least 21 days prior to the hearing) public hearing on the reconsideration request. At the reconsideration hearing, OC LAFCO may approve, deny, or continue the reconsideration request.

Originally Adopted: 1990 (Incorporation Processing)
1998 (Revenue Neutrality)
Last Reviewed: 3/13/2024
Last Revised: 3/13/2024

REGULAR MEMBERS

CHAIR
Donald P. Wagner
County Member

VICE CHAIR
Wendy Bucknum
City Member

IMMEDIATE PAST CHAIR
Douglass Davert
Special District Member

James Fisler
Special District Member

Derek J. McGregor
Public Member

Bruce Whitaker
City Member

VACANT
County Member

ALTERNATES

Kathryn Freshley
Special District Member

Carol Moore
City Member

Lou Penrose
Public Member

VACANT
County Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

MEETING DATE: March 13, 2024

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer
Office Manager/Commission Clerk
General Counsel

SUBJECT: OC LAFCO Personnel Policies and Procedures

BACKGROUND

Employment laws enacted by state and federal governments can change from year to year. Recognizing that, OC LAFCO staff and general counsel conduct annual reviews of the agency’s Personnel Policies and Procedures to ensure that the Commission’s local policy aligns with changes to those laws.

This report includes recommended amendments to the policy to align with recent changes to state and federal laws. The Personnel Policies and Procedures were adopted in 2003 and last reviewed in 2023. For ease of review, proposed amendments to the policy are indicated in redline format in Attachment 1 and are summarized in the table below.

Table 1: Summary of Proposed Amendments

Section	Page	Summary of Changes
Personnel Policies & Procedures: 3.1	1	Administrative changes made to the employee acknowledgement form.
Personnel Policies & Procedures: 3.1	3	Disclaimer statement added to generally inform employees that policy does not create employment contract, future employment or affect at-will status.
At-Will Employment: 3.2B	4	Updated language to clarify employment with OC LAFCO is at-will.
Equal Employment Opportunity Policy: 3.3B	5	Added and updated language to conform with federal law and outline process for OC LAFCO employees involving equal employment opportunity questions, concerns and violations.

Table 1: Summary of Proposed Amendments (continued)

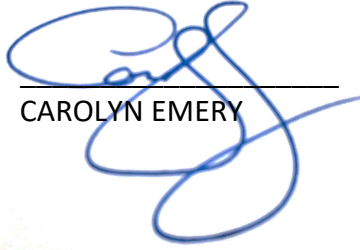
Section	Page	Summary of Changes
Reasonable Accommodation: 3.5B	7-8	Added and updated language to conform with federal and state laws and outline process involving requests for reasonable accommodations.
Policy Against Harassment, Discrimination, and Retaliation: 3.6B, C, D, E	9-14	Added language to conform with state law and outline process involving workplace harassment, discrimination, and retaliation.
Performance Management: 3.7D	16-17	Updated language for the Executive Officer’s performance evaluation process.
Personnel Records: 3.8B	17-18	Updated language to clarify the maintenance, retention, and disclosure of personnel records of OC LAFCO employees.
Pay Policies: 3.13E, G	24-26	Updated and added language to conform with federal and state laws and clarify exempt and non-exempt classifications and eligibility.
Sick Leave Benefits: 3.18A, B, D, F	28-32	Updated and added language to conform with state law and to clarify permitted uses and transfer of sick leave.
Pregnancy-Related Disability Leave: 3.22B, D3, G.2D	35-38	Added and updated language to clarify state law and OC LAFCO process involving pregnancy related disability leave.
Other Time Off: 3.23B, C, K, P	40-48	Updated to conform to state and federal laws and to improve language involving employee eligibility for bereavement leave; Added language to conform with federal and state laws involving employee leave and benefits for reproductive loss and alcohol and drug rehabilitation; Updated language to include additional instruction and resources involving workers’ compensation.
Safety: 3.25B	53-54	Added language to outline OC LAFCO and employee expectations and procedures to support safety in the workplace.
Workplace Violence Policy: 3.26	55-58	Added language to conform with state law and to clarify OC LAFCO’s prevention, reporting, and investigation processes involving violence in the workplace.

RECOMMENDED ACTION

Staff recommends the Commission:

1. Adopt the OC LAFCO Personnel Policies and Procedures, as amended.

Respectfully submitted,



CAROLYN EMERY



CHERYL CARTER-BENJAMIN



SCOTT SMITH

Attachments:

1. OC LAFCO Personnel Policies and Procedures (Redline)
2. OC LAFCO Personnel Policies and Procedures (As Amended)

**Personnel Policies and -Procedures
of the
Orange County Local Agency Formation Commission**

PART 1 – EMPLOYMENT

3.1 EMPLOYEE ACKNOWLEDGEMENT FORM

PLEASE READ THE FOLLOWING POLICIES AND PROCEDURES, EMPLOYEE HANDBOOK, FILL OUT AND RETURN THIS PORTION TO HUMAN RESOURCES THE OC LAFCO COMMISSION CLERK OR IMMEDIATE SUPERVISOR WITHIN FIVE BUSINESS DAYS.

I acknowledge that I have received and read a copy of the Orange County Local Agency Formation Commission (“OC LAFCO”) employee policy and procedures manual (“Manual”) and understand all the policies, guidelines, and procedures stated within. I understand that I am responsible for reading the Handbook these policies and for knowing and complying with the policies set forth in the Handbook herein during my employment with OC LAFCO.

Additionally, I specifically acknowledge that I have read and understand the following policies: Equal Employment Opportunity, Timekeeping, Overtime Pay, and Policy Against Harassment, Discrimination, and Retaliation.

The personnel policies and procedures -guideline manual describes important information about OC LAFCO, and I understand that I should consult the OC LAFCO Executive Officer regarding any questions I might have. I have entered into my employment relationship with OC LAFCO voluntarily and acknowledge that there is no specific length of employment. Accordingly, either I or OC LAFCO can terminate the relationship at will, with or without cause, at any time, so long as there is no violation of applicable federal or state law. Furthermore, I acknowledge that this manual is these policies and procedures are not a contract of employment.

I understand and agree that the terms of this Acknowledgment may not be modified or superseded except by a written agreement signed by me and the OC LAFCO Executive Officer, that no other employee or representative of OC LAFCO has the authority to enter into any such agreement, and that any agreement to employ me for any specified period of time or that is otherwise inconsistent with the terms of this Acknowledgment will be unenforceable unless in writing and signed by myself and the OC LAFCO Executive Officer. I further understand and agree that if the terms of this Acknowledgment are inconsistent with any guideline or practice of OC LAFCO now or in the future, the terms of this Acknowledgment shall control.

Since the information, policies, and benefits described herein are necessarily subject to

change, I acknowledge that revisions to ~~the manual~~them may occur, except to OC LAFCO's policy of employment-at-will. I understand that OC LAFCO reserves the right to modify, supplement or rescind any or all of its policies whenever it deems necessary or useful to do so, at any time with or without notice.

I have carefully read this acknowledgement Form.

EMPLOYEE'S NAME (printed)

EMPLOYEE'S SIGNATURE

DATE

DISCLAIMER

THESE POLICIES AND PROCEDURES ARE NOT DESIGNED TO EXPLAIN EVERY EMPLOYMENT SITUATION OR OUTLINE EVERY RELEVANT POLICY OR PRACTICE. THESE POLICIES AND PROCEDURES NOT INTENDED TO CONSTITUTE AN EMPLOYMENT CONTRACT OR A GUARANTY OF FUTURE EMPLOYMENT. EMPLOYMENT WITH OC LAFCO IS "AT-WILL." THESE POLICIES AND PROCEDURES SUPERSEDE ANY AND ALL WRITTEN DOCUMENTS OR ORAL REPRESENTATIONS THAT CONTRADICT THE AT-WILL NATURE OF YOUR EMPLOYMENT, EXCEPT WHERE EXPRESSLY SUPERSEDED BY CONTRACT.

OC LAFCO RESERVES THE RIGHT TO REVISE, MODIFY, DELETE, OR ADD TO ANY AND ALL POLICIES, PROCEDURES, WORK RULES, OR BENEFITS STATED IN THESE POLICIES AND PROCEDURES OR IN ANY OTHER DOCUMENT, EXCEPT FOR THE POLICY OF AT-WILL EMPLOYMENT. ANY CHANGES TO THESE POLICIES AND PROCEDURES WILL BE DISTRIBUTED IN WRITING TO ALL EMPLOYEES SO THAT EMPLOYEES MAY BE AWARE OF THE NEW POLICIES.

3.2 AT-WILL EMPLOYMENT

A. Overview

The intent of this policy is to establish the At-Will-Employment Policy of OC LAFCO.

B. Policy

Employment at OC LAFCO is and shall be at all times on an at-will basis at all phases of employment. That means that either OC LAFCO or an employee may terminate an employee's employment at any time, for any reason, with or without cause or advance notice. The employment relationship between OC LAFCO and its employees is for an unspecified term and may be terminated by the employee, or OC LAFCO Executive Officer or the Commission of OC LAFCO ("Commission") at any time, with or without cause or advanced notice. Also, OC LAFCO reserves the right to transfer, demote, suspend, or administer discipline with or without cause or advance notice.

None of the policies, procedures, or contents of this ~~manual~~ herein is intended to create any contractual obligations which in any way conflict with OC LAFCO's policy of At-Will-Employment. The at-will relationship can only be modified by a written agreement signed by the employee and the OC LAFCO Executive Officer.

3.3 EQUAL EMPLOYMENT OPPORTUNITY POLICY

A. Overview

The intent of this policy is to establish the Equal Employment Opportunity Policy of OC LAFCO.

B. Policy

OC LAFCO is strongly committed to providing equal opportunity to all employees and applicants for employment. OC LAFCO does not discriminate on the basis of race (including but not limited to, hair texture and protective hairstyles such as braids, locks, and twists), color, religious creed (including religious dress and religious grooming practices), national origin, ancestry, citizenship status, age (40 years and older), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity and expression (including transgender identity and expression), because an individual has transitioned (to live as the gender with which they identify), is transitioning (or is perceived to be transitioning), sexual orientation, sex stereotyping, marital status, domestic partner status, reproductive health decision making (protected under §12920 of the Government Code in California), military service and veteran status, physical and/or

mental disability (including HIV and AIDS), legally protected medical condition or information (including genetic information,) protected medical leaves (requesting or approved), status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state or federal laws. Any such discrimination is unlawful and all persons involved in the operations of OC LAFCO are prohibited from engaging in this type of conduct. OC LAFCO strictly prohibits the harassment of any individual on any basis listed above (see the Policy Against Harassment for further clarification).

This policy applies to all employment practices, including recruitment, advertising, job application procedures, hiring, placement, firing, advancement, compensation training, benefits, transfers, social and recreational programs, and any other terms, conditions and privileges of employment.

Any employees with questions or concerns about equal employment opportunities in the workplace are encouraged to bring these issues to the attention of the Executive Officer or his/her designee or Chair of the Commission or General Counsel. To ensure our workplace is free of artificial barriers, violation of this policy including any improper retaliatory conduct will lead to discipline, up to and including discharge. All employees must cooperate with all investigations conducted pursuant to this policy.

An employee who believes that he or she has been subjected to any form of unlawful discrimination should make a complaint, preferably written, to the Executive Officer, or if it involves the Executive Officer, to the Chair of the Commission or General Counsel. Complaints should be specific and should include the names of individuals involved and the names of any witnesses. OC LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. If OC LAFCO determines that unlawful discrimination has occurred, effective remedial action will be taken to determine any future discrimination.

Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Commitment Policy or the Policy against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith.

3.4 LACTATION ACCOMMODATION

OC LAFCO provides accommodations to lactating employees who need to express breastmilk during work hours in accordance with applicable law. OC LAFCO will provide a room or other location (not a bathroom) for employees to express breastmilk in private.

OC LAFCO will ensure that the lactation room or location will:

1. Be in close proximity to the employee's work area, shielded from view, and free from intrusion while the employee is expressing milk.
2. Be clean, safe and free of hazardous materials.
3. Contain a surface to place a breast pump and other personal items.
4. Contain a place to sit.
5. Have access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery powered breast pump.

In addition, OC LAFCO will provide access to a sink with running water and a refrigerator suitable for storing milk (or other cooling device suitable for storing milk) in close proximity to an employee's workspace. In the event that more than one employee needs use of the lactation room, OC LAFCO will discuss alternative options with the employees to determine what arrangement addresses their needs, such as finding an alternative space or creating a schedule for such use.

OC LAFCO shall also provide a reasonable amount of break time for an employee to express any breast milk each time that she needs to do so. The break time, if possible, should run concurrently with any break time already provided to the employee. Break time for a nonexempt employee that does not run concurrently with rest time already authorized for the employee is unpaid. However, if the employee performs any work during such break, she must accurately record all time worked and OC LAFCO will compensate her for such time.

Employees who are nursing have a right to request a lactation accommodation. Such requests may be made verbally or in writing, should indicate the need for the accommodation in order to express breastmilk at work, and should be directed to OC LAFCO's ~~Human Resources Department~~Executive Officer. OC LAFCO shall respond to such requests in a reasonable manner, not exceeding five business days. If OC LAFCO cannot provide break time, location, or other reasonable accommodations in accordance with this policy, it will inform the requesting employee in writing. Because lactation accommodation needs may change over time, employees may request changes to existing accommodations by a written request to OC LAFCO's ~~Human Resources Department~~Executive Officer that describes the nature of the change that is requested.

OC LAFCO prohibits any form of retaliation or discrimination against an employee for exercising or attempting to exercise any rights provided under the above policies. Any such conduct or violations of the above-referenced policies should be reported to OC LAFCO's Executive Officer~~the Human Resources Department~~. Employees also have the right to file a complaint with the California Labor Commissioner for violation of a lactation accommodation right described in the policy above.

3.5 REASONABLE ACCOMMODATION

A. Overview

The intent of this policy is to establish the Reasonable Accommodation Policy of OC LAFCO.

B. Policy

To carry out OC LAFCO's commitment to providing equal opportunity for all employment applicants and employees, OC LAFCO will provide reasonable accommodations, including as required under applicable laws, in accordance with this policy. OC LAFCO is committed to complying fully with state and federal disability discrimination laws. As previously stated, no program or activity administered by the employer shall exclude from participation, deny benefits to or subject to discrimination any individual based on an employee's actual or perceived disability or based on an employee's association with someone who has an actual or perceived disability.

Reasonable Accommodation to Disability and Religion: OC LAFCO will provide reasonable accommodations for applicants and employees with disabilities in accordance with the American with Disabilities Act (the "ADA") and California law, and for applicants and employees based on their sincerely held religious beliefs, practices, or observance under state and federal law. An employment applicant or employee who seeks a reasonable accommodation in order to perform essential job functions should make such a request in writing to the attention of the OC LAFCO Executive Officer or his/her designee. The request must identify (a) the job-related functions at issue; and (b) the desired accommodation(s). Following receipt of the request, the Executive Officer or his/her designee may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee's ability to perform their essential functions (or the applicant's ability to perform the essential functions of a desired position) but will not require disclosure of diagnosis or genetic history.

OC LAFCO will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of their position. During this process, OC LAFCO will examine potential reasonable accommodations that will make it possible for the employee or applicant to perform the essential functions of the position. Such interactive process will include a meeting with the employee or applicant, OC LAFCO's designated

representative(s), and, if necessary, the employee or applicant's health care provider. OC LAFCO will determine, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of reasonable accommodation(s) to provide. OC LAFCO will not provide an accommodation that would impose an undue hardship upon OC LAFCO or that is not required by law. OC LAFCO will inform the employee or applicant of any decisions made under this section in writing. Employees seeking such accommodations should promptly notify OC LAFCO's Human Resources Department.

Reasonable Accommodations Relating to Pregnancy: OC LAFCO will provide reasonable accommodations to employees who are affected by a pregnancy, childbirth, or related medical conditions, as medically advisable. Such accommodations may consist of:

1. Modified work duties or a modified schedule to permit earlier or later hours or more frequent breaks; stools, chairs or other furniture; modified or acquired equipment or devices; reduced work hours; or other accommodations.
2. Temporary transfers to a less strenuous or less hazardous position if such transfer can be reasonably accommodated.
3. A "Pregnancy-Related Disability Leave" if the employee is disabled by pregnancy, as described in OC LAFCO's leave of absence policy.

Employees seeking a pregnancy-related accommodation, including transfer under this policy, should notify OC LAFCO's ~~Human Resources Department~~Executive Officer or Assistant Executive Officer. This notice must be timely and be provided by employees in advance when the need for reasonable accommodation is foreseeable; in all other circumstances, notice must be provided as soon as practicable. Failure to give advance notice when the need is foreseeable may delay the reasonable accommodation or transfer until 30 days after the date the employee provides notice (unless such delay would endanger the health of the employee, her pregnancy or her coworkers).

Reasonable Accommodations for Victims of Domestic Violence, Stalking, or Sexual Assault: OC LAFCO will also provide reasonable accommodations for an employee who is the victim of domestic violence, stalking or sexual assault if: (i) the employee has disclosed that status to OC LAFCO, and (ii) the employee requests an accommodation for the employee's safety while at work.

In such circumstances, OC LAFCO will engage, in good faith, in a timely and interactive process with the employee to determine an effective reasonable accommodation. ~~In such circumstances, OC LAFCO will engage, in good faith, in a timely and interactive~~

~~process with the employee to determinate an effective reasonable accommodation.~~

In this process, the employee may be asked to provide: (i) a written statement, signed by the employee or someone acting on the employee's behalf, certifying that the accommodation is for the purposes stated above, and (ii) a certification confirming the employee's status as a victim of domestic violence, sexual assault or stalking. Six months after the date of each previous certification, OC LAFCO may request a recertification of such status. OC LAFCO will maintain any such certification as confidential if it identifies the employee as a victim of domestic violence, sexual assault or stalking, disclosing such information only as required by law, or as needed to protect the employee's workplace safety, and with prior notice of such disclosure to the employee.

Retaliation and Discrimination Prohibited: OC LAFCO prohibits discrimination, discharge, retaliation, or any other unlawful acts against an individual because such person requests or receives an accommodation under this (or another applicable) policy, or because such individual engaged in any other conduct protected by the law. Additionally, as addressed in OC LAFCO's separate policy on harassment, discrimination and retaliation, OC LAFCO prohibits unlawful harassment, discrimination or retaliation against any employee on the basis of an individual's disability, religion, religious creed, sex (including pregnancy, childbirth and related medical conditions), status as a victim of domestic violence, sexual assault or stalking, or any other status as protected by law.

3.6 POLICY AGAINST HARASSMENT, DISCRIMINATION, AND RETALIATION

A. Overview

The intent of this policy is to establish the Policy Against Harassment for OC LAFCO.

B. Policy

OC LAFCO is committed to providing a professional workplace in which individuals are treated with respect and in a manner consistent with OC LAFCO's high expectations of ethical conduct. This necessarily means that OC LAFCO prohibits unlawful harassment, discrimination, and retaliation in accordance with applicable laws. OC LAFCO prohibits and will not tolerate harassment of employees, applicants, or persons providing services pursuant to a contract based on factors such as sex (which includes harassment based on sex, pregnancy, perceived pregnancy, childbirth, breastfeeding, and related medical conditions), as well as harassment, discrimination, and retaliation based on such factors as race (including hair texture, protective hairstyles, and other traits historically associated with race), color, religion and religious creed (including religious dress and religious grooming practices), national origin, ancestry, citizenship, age (40 years and older), mental disability and

physical disability (including HIV and AIDS), legally-protected medical condition or information (including genetic information), protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), military and/or veteran status, service, or obligation, reserve status, national guard status, marital status, domestic partner status, gender, gender identity (including transgender identity), gender expression (including transgender expression), because an individual has transitioned or is (or is perceived to be) transitioning, sex stereotyping, sexual orientation, status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, engaging in protected communications regarding employee wages or otherwise exercising rights protected under the National Labor Relations Act or California Fair Pay Act, requesting a reasonable accommodation on a protected basis such as disability or sincerely-held religious belief, practice, or observance, or any other characteristic protected by federal, state, or local laws.

OC LAFCO strongly disapproves of and will not tolerate harassment, discrimination, or retaliation against employment applicants, employees, unpaid interns, or volunteers by officials, managers, supervisors, co-workers or third parties with whom employees come into contact, consistent with applicable law. Similarly, OC LAFCO will not tolerate harassment, discrimination, or retaliation by its employees directed toward non-employees with whom OC LAFCO employees have a business, service, or professional relationship (such as independent contractors, vendors, clients, volunteers, or interns). OC LAFCO will also take all reasonable steps to prevent harassment based on protected status by third parties, such as customers, clients and suppliers. All such harassment is prohibited by OC LAFCO and is against the law.

C. Definition

Harassment is generally defined as verbal, physical, or visual conduct that creates an intimidating, offensive, or hostile working environment, or that interferes with an employee's work performance, and that is based on a protected status. Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the harassment interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment. Harassment is unwelcomed, and inappropriate conduct directed at an employee, based upon one of the characteristics protected under the federal and state anti-discrimination laws, that substantially prevents an employee from performing his or her duties, serves to threaten or intimidate an employee, and/or produce a hostile work environment.

As the definition above shows, harassing conduct can take many forms and may include, but is not limited to, the following (when based upon an employee's

protected status as noted above): slurs, jokes, statements, gestures, assault, impeding or blocking another's movement or otherwise physically interfering with normal work, pictures, drawings, or cartoons, violating someone's "personal space," foul or obscene language, leering, stalking, staring, noises, unwanted or offensive letters or poems, offensive emails, texts, gifs, memes, or voicemail messages.

Prohibited unlawful harassment includes, but not limited to, the following behavior:

1. Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations or comments.
2. Visual conduct such as derogatory and/or sexually oriented posters, photography, cartoons, drawing or gestures.
3. Physical conduct such as assault, unwanted touching, blocking normal movement or interfering with work because of sex, race or any other protected basis.
4. Threats, demands to submit to sexual requests as a condition of continued employment, or to avoid some other loss, and offers of employment benefits in return for sexual favors.

D. Reporting and Complaint Procedure

Internal Reporting

Any incidents of discrimination, harassment, or retaliation, including work-related harassment by any OC LAFCO personnel or any other person, or any conduct believed to violate this policy. An employee who believes that he or she has been subjected to any form of unlawful harassment should promptly make-submit a complaint, preferably written, to the Executive Officer, or if it involves the Executive Officer, to the Chair of the Commission and General Counsel. It is the responsibility of all of us to contribute to a work environment that is free of unlawful bias, discrimination, harassment, and retaliation. Failure to bring forth a complaint prevents OC LAFCO from having the opportunity to correct the situation.

Managers and supervisors have a special responsibility under this policy. All levels of management and all supervisors are responsible for compliance with this Policy Against Harassment, Discrimination, and Retaliation and for ensuring that everyone in their department is aware of, understands and adheres to this policy. Supervisors and managers who receive complaints or who observe or learn of discriminatory, harassing, or retaliatory conduct must immediately inform the Executive Officer, or if it involves the Executive Officer, the Chair of the Commission and General Counsel, so that an investigation may be initiated.

Complaints should be specific and ~~should~~ include the names of individuals involved and ~~the~~ names of any witnesses. Individuals making such complaints must report the facts as accurately and as completely as possible. Every reported complaint of harassment, discrimination, and retaliation is taken seriously by OC LAFCO. Every reported complaint, including allegations of misconduct, will be investigated thoroughly and promptly by impartial and qualified personnel. OC LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. OC LAFCO will maintain confidentiality to the extent possible. If OC LAFCO determines that unlawful harassment has occurred, effective remedial action will be taken commensurate with the severity of the offense, up to and including termination. Appropriate action will also be taken to deter any future unlawful harassment.

Typically, the investigation will include the following steps: an interview of the employee who lodged the complaint to obtain complete details regarding the alleged harassment, discrimination, or retaliation; interviews of anyone who is alleged to have engaged in such conduct to respond to the claims; and interview of any employees who may have witnessed, or who may have knowledge of, the alleged conduct. The Executive Officer, or if it involves the Executive Officer, the Chair of the Commission and General Counsel, will notify the employee who lodged the complaint of progress during the investigation, including documentation where applicable, and timely notification of the results of the investigation. The investigation will be handled in as confidential a manner as possible consistent with a fair, timely, and thorough investigation (e.g., parties will receive appropriate due process, OC LAFCO will reach reasonable conclusions based on the evidence collected, etc.). Employees (or other complainants) making complaints are expected to cooperate fully with the person or persons designated to investigate the complaint.

OC LAFCO prohibits conduct severe enough to be unlawful. Yet even more, OC LAFCO's workplace conduct standards also prohibit conduct and comments which are not severe enough to violate state or local or federal law—but which are still inappropriate in the workplace. For example, OC LAFCO prohibits abusive conduct in the workplace—whether or not it is based on a protected category. As a result, OC LAFCO will take prompt, appropriate, and effective corrective action (e.g., remedial measures) any time it is established that discrimination, harassment, or retaliation in violation of this policy has occurred—whether or not such violation also violates the law.

Corrective action may include, for example: training, referral to counseling, or disciplinary action ranging from a verbal or written warning to termination of employment, depending on the circumstances.

External Reporting

In addition to OC LAFCO internal complaint procedure, an employee may file an external complaint by contacting the following:

1. Department of Civil Rights (CRD) [formerly known as the Department of Fair Employment and Housing (DFEH)] at 800-884-1684 or visiting <https://calcivilrights.ca.gov/contactus/>.
- ~~1-2.~~ Equal Employment Opportunity Commission (EEOC) at 800-669-4000 or visiting <https://www.eeoc.gov/contact-eeoc>.

OC LAFCO will not tolerate retaliation against an individual for good faith reports of harassment, discrimination, or retaliation; assisting another in making a report; cooperating in an investigation; filing an administrative complaint with a government agency; or engaging in other protected activity. Such retaliation is a separate violation of the law and of OC LAFCO policy and is subject to disciplinary action up to employment termination. Individuals who believe they have experienced or been threatened with such retaliation, and any manager or supervisor who learns of possible retaliation, must immediately report it using the same Complaint Reporting Process above.

E. Sexual Harassment and Sexual Harassment Prevention Training

Sexually harassing conduct in particular may include all of the above prohibited actions, as well as other unwelcome conduct, such as requests for sexual favors, conversation containing sexual comments, and other unwelcome sexual advances. For example, sexual harassment can be:

- Verbal: sexual innuendoes, sexually suggestive or degrading comments, text messages, gifs, memes, sexual jokes or slurs, graphic commentaries about a person's body, or repeated sexual advances or invitations.
- Nonverbal: displaying sexually suggestive objects, pictures, cartoons, magazines, calendars or posters, or making suggestive or insulting sounds, leering, whistling, or obscene gestures.
- Physical: offensive touching, brushing against a person's body, unwanted hugging or kissing, or impeding or blocking a person's normal movement. Sexually harassing conduct may arise if a reasonable person subjected to the conduct would find that the harassment so altered working conditions as to make it more difficult to do that person's job. Sexually harassing conduct can

occur regardless of the sex, sexual orientation, or gender identity of the harasser or of the person being harassed. Sexually harassing conduct need not be motivated by sexual desire to be violate of this policy.

All non-managerial employees must attend a one-hour Sexual Harassment Prevention Training, and all managerial employees must attend a two-hour Sexual Harassment Prevention Training. All OC LAFCO employees will be required to attend a sexual harassment prevention training every two years as assigned by Administration. Managers will receive two hours of training every two years as assigned by Administration. Staff may be required to attend additional anti-harassment or other sensitivity trainings in regard to any protected class. OC LAFCO employees may refer to the Department of Civil Rights (CRD) [formerly known as the Department of Fair Employment and Housing (DFEH)] sexual harassment prevention online training course appropriate for their position. You may also visit <https://calcivilrights.ca.gov/> to access the online training courses.

F. Retaliation

Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Policy or the Policy Against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith. An employee who believes that he or she has been subjected to any form of unlawful retaliation should promptly make a complaint, preferably written, in the same manner as described above. Complaints of harassment will be investigated, and appropriate action will be taken to protect OC LAFCO employees from any form of unlawful retaliation.

3.7 PERFORMANCE MANAGEMENT

A. Overview

The intent of the performance review process is to create a supportive, safe, professional performance review process and an environment that optimizes the employee's ability to receive and actualize constructive performance feedback and that motivates the employee to authentically and actively pursue personal and professional growth/excellence.

B. Performance Review Policy – General Employees

A review and discussion of each employee's performance is conducted to:

1. Ensure assigned projects/tasks are completed at an acceptable level of quality to effectively serve the mission, vision, and values of the agency.
 2. Plan for maximizing employee performance to serve the agency's needs.
 3. Motivate and assist employees in achieving their personal growth and career objectives.
- C. Performance Review Procedure – General Employees

The discussion of job performance and goals on an informal, weekly basis is strongly encouraged. The formal employee performance review process will include:

1. Assessment of Employee Job Performance – At the beginning of the fiscal year, both the employee and supervisor will complete an assessment of his/her job performance. The assessment will include a summary of projects/tasks completed and a well-organized, clear and in-depth self-analysis of job performance as related to projects/tasks.
2. Assessment of Employee Professional Strengths and Weakness – Both employee and supervisor will prepare an individual written statement of employee's professional and personal strengths and weaknesses as they relate to the work environment.
3. Discussion of Employee Assessments – Following preparation of the assessments (job performance and professional strengths and weaknesses), a meeting will be convened with the employee/supervisor to compare, contrast and discuss assessments/statements and identify areas for goal setting.
4. Development of Discussion of Goals – Based upon discussion with supervisor, employee prepares draft annual goals for discussion and review with the Assistant Executive Officer and/or Executive Officer. Goals should be specific, concise, measurable and represent commitment to professional growth.
5. Finalization of Goals and Performance Review – Following goal development, a meeting will be convened involving employee/Assistant Executive Officer/Executive Officer to jointly discuss and finalize employee goals. The employee will be responsible for preparing the final, agreed to written goals and submitting them to supervisor.

Performance reviews will be completed for all General Employees by no later than the end of the first quarter of each fiscal year.

While merit-based pay adjustments are awarded by OC LAFCO in an effort to recognize truly superior employee performance, positive performance evaluations do not always guarantee increases in salary or promotions. Salary increases, and promotions are solely within the discretion of OC LAFCO and depend on many factors in addition to performance. Pay increases or bonuses will be tied to the accomplishment of specific established employee goals.

After receiving their review an employee will be required to sign the evaluation report acknowledging that it has been presented and discussed between the employee and the Assistant Executive Officer or the Executive Officer. OC LAFCO's provision of performance evaluations does not alter the at will employment relationship.

D. Policy for Executive Officer Performance Evaluation Process (Adopted ~~May 11, 2016~~ March 13, 2024)

- ~~1. As part of the Strategic Planning process each year:~~
- ~~2.~~
- ~~3. The Executive Officer will submit a report summarizing the agency's performance against the previous period's past annual work plan.~~
- ~~4.~~
- ~~5. The Executive Officer will also provide a recommended strategic plan and draft annual work plan for the upcoming period.~~
- ~~6.~~
- ~~7. The Strategic direction and projects will be prioritized for the upcoming annual work plan at the Annual Strategic Planning workshop.~~
- ~~8.~~
- ~~9. The Annual work plan will be adopted by the Commission at a Regular meeting.~~

1. As part of the performance evaluation process, the Executive Officer will prepare a year-end report summarizing the status and accomplishments of the goals and objectives included in the agency's three-year strategic/work plan adopted by the Commission.

~~10.2. The Executive Officer will complete a self-evaluation indicating his/her performance relative to the adopted goals and objectives against the previous period's annual work plan and Agency goals in accordance with the next period's annual work plan. The Executive Officer will also include a professional development plan for the upcoming period. This can be continuous skills training and exposure to new ideas and concepts obtained through seminars,~~

~~professional association programs, conferences or other educational programs.~~

~~11.3.~~ The Chair or his/her designee will provide each Commissioner with the Executive Officer's self-evaluation and a blank evaluation form for that Commissioner's completion prior to the full Commission closed session performance discussion.

~~12.4.~~ The Chair or his/her designee will lead the Commission's closed session discussion on the Executive Officer's performance ~~and professional development goals and the agency goals~~, soliciting feedback and input from all Commissioners.

~~13.5.~~ The Chair will be given financial parameters for negotiating compensation with the Executive Officer and delegated authority to represent the Commission in compensation discussions with the Executive Officer.

~~14.6.~~ The Chair and his/her designee, if applicable, will meet with the Executive Officer to provide the Commission's feedback, sentiments of the discussion and to negotiate compensation.

~~15.7.~~ The Chair will report back to the Board to close out the Executive Officer Evaluation Process and work with General Counsel to prepare any necessary agenda items and public action required to complete the process.

~~16.8.~~ The Executive Committee will meet with the Executive Officer quarterly as warranted to check on the progress of the ~~annual strategic/work plan~~, make and discuss any necessary adjustments for discussion with the full Commission, ~~and bring the annual work plan back to the Commission for consideration.~~

3.8 PERSONNEL RECORDS

A. Overview

The intent of this policy is to clarify the guidelines for treatment of employee personnel records and information.

B. Policy

OC LAFCO maintains a personnel file on each employee. An employee's personnel file will contain only material that OC LAFCO determines is necessary and relevant to the administration of OC LAFCO's personnel program. Personnel files are the property of OC LAFCO, and access to the information they contain is restricted, subject to, and in accordance with, this Policy.

Employees have the right to inspect certain documents in their personnel file, as provided by law, in the presence of an OC LAFCO representative at a mutually convenient time. Employees may add written versions of any disputed item to their file. OC LAFCO will not disclose personnel information if it believes doing so would constitute an unwarranted invasion of personal privacy or jeopardize the safety of OC LAFCO personnel.

OC LAFCO will attempt to restrict disclosure of an employee's personnel file to authorized individuals within the organization. Any request for information from the file must be made to the Executive Officer or specific designee. Only the Executive Officer or specific designee is authorized to release information regarding current or former employees. Disclosure of personnel information to outside sources will be limited to the extent allowed by law. However, OC LAFCO will cooperate with requests from authorized law enforcement or local, state or federal agencies conducting official investigations, with validly issued subpoenas and as otherwise required by law or legal proceeding to be released.

3.9 TERMINATION

A. Overview

The intent of this policy is to explain the types of termination and OC LAFCO's procedures for processing terminations.

B. Policy

Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. Below are examples of some of the most common circumstances under which employment is terminated.

1. Voluntary Resignation

An employee who voluntarily resigns his/her employment is asked to prepare a written letter of resignation informing OC LAFCO of the intended resignation date. Although not required, employees who voluntarily resign are asked as a courtesy to give OC LAFCO at least two weeks' notice prior to the resignation date in order to provide time to search for an adequate replacement if necessary and to ensure a smooth transition.

An employee is also considered to have voluntarily terminated employment by failing to report to work for three consecutive scheduled workdays without notice,

or without prior approval by the Executive Officer or Assistant Executive Officer.

2. Discharge

The violation of the policies and procedures of OC LAFCO or any other illegal acts may result in disciplinary action up to and including termination. Disciplinary actions may include verbal and written warnings, suspension, probationary periods, and termination of employment, depending on the conduct involved. OC LAFCO maintains its at-will status. OC LAFCO reserves the right to utilize any form of disciplinary action, up to and including termination, at any stage it deems appropriate, depending on the circumstances.

C. Exit Interview

OC LAFCO will generally schedule exit interviews at the time of employment termination. The exit interview will provide an opportunity to discuss such issues as employee benefits, conversion privileges, repayment of outstanding debts to OC LAFCO, or return of property owned by OC LAFCO. Suggestions, complaints, and questions are encouraged. Employees will receive their final pay in accordance with applicable state law.

D. At-Will Employee

Because employment with OC LAFCO is based on mutual consent, both the employee and OC LAFCO have the right to terminate employment at will, with or without cause, at any time. Nothing in this termination policy changes the At-Will Employment policy of OC LAFCO.

E. Benefits

Employee benefits will be affected by employment termination in the following manner. All accrued, vested benefits that are due and payable upon termination will be paid in accordance with applicable state law. Some benefits may be continued at the employee's expense if the employee so chooses. The employee will be notified in writing of the benefits that may be continued, and of the terms, conditions and limitations of such continuance.

PART 2 – SALARY AND WAGE ADMINISTRATION

3.10 HIRING AND STAFFING

A. Overview

The intent of this policy is to provide guidelines on the hiring and staffing practices of OC LAFCO.

B. Policy

To attract and retain qualified staff for OC LAFCO, it is the policy of OC LAFCO to use a criterion-based recruitment process and behavioral-based interview process to ensure the most qualified candidates are hired.

C. Recruiting

Recruiting applicants will be aggressive enough to assure an adequate supply of qualified candidates. The recruitment process may include, but is not limited to, the use of professional recruitment firms, referrals from current or past employees, walk-in applicants, and/or web-based postings.

D. Interviews

The employment interview is a major element in the selection process. It allows the applicant an opportunity to demonstrate his or her capabilities to perform the job and provides information to the candidate about the position. Interviews may be conducted by telephone or in face-to-face sessions.

All interview questions must be job-related and have direct bearing on the tasks of the position. Interviews and questions are standardized so that all applicants are evaluated equally. Questions that express (directly or indirectly) any preference, limitation, or general reference to any individual on the basis of a protected category are prohibited.

E. Probationary Period

All OC LAFCO new hires will have a twelve-month probationary period beginning on the first day of employment. The OC LAFCO supervisor will provide job training during this time period and the employee will be evaluated every three months during the probationary period. OC LAFCO may terminate an employee during this twelve-month probationary period at any point in time therein. OC LAFCO retains the right to extend the probationary period. Nothing in this provision shall alter the at-will status of any employee.

3.11 COMPENSATION PRACTICES

A. Overview

The intent of this policy is to provide guidelines on the compensation practices of OC LAFCO.

B. Policy

It is OC LAFCO's policy to provide salaried exempt and salaried non-exempt employees with equitable salary compensation for the specific job assignment. The OC LAFCO salary compensation program is a "pay for performance" system and is designed to ensure OC LAFCO maintains an equitable value of its jobs while encouraging excellent employee performance. Consideration is given to relevant external factors such as economic conditions and the OC LAFCO annual budget. The program is implemented through established salary structures and grades, with salary ranges for both exempt and non-exempt employees. These grades provide different rates of pay for positions requiring different degrees of responsibility, experience, skills and knowledge.

Utilization of these criteria permits OC LAFCO to give individual consideration to each employee's pay in relation to his or her responsibilities, degree of contribution to the success of the agency, and job performance.

C. Salary Increases

Individual salary increases are not awarded on the basis of length of service but based on performance and OC LAFCO affordability.

D. Merit Reviews

1. Merit increases may be awarded during the compensation year in recognition of the employee's performance. The employee's performance is measured primarily on the following criteria as documented in the annual performance review: (1) did the employee successfully achieve his/her agreed upon goals and objectives? (2) what is the employee's overall value to the organization?
2. The following factors may be considered in the determination of the amount of increase: the employee's position in the pay range; compensation compared to other employees in comparable jobs; and the annual budget of the organization.
3. Merit increases, if awarded, are typically effective at the beginning of the fiscal year but may also be deferred to any effective date within the compensation year. Employees may also receive a "pass" on any merit

increase in base salary if (1) his/her performance in the fiscal year has not been worthy of an increase, and/or (2) the agency's budget does not have sufficient funds for increases.

4. Probationary Merit Increase

If an employee is appointed at Step 1 of the salary range, he/she may be eligible to receive a 2.5% step increase upon completion of six-months of service based on his/her performance.

5. Merit Performance Incentive Pay Program for Employee at Top-Step

Once an employee reaches the top-step of the salary range for his/her classification, each year, in conjunction with the annual performance evaluation, the employee may be eligible to receive Merit Performance Incentive Pay ranging from zero to three percent of his/her annual base salary.

E. Organizational Promotion

1. A promotional increase may be awarded to an employee who experiences a significant change in the level or kind of work performed.
2. A promotional increase may be awarded to an employee who performs at a high level of competence and has demonstrated readiness to assume broader, more complex assignments if these assignments become available.

Proposed promotions from non-exempt to exempt salaried status, or from hourly to salaried status, must meet the exemption tests of the California Department of Industrial Relations, Industrial Welfare Commission Wage Order (California Wage Orders) and the Federal Fair Labor Standards Act.

3.12 EMPLOYMENT CATEGORIES

A. Overview

The intent of this policy is to define employment classifications so that employees understand their employment status and benefit eligibility.

B. Policy

These classifications do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and OC LAFCO.

C. Exempt/Nonexempt

Each employee is designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. An employee's EXEMPT or NONEXEMPT classification may be changed only upon written notification by the Executive Officer. Generally, EXEMPT employees (as defined by the Fair Labor Standards Act of 1938) are not eligible for overtime pay and are paid on a salary basis. Conversely, NON-EXEMPT employees are generally paid on an hourly basis and are eligible for overtime pay.

D. Employment Categories

In addition to the above categories, each employee will belong to one other employment category:

1. Regular Full Time – Employees who are not in an extra help status and who are regularly scheduled to work OC LAFCO's full-time schedule. Generally, they are eligible for OC LAFCO's benefit package, subject to the terms, conditions, and limitations of each benefit program.
2. Part-Time – Employees who are not assigned to an extra help status and who are regularly scheduled to work less than 30 hours per week. While part time employees do receive all legally mandated benefits (such as Social Security and workers' compensation insurance), they may be ineligible for some of OC LAFCO's other benefit programs.
3. Extra Help – Employees who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Extra help employees retain that status unless and until notified of a change in writing signed by the Executive Officer. Extra help employees are ineligible for OC LAFCO's benefit programs unless otherwise required by law.
4. Intern – OC LAFCO sometimes utilizes the services of paid student interns. Interns are used to supplement the OC LAFCO work force and provide opportunities for local students to gain local government work experience. Employment is for a specified period of time. Interns are ineligible for OC

LAFCO's benefit programs.

E. Job Descriptions

Job descriptions are adopted by the Commission in the Classification and Compensation Resolution. Please refer to Resolution CP 18-04 for the current job descriptions.

3.13 PAY POLICIES

A. Overview

The intent of this policy is to explain and clarify wage administration, work hours and timekeeping.

B. Payment of Wages

All employees are paid biweekly (every two weeks). There are 26 pay periods each year with payday being every other Friday. In the event that the normal payday falls on an OC LAFCO holiday, the pay date will be the first day immediately prior to the normal pay date.

C. Pay Advances

OC LAFCO does not give advances against wages or un-accrued vacation time.

D. Corrections to Payroll

Errors arising from the payroll processing will be worked out with the payroll contact and the employee. Payment due to a correction will be processed in accordance with state law.

E. Overtime Pay

When OC LAFCO's needs cannot be met during regular working hours, employees may be required to work overtime. All overtime work for nonexempt employees must receive prior authorization of the Executive Officer. Overtime compensation is paid to all nonexempt employees in accordance with federal and state wage and hour laws, based on actual hours worked. OC LAFCO will make an effort to evenly distribute overtime based on business necessity among the employees with the necessary skills, knowledge, and abilities. When possible, advance notification will be provided. Employees who refuse to work overtime shall be subject to corrective action, up to and potentially including termination.

OC LAFCO policy is that all overtime should be pre-approved by the Executive Officer. OC LAFCO will pay any overtime worked, regardless if pre-approved. However, the working of overtime that has not been approved may be grounds for discipline, up to and including termination of employment.

All employees who are classified as “non-exempt employees,” as defined under applicable laws or regulations, will be eligible for overtime pay. Exempt employees are not entitled to overtime pay. Overtime is typically defined under federal law as hours worked by non-exempt employees in excess of forty (40) hours in a workweek. In California, overtime is also typically applied to hours worked over eight (8) in a standard work day; though alternate work weeks allow variance. OC LAFCO follows the applicable state and federal laws when calculating overtime. Please note that only actual hours worked in a given workday or work week apply in calculating overtime. In other words, sick leave, vacation, holidays, or other paid time off is not considered hours worked for purposes of calculating overtime. Employees are obligated to accurately report their overtime worked; any error in overtime payment must be reported in writing to management for correction.

Employees of OC LAFCO designated as exempt employees shall not be subject to the provisions of this section.

F. Work Hours

Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day and week, at the discretion of the Executive Officer.

G. Timekeeping

Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state laws require OC LAFCO to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Nonexempt employees shall accurately record the actual time they begin and end their work electronically. Each employee is responsible for the daily recording of all time worked on this device. Each employee MUST record their start and finish times for the work day and for meal periods daily. Nonexempt employees must also record departure from work for any non-work-related reason. Failure to do so will subject an employee to discipline, up to and including discharge. Submitting time for another employee is grounds for discipline, up to and including termination. ~~An employee who submits erroneous timesheets will be subject to~~

~~discipline, up to and including termination.~~ Altering, falsifying, or tampering with time records may result in termination.

OC LAFCO's time keeping policies must be followed at all times. Employees are responsible for reviewing their time entries for accuracy and confirming that their paychecks accurately reflect their actual hours worked. If there are any errors on your paycheck, you should report the error immediately in writing. Any pay correction will be included in the pay period for the time period in which the correction occurred, unless otherwise stated at the time of the correction. Any modifications to a time record must be initialed by the employee, supervisor and the Executive Officer. Exempt employees are expected to also keep track of their hours on a timesheet to be provided by OC LAFCO.

3.14 COMPENSATION STRUCTURE

The compensation structure is performance-based with ten-step salary ranges for each classification (See the Classification and Compensation Resolution CP 18-04 for details).

PART 3 – BENEFITS

3.15 INSURANCE AND OTHER BENEFITS

A. Overview

The intent of this policy is to provide insurance and other benefits to all regular full-time and part-time employees of OC LAFCO. The Commission will review and may change these benefits on an annual basis at its discretion.

B. Policy

OC LAFCO employees will receive health insurance, dental insurance and other insurance depending on their particular classifications. These insurance benefits will generally, but are not required to be, the same as provided to County of Orange employees. OC LAFCO employees are also eligible to participate in the Orange County Employees Retirement System (OCERS) and the County of Orange Defined Contribution 457(b) and 401(a) Plans. The Commission will review and establish the benefits annually at its discretion. A Benefits Summary Chart will be prepared annually setting forth these benefits and provided to all OC LAFCO employees.

3.16 TUITION REIMBURSEMENT

A. Overview

OC LAFCO encourages and supports efforts by its employees to improve their skills and educate themselves for advancement. OC LAFCO believes that assisting the employee in the pursuit of an educational agenda or to otherwise expand their work-related knowledge base will benefit both the employee and OC LAFCO.

B. Policy

All regular full-time employees of OC LAFCO, who have successfully completed the twelve-month probationary period, are eligible to receive educational assistance.

Upon pre-approval by the Executive Officer, the following reimbursement policies have been outlined to cover tuition and course/seminar or degree related expenses:

1. Maximum company reimbursement for all course or degree related expenses is \$3,000 per calendar year in pursuit of any approved courses, seminars, certifications, associate degree, or bachelor's degree. Reimbursement in pursuit of an approved masters or doctoral degree program is \$5,000 per calendar year.
2. Employees will not be reimbursed for more than two (2) courses in a single semester or quarter.
3. Course must be related to the work of the employee's position or occupation and must be taken at accredited institutions.
4. Pre-approval of classes (or course of study) is required by the Executive Officer. Employees must submit a written request for tuition reimbursement, prior to enrolling in the class, to the Executive Officer for approval.
5. Must be an OC LAFCO employee throughout the duration of the course.
6. The percentage of reimbursement is based on the grade earned for each college seminar, certification, associate, bachelor, master or doctoral degree course:

Grade A	100%
Grade B	100%
Grade C*	50%
Pass/Credit	50%

*Master's and doctoral degree courses completed with a letter grade of "C" or below are not eligible for any reimbursement.

7. Reimbursable expenses include tuition, required textbooks, lab fees, library fees, and required registration and parking fees.
8. Upon completion of the course, official grades and receipts must be submitted to the Executive Officer for reimbursement. Taxes are withheld on educational reimbursements when required by law.

3.17 STAFF MILEAGE REIMBURSEMENT

A. Policy

OC LAFCO staff will be reimbursed at the currently applicable IRS rates for reasonable and necessary mileage expenses when personal vehicles are used for OC LAFCO-related business, including, but not limited to, meetings, project site visits, and conferences. To receive mileage reimbursement, a form indicating the date of the trip, number of miles traveled, purpose of the trip, and reimbursement calculation is required to be submitted for review and approval by the Executive Officer. If approved, the form is submitted to the Bookkeeper for issuance of a reimbursement check.

PART 4 – TIME OFF

3.18 SICK LEAVE BENEFITS

A. Overview

Employees who are hired to work at least thirty days are eligible for California Paid Sick Leave. The intent of this policy is to provide paid time off for the purpose of illness or other medical requirements.

The Commission will review and may change any of these sick leave benefit provisions on an annual basis at its discretion.

B. Policy

OC LAFCO provides paid sick leave benefits to all ~~regular full-time and regular part-time and extra help employees for periods of temporary absence due to illnesses or injuries described in Section 3.18D of this policy.~~ employees as required by California law.

C. Accumulation of Sick Leave

During the first three (3) years of employment, an employee shall earn .0347 hours of sick leave with pay for each paid hour in a regular scheduled workweek or period (approximately seventy-two (72) hours per year).

After an employee has been paid for six thousand two hundred forty (6240) regular scheduled hours, approximately three (3) years, the employee shall earn .0462 hours of sick leave with pay for each paid hour in a regularly scheduled work period (approximately ninety-six (96) hours per year).

Sick leave earned shall be added to the employee's sick leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period or for a portion of the pay period during which the employee terminates service.

Employees may only accumulate up to a maximum of 1500 hours of sick leave.

Extra Help Employees shall accrue sick leave at a rate of not less than one hour per every 30 hours worked beginning at the commencement of employment.

Extra Help Employees will have a maximum sick leave accrual of 48 hours. Extra Help Employees will not accrue any additional sick leave hours once they hit 48 hours in their sick leave balance. Once they fall below 48 hours of sick leave accrual, they will begin to accrue sick leave again. Extra Help Employees may use up to a maximum of 24 hours sick leave annually.

Should an Extra Help Employee become a regular full time or part time employee, the pro-rated sick leave hours they accrued as an Extra Help will roll over into their sick leave account as a regular full time or part time employee.

D. Permitted Uses of Sick Leave

Employees may use Paid Sick Leave for the following purposes: ~~Sick leave may be applied to the following circumstances:-~~

1. ~~An~~ The diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's qualified family member.; ~~absence necessitated by an employee's personal illness or injury.~~
2. ~~Medical~~ To attend legal proceedings, or to obtain medical treatment, counseling or other victims' services for domestic violence, sexual assault, or

~~stalking if an employee is a victim of domestic violence, sexual assault, or stalking as described in Labor Code Section 230(c) and 230.1(a).and dental office appointments.~~

~~Absence from duty because the employee's presence is needed to attend to the serious illness of a member of his or her immediate family, or a designated person. Employees may use up to one half of their yearly sick leave. For the purpose of this policy, immediate family shall mean father, father in law, mother, mother in law, stepparent, brother, sister, grandparent, spouse, child, grandchild, domestic partner or legal guardian. Designated person is a person identified by the employee at the time the employee requests paid sick days. An employer may limit an employee to one designated person per 12-month period for paid sick days. All conditions and restrictions placed on an employee's use of sick leave apply also to sick leave used for care of a family member.~~

3. Illness while on paid vacation will be charged to sick leave rather than vacation only under the following conditions:
 - a. The illness or injury of the employee or member of the employee's immediate family was of a nature that would preclude the effective use of vacation and would prevent the employee from performing his or her normal duties.
 - b. The employee must notify the Executive Officer within four (4) calendar days of the beginning of the illness or prior to the end of his or her vacation leave.
 - c. OC LAFCO shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
 - d. Upon the employee's return to work, the employee ~~must~~ may be requested to furnish OC LAFCO with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.
4. Absence from duty because of personal emergencies is not to exceed twenty (20) working hours during the fiscal year. A personal emergency is something unanticipated that requires the employee to personally attend to the situation and must be attended to during normal working hours.
5. An absence due to the air pollution alert, which prevents the employee traveling to his or her work location.

~~6. If an employee is a victim of domestic violence, sexual assault, or stalking as described in Labor Code Section 230(c) and 230.1(a).~~

~~A “family member” for these purposes is defined as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee’s spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent, grandchild and sibling, or a designated person which is a person identified by the employee at the time the employee requests paid sick days.~~

Sick leave shall not be applied to an absence which occurs on a holiday observed by OC LAFCO.

In any use of sick leave, an employee’s account shall be charged to the nearest quarter hour for a non-exempt employee, which exempt employees will be charged only for full-day absences. Exempt employees are defined as those employees who are exempt from overtime rules under the Fair Labor Standards Act.

~~To the extent possible, employees must provide reasonable advance notice of their need for California Paid Sick Leave under this policy to the Executive Officer or their immediate supervisor by telephone. If the need is not foreseeable, the employee must provide notice as soon as practicable. Employees are required to notify the Executive Officer or immediate supervisor by telephone within one half hour after the start of the workday on their first day of absence due to illness or injury.~~ It is the responsibility of the employee to keep the supervisor informed as to continued absence beyond the first day.

An employee may be required to furnish a certificate issued by a licensed health care provider or other satisfactory evidence of illness, injury, medical condition or medical or dental office calls when OC LAFCO has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.

~~OC LAFCO employees, with the approval of the Executive Officer, may transfer up to 80 hours of sick leave per year to another OC LAFCO employee if needed to cover time off for medical or dental appointments or personal emergencies.~~

Any accrued, unused sick leave will roll over into the next calendar year.

E. No Payout of Sick Leave

There is no payout for unused accumulated sick leave when an employee leaves employment with OC LAFCO.

F. Transfer of Sick Time between OC LAFCO Employees

OC LAFCO employees, with the approval of the Executive Officer, may transfer up to 80 hours of sick leave per year to another OC LAFCO employee if needed to cover time off for medical or dental appointments or personal emergencies. OC LAFCO employees, with the written approval of the Executive Officer, may transfer a portion of their unused sick time balance to another OC LAFCO employee under the following circumstances:

1. An OC LAFCO employee may transfer no more than 80 hours of sick time to any one OC LAFCO employee during any calendar year.
2. The OC LAFCO employee receiving the sick time transfer must be experiencing personal or family medical issues requiring extended periods of time away from the office.
3. The OC LAFCO employee transferring sick time must maintain a minimum balance of at least 40 hours of sick time after an approved transfer.
4. All sick-time transfer requests must be approved by the Executive Officer.

3.19 VACATION¹

A. Overview

This policy applies to all regular full-time and part-time employees of OC LAFCO. The intent of this policy is to provide paid time off for employees as a means of rest and rejuvenation. OC LAFCO encourages employees to utilize this benefit every year. OC LAFCO believes personal time off is an important means to enable continuation of strong performance and positive contribution to OC LAFCO, as well as encourage a balanced and enriching life for employees. The Commission will review and may change any of these vacation benefit provisions on an annual basis at its discretion.

B. Policy

¹Amendment to the vacation policy for vacation accruals was approved by the Commission on October 11, 2023 with an effective date of December 15, 2023.

During the first three years of employment, an employee shall earn approximately .0577 hours of vacation leave with pay for each hour in a regularly scheduled workweek or period (120 hours or 15 days per year).

After an employee has been paid for 6,240 regularly scheduled hours, approximately three years, the employee shall earn approximately .077 hours of vacation leave with pay for each paid hour in a regularly scheduled work period (160 hours or 20 days per year).

After an employee has been paid for 20,800 regularly scheduled hours, approximately ten years, the employee shall earn approximately .0962 hours of vacation leave with pay for each paid hour in a regularly scheduled work period (200 hours or 25 days per year).

Regular part-time employees with continuous service working 20 hours or more per week will accrue vacation in accordance with the above schedule, on a pro-rated basis determined by normal hours worked. Active service for all regular employees commences with their first day of work and continues thereafter unless broken by an absence without pay or leave of absence. Extra help employees do not accrue paid vacation.

Employees cannot accumulate more than 240 hours of vacation.

Accrual ceases until vacation is utilized to bring the amount of accrued vacation below the applicable cap or vacation is cashed out as permitted by this policy.

In order to request vacation time, employees should submit a written request to the Executive Officer or Assistant Executive Officer. Efforts will be made to accommodate all employees' requests for specific vacation leave time. However, the Executive Officer or Assistant Executive Officer will also consider the needs of OC LAFCO when evaluating vacation requests.

In rare cases, the Executive Officer may allow an employee to take an advance on vacation accrual time; however, this advance will not be allowed to exceed the amount of time the employee is scheduled to accrue during the current service year. Before any advance on vacation is granted, the employee will sign an authorization which authorizes OC LAFCO to deduct from his/her final paycheck the amount of any un-accrued vacation time advanced to the employee which has not subsequently been accrued.

During each fiscal year an employee may request to be paid for accrued vacation in either two (2) separate increments of up to forty-five (45) hours each or one (1) increment of up to ninety (90) hours.

Upon separation from OC LAFCO employment, an employee is eligible to be paid for accrued, unused vacation days up to a maximum of 240 hours at 100% of the employee's hourly salary. In cases where an employee terminates employment with OC LAFCO and has been permitted to take vacation time prior to actual accrual, the final paycheck will reflect a deduction relative to the amount of unaccrued time off taken.

A holiday that falls during an employee's vacation leave will be treated and paid as a holiday and not as a day of vacation leave.

3.20 HOLIDAY

A. Overview

The intent of this policy is to provide paid time off for eligible employees for holidays throughout the year.

B. Policy

Holiday time off with pay will be granted to all regular full-time employees and regular part-time employees (prorated) for the days designated by the County of Orange on an annual basis. Each part-time employee scheduled to work, but permitted to take the day off, shall receive pay computed at the employee's basic hourly rate for the number of hours the employee was regularly scheduled to work. A part-time employee shall receive compensatory time at the rate of one (1) hour for each five (5) hours of regularly scheduled work in the workweek up to a maximum of eight (8) hours of compensatory time. Holidays will vary year to year and a schedule will be published each year.

3.21 COMPENSATORY TIME

A. Overview

OC LAFCO employees earn compensatory time ("comp time") when a County holiday falls on a "flex" day. Limited comp time is also earned during the calendar year to all employee's time off to attend special religious or other designated events.

B. Policy

For employees who are not scheduled to work on a holiday (whose regular day off is the holiday) or their flex day falls on a holiday, management should work with

employees to offer one of the following options:

1. The employee may change his or her schedule and take another day off in the same pay period where operationally feasible and without incurring overtime liability.
 - a. For employees who are not on an eight-hour day schedule, the employee may go on an eight-hour day schedule for the workweek in which the holiday fills.
2. The employee may bank eight (8) hours of non-cashable compensatory time for use at a later date.

Compensatory time may be used in lieu of vacation time for time off. Compensatory time shall have no cash value and any unused hours will be forfeited upon separation from the County.

3.22 PREGNANCY RELATED DISABILITY LEAVE

A. Eligibility

In accordance with applicable law and this policy, female employees are eligible for a leave of absence and/or transfer on account of pregnancy, regardless of length of service with OC LAFCO.

B. Pregnancy Disability Leave

OC LAFCO recognizes that employees may be unable to work for temporary or extended periods of time due to pregnancy, childbirth, or related medical conditions. Accordingly, for any employee who is disabled by pregnancy, childbirth, or related medical conditions, OC LAFCO provides leave for the period of actual disability (“Pregnancy Disability Leave”), up to a maximum of four months. Pregnancy Disability Leave may be taken intermittently, or on a reduced-hours schedule, as medically advisable. An employee may also be entitled to a reasonable accommodation for pregnancy, childbirth, or related medical conditions.

1. A woman is “disabled by pregnancy” if, in the opinion of her healthcare provider, she is unable to work at all or is unable to perform one or more of the essential functions of her job or to perform these without undue risk to herself, to the successful completion of her pregnancy, or to other persons.
2. Pregnancy disability leave is for any period(s) of actual disability caused by pregnancy, childbirth, or related medical conditions. Where medically

advisable, pregnancy disability leave may be taken for a reasonable period of time, up to four months per pregnancy (eighty- eight workdays for a full-time employee). Employees who regularly work more or less than a 40-hour workweek are entitled to such leave on a pro rata basis.

3. Time off for necessary prenatal or postnatal care, as well as for any conditions such as severe morning sickness, doctor-ordered bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, childbirth, loss and end of pregnancy, and recovery from childbirth are all covered by pregnancy disability leave.

C. Leave Due to Childbirth

Even if the employee is not disabled by pregnancy, childbirth, or related medical conditions, a pregnant employee is entitled to up to six weeks of leave for normal childbirth. A pregnant employee is entitled to up to eight weeks of leave for cesarean section. Employees working more or less than a 40-hour work week are entitled to such leave on a pro rata basis.

D. Leave, Transfer and Other Reasonable Accommodation Requests

1. Pregnant employees should notify the Executive Officer as soon as possible regarding their intent/need to take a leave of absence or to transfer due to pregnancy, childbirth, or related medical conditions. Such notice should specify the anticipated timing and duration of the leave or transfer.
2. Where the need for a leave of absence or transfer is foreseeable, employees must provide such notice at least 30 days prior to the date the leave or transfer is to begin. Further, employees must consult with the Executive Officer regarding the scheduling of any planned medical treatment or supervision so as to minimize any disruption to OC LAFCO's operations. (Actual scheduling of the leave/transfer is subject to the approval of the employee's healthcare provider.)
3. Where 30 days advance notice is not possible, notice must be given as soon as possible. If an employee fails to provide the requisite 30 days' advance notice for a foreseeable need for leave, without any reasonable excuse for the delay, OC LAFCO reserves the right to delay the taking of the leave until at least 30 days after the date that the employee does provide such notice. However, OC LAFCO will not deny a pregnancy disability leave or transfer where the need for leave is an emergency or was otherwise unforeseeable.
4. OC LAFCO shall respond to the leave or transfer request as soon as practicable

and, in any event, no later than 10 calendar days after receiving the request. OC LAFCO shall attempt to respond to the leave request before the date of leave is due to begin. Once given, the approval shall be deemed retroactive to the date of the first day of the leave.

5. Reasonable accommodation other than leave or transfer will be granted upon request. Such requests must be supported by a written certification from the employee's healthcare provider.

E. Intermittent Leave

Pregnancy Disability Leave need not be taken in one continuous block. It may be taken on an as-needed basis, intermittently or on a reduced work schedule.

1. If it is medically advisable and foreseeable that an employee will be taking intermittent leave or leave on a reduced work schedule, OC LAFCO may require that the employee transfer temporarily to an available alternative position.
2. An "alternative position" is one that provides pay and benefits equivalent to those of the employee's regular position and better accommodates recurring periods of leave than the employee's regular job. It does not have to have equivalent duties. However, the employee must be qualified for the position.
3. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work schedule.

F. Temporary Transfers

1. An employee may request a temporary transfer to a position with less strenuous or less hazardous duties when the employee's healthcare provider certifies that such a transfer is medically advisable.
2. Temporary transfers will be granted where appropriate and when OC LAFCO is able to reasonably accommodate the transfer, provided that the transfer would not require OC LAFCO to:
 - a. Create additional employment.
 - b. Discharge another employee.
 - c. Violate collective bargaining agreement.
 - d. Transfer a more senior employee in order to make room for the pregnant employee's transfer; or

- e. Promote or transfer the employee or any other employee to a position for which he/she is not qualified.

G. Certifications

1. As a condition of taking a Pregnancy Disability Leave or transfer, the employee must provide medical certification from her healthcare provider that she is disabled due to pregnancy, childbirth or related medical conditions and/or that a transfer to an alternative position is medically advisable.
2. The medical certification should include:
 - a. The date on which the employee became disabled due to pregnancy or the date of the medical advisability for the transfer.
 - b. The probable duration of the period(s) of disability or the period(s) for the advisability of the transfer; and
 - c. 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 her position without undue risk to herself, to the successful completion of her pregnancy, or to other persons or a statement that, due to pregnancy, the transfer is medically advisable.

d. Upon expiration of the time period for the leave estimated by the health care provider, OC LAFCO may require the employee to provide another medical certification if additional leave time is requested.

H. Fitness for Duty

The employee must provide certification from her healthcare provider of her fitness for duty prior to being reinstated.

I. Pay During Leave

1. Pregnancy Disability Leave is unpaid leave. However, the employee may elect to use, or OC LAFCO may require that the employee use accrued sick leave to provide pay during the period of Pregnancy Disability Leave.
2. An employee may also elect, at her option, to use accrued vacation or other accrued paid time off, if any, to provide pay during pregnancy disability leave. The use of paid leave runs concurrently with Pregnancy Disability Leave and does not extend the length of the Pregnancy Disability Leave.

3. The employee may also be eligible to receive temporary disability insurance payments during her Pregnancy Disability Leave, and to coordinate the use of any accrued sick leave and/or vacation to supplement temporary disability insurance payments.

J. Reinstatement

1. The employee is entitled to be reinstated to the same or comparable position upon release to return to work by her healthcare provider.
 - a. Where a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated by the date agreed upon, provided that the employee has provided medical certification of her fitness for duty.
 - b. If the actual reinstatement date differs from the original agreement, the employee will be reinstated within two business days, where feasible, after the employee notifies OC LAFCO of her readiness to return and provides medical certification of her fitness for duty.
 - c. Failure to return to work on the next workday following the expiration of pregnancy disability leave may be grounds for termination of employment.
2. The employee is not, however, entitled to any greater right of reinstatement than she would have had if she had not taken leave. Thus, reinstatement to the “same position” may be denied if for legitimate business reasons unrelated to the employee having taken a Pregnancy Disability Leave or transfer, the employee would not otherwise have been employed in her same position at the time reinstatement is requested.
3. Also, the employee has no greater right to reinstatement to a “comparable position” or to other benefits and conditions of employment than an employee who has been continuously employed. Thus, reinstatement to a comparable position may be denied if there is no comparable position open on the employee’s scheduled date of reinstatement or within 60 calendar days thereafter.
4. In the event that the employee takes family and medical leave under the California Family Rights Act (“CFRA”) following her pregnancy disability leave for the birth of her child, the employee’s right to reinstatement shall be governed by the CFRA and OC LAFCO’s Family and Medical Leave Policy rather than these provisions.

K. Seniority and Benefits

1. In general, employees taking Pregnancy Disability Leave will be treated the same as other similarly situated employees taking disability leave.
2. The employee returning from a Pregnancy Disability Leave shall return with no less seniority than she had when the leave commenced for purposes of layoff, recall, promotion, job assignment, and seniority related benefits such as vacation.
3. The employee shall retain employee status during the period of leave, and the leave shall not constitute a break in service for purposes of longevity and/or seniority.

L. FMLA/CFRA and Pregnancy Disability Leave

In accordance with the Federal Family and Medical Leave Act (FMLA), OC LAFCO shall count each day of pregnancy disability leave against an eligible employee's entitlement to up to 12 weeks of leave under the FMLA. Pursuant to the CFRA, the right to CFRA is separate and distinct from the right to take leave for pregnancy disability, and PDL will not be counted against the CFRA leave entitlement.

M. Group Health Insurance

Where an eligible employee is on Pregnancy Disability/FMLA Leave, OC LAFCO will continue the employee's group health insurance coverage under the same terms and conditions as applied prior to the leave of absence.

1. In the event that the employee fails to return from leave, OC LAFCO may recover premiums it paid to maintain group health insurance coverage. (For details, see OC LAFCO's Family and Medical Leave Policy.)
2. If the employee coverage ceases after the exhaustion of Pregnancy Disability Leave/FMLA or other leaves, the employee may continue group health insurance coverage pursuant to federal and state COBRA guidelines.

3.23 OTHER TIME OFF

A. Overview

This policy applies to all regular full-time and regular part-time employees of OC LAFCO. The intent of this policy is to outline other types of paid and unpaid time off available to eligible employees.

B. Bereavement Leave

Upon request, ~~regular full-time employees shall receive time off with pay, not to~~

~~exceed five (5) days for each death in the immediate family. Regular part-time employees shall receive time off with pay not to exceed the number of hours scheduled in a part-time employee's normal workweek for each death upon request. Other~~ employees who have been employed for at least 30 days will be entitled to five (5) days of ~~unpaid~~ paid leave, which will be pro-rated for part-time employees based on hours worked, for each death in the employee's immediate family. ~~and may use any accrued paid leave upon request.~~ For purposes of this section, immediate family is defined as the employee's spouse, parent, child, sibling; the employee's spouse's parent, child, or sibling; the employee's child's spouse; grandparents or grandchildren; the employee's domestic partner or the child of a domestic partner; person whom the employee has/had a legal guardian relationship. To the extent allowed by law, OC LAFCO may request documentation from an employee availing themselves of this leave.

Employees may also, with the approval of the Executive Officer, use any available paid leave for additional time off as necessary. If more time off is requested, it will be granted only at the discretion of the Executive Officer. Bereavement pay is calculated based on the base pay rate at the time of absence and prorated for part-time employees.

C. Reproductive Loss Event

All employees who have been employed for OC LAFCO for at least 30 days are entitled to an unpaid leave of absence up to five (5) days in total following a reproductive loss event. Such leave must be taken within three (3) months of the reproductive loss event. If an employee experiences more than one reproductive loss event within a 12-month period, OC LAFCO will grant the employee a cumulative total of up to of 20 (twenty) unpaid days of leave; subject to the limitation that each unpaid leave of absence shall not exceed five (5) days.

A reproductive loss event is defined as: failed adoption, failed surrogacy, miscarriage, stillbirth, or unsuccessful assisted reproduction. If the employee would have been recognized as a parent if the aforementioned events were successful, the employee will be covered under this definition. This includes the employee, the employee's current spouse or domestic partner, or another individual if the person would have been a parent of a child as a result of the event.

The leave of absence following a reproductive loss event is unpaid, though an employee may elect to utilize any accrued and available paid sick leave, vacation, personal leave, or compensatory time off that is otherwise available to the employee.

C.D. Jury Duty Leave

OC LAFCO encourages employees to fulfill their civic responsibilities by serving jury duty or appearing in court as a witness when required. OC LAFCO provides 30 days of paid time off at the employee's regular rate of pay for jury duty service provided the employee deposits fees paid for hours of jury duty excluding mileage. For service longer than 30 days, employees may use any accrued vacation leave or receive unpaid leave for jury duty service.

Employees must show the jury duty summons to the Executive Officer as soon as possible so that arrangements may be made to accommodate their absence. Employees are expected to report for work whenever the court schedule permits, including any remaining parts of a normally scheduled workday.

OC LAFCO will continue to provide health insurance benefits for the full term of the jury duty absence. Vacation, sick leave, and holiday benefits will continue to accrue during jury duty leave.

~~D.E.~~ D.E. Domestic Violence Victim Leave, Sexual Assault or Stalking

OC LAFCO will provide time off to an employee who has been the victim of domestic violence, sexual assault or stalking to seek any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child. This includes time off for court proceedings, services from a domestic violence shelter, program or rape crisis center, counseling, medical attention, and participation in safety planning programs. OC LAFCO requires reasonable advance notice of the leave when feasible. If time off is taken due to an emergency, the employee must, within 15 days of the absence, provide OC LAFCO with certification of the need for the leave such as a police report, court order, documentation from a healthcare provider, victims advocate, or counselor.

Employees eligible for paid sick leave benefits under California law may take any such available paid time off, consistent with such law, for the purposes set forth in this policy. For more information, please see the Sick Leave policy. In the event paid sick leave benefits are not available, employees taking leave under this policy may elect to apply accrued and unused vacation to such time.

OC LAFCO prohibits discrimination, discharge, or retaliation against an employee for taking time off or requesting an accommodation under this policy or based on the employee's status as a victim of domestic violence, sexual assault, and/or stalking.

~~E.F.~~ E.F. Crime Victims' Leave

OC LAFCO will provide time off to an employee to attend judicial proceedings related to a crime, if that employee is a victim of crime, an immediate family member of a

victim, a registered domestic partner of a victim, or the child of a registered domestic partner of a victim. OC LAFCO requires that, where feasible, in advance of taking leave, the employee provide it with a copy of the notice of each scheduled proceeding that is provided to the victim by the agency responsible for providing notice. If advance notice is not possible, the employee is required to provide OC LAFCO with a copy of the notice within a reasonable time.

No employee who is absent from work pursuant to this provision will be discharged or otherwise discriminated against in compensation or other terms, conditions or privileges of employment, because of such absence. Such leave is unpaid. Employees taking leave under this policy may elect to apply vacation time to such leave.

F.G. Leave for Organ and Bone Marrow Donation

OC LAFCO will grant an employee the following leaves of absence:

1. Bone Marrow Donation:

A paid leave of absence of up to five business days in any one-year period for the purpose of donating the employee's bone marrow to another person.

2. Organ Donation:

- a. A paid leave of absence of up to 30 business days in any one-year period for the purpose of the employee donating the employee's organ to another person.
- b. An additional unpaid leave of absence, not exceeding 30 business days in a one-year period, for the purpose of the employee donating the employee's organ to another person.

For leaves of absence under this policy that are paid, if an employee has earned and unused sick or vacation time is available, the employee is required to first use up to five days of such paid sick or vacation time for a bone marrow donation and up to two weeks of sick or vacation time for organ donation.

In order to receive a leave of absence pursuant to this policy, the employee must provide written verification to OC LAFCO that the employee is an organ or bone marrow donor and that there is a medical necessity for the donation of the organ or bone marrow.

Any leave taken for the donation of an organ or bone marrow will not constitute a break in service for purposes of the employee's right to salary adjustments, sick leave, vacation, annual leave, or seniority. During any leave taken under this policy, OC

LAFCO will maintain and pay for coverage under any group health plan, for the full duration of this leave.

Leave provided under this policy may be taken in one or more periods. Leave taken under this policy will not run concurrently with any leave taken pursuant to the federal Family and Medical Leave Act or the California Family Rights Act.

Upon expiration of a leave of absence authorized by this policy, OC LAFCO will restore the employee to the position held by the employee when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment. OC LAFCO may decline to restore an employee because of reasons unrelated to the employee's exercise of rights under this policy.

G.H. Time Off to Vote

Generally, employees are able to find time to vote either before or after their regular work schedule. If, however, full-time employees are unable to vote in an election during their non-working hours, OC LAFCO will grant up to 2 hours of paid time off to vote.

Employees requiring time off to vote should make their requests at least two working days prior to the Election Day. Advance notice is required so that the necessary time off can be scheduled at the beginning or end of the work shift, whichever provides the least disruption to the normal work schedule. Employees must submit a voter's receipt on the first working day following the election to qualify for paid time off.

H.I. Military Leave

Military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Military and Veterans Code Section 394.5. Advance notice of military serve is required, unless military necessity prevents such notice, or it is otherwise impossible or unreasonable. Employees who have been employed for at least one year are eligible for up to 30 days of paid leave for active-duty training.

Employees on military leave will receive rights and benefits comparable to those they would receive under OC LAFCO's policies for other types of leave. Continuation of health insurance benefits is available based on the length of the leave and subject to the terms, conditions and limitations of the applicable plan for which the employee is otherwise eligible. Employees on leave for no more than 30 days will receive continued health insurance benefits but are responsible for paying their portion of the health care coverage continuation rights. Vacation, sick leave and holiday benefits will continue to

accrue during any paid portion of a military leave of absence.

CFRA permits employees to take up to 12 workweeks of unpaid protected leave during a 12-month period for a “qualifying exigency” related to the covered active duty or call to covered active duty of an employee’s spouse, domestic partner, child or parent in the U.S. armed forces. The Federal Family and Medical Leave Act (FMLA) also entitles eligible employees to take leave for a covered family member’s service in the Armed Forces. This policy supplements our Family and Medical Leave policy and provides a general notice of employee rights to this leave. Except as stated below, such rights and obligations for service member leave are governed by our existing Family Leave policy. Service member FMLA/CFRA runs concurrent with other leave entitlements provided under federal, state and local law. Service member FMLA provides eligible employees unpaid leave for anyone, or combination of the following reasons:

1. A “qualifying exigency” arising when the employee’s spouse, son, daughter or parent, who is a member of the Armed Forces (including National Guard and Reserves), is on covered active duty or has been notified of an impending call to order to covered active duty; and/or
2. To care for a covered family member who has incurred an injury or illness while in the Armed Forces provided that such injury or illness renders the family member medically unfit to perform duties of the member’s office, grade, rank or rating and is certified by the service member’s healthcare provider.

When leave is due because of a “qualified exigency” concerning the military duty of a family member, an eligible employee may take up to 12 workweeks of leave during any 12-month period.

When leave is to care for an injured or ill service member, an eligible employee may take up to 26 weeks of leave during a single 12-month period to care for a service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 workweeks in a single 12-month period.

Where spouses are both employed by OC LAFCO, they may take up to, in aggregate, 26 workweeks of service member FMLA, provided that any portion of the aggregate leave that is not for care of a family service member does not exceed 12 workweeks.

In any case where it is foreseeable that an employee will need service member FMLA, that employee must provide notice of his or her intent to take leave as soon as reasonably possible and provide certification of either the “qualified exigency” or family service member’s need for care as soon as practicable.

H.J. Military Spouse Leave

Qualified California employees will be given up to 10 days leave during that time in which the employee's spouse or domestic partner is on leave from deployment in a combat zone with the active duty or reserve military or national guard during a period of military conflict. Employees may use accrued vacation time to cover this absence. If the employee has no accrued vacation, the employee must request time off without pay.

Qualifying employees are employees who work an average of 20 hours per week and have a spouse or domestic partner who is serving as (1) a member of the U.S. Armed Forces and who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States or (2) a member of the Armed Forces Reserve Components or the National Guard and has been deployed during a period of military conflict.

Qualifying employees who wish to request this leave must provide OC LAFCO with a written request for such leave within two business days of receiving official notice that the military spouse or domestic partner will be on leave from deployment. The employee must also provide written documentation to OC LAFCO certifying that the military member will be on military leave from deployment.

H.K. Workers' Compensation Leave

If an employee sustains a work-related injury, he or she will be eligible for a medical leave of absence for a period of disability in accordance with all applicable laws covering occupational injuries.

Where an employee's work-related injury qualifies as a serious health condition, any Workers' Compensation Leave taken will be considered part of his or her entitlement, if any, to leave under the Family and Medical Rights Act ("FMLA") and the California Family Rights Act ("CFRA"). Employees on Workers' Compensation Leave should keep their supervisors informed as to their work status and will need to provide a doctor's release before returning to work.

For more information on how to apply for or obtain workers' compensation information, an employee may contact the County of Orange, Risk Management Department at (714) 285-5511. Additional information may also be found at the following worker's compensation resources:

1. State of CA Department of Industrial Relations Website: <https://www.dir.ca.gov/dwc/fileclaim.htm>.
2. Facts for Injured Workers: <https://www.dir.ca.gov/dwc/InjuredWorker.htm>.

K-L. Volunteer Emergency Leave and Training

If employees volunteer as a firefighter, reserve peace officer, or emergency rescue personnel, they may be entitled to unpaid leave to perform emergency duty. In addition, they may take unpaid leave of up to 14 days per calendar year for the purpose of engaging in fire or law enforcement training. If an employee qualifies for these types of leave, he or she may use accrued vacation during the leave. Time spent on this leave counts for purposes of determining "length of service." However, vacation will not be accrued, and holiday pay will not be received during this leave.

L-M. Time Off for Parents to Attend School Activity

Employees, who are parents of one or more children in kindergarten, or in grades 1 through 12, may take time off of up to forty (40) hours per school year to attend authorized school activities which involve one or more of the employee's school age children. To be eligible for parental time off, the employee must obtain from the school, written verification that he or she attended or participated in the school activity. Parental time off may not exceed eight hours in any calendar month.

Employees may use any accrued vacation while they attend their child's school activities. If not, the employee's parental time off will be unpaid. For scheduling purposes, employees must notify the Executive Officer at least one (1) week before the date of the school activity, so that their work duties may be covered.

M-N. Literacy Education Leave

OC LAFCO will reasonably accommodate employees who are seeking to enroll in an adult literacy education program provided the accommodation requested would not result in undue hardship to OC LAFCO. OC LAFCO does not provide paid time off for participation in an adult literacy education program.

N-O. Kin Care Leave

Under California state law, employees who accrue sick leave are eligible for Kin Care Leave (KCL). An employee may use KCL for the following reasons:

1. Diagnosis, care, or treatment of an existing health condition of the employee, or preventive care for, an employee or an employee's covered family member.
2. For obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking.

3. If the employee is a victim of domestic violence, sexual assault, or stalking, the employee may take time off to: obtain medical treatment, counseling or other victims' services, obtain or attempt to obtain any relief to help ensure the health, safety, or welfare of the employee or the employee's child, such as a temporary restraining order, restraining order, or other injunctive relief.

The number of days the employee can take off is calculated as an amount not less than the sick leave that would be accrued during 6 months of the employee's then-current rate of entitlement. Employees are able to use up to half of their sick leave for KCL. But, no more than one-half of the employee's annual accrued sick leave benefits can be counted as KCL. For a full-time career employee, for example, this would mean no more than 48 hours of sick leave can be counted as KCL.

To the extent possible, employees must provide reasonable advance notice of their need for leave under this policy. If the need for leave is not foreseeable, an employee must provide notice as soon as practicable.

For purposes of this policy, a family member means as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent, grandchild and sibling.

Please note, leave under this statute runs concurrently with paid sick leave and CFRA/FMLA leave.

P. Alcohol and Drug Rehabilitation Leave

Under California state law, employees who seek time off to voluntarily complete a rehabilitation program are eligible for this leave under this policy.

Employees may take reasonable unpaid leave as long as the leave does not cause OC LAFCO an undue hardship. This leave is unpaid but employees may choose to use available sick leave concurrently with rehabilitation leave.

3.24 FAMILY AND MEDICAL LEAVE

A. Overview

The intent of this policy is to outline and explain some of the rules and requirements applying to the Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA).

Note: Employers with at least 50 employees are required to comply with FMLA, whereas all public employers are required to comply with the CFRA. OC LAFCO does not meet the threshold for FMLA, but by policy provides leave pursuant to the FMLA.

B. Eligibility

Regular full-time and regular part-time employees are eligible to request unpaid Family and Medical Leave under CFRA/FMLA if at the time leave commences, all of the following apply:

1. Must have worked for OC LAFCO for at least twelve (12) months at any time (need not be continuous).
2. Must have worked at least 1,250 hours during the twelve (12) months immediately preceding the start of the leave.

Part-time employees who meet the requirements will calculate Family and Medical Leave on a prorated basis according to the number of hours they are normally scheduled to work.

C. Reasons for Leave

Leave may be requested for any of the following reasons:

1. The birth or adoption of a child, or the placement of a child in foster care.
2. To care for the employee's child (including adult children over 18 years of age, stepchildren and children of a domestic partners), spouse, sibling, registered domestic partner, parent (including parent-in-law), grandchild, grandparent or designated person with a serious health condition. "Designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. OC LAFCO may limit an employee to one designated person per 12-month period for family care and medical leave.
3. A serious health condition that prevents the employee from performing an essential function of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions; or
4. Military spousal, and military caregiver and exigency leave.

Family and Medical Leave is not available for non-serious conditions (including minor illnesses or for voluntary or cosmetic treatments) unless inpatient care is required or for routine preventive physical examinations.

D. Length of Leave

The length of Family and Medical Leave is up to twelve workweeks within a twelve-month period (exception for Pregnancy Disability and Military Caregiver – see policies). The twelve-month period begins the date the leave is taken. There is no carryover of unused leave from one twelve-month period to the next twelve-month period. Holidays that fall during the leave are counted against leave entitlement.

If at the end of twelve weeks the employee is unable to return to work, they may request a personal leave without pay. Such leave is granted at the discretion of OC LAFCO, and there is no requirement to hold the job available during the personal leave. OC LAFCO will, however, be governed by the Americans with Disabilities Act, the California Fair Employment and Housing Act, and Workers' Compensation regulations, if applicable.

E. Intermittent or Reduced Scheduled Leave

Family leave taken for the purpose of birth or placement of a child will generally be granted in minimum amounts of two weeks. However, an employee may request smaller increments of leave time which will be granted on any two occasions and will be subject to OC LAFCO approval for any additional requests based upon business needs.

Family and Medical Leave for the employee's own serious health condition, family care leave for the serious health condition of the employee's child (including adult child over 18 years of age), spouse, sibling, registered domestic partner, child of a registered domestic partner, parent, grandchild, grandparent or designated person and military caregiver leave may be taken intermittently or on a reduced schedule when medically necessary. Where the intermittent or reduced schedule leave is for planned medical treatment, the employee must make an attempt to schedule the treatment so as not to unduly disrupt OC LAFCO's operations. Military exigencies' leave also may be taken intermittently or on a reduced schedule.

If leave is taken intermittently or as a reduced work schedule, the amount of time used under Family and Medical Leave is only the time actually taken. For example, one day of leave per week for an employee who works five days per week is the equivalent of 1/5 of a week of Family/Medical Leave used.

F. Temporary Alternative Positions

An employee may be placed in a temporary alternative position if they request

intermittent or reduced schedule leave, or the existing position description may be altered, to better accommodate the employee's need for recurring periods of leave. The alternative position may not have equivalent duties but will receive equivalent pay and benefits. The employee must be qualified for the position. They may also be transferred to a part-time job with the same hourly rate of pay and benefits.

G. Impact on Benefits

Health insurance premiums that are normally paid by OC LAFCO will continue to be paid during Family and Medical Leave for a maximum of twelve workweeks in a twelve-month period. The employee is still responsible for his or her share of the health insurance premiums during the period of leave. If the employee substitutes paid leave for unpaid leave, such payments will be deducted from the employee's pay through payroll deductions. Otherwise, the employee must make arrangements with OC LAFCO to pay for such premiums.

OC LAFCO may recover any health insurance premiums it paid during the leave if the employee fails to pay his or her share of the premiums during the leave or the employee fails to return to work from leave for a reason other than recurrence, continuation, or onset of a serious health condition for which leave under this policy is allowed or other circumstance beyond the employee's control.

Service time, as well as vacation and incidental absence time, will continue to accrue during, but not exceeding, the twelve-week period. Employees will not be paid for holidays if they are in an unpaid status. For Family and Medical Leave of 30 days or less, reviews relating to salary and performance will continue as usual. A salary action which would have ordinarily taken place during the time of the leave will become effective upon the employees return to work. For Family and Medical Leave of over thirty days, Salary and Performance Reviews will be extended equal to the length of the leave.

H. Pregnancy Disability

In addition to the pregnancy disability leave described in this handbook, an eligible pregnant California employee is entitled to up to 12 additional workweeks of CFRA Leave. The maximum time to be taken off is: four months pregnancy disability/FMLA (with a healthcare provider's certification) plus 12 workweeks CFRA.

I. Requesting a Leave

An employee will be asked to provide certification from a health care provider that the leave is medically necessary when requesting a leave for their own health condition. If the health condition is that of a parent, spouse, or child, the healthcare provider must certify that the employee's care is required.

All requests must be provided in writing and include information and a schedule relative to the leave. Employees are requested to give as much advance notice as possible. Thirty (30) days is considered a minimum. In cases of emergency, give as much notice as possible under the circumstances. If the leave schedule is flexible, employees are required to try to schedule the leave so as not to unduly disrupt OC LAFCO's operations.

J. Integration with Paid Leave

Leave provided under FMLA/CFRA is unpaid. However, at the option of OC LAFCO or the employee, accrued vacation (or, Sick Leave where the leave is required due to the employee's serious health condition, or the serious health condition of a family member and Sick Leave would otherwise be permitted under OC LAFCO's policy) may be substituted for any unpaid Family Medical Leave. This designation of Family and Medical Leave will be made by OC LAFCO at the time the employee requests the leave or when OC LAFCO determines that the leave qualifies as Family and Medical Leave based on the information provided. In either case, the total of paid and unpaid leave provided is limited to twelve workweeks.

K. Upon Return from Leave

Employees timely returning from a leave covered under this policy are entitled to reinstatement to the same or equivalent position consistent with applicable law. An employee has no greater right to reinstatement than if he or she had been continuously employed rather than on leave. OC LAFCO will comply with all applicable laws pertaining to reinstatement of employees including, where required, the reasonable accommodation of employees who have been on an approved leave. OC LAFCO will be governed by the Americans with Disabilities Act, the Fair Employment and Housing Act, CFRA/FMLA, and/or Workers' Compensation regulations where applicable. Family and Medical Leave will not result in the loss of any employment benefit that was earned or entitled to before use of Family and Medical Leave.

Employees using Family and Medical Leave for their own serious medical condition must bring a healthcare provider's release to work upon returning from leave.

PART 5 – CONDUCT AND PROBLEMS

3.25 SAFETY

A. Overview

The intent of this policy is to outline safety expectations.

B. Policy

OC LAFCO is committed to providing a safe and healthy workplace. The safety of every employee is a fundamental consideration for OC LAFCO, and all reasonable precautions will be taken to protect employees from injury. In order to promote safety in the workplace, OC LAFCO expects employees to conduct business and perform their duties in a safety-conscious manner at all times. All work areas must be kept clean, and free of clutter and debris. OC LAFCO also expects all employees to refrain from horseplay and careless behavior in the workplace. Any hazards or potentially dangerous conditions must be corrected promptly and/or reported to a supervisor.

Every employee of the OC LAFCO shall be required to observe all OC LAFCO and departmental health and safety procedures. At the close of each business day, employees must ensure that all equipment is put away. All stationery and miscellaneous supplies should be removed from tables, benches and furniture tops. Paperwork should not be left out overnight. Employees must not litter or discard items on the premises.

If an employee identifies a potentially unsafe condition or risk, the employee should immediately report the matter to their supervisor.

Under California law, in the event of an emergency condition, OC LAFCO will not take or threaten adverse action against any employee for refusing to report to, or leaving, a workplace because the employee has a “reasonable belief that the workplace is unsafe.” The law requires employees to, “when feasible,” notify employers in advance of the emergency condition that requires they either leave the workplace or refuse to report to work. If it’s not feasible, then the employee must notify the employer as soon as possible. “Emergency Condition” for purposes of this policy, is defined as conditions of disaster or extreme peril to the safety of persons or property at the workplace or worksite caused by natural forces or a criminal act. And, an order to evacuate a workplace, worksite, worker’s home, or the school of a worker’s child due to natural disaster or a criminal act.

“A reasonable belief” for purposes of this policy, is defined as the workplace or worksite is unsafe” means that a reasonable person, under the circumstances known to the employee at the time, would conclude there is a real danger of death or serious injury if that person enters or remains on the premises. The existence of any health and safety regulations specific to the emergency condition and an employer’s compliance or noncompliance with those regulations shall be a relevant factor if this information is known to the employee at the time of the emergency condition or the employee received training on the health and safety regulations mandated by law specific to the emergency condition.

If an employee is injured or becomes ill on the job as a result of performing job-related duties, the following steps will be taken.

- Notify their supervisor, manager or Chair immediately after an injury or symptoms of illness occur.
- Consult a physician within 24 hours after an industrial injury or illness, even if the injury or illness is considered minor. Delay or refusal to seek medical treatment can result in physical as well as compensatory complications. Whenever possible, treatment should be received from an authorized treatment facility as directed to OC LAFCO.
- If the injury requires minor first aid care, there are first aid kits located in the office of Executive Officer and break room. All rules of reporting apply, even though injury is minor and requires only first aid treatment.
- In the event of a life-threatening injury, employees will be taken to the nearest local hospital. The employee or referring agent of OC LAFCO must inform the hospital staff that they are seeking treatment for an industrial injury.
- In the event of a temporary or permanent industrial disability, the employee is entitled to Workers' Compensation Insurance coverage and/or personal long-term disability benefits in accordance with state and federal laws.

Off-Duty Social and Recreational Activities. OC LAFCO may sponsor social or recreational activities for its citizens and employees, both on OC LAFCO property and off-site. Employee attendance at such social activities, however, is completely voluntary and is not work-related. Neither OC LAFCO nor its insurer will be liable for the payment of workers' compensation benefits for any injury that arises out of an employee's voluntary participation in any off-duty recreational, social or athletic activity that is not part of the employee's work-related duties.

- ~~Every employee is responsible for safety. To achieve our goal of providing a completely safe workplace, everyone must be safety conscious. Employees should report any unsafe or hazardous condition directly to their supervisor immediately.~~

~~In case of an accident involving a personal injury, regardless of how serious, employees should notify the Executive Officer or Assistant Executive Officer immediately. Failure to report accidents can result in a violation of legal requirements and can lead to difficulties in processing insurance and benefit claims.~~

~~If an employee is injured on the job, he or she will be entitled to benefits under the state workers' compensation law in most cases. OC LAFCO carries workers' compensation insurance and will assist employees to obtain all benefits to which they are legally entitled.~~

3.26 WORKPLACE VIOLENCE POLICY

OC LAFCO recognizes that workplace violence is a concern among employers and employees across the country. OC LAFCO is committed to providing a safe work environment that is free of violence and the threat of violence. OC LAFCO will not tolerate any violent or dangerous behavior of any kind, whether through physical abuse, threats of any kind, intimidation, coercion, stalking or otherwise, defacing OC LAFCO's property or causing physical damage to the facilities, bring weapons or firearms of any kind onto OC LAFCO's premises, parking lots, or while conducting business, or any other behavior that suggests a propensity towards violence. OC LAFCO strictly prohibits employees, consultants, customers, visitors, or anyone else on OC LAFCO premises or engaging in an OC LAFCO-related activity from behaving in a violent or threatening manner. Moreover, OC LAFCO seeks to prevent workplace violence before it begins and reserves the right to address certain behaviors, even in the absence of violent behavior.

Employees may report all incidents of direct or indirect violence or dangerous behavior to the Executive Officer or Assistant Executive Officer as soon as possible. Reporting incidents and concerns early can help prevent a situation from escalating and becoming even more dangerous. Employees should never attempt to handle a potentially dangerous situation by themselves. Any OC LAFCO employee that violates this policy will be subject to discipline, up to and including termination, as well as potential legal action.

OC LAFCO believes that prevention of workplace violence begins with recognition and awareness of potential early warning signs. Any such instances should be immediately reported to the Executive Officer or General Counsel.

Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the worksite, ranging from threats and verbal abuse to physical assaults and even homicide, that can affect and involve employees, clients, customers and visitors. If any employee observes or becomes aware of any ~~of any~~ workplace violence related actions or behavior by an employee, customer, consultant, visitor, or anyone else, he or she should notify the Executive Officer or Assistant Executive Officer or General Counsel immediately. Further, employees should notify the Executive Officer or Assistant Executive Officer or General Counsel if any restraining order is in effect, or if a potentially violent non-work-related situation exists that could result in violence in the workplace. General examples of prohibited conduct include, but are not limited to the following:

1. The actual or implied threat of harm to an individual, group of individuals, or relatives of those individuals, or the property of any of them, made in person, over the telephone, through the mail, by electronic communication, or by other means.

2. Fighting or challenging another individual to a fight.
3. Intimidation through direct or veiled verbal threats, or through physical threats, such as obscene gestures, grabbing, and pushing.
4. Making harassing or threatening telephone calls; sending harassing or threatening letters, emails, or other correspondence.
5. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of OC LAFCO.
6. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, which presents a credible threat to the individual and causes the individual to fear for their safety, or the safety of their immediate family, as defined in Civil Code section 1708.7.
7. Making a suggestion or otherwise intimating that an act to injure persons or property is appropriate behavior.
8. The possession, on OC LAFCO leased or owned property or facilities, of weapons of any kind (including toy or look-alike), unless specifically authorized by the Police Department or appointing authority, or the brandishing of any object in a threatening manner towards another.
9. Loud, disruptive or angry behavior or language which is clearly not part of the typical work environment.
10. Blatant or intentional disregard for the safety or well-being of others.
11. Willful destruction of OC LAFCO's or others personal property.
12. Commission of a violent felony or misdemeanor on OC LAFCO's property.
13. Any other act that a reasonable person would perceive as constituting an act or threat of violence.

All reports of workplace violence will be taken seriously and will be investigated promptly and thoroughly. In appropriate circumstances, OC LAFCO will inform the reporting individual of the results of the investigation. To the extent possible, OC LAFCO will maintain the confidentiality of the reporting employee and of the investigation. OC LAFCO may, however, need to disclose results in appropriate circumstances, for example, in order to protect individual safety. OC LAFCO will not tolerate retaliation against any employee who

reports workplace violence.

If OC LAFCO determines that workplace violence in violation of this policy has occurred, OC LAFCO will take appropriate corrective action and will impose discipline on offending employees. The appropriate discipline will depend on the particular facts but may include written or oral warnings, probation, reassignment of responsibilities, suspension, or termination. If the violent behavior is that of a non-employee, OC LAFCO will take appropriate corrective action in an attempt to ensure that such behavior is not repeated.

Under certain circumstances, OC LAFCO may forego disciplinary action on the condition that the employee takes a medical leave of absence. In addition, OC LAFCO may request that the employee participate in counseling, either voluntarily or as a condition of continued employment.

Immediate Danger: Any employee, who is subjected to, witnesses, or has knowledge of actions that pose an immediate danger to himself/herself or others must report these acts to appropriate authorities immediately. When the incident constitutes an emergency, the employee should place themselves in a safe location, notify their supervisor and/or obtain police assistance by calling 911. Information provided to the emergency dispatcher should include details regarding the exact location and the nature of the incident and the persons and/or weapons involved.

After the incident has been reported to the police the employee should notify their supervisor. The supervisor shall be responsible for contacting the Executive Officer.

The primary objective in dealing with an incident in progress is to stabilize the situation, deescalate the potential for violence, and ensure that there is no harm to any person or property. Once the emergency has passed the supervisor shall be responsible for conducting a thorough investigation of the incident and reporting the findings to the Executive Officer. All employees are required to cooperate fully in any administrative or criminal investigation.

Potential or Suspected Future Incidents: When an employee becomes aware of a potential violation of this policy that does not pose an immediate threat of violence, the employee is responsible for notifying their supervisor. Even without an actual threat, employees should also report any behavior that they may regard as threatening or violent when the behavior is job-related or might be carried out within the OC LAFCO workplace. It will then become the responsibility of the supervisor to prepare a report for the Executive Officer. This report will be evaluated to determine whether there was a violation of the policy and what the appropriate management response should be.

Employees who have reason to believe they or any OC LAFCO employee may be the subject of a future violent act in the workplace or as a result of their OC LAFCO employment, should immediately notify their supervisor.

No employee who, acting in good faith, initiates a complaint or reports an incident under this policy will be subject to retaliation or harassment.

3.27 DRUG AND ALCOHOL POLICY

A. Overview

The intent of this policy is to provide a drug and alcohol-free work environment for all OC LAFCO employees.

B. Policy

It is OC LAFCO's desire to provide a drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

While on OC LAFCO's premises ~~and or~~ while conducting business-related activities off OC LAFCO's premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the workplace.

Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation or treatment program. Such violations may also have legal consequences.

Employees with questions or concerns about substance dependency or abuse are encouraged to use the resources of the Employee Assistance Program. They may also wish to discuss these matters with the Executive Officer or Assistant Executive Officer to receive assistance or referrals to appropriate resources in the community.

Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take unpaid time off to participate in a rehabilitation or treatment program through OC LAFCO's health insurance benefit coverage. Leave may be granted if the employee agrees to abstain from use of the problem substance; abides by all OC LAFCO's policies, rules and prohibitions relating to conduct in the workplace; and if granting the leave will not cause OC LAFCO any undue hardship. Please see OC LAFCO's Alcohol and Drug Rehab Leave Policy for more detail.

Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify OC LAFCO of a criminal conviction for drug-related activity occurring in the workplace. The report must be made within five days of the conviction.

3.28 DESK INSPECTION POLICY

A. Overview

The intent of this policy is to assist in the understanding of the usage of E-mail, the Internet, computer files and software.

B. Policy

Although desks, cabinets and shelves are made available for the convenience of employees while at work, employees should remember that all desks, cabinets and shelves remain the sole property of OC LAFCO. Moreover, OC LAFCO reserves the right to open and inspect desks, cabinets, and shelves, as well as any contents, effects, or articles in desks, cabinets, and shelves. Such an inspection can occur at any time, with or without advance notice or consent. An inspection may be conducted before, during, or after working hours by the Executive Officer or Assistant Executive Officer or designee. Employees have no expectation of privacy in any of these items.

Prohibited materials, including weapons, explosives, alcohol and non-prescribed drugs or medications, may not be placed in a desk, cabinet or shelf. Employees who, if requested, fail to cooperate in any inspection will be subject to disciplinary action, up to and including termination. OC LAFCO is not responsible for any articles that are placed or left in a desk, cabinet, or shelf that are lost, damaged, stolen or destroyed.

3.29 THEFT OR LOSS OF OFFICE EQUIPMENT

A. Overview

The intent of this policy is to outline procedures in the event OC LAFCO office equipment is lost or stolen.

B. Policy

The use of any OC LAFCO-related equipment (computers, cell phones, iPads, projectors, or other office-related equipment) outside of the OC LAFCO offices must be approved by the Executive Officer. OC LAFCO employees are fully responsible for the care and safekeeping of all office equipment offsite. Should an item be stolen or lost offsite while under the care of an OC LAFCO employee, the OC LAFCO employee is responsible to reimburse OC LAFCO for the replacement cost of all lost or stolen items.

The care and safekeeping of an iPad provided to a Commissioner for OC LAFCO- related

business is the sole responsibility of the Commissioner. Any loss or theft of the iPad must be reported immediately to the Executive Officer, and the Commissioner is responsible to reimburse OC LAFCO for the replacement cost of the device.

3.30 PROBLEM RESOLUTION PROCEDURE

A. Overview

The intent of this policy is to outline OC LAFCO's problem resolution procedure.

B. Policy

OC LAFCO is committed to encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question receives a timely response. OC LAFCO strives to ensure fair and honest treatment of all employees. All employees are expected to treat each other with mutual respect. All employees are encouraged to offer positive and constructive criticism.

If there is a disagreement concerning established rules of conduct, policies, or practices, employees may express their concerns through the problem-resolution procedure. No one will be penalized, formally or informally, for voicing a complaint with OC LAFCO in a reasonable, business-like manner, or for using the problem-resolution procedure.

If a situation occurs where an employee believes that a condition of employment or a decision affecting them is unjust or inequitable, they are encouraged to make use of the following steps:

1. Employee presents problem to the Assistant Executive Officer after incident occurs. If the Assistant Executive Officer is unavailable or an employee believes it would be inappropriate to contact the person, employee may present problem to the Executive Officer.
2. The Assistant Executive Officer responds to the problem during discussion or after consulting with the Executive Officer, when necessary, and documents discussion.
3. Employee presents problem to the Executive Officer in writing if problem is unresolved.

The Executive Officer reviews and considers the problem. The Executive Officer informs the employee of decision and forwards a copy of the written response to the employee's file. The Executive Officer has full authority to make any adjustment deemed appropriate to resolve the problem.

Originally Adopted: 1/8/2003

Last Reviewed: ~~10/11/2023~~03/13/2024

Last Revised: ~~10/11/2023~~03/13/2024

**Personnel Policies and Procedures
of the
Orange County Local Agency Formation Commission**

PART 1 – EMPLOYMENT

3.1 EMPLOYEE ACKNOWLEDGEMENT FORM

PLEASE READ THE FOLLOWING POLICIES AND PROCEDURES, FILL OUT AND RETURN THIS PORTION TO THE OC LAFCO COMMISSION CLERK OR IMMEDIATE SUPERVISOR WITHIN FIVE BUSINESS DAYS.

I acknowledge that I have received and read a copy of the Orange County Local Agency Formation Commission (“OC LAFCO”) employee policy and procedures and understand all the policies, guidelines, and procedures stated within. I understand that I am responsible for reading these policies and for knowing and complying with the policies set forth herein during my employment with OC LAFCO.

Additionally, I specifically acknowledge that I have read and understand the following policies: Equal Employment Opportunity, Timekeeping, Overtime Pay, and Policy Against Harassment, Discrimination, and Retaliation.

The personnel policies and procedures describe important information about OC LAFCO, and I understand that I should consult the OC LAFCO Executive Officer regarding any questions I might have. I have entered into my employment relationship with OC LAFCO voluntarily and acknowledge that there is no specific length of employment. Accordingly, either I or OC LAFCO can terminate the relationship at will, with or without cause, at any time, so long as there is no violation of applicable federal or state law. Furthermore, I acknowledge that these policies and procedures are not a contract of employment.

I understand and agree that the terms of this Acknowledgment may not be modified or superseded except by a written agreement signed by me and the OC LAFCO Executive Officer, that no other employee or representative of OC LAFCO has the authority to enter into any such agreement, and that any agreement to employ me for any specified period of time or that is otherwise inconsistent with the terms of this Acknowledgment will be unenforceable unless in writing and signed by myself and the OC LAFCO Executive Officer. I further understand and agree that if the terms of this Acknowledgment are inconsistent with any guideline or practice of OC LAFCO now or in the future, the terms of this Acknowledgment shall control.

Since the information, policies, and benefits described herein are necessarily subject to change, I acknowledge that revisions to them may occur, except to OC LAFCO’s policy of employment-at-will. I understand that OC LAFCO reserves the right to modify,

supplement or rescind any or all of its policies whenever it deems necessary or useful to do so, at any time with or without notice.

I have carefully read this acknowledgement Form.

EMPLOYEE'S NAME (printed)

EMPLOYEE'S SIGNATURE

DATE

DISCLAIMER

THESE POLICIES AND PROCEDURES ARE NOT DESIGNED TO EXPLAIN EVERY EMPLOYMENT SITUATION OR OUTLINE EVERY RELEVANT POLICY OR PRACTICE. THESE POLICIES AND PROCEDURES NOT INTENDED TO CONSTITUTE AN EMPLOYMENT CONTRACT OR A GUARANTY OF FUTURE EMPLOYMENT. EMPLOYMENT WITH OC LAFCO IS "AT-WILL." THESE POLICIES AND PROCEDURES SUPERSEDE ANY AND ALL WRITTEN DOCUMENTS OR ORAL REPRESENTATIONS THAT CONTRADICT THE AT-WILL NATURE OF YOUR EMPLOYMENT, EXCEPT WHERE EXPRESSLY SUPERSEDED BY CONTRACT.

OC LAFCO RESERVES THE RIGHT TO REVISE, MODIFY, DELETE, OR ADD TO ANY AND ALL POLICIES, PROCEDURES, WORK RULES, OR BENEFITS STATED IN THESE POLICIES AND PROCEDURES OR IN ANY OTHER DOCUMENT, EXCEPT FOR THE POLICY OF AT-WILL EMPLOYMENT. ANY CHANGES TO THESE POLICIES AND PROCEDURES WILL BE DISTRIBUTED IN WRITING TO ALL EMPLOYEES SO THAT EMPLOYEES MAY BE AWARE OF THE NEW POLICIES.

3.2 AT-WILL EMPLOYMENT

A. Overview

The intent of this policy is to establish the At-Will-Employment Policy of OC LAFCO.

B. Policy

Employment at OC LAFCO is and shall be at all times on an at-will basis at all phases of employment. That means that either OC LAFCO or an employee may terminate an employee's employment at any time, for any reason, with or without cause or advance notice. The employment relationship between OC LAFCO and its employees is for an unspecified term and may be terminated by the employee, or OC LAFCO Executive Officer or the Commission of OC LAFCO ("Commission") at any time, with or without cause or advanced notice. Also, OC LAFCO reserves the right to transfer, demote, suspend, or administer discipline with or without cause or advance notice.

None of the policies, procedures, or contents of this herein is intended to create any contractual obligations which in any way conflict with OC LAFCO's policy of At-Will-Employment. The at-will relationship can only be modified by a written agreement signed by the employee and the OC LAFCO Executive Officer.

3.3 EQUAL EMPLOYMENT OPPORTUNITY POLICY

A. Overview

The intent of this policy is to establish the Equal Employment Opportunity Policy of OC LAFCO.

B. Policy

OC LAFCO is strongly committed to providing equal opportunity to all employees and applicants for employment. OC LAFCO does not discriminate on the basis of race (including but not limited to, hair texture and protective hairstyles such as braids, locks, and twists), color, religious creed (including religious dress and religious grooming practices), national origin, ancestry, citizenship status, age (40 years and older), sex (including pregnancy, perceived pregnancy, childbirth, breastfeeding, or related medical conditions), gender, gender identity and expression (including transgender identity and expression), because an individual has transitioned (to live as the gender with which they identify), is transitioning (or is perceived to be transitioning), sexual orientation, sex stereotyping, marital status, domestic partner status, reproductive health decision making (protected under §12920 of the Government Code in California), military service and veteran status, physical and/or

mental disability (including HIV and AIDS), legally protected medical condition or information (including genetic information,) protected medical leaves (requesting or approved), status as a victim of domestic violence, sexual assault or stalking, enrollment in a public assistance program, or any other basis protected by local, state or federal laws. Any such discrimination is unlawful and all persons involved in the operations of OC LAFCO are prohibited from engaging in this type of conduct. OC LAFCO strictly prohibits the harassment of any individual on any basis listed above (see the Policy Against Harassment for further clarification).

This policy applies to all employment practices, including recruitment, advertising, job application procedures, hiring, placement, firing, advancement, compensation training, benefits, transfers, social and recreational programs, and any other terms, conditions and privileges of employment.

Any employees with questions or concerns about equal employment opportunities in the workplace are encouraged to bring these issues to the attention of the Executive Officer or his/her designee or Chair of the Commission or General Counsel. To ensure our workplace is free of artificial barriers, violation of this policy including any improper retaliatory conduct will lead to discipline, up to and including discharge. All employees must cooperate with all investigations conducted pursuant to this policy.

An employee who believes that he or she has been subjected to any form of unlawful discrimination should make a complaint, preferably written, to the Executive Officer, or if it involves the Executive Officer, to the Chair of the Commission or General Counsel. Complaints should be specific and should include the names of individuals involved and the names of any witnesses. OC LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. If OC LAFCO determines that unlawful discrimination has occurred, effective remedial action will be taken to determine any future discrimination.

Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Commitment Policy or the Policy against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith.

3.4 LACTATION ACCOMMODATION

OC LAFCO provides accommodations to lactating employees who need to express breastmilk during work hours in accordance with applicable law. OC LAFCO will provide a room or other location (not a bathroom) for employees to express breastmilk in private.

OC LAFCO will ensure that the lactation room or location will:

1. Be in close proximity to the employee's work area, shielded from view, and free from intrusion while the employee is expressing milk.
2. Be clean, safe and free of hazardous materials.
3. Contain a surface to place a breast pump and other personal items.
4. Contain a place to sit.
5. Have access to electricity or alternative devices, including, but not limited to, extension cords or charging stations, needed to operate an electric or battery powered breast pump.

In addition, OC LAFCO will provide access to a sink with running water and a refrigerator suitable for storing milk (or other cooling device suitable for storing milk) in close proximity to an employee's workspace. In the event that more than one employee needs use of the lactation room, OC LAFCO will discuss alternative options with the employees to determine what arrangement addresses their needs, such as finding an alternative space or creating a schedule for such use.

OC LAFCO shall also provide a reasonable amount of break time for an employee to express any breast milk each time that she needs to do so. The break time, if possible, should run concurrently with any break time already provided to the employee. Break time for a nonexempt employee that does not run concurrently with rest time already authorized for the employee is unpaid. However, if the employee performs any work during such break, she must accurately record all time worked and OC LAFCO will compensate her for such time.

Employees who are nursing have a right to request a lactation accommodation. Such requests may be made verbally or in writing, should indicate the need for the accommodation in order to express breastmilk at work, and should be directed to OC LAFCO's Executive Officer. OC LAFCO shall respond to such requests in a reasonable manner, not exceeding five business days. If OC LAFCO cannot provide break time, location, or other reasonable accommodations in accordance with this policy, it will inform the requesting employee in writing. Because lactation accommodation needs may change over time, employees may request changes to existing accommodations by a written request to OC LAFCO's Executive Officer that describes the nature of the change that is requested.

OC LAFCO prohibits any form of retaliation or discrimination against an employee for exercising or attempting to exercise any rights provided under the above policies. Any such conduct or violations of the above-referenced policies should be reported to OC LAFCO's Executive Officer. Employees also have the right to file a complaint with the California Labor Commissioner for violation of a lactation accommodation right described in the policy above.

3.5 REASONABLE ACCOMMODATION

A. Overview

The intent of this policy is to establish the Reasonable Accommodation Policy of OC LAFCO.

B. Policy

To carry out OC LAFCO's commitment to providing equal opportunity for all employment applicants and employees, OC LAFCO will provide reasonable accommodations, including as required under applicable laws, in accordance with this policy. As previously stated, no program or activity administered by the employer shall exclude from participation, deny benefits to or subject to discrimination any individual based on an employee's actual or perceived disability or based on an employee's association with someone who has an actual or perceived disability.

Reasonable Accommodation to Disability and Religion: OC LAFCO will provide reasonable accommodations for applicants and employees with disabilities in accordance with the American with Disabilities Act (the "ADA") and California law, and for applicants and employees based on their sincerely held religious beliefs, practices, or observance under state and federal law. An employment applicant or employee who seeks a reasonable accommodation in order to perform essential job functions should make such a request in writing to the attention of the OC LAFCO Executive Officer or his/her designee. The request must identify (a) the job-related functions at issue; and (b) the desired accommodation(s). Following receipt of the request, the Executive Officer or his/her designee may require additional information, such as reasonable documentation of the existence of a disability or additional explanation as to the effect of the disability on the employee's ability to perform their essential functions (or the applicant's ability to perform the essential functions of a desired position) but will not require disclosure of diagnosis or genetic history.

OC LAFCO will engage in the interactive process, as defined by the FEHA and ADA, to determine whether an applicant or employee is able to perform the essential functions of their position. During this process, OC LAFCO will examine potential reasonable accommodations that will make it possible for the employee or applicant to perform the essential functions of the position. Such interactive process will include a meeting with the employee or applicant, OC LAFCO's designated representative(s), and, if necessary, the employee or applicant's health care provider. OC LAFCO will determine, in its sole discretion, whether reasonable accommodation(s) can be made, and the type of reasonable accommodation(s) to

provide. OC LAFCO will not provide an accommodation that would impose an undue hardship upon OC LAFCO or that is not required by law. OC LAFCO will inform the employee or applicant of any decisions made under this section in writing.

Reasonable Accommodations Relating to Pregnancy: OC LAFCO will provide reasonable accommodations to employees who are affected by a pregnancy, childbirth, or related medical conditions, as medically advisable. Such accommodations may consist of:

1. Modified work duties or a modified schedule to permit earlier or later hours or more frequent breaks; stools, chairs or other furniture; modified or acquired equipment or devices; reduced work hours; or other accommodations.
2. Temporary transfers to a less strenuous or less hazardous position if such transfer can be reasonably accommodated.
3. A "Pregnancy-Related Disability Leave" if the employee is disabled by pregnancy, as described in OC LAFCO's leave of absence policy.

Employees seeking a pregnancy-related accommodation, including transfer under this policy, should notify OC LAFCO's Executive Officer or Assistant Executive Officer. This notice must be timely and be provided by employees in advance when the need for reasonable accommodation is foreseeable; in all other circumstances, notice must be provided as soon as practicable. Failure to give advance notice when the need is foreseeable may delay the reasonable accommodation or transfer until 30 days after the date the employee provides notice (unless such delay would endanger the health of the employee, her pregnancy or her coworkers).

Reasonable Accommodations for Victims of Domestic Violence, Stalking, or Sexual Assault: OC LAFCO will also provide reasonable accommodations for an employee who is the victim of domestic violence, stalking or sexual assault if: (i) the employee has disclosed that status to OC LAFCO, and (ii) the employee requests an accommodation for the employee's safety while at work.

In such circumstances, OC LAFCO will engage, in good faith, in a timely and interactive process with the employee to determine an effective reasonable accommodation. In this process, the employee may be asked to provide: (i) a written statement, signed by the employee or someone acting on the employee's behalf, certifying that the accommodation is for the purposes stated above, and (ii) a certification confirming the employee's status as a victim of domestic violence, sexual assault or stalking. Six months after the date of each previous certification, OC LAFCO may request a recertification of such status. OC LAFCO will maintain any such certification as confidential if it identifies the employee as a victim of domestic violence, sexual

assault or stalking, disclosing such information only as required by law, or as needed to protect the employee's workplace safety, and with prior notice of such disclosure to the employee.

Retaliation and Discrimination Prohibited: OC LAFCO prohibits discrimination, discharge, retaliation, or any other unlawful acts against an individual because such person requests or receives an accommodation under this (or another applicable) policy, or because such individual engaged in any other conduct protected by the law. Additionally, as addressed in OC LAFCO's separate policy on harassment, discrimination and retaliation, OC LAFCO prohibits unlawful harassment, discrimination or retaliation against any employee on the basis of an individual's disability, religion, religious creed, sex (including pregnancy, childbirth and related medical conditions), status as a victim of domestic violence, sexual assault or stalking, or any other status as protected by law.

3.6 POLICY AGAINST HARASSMENT, DISCRIMINATION, AND RETALIATION

A. Overview

The intent of this policy is to establish the Policy Against Harassment for OC LAFCO.

B. Policy

OC LAFCO is committed to providing a professional workplace in which individuals are treated with respect and in a manner consistent with OC LAFCO's high expectations of ethical conduct. This necessarily means that OC LAFCO prohibits unlawful harassment, discrimination, and retaliation in accordance with applicable laws. OC LAFCO prohibits and will not tolerate harassment of employees, applicants, or persons providing services pursuant to a contract based on factors such as sex (which includes harassment based on sex, pregnancy, perceived pregnancy, childbirth, breastfeeding, and related medical conditions), as well as harassment, discrimination, and retaliation based on such factors as race (including hair texture, protective hairstyles, and other traits historically associated with race), color, religion and religious creed (including religious dress and religious grooming practices), national origin, ancestry, citizenship, age (40 years and older), mental disability and physical disability (including HIV and AIDS), legally-protected medical condition or information (including genetic information), protected medical leaves (requesting or approved for leave under the Family and Medical Leave Act or the California Family Rights Act), military and/or veteran status, service, or obligation, reserve status, national guard status, marital status, domestic partner status, gender, gender identity (including transgender identity), gender expression (including transgender expression), because an individual has transitioned or is (or is perceived to be) transitioning, sex stereotyping, sexual orientation, status as a victim of domestic

violence, sexual assault or stalking, enrollment in a public assistance program, engaging in protected communications regarding employee wages or otherwise exercising rights protected under the National Labor Relations Act or California Fair Pay Act, requesting a reasonable accommodation on a protected basis such as disability or sincerely-held religious belief, practice, or observance, or any other characteristic protected by federal, state, or local laws.

OC LAFCO strongly disapproves of and will not tolerate harassment, discrimination, or retaliation against employment applicants, employees, unpaid interns, or volunteers by officials, managers, supervisors, co-workers or third parties with whom employees come into contact, consistent with applicable law. Similarly, OC LAFCO will not tolerate harassment, discrimination, or retaliation by its employees directed toward non-employees with whom OC LAFCO employees have a business, service, or professional relationship (such as independent contractors, vendors, clients, volunteers, or interns). All such harassment is prohibited by OC LAFCO and is against the law.

C. Definition

Harassment is generally defined as verbal, physical, or visual conduct that creates an intimidating, offensive, or hostile working environment, or that interferes with an employee's work performance, and that is based on a protected status. Such conduct constitutes harassment when (1) submission to the conduct is made either an explicit or implicit condition of employment; (2) submission or rejection of the conduct is used as the basis for an employment decision; or (3) the harassment interferes with an employee's work performance or creates an intimidating, hostile, or offensive work environment.

As the definition above shows, harassing conduct can take many forms and may include, but is not limited to, the following (when based upon an employee's protected status as noted above): slurs, jokes, statements, gestures, assault, impeding or blocking another's movement or otherwise physically interfering with normal work, pictures, drawings, or cartoons, violating someone's "personal space," foul or obscene language, leering, stalking, staring, noises, unwanted or offensive letters or poems, offensive emails, texts, gifs, memes, or voicemail messages.

Prohibited unlawful harassment includes, but not limited to, the following behavior:

1. Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations or comments.
2. Visual conduct such as derogatory and/or sexually oriented posters, photography, cartoons, drawing or gestures.

3. Physical conduct such as assault, unwanted touching, blocking normal movement or interfering with work because of sex, race or any other protected basis.
4. Threats, demands to submit to sexual requests as a condition of continued employment, or to avoid some other loss, and offers of employment benefits in return for sexual favors.

D. Reporting and Complaint Procedure

Internal Reporting

Any incidents of discrimination, harassment, or retaliation, including work-related harassment by any OC LAFCO personnel or any other person, or any conduct believed to violate this policy should promptly submit a complaint, preferably written, to the Executive Officer, or if it involves the Executive Officer, to the Chair of the Commission and General Counsel. It is the responsibility of all of us to contribute to a work environment that is free of unlawful bias, discrimination, harassment, and retaliation. Failure to bring forth a complaint prevents OC LAFCO from having the opportunity to correct the situation.

Managers and supervisors have a special responsibility under this policy. All levels of management and all supervisors are responsible for compliance with this Policy Against Harassment, Discrimination, and Retaliation and for ensuring that everyone in their department is aware of, understands and adheres to this policy. Supervisors and managers who receive complaints or who observe or learn of discriminatory, harassing, or retaliatory conduct must immediately inform the Executive Officer, or if it involves the Executive Officer, the Chair of the Commission and General Counsel, so that an investigation may be initiated.

Complaints should be specific and include the names of individuals involved and names of any witnesses. Individuals making such complaints must report the facts as accurately and as completely as possible. Every reported complaint of harassment, discrimination, and retaliation is taken seriously by OC LAFCO. Every reported complaint, including allegations of misconduct, will be investigated thoroughly and promptly by impartial and qualified personnel. OC LAFCO will immediately undertake an effective, thorough and objective investigation and attempt to resolve the situation. OC LAFCO will maintain confidentiality to the extent possible. If OC LAFCO determines that unlawful harassment has occurred, effective remedial action will be taken commensurate with the severity of the offense, up to and including termination. Appropriate action will also be taken to deter any future unlawful harassment.

Typically, the investigation will include the following steps: an interview of the employee who lodged the complaint to obtain complete details regarding the alleged harassment, discrimination, or retaliation; interviews of anyone who is alleged to have engaged in such conduct to respond to the claims; and interview of any employees who may have witnessed, or who may have knowledge of, the alleged conduct. The Executive Officer, or if it involves the Executive Officer, the Chair of the Commission and General Counsel, will notify the employee who lodged the complaint of progress during the investigation, including documentation where applicable, and timely notification of the results of the investigation. The investigation will be handled in as confidential a manner as possible consistent with a fair, timely, and thorough investigation (e.g., parties will receive appropriate due process, OC LAFCO will reach reasonable conclusions based on the evidence collected, etc.). Employees (or other complainants) making complaints are expected to cooperate fully with the person or persons designated to investigate the complaint.

OC LAFCO prohibits conduct severe enough to be unlawful. Yet even more, OC LAFCO's workplace conduct standards also prohibit conduct and comments which are not severe enough to violate state or local or federal law—but which are still inappropriate in the workplace. For example, OC LAFCO prohibits abusive conduct in the workplace—whether or not it is based on a protected category. As a result, OC LAFCO will take prompt, appropriate, and effective corrective action (e.g., remedial measures) any time it is established that discrimination, harassment, or retaliation in violation of this policy has occurred—whether or not such violation also violates the law.

Corrective action may include, for example: training, referral to counseling, or disciplinary action ranging from a verbal or written warning to termination of employment, depending on the circumstances.

External Reporting

In addition to OC LAFCO internal complaint procedure, an employee may file an external complaint by contacting the following:

1. Department of Civil Rights (CRD) [formerly known as the Department of Fair Employment and Housing (DFEH)] at 800-884-1684 or visiting <https://calcivilrights.ca.gov/contactus/>.
2. Equal Employment Opportunity Commission (EEOC) at 800-669-4000 or visiting <https://www.eeoc.gov/contact-eeoc>.

OC LAFCO will not tolerate retaliation against an individual for good faith reports of harassment, discrimination, or retaliation; assisting another in making a report; cooperating in an investigation; filing an administrative complaint with a government agency; or engaging in other protected activity. Such retaliation is a separate violation of the law and of OC LAFCO policy and is subject to disciplinary action up to employment termination. Individuals who believe they have experienced or been threatened with such retaliation, and any manager or supervisor who learns of possible retaliation, must immediately report it using the same Complaint Reporting Process above.

E. Sexual Harassment and Sexual Harassment Prevention Training

Sexually harassing conduct in particular may include all of the above prohibited actions, as well as other unwelcome conduct, such as requests for sexual favors, conversation containing sexual comments, and other unwelcome sexual advances. For example, sexual harassment can be:

- Verbal: sexual innuendoes, sexually suggestive or degrading comments, text messages, gifs, memes, sexual jokes or slurs, graphic commentaries about a person's body, or repeated sexual advances or invitations.
- Nonverbal: displaying sexually suggestive objects, pictures, cartoons, magazines, calendars or posters, or making suggestive or insulting sounds, leering, whistling, or obscene gestures.
- Physical: offensive touching, brushing against a person's body, unwanted hugging or kissing, or impeding or blocking a person's normal movement. Sexually harassing conduct may arise if a reasonable person subjected to the conduct would find that the harassment so altered working conditions as to make it more difficult to do that person's job. Sexually harassing conduct can occur regardless of the sex, sexual orientation, or gender identity of the harasser or of the person being harassed. Sexually harassing conduct need not be motivated by sexual desire to be violate of this policy.

All non-managerial employees must attend a one-hour Sexual Harassment Prevention Training, and all managerial employees must attend a two-hour Sexual Harassment Prevention Training. All OC LAFCO employees will be required to attend a sexual harassment prevention training every two years as assigned by Administration. Managers will receive two hours of training every two years as assigned by Administration. Staff may be required to attend additional anti-harassment or other sensitivity trainings in regard to any protected class. OC LAFCO employees may refer to the Department of Civil Rights (CRD) [formerly known as the Department of Fair Employment and Housing (DFEH)] sexual harassment

prevention online training course appropriate for their position. You may also visit <https://calcivilrights.ca.gov/> to access the online training courses.

F. Retaliation

Employees will not be retaliated against for bringing a complaint in good faith under the Equal Employment Opportunity Policy or the Policy Against Harassment, or for honestly assisting in investigating such a complaint, even if the investigation produces insufficient evidence that there has been a violation, or if the charges cannot be proven. However, disciplinary action may be taken if false or frivolous accusations are made in bad faith. An employee who believes that he or she has been subjected to any form of unlawful retaliation should promptly make a complaint, preferably written, in the same manner as described above. Complaints of harassment will be investigated, and appropriate action will be taken to protect OC LAFCO employees from any form of unlawful retaliation.

3.7 PERFORMANCE MANAGEMENT

A. Overview

The intent of the performance review process is to create a supportive, safe, professional performance review process and an environment that optimizes the employee's ability to receive and actualize constructive performance feedback and that motivates the employee to authentically and actively pursue personal and professional growth/excellence.

B. Performance Review Policy – General Employees

A review and discussion of each employee's performance is conducted to:

1. Ensure assigned projects/tasks are completed at an acceptable level of quality to effectively serve the mission, vision, and values of the agency.
2. Plan for maximizing employee performance to serve the agency's needs.
3. Motivate and assist employees in achieving their personal growth and career objectives.

C. Performance Review Procedure – General Employees

The discussion of job performance and goals on an informal, weekly basis is strongly encouraged. The formal employee performance review process will include:

1. Assessment of Employee Job Performance – At the beginning of the fiscal year, both the employee and supervisor will complete an assessment of his/her job performance. The assessment will include a summary of projects/tasks completed and a well-organized, clear and in-depth self-analysis of job performance as related to projects/tasks.
2. Assessment of Employee Professional Strengths and Weakness – Both employee and supervisor will prepare an individual written statement of employee's professional and personal strengths and weaknesses as they relate to the work environment.
3. Discussion of Employee Assessments – Following preparation of the assessments (job performance and professional strengths and weaknesses), a meeting will be convened with the employee/supervisor to compare, contrast and discuss assessments/statements and identify areas for goal setting.
4. Development of Discussion of Goals – Based upon discussion with supervisor, employee prepares draft annual goals for discussion and review with the Assistant Executive Officer and/or Executive Officer. Goals should be specific, concise, measurable and represent commitment to professional growth.
5. Finalization of Goals and Performance Review – Following goal development, a meeting will be convened involving employee/Assistant Executive Officer/Executive Officer to jointly discuss and finalize employee goals. The employee will be responsible for preparing the final, agreed to written goals and submitting them to supervisor.

Performance reviews will be completed for all General Employees by no later than the end of the first quarter of each fiscal year.

While merit-based pay adjustments are awarded by OC LAFCO in an effort to recognize truly superior employee performance, positive performance evaluations do not always guarantee increases in salary or promotions. Salary increases, and promotions are solely within the discretion of OC LAFCO and depend on many factors in addition to performance. Pay increases or bonuses will be tied to the accomplishment of specific established employee goals.

After receiving their review an employee will be required to sign the evaluation report acknowledging that it has been presented and discussed between the employee and the Assistant Executive Officer or the Executive Officer. OC LAFCO's provision of performance evaluations does not alter the at will employment relationship.

- D. Policy for Executive Officer Performance Evaluation Process (Adopted March 13, 2024)
1. As part of the performance evaluation process, the Executive Officer will prepare a year-end report summarizing the status and accomplishments of the goals and objectives included in the agency's three-year strategic/work plan adopted by the Commission.
 2. The Executive Officer will complete a self-evaluation indicating his/her performance relative to the adopted goals and objectives.
 3. The Chair or his/her designee will provide each Commissioner with the Executive Officer's self-evaluation and a blank evaluation form for that Commissioner's completion prior to the full Commission closed session performance discussion.
 4. The Chair or his/her designee will lead the Commission's closed session discussion on the Executive Officer's performance, soliciting feedback and input from all Commissioners.
 5. The Chair will be given financial parameters for negotiating compensation with the Executive Officer and delegated authority to represent the Commission in compensation discussions with the Executive Officer.
 6. The Chair and his/her designee, if applicable, will meet with the Executive Officer to provide the Commission's feedback, sentiments of the discussion and to negotiate compensation.
 7. The Chair will report back to the Board to close out the Executive Officer Evaluation Process and work with General Counsel to prepare any necessary agenda items and public action required to complete the process.
 8. The Executive Committee will meet with the Executive Officer as warranted to check on the progress of the strategic/work plan and discuss any necessary adjustments for discussion with the full Commission.

3.8 PERSONNEL RECORDS

A. Overview

The intent of this policy is to clarify the guidelines for treatment of employee personnel records and information.

B. Policy

OC LAFCO maintains a personnel file on each employee. An employee's personnel file will contain only material that OC LAFCO determines is necessary and relevant to the administration of OC LAFCO's personnel program. Personnel files are the property of OC LAFCO, and access to the information they contain is restricted, subject to, and in accordance with, this Policy.

Employees have the right to inspect certain documents in their personnel file, as provided by law, in the presence of an OC LAFCO representative at a mutually convenient time. Employees may add written versions of any disputed item to their file. OC LAFCO will not disclose personnel information if it believes doing so would constitute an unwarranted invasion of personal privacy or jeopardize the safety of OC LAFCO personnel.

OC LAFCO will attempt to restrict disclosure of an employee's personnel file to authorized individuals within the organization. Any request for information from the file must be made to the Executive Officer or specific designee. Only the Executive Officer or specific designee is authorized to release information regarding current or former employees. Disclosure of personnel information to outside sources will be limited to the extent allowed by law. However, OC LAFCO will cooperate with requests from authorized law enforcement or local, state or federal agencies conducting official investigations, with validly issued subpoenas and as otherwise required by law or legal proceeding to be released.

3.9 TERMINATION

A. Overview

The intent of this policy is to explain the types of termination and OC LAFCO's procedures for processing terminations.

B. Policy

Termination of employment is an inevitable part of personnel activity within any organization, and many of the reasons for termination are routine. Below are examples of some of the most common circumstances under which employment

is terminated.

1. Voluntary Resignation

An employee who voluntarily resigns his/her employment is asked to prepare a written letter of resignation informing OC LAFCO of the intended resignation date. Although not required, employees who voluntarily resign are asked as a courtesy to give OC LAFCO at least two weeks' notice prior to the resignation date in order to provide time to search for an adequate replacement if necessary and to ensure a smooth transition.

An employee is also considered to have voluntarily terminated employment by failing to report to work for three consecutive scheduled workdays without notice, or without prior approval by the Executive Officer or Assistant Executive Officer.

2. Discharge

The violation of the policies and procedures of OC LAFCO or any other illegal acts may result in disciplinary action up to and including termination. Disciplinary actions may include verbal and written warnings, suspension, probationary periods, and termination of employment, depending on the conduct involved. OC LAFCO maintains its at-will status. OC LAFCO reserves the right to utilize any form of disciplinary action, up to and including termination, at any stage it deems appropriate, depending on the circumstances.

C. Exit Interview

OC LAFCO will generally schedule exit interviews at the time of employment termination. The exit interview will provide an opportunity to discuss such issues as employee benefits, conversion privileges, repayment of outstanding debts to OC LAFCO, or return of property owned by OC LAFCO. Suggestions, complaints, and questions are encouraged. Employees will receive their final pay in accordance with applicable state law.

D. At-Will Employee

Because employment with OC LAFCO is based on mutual consent, both the employee and OC LAFCO have the right to terminate employment at will, with or without cause, at any time. Nothing in this termination policy changes the At-Will Employment policy of OC LAFCO.

E. Benefits

Employee benefits will be affected by employment termination in the following manner. All accrued, vested benefits that are due and payable upon termination will be paid in accordance with applicable state law. Some benefits may be continued at the employee's expense if the employee so chooses. The employee will be notified in writing of the benefits that may be continued, and of the terms, conditions and limitations of such continuance.

PART 2 – SALARY AND WAGE ADMINISTRATION

3.10 HIRING AND STAFFING

A. Overview

The intent of this policy is to provide guidelines on the hiring and staffing practices of OC LAFCO.

B. Policy

To attract and retain qualified staff for OC LAFCO, it is the policy of OC LAFCO to use a criterion-based recruitment process and behavioral-based interview process to ensure the most qualified candidates are hired.

C. Recruiting

Recruiting applicants will be aggressive enough to assure an adequate supply of qualified candidates. The recruitment process may include, but is not limited to, the use of professional recruitment firms, referrals from current or past employees, walk-in applicants, and/or web-based postings.

D. Interviews

The employment interview is a major element in the selection process. It allows the applicant an opportunity to demonstrate his or her capabilities to perform the job and provides information to the candidate about the position. Interviews may be conducted by telephone or in face-to-face sessions.

All interview questions must be job-related and have direct bearing on the tasks of the position. Interviews and questions are standardized so that all applicants are evaluated equally. Questions that express (directly or indirectly) any preference, limitation, or general reference to any individual on the basis of a

protected category are prohibited.

E. Probationary Period

All OC LAFCO new hires will have a twelve-month probationary period beginning on the first day of employment. The OC LAFCO supervisor will provide job training during this time period and the employee will be evaluated every three months during the probationary period. OC LAFCO may terminate an employee during this twelve-month probationary period at any point in time therein. OC LAFCO retains the right to extend the probationary period. Nothing in this provision shall alter the at-will status of any employee.

3.11 COMPENSATION PRACTICES

A. Overview

The intent of this policy is to provide guidelines on the compensation practices of OC LAFCO.

B. Policy

It is OC LAFCO's policy to provide salaried exempt and salaried non-exempt employees with equitable salary compensation for the specific job assignment. The OC LAFCO salary compensation program is a "pay for performance" system and is designed to ensure OC LAFCO maintains an equitable value of its jobs while encouraging excellent employee performance. Consideration is given to relevant external factors such as economic conditions and the OC LAFCO annual budget. The program is implemented through established salary structures and grades, with salary ranges for both exempt and non-exempt employees. These grades provide different rates of pay for positions requiring different degrees of responsibility, experience, skills and knowledge.

Utilization of these criteria permits OC LAFCO to give individual consideration to each employee's pay in relation to his or her responsibilities, degree of contribution to the success of the agency, and job performance.

C. Salary Increases

Individual salary increases are not awarded on the basis of length of service but based on performance and OC LAFCO affordability.

D. Merit Reviews

1. Merit increases may be awarded during the compensation year in recognition of the employee's performance. The employee's performance is measured primarily on the following criteria as documented in the annual performance review: (1) did the employee successfully achieve his/her agreed upon goals and objectives? (2) what is the employee's overall value to the organization?
2. The following factors may be considered in the determination of the amount of increase: the employee's position in the pay range; compensation compared to other employees in comparable jobs; and the annual budget of the organization.
3. Merit increases, if awarded, are typically effective at the beginning of the fiscal year but may also be deferred to any effective date within the compensation year. Employees may also receive a "pass" on any merit increase in base salary if (1) his/her performance in the fiscal year has not been worthy of an increase, and/or (2) the agency's budget does not have sufficient funds for increases.
4. Probationary Merit Increase

If an employee is appointed at Step 1 of the salary range, he/she may be eligible to receive a 2.5% step increase upon completion of six-months of service based on his/her performance.
5. Merit Performance Incentive Pay Program for Employee at Top-Step

Once an employee reaches the top-step of the salary range for his/her classification, each year, in conjunction with the annual performance evaluation, the employee may be eligible to receive Merit Performance Incentive Pay ranging from zero to three percent of his/her annual base salary.

E. Organizational Promotion

1. A promotional increase may be awarded to an employee who experiences a significant change in the level or kind of work performed.
2. A promotional increase may be awarded to an employee who performs at a high level of competence and has demonstrated readiness to assume broader, more complex assignments if these assignments become

available.

Proposed promotions from non-exempt to exempt salaried status, or from hourly to salaried status, must meet the exemption tests of the California Department of Industrial Relations, Industrial Welfare Commission Wage Order (California Wage Orders) and the Federal Fair Labor Standards Act.

3.12 EMPLOYMENT CATEGORIES

A. Overview

The intent of this policy is to define employment classifications so that employees understand their employment status and benefit eligibility.

B. Policy

These classifications do not guarantee employment for any specified period of time. Accordingly, the right to terminate the employment relationship at will at any time is retained by both the employee and OC LAFCO.

C. Exempt/Nonexempt

Each employee is designated as either NONEXEMPT or EXEMPT from federal and state wage and hour laws. An employee's EXEMPT or NONEXEMPT classification may be changed only upon written notification by the Executive Officer. Generally, EXEMPT employees (as defined by the Fair Labor Standards Act of 1938) are not eligible for overtime pay and are paid on a salary basis. Conversely, NON-EXEMPT employees are generally paid on an hourly basis and are eligible for overtime pay.

D. Employment Categories

In addition to the above categories, each employee will belong to one other employment category:

1. **Regular Full Time** – Employees who are not in an extra help status and who are regularly scheduled to work OC LAFCO's full-time schedule. Generally, they are eligible for OC LAFCO's benefit package, subject to the terms, conditions, and limitations of each benefit program.
2. **Part-Time** – Employees who are not assigned to an extra help status and who are regularly scheduled to work less than 30 hours per week. While

part time employees do receive all legally mandated benefits (such as Social Security and workers' compensation insurance), they may be ineligible for some of OC LAFCO's other benefit programs.

3. Extra Help – Employees who are hired as interim replacements, to temporarily supplement the work force, or to assist in the completion of a specific project. Employment assignments in this category are of a limited duration. Employment beyond any initially stated period does not in any way imply a change in employment status. Extra help employees retain that status unless and until notified of a change in writing signed by the Executive Officer. Extra help employees are ineligible for OC LAFCO's benefit programs unless otherwise required by law.
4. Intern – OC LAFCO sometimes utilizes the services of paid student interns. Interns are used to supplement the OC LAFCO work force and provide opportunities for local students to gain local government work experience. Employment is for a specified period of time. Interns are ineligible for OC LAFCO's benefit programs.

E. Job Descriptions

Job descriptions are adopted by the Commission in the Classification and Compensation Resolution. Please refer to Resolution CP 18-04 for the current job descriptions.

3.13 PAY POLICIES

A. Overview

The intent of this policy is to explain and clarify wage administration, work hours and timekeeping.

B. Payment of Wages

All employees are paid biweekly (every two weeks). There are 26 pay periods each year with paydays being every other Friday. In the event that the normal payday falls on an OC LAFCO holiday, the pay date will be the first day immediately prior to the normal pay date.

C. Pay Advances

OC LAFCO does not give advances against wages or un-accrued vacation time.

D. Corrections to Payroll

Errors arising from the payroll processing will be worked out with the payroll contact and the employee. Payment due to a correction will be processed in accordance with state law.

E. Overtime Pay

When OC LAFCO's needs cannot be met during regular working hours, employees may be required to work overtime. All overtime work for nonexempt employees must receive prior authorization of the Executive Officer. Overtime compensation is paid to all nonexempt employees in accordance with federal and state wage and hour laws, based on actual hours worked. OC LAFCO will make an effort to evenly distribute overtime based on business necessity among the employees with the necessary skills, knowledge, and abilities. When possible, advance notification will be provided. Employees who refuse to work overtime shall be subject to corrective action, up to and potentially including termination.

OC LAFCO policy is that all overtime should be pre-approved by the Executive Officer. OC LAFCO will pay any overtime worked, regardless if pre-approved. However, the working of overtime that has not been approved may be grounds for discipline, up to and including termination of employment.

All employees who are classified as "non-exempt employees," as defined under applicable laws or regulations, will be eligible for overtime pay. Exempt employees are not entitled to overtime pay. Overtime is typically defined under federal law as hours worked by non-exempt employees in excess of forty (40) hours in a workweek. In California, overtime is also typically applied to hours worked over eight (8) in a standard work day; though alternate work weeks allow variance. OC LAFCO follows the applicable state and federal laws when calculating overtime. Please note that only actual hours worked in a given workday or work week apply in calculating overtime. In other words, sick leave, vacation, holidays, or other paid time off is not considered hours worked for purposes of calculating overtime. Employees are obligated to accurately report their overtime worked; any error in overtime payment must be reported in writing to management for correction.

Employees of OC LAFCO designated as exempt employees shall not be subject to the provisions of this section.

F. Work Hours

Staffing needs and operational demands may necessitate variations in starting and ending times, as well as variations in the total hours that may be scheduled each day

and week, at the discretion of the Executive Officer.

G. Timekeeping

Accurately recording time worked is the responsibility of every nonexempt employee. Federal and state laws require OC LAFCO to keep an accurate record of time worked in order to calculate employee pay and benefits. Time worked is all the time actually spent on the job performing assigned duties.

Nonexempt employees shall accurately record the actual time they begin and end their work electronically. Each employee is responsible for the daily recording of all time worked on this device. Each employee MUST record their start and finish times for the work day and for meal periods daily. Nonexempt employees must also record departure from work for any non-work-related reason. Failure to do so will subject an employee to discipline, up to and including discharge. Submitting time for another employee is grounds for discipline, up to and including termination. Altering, falsifying, or tampering with time records may result in termination.

OC LAFCO's time keeping policies must be followed at all times. Employees are responsible for reviewing their time entries for accuracy and confirming that their paychecks accurately reflect their actual hours worked. If there are any errors on your paycheck, you should report the error immediately in writing. Any pay correction will be included in the pay period for the time period in which the correction occurred, unless otherwise stated at the time of the correction. Any modifications to a time record must be initialed by the employee, supervisor and the Executive Officer. Exempt employees are expected to also keep track of their hours on a timesheet to be provided by OC LAFCO.

3.14 COMPENSATION STRUCTURE

The compensation structure is performance-based with ten-step salary ranges for each classification (See the Classification and Compensation Resolution CP 18-04 for details).

PART 3 – BENEFITS

3.15 INSURANCE AND OTHER BENEFITS

A. Overview

The intent of this policy is to provide insurance and other benefits to all regular full-time and part-time employees of OC LAFCO. The Commission will review and may

change these benefits on an annual basis at its discretion.

B. Policy

OC LAFCO employees will receive health insurance, dental insurance and other insurance depending on their particular classifications. These insurance benefits will generally, but are not required to be, the same as provided to County of Orange employees. OC LAFCO employees are also eligible to participate in the Orange County Employees Retirement System (OCERS) and the County of Orange Defined Contribution 457(b) and 401(a) Plans. The Commission will review and establish the benefits annually at its discretion. A Benefits Summary Chart will be prepared annually setting forth these benefits and provided to all OC LAFCO employees.

3.16 TUITION REIMBURSEMENT

A. Overview

OC LAFCO encourages and supports efforts by its employees to improve their skills and educate themselves for advancement. OC LAFCO believes that assisting the employee in the pursuit of an educational agenda or to otherwise expand their work-related knowledge base will benefit both the employee and OC LAFCO.

B. Policy

All regular full-time employees of OC LAFCO, who have successfully completed the twelve-month probationary period, are eligible to receive educational assistance.

Upon pre-approval by the Executive Officer, the following reimbursement policies have been outlined to cover tuition and course/seminar or degree related expenses:

1. Maximum company reimbursement for all course or degree related expenses is \$3,000 per calendar year in pursuit of any approved courses, seminars, certifications, associate degree, or bachelor's degree. Reimbursement in pursuit of an approved masters or doctoral degree program is \$5,000 per calendar year.
2. Employees will not be reimbursed for more than two (2) courses in a single semester or quarter.
3. Course must be related to the work of the employee's position or occupation and must be taken at accredited institutions.

4. Pre-approval of classes (or course of study) is required by the Executive Officer. Employees must submit a written request for tuition reimbursement, prior to enrolling in the class, to the Executive Officer for approval.
5. Must be an OC LAFCO employee throughout the duration of the course.
6. The percentage of reimbursement is based on the grade earned for each college seminar, certification, associate, bachelor, master or doctoral degree course:

Grade A	100%
Grade B	100%
Grade C*	50%
Pass/Credit	50%

*Master's and doctoral degree courses completed with a letter grade of "C" or below are not eligible for any reimbursement.

7. Reimbursable expenses include tuition, required textbooks, lab fees, library fees, and required registration and parking fees.
8. Upon completion of the course, official grades and receipts must be submitted to the Executive Officer for reimbursement. Taxes are withheld on educational reimbursements when required by law.

3.17 STAFF MILEAGE REIMBURSEMENT

A. Policy

OC LAFCO staff will be reimbursed at the currently applicable IRS rates for reasonable and necessary mileage expenses when personal vehicles are used for OC LAFCO-related business, including, but not limited to, meetings, project site visits, and conferences. To receive mileage reimbursement, a form indicating the date of the trip, number of miles traveled, purpose of the trip, and reimbursement calculation is required to be submitted for review and approval by the Executive Officer. If approved, the form is submitted to the Bookkeeper for issuance of a reimbursement check.

PART 4 – TIME OFF**3.18 SICK LEAVE BENEFITS****A. Overview**

Employees who are hired to work at least thirty days are eligible for California Paid Sick Leave. The intent of this policy is to provide paid time off for the purpose of illness or other medical requirements.

The Commission will review and may change any of these sick leave benefit provisions on an annual basis at its discretion.

B. Policy

OC LAFCO provides paid sick leave benefits to all employees as required by California law.

C. Accumulation of Sick Leave

During the first three (3) years of employment, an employee shall earn .0347 hours of sick leave with pay for each paid hour in a regular scheduled workweek or period (approximately seventy-two (72) hours per year).

After an employee has been paid for six thousand two hundred forty (6240) regular scheduled hours, approximately three (3) years, the employee shall earn .0462 hours of sick leave with pay for each paid hour in a regularly scheduled work period (approximately ninety-six (96) hours per year).

Sick leave earned shall be added to the employee's sick leave accumulation account upon the completion of the pay period, with no credit to be applied during the progress of the pay period or for a portion of the pay period or for a portion of the pay period during which the employee terminates service.

Employees may only accumulate up to a maximum of 1500 hours of sick leave.

Extra Help Employees shall accrue sick leave at a rate of not less than one hour per every 30 hours worked beginning at the commencement of employment.

Extra Help Employees will have a maximum sick leave accrual of 48 hours. Extra Help Employees will not accrue any additional sick leave hours once they hit 48 hours in their sick leave balance. Once they fall below 48 hours of sick leave accrual, they will begin to accrue sick leave again. Extra Help Employees may use

up to a maximum of 24 hours sick leave annually.

Should an Extra Help Employee become a regular full time or part time employee, the pro-rated sick leave hours they accrued as an Extra Help will roll over into their sick leave account as a regular full time or part time employee.

D. Permitted Uses of Sick Leave

Employees may use Paid Sick Leave for the following purposes:

1. The diagnosis, care, or treatment of an existing health condition of, or preventative care for, an employee or an employee's qualified family member.
2. To attend legal proceedings, or to obtain medical treatment, counseling or other victims' services for domestic violence, sexual assault, or stalking if an employee is a victim of domestic violence, sexual assault, or stalking as described in Labor Code Section 230(c) and 230.1(a).
3. Illness while on paid vacation will be charged to sick leave rather than vacation only under the following conditions:
 - a. The illness or injury of the employee or member of the employee's immediate family was of a nature that would preclude the effective use of vacation and would prevent the employee from performing his or her normal duties.
 - b. The employee must notify the Executive Officer within four (4) calendar days of the beginning of the illness or prior to the end of his or her vacation leave.
 - c. OC LAFCO shall be under no obligation to extend the vacation beyond the original scheduled vacation ending date.
 - d. Upon the employee's return to work, the employee may be requested to furnish OC LAFCO with a certificate signed by a licensed physician or registered nurse stating the nature of the medical condition and the period of disablement.
4. Absence from duty because of personal emergencies is not to exceed twenty (20) working hours during the fiscal year. A personal emergency is something unanticipated that requires the employee to personally attend to the situation and must be attended to during normal working hours.

5. An absence due to the air pollution alert, which prevents the employee traveling to his or her work location.

A “family member” for these purposes is defined as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee’s spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent, grandchild and sibling, or a designated person which is a person identified by the employee at the time the employee requests paid sick days.

Sick leave shall not be applied to an absence which occurs on a holiday observed by OC LAFCO.

In any use of sick leave, an employee’s account shall be charged to the nearest quarter hour for a non-exempt employee, which exempt employees will be charged only for full-day absences. Exempt employees are defined as those employees who are exempt from overtime rules under the Fair Labor Standards Act.

To the extent possible, employees must provide reasonable advance notice of their need for California Paid Sick Leave under this policy to the Executive Officer or their immediate supervisor by telephone. If the need is not foreseeable, the employee must provide notice as soon as practicable. It is the responsibility of the employee to keep the supervisor informed as to continued absence beyond the first day.

An employee may be required to furnish a certificate issued by a licensed health care provider or other satisfactory evidence of illness, injury, medical condition or medical or dental office calls when OC LAFCO has notified the employee in advance of such a requirement or when the employee has been under the care of a physician.

Any accrued, unused sick leave will roll over into the next calendar year.

E. No Payout of Sick Leave

There is no payout for unused accumulated sick leave when an employee leaves employment with OC LAFCO.

F. Transfer of Sick Time between OC LAFCO Employees

OC LAFCO employees, with the approval of the Executive Officer, may transfer up to 80 hours of sick leave per year to another OC LAFCO employee if needed to cover time off for medical or dental appointments or personal emergencies. OC LAFCO employees, with the written approval of the Executive Officer, may transfer a portion of their unused sick time balance to another OC LAFCO employee under the following circumstances:

1. An OC LAFCO employee may transfer no more than 80 hours of sick time to any one OC LAFCO employee during any calendar year.
2. The OC LAFCO employee receiving the sick time transfer must be experiencing personal or family medical issues requiring extended periods of time away from the office.
3. The OC LAFCO employee transferring sick time must maintain a minimum balance of at least 40 hours of sick time after an approved transfer.
4. All sick-time transfer requests must be approved by the Executive Officer.

3.19 VACATION¹

A. Overview

This policy applies to all regular full-time and part-time employees of OC LAFCO. The intent of this policy is to provide paid time off for employees as a means of rest and rejuvenation. OC LAFCO encourages employees to utilize this benefit every year. OC LAFCO believes personal time off is an important means to enable continuation of strong performance and positive contribution to OC LAFCO, as well as encourage a balanced and enriching life for employees. The Commission will review and may change any of these vacation benefit provisions on an annual basis at its discretion.

B. Policy

During the first three years of employment, an employee shall earn approximately .0577 hours of vacation leave with pay for each hour in a regularly scheduled workweek or period (120 hours or 15 days per year).

¹Amendment to the vacation policy for vacation accruals was approved by the Commission on October 11, 2023 with an effective date of December 15, 2023.

After an employee has been paid for 6,240 regularly scheduled hours, approximately three years, the employee shall earn approximately .077 hours of vacation leave with pay for each paid hour in a regularly scheduled work period (160 hours or 20 days per year).

After an employee has been paid for 20,800 regularly scheduled hours, approximately ten years, the employee shall earn approximately .0962 hours of vacation leave with pay for each paid hour in a regularly scheduled work period (200 hours or 25 days per year).

Regular part-time employees with continuous service working 20 hours or more per week will accrue vacation in accordance with the above schedule, on a pro-rated basis determined by normal hours worked. Active service for all regular employees commences with their first day of work and continues thereafter unless broken by an absence without pay or leave of absence. Extra help employees do not accrue paid vacation.

Employees cannot accumulate more than 240 hours of vacation.

Accrual ceases until vacation is utilized to bring the amount of accrued vacation below the applicable cap or vacation is cashed out as permitted by this policy.

In order to request vacation time, employees should submit a written request to the Executive Officer or Assistant Executive Officer. Efforts will be made to accommodate all employees' requests for specific vacation leave time. However, the Executive Officer or Assistant Executive Officer will also consider the needs of OC LAFCO when evaluating vacation requests.

In rare cases, the Executive Officer may allow an employee to take an advance on vacation accrual time; however, this advance will not be allowed to exceed the amount of time the employee is scheduled to accrue during the current service year. Before any advance on vacation is granted, the employee will sign an authorization which authorizes OC LAFCO to deduct from his/her final paycheck the amount of any un-accrued vacation time advanced to the employee which has not subsequently been accrued.

During each fiscal year an employee may request to be paid for accrued vacation in either two (2) separate increments of up to forty-five (45) hours each or one (1) increment of up to ninety (90) hours.

Upon separation from OC LAFCO employment, an employee is eligible to be paid for accrued, unused vacation days up to a maximum of 240 hours at 100% of the employee's hourly salary. In cases where an employee terminates employment

with OC LAFCO and has been permitted to take vacation time prior to actual accrual, the final paycheck will reflect a deduction relative to the amount of unaccrued time off taken.

A holiday that falls during an employee's vacation leave will be treated and paid as a holiday and not as a day of vacation leave.

3.20 HOLIDAY

A. Overview

The intent of this policy is to provide paid time off for eligible employees for holidays throughout the year.

B. Policy

Holiday time off with pay will be granted to all regular full-time employees and regular part-time employees (prorated) for the days designated by the County of Orange on an annual basis. Each part-time employee scheduled to work, but permitted to take the day off, shall receive pay computed at the employee's basic hourly rate for the number of hours the employee was regularly scheduled to work. A part-time employee shall receive compensatory time at the rate of one (1) hour for each five (5) hours of regularly scheduled work in the workweek up to a maximum of eight (8) hours of compensatory time. Holidays will vary year to year and a schedule will be published each year.

3.21 COMPENSATORY TIME

A. Overview

OC LAFCO employees earn compensatory time ("comp time") when a County holiday falls on a "flex" day. Limited comp time is also earned during the calendar year to all employee's time off to attend special religious or other designated events.

B. Policy

For employees who are not scheduled to work on a holiday (whose regular day off is the holiday) or their flex day falls on a holiday, management should work with employees to offer one of the following options:

1. The employee may change his or her schedule and take another day off in the same pay period where operationally feasible and without incurring

overtime liability.

- a. For employees who are not on an eight-hour day schedule, the employee may go on an eight-hour day schedule for the workweek in which the holiday fills.
2. The employee may bank eight (8) hours of non-cashable compensatory time for use at a later date.

Compensatory time may be used in lieu of vacation time for time off. Compensatory time shall have no cash value and any unused hours will be forfeited upon separation from the County.

3.22 PREGNANCY RELATED DISABILITY LEAVE

A. Eligibility

In accordance with applicable law and this policy, female employees are eligible for a leave of absence and/or transfer on account of pregnancy, regardless of length of service with OC LAFCO.

B. Pregnancy Disability Leave

OC LAFCO recognizes that employees may be unable to work for temporary or extended periods of time due to pregnancy, childbirth, or related medical conditions. Accordingly, for any employee who is disabled by pregnancy, childbirth, or related medical conditions, OC LAFCO provides leave for the period of actual disability (“Pregnancy Disability Leave”), up to a maximum of four months. Pregnancy Disability Leave may be taken intermittently, or on a reduced-hours schedule, as medically advisable. An employee may also be entitled to a reasonable accommodation for pregnancy, childbirth, or related medical conditions.

1. A woman is “disabled by pregnancy” if, in the opinion of her healthcare provider, she is unable to work at all or is unable to perform one or more of the essential functions of her job or to perform these without undue risk to herself, to the successful completion of her pregnancy, or to other persons.
2. Pregnancy disability leave is for any period(s) of actual disability caused by pregnancy, childbirth, or related medical conditions. Where medically advisable, pregnancy disability leave may be taken for a reasonable period of time, up to four months per pregnancy (eighty- eight workdays for a full-time employee). Employees who regularly work more or less than a 40-hour workweek are entitled to such leave on a pro rata basis.

3. Time off for necessary prenatal or postnatal care, as well as for any conditions such as severe morning sickness, doctor-ordered bed rest, gestational diabetes, pregnancy-induced hypertension, preeclampsia, post-partum depression, childbirth, loss and end of pregnancy, and recovery from childbirth are all covered by pregnancy disability leave.

C. Leave Due to Childbirth

Even if the employee is not disabled by pregnancy, childbirth, or related medical conditions, a pregnant employee is entitled to up to six weeks of leave for normal childbirth. A pregnant employee is entitled to up to eight weeks of leave for cesarean section. Employees working more or less than a 40-hour work week are entitled to such leave on a pro rata basis.

D. Leave, Transfer and Other Reasonable Accommodation Requests

1. Pregnant employees should notify the Executive Officer as soon as possible regarding their intent/need to take a leave of absence or to transfer due to pregnancy, childbirth, or related medical conditions. Such notice should specify the anticipated timing and duration of the leave or transfer.
2. Where the need for a leave of absence or transfer is foreseeable, employees must provide such notice at least 30 days prior to the date the leave or transfer is to begin. Further, employees must consult with the Executive Officer regarding the scheduling of any planned medical treatment or supervision so as to minimize any disruption to OC LAFCO's operations. (Actual scheduling of the leave/transfer is subject to the approval of the employee's healthcare provider.)
3. Where 30 days advance notice is not possible, notice must be given as soon as possible. If an employee fails to provide the requisite 30 days' advance notice for a foreseeable need for leave, without any reasonable excuse for the delay, OC LAFCO reserves the right to delay the taking of the leave until at least 30 days after the date that the employee does provide such notice. However, OC LAFCO will not deny a pregnancy disability leave or transfer where the need for leave is an emergency or was otherwise unforeseeable.
4. OC LAFCO shall respond to the leave or transfer request as soon as practicable and, in any event, no later than 10 calendar days after receiving the request. OC LAFCO shall attempt to respond to the leave request before the date of leave is due to begin. Once given, the approval shall be deemed retroactive to the date of the first day of the leave.

5. Reasonable accommodation other than leave or transfer will be granted upon request. Such requests must be supported by a written certification from the employee's healthcare provider.

E. Intermittent Leave

Pregnancy Disability Leave need not be taken in one continuous block. It may be taken on an as-needed basis, intermittently or on a reduced work schedule.

1. If it is medically advisable and foreseeable that an employee will be taking intermittent leave or leave on a reduced work schedule, OC LAFCO may require that the employee transfer temporarily to an available alternative position.
2. An "alternative position" is one that provides pay and benefits equivalent to those of the employee's regular position and better accommodates recurring periods of leave than the employee's regular job. It does not have to have equivalent duties. However, the employee must be qualified for the position.
3. Transfer to an alternative position may include altering an existing job to better accommodate the employee's need for intermittent leave or a reduced work schedule.

F. Temporary Transfers

1. An employee may request a temporary transfer to a position with less strenuous or less hazardous duties when the employee's healthcare provider certifies that such a transfer is medically advisable.
2. Temporary transfers will be granted where appropriate and when OC LAFCO is able to reasonably accommodate the transfer, provided that the transfer would not require OC LAFCO to:
 - a. Create additional employment.
 - b. Discharge another employee.
 - c. Violate collective bargaining agreement.
 - d. Transfer a more senior employee in order to make room for the pregnant employee's transfer; or
 - e. Promote or transfer the employee or any other employee to a position for which he/she is not qualified.

G. Certifications

1. As a condition of taking a Pregnancy Disability Leave or transfer, the employee must provide medical certification from her healthcare provider that she is disabled due to pregnancy, childbirth or related medical conditions and/or that a transfer to an alternative position is medically advisable.
2. The medical certification should include:
 - a. The date on which the employee became disabled due to pregnancy or the date of the medical advisability for the transfer.
 - b. The probable duration of the period(s) of disability or the period(s) for the advisability of the transfer; and
 - c. 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 her position without undue risk to herself, to the successful completion of her pregnancy, or to other persons or a statement that, due to pregnancy, the transfer is medically advisable.
 - d. Upon expiration of the time period for the leave estimated by the health care provider, OC LAFCO may require the employee to provide another medical certification if additional leave time is requested.

H. Fitness for Duty

The employee must provide certification from her healthcare provider of her fitness for duty prior to being reinstated.

I. Pay During Leave

1. Pregnancy Disability Leave is unpaid leave. However, the employee may elect to use, or OC LAFCO may require that the employee use accrued sick leave to provide pay during the period of Pregnancy Disability Leave.
2. An employee may also elect, at her option, to use accrued vacation or other accrued paid time off, if any, to provide pay during pregnancy disability leave. The use of paid leave runs concurrently with Pregnancy Disability Leave and does not extend the length of the Pregnancy Disability Leave.
3. The employee may also be eligible to receive temporary disability insurance payments during her Pregnancy Disability Leave, and to coordinate the use of any accrued sick leave and/or vacation to supplement temporary disability insurance

payments.

J. Reinstatement

1. The employee is entitled to be reinstated to the same or comparable position upon release to return to work by her healthcare provider.
 - a. Where a definite date of reinstatement has been agreed upon at the beginning of the leave, the employee will be reinstated by the date agreed upon, provided that the employee has provided medical certification of her fitness for duty.
 - b. If the actual reinstatement date differs from the original agreement, the employee will be reinstated within two business days, where feasible, after the employee notifies OC LAFCO of her readiness to return and provides medical certification of her fitness for duty.
 - c. Failure to return to work on the next workday following the expiration of pregnancy disability leave may be grounds for termination of employment.
2. The employee is not, however, entitled to any greater right of reinstatement than she would have had if she had not taken leave. Thus, reinstatement to the “same position” may be denied if for legitimate business reasons unrelated to the employee having taken a Pregnancy Disability Leave or transfer, the employee would not otherwise have been employed in her same position at the time reinstatement is requested.
3. Also, the employee has no greater right to reinstatement to a “comparable position” or to other benefits and conditions of employment than an employee who has been continuously employed. Thus, reinstatement to a comparable position may be denied if there is no comparable position open on the employee’s scheduled date of reinstatement or within 60 calendar days thereafter.
4. In the event that the employee takes family and medical leave under the California Family Rights Act (“CFRA”) following her pregnancy disability leave for the birth of her child, the employee’s right to reinstatement shall be governed by the CFRA and OC LAFCO’s Family and Medical Leave Policy rather than these provisions.

K. Seniority and Benefits

1. In general, employees taking Pregnancy Disability Leave will be treated the same as other similarly situated employees taking disability leave.

2. The employee returning from a Pregnancy Disability Leave shall return with no less seniority than she had when the leave commenced for purposes of layoff, recall, promotion, job assignment, and seniority related benefits such as vacation.
3. The employee shall retrain employee status during the period of leave, and the leave shall not constitute a break in service for purposes of longevity and/or seniority.

L. FMLA/CFRA and Pregnancy Disability Leave

In accordance with the Federal Family and Medical Leave Act (FMLA), OC LAFCO shall count each day of pregnancy disability leave against an eligible employee's entitlement to up to 12 weeks of leave under the FMLA. Pursuant to the CFRA, the right to CFRA is separate and distinct from the right to take leave for pregnancy disability, and PDL will not be counted against the CFRA leave entitlement.

M. Group Health Insurance

Where an eligible employee is on Pregnancy Disability/FMLA Leave, OC LAFCO will continue the employee's group health insurance coverage under the same terms and conditions as applied prior to the leave of absence.

1. In the event that the employee fails to return from leave, OC LAFCO may recover premiums it paid to maintain group health insurance coverage. (For details, see OC LAFCO's Family and Medical Leave Policy.)
2. If the employee coverage ceases after the exhaustion of Pregnancy Disability Leave/FMLA or other leaves, the employee may continue group health insurance coverage pursuant to federal and state COBRA guidelines.

3.23 OTHER TIME OFF

A. Overview

This policy applies to all regular full-time and regular part-time employees of OC LAFCO. The intent of this policy is to outline other types of paid and unpaid time off available to eligible employees.

B. Bereavement Leave

Upon request, employees who have been employed for at least 30 days will be entitled to five (5) days of paid leave, which will be pro-rated for part-time employees based on hours worked, for each death in the employee's immediate family. For purposes of this section, immediate family is defined as the employee's spouse,

parent, child, sibling; the employee's spouse's parent, child, or sibling; the employee's child's spouse; grandparents or grandchildren; the employee's domestic partner or the child of a domestic partner; person whom the employee has/had a legal guardian relationship. To the extent allowed by law, OC LAFCO may request documentation from an employee availing themselves of this leave.

Employees may also, with the approval of the Executive Officer, use any available paid leave for additional time off as necessary. If more time off is requested, it will be granted only at the discretion of the Executive Officer. Bereavement pay is calculated based on the base pay rate at the time of absence and prorated for part-time employees.

C. Reproductive Loss Event

All employees who have been employed for OC LAFCO for at least 30 days are entitled to an unpaid leave of absence up to five (5) days in total following a reproductive loss event. Such leave must be taken within three (3) months of the reproductive loss event. If an employee experiences more than one reproductive loss event within a 12-month period, OC LAFCO will grant the employee a cumulative total of up to of 20 (twenty) unpaid days of leave; subject to the limitation that each unpaid leave of absence shall not exceed five (5) days.

A reproductive loss event is defined as: failed adoption, failed surrogacy, miscarriage, stillbirth, or unsuccessful assisted reproduction. If the employee would have been recognized as a parent if the aforementioned events were successful, the employee will be covered under this definition. This includes the employee, the employee's current spouse or domestic partner, or another individual if the person would have been a parent of a child as a result of the event.

The leave of absence following a reproductive loss event is unpaid, though an employee may elect to utilize any accrued and available paid sick leave, vacation, personal leave, or compensatory time off that is otherwise available to the employee.

D. Jury Duty Leave

OC LAFCO encourages employees to fulfill their civic responsibilities by serving jury duty or appearing in court as a witness when required. OC LAFCO provides 30 days of paid time off at the employee's regular rate of pay for jury duty service provided the employee deposits fees paid for hours of jury duty excluding mileage. For service longer than 30 days, employees may use any accrued vacation leave or receive unpaid leave for jury duty service.

Employees must show the jury duty summons to the Executive Officer as soon as possible so that arrangements may be made to accommodate their absence. Employees are expected to report for work whenever the court schedule permits, including any remaining parts of a normally scheduled workday.

OC LAFCO will continue to provide health insurance benefits for the full term of the jury duty absence. Vacation, sick leave, and holiday benefits will continue to accrue during jury duty leave.

E. Domestic Violence Victim Leave, Sexual Assault or Stalking

OC LAFCO will provide time off to an employee who has been the victim of domestic violence, sexual assault or stalking to seek any relief, including, but not limited to, a temporary restraining order, restraining order, or other injunctive relief, to help ensure the health, safety, or welfare of the victim or his or her child. This includes time off for court proceedings, services from a domestic violence shelter, program or rape crisis center, counseling, medical attention, and participation in safety planning programs. OC LAFCO requires reasonable advance notice of the leave when feasible. If time off is taken due to an emergency, the employee must, within 15 days of the absence, provide OC LAFCO with certification of the need for the leave such as a police report, court order, documentation from a healthcare provider, victims advocate, or counselor.

Employees eligible for paid sick leave benefits under California law may take any such available paid time off, consistent with such law, for the purposes set forth in this policy. For more information, please see the Sick Leave policy. In the event paid sick leave benefits are not available, employees taking leave under this policy may elect to apply accrued and unused vacation to such time.

OC LAFCO prohibits discrimination, discharge, or retaliation against an employee for taking time off or requesting an accommodation under this policy or based on the employee's status as a victim of domestic violence, sexual assault, and/or stalking.

F. Crime Victims' Leave

OC LAFCO will provide time off to an employee to attend judicial proceedings related to a crime, if that employee is a victim of crime, an immediate family member of a victim, a registered domestic partner of a victim, or the child of a registered domestic partner of a victim. OC LAFCO requires that, where feasible, in advance of taking leave, the employee provide it with a copy of the notice of each scheduled proceeding that is provided to the victim by the agency responsible for providing notice. If advance notice is not possible, the employee is required to provide OC LAFCO with a copy of the notice within a reasonable time.

No employee who is absent from work pursuant to this provision will be discharged or otherwise discriminated against in compensation or other terms, conditions or privileges of employment, because of such absence. Such leave is unpaid. Employees taking leave under this policy may elect to apply vacation time to such leave.

G. Leave for Organ and Bone Marrow Donation

OC LAFCO will grant an employee the following leaves of absence:

1. Bone Marrow Donation:

A paid leave of absence of up to five business days in any one-year period for the purpose of donating the employee's bone marrow to another person.

2. Organ Donation:

- a. A paid leave of absence of up to 30 business days in any one-year period for the purpose of the employee donating the employee's organ to another person.
- b. An additional unpaid leave of absence, not exceeding 30 business days in a one-year period, for the purpose of the employee donating the employee's organ to another person.

For leaves of absence under this policy that are paid, if an employee has earned and unused sick or vacation time is available, the employee is required to first use up to five days of such paid sick or vacation time for a bone marrow donation and up to two weeks of sick or vacation time for organ donation.

In order to receive a leave of absence pursuant to this policy, the employee must provide written verification to OC LAFCO that the employee is an organ or bone marrow donor and that there is a medical necessity for the donation of the organ or bone marrow.

Any leave taken for the donation of an organ or bone marrow will not constitute a break in service for purposes of the employee's right to salary adjustments, sick leave, vacation, annual leave, or seniority. During any leave taken under this policy, OC LAFCO will maintain and pay for coverage under any group health plan, for the full duration of this leave.

Leave provided under this policy may be taken in one or more periods. Leave taken under this policy will not run concurrently with any leave taken pursuant to the federal Family and Medical Leave Act or the California Family Rights Act.

Upon expiration of a leave of absence authorized by this policy, OC LAFCO will restore the employee to the position held by the employee when the leave began or to a position with equivalent seniority status, employee benefits, pay, and other terms and conditions of employment. OC LAFCO may decline to restore an employee because of reasons unrelated to the employee's exercise of rights under this policy.

H. Time Off to Vote

Generally, employees are able to find time to vote either before or after their regular work schedule. If, however, full-time employees are unable to vote in an election during their non-working hours, OC LAFCO will grant up to 2 hours of paid time off to vote.

Employees requiring time off to vote should make their requests at least two working days prior to the Election Day. Advance notice is required so that the necessary time off can be scheduled at the beginning or end of the work shift, whichever provides the least disruption to the normal work schedule. Employees must submit a voter's receipt on the first working day following the election to qualify for paid time off.

I. Military Leave

Military leave of absence will be granted to employees who are absent from work because of service in the U.S. uniformed services in accordance with the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Military and Veterans Code Section 394.5. Advance notice of military serve is required, unless military necessity prevents such notice, or it is otherwise impossible or unreasonable. Employees who have been employed for at least one year are eligible for up to 30 days of paid leave for active-duty training.

Employees on military leave will receive rights and benefits comparable to those they would receive under OC LAFCO's policies for other types of leave. Continuation of health insurance benefits is available based on the length of the leave and subject to the terms, conditions and limitations of the applicable plan for which the employee is otherwise eligible. Employees on leave for no more than 30 days will receive continued health insurance benefits but are responsible for paying their portion of the health care coverage continuation rights. Vacation, sick leave and holiday benefits will continue to accrue during any paid portion of a military leave of absence.

CFRA permits employees to take up to 12 workweeks of unpaid protected leave during a 12-month period for a "qualifying exigency" related to the covered active duty or call to covered active duty of an employee's spouse, domestic partner, child or parent in the U.S. armed forces. The Federal Family and Medical Leave Act (FMLA) also entitles eligible employees to take leave for a covered family member's service in the Armed

Forces. This policy supplements our Family and Medical Leave policy and provides a general notice of employee rights to this leave. Except as stated below, such rights and obligations for service member leave are governed by our existing Family Leave policy. Service member FMLA/CFRA runs concurrent with other leave entitlements provided under federal, state and local law. Service member FMLA provides eligible employees unpaid leave for anyone, or combination of the following reasons:

1. A “qualifying exigency” arising when the employee’s spouse, son, daughter or parent, who is a member of the Armed Forces (including National Guard and Reserves), is on covered active duty or has been notified of an impending call to order to covered active duty; and/or
2. To care for a covered family member who has incurred an injury or illness while in the Armed Forces provided that such injury or illness renders the family member medically unfit to perform duties of the member’s office, grade, rank or rating and is certified by the service member’s healthcare provider.

When leave is due because of a “qualified exigency” concerning the military duty of a family member, an eligible employee may take up to 12 workweeks of leave during any 12-month period.

When leave is to care for an injured or ill service member, an eligible employee may take up to 26 weeks of leave during a single 12-month period to care for a service member. Leave to care for an injured or ill service member, when combined with other FMLA-qualifying leave, may not exceed 26 workweeks in a single 12-month period.

Where spouses are both employed by OC LAFCO, they may take up to, in aggregate, 26 workweeks of service member FMLA, provided that any portion of the aggregate leave that is not for care of a family service member does not exceed 12 workweeks.

In any case where it is foreseeable that an employee will need service member FMLA, that employee must provide notice of his or her intent to take leave as soon as reasonably possible and provide certification of either the “qualified exigency” or family service member’s need for care as soon as practicable.

J. Military Spouse Leave

Qualified California employees will be given up to 10 days leave during that time in which the employee’s spouse or domestic partner is on leave from deployment in a combat zone with the active duty or reserve military or national guard during a period of military conflict. Employees may use accrued vacation time to cover this absence. If the employee has no accrued vacation, the employee must request time off without

pay.

Qualifying employees are employees who work an average of 20 hours per week and have a spouse or domestic partner who is serving as (1) a member of the U.S. Armed Forces and who has been deployed during a period of military conflict to an area designated as a combat theater or combat zone by the President of the United States or (2) a member of the Armed Forces Reserve Components or the National Guard and has been deployed during a period of military conflict.

Qualifying employees who wish to request this leave must provide OC LAFCO with a written request for such leave within two business days of receiving official notice that the military spouse or domestic partner will be on leave from deployment. The employee must also provide written documentation to OC LAFCO certifying that the military member will be on military leave from deployment.

K. Workers' Compensation Leave

If an employee sustains a work-related injury, he or she will be eligible for a medical leave of absence for a period of disability in accordance with all applicable laws covering occupational injuries.

Where an employee's work-related injury qualifies as a serious health condition, any Workers' Compensation Leave taken will be considered part of his or her entitlement, if any, to leave under the Family and Medical Rights Act ("FMLA") and the California Family Rights Act ("CFRA"). Employees on Workers' Compensation Leave should keep their supervisors informed as to their work status and will need to provide a doctor's release before returning to work.

For more information on how to apply for or obtain workers' compensation information, an employee may contact the County of Orange, Risk Management Department at (714) 285-5511. Additional information may also be found at the following worker's compensation resources:

1. State of CA Department of Industrial Relations Website: <https://www.dir.ca.gov/dwc/fileclaim.htm>.
2. Facts for Injured Workers: <https://www.dir.ca.gov/dwc/InjuredWorker.htm>.

L. Volunteer Emergency Leave and Training

If employees volunteer as a firefighter, reserve peace officer, or emergency rescue personnel, they may be entitled to unpaid leave to perform emergency duty. In addition, they may take unpaid leave of up to 14 days per calendar year for the purpose of engaging in fire or law enforcement training. If an employee qualifies for these

types of leave, he or she may use accrued vacation during the leave. Time spent on this leave counts for purposes of determining “length of service.” However, vacation will not be accrued, and holiday pay will not be received during this leave.

M. Time Off for Parents to Attend School Activity

Employees, who are parents of one or more children in kindergarten, or in grades 1 through 12, may take time off of up to forty (40) hours per school year to attend authorized school activities which involve one or more of the employee’s school age children. To be eligible for parental time off, the employee must obtain from the school, written verification that he or she attended or participated in the school activity. Parental time off may not exceed eight hours in any calendar month.

Employees may use any accrued vacation while they attend their child’s school activities. If not, the employee’s parental time off will be unpaid. For scheduling purposes, employees must notify the Executive Officer at least one (1) week before the date of the school activity, so that their work duties may be covered.

N. Literacy Education Leave

OC LAFCO will reasonably accommodate employees who are seeking to enroll in an adult literacy education program provided the accommodation requested would not result in undue hardship to OC LAFCO. OC LAFCO does not provide paid time off for participation in an adult literacy education program.

O. Kin Care Leave

Under California state law, employees who accrue sick leave are eligible for Kin Care Leave (KCL). An employee may use KCL for the following reasons:

1. Diagnosis, care, or treatment of an existing health condition of the employee, or preventive care for, an employee or an employee’s covered family member.
2. For obtaining relief if the employee is a victim of domestic violence, sexual assault, or stalking.
3. If the employee is a victim of domestic violence, sexual assault, or stalking, the employee may take time off to: obtain medical treatment, counseling or other victims’ services, obtain or attempt to obtain any relief to help ensure the health, safety, or welfare of the employee or the employee’s child, such as a temporary restraining order, restraining order, or other injunctive relief.

The number of days the employee can take off is calculated as an amount not less than the sick leave that would be accrued during 6 months of the employee's then-current rate of entitlement. Employees are able to use up to half of their sick leave for KCL. But, no more than one-half of the employee's annual accrued sick leave benefits can be counted as KCL. For a full-time career employee, for example, this would mean no more than 48 hours of sick leave can be counted as KCL.

To the extent possible, employees must provide reasonable advance notice of their need for leave under this policy. If the need for leave is not foreseeable, an employee must provide notice as soon as practicable.

For purposes of this policy, a family member means as a child (a biological, adopted, or foster child, stepchild, legal ward, or a child to whom the employee stands in loco parentis), a parent (a biological, adoptive or foster parent, stepparent, or legal guardian of an employee or the employee's spouse or registered domestic partner, or a person who stood in loco parentis when the employee was a minor child), a spouse or registered domestic partner, a grandparent, grandchild and sibling.

Please note, leave under this statute runs concurrently with paid sick leave and CFRA/FMLA leave.

P. Alcohol and Drug Rehabilitation Leave

Under California state law, employees who seek time off to voluntarily complete a rehabilitation program are eligible for this leave under this policy.

Employees may take reasonable unpaid leave as long as the leave does not cause OC LAFCO an undue hardship. This leave is unpaid but employees may choose to use available sick leave concurrently with rehabilitation leave.

3.24 FAMILY AND MEDICAL LEAVE

A. Overview

The intent of this policy is to outline and explain some of the rules and requirements applying to the Family and Medical Leave Act (FMLA) and California Family Rights Act (CFRA).

Note: Employers with at least 50 employees are required to comply with FMLA, whereas all public employers are required to comply with the CFRA. OC LAFCO does not meet the threshold for FMLA, but by policy provides leave pursuant to the FMLA.

B. Eligibility

Regular full-time and regular part-time employees are eligible to request unpaid Family and Medical Leave under CFRA/FMLA if at the time leave commences, all of the following apply:

1. Must have worked for OC LAFCO for at least twelve (12) months at any time (need not be continuous).
2. Must have worked at least 1,250 hours during the twelve (12) months immediately preceding the start of the leave.

Part-time employees who meet the requirements will calculate Family and Medical Leave on a prorated basis according to the number of hours they are normally scheduled to work.

C. Reasons for Leave

Leave may be requested for any of the following reasons:

1. The birth or adoption of a child, or the placement of a child in foster care.
2. To care for the employee's child (including adult children over 18 years of age, stepchildren and children of a domestic partners), spouse, sibling, registered domestic partner, parent (including parent-in-law), grandchild, grandparent or designated person with a serious health condition. "Designated person" means any individual related by blood or whose association with the employee is the equivalent of a family relationship. The designated person may be identified by the employee at the time the employee requests the leave. OC LAFCO may limit an employee to one designated person per 12-month period for family care and medical leave.
3. A serious health condition that prevents the employee from performing an essential function of his/her job, except for leave taken for disability on account of pregnancy, childbirth or related medical conditions; or
4. Military spousal, and military caregiver and exigency leave.

Family and Medical Leave is not available for non-serious conditions (including minor illnesses or for voluntary or cosmetic treatments) unless inpatient care is required or for routine preventive physical examinations.

D. Length of Leave

The length of Family and Medical Leave is up to twelve workweeks within a twelve-month period (exception for Pregnancy Disability and Military Caregiver – see policies). The twelve-month period begins the date the leave is taken. There is no carryover of unused leave from one twelve-month period to the next twelve-month period. Holidays that fall during the leave are counted against leave entitlement.

If at the end of twelve weeks the employee is unable to return to work, they may request a personal leave without pay. Such leave is granted at the discretion of OC LAFCO, and there is no requirement to hold the job available during the personal leave. OC LAFCO will, however, be governed by the Americans with Disabilities Act, the California Fair Employment and Housing Act, and Workers' Compensation regulations, if applicable.

E. Intermittent or Reduced Scheduled Leave

Family leave taken for the purpose of birth or placement of a child will generally be granted in minimum amounts of two weeks. However, an employee may request smaller increments of leave time which will be granted on any two occasions and will be subject to OC LAFCO approval for any additional requests based upon business needs.

Family and Medical Leave for the employee's own serious health condition, family care leave for the serious health condition of the employee's child (including adult child over 18 years of age), spouse, sibling, registered domestic partner, child of a registered domestic partner, parent, grandchild, grandparent or designated person and military caregiver leave may be taken intermittently or on a reduced schedule when medically necessary. Where the intermittent or reduced schedule leave is for planned medical treatment, the employee must make an attempt to schedule the treatment so as not to unduly disrupt OC LAFCO's operations. Military exigencies' leave also may be taken intermittently or on a reduced schedule.

If leave is taken intermittently or as a reduced work schedule, the amount of time used under Family and Medical Leave is only the time actually taken. For example, one day of leave per week for an employee who works five days per week is the equivalent of 1/5 of a week of Family/Medical Leave used.

F. Temporary Alternative Positions

An employee may be placed in a temporary alternative position if they request intermittent or reduced schedule leave, or the existing position description may be altered, to better accommodate the employee's need for recurring periods of leave. The alternative position may not have equivalent duties but will receive equivalent pay and benefits. The employee must be qualified for the position. They may also be transferred

to a part-time job with the same hourly rate of pay and benefits.

G. Impact on Benefits

Health insurance premiums that are normally paid by OC LAFCO will continue to be paid during Family and Medical Leave for a maximum of twelve workweeks in a twelve-month period. The employee is still responsible for his or her share of the health insurance premiums during the period of leave. If the employee substitutes paid leave for unpaid leave, such payments will be deducted from the employee's pay through payroll deductions. Otherwise, the employee must make arrangements with OC LAFCO to pay for such premiums.

OC LAFCO may recover any health insurance premiums it paid during the leave if the employee fails to pay his or her share of the premiums during the leave or the employee fails to return to work from leave for a reason other than recurrence, continuation, or onset of a serious health condition for which leave under this policy is allowed or other circumstance beyond the employee's control.

Service time, as well as vacation and incidental absence time, will continue to accrue during, but not exceeding, the twelve-week period. Employees will not be paid for holidays if they are in an unpaid status. For Family and Medical Leave of 30 days or less, reviews relating to salary and performance will continue as usual. A salary action which would have ordinarily taken place during the time of the leave will become effective upon the employees return to work. For Family and Medical Leave of over thirty days, Salary and Performance Reviews will be extended equal to the length of the leave.

H. Pregnancy Disability

In addition to the pregnancy disability leave described in this handbook, an eligible pregnant California employee is entitled to up to 12 additional workweeks of CFRA Leave. The maximum time to be taken off is: four months pregnancy disability/FMLA (with a healthcare provider's certification) plus 12 workweeks CFRA.

I. Requesting a Leave

An employee will be asked to provide certification from a health care provider that the leave is medically necessary when requesting a leave for their own health condition. If the health condition is that of a parent, spouse, or child, the healthcare provider must certify that the employee's care is required.

All requests must be provided in writing and include information and a schedule relative to the leave. Employees are requested to give as much advance notice as possible. Thirty (30) days is considered a minimum. In cases of emergency, give as much notice as possible under the circumstances. If the leave schedule is flexible, employees are

required to try to schedule the leave so as not to unduly disrupt OC LAFCO's operations.

J. Integration with Paid Leave

Leave provided under FMLA/CFRA is unpaid. However, at the option of OC LAFCO or the employee, accrued vacation (or, Sick Leave where the leave is required due to the employee's serious health condition, or the serious health condition of a family member and Sick Leave would otherwise be permitted under OC LAFCO's policy) may be substituted for any unpaid Family Medical Leave. This designation of Family and Medical Leave will be made by OC LAFCO at the time the employee requests the leave or when OC LAFCO determines that the leave qualifies as Family and Medical Leave based on the information provided. In either case, the total of paid and unpaid leave provided is limited to twelve workweeks.

K. Upon Return from Leave

Employees timely returning from a leave covered under this policy are entitled to reinstatement to the same or equivalent position consistent with applicable law. An employee has no greater right to reinstatement than if he or she had been continuously employed rather than on leave. OC LAFCO will comply with all applicable laws pertaining to reinstatement of employees including, where required, the reasonable accommodation of employees who have been on an approved leave. OC LAFCO will be governed by the Americans with Disabilities Act, the Fair Employment and Housing Act, CFRA/FMLA, and/or Workers' Compensation regulations where applicable. Family and Medical Leave will not result in the loss of any employment benefit that was earned or entitled to before use of Family and Medical Leave.

Employees using Family and Medical Leave for their own serious medical condition must bring a healthcare provider's release to work upon returning from leave.

PART 5 – CONDUCT AND PROBLEMS

3.25 SAFETY

A. Overview

The intent of this policy is to outline safety expectations.

B. Policy

OC LAFCO is committed to providing a safe and healthy workplace. The safety of every employee is a fundamental consideration for OC LAFCO, and all reasonable precautions

will be taken to protect employees from injury. In order to promote safety in the workplace, OC LAFCO expects employees to conduct business and perform their duties in a safety-conscious manner at all times. All work areas must be kept clean, and free of clutter and debris. OC LAFCO also expects all employees to refrain from horseplay and careless behavior in the workplace. Any hazards or potentially dangerous conditions must be corrected promptly and/or reported to a supervisor.

Every employee of the OC LAFCO shall be required to observe all OC LAFCO and departmental health and safety procedures. At the close of each business day, employees must ensure that all equipment is put away. All stationery and miscellaneous supplies should be removed from tables, benches and furniture tops. Paperwork should not be left out overnight. Employees must not litter or discard items on the premises.

If an employee identifies a potentially unsafe condition or risk, the employee should immediately report the matter to their supervisor.

Under California law, in the event of an emergency condition, OC LAFCO will not take or threaten adverse action against any employee for refusing to report to, or leaving, a workplace because the employee has a “reasonable belief that the workplace is unsafe.” The law requires employees to, “when feasible,” notify employers in advance of the emergency condition that requires they either leave the workplace or refuse to report to work. If it’s not feasible, then the employee must notify the employer as soon as possible. “Emergency Condition” for purposes of this policy, is defined as conditions of disaster or extreme peril to the safety of persons or property at the workplace or worksite caused by natural forces or a criminal act. And, an order to evacuate a workplace, worksite, worker’s home, or the school of a worker’s child due to natural disaster or a criminal act.

“A reasonable belief” for purposes of this policy, is defined as the workplace or worksite is unsafe” means that a reasonable person, under the circumstances known to the employee at the time, would conclude there is a real danger of death or serious injury if that person enters or remains on the premises. The existence of any health and safety regulations specific to the emergency condition and an employer’s compliance or noncompliance with those regulations shall be a relevant factor if this information is known to the employee at the time of the emergency condition or the employee received training on the health and safety regulations mandated by law specific to the emergency condition.

If an employee is injured or becomes ill on the job as a result of performing job-related duties, the following steps will be taken.

- Notify their supervisor, manager or Chair immediately after an injury or symptoms of illness occur.
- Consult a physician within 24 hours after an industrial injury or illness, even if the injury or illness is considered minor. Delay or refusal to seek medical treatment can

result in physical as well as compensatory complications. Whenever possible, treatment should be received from an authorized treatment facility as directed to OC LAFCO.

- If the injury requires minor first aid care, there are first aid kits located in the office of Executive Officer and break room. All rules of reporting apply, even though injury is minor and requires only first aid treatment.
- In the event of a life-threatening injury, employees will be taken to the nearest local hospital. The employee or referring agent of OC LAFCO must inform the hospital staff that they are seeking treatment for an industrial injury.
- In the event of a temporary or permanent industrial disability, the employee is entitled to Workers' Compensation Insurance coverage and/or personal long-term disability benefits in accordance with state and federal laws.

Off-Duty Social and Recreational Activities. OC LAFCO may sponsor social or recreational activities for its citizens and employees, both on OC LAFCO property and off-site. Employee attendance at such social activities, however, is completely voluntary and is not work-related. Neither OC LAFCO nor its insurer will be liable for the payment of workers' compensation benefits for any injury that arises out of an employee's voluntary participation in any off-duty recreational, social or athletic activity that is not part of the employee's work-related duties.

3.26 WORKPLACE VIOLENCE POLICY

OC LAFCO recognizes that workplace violence is a concern among employers and employees across the country. OC LAFCO is committed to providing a safe work environment that is free of violence and the threat of violence. OC LAFCO will not tolerate any violent or dangerous behavior of any kind, whether through physical abuse, threats of any kind, intimidation, coercion, stalking or otherwise, defacing OC LAFCO's property or causing physical damage to the facilities, bring weapons or firearms of any kind onto OC LAFCO's premises, parking lots, or while conducting business, or any other behavior that suggests a propensity towards violence. OC LAFCO strictly prohibits employees, consultants, customers, visitors, or anyone else on OC LAFCO premises or engaging in an OC LAFCO-related activity from behaving in a violent or threatening manner. Moreover, OC LAFCO seeks to prevent workplace violence before it begins and reserves the right to address certain behaviors, even in the absence of violent behavior.

Employees may report all incidents of direct or indirect violence or dangerous behavior to the Executive Officer or Assistant Executive Officer as soon as possible. Reporting incidents and concerns early can help prevent a situation from escalating and becoming even more dangerous. Employees should never attempt to handle a potentially dangerous situation by themselves. Any OC LAFCO employee that violates this policy will be subject to discipline, up to and including termination, as well as potential legal action.

OC LAFCO believes that prevention of workplace violence begins with recognition and awareness of potential early warning signs. Any such instances should be immediately reported to the Executive Officer or General Counsel.

Workplace violence is any act or threat of physical violence, harassment, intimidation, or other threatening disruptive behavior that occurs at the worksite, ranging from threats and verbal abuse to physical assaults and even homicide, that can affect and involve employees, clients, customers and visitors. If any employee observes or becomes aware of any workplace violence related actions or behavior by an employee, customer, consultant, visitor, or anyone else, he or she should notify the Executive Officer or Assistant Executive Officer or General Counsel immediately. Further, employees should notify the Executive Officer or Assistant Executive Officer or General Counsel if any restraining order is in effect, or if a potentially violent non-work-related situation exists that could result in violence in the workplace. General examples of prohibited conduct include, but are not limited to the following:

1. The actual or implied threat of harm to an individual, group of individuals, or relatives of those individuals, or the property of any of them, made in person, over the telephone, through the mail, by electronic communication, or by other means.
2. Fighting or challenging another individual to a fight.
3. Intimidation through direct or veiled verbal threats, or through physical threats, such as obscene gestures, grabbing, and pushing.
4. Making harassing or threatening telephone calls; sending harassing or threatening letters, emails, or other correspondence.
5. Intimidating or attempting to coerce an employee to do wrongful acts that would affect the business interests of OC LAFCO.
6. Harassing surveillance or stalking, which is engaging in a pattern of conduct with the intent to follow, alarm, or harass another individual, which presents a credible threat to the individual and causes the individual to fear for their safety, or the safety of their immediate family, as defined in Civil Code section 1708.7.
7. Making a suggestion or otherwise intimating that an act to injure persons or property is appropriate behavior.
8. The possession, on OC LAFCO leased or owned property or facilities, of

weapons of any kind (including toy or look-alike), unless specifically authorized by the Police Department or appointing authority, or the brandishing of any object in a threatening manner towards another.

9. Loud, disruptive or angry behavior or language which is clearly not part of the typical work environment.
10. Blatant or intentional disregard for the safety or well-being of others.
11. Willful destruction of OC LAFCO's or others personal property.
12. Commission of a violent felony or misdemeanor on OC LAFCO's property.
13. Any other act that a reasonable person would perceive as constituting an act or threat of violence.

All reports of workplace violence will be taken seriously and will be investigated promptly and thoroughly. In appropriate circumstances, OC LAFCO will inform the reporting individual of the results of the investigation. To the extent possible, OC LAFCO will maintain the confidentiality of the reporting employee and of the investigation. OC LAFCO may, however, need to disclose results in appropriate circumstances, for example, in order to protect individual safety. OC LAFCO will not tolerate retaliation against any employee who reports workplace violence.

If OC LAFCO determines that workplace violence in violation of this policy has occurred, OC LAFCO will take appropriate corrective action and will impose discipline on offending employees. The appropriate discipline will depend on the particular facts but may include written or oral warnings, probation, reassignment of responsibilities, suspension, or termination. If the violent behavior is that of a non-employee, OC LAFCO will take appropriate corrective action in an attempt to ensure that such behavior is not repeated.

Under certain circumstances, OC LAFCO may forego disciplinary action on the condition that the employee takes a medical leave of absence. In addition, OC LAFCO may request that the employee participate in counseling, either voluntarily or as a condition of continued employment.

Immediate Danger: Any employee, who is subjected to, witnesses, or has knowledge of actions that pose an immediate danger to himself/herself or others must report these acts to appropriate authorities immediately. When the incident constitutes an emergency, the employee should place themselves in a safe location, notify their supervisor and/or obtain police assistance by calling 911. Information provided to the emergency dispatcher should include details regarding the exact location and the nature of the incident and the persons and/or weapons involved.

After the incident has been reported to the police the employee should notify their supervisor. The supervisor shall be responsible for contacting the Executive Officer.

The primary objective in dealing with an incident in progress is to stabilize the situation, deescalate the potential for violence, and ensure that there is no harm to any person or property. Once the emergency has passed the supervisor shall be responsible for conducting a thorough investigation of the incident and reporting the findings to the Executive Officer. All employees are required to cooperate fully in any administrative or criminal investigation.

Potential or Suspected Future Incidents: When an employee becomes aware of a potential violation of this policy that does not pose an immediate threat of violence, the employee is responsible for notifying their supervisor. Even without an actual threat, employees should also report any behavior that they may regard as threatening or violent when the behavior is job-related or might be carried out within the OC LAFCO workplace. It will then become the responsibility of the supervisor to prepare a report for the Executive Officer. This report will be evaluated to determine whether there was a violation of the policy and what the appropriate management response should be.

Employees who have reason to believe they or any OC LAFCO employee may be the subject of a future violent act in the workplace or as a result of their OC LAFCO employment, should immediately notify their supervisor.

No employee who, acting in good faith, initiates a complaint or reports an incident under this policy will be subject to retaliation or harassment.

3.27 DRUG AND ALCOHOL POLICY

A. Overview

The intent of this policy is to provide a drug and alcohol-free work environment for all OC LAFCO employees.

B. Policy

It is OC LAFCO's desire to provide a drug-free, healthful, and safe workplace. To promote this goal, employees are required to report to work in appropriate mental and physical condition to perform their jobs in a satisfactory manner.

While on OC LAFCO's premises or while conducting business-related activities off OC LAFCO's premises, no employee may use, possess, distribute, sell, or be under the influence of alcohol or illegal drugs. The legal use of prescribed drugs is permitted on the job only if it does not impair an employee's ability to perform the essential functions of the job effectively and in a safe manner that does not endanger other individuals in the

workplace.

Violations of this policy may lead to disciplinary action, up to and including immediate termination of employment, and/or required participation in a substance abuse rehabilitation of treatment program. Such violations may also have legal consequences.

Employees with questions or concerns about substance dependency or abuse are encouraged to use the resources of the Employee Assistance Program. They may also wish to discuss these matters with the Executive Officer or Assistant Executive Officer to receive assistance or referrals to appropriate resources in the community.

Employees with drug or alcohol problems that have not resulted in, and are not the immediate subject of, disciplinary action may request approval to take unpaid time off to participate in a rehabilitation or treatment program through OC LAFCO's health insurance benefit coverage. Leave may be granted if the employee agrees to abstain from use of the problem substance; abides by all OC LAFCO's policies, rules and prohibitions relating to conduct in the workplace; and if granting the leave will not cause OC LAFCO any undue hardship. Please see OC LAFCO's Alcohol and Drug Rehab Leave Policy for more detail.

Under the Drug-Free Workplace Act, an employee who performs work for a government contract or grant must notify OC LAFCO of a criminal conviction for drug-related activity occurring in the workplace. The report must be made within five days of the conviction.

3.28 DESK INSPECTION POLICY

A. Overview

The intent of this policy is to assist in the understanding of the usage of E-mail, the Internet, computer files and software.

B. Policy

Although desks, cabinets and shelves are made available for the convenience of employees while at work, employees should remember that all desks, cabinets and shelves remain the sole property of OC LAFCO. Moreover, OC LAFCO reserves the right to open and inspect desks, cabinets, and shelves, as well as any contents, effects, or articles in desks, cabinets, and shelves. Such an inspection can occur at any time, with or without advance notice or consent. An inspection may be conducted before, during, or after working hours by the Executive Officer or Assistant Executive Officer or designee. Employees have no expectation of privacy in any of these items.

Prohibited materials, including weapons, explosives, alcohol and non-prescribed drugs or medications, may not be placed in a desk, cabinet or shelf. Employees who, if requested,

fail to cooperate in any inspection will be subject to disciplinary action, up to and including termination. OC LAFCO is not responsible for any articles that are placed or left in a desk, cabinet, or shelf that are lost, damaged, stolen or destroyed.

3.29 THEFT OR LOSS OF OFFICE EQUIPMENT

A. Overview

The intent of this policy is to outline procedures in the event OC LAFCO office equipment is lost or stolen.

B. Policy

The use of any OC LAFCO-related equipment (computers, cell phones, iPads, projectors, or other office-related equipment) outside of the OC LAFCO offices must be approved by the Executive Officer. OC LAFCO employees are fully responsible for the care and safekeeping of all office equipment offsite. Should an item be stolen or lost offsite while under the care of an OC LAFCO employee, the OC LAFCO employee is responsible to reimburse OC LAFCO for the replacement cost of all lost or stolen items.

The care and safekeeping of an iPad provided to a Commissioner for OC LAFCO-related business is the sole responsibility of the Commissioner. Any loss or theft of the iPad must be reported immediately to the Executive Officer, and the Commissioner is responsible to reimburse OC LAFCO for the replacement cost of the device.

3.30 PROBLEM RESOLUTION PROCEDURE

A. Overview

The intent of this policy is to outline OC LAFCO's problem resolution procedure.

B. Policy

OC LAFCO is committed to encouraging an open and frank atmosphere in which any problem, complaint, suggestion, or question receives a timely response. OC LAFCO strives to ensure fair and honest treatment of all employees. All employees are expected to treat each other with mutual respect. All employees are encouraged to offer positive and constructive criticism.

If there is a disagreement concerning established rules of conduct, policies, or practices, employees may express their concerns through the problem-resolution procedure. No one will be penalized, formally or informally, for voicing a complaint with OC LAFCO in a reasonable, business-like manner, or for using the problem-resolution procedure.

If a situation occurs where an employee believes that a condition of employment or a decision affecting them is unjust or inequitable, they are encouraged to make use of the following steps:

1. Employee presents problem to the Assistant Executive Officer after incident occurs. If the Assistant Executive Officer is unavailable or an employee believes it would be inappropriate to contact the person, employee may present problem to the Executive Officer.
2. The Assistant Executive Officer responds to the problem during discussion or after consulting with the Executive Officer, when necessary, and documents discussion.
3. Employee presents problem to the Executive Officer in writing if problem is unresolved.

The Executive Officer reviews and considers the problem. The Executive Officer informs the employee of decision and forwards a copy of the written response to the employee's file. The Executive Officer has full authority to make any adjustment deemed appropriate to resolve the problem.

Originally Adopted: 1/8/2003

Last Reviewed: 03/13/2024

Last Revised: 03/13/2024

REGULAR MEMBERS

CHAIR
Donald P. Wagner
County Member

VICE CHAIR
Wendy Bucknum
City Member

IMMEDIATE PAST CHAIR
Douglass Davert
Special District Member

James Fisler
Special District Member

Derek J. McGregor
Public Member

Bruce Whitaker
City Member

VACANT
County Member

ALTERNATES

Kathryn Freshley
Special District Member

Carol Moore
City Member

Lou Penrose
Public Member

VACANT
County Member

STAFF

Carolyn Emery
Executive Officer

Scott Smith
General Counsel

MEETING DATE: March 13, 2024

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer
Office Manager/Commission Clerk
General Counsel

SUBJECT: OC LAFCO California Public Records Act and Records
Retention and Destruction Policies and Procedures

BACKGROUND

OC LAFCO staff, in collaboration with general counsel, performs an annual review of the agency’s California Public Records Act (CPRA) and Records Destruction and Retention Policies. The CPRA and the Records Destruction and Retention Policies were originally adopted in 1979 and 2006, respectively, and have experienced revisions since that time to conform with State law. This report includes recommended administrative amendments to the policies indicated in redline format in Attachments 1 and 2 and briefly summarized in the table below.

Table 1: Summary of Proposed Amendments

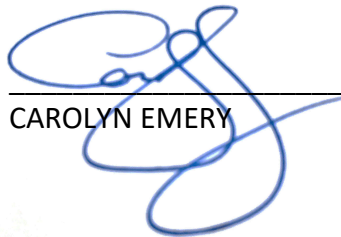
Policy	Pages	Summary of Changes
California Public Records Act	1-5	Updated with administrative corrections.
Records Retention and Destruction	1-25	Updated language to conform with State law; completed administrative corrections to clarify procedures for destruction of obsolete records.

RECOMMENDED ACTION:

Staff recommends the Commission:

1. Adopt the California Public Records Act Policy, as amended.
2. Adopt the Records Retention and Destruction Policy, as amended.

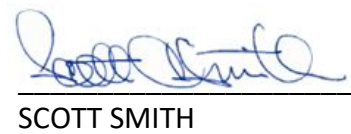
Respectfully submitted,



CAROLYN EMERY



CHERYL CARTER-BENJAMIN



SCOTT SMITH

Attachments:

1. OC LAFCO California Public Records Act Policy (Redline)
2. OC LAFCO California Public Records Act Policy (As Amended)
3. OC LAFCO Records Retention and Destruction Policy (Redline)
4. OC LAFCO Records Retention and Destruction Policy (As Amended)

Orange County Local Agency Formation Commission
Policy for Inspection and Copying of Public Records **California Public Records Act**
Policy

I. POLICY

This policy sets forth the procedures of the Orange County Local Agency Formation Commission (OC LAFCO) for handling California Public Records Act (“CPRA”) requests~~for inspection and/or copying of public records pursuant to .~~ ~~It is designed to follow the California Public Records Act (Government Code §Section 7920.000 et seq.)~~ and all existing laws and regulations pertaining to disclosure of public records. If any provision of this policy conflicts with current state or federal law, the law shall take precedence.

It shall be the policy of OC LAFCO to allow members of the public to inspect and/or receive copies of any records maintained in the Commission’s office or OC LAFCO-related records housed in the Orange County Records Center, unless such records are restricted by federal or state law, or other regulations.

II. LEGAL AUTHORITY

This policy is authorized under Government Code §Section 7922.630 which provides: “Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.” The California Public Records Act (Government Code §Section 7920.000, et seq.) and the California Constitution (Cal. Const. Art. I, Code §Section 3, subd. (b).) gives every member of the public the right to inspect and/or receive copies of public records, for the direct cost of duplication or a statutory fee, except where access is otherwise made exempt by law.

III. DEFINITIONS

For purposes of this policy and procedure, “public records” shall include any writing containing information related to the conduct of the public’s business that is prepared, owned, used, or retained by the Commission, regardless of physical form or characteristics. (Government Code §Section 7922.530 subd. (a).)

“Writing” means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing, any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored. (Government Code §Section 7922.540 subd. (a).)

IV. PROCEDURES

- A. OC LAFCO encourages members of the public to submit ~~records-CPRA~~ requests to the Commission's office during normal business hours when the Commission offices are open. Receiving requests during normal business hours helps Commission staff avoid any delays in responding to requests for inspection and/or copies of OC LAFCO records. This procedure is intended to further the ~~Public Records Act Mandate~~CPRA provision that public records must be "open to inspection at all times during the office hours of the state or local agency..." and the provision that allows OC LAFCO to "adopt requirements for itself that allow for faster, more efficient, or greater access to records that prescribed by the minimum standards set forth in [the Public Records Act]." (Government Code ~~§Section~~ 7922.525 through ~~§Section~~ 7922.540(b).) Notwithstanding the foregoing, OC LAFCO accepts ~~records-CPRA~~ requests that are sent to the Commission's office after normal business hours, during weekends, and holidays. However, OC LAFCO will deem such requests as received on the next business day that the Commission's office is open for business.
- B. OC LAFCO encourages members of the public to submit all ~~records-CPRA~~ requests in writing to the Commission's office, preferably using the Public Record Request form attached as Exhibit "A" to this policy. Written requests reduce any misunderstandings between the requester and OC LAFCO staff, which allows OC LAFCO staff to respond to ~~records-CPRA~~ requests in a timely manner and with greater efficiency. However, OC LAFCO will not deny a request for records solely because it is not submitted in writing or was not submitted on OC LAFCO's Public Record Request form.
- C. The requester should, in writing, reasonably describe an identifiable record or records being sought. specify the records to be inspected/copied with sufficient detail to enable OC LAFCO to identify the particular records.~~The request must be focused, specific, and reasonably clear, to enable OC LAFCO to identify the particular record or records.~~ -If the request appears unclear or is overly broad, ambiguous or unfocused, staff will make a reasonable effort to obtain additional clarifying information from the requester that will help identify the record or records. Pursuant to Government Code ~~§Section~~ 7922.600 and ~~§Section~~ 7922.605, staff shall do all of the following, to the extent reasonable under the circumstances:
1. Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
 2. Describe the information technology and physical location in which the records exist.
 3. Provide suggestions for overcoming any practical basis for denying access to the records or information sought.
- D. Whenever possible, staff will promptly make available disclosable public records~~Staff will make disclosable public records promptly available whenever possible.~~ If any document responding to a ~~public records~~CPRA request is posted on any OC LAFCO-

related websites, staff will provide the requestor with a link or other direction to the online location of the document, pursuant Government Code [§Section 7922.545](#), subdivision (a).

- E. For requests for records in electronic format, OC LAFCO will make electronic records available in their existing format, pursuant to the requirements and conditions of Government Code [§Section 7922.570](#) through [§Section 7922.580](#).

F. Within ~~10-ten~~ (~~ten~~10) days of OC LAFCO's date of receipt of the original [CPRA](#) request ([pursuant to Section IV\(A\) of this Policy](#)), the Executive Officer will provide a written determination as follows:

1. If the requested records ~~we~~are made promptly available after the request ~~wa~~s received, the Executive Officer's written response will document staff's determination that the records ~~we~~are disclosable and ~~we~~are provided to the requester.
2. If the request presents "unusual circumstances" as described in Government Code [§Section 7922.535](#) subdivision (b), the Commission may take an extension of ~~14~~[fourteen \(14\)](#) -days to provide a determination on the request. Pursuant to Government Code [§Section 7922.535](#), subdivision (c), "unusual circumstances" means the following, but only to the extent reasonably necessary to properly process the request:
 - a. The need to search for and collect the requested records from file~~d~~ facilities or other establishments that are separated from the office processing the request.
 - b. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
 - c. The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request, or among two or more components of the Commission having substantial subject matter interest therein.
 - d. The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

The Executive Officer's written response will explain the "unusual circumstances" that apply to the request and will provide the estimated date when the determination on the request will be provided.

3. If the requested records are exempt from disclosure under the Public Records Act, other state law, or federal law, the response shall provide the specific exemptions and provide the name and title or position of the person(s) responsible for

withholding the exempt records.

4. If the requested records are disclosable but cannot be made “promptly available” because additional time is required to complete the request, the response shall notify the requester of the estimated date when the materials will be made available.

~~F.G.~~ For requests to inspect records, staff members will assist requestors to schedule a date and time for inspection during regular business hours when the Commission offices are open. Original records may NOT be taken from OC LAFCO offices or another repository. Some historical OC LAFCO records are stored in the Orange County Records Center through an agreement between OC LAFCO and the Orange County Records Center. All OC LAFCO records within the Orange County Records Center remain under the ownership of OC LAFCO. As custodian for these documents, OC LAFCO shall work with Orange County Records Center, when necessary, to retrieve any documents that respond to ~~records-CPRA~~ requests.

~~G.H.~~ OC LAFCO shall produce requested copies upon payment of the copy fee specified in the OC LAFCO fee schedule or upon payment of a statutory fee if applicable.

Originally Adopted: 9/1979 (formerly “Policy for the Public Review of LAFCO Records”)

Last Reviewed: ~~3/8/2023~~3/14/2023

Last Revised: ~~3/8/2023~~3/14/2023

EXHIBIT A
[PLACE ON LETTERHEAD]

PUBLIC RECORDS ACT (PRA) REQUEST FORM

A. REQUESTOR INFORMATION: **Required field (You will need to provide at least one form of contact information for us to respond to your request.)*

Name: _____ Date: _____

*Email: _____

Street Address: _____

City: _____ State: _____ Zip: _____

*Telephone: _____ *Fax: _____ *Cell: _____

B. RECORDS REQUESTED: *Please be specific and state clearly the type of information you are requesting. To expedite your request, please indicate the type of record, file name, application number, applicant name, date or date range of record(s), incident location or other helpful information. (You may attach another sheet if you need additional space.)*

I am requesting to (check one) inspect receive copies of the following records:

(1) _____

(2) _____

(3) _____

We assure you that your request for information is important to us. However, immediate access records cannot always be accommodated immediately. In accordance with California ~~GOVERNMENT CODE~~ Government Code Section 57920.000, et seq. OC LAFCO staff has up to ten (10) days in which to determine whether the documents requested constitute in whole or in part disclosable public records, and such time period may be extended if necessary. Requests for large volume documents, historical/archived files, or for active application files requested near an OC LAFCO meeting date may not be processed immediately. Extensive research or substantial photocopying may take a reasonable amount of time to process. If you would like to schedule an appointment to arrange appropriate accommodations for large requests, please contact [INSERT CONTACT PERSON, TITLE AND PHONE NUMBER AND/OR EMAIL ADDRESS.]

Please be advised that OCLAFCO copying fees or statutory copying fees may apply for copy requests and that you may be required to pay all such fees before requested copies are delivered.

**Orange County Local Agency Formation Commission
California Public Records Act Policy**

I. POLICY

This policy sets forth the procedures of the Orange County Local Agency Formation Commission (OC LAFCO) for handling California Public Records Act (“CPRA”) requests pursuant to Government Code Section 7920.000 et seq., and all existing laws and regulations pertaining to disclosure of public records. If any provision of this policy conflicts with current state or federal law, the law shall take precedence.

It shall be the policy of OC LAFCO to allow members of the public to inspect and/or receive copies of any records maintained in the Commission’s office or OC LAFCO-related records housed in the Orange County Records Center, unless such records are restricted by federal or state law, or other regulations.

II. LEGAL AUTHORITY

This policy is authorized under Government Code Section 7922.630 which provides: “Every agency may adopt regulations stating the procedures to be followed when making its records available in accordance with this section.” The California Public Records Act (Government Code Section 7920.000, et seq.) and the California Constitution (Cal. Const. Art. I, Code Section 3, subd. (b).) gives every member of the public the right to inspect and/or receive copies of public records, for the direct cost of duplication or a statutory fee, except where access is otherwise made exempt by law.

III. DEFINITIONS

For purposes of this policy and procedure, “public records” shall include any writing containing information related to the conduct of the public’s business that is prepared, owned, used, or retained by the Commission, regardless of physical form or characteristics. (Government Code Section 7922.530 subd. (a).)

“Writing” means handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored. (Government Code Section 7922.540 subd. (a).)

IV. PROCEDURES

- A. OC LAFCO encourages members of the public to submit CPRA requests to the Commission's office during normal business hours when the Commission offices are open. Receiving requests during normal business hours helps Commission staff avoid any delays in responding to requests for inspection and/or copies of OC LAFCO records. This procedure is intended to further the CPRA provision that public records must be "open to inspection at all times during the office hours of the state or local agency..." and the provision that allows OC LAFCO to "adopt requirements for itself that allow for faster, more efficient, or greater access to records that prescribed by the minimum standards set forth in [the Public Records Act]." (Government Code Section 7922.525 through Section 7922.540(b).) Notwithstanding the foregoing, OC LAFCO accepts CPRA requests that are sent to the Commission's office after normal business hours, during weekends, and holidays. However, OC LAFCO will deem such requests as received on the next business day that the Commission's office is open for business.
- B. OC LAFCO encourages members of the public to submit all CPRA requests in writing to the Commission's office, preferably using the Public Record Request form attached as Exhibit "A" to this policy. Written requests reduce any misunderstandings between the requester and OC LAFCO staff, which allows OC LAFCO staff to respond to CPRA requests in a timely manner and with greater efficiency. However, OC LAFCO will not deny a request for records solely because it is not submitted in writing or was not submitted on OC LAFCO's Public Record Request form.
- C. The requester should, in writing, reasonably describe an identifiable record or records being sought. The request must be focused, specific, and reasonably clear, to enable OC LAFCO to identify the particular record or records. If the request appears unclear or is overly broad, staff will make a reasonable effort to obtain additional clarifying information from the requester that will help identify the record or records. Pursuant to Government Code Section 7922.600 and Section 7922.605, staff shall do all of the following, to the extent reasonable under the circumstances:
1. Assist the member of the public to identify records and information that are responsive to the request or to the purpose of the request, if stated.
 2. Describe the information technology and physical location in which the records exist.
 3. Provide suggestions for overcoming any practical basis for denying access to the records or information sought.
- D. Whenever possible, staff will promptly make available disclosable public records. If any document responding to a CPRA request is posted on any OC LAFCO-related websites, staff will provide the requestor with a link or other direction to the online location of the document, pursuant Government Code Section 7922.545, subdivision (a).

- E. For requests for records in electronic format, OC LAFCO will make electronic records available in their existing format, pursuant to the requirements and conditions of Government Code Section 7922.570 through Section 7922.580.
- F. Within ten (10) days of OC LAFCO's date of receipt of the original CPRA request (pursuant to Section IV(A) of this Policy), the Executive Officer will provide a written determination as follows:
1. If the requested records are made promptly available after the request is received, the Executive Officer's written response will document staff's determination that the records are disclosable and are provided to the requester.
 2. If the request presents "unusual circumstances" as described in Government Code Section 7922.535 subdivision (b), the Commission may take an extension of fourteen (14) days to provide a determination on the request. Pursuant to Government Code Section 7922.535, subdivision (c), "unusual circumstances" means the following, but only to the extent reasonably necessary to properly process the request:
 - a. The need to search for and collect the requested records from field facilities or other establishments that are separated from the office processing the request.
 - b. The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records that are demanded in a single request.
 - c. The need for consultation, which shall be conducted with all practicable speed, with another agency having substantial interest in the determination of the request, or among two or more components of the Commission having substantial subject matter interest therein.
 - d. The need to compile data, to write programming language or a computer program, or to construct a computer report to extract data.

The Executive Officer's written response will explain the "unusual circumstances" that apply to the request and will provide the estimated date when the determination on the request will be provided.

3. If the requested records are exempt from disclosure under the Public Records Act, other state law, or federal law, the response shall provide the specific exemptions and provide the name and title or position of the person(s) responsible for withholding the exempt records.
4. If the requested records are disclosable but cannot be made "promptly available" because additional time is required to complete the request, the response shall notify the requester of the estimated date when the materials will be made

available.

- G. For requests to inspect records, staff members will assist requestors to schedule a date and time for inspection during regular business hours when the Commission offices are open. Original records may NOT be taken from OC LAFCO offices or another repository. Some historical OC LAFCO records are stored in the Orange County Records Center through an agreement between OC LAFCO and the Orange County Records Center. All OC LAFCO records within the Orange County Records Center remain under the ownership of OC LAFCO. As custodian for these documents, OC LAFCO shall work with Orange County Records Center, when necessary, to retrieve any documents that respond to CPRA requests.

- H. OC LAFCO shall produce requested copies upon payment of the copy fee specified in the OC LAFCO fee schedule or upon payment of a statutory fee if applicable.

Originally Adopted: 9/1979 (formerly “Policy for the Public Review of LAFCO Records”)
Last Reviewed: 03/13/2024,
Last Revised: 03/13/2024

EXHIBIT A
[PLACE ON LETTERHEAD]

PUBLIC RECORDS ACT (PRA) REQUEST FORM

A. REQUESTOR INFORMATION: **Required field (You will need to provide at least one form of contact information for us to respond to your request.)*

Name: _____ Date: _____

*Email: _____

Street Address: _____

City: _____ State: _____ Zip: _____

*Telephone: _____ *Fax: _____ *Cell: _____

B. RECORDS REQUESTED: *Please be specific and state clearly the type of information you are requesting. To expedite your request, please indicate the type of record, file name, application number, applicant name, date or date range of record(s), incident location or other helpful information. (You may attach another sheet if you need additional space.)*

I am requesting to (check one) inspect receive copies of the following records:

(1) _____

(2) _____

(3) _____

We assure you that your request for information is important to us. However, immediate access records cannot always be accommodated immediately. In accordance with California Government Code Section 7920.000, et seq. OCLAFCO staff has up to ten (10) days in which to determine whether the documents requested constitute in whole or in part disclosable public records, and such time period may be extended if necessary. Requests for large volume documents, historical/archived files, or for active application files requested near an OC LAFCO meeting date may not be processed immediately. Extensive research or substantial photocopying may take a reasonable amount of time to process. If you would like to schedule an appointment to arrange appropriate accommodations for large requests, please contact [INSERT CONTACT PERSON, TITLE AND PHONE NUMBER AND/OR EMAIL ADDRESS.]

Please be advised that OCLAFCO copying fees or statutory copying fees may apply for copy requests and that you may be required to pay all such fees before requested copies are delivered.

Orange County Local Agency Formation Commission
Records Retention and Destruction Policy

I. PURPOSE

The purpose of this policy is to provide guidelines to staff regarding the retention of records of the Local Agency Formation Commission of Orange County (OC LAFCO); provide for the identification, maintenance, and safeguarding of OC LAFCO records and the destruction of obsolete records in the normal course of business; ensure prompt and accurate retrieval of records; and, ensure compliance with legal and regulatory requirements.

II. POLICY

It is the policy of this Commission to retain OC LAFCO documents and other records in accordance with the retention schedule established in the attached table. The schedule follows the minimum retention periods mandated by the California Government Code, the California Code of Civil Procedure, the Code of Federal Regulations, the Secretary of State Local Government Records Management Guidelines, and other legal authorities cited.

III. PROCEDURE

- A. The ~~staff member~~Commission Clerk completes and signs a “~~Request for Destruction of Obsolete Records~~” form, listing the date and description of each document to be destroyed. A sample form is attached to this policy as Attachment “A.” ~~The staff member submits the form to the Commission Clerk.~~

The Commission Clerk confirms ~~checks the documents listed on the submitted form to confirm~~ that each document is: (1) not required to be permanently retained, or (2) has been retained for the legally required period of time. The Commission Clerk also confirms that any applicable reproduction requirements (i.e., imaging, etc.) for each document are complete. The Commission Clerk also verifies that the documents are not relevant to a lawsuit, a claim, a subpoena, an investigation, a litigation hold, a Public Records Act (Government Code §7920 - 7931 et seq.) request, an audit or similar proceeding, which is in progress or which can reasonably be anticipated.

- ~~B. The Commission Clerk submits the form to the Executive Officer, who reviews and signs the form and then returns the signed form to the Commission Clerk.~~

~~C.B.~~ After receiving the signed form from the Executive Officer, the Commission Clerk oversees the destruction of the obsolete documents, indicates the method of destruction on the form, signs the form, and retains the original signed form.

~~D.C.~~ The Commission Clerk will retain all original signed forms requesting destruction of obsolete records for a minimum period of two (2) years.

~~E.D.~~ The Commission Clerk will permanently retain a master log of all destroyed obsolete documents which includes the titles or brief descriptions of the obsolete documents that were destroyed, the method of destruction and the date of destruction.

IV. GENERAL GUIDELINES

- A. The Commission Clerk shall be responsible for the administration of this policy and shall assist all OC LAFCO personnel to comply with the provisions of this policy and with the Records Retention Schedule, set forth in Attachment "B."
- B. The following general guidelines apply to all OC LAFCO records.
 1. The Commission may authorize the destruction of any duplicate records at any time. (Government Code §26201 and §60200.)
 2. Unless otherwise required by State or Federal law, the Commission may authorize the destruction of any original document which is more than two (2) years old without retaining a copy of the document as long the retention and destruction of the document complies with the retention schedule as set forth in this policy. (Government Code §26202 and §60201.)
 3. In addition to the retention periods required under this policy, the Commission shall retain original administrative, legal, fiscal and/or historical records with continued value (i.e., records for long-term transactions and/or special projects) until all matters pertaining to such records are completely resolved or the time for appeals has expired. (Government Code §34090 and §60201, subd. (d)(10).)
 4. Pursuant to Government Code §60201, the Commission shall not destroy any of the following records:
 - a. Records relating to the formation, change of organization or reorganization of the Commission.
 - b. Ordinances and resolutions unless they have been repealed or have

become invalid or otherwise unenforceable for five (5) years.

- c. Minutes of any meeting of the Commission.
- d. Records relating to any pending claim, litigation, any settlement or other disposition of litigation within the past two (2) years.
- e. Records that are the subject of any pending request for records under the California Public Records Act (Government Code §7920-7931 et seq.), whether or not the record is exempt from disclosure, until the request has been granted or two (2) years after the request has been denied by the Commission.
- f. Records relating to any pending construction that the Commission has not accepted or for which a stop notice claim may be legally presented.
- g. Records relating to any non-discharged debt of the Commission.
- h. Records relating to the title to real property in which the Commission has an interest.
- i. Records relating to any non-discharged contract to which the Commission is a party.
- j. Records that have not fulfilled the administrative, fiscal, or legal purpose for which they were created or received.
- k. Unaccepted bids or proposals, which are less than two (2) years old, for the construction or installation of any building, structure or other public work.
- l. Records less than seven (7) years old that specify the amount of compensation or expense reimbursement paid to Commission employees, officers, or independent contractors.

C. Exceptions to Scheduled Destruction

Destruction of any record shall be postponed if that record is responsive to a subpoena, litigation hold or other request for preservation, a Public Records Act (Government Code §7920-7931 et seq.) request, an audit, or a claim filed against OC LAFCO. In addition, records that relate to any active litigation or potential litigation involving OC LAFCO shall be preserved until the litigation is resolved. OC LAFCO personnel who become aware of a subpoena, claim, Public Records Act request, etc., that affects records under their control shall use their best efforts,

by any reasonable means available to them, to preserve those records. In such situations, OC LAFCO personnel shall contact the Commission Clerk regarding the affected records.

V. SPECIFIC GUIDELINES

A. Accounting Records

1. Accounting records include, but are not limited to, the following:

a. Source Documents

- Invoices.
- Warrants.
- Vouchers.
- Requisitions/Purchase Orders (attached to invoices).
- Cash Receipts.
- Claims (attached to warrants in place of invoices).
- Bank Statements.
- Bank Deposits.
- Checks.
- Bills.
- Various accounting authorizations taken from Commission minutes, resolutions or contracts.

b. Journals

- Cash Receipts.
- Accounts Receivable or Payable Register.
- Check or Warrant Register.
- General Journal.
- Payroll Journal.

c. Ledgers

- Expenditure.
- Revenue.
- Accounts Payable or Receivable Ledger.
- Assets/Depreciation.
- Warrants payable.
- Construction.
- General ledger.

d. Trial Balance

e. Adjusting Entries

- f. Statements (Interim or Certified – Individual or All Fund)
 - Balance Sheet.
 - Analysis of Changes in Available Fund Balance.
 - Cash Receipts and Disbursements.
 - Inventory of Fixed Assets (Purchasing).
 - g. Journal Entries
 - h. Reversing Entries
 - i. Payroll and personnel records include but are not limited to the following:
 - Accident reports, injury claims and settlements.
 - Applications, changes or terminations of employees.
 - Earnings records and summaries.
 - Fidelity bonds.
 - Garnishments.
 - Insurance records of employees.
 - Job descriptions.
 - Medical histories.
 - Retirements.
 - Timecards.
 - j. Other
 - Inventory Records (Purchasing).
 - Capital Asset Records (Purchasing).
 - Depreciation Schedule.
 - Cost Accounting Records.
2. General ledgers should be retained a minimum of four (4) years after completion of any annual audit (Code of Civ. Pro. §337). Published articles show retention periods of **four (4) to seven (7) years** as typical. However, the Secretary of State recommends that general ledgers be permanently retained. (Sec. of State Local Gov't Records Mgmt. Guidelines; Gov. Code §34090.)
 3. In general, the Commission should retain original source documents that are detailed in a register, journal, ledger or statement **until audited plus four (4) years**. (Sec. of State Local Gov't Records Mgmt.) Certain source documents may be retained for a shorter period of time. Refer to the records retention schedule for specific accounting documents.
 4. At any time, the Commission may destroy rough drafts, notes, working papers

(except for audits) that are not retained by the Commission in the ordinary course of business, including temporary or transitory documents used only for controlling the flow of work (e.g., “Post-It®” notes).

5. In addition to any required legal retention period, the Commission shall not authorize the destruction of any record subject to audit until it has been determined that the audit has been performed. (Government Code §14755, subd. (b); Government Code §subd. (d)(10))

B. Long-Term Debt Records

1. The Commission may destroy paid bonds, warrant certificates and interest coupons after **ten (10) years**. (Code of Civil Proc. §337.5.)
2. The Commission may not destroy any documents relating to any non-discharged debt. (Government Code §60201, subd. (d)(7).)

C. Commission Records

1. The Commission shall retain original records of the minutes of meetings of the Commission **indefinitely**. (Government Code §34090 and §60201)
2. The Commission shall retain original ordinances and resolutions **indefinitely**. (Government Code §34090 and §60201.) However, ordinances or resolutions that have been repealed or are otherwise invalid or unenforceable may be destroyed after five (5) years. (Government Code §60201, subd. (2)(2).)

D. Statements of Economic Interest (SEI) [Form 700] and Other Reports Filed Pursuant to the Political Reform Act (Government Code §81000 et seq.)

1. Filing officers shall retain original statements and reports for **seven (7) years**. (Government Code §81009 (c), (e).) After an original report or statement has been on file for at least two (2) years, the filing officer may retain an electronically imaged copy available for public inspection instead of the original report or statement. (Government Code §81009, subd. (g).)
2. Filing officers shall retain copies of statements or reports for **four (4) years**. The officer does not have to keep more than one copy of a statement or report. (Government Code §81009 (f).) After a copy of a report or statement has been on file for at least two (2) years, the filing officer may retain an electronically imaged copy available for public inspection instead of the paper copy. (Government Code §81009, subd. (g).)

E. Contracts

1. The Commission shall retain original contracts for **four (4) years** after completion of the contracts. (Code of Civ. Proc. §337.)
2. The Commission shall retain contracts with any person or entity that develops real property or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or improvement to real property for **ten (10) years** after the completion of the construction or improvement. (Code of Civ. Proc. §337.15.)

F. Property Records

The Commission shall retain original property records, such as title documents, **indefinitely**, or until the property is transferred or otherwise no longer owned by the Commission. (Government Code §34090 and §60201.)

G. Payroll and Personnel Records

1. Payroll and personnel records include, but are not limited to, the following:
 - a. Accident reports, injury claims and settlements.
 - b. Medical histories.
 - c. Injury frequency charts.
 - d. Applications, changes and terminations of employees.
 - e. Timecards.
 - f. Job descriptions.
 - g. Performance or rating documents.
 - h. Earning records and summaries.

Records specifying amounts of compensation or expense reimbursement paid to Commission employees, officers, or independent contractors must be retained for seven (7) years after date of payment. (Government Code §60201)

2. The Commission shall retain personnel files for **three (3) years** after an individual's employment terminates. (Labor Code §1198.5; 29 CFR 1627.3.)
3. The Commission shall retain medical records of employees who have been exposed to toxic substances or harmful physical agents for **thirty (30) years beyond the length of employment**. Such medical records shall include records made or maintained by a physician, nurse, or other healthcare personnel or technician pertaining to employees exposed to toxic substances or harmful physical agents. Such medical records do NOT include first aid records for one-time treatment made on-site by a non-physician or observation of minor

scratches, cuts, burns, splinters, etc., which do not involve medical treatments, loss of consciousness, restriction of work or motion, or transfer to another job. (29 CFR 1910.1020; 8 Cal. Code Regs. §3204 (d)(1)(A)(B).)

For employees who are employed by the Commission for **less than one year**, the Commission does not need to retain the employee's medical records regarding exposure to hazardous substances if the Commission provides the employee with such records upon termination of employment. (Ibid.)

Routine medical records including first aid records for one-time treatment, observation of minor injuries, records relating to medical leave taken by employees with information including hours taken, notices, and policies, burns, splinters, etc., should be kept for the **length of employment plus three (3) years**. (29 CFR 825.500.)

4. The Commission may destroy personnel fidelity bonds **two (2) years** after ~~termination~~separation. (Government Code §34090.) Wage garnishments must be retained while active until garnishment is satisfied, then retained until audited plus **four (4) years** after ~~termination~~separation. (Ibid.)
5. The Commission shall retain payroll records containing the name, address, date of birth, gender, job classification, hours worked, and regular and overtime wages for each employee for **three (3) years** beyond the length of employment and **seven (7) years from date of payment** (29 CFR Part 516.5; Labor Code §1174 and §1197.5; Government Code §60201.) Payroll registers listing labor costs by employee and program should be retained for a minimum of **seven (7) years from date of payment**. Permanent retention of payroll registers is recommended in the Secretary of State Local Government Records Management Guidelines.
6. The Commission shall retain basic timecards or timesheets which are entered daily with the starting and stopping times of individual employees for a minimum of **three (3) years**. The Secretary of State Local Government Records Management Guidelines recommends retaining such documents for **six (6) years**. (29 CFR Part 516.6; Labor Code §1174; Sec. of State Local Gov't Records Mgmt. Guidelines.
7. The Commission shall retain employment applications and employment referral records and files for **two (2) years** after such records or files are created. (Government Code §12946; 29 CFR 1627.3.)
8. The Commission shall retain records regarding the race, gender, and national origin of each applicant and for the job for which such applicant applied for

two (2) years from the date of the creation of the record or the date of the personnel action involved, whichever occurs later. The Commission may either retain the original documents used to identify applicants or keep statistical summaries of the collected information. (2 CCR §7287.0, subds. (b)(2), (c).)

H. Construction and Engineering Records

1. The Commission shall retain certain original construction records, such as bids, correspondence, and change orders, for **four (4) years** after project completion, unless the records pertain to a project which includes a guarantee or grant in which event they shall be retained for the **life of the guarantee or grant plus four (4) years**. The Commission shall retain as-built plans for any public facility or works as long as the facility exists.
2. The Commission may destroy unaccepted bids or proposals for public works after **two (2) years**. (Government Code §26202.1 and §60201.)
3. The Commission shall retain supporting documents on capital improvement projects, including bidder's lists, specifications, reports, plans, work orders, schedules, etc., for **ten (10) years after project completion**. (Code of Civ. Proc. §337.15.)

I. Exposure/Safety Records and Material Safety Data Sheets (MSDS).

1. The Commission shall retain employee exposure records and exposure assessment records for at least **thirty (30) years**. Such records should reveal the identity of the toxic substance or harmful physical agent and where and when such substance or agent was used. (8 Cal. Code Regs. §3204; 29 C.F.R. 1910.1020.)
2. The Commission may destroy the material safety data sheet (MSDS) for a hazardous substance after the Commission stops using the hazardous substance provided it keeps a record of the substance (chemical name if known) and when and where it was used for **thirty (30) years**. (8 Cal. Code Regs. §3204(d)(1)(B)(2); 29 C.F.R. 1910.1020 (d) (ii) (B).)

J. Video Monitoring, Telephone and Radio Communications; Other Video and Audio Recordings

1. The Commission shall retain recordings of **routine video monitoring** (e.g., building security recording systems) for at least **one (1) year**. After the one-year retention period, the Commission may destroy the video recording upon approval by the Commission. (Government Code §34090.6 and §53160.)

2. Upon authorization of the Commission, recordings of telephone and radio communications maintained by the Commission may be destroyed after **100 days**. (Government Code §34090.6.)
 3. Video or audio recordings of Commission meetings made at the direction of the Commission, for whatever purposes, must be retained at **least 30 days after the meeting**. (Government Code §54953.5.)
 4. If the Commission keeps another record, such as written minutes, of an event (other than Commission meetings) that is recorded on video or digitally recorded, the Commission must keep the video recording of the event for **at least 90 days** after the occurrence of the event. **After 90 days**, the video recording may be destroyed or erased, upon approval by the Commission. (Government Code §34090.7 and §53161; 85 Ops. Cal. Atty. Gen. 256 (2002).)
- K. Records Retention Schedule

The “Records Retention Schedule” is attached to this policy as Attachment “B” and is incorporated herein by reference. This policy and the Records Retention Schedule comply with the records retention guidelines provided by the California Secretary of State and may be updated from time to time.

Originally Adopted: 2/8/2006

Last Reviewed: ~~3/8/2023~~ 3/13/2024

Last Revised: ~~2/10/2021~~ 3/13/2024

ATTACHMENT "A"

REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

ATTACHMENT "B"

RECORDS RETENTION SCHEDULE

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
Accident/Illness Reports (OSHA Reports)	Not a public disclosable record: For Employee Medical Records & Employee Exposure Records regarding exposure to toxic substances or harmful physical agents: <ul style="list-style-type: none"> • Includes Material Safety Data Sheets (MSDS). • Does not include records of health insurance claims maintained separate from employer's records; first aid records of one-time treatments for minor injuries; records of employees who worked less than one (1) year if records are given to employee upon termination. 	GC 6254(c) 8CCR 32304(d)(1)(A)(B)	Duration of employment plus 30 years.
Accidents/Damage to OC LAFCO Property	Risk Management Administration.	GC 340901 CCP 337.15	10 years
Accounting Records – General Ledger	General Ledger.	GC 34090 CCP 337 Sec. of State Local Gov't Records Mgmt. Guidelines	Until audited +4 years. Published articles show 4 - 7 years retention as typical. Sec. of State Guidelines recommends permanent retention.
Accounting Records – Permanent Books of accidents	Records showing items of gross income, receipts and disbursement (including inventories per IRS regulations).	26 CFR 1.60001-1(c) & (e)	Permanent
Accounts Payable	Journals, statements, asset inventories, account postings with supporting documents, vouchers, investments, invoices and	CCP 337 26 CFR 31.6001-1(e) (2). Sec. of State Local Gov't. Records	Until audited +4 years. 7 years after date of payment.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	back-up documents, purchase orders, petty cash, postage, OCERS reports, check requests, etc. Expense reimbursement to employees & officers; travel expense reimbursements or travel compensation.	Mgmt. Guidelines recommendation	
Accounts Receivable	Receipts for deposited checks, coins, currency; reports, investments, receipt books, receipts, cash register tapes, payments for fees, permits, etc.	26 CFR 31.6001 – 1(e)(2); Sec. of State Local Gov't. Records Mgmt. Guidelines recommendation	Until audited +4 years.
Affidavits of Publication/Posting	Legal notices for public hearings, publication of ordinances, etc.	GC 34090	2 years.
Agency Report of Consultants (FPPC Form 805)	Identifies consultants hired by OC LAFCO who must file Form 700.	2 CCR 18734. GC 81009(e)	7 years.
Agency Report – Events and Ticket/Pass Distribution (FPPC Form 802)	Report of tickets/passes; identifies persons who received ticket/passes and describes the public purpose for the distribution.	GC 81009(e)	Originals – 7 years.
Agency Report of Public Official Appointments (FPPC Form 806)	Report of additional compensation received by OC LAFCO officials when appointing themselves to committees, boards or commission of other public agencies, special districts, joint powers agencies or joint power authorities. Current report must be posted on OC LAFCO's website.	2 CCR 18705.5; GC 34090.5	Recommended retention; keep a copy of report for 2 years after removal from OC LAFCO's website.
Agenda/Agenda Packets	Original agendas, agenda packets, staff reports, and related attachments, supplemental items and documentation submitted by staff/public in relation to	GC 34090 GC 34090.5	Current +2 years. Agency practice is to retain paper copies indefinitely for historical purposes.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	<p>agenda items.</p> <p>Paper copies of agenda packets should be maintained for 1 year as complete packets. Originals will later be imaged for permanent records retention; the imaged record may serve as the permanent record.</p>		
Agreements (see also Contracts)	Original contracts and agreements and back-up materials, including leases, service/maintenance agreements, etc.	CCP 337 CCP 337.2 CCP 343	4 years after termination/completion.
Annexations/ Reorganizations	Notices, Resolutions, Certificates of Completion; documents may be imaged, but the originals can never be destroyed.	GC 34090 GC 60201 (d)(1)	Permanent.
Annual Financial Report	May include independent auditor analysis.	GC 26201, 34090 Sec. of State Local Gov't. Records Mgmt. Guidelines GC 34090 GC 60201	Permanent.
Articles of Incorporation		Guidelines GC 34090 (a)	Permanent.
Audit Reports	Financial services; internal and/or external reports.	GC 34090; CCP 337; CCP 343 Sec. of State Local Gov't. Records Retention Guidelines	<p>Minimum retention – Current +4 years.</p> <p>Sec. of State Guidelines recommends permanent retention [May be revised at a later time by Sec. of State or County officials].</p>
Audit Hearing or Review	Documentation created and/or received in connection with an audit hearing or review.	GC 26202, 34090	2 years.
Ballots – Special	Copies of ballots from	GC 26202, 34090,	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
District elections	elections of Special Districts (OC LAFCO members).	60201	
Bank Account Reconciliations	Bank statements, receipts, certificates of deposit, etc.	26 CFR 31,6001-1(e)(2)	Until audited + 4 years. Sec. of State recommends until audited + 5 years.
Behested Payment Report (FPPC Form 803)	FPPC form used by elected officials to disclose payments made at their behest (\$5,000 or more from same source) for legislative, governmental, or charitable purposes.	GC 81009, 82015(b)(23)(B)(iii)	7 years.
Brochures/ Publications	Retain selected documents only for historic value.	GC 26202, 34090	2 years.
Budget, Annual	Annual operating budget approved by OC LAFCO.	GC 26202, 34090; Sec. of State Local Gov't. Records Mgmt. Guidelines	Until audited + 2 years. Sec. of State recommends permanent retention.
Cal-OSHA	Personnel logs, supplementary records; annual summary (Federal and State-Cal-OSHA)	LC 6410; 8 CCR 14307	5 years.
Checks (issued by OC LAFCO)	OC LAFCO checks paid – expense reimbursements, payments to independent contractors, etc. Includes check copies; canceled and voided checks; electronic versions of checks. OC LAFCO check paid to vendors; other OC LAFCO payments – includes check copies; canceled or voided checks; electronic versions of checks.	GC 60201(d)(12) CCP 337 Sec. of State Local Gov't. Records Mgmt. Guidelines; CCP 337; 26 CFR 31.6001-1(e)(2)	7 years. Until audited +4 years.
Citizen Feedback	General correspondence.	GC 26202, 34090	2 years.
Claims Against OC LAFCO	Paid/Denied.	GC 60201(d)(4); GC 25105.5	Until settled +5 years.
Complaints/Requests	Various files, not related to specific lawsuits involving	GC 26202, 34090	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	the agency and not otherwise specifically covered by the retention schedule.		
Contracts	Original contracts and agreements and back-up materials, including leases, service/maintenance contracts, etc.	CCP 337, 337.2, 343	4 years after termination/ completion.
Correspondence	General correspondence, including letters and e-mail; various files, not otherwise specifically covered by the retention schedule.	GC 26020M 26202 34090	2 years.
Deferred Compensation Reports	Finance – pension/retirement funds.	29 CFR 516.5 29 CFR 1627.3	3 years.
Demographic/Statistical Data		GC 26202, 34090	Current +2 years.
Deposits, Receipts	Receipts for deposited checks, coins, currency.	CCP 337; 26 CFR 31.6001-1(e)(2); Sec. of State Local Gov't. Records Mgmt. Guidelines	Until audited +4 years.
DMV Driver's Records, Reports (DMV Pull Notice System)	Part of personnel records – not a public record.	GC 34090 GC 6254(c) Sec. of State Local Gov't. Records Mgmt. Guidelines	Until superseded (should receive new report every 12 months).
Employee Files	Personnel – information may include release authorizations, certifications reassignments, outside employment, commendations, disciplinary actions, terminations, oaths of office, evaluations, pre-employee medicals, fingerprints, identification cards.	GC 12946 29 CFR 1627.3	While current +3 years.
Employee Information Applicant Identification Records	Personnel – data recording race, sex, national origin of applicants.	2 CCR 7287(b) (c)(2)	2 years.
Employee Information,	Name, address, date of	GC 12946	3 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
General	birth, occupation.	29 CFR 1627.3 LC 1174	
Employee Information, Payment	Rate of pay and weekly compensation earned.	GC 60201	7 years.
Employee Programs	Includes EAP and Recognition.	GC 26202, 34090 GC 12946	Current +2 years.
Employee Recruitment	Alternate lists/logs, examination materials, examination answer sheets, job bulletins.	GC 12946 GC 26202, 34090 29 CFR 1602 et. Seq. 29 CFR 1627.3	Current +2 years.
Employee Reports	Employee statistics, benefit activity, liability loss.	GC 26202, 34090	Current +2 years.
Employee Rights – General		GC 12946 29 CFR 1602.31	Length of employment + 2 years.
Employment Applications – Not Hired	Applications submitted for existing or anticipated job openings, including any records pertaining to failure or refusal to hire applicant.	GC 26202, 34090 GC 12946 29 CFR 1627.3	2 years.
Employment Eligibility Verification (I-9 Forms)	Federal Immigration and Nationality Act; Immigration Reform/Control Act 1986.	8 USC 1324a (b)(3) Pub. Law 99-603	3 years after date of hire, or 1 year after date of termination, whichever is later.
Employment – Surveys and Studies	Includes classification, wage rates.	GC 12946 GC 26202, 34090 29 CFR 516.6	2 years.
Employment – Training Records, Non-Safety	Volunteer program training – class training materials, internships.	GC 34090 GC 12946	Length of employment + 2 years.
Employment – Vehicle Mileage reimbursement Rates	Annual Mileage reimbursements rates.	GC 26202, 34090	Until superseded + 2 years.
Environmental Quality California Environmental Quality Act (CEQA)	Exemptions, Environmental Impact Reports, mitigation monitoring, Negative Declarations, Notices of Completion and Determination, comments, Statements of Overriding Considerations.	GC 34090, 60201 CEQA Guidelines	Permanent.
Environmental Quality Environmental Review	Correspondence, consultants, issues,	GC 26202, 34090	Completion + 2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	conservation.		
ERISA Records	Employee Retirement Income Security Act of 1974 – plan reports, certified information filed, records of benefits due.	29 USC 1027, 2059 <i>La Barbera v. A. Morrison Trucking, Inc.</i> 2011 US Dist. LEXIS 16343 (E.D.N.Y. Feb 17, 2011)	6 years.
Family and Medical Leave Act (FMLA) (Federal)	Records of leave taken, OC LAFCO policies relating to leave, notices communications relating to taking leave.	29 CFR 825.500 GC 12946	While employed + 3 years (Federal) or 2 years (State).
Fixed Assets Inventory	Reflects purchase date, cost, account number.	GC 26202, 34090	Until audited + 2 years.
Fixed Assets Surplus Property	Auction, disposal, listing of property.	GC 26202, 34090 CCP 337	Until audited + 4 years.
Forms	Administrative – blank.		Until superseded.
Funds Transfers	Internal; bank transfers & wires.	GC 26202, 34090	Until audited + 2 years.
General Ledgers	All annual financial summaries.	GC 34090 CCP 337 Sec. of State Local Gov't. Records Retention Guidelines	Until audited + 4 years. Sec. of State Guidelines recommends permanent retention [May be revised at a later time by Sec. of State or County officials].
Gift to Agency Report (FPPC Form 801)	FPPC form showing payment or donation made to OC LAFCO or to an OC LAFCO official and which can be accepted as being made to OC LAFCO.	FPPC Reg. 18944(c)(3)(F)(G); FPPC Fact Sheet: "Gifts to an Agency – Part 2" GC 81009(e)	Must be posted on agency website for 4 years (per FPPC Fact Sheet). <u>Originals must be retained 7 years.</u>
Gifts/Bequests	Receipts or other documentation.	GC 34090	Until completed + 2 years.
Grants – Successful Federal, State, or other grants	Grant documents and all supporting documents: applications, reports, contracts, project files, proposals, statements, sub-	GC 34090 24 CFR 570.502 24 CFR 85.42	Until completed + 4 years. Must see each individual grant for

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	recipient dockets, environmental review, grant documents, inventory, consolidated plan, etc.		retention requirements.
Grants – Unsuccessful	Applications not entitled.	GC 26202, 34090	2 years.
Insurance	Personnel related.	GC 26202, 34090	Current + 2 years.
Insurance, Joint Powers Agreement	Accreditation, MOU, agreements and agenda.	GC 26202, 34090	Current + 2 years.
Insurance Certificates	Liability, performance bonds, employee bonds, property; insurance certificates filed separately from contracts, includes insurance filed by licensees.	GC 26202, 34090	Current + 2 years.
Insurance, Liability/Property	May include liability, property, Certificates of Participation, deferred, use of facilities.	GC 26202, 34090	Current + 2 years.
Insurance Risk Management Reports	Federal and State OSHA forms; loss analysis report; safety reports; actuarial studies.	29 CFR 1904.44 GC 26202, 34090	5 years (Federal). 2 years (State).
Investment Reports Transactions	Summary of transactions, inventory and earnings report.	GC 34090, 60201 CCP 337 Sec. of State Local Gov't. Records Retention Guidelines	Until audited + 4 years. Sec. of State Guidelines recommends permanent retention.
Invoices	Copies sent for fees owed, billing, related documents.	GC 26202, 34090	Until audited + 2 years.
Legal Notices/Affidavits of Publication	Notices of public hearings, proof of publication of notices.	GC 26202, 34090	2 years.
Legal Opinions	Confidential – not for public disclosure (attorney-client privilege).	GC 26202, 34090	Until superseded + 2 years.
Litigation	Case files.	GC 26202, 34090	Until settled + 2 years.
Lobbying or Lobbyist Forms (FFPC forms)	FFPC Form 602 – Lobbying Firm Activity Authorization; FFPC Form 635 – Report of Lobbyist Employer & Report of Lobbying Coalition – forms	FFPC Reg. 18615(df)	5 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	used when employing or contracting with a lobbying firm.		
Maintenance Manuals	Equipment service/maintenance.	GC 26202, 34090	Current + 2 years.
Maintenance/Repair Records	Equipment.	GC 26202, 34090	2 years.
Marketing, Promotional	Brochures, announcements, etc.	GC 26202, 34090	2 years.
Minutes	Meeting minutes: paper records are to be maintained permanently by the agency.	GC 34090, 60201(d)(3)	Permanent. Originals cannot be destroyed.
Newsletters	May wish to retain permanently for historic reference.	GC 26202, 34090	2 years.
Notices – Public Meetings	Special meetings.	GC 26202, 34090	2 years.
Oaths of Office	Elected and public officials – commissioners.	GC 26202, 34090 29 USC 1113 Sec. of State Guidelines	Current + 6 years.
OCERS – Employee Benefits	Retirement Plan.	29 USC 1027	6 years.
OSHA	OSHA Log 200, Supplementary Record, Annual Summary (Federal & State-Cal-OSHA); OSHA 300 Log, privacy case list, annual summary, OSHA 301 incident report forms.	LC 6410; 8 CCR 14307 29 CFR 1904.2 – 1904.6M, 1904.33	5 years.
Payroll – Federal/State Reports	Annual W-2's, W-4's, Form 1099s, etc.; quarterly and year-end reports.	GC 60201	7 years.
Payroll Deduction/ Authorizations	Finance.	29 CFR 516.6(c) GC 60201	While current +7 years.
Payroll, registers	Finance – payroll, registers, payroll reports.	9 CFR 516.5(a) LC 1174(d) GC 60201	7 years from date of entry.
Payroll records terminated employees	Finance files.	29 CRF 516.5 GC 60201	7 years from date of last entry.
Payroll, timecards/sheets	Employee.	29 CFR 516.6 LC 1174	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
		Sec. of State Local Gov't. Records Mgmt. Guidelines	Sec. of State recommendation: Until audited +6 years.
Payroll – Wage Rates/ Job Classifications	Employee records.	GC 60201	While current +7 years.
Personnel Records	Other records (not payroll) containing name, address, date of birth, occupation, etc., including records relating to promotion, demotion, transfer, lay-off, termination.	29 CFR 1627.3	3 years.
Personnel Rules and Regulations	Including employee handbook, employee manuals, and other policies/procedures.	CFR 516.6, 1627.3(a)	Current + 3 years.
Petitions	Submitted to legislative bodies. <u>(Does not include Initiative Petitions)</u>	GC 26202, 34090	Current + 2 years.
Policies & Procedures	All policies and procedures adopted by the Commission; directives rendered by the agency did not assign a resolution number, Commission Bylaws.	GC 26202, 34090	Current + 2 years.
Political Support/ Opposition, Requests & Responses	Related to legislation.	GC 26202, 34090	2 years.
Press Releases	Related to OC LAFCO actions/activities.	GC 26202, 34090	2 years.
Procedure Manuals	Administrative.	GC 26202, 34090	Current + 2 years.
Public Records Request	Request from the public to inspect or copy public documents.	GC 26202, 34090, 60201(d)(5)	2 years.
Purchasing FRQs, RFPs	Requests for Qualifications; Requests for Proposals – regarding goods and services.	GC 26020, 34090	Current + 2 years.
Purchasing, Requisitions, Purchase Orders	Original documents.	GC 24090 CCP 337	Until audited +4 years.
Records – audio (e.g., for preparation of	Audio recordings of Commission “made for	GC 54953.5	Minimum 30 days.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
meeting minutes)	whatever purpose by or at the direction of the local agency.”		
Recordings, video – meetings of legislative bodies	Video recordings of public meetings made by or at the direction of the Commission.	GC 54953.5	Minimum 30 days.
Recordings, video, other events	Other than video recordings of public meetings; considered duplicate records if another record of the same event is kept (i.e., written minutes or audio recording).	GC 53161	Minimum 90 days after event is recorded; if no other record of the event exists the recording must be kept 2 years.
<u>Recordings of routine video monitoring (e.g., building security recording systems)</u>	<u>General recordings of building and facility security systems</u>	<u>GC 34090.6, 53160</u>	<u>1 Year</u>
Records Management Disposition/ Destruction Certification	Documentation of final disposition/destruction of records.	GC 34090, 60201	Permanent.
Records Retention Schedules		GC 26202, 34090	Current + 2 years.
Recruitments and Selection	Records relating to hiring, promotion, selection for training.	29 CFR 1627.3	3 years.
Requests for Qualifications (RFQs); Request for Proposals (RFPs)	Request for Qualifications, Request for Proposals, and related responses.	GC 26202 – 2 Years CCP 337 – 4 Years	Current + 4 years.
Resolutions	Vital records – may be imaged, but originals can never be destroyed.	GC 34090, 60201	Permanent.
Return Checks	Finance – Adjustments – NSF, etc. (not OC LAFCO checks).	GC 26202, 34090 CCP 337	Until audited + 4 years.
Salary/Compensation Studies, Surveys	Studies or surveys of other agencies regarding wages, salaries and other compensation benefits.	GC 26202, 34090	While current + 2 years.
Social Media	Posts, comments, subscriber/follower lists, etc.	GC 26202, 34090	While current + 2 years.

~~State Controller~~~~Annual Reports.~~~~GC 12465~~~~3 years.~~

Statement of Economic Interest (SEI) (FPPC Form 700) (originals—	Original SEIs of officers and employees designated in OC LAFCO’s Conflict of Interest Code.	GC 81009(e), (g)	7 years (can image after 2 years).
---	---	------------------	------------------------------------

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
designated employees			
Statement of Economic Interest (SEI) (FPPC Form 700) (originals –designated employees Stop payments	<u>Original SEIs of officers and employees designated in OC LAFCO’s Conflict of Interest Code.</u> Finance – bank statements.	<u>GC 81009(e), (g)</u> GC-26202, 34090	<u>7 years (can image after 2 years).</u> 2 years.
Unemployment Insurance Records	Records relating to unemployment insurance – claims, payments, correspondence, etc.	USC 3301 – 3311; Calif. Unemployment Insurance Code; CCP 343	4 years.
Vouchers – Payments	Account postings with supporting documents.	GC 26202, 34090 CCP 337	Until audited + 4 years.
Wage Garnishment	Wage or salary garnishment.	OCP 337	Active until garnishment is satisfied; then retain until audited + 4 years.
Warrant Register/Check Register	Record of checks issued; approved by the Commission (copy is normally retained as part of agenda packet information).	GC 26202, 34090	Until audited + 2 years.
Workers Compensation Files	Work-injury claims (including denied claims); claim files, reports, etc.	8 CCR 10102 C CCR 15400.2	Until settled + 5 years.

Orange County Local Agency Formation Commission Records Retention and Destruction Policy

I. PURPOSE

The purpose of this policy is to provide guidelines to staff regarding the retention of records of the Local Agency Formation Commission of Orange County (OC LAFCO); provide for the identification, maintenance, and safeguarding of OC LAFCO records and the destruction of obsolete records in the normal course of business; ensure prompt and accurate retrieval of records; and, ensure compliance with legal and regulatory requirements.

II. POLICY

It is the policy of this Commission to retain OC LAFCO documents and other records in accordance with the retention schedule established in the attached table. The schedule follows the minimum retention periods mandated by the California Government Code, the California Code of Civil Procedure, the Code of Federal Regulations, the Secretary of State Local Government Records Management Guidelines, and other legal authorities cited.

III. PROCEDURE

- A. The Commission Clerk completes and signs a “Destruction of Obsolete Records” form, listing the date and description of each document to be destroyed. A sample form is attached to this policy as Attachment “A.”

The Commission Clerk confirms that each document is: (1) not required to be permanently retained, or (2) has been retained for the legally required period of time. The Commission Clerk also confirms that any applicable reproduction requirements (i.e., imaging, etc.) for each document are complete. The Commission Clerk also verifies that the documents are not relevant to a lawsuit, a claim, a subpoena, an investigation, a litigation hold, a Public Records Act (Government Code §7920 - 7931 *et seq.*) request, an audit or similar proceeding, which is in progress or which can reasonably be anticipated.

- B. The Commission Clerk oversees the destruction of the obsolete documents, indicates the method of destruction on the form, signs the form, and retains the original signed form.

- C. The Commission Clerk will retain all original signed forms requesting destruction of obsolete records for a minimum period of two (2) years.
- D. The Commission Clerk will permanently retain a master log of all destroyed obsolete documents which includes the titles or brief descriptions of the obsolete documents that were destroyed, the method of destruction and the date of destruction.

IV. GENERAL GUIDELINES

- A. The Commission Clerk shall be responsible for the administration of this policy and shall assist all OC LAFCO personnel to comply with the provisions of this policy and with the Records Retention Schedule, set forth in Attachment "B."
- B. The following general guidelines apply to all OC LAFCO records.
 - 1. The Commission may authorize the destruction of any duplicate records at any time. (Government Code §26201 and §60200.)
 - 2. Unless otherwise required by State or Federal law, the Commission may authorize the destruction of any original document which is more than two (2) years old without retaining a copy of the document as long the retention and destruction of the document complies with the retention schedule as set forth in this policy. (Government Code §26202 and §60201.)
 - 3. In addition to the retention periods required under this policy, the Commission shall retain original administrative, legal, fiscal and/or historical records with continued value (i.e., records for long-term transactions and/or special projects) until all matters pertaining to such records are completely resolved or the time for appeals has expired. (Government Code §34090 and §60201, subd. (d)(10).)
 - 4. Pursuant to Government Code §60201, the Commission shall not destroy any of the following records:
 - a. Records relating to the formation, change of organization or reorganization of the Commission.
 - b. Ordinances and resolutions unless they have been repealed or have become invalid or otherwise unenforceable for five (5) years.
 - c. Minutes of any meeting of the Commission.

- d. Records relating to any pending claim, litigation, any settlement or other disposition of litigation within the past two (2) years.
- e. Records that are the subject of any pending request for records under the California Public Records Act (Government Code §7920-7931 *et seq.*), whether or not the record is exempt from disclosure, until the request has been granted or two (2) years after the request has been denied by the Commission.
- f. Records relating to any pending construction that the Commission has not accepted or for which a stop notice claim may be legally presented.
- g. Records relating to any non-discharged debt of the Commission.
- h. Records relating to the title to real property in which the Commission has an interest.
- i. Records relating to any non-discharged contract to which the Commission is a party.
- j. Records that have not fulfilled the administrative, fiscal, or legal purpose for which they were created or received.
- k. Unaccepted bids or proposals, which are less than two (2) years old, for the construction or installation of any building, structure or other public work.
- l. Records less than seven (7) years old that specify the amount of compensation or expense reimbursement paid to Commission employees, officers, or independent contractors.

C. Exceptions to Scheduled Destruction

Destruction of any record shall be postponed if that record is responsive to a subpoena, litigation hold or other request for preservation, a Public Records Act (Government Code §7920-7931 *et seq.*) request, an audit, or a claim filed against OC LAFCO. In addition, records that relate to any active litigation or potential litigation involving OC LAFCO shall be preserved until the litigation is resolved. OC LAFCO personnel who become aware of a subpoena, claim, Public Records Act request, etc., that affects records under their control shall use their best efforts, by any reasonable means available to them, to preserve those records. In such situations, OC LAFCO personnel shall contact the Commission Clerk regarding the affected records.

V. SPECIFIC GUIDELINES**A. Accounting Records**

1. Accounting records include, but are not limited to, the following:

a. Source Documents

- Invoices.
- Warrants.
- Vouchers.
- Requisitions/Purchase Orders (attached to invoices).
- Cash Receipts.
- Claims (attached to warrants in place of invoices).
- Bank Statements.
- Bank Deposits.
- Checks.
- Bills.
- Various accounting authorizations taken from Commission minutes, resolutions or contracts.

b. Journals

- Cash Receipts.
- Accounts Receivable or Payable Register.
- Check or Warrant Register.
- General Journal.
- Payroll Journal.

c. Ledgers

- Expenditure.
- Revenue.
- Accounts Payable or Receivable Ledger.
- Assets/Depreciation.
- Warrants payable.
- Construction.
- General ledger.

d. Trial Balance

e. Adjusting Entries

f. Statements (Interim or Certified – Individual or All Fund)

- Balance Sheet.
- Analysis of Changes in Available Fund Balance.

- Cash Receipts and Disbursements.
 - Inventory of Fixed Assets (Purchasing).
- g. Journal Entries
- h. Reversing Entries
- i. Payroll and personnel records include but are not limited to the following:
- Accident reports, injury claims and settlements.
 - Applications, changes or terminations of employees.
 - Earnings records and summaries.
 - Fidelity bonds.
 - Garnishments.
 - Insurance records of employees.
 - Job descriptions.
 - Medical histories.
 - Retirements.
 - Timecards.
- j. Other
- Inventory Records (Purchasing).
 - Capital Asset Records (Purchasing).
 - Depreciation Schedule.
 - Cost Accounting Records.
2. General ledgers should be retained a minimum of four (4) years after completion of any annual audit (Code of Civ. Pro. §337). Published articles show retention periods of **four (4) to seven (7) years** as typical. However, the Secretary of State recommends that general ledgers be permanently retained. (Sec. of State Local Gov't Records Mgmt. Guidelines; Gov. Code §34090.)
3. In general, the Commission should retain original source documents that are detailed in a register, journal, ledger or statement **until audited plus four (4) years**. (Sec. of State Local Gov't Records Mgmt.) Certain source documents may be retained for a shorter period of time. Refer to the records retention schedule for specific accounting documents.
4. At any time, the Commission may destroy rough drafts, notes, working papers (except for audits) that are not retained by the Commission in the ordinary course of business, including temporary or transitory documents used only for controlling the flow of work (e.g., "Post-It®" notes).

5. In addition to any required legal retention period, the Commission shall not authorize the destruction of any record subject to audit until it has been determined that the audit has been performed. (Government Code §14755, subd. (b); Government Code §subd. (d)(10))
- B. Long-Term Debt Records
1. The Commission may destroy paid bonds, warrant certificates and interest coupons after **ten (10) years**. (Code of Civil Proc. §337.5.)
 2. The Commission may not destroy any documents relating to any non-discharged debt. (Government Code §60201, subd. (d)(7).)
- C. Commission Records
1. The Commission shall retain original records of the minutes of meetings of the Commission **indefinitely**. (Government Code §34090 and §60201)
 2. The Commission shall retain original ordinances and resolutions **indefinitely**. (Government Code §34090 and §60201.) However, ordinances or resolutions that have been repealed or are otherwise invalid or unenforceable may be destroyed after five (5) years. (Government Code §60201, subd. (2)(2).)
- D. Statements of Economic Interest (SEI) [Form 700] and Other Reports Filed Pursuant to the Political Reform Act (Government Code §81000 *et seq.*)
1. Filing officers shall retain original statements and reports for **seven (7) years**. (Government Code §81009 (c), (e).) After an original report or statement has been on file for at least two (2) years, the filing officer may retain an electronically imaged copy available for public inspection instead of the original report or statement. (Government Code §81009, subd. (g).)
 2. Filing officers shall retain copies of statements or reports for **four (4) years**. The officer does not have to keep more than one copy of a statement or report. (Government Code §81009 (f).) After a copy of a report or statement has been on file for at least two (2) years, the filing officer may retain an electronically imaged copy available for public inspection instead of the paper copy. (Government Code §81009, subd. (g).)
- E. Contracts
1. The Commission shall retain original contracts for **four (4) years** after completion of the contracts. (Code of Civ. Proc. §337.)

2. The Commission shall retain contracts with any person or entity that develops real property or furnishes the design, specifications, surveying, planning, supervision, testing, or observation of construction or improvement to real property for **ten (10) years** after the completion of the construction or improvement. (Code of Civ. Proc. §337.15.)

F. Property Records

The Commission shall retain original property records, such as title documents, **indefinitely**, or until the property is transferred or otherwise no longer owned by the Commission. (Government Code §34090 and §60201.)

G. Payroll and Personnel Records

1. Payroll and personnel records include, but are not limited to, the following:
 - a. Accident reports, injury claims and settlements.
 - b. Medical histories.
 - c. Injury frequency charts.
 - d. Applications, changes and terminations of employees.
 - e. Timecards.
 - f. Job descriptions.
 - g. Performance or rating documents.
 - h. Earning records and summaries.

Records specifying amounts of compensation or expense reimbursement paid to Commission employees, officers, or independent contractors must be retained for seven (7) years after date of payment. (Government Code §60201)

2. The Commission shall retain personnel files for **three (3) years** after an individual's employment terminates. (Labor Code §1198.5; 29 CFR 1627.3.)
3. The Commission shall retain medical records of employees who have been exposed to toxic substances or harmful physical agents for **thirty (30) years beyond the length of employment**. Such medical records shall include records made or maintained by a physician, nurse, or other healthcare personnel or technician pertaining to employees exposed to toxic substances or harmful physical agents. Such medical records do NOT include first aid records for one-time treatment made on-site by a non-physician or observation of minor scratches, cuts, burns, splinters, etc., which do not involve medical treatments, loss of consciousness, restriction of work or motion, or transfer to another job. (29 CFR 1910.1020; 8 Cal. Code Regs. §3204 (d)(1)(A)(B).)

For employees who are employed by the Commission for **less than one year**, the Commission does not need to retain the employee's medical records regarding exposure to hazardous substances if the Commission provides the employee with such records upon termination of employment. (Ibid.)

Routine medical records including first aid records for one-time treatment, observation of minor injuries, records relating to medical leave taken by employees with information including hours taken, notices, and policies, burns, splinters, etc., should be kept for the **length of employment plus three (3) years**. (29 CFR 825.500.)

4. The Commission may destroy personnel fidelity bonds **two (2) years** after separation. (Government Code §34090.) Wage garnishments must be retained while active until garnishment is satisfied, then retained until audited plus **four (4) years** after separation. (Ibid.)
5. The Commission shall retain payroll records containing the name, address, date of birth, gender, job classification, hours worked, and regular and overtime wages for each employee for **three (3) years** beyond the length of employment and **seven (7) years from date of payment** (29 CFR Part 516.5; Labor Code §1174 and §1197.5; Government Code §60201.) Payroll registers listing labor costs by employee and program should be retained for a minimum of **seven (7) years from date of payment**. Permanent retention of payroll registers is recommended in the Secretary of State Local Government Records Management Guidelines.
6. The Commission shall retain basic timecards or timesheets which are entered daily with the starting and stopping times of individual employees for a minimum of **three (3) years**. The Secretary of State Local Government Records Management Guidelines recommends retaining such documents for **six (6) years**. (29 CFR Part 516.6; Labor Code §1174; Sec. of State Local Gov't Records Mgmt. Guidelines.
7. The Commission shall retain employment applications and employment referral records and files for **two (2) years** after such records or files are created. (Government Code §12946; 29 CFR 1627.3.)
8. The Commission shall retain records regarding the race, gender, and national origin of each applicant and for the job for which such applicant applied for **two (2) years** from the date of the creation of the record or the date of the personnel action involved, whichever occurs later. The Commission may either retain the original documents used to identify applicants or keep statistical summaries of the collected information. (2 CCR §7287.0, subds. (b)(2), (c).)

H. Construction and Engineering Records

1. The Commission shall retain certain original construction records, such as bids, correspondence, and change orders, for **four (4) years** after project completion, unless the records pertain to a project which includes a guarantee or grant in which event they shall be retained for the **life of the guarantee or grant plus four (4) years**. The Commission shall retain as-built plans for any public facility or works as long as the facility exists.
2. The Commission may destroy unaccepted bids or proposals for public works after **two (2) years**. (Government Code §26202.1 and §60201.)
3. The Commission shall retain supporting documents on capital improvement projects, including bidder's lists, specifications, reports, plans, work orders, schedules, etc., for **ten (10) years after project completion**. (Code of Civ. Proc. §337.15.)

I. Exposure/Safety Records and Material Safety Data Sheets (MSDS).

1. The Commission shall retain employee exposure records and exposure assessment records for at least **thirty (30) years**. Such records should reveal the identity of the toxic substance or harmful physical agent and where and when such substance or agent was used. (8 Cal. Code Regs. §3204; 29 C.F.R. 1910.1020.)
2. The Commission may destroy the material safety data sheet (MSDS) for a hazardous substance after the Commission stops using the hazardous substance provided it keeps a record of the substance (chemical name if known) and when and where it was used for **thirty (30) years**. (8 Cal. Code Regs. §3204(d)(1)(B)(2); 29 C.F.R. 1910.1020 (d) (ii) (B).)

J. Video Monitoring, Telephone and Radio Communications; Other Video and Audio Recordings

1. The Commission shall retain recordings of **routine video monitoring** (e.g., building security recording systems) for at least **one (1) year**. After the one-year retention period, the Commission may destroy the video recording upon approval by the Commission. (Government Code §34090.6 and §53160.)
2. Upon authorization of the Commission, recordings of telephone and radio communications maintained by the Commission may be destroyed after **100 days**. (Government Code §34090.6.)

3. Video or audio recordings of Commission meetings made at the direction of the Commission, for whatever purposes, must be retained at **least 30 days after the meeting**. (Government Code §54953.5.)
 4. If the Commission keeps another record, such as written minutes, of an event (other than Commission meetings) that is recorded on video or digitally recorded, the Commission must keep the video recording of the event for **at least 90 days** after the occurrence of the event. **After 90 days**, the video recording may be destroyed or erased, upon approval by the Commission. (Government Code §34090.7 and §53161; 85 Ops. Cal. Atty. Gen. 256 (2002).)
- K. Records Retention Schedule

The “Records Retention Schedule” is attached to this policy as Attachment “B” and is incorporated herein by reference. This policy and the Records Retention Schedule comply with the records retention guidelines provided by the California Secretary of State and may be updated from time to time.

Originally Adopted: 2/8/2006
Last Reviewed: 3/13/2024
Last Revised: 3/13/2024

ATTACHMENT "A"

REQUEST FOR DESTRUCTION OF OBSOLETE RECORDS

LOCAL AGENCY FORMATION COMMISSION OF ORANGE COUNTY

To: Records File
From: Commission Clerk
Subject: Destruction of Obsolete Records

The following obsolete records listed below were destroyed in accordance with OC LAFCO Records Retention and Destruction Policy.

Table with 2 columns: DATE OF RECORD, DESCRIPTION OF RECORD. The table contains several empty rows for data entry.

The obsolete records described above were destroyed under my supervision using the following method:

- Shredding
Other (specify method)

I certify that such destruction meets the requirements of the Records Retention and Destruction Policy of OC LAFCO and all applicable requirements of State and Federal law.

Commission Clerk

Date of Records Destruction

ATTACHMENT "B"

RECORDS RETENTION SCHEDULE

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
Accident/Illness Reports (OSHA Reports)	Not a public disclosable record: For Employee Medical Records & Employee Exposure Records regarding exposure to toxic substances or harmful physical agents: <ul style="list-style-type: none"> • Includes Material Safety Data Sheets (MSDS). • Does not include records of health insurance claims maintained separate from employer's records; first aid records of one-time treatments for minor injuries; records of employees who worked less than one (1) year if records are given to employee upon termination. 	GC 6254(c) 8CCR 32304(d)(1)(A)(B)	Duration of employment plus 30 years.
Accidents/Damage to OC LAFCO Property	Risk Management Administration.	GC 340901 CCP 337.15	10 years
Accounting Records – General Ledger	General Ledger.	GC 34090 CCP 337 Sec. of State Local Gov't Records Mgmt. Guidelines	Until audited +4 years. Published articles show 4 - 7 years retention as typical. Sec. of State Guidelines recommends permanent retention.
Accounting Records – Permanent Books of accidents	Records showing items of gross income, receipts and disbursement (including inventories per IRS regulations).	26 CFR 1.60001-1(c) & (e)	Permanent
Accounts Payable	Journals, statements, asset inventories, account postings with supporting documents, vouchers, investments, invoices and	CCP 337 26 CFR 31.6001-1(e) (2). Sec. of State Local Gov't. Records	Until audited +4 years. 7 years after date of payment.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	<p>back-up documents, purchase orders, petty cash, postage, OCERS reports, check requests, etc.</p> <p>Expense reimbursement to employees & officers; travel expense reimbursements or travel compensation.</p>	Mgmt. Guidelines recommendation	
Accounts Receivable	Receipts for deposited checks, coins, currency; reports, investments, receipt books, receipts, cash register tapes, payments for fees, permits, etc.	26 CFR 31.6001 – 1(e)(2); Sec. of State Local Gov't. Records Mgmt. Guidelines recommendation	Until audited +4 years.
Affidavits of Publication/Posting	Legal notices for public hearings, publication of ordinances, etc.	GC 34090	2 years.
Agency Report of Consultants (FPPC Form 805)	Identifies consultants hired by OC LAFCO who must file Form 700.	2 CCR 18734. GC 81009(e)	7 years.
Agency Report – Events and Ticket/Pass Distribution (FPPC Form 802)	Report of tickets/passes; identifies persons who received ticket/passes and describes the public purpose for the distribution.	GC 81009(e)	Originals – 7 years.
Agency Report of Public Official Appointments (FPPC Form 806)	Report of additional compensation received by OC LAFCO officials when appointing themselves to committees, boards or commission of other public agencies, special districts, joint powers agencies or joint power authorities. Current report must be posted on OC LAFCO's website.	2 CCR 18705.5; GC 34090.5	Recommended retention; keep a copy of report for 2 years after removal from OC LAFCO's website.
Agenda/Agenda Packets	Original agendas, agenda packets, staff reports, and related attachments, supplemental items and documentation submitted by staff/public in relation to	GC 34090 GC 34090.5	Current +2 years. Agency practice is to retain paper copies indefinitely for historical purposes.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	<p>agenda items.</p> <p>Paper copies of agenda packets should be maintained for 1 year as complete packets. Originals will later be imaged for permanent records retention; the imaged record may serve as the permanent record.</p>		
Agreements (see also Contracts)	Original contracts and agreements and back-up materials, including leases, service/maintenance agreements, etc.	CCP 337 CCP 337.2 CCP 343	4 years after termination/completion.
Annexations/ Reorganizations	Notices, Resolutions, Certificates of Completion; documents may be imaged, but the originals can never be destroyed.	GC 34090 GC 60201 (d)(1)	Permanent.
Annual Financial Report	May include independent auditor analysis.	GC 26201, 34090 Sec. of State Local Gov't. Records Mgmt. Guidelines GC 34090 GC 60201	Permanent.
Articles of Incorporation		Guidelines GC 34090 (a)	Permanent.
Audit Reports	Financial services; internal and/or external reports.	GC 34090; CCP 337; CCP 343 Sec. of State Local Gov't. Records Retention Guidelines	<p>Minimum retention – Current +4 years.</p> <p>Sec. of State Guidelines recommends permanent retention [May be revised at a later time by Sec. of State or County officials].</p>
Audit Hearing or Review	Documentation created and/or received in connection with an audit hearing or review.	GC 26202, 34090	2 years.
Ballots – Special	Copies of ballots from	GC 26202, 34090,	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
District elections	elections of Special Districts (OC LAFCO members).	60201	
Bank Account Reconciliations	Bank statements, receipts, certificates of deposit, etc.	26 CFR 31,6001-1(e)(2)	Until audited + 4 years. Sec. of State recommends until audited + 5 years.
Behested Payment Report (FPPC Form 803)	FPPC form used by elected officials to disclose payments made at their behest (\$5,000 or more from same source) for legislative, governmental, or charitable purposes.	GC 81009, 82015(b)(3)(B)	7 years.
Brochures/ Publications	Retain selected documents only for historic value.	GC 26202, 34090	2 years.
Budget, Annual	Annual operating budget approved by OC LAFCO.	GC 26202, 34090; Sec. of State Local Gov't. Records Mgmt. Guidelines	Until audited + 2 years. Sec. of State recommends permanent retention.
Cal-OSHA	Personnel logs, supplementary records; annual summary (Federal and State-Cal-OSHA)	LC 6410; 8 CCR 14307	5 years.
Checks (issued by OC LAFCO)	OC LAFCO checks paid – expense reimbursements, payments to independent contractors, etc. Includes check copies; canceled and voided checks; electronic versions of checks. OC LAFCO check paid to vendors; other OC LAFCO payments – includes check copies; canceled or voided checks; electronic versions of checks.	GC 60201(d)(12) CCP 337 Sec. of State Local Gov't. Records Mgmt. Guidelines; CCP 337; 26 CFR 31.6001-1(e)(2)	7 years. Until audited +4 years.
Citizen Feedback	General correspondence.	GC 26202, 34090	2 years.
Claims Against OC LAFCO	Paid/Denied.	GC 60201(d)(4); GC 25105.5	Until settled +5 years.
Complaints/Requests	Various files, not related to specific lawsuits involving	GC 26202, 34090	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	the agency and not otherwise specifically covered by the retention schedule.		
Contracts	Original contracts and agreements and back-up materials, including leases, service/maintenance contracts, etc.	CCP 337, 337.2, 343	4 years after termination/ completion.
Correspondence	General correspondence, including letters and e-mail; various files, not otherwise specifically covered by the retention schedule.	GC 26202 34090	2 years.
Deferred Compensation Reports	Finance – pension/retirement funds.	29 CFR 516.5 29 CFR 1627.3	3 years.
Demographic/Statistical Data		GC 26202, 34090	Current +2 years.
Deposits, Receipts	Receipts for deposited checks, coins, currency.	CCP 337; 26 CFR 31.6001-1(e)(2); Sec. of State Local Gov't. Records Mgmt. Guidelines	Until audited +4 years.
DMV Driver's Records, Reports (DMV Pull Notice System)	Part of personnel records – not a public record.	GC 34090 GC 6254(c) Sec. of State Local Gov't. Records Mgmt. Guidelines	Until superseded (should receive new report every 12 months).
Employee Files	Personnel – information may include release authorizations, certifications reassignments, outside employment, commendations, disciplinary actions, terminations, oaths of office, evaluations, pre-employee medicals, fingerprints, identification cards.	GC 12946 29 CFR 1627.3	While current +3 years.
Employee Information Applicant Identification Records	Personnel – data recording race, sex, national origin of applicants.	2 CCR 7287(b) (c)(2)	2 years.
Employee Information,	Name, address, date of	GC 12946	3 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
General	birth, occupation.	29 CFR 1627.3 LC 1174	
Employee Information, Payment	Rate of pay and weekly compensation earned.	GC 60201	7 years.
Employee Programs	Includes EAP and Recognition.	GC 26202, 34090 GC 12946	Current +2 years.
Employee Recruitment	Alternate lists/logs, examination materials, examination answer sheets, job bulletins.	GC 12946 GC 26202, 34090 29 CFR 1602 et. Seq. 29 CFR 1627.3	Current +2 years.
Employee Reports	Employee statistics, benefit activity, liability loss.	GC 26202, 34090	Current +2 years.
Employee Rights – General		GC 12946 29 CFR 1602.31	Length of employment + 2 years.
Employment Applications – Not Hired	Applications submitted for existing or anticipated job openings, including any records pertaining to failure or refusal to hire applicant.	GC 26202, 34090 GC 12946 29 CFR 1627.3	2 years.
Employment Eligibility Verification (I-9 Forms)	Federal Immigration and Nationality Act; Immigration Reform/Control Act 1986.	8 USC 1324a (b)(3) Pub. Law 99-603	3 years after date of hire, or 1 year after date of termination, whichever is later.
Employment – Surveys and Studies	Includes classification, wage rates.	GC 12946 GC 26202, 34090 29 CFR 516.6	2 years.
Employment – Training Records, Non-Safety	Volunteer program training – class training materials, internships.	GC 34090 GC 12946	Length of employment + 2 years.
Employment – Vehicle Mileage reimbursement Rates	Annual Mileage reimbursements rates.	GC 26202, 34090	Until superseded + 2 years.
Environmental Quality California Environmental Quality Act (CEQA)	Exemptions, Environmental Impact Reports, mitigation monitoring, Negative Declarations, Notices of Completion and Determination, comments, Statements of Overriding Considerations.	GC 34090, 60201 CEQA Guidelines	Permanent.
Environmental Quality Environmental Review	Correspondence, consultants, issues,	GC 26202, 34090	Completion + 2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	conservation.		
ERISA Records	Employee Retirement Income Security Act of 1974 – plan reports, certified information filed, records of benefits due.	29 USC 1027, 2059 <i>La Barbera v. A. Morrison Trucking, Inc.</i> 2011 US Dist. LEXIS 16343 (E.D.N.Y. Feb 17, 2011)	6 years.
Family and Medical Leave Act (FMLA) (Federal)	Records of leave taken, OC LAFCO policies relating to leave, notices communications relating to taking leave.	29 CFR 825.500 GC 12946	While employed + 3 years (Federal) or 2 years (State).
Fixed Assets Inventory	Reflects purchase date, cost, account number.	GC 26202, 34090	Until audited + 2 years.
Fixed Assets Surplus Property	Auction, disposal, listing of property.	GC 26202, 34090 CCP 337	Until audited + 4 years.
Forms	Administrative – blank.		Until superseded.
Funds Transfers	Internal; bank transfers & wires.	GC 26202, 34090	Until audited + 2 years.
General Ledgers	All annual financial summaries.	GC 34090 CCP 337 Sec. of State Local Gov't. Records Retention Guidelines	Until audited + 4 years. Sec. of State Guidelines recommends permanent retention [May be revised at a later time by Sec. of State or County officials].
Gift to Agency Report (FPPC Form 801)	FPPC form showing payment or donation made to OC LAFCO or to an OC LAFCO official and which can be accepted as being made to OC LAFCO.	FPPC Reg. 18944(c)(3)(F)(G); FPPC Fact Sheet: "Gifts to an Agency – Part 2" GC 81009(e)	Must be posted on agency website for 4 years (per FPPC Fact Sheet). Originals must be retained 7 years.
Gifts/Bequests	Receipts or other documentation.	GC 34090	Until completed + 2 years.
Grants – Successful Federal, State, or other grants	Grant documents and all supporting documents: applications, reports, contracts, project files, proposals, statements, sub-	GC 34090 24 CFR 570.502 24 CFR 85.42	Until completed + 4 years. Must see each individual grant for

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	recipient dockets, environmental review, grant documents, inventory, consolidated plan, etc.		retention requirements.
Grants – Unsuccessful	Applications not entitled.	GC 26202, 34090	2 years.
Insurance	Personnel related.	GC 26202, 34090	Current + 2 years.
Insurance, Joint Powers Agreement	Accreditation, MOU, agreements and agenda.	GC 26202, 34090	Current + 2 years.
Insurance Certificates	Liability, performance bonds, employee bonds, property; insurance certificates filed separately from contracts, includes insurance filed by licensees.	GC 26202, 34090	Current + 2 years.
Insurance, Liability/Property	May include liability, property, Certificates of Participation, deferred, use of facilities.	GC 26202, 34090	Current + 2 years.
Insurance Risk Management Reports	Federal and State OSHA forms; loss analysis report; safety reports; actuarial studies.	29 CFR 1904.44 GC 26202, 34090	5 years (Federal). 2 years (State).
Investment Reports Transactions	Summary of transactions, inventory and earnings report.	GC 34090, 60201 CCP 337 Sec. of State Local Gov't. Records Retention Guidelines	Until audited + 4 years. Sec. of State Guidelines recommends permanent retention.
Invoices	Copies sent for fees owed, billing, related documents.	GC 26202, 34090	Until audited + 2 years.
Legal Notices/Affidavits of Publication	Notices of public hearings, proof of publication of notices.	GC 26202, 34090	2 years.
Legal Opinions	Confidential – not for public disclosure (attorney-client privilege).	GC 26202, 34090	Until superseded + 2 years.
Litigation	Case files.	GC 26202, 34090	Until settled + 2 years.
Lobbying or Lobbyist Forms (FFPC forms)	FFPC Form 602 – Lobbying Firm Activity Authorization; FFPC Form 635 – Report of Lobbyist Employer & Report of Lobbying Coalition – forms	FFPC Reg. 18615(f)	5 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
	used when employing or contracting with a lobbying firm.		
Maintenance Manuals	Equipment service/maintenance.	GC 26202, 34090	Current + 2 years.
Maintenance/Repair Records	Equipment.	GC 26202, 34090	2 years.
Marketing, Promotional	Brochures, announcements, etc.	GC 26202, 34090	2 years.
Minutes	Meeting minutes: paper records are to be maintained permanently by the agency.	GC 34090, 60201(d)(3)	Permanent. Originals cannot be destroyed.
Newsletters	May wish to retain permanently for historic reference.	GC 26202, 34090	2 years.
Notices – Public Meetings	Special meetings.	GC 26202, 34090	2 years.
Oaths of Office	Elected and public officials – commissioners.	GC 26202, 34090 29 USC 1113 Sec. of State Guidelines	Current + 6 years.
OCERS – Employee Benefits	Retirement Plan.	29 USC 1027	6 years.
OSHA	OSHA Log 200, Supplementary Record, Annual Summary (Federal & State-Cal-OSHA); OSHA 300 Log, privacy case list, annual summary, OSHA 301 incident report forms.	LC 6410; 8 CCR 14307 29 CFR 1904.2 – 1904.6M, 1904.33	5 years.
Payroll – Federal/State Reports	Annual W-2's, W-4's, Form 1099s, etc.; quarterly and year-end reports.	GC 60201	7 years.
Payroll Deduction/ Authorizations	Finance.	29 CFR 516.6(c) GC 60201	While current +7 years.
Payroll, registers	Finance – payroll, registers, payroll reports.	9 CFR 516.5(a) LC 1174(d) GC 60201	7 years from date of entry.
Payroll records terminated employees	Finance files.	29 CFR 516.5 GC 60201	7 years from date of last entry.
Payroll, timecards/sheets	Employee.	29 CFR 516.6 LC 1174	2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
		Sec. of State Local Gov't. Records Mgmt. Guidelines	Sec. of State recommendation: Until audited +6 years.
Payroll – Wage Rates/ Job Classifications	Employee records.	GC 60201	While current +7 years.
Personnel Records	Other records (not payroll) containing name, address, date of birth, occupation, etc., including records relating to promotion, demotion, transfer, lay-off, termination.	29 CFR 1627.3	3 years.
Personnel Rules and Regulations	Including employee handbook, employee manuals, and other policies/procedures.	CFR 516.6, 1627.3(a)	Current + 3 years.
Petitions	Submitted to legislative bodies. (Does not include Initiative Petitions)	GC 26202, 34090	Current + 2 years.
Policies & Procedures	All policies and procedures adopted by the Commission; directives rendered by the agency did not assign a resolution number, Commission Bylaws.	GC 26202, 34090	Current + 2 years.
Political Support/ Opposition, Requests & Responses	Related to legislation.	GC 26202, 34090	2 years.
Press Releases	Related to OC LAFCO actions/activities.	GC 26202, 34090	2 years.
Procedure Manuals	Administrative.	GC 26202, 34090	Current + 2 years.
Public Records Request	Request from the public to inspect or copy public documents.	GC 26202, 34090, 60201(d)(5)	2 years.
Purchasing FRQs, RFPs	Requests for Qualifications; Requests for Proposals – regarding goods and services.	GC 26020, 34090	Current + 2 years.
Purchasing, Requisitions, Purchase Orders	Original documents.	GC 24090 CCP 337	Until audited +4 years.
Records – audio (e.g., for preparation of	Audio recordings of Commission “made for	GC 54953.5	Minimum 30 days.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
meeting minutes)	whatever purpose by or at the direction of the local agency.”		
Recordings, video – meetings of legislative bodies	Video recordings of public meetings made by or at the direction of the Commission.	GC 54953.5	Minimum 30 days.
Recordings, video, other events	Other than video recordings of public meetings; considered duplicate records if another record of the same event is kept (i.e., written minutes or audio recording).	GC 53161	Minimum 90 days after event is recorded; if no other record of the event exists the recording must be kept 2 years.
Recordings of routine video monitoring (e.g., building security recording systems)	General recordings of building and facility security systems	GC 34090.6, 53160	1 Year
Records Management Disposition/ Destruction Certification	Documentation of final disposition/destruction of records.	GC 34090, 60201	Permanent.
Records Retention Schedules		GC 26202, 34090	Current + 2 years.
Recruitments and Selection	Records relating to hiring, promotion, selection for training.	29 CFR 1627.3	3 years.
Requests for Qualifications (RFQs); Request for Proposals (RFPs)	Request for Qualifications, Request for Proposals, and related responses.	GC 26202 – 2 Years CCP 337 – 4 Years	Current + 4 years.
Resolutions	Vital records – may be imaged, but originals can never be destroyed.	GC 34090, 60201	Permanent.
Return Checks	Finance – Adjustments – NSF, etc. (not OC LAFCO checks).	GC 26202, 34090 CCP 337	Until audited + 4 years.
Salary/Compensation Studies, Surveys	Studies or surveys of other agencies regarding wages, salaries and other compensation benefits.	GC 26202, 34090	While current + 2 years.
Social Media	Posts, comments, subscriber/follower lists, etc.	GC 26202, 34090	While current + 2 years.

TYPE OF RECORD	DESCRIPTION OR EXAMPLE OF RECORD	LEGAL AUTHORITY	MINIMUM LEGAL RETENTION PERIOD
Statement of Economic Interest (SEI) (FPPC Form 700) (originals –designated employees	Original SEIs of officers and employees designated in OC LAFCO’s Conflict of Interest Code.	GC 81009(e), (g)	7 years (can image after 2 years).
Unemployment Insurance Records	Records relating to unemployment insurance – claims, payments, correspondence, etc.	USC 3301 – 3311; Calif. Unemployment Insurance Code; CCP 343	4 years.
Vouchers – Payments	Account postings with supporting documents.	GC 26202, 34090 CCP 337	Until audited + 4 years.
Wage Garnishment	Wage or salary garnishment.	OCP 337	Active until garnishment is satisfied; then retain until audited + 4 years.
Warrant Register/Check Register	Record of checks issued; approved by the Commission (copy is normally retained as part of agenda packet information).	GC 26202, 34090	Until audited + 2 years.
Workers Compensation Files	Work-injury claims (including denied claims); claim files, reports, etc.	8 CCR 10102 C CCR 15400.2	Until settled + 5 years.

REGULAR MEMBERS

CHAIR

Donald P. Wagner

County Member

VICE CHAIR

Wendy Bucknum

City Member

IMMEDIATE PAST CHAIR

Douglass Davert

Special District Member

James Fisler

Special District Member

Derek J. McGregor

Public Member

Bruce Whitaker

City Member

VACANT

County Member

ALTERNATES

Kathryn Freshley

Special District Member

Carol Moore

City Member

Lou Penrose

Public Member

VACANT

County Member

STAFF

Carolyn Emery

Executive Officer

Scott Smith

General Counsel

MEETING DATE: March 13, 2024

10a | Executive
Officer Report

TO: Local Agency Formation Commission
of Orange County

FROM: Executive Officer

SUBJECT: Report From University of California Berkeley on
LAFCO and Water System Consolidation

BACKGROUND

In January 2024, the University of California Berkeley Division of Agriculture and Natural Resources published a report titled, "LAFCO and Water System Consolidation: *Bridging the gap between local and state regulators to stop and reverse water system fragmentation.*" In summary, the report expounds on the legislative efforts of the State involving the human right to water and ongoing discussions involving the consolidation of small water systems in California. The report also extends itself through acknowledging the lack of communication and coordination amongst state and local regulators, including LAFCO. In part to the report preparation, LAFCOs and state regulators were invited and participated in surveys and interviews with university personnel. The report has been distributed to each of the 58 LAFCOs and to drinking water stakeholders throughout California. Additionally, we were informed that the university personnel is giving presentations on the report upon invitation. Last communicated, they have given a presentation to the California Public Utilities Commission (CPUC) and are planning to share the report findings with staff from the State Water Resources Control Board (SWRCB) Division of Drinking Water.

The next sections of this staff report provides key highlights and staff comments to the report.

REPORT HIGHLIGHTS

A few years back, the US Water Alliance and Water Foundation hosted a series of meetings about water systems consolidation in California. One of the gaps identified during these discussions was a need for more resources for local communities on how to design and implement consolidations from a governance perspective. Funding was then provided to academia to explore this issue, and in that process, the role and questions pertaining to LAFCOs were reoccurrences. This led to

preparation of the LAFCO and Water System Consolidation report by UC Berkeley. The key highlights of the report are generalized in the following:

- Achieving the human right to water in California requires ongoing commitment and investment by state legislators and regulators.
- Consolidation and merging of water systems in California has increasingly become a focus to achieve the human right to water effort due to the benefits they offer.
- Implementing consolidations in an efficient and equitable manner is a difficult task due to local politics and funding. LAFCO commissioners may be reluctant to engage in a consolidation discussion or process if a local agency's board does not favor consolidation.
- LAFCOs play a critical role in water system consolidations through their charge to ensure that drinking water provision happens in an orderly manner that does not create additional burdens on residents; however, their role may be impeded by their lack of authority involving private water systems and associated fees.
- LAFCOs evaluation of municipal services within their county through municipal service reviews (MSRs) plays an important role for evaluating water system consolidation; however, it is noted that some LAFCOs do not conduct MSRs regularly, the conducting of MSRs is impacted by budget and capacity constraints, and the level of detail provided in an MSR varies by county.
- Some LAFCOs MSRs are broad in nature with a focus on the determinations provided within CKH Act. While state regulators focus is on human right to water through compliance with the Safe Drinking Water Act.
- There is a lack of coordination and sharing of information between LAFCOs, CPUC, and drinking water regulators, in particular the SWRCB and a need to improve communication amongst these agencies and regulators involving the sustainability and governance of local water systems. The report offers the following key recommendations to improve in this area:
 - Transmission and connecting of information from MSRs and the annual state drinking water needs assessment prepared by the SWCRB.
 - Early coordination of state regulators and LAFCOs involving water system consolidation projects.
 - Standardizing the assessment of consolidation feasibility as part of the MSR process and recommend consolidation, as appropriate.
 - Robust and regular MSRs for drinking water service providers.
- There is ambiguity about the role of LAFCOs in addressing the fragmentation of water systems and consolidation because of their lack of oversight involving investor-owned

utilities. To address this, LAFCOs were granted the ability to include a discussion of private water systems in MSRs. However, this is often inhibited by resource and information constraints that may lead to a water system most suitable for consolidation falling through the crack.

STAFF COMMENTS

This staff report was intended solely to inform Commissioners through capturing of the key highlights and findings of the UC Berkeley report, and, therefore, does not include a staff recommendation. However, staff does note agreement with the report's recommendation for proactive sharing of prepared MSRs with drinking water regulators, including the SWRCB and CPUC and believes it would further support OC LAFCO's role in regulating and approving jurisdictional and planning boundaries of Orange County's 34 cities and 34 dependent and independent special districts.

RECOMMENDED ACTION

The report was prepared as an informational item only, and no action by the Commission is being recommended.

Respectfully Submitted,



CAROLYN EMERY

Attachment:

1. LAFCO and Water System Consolidation Report (prepared by UC Berkeley)

LAFCo and Water System Consolidation:

*Bridging the gap between
local and state regulators
to stop and reverse
water system fragmentation*

JANUARY 2024



Authors

Kristin Dobbin, Assistant Professor of Cooperative Extension at the University of California Berkeley and the Division of Agriculture and Natural Resources

Justin McBride, PhD Candidate in Urban Planning at the University of California Los Angeles

Acknowledgements

This report was made possible by generous funding from the University of California Agriculture and Natural Resources (Award# 23-7000). We thank Emily Scott for the design of this report and Sunny Singhal for his help with editing. We would also like to thank the following participants in the consolidations research advisory committee for helping to inform the design and implementation of the project: Michael Claiborne, Nataly Escobedo Garcia, Blanca Surgeon, Sara Luquin, Carlos Bravo, Janaki Anagha, Katrina Hiott, Sergio Carranza, Reyna Rodriguez, Bryan Potter, Allisa Hastie, Khalid Osman, and Greg Pierce. Many additional external reviewers from around the state provided valuable feedback on our initial draft for which we are extremely grateful. Any errors are ours alone.

For more information contact Kristin Dobbin at kbdobbin@berkeley.edu

Introduction

In 2012, California passed AB 685 enshrining the human right to water into state law. Achieving this vision is not a simple task, instead it requires ongoing commitment and investment by state legislators and regulators. Water system consolidation, or the merging of two or more water systems, has increasingly become a focus of these efforts due to a wide array of potential benefits. This is particularly true for the state's very small water systems, many of which struggle to achieve consistent regulatory compliance. In the hopes of halting and reversing the proliferation of small water systems, California has implemented policy changes including developing financial incentives for larger water systems to consolidate small systems, introducing new powers to mandate consolidation under specific circumstances, and working to limit permits for new water systems in favor of extending existing systems. With these efforts as well as unprecedented financial investments in consolidation through the new Safe and Affordable Funding for Equity and Resilience (SAFER) program, the state has reduced the total number of public water systems by more than 3% in the last 9 years.¹

Despite these successes, implementing consolidations in an efficient and equitable manner continues to be a difficult task. A large array of challenges from local politics to funding regularly delay and sometimes prevent consolidations, both between existing systems and for systems intended to serve new industrial or residential development. This report focuses on one such challenge, the need to coordinate and align actions by state and local regulators. Under the Federal Safe Drinking Water Act, the state of California is responsible for ensuring compliance among public water systems. This role has put the State Water Resources Control Board (SWRCB) at the forefront of efforts to reduce the number of small water systems. Nonetheless, changes to drinking water services often implicate changes to local government, thus requiring consultation with, and sometimes the approval of, local regulators.

In particular, in California, county Local Agency Formation Commissions, known as LAFCo, are regional planning and regulatory agencies tasked with “coordinating logical and timely changes in local government boundaries, conducting special studies that review ways to reorganize, simplify and streamline governmental structure and preparing a sphere of influence for each city and special district within each county.”² In this capacity, they have a critical role to play in promoting and implementing water system consolidations for existing and proposed water systems. Because LAFCos regulate boundaries between most public agencies, they often have the final say over water system consolidation projects that involve a local government entity including special districts and cities. Yet in practice, many water system consolidations are conceived of and planned without input from local planners and may only come before LAFCo for formal review after significant resources have already been invested in the project. Much the same can be said for local development plans. To the extent a new development relies on a new public water system, local project proponents may find themselves at odds with state regulators who wish to avoid the creation of additional small water systems they perceive as unsustainable. In these cases, there is significant potential for frustration on all sides when plans are delayed or must be changed due to inadequate coordination, conflicting policies and/or competing priorities.

These examples highlight what can be a wide gulf between drinking water regulators and LAFCos when implementing water system consolidations, whether for existing or new systems. Though intertwined in practice, the two often approach questions of water system fragmentation with distinct perspectives and priorities. Such differences can reverberate beyond individual projects, impacting broader efforts to rationalize drinking water services, increase equitable access, and ensure sustainability under a changing climate. Overwhelmingly LAFCos and state drinking water regulators share goals for promoting equitable,

efficient, and sustainable local drinking water service. Yet we are a long way from the policy alignment necessary to stop, let alone reverse, the proliferation of small water systems.

Drawing on interviews with state regulators and LAFCo representatives, input from state technical assistance providers, and a survey of county LAFCo Executive Officers, this report

aims to: 1) Highlight important intersections between LAFCos' local planning and regulatory roles and state policies and programs that prioritize water system consolidation as a safe drinking water solution; 2) Identify challenges at these intersections that limit progress on shared goals; and 3) Provide recommendations to begin to address these challenges.

Section I: Understanding LAFCos and Their Role in Water System Consolidation

About LAFCos

Local Agency Formation Commissions (LAFCos) are county-specific independent governmental agencies charged with conducting studies to evaluate, reorganize, and streamline local government functions and services. LAFCos were first created by the State of California in 1963 to manage sprawl. Subsequent legislative updates have gradually increased the scope of LAFCo powers and authorities over time. The most important of these updates occurred in 2000 with the passage of the [Cortese-Knox-Hertzberg Act](#) (CKH).³ Though amended periodically, the CKH Act remains the most important reference for understanding LAFCo powers and processes.

Each LAFCo is governed by a commission comprised of elected and appointed individuals. Every LAFCo includes representatives of the county's Board of Supervisors and city councils from cities within the county boundaries along with one appointed member of the general public.

Many LAFCos also include board members from special districts within the county. The exact structure of individual LAFCo commissions varies, but a typical commission has at least five, and up to seven, members who serve four-year terms. Though geographically coterminous with every county, LAFCos are politically independent from the county government where they operate. Commission decisions are not subject to oversight, review, or approval by the County Board of Supervisors.

LAFCo commission meetings are public meetings, and as such must be regularly held, open to the public, and are subject to the Ralph M. Brown Act.⁴ The work of the commission is carried out by staff, led by an Executive Officer. Staffing levels vary substantially between counties. Some have full-time Executive Officers and up to eight additional full-time staff members, and others have only part-time Executive Officers and minimal, or even no, additional staff ([See Appendix](#)).

The Cortese-Knox-Hertzberg Act of 2000

The Cortese-Knox-Hertzberg Act of 2000 was the most recent major overhaul of LAFCo powers. It establishes procedures for local government changes of organization, including city incorporations, annexations to a city or special district, and city and special district consolidations. In carrying out these functions, the Act specifically directs LAFCos to:

- Limit urban sprawl;
- Ensure orderly boundaries between governmental agencies;
- Preserve open space and agricultural lands.

Though LAFCos may have other priorities related to local political preferences, these three mandates are shared to some extent by all LAFCos in accordance with state law.

LAFCoS are funded from two primary sources. First, all LAFCoS receive annual funding from the local governments represented on the commission (county, cities, and sometimes special districts). The size of these contributions varies by county, as each LAFCo sets its own budget. Second, LAFCoS may charge fees for some types of applications or services. These fees are typically borne by the relevant agencies or other applicants (such as landowners) applying for the action in question, for example, an adjustment to a district's jurisdictional boundary.

LAFCoS and water system consolidations

To avoid the duplication of services and ensure that growth occurs in an orderly fashion, one of LAFCoS' primary roles is to regulate and approve changes to the jurisdictional boundaries and planning boundaries of all cities and most special districts (the most notable exception is school districts). As a result, LAFCo will be involved in any consolidation project if one or more of the systems — either consolidating or receiving — is a public agency, specifically a city or a special district.⁵ If a consolidation project involves no such water systems, there is no formal role for LAFCo, although if the consolidation involves one or more Investor-Owned Utilities, the California Public Utilities Commission (CPUC) will play a similar oversight role. If a project involves both public and private water systems, LAFCo may only be involved in certain components. For example, if an Investor-Owned Utility takes over water provision in a community previously served by a local agency (as in the case of the Sativa Water District in Los Angeles County), LAFCo would be involved in the dissolution of the public district but not in the “annexation” by the Investor-Owned Utility of the new service area which would instead be approved by the CPUC.

It is important to keep in mind that while a LAFCo's purview includes districts that provide drinking water, LAFCoS do not primarily regulate drinking water providers or their day-to-day operations. Rather, their role is to ensure that drinking water provision happens in an orderly manner that does not create additional burdens on residents, does not conflict with established

local policies or encourage unwanted urban sprawl, and does not create wasteful duplication of services. In other words, in many cases LAFCoS will be concerned with the question: How will this consolidation fit into our broader planning priorities for the county?

The answer to this question will largely depend on the structure of the proposed consolidation. Water system consolidation can be accomplished in many ways including not only district or city consolidation but also through extensions of service, annexations, etc. (See ‘*Bridging differences in terminology*’ box). Any one of these procedures may also trigger reorganizations or dissolutions, all of which may have distinct procedures and requirements for implementation. In some cases, LAFCoS have a preferred pathway for how to accomplish consolidations that will need to be adhered to in order to receive the necessary approvals. However, in other cases, LAFCoS may prefer to make recommendations or determinations based on the specifics of an individual project. We recently surveyed LAFCoS across the state and received responses from 23 of the state's 58 LAFCoS. Nearly 40% of respondents indicated they preferred outright annexation to extraterritorial service agreements whereas 52% reported having no pre-set preference.

Even when a LAFCo has a preference, however, they may still approve exceptions based on specific circumstances. For example, under California law, LAFCoS may (but are not required to) approve a request for a service extension outside of a service providers' jurisdictional boundary and sphere of influence to respond to an “existing or impending threat to the health and safety of the public or the residents of the affected territory”.⁶ More than two thirds of survey respondents indicated they had approved such a request in their county. Notably the requirements for doing so vary between counties. Some counties require only a letter from an affected local government body, while others require expert documentation of the threat.

Beyond the need to coordinate with LAFCo on the structure of a proposed consolidation, LAFCo involvement has another important implication: Fees. Given that LAFCoS are authorized to collect

Bridging Differences In Terminology

This report uses the term “consolidation” in a broad sense to mean the formal merging of some or all functions of drinking water provision between two or more water providers or communities. Consolidation, in this drinking-water focused sense, can happen through a variety of different pathways that vary in not only their implementation but also outcomes (for more information see the 2022 guide [Designing Water System Consolidations](#)). Under this definition, consolidation can include the physical interconnection of existing water system infrastructure (physical consolidation) but it does not have to. Consolidation may instead entail merging only the governance and management functions of two pre-existing systems (managerial consolidation) or extending a water system to serve a domestic well community or new development. This inclusive definition is informed by, and aligned with, the definition state drinking water regulators and community water advocates employ.

However, for a LAFCo, the term consolidation refers to a narrowly defined legal process, closely constrained by state law. The CKH Act defines consolidation as “the uniting or joining of two or more cities located in the same county into a single new successor city or two or more districts into a single new successor district.” Consolidation in a LAFCo sense always entails the creation of an entirely new district.

While largely semantic, this difference can cause confusion. Projects such as the extension of a community water system to serve residents previously reliant on a state small water system or where a special district like a County Service Area is absorbed into a neighboring city would both be commonly referred to as consolidations among drinking water stakeholders. To a LAFCo representative, however, many such “consolidations” are instead understood as extensions of service, annexations, reorganizations, and/or dissolutions.

fees for services and studies and that some rely on these fees to cover the associated costs of those additional reviews, those seeking to consolidate drinking water services may have to bear the cost of any related study required by state law. LAFCOs have some degree of autonomy in setting fees to compensate for staff time. As such, relevant fees vary significantly between counties. Of the 23 LAFCOs that responded to our survey, estimated total fees associated with a consolidation project ranged from \$0 to \$50,000, depending on the LAFCo and the complexity of the project. Seventy percent of survey respondents said that they waive fees under specific circumstances, the remainder indicated that fee waivers were not available.

Municipal Service Reviews

Beyond regulating local government boundaries, LAFCOs also play an important role in evaluating municipal services within their county and making recommendations for improvements. The CKH Act mandates that every five years, as necessary, LAFCOs review and update the designated sphere of influence for each city and special district under their jurisdiction.⁷ Prior to establishing or updating a sphere of influence, LAFCOs must

perform a special study called a Municipal Service Review (MSR). MSRs are comprehensive studies designed to better inform LAFCo, local agencies, and the community about the provision of municipal services. MSRs can be conducted individually for specific cities or districts, covering all services, or on a county-wide or regional basis focused on specific services.

Based on these requirements, some LAFCOs conduct regular MSRs while others do so only when necessary, such as when a sphere of influence issues arise. Budget and capacity constraints are a major factor influencing how frequently MSRs are conducted. Some LAFCOs reported in interviews that they did not conduct MSRs as frequently as they would like due to high costs.

The requirements related to MSR contents are also loosely bounded, meaning that in practice, the content and level of detail varies by county. Ideally an MSR will have insights into the kinds of things those pursuing consolidation would likely be interested in — water quality, water source reliability, fiscal stability, managerial capacity, and technical expertise. Take for example the recent [Countywide Water Service and Sphere Review](#) by Santa Cruz County which provides significant detail

on system finances, water rates, transparency and local accountability among other items.⁸ In other cases, MSRs may have few of these details and thus provide little in the way of local insights either supporting or challenging consolidation efforts (capacity can also be a factor here). By statute, LAFcos are authorized to request information from privately owned water systems as part of their reviews including from mutual water companies.⁹ Notably, very few LAFcos currently do so and some LAFcos report mutual water companies have failed to respond to requests for information when they have attempted to include them in MSRs.

Approval of new public water systems

Recognizing the importance of stopping the further proliferation of potentially unsustainable small water systems throughout the state, recent regulatory changes now require that all applications for new public water systems¹⁰ must be approved by the SWRCB. Applicants wishing to construct a new system must apply at least six months before initiating water-related development with an accompanying “preliminary technical report.” The preliminary technical report must analyze the feasibility of connecting to any public water systems within three miles, assess the twenty-year costs of operating the proposed system, and evaluate the sustainability and

38% of LAFcos report that they evaluate the feasibility of consolidation as part of their MSR process and 61% report that they recommend consolidation in MSR findings where warranted.

resilience of the proposed system long-term. As part of the assessment of consolidation feasibility, an applicant needs to document contact with LAFco regarding the identified existing water systems. Approval of non-water system related development (e.g., a warehouse facility to be served by the proposed water system), however, remains a local decision and LAFcos retain final authority on areas where services can be provided by the existing water systems of cities and special districts. Thus, there is potential for inconsistent determinations between state and local authorities, which could cause delays and/or lead to potential litigation. These changes increase the need for coordination between state drinking water regulators and local authorities regarding when and where the creation of new water systems is appropriate.

Section II: Challenges

Based on our interviews and survey results, in this section we describe seven key challenges that limit effective coordination between state and local regulators with respect to water system consolidation, both among existing and new systems.

Lack of communication and information sharing between LAFcos and drinking water regulators

Although LAFcos, the State Water Resources Control Board (SWRCB), and the California Public Utilities Commission (CPUC) all play key roles relevant to drinking water system consolidations, each has a unique niche in the enforcement patchwork, and

communication between these agencies is limited.

While, in many cases, LAFcos rely on publicly available SWRCB data in developing their MSRs for water services, the MSR process also often generates new information about the status of local water providers, especially regarding the state of system governance and finances. This information can be highly relevant to understanding the potential of a system to encounter future challenges. Yet only 30% of surveyed LAFcos report sharing their MSR findings with drinking water regulators. And while some SWRCB staff do independently seek out and use MSRs when working with a system, not all MSRs are publicly available online.

This lack of information sharing mirrors a general lack of communication between local planners and state drinking water regulators. Nearly all LAFCo Executive Officers we interviewed reported only infrequent contact with state drinking water regulators. The lack of communication creates issues in both directions. On the one hand, the SWRCB may have information about the challenges of local agencies unavailable to LAFCos who often only have infrequent communications with the small water providers under their jurisdiction. Similarly, a LAFCo might be aware of issues which could merit consolidation in the future. These systems might be good candidates for SWRCB intervention, but intervention is unlikely if information does not flow between agencies. On the other hand, the SWRCB may pursue solutions such as consolidation without a clear understanding of locally specific challenges such as conflicting policies, or potential political barriers.

California's other key water agency, the CPUC, regulates Investor-Owned Utilities. The CPUC communicates even less frequently with LAFCos than the SWRCB. This is not surprising, given that LAFCos do not regulate private utilities. But in some cases, LAFCos might be ignorant of potential privately-owned consolidation partners for troubled local government systems or vice-versa, of struggling private systems where governmental systems could expand their service area. Additionally, consolidations involving Investor-Owned Utilities (referred to by the CPUC as acquisitions) can significantly impact local development. Currently there are no specific mechanisms for LAFCos to provide feedback to the CPUC on these matters except to file a motion for party status in an acquisition proceeding which is subject to approval and conditions by a judge.

Lack of shared language and vision

Sometimes, when drinking water stakeholders interested in water system consolidations encounter LAFCos, they find the experience to be frustrating. Often, part of the problem is that LAFCos do not share a common vision or even use the same language to talk about consolidations. As previously mentioned, for LAFCo staff the term

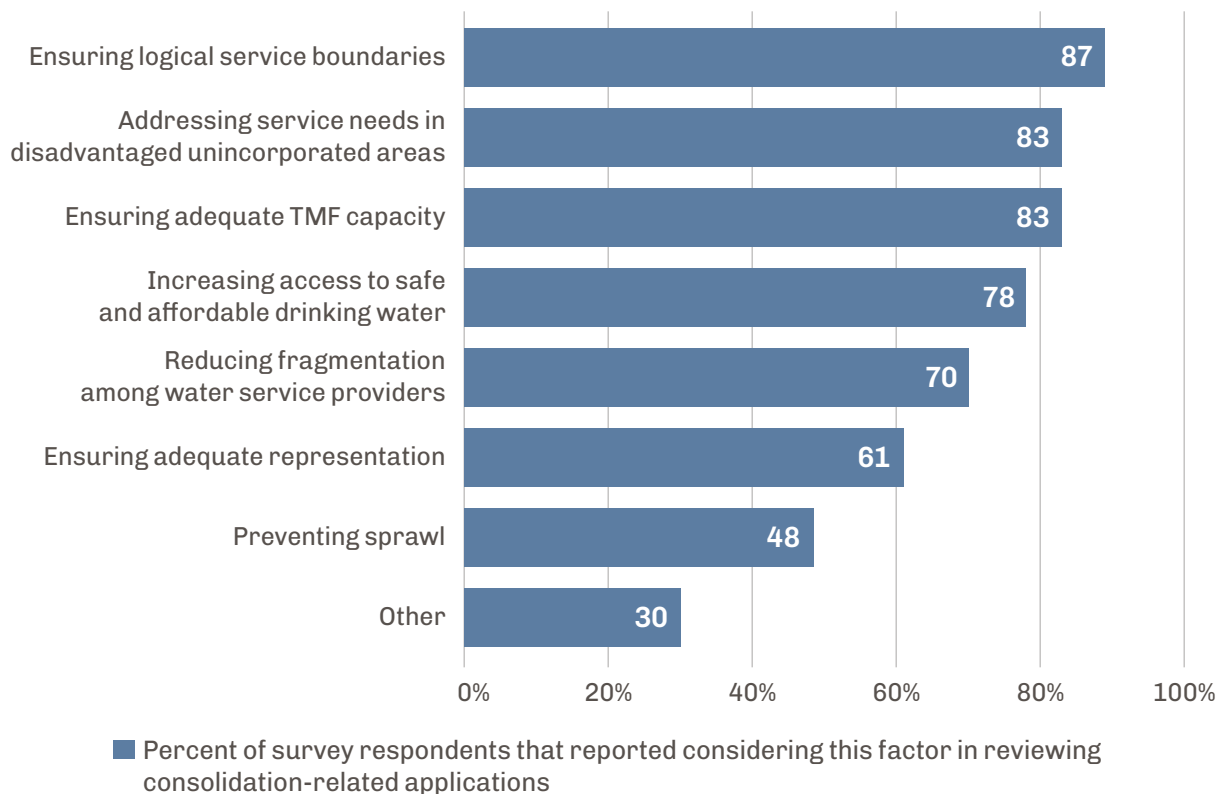
“consolidation” refers to a specific legal process, not a broad suite of options. Conversations that casually use the term consolidation can thus create confusion, since many water system consolidation projects fall under LAFCo descriptions for annexations, dissolutions, extraterritorial service agreements, or other arrangements.

But this challenge is not only semantic. While all parties share a commitment to ensuring efficient, equitable local services, the goals that motivate system consolidation and the metrics by which “success” is assessed in these projects can also vary. State regulators tend to prioritize projects on the basis of Safe Drinking Water Act compliance, cost, and improving system sustainability (i.e., targeting “at-risk” systems). Overall LAFCos take a broader perspective, including considering impacts to different community services as well as county-wide impacts and consistency in long-term planning. This is well demonstrated by the fact that surveyed LAFCos reported considering, on average, more than five different factors when reviewing consolidation-related applications (*Figure 1*). Among these considerations, 30% of LAFCos reported that ensuring adequate Technical, Managerial, and Financial (TMF) capacity was the most important, followed by ensuring logical service boundaries and increasing access to safe and affordable drinking water, each of which was voted most important 26% of respondents. Notably, whereas preventing and reversing water system fragmentation is a top priority of the SWRCB, this consideration did not rise to the top among LAFCos, only 70% of which said they consider system fragmentation when reviewing consolidation-related applications.

Diversity in local implementation

All LAFCos are governed by the CKH Act, but policy occurs just as much in implementation as in statute. Because the CKH leaves substantial autonomy for local LAFCos to tailor their operations to local conditions, implementation varies substantially from LAFCo to LAFCo. The state's rules have few hard guidelines except when it comes to specific procedural actions.

For example, according to statute, LAFCos are supposed to interpret any requests to

Figure 1. LAFCo considerations in reviewing consolidation related applications by frequency.

accommodate a system consolidation based on the potential costs and savings, as well as other impacts to local residents. This open-ended set of criteria leaves room for interpretation leading LAFCos to review a wide range of factors as mentioned above. This statute language also allows for LAFCos to have different local policies leading some LAFCos to prioritize specific planning goals, like the prevention of urban sprawl or addressing service needs in unincorporated areas.

LAFCos vary substantially in their preferences regarding consolidation pathways. Technical assistance providers may select a consolidation pathway which they think will best suit the needs of the community they work with. LAFCos will tend to take a more holistic view and measure the proposed benefits of any consolidation project against the potential impact on development and services county-wide. For example, if a consolidation of private wells into a nearby municipal system would extend that city's sphere of influence into

an area slated for non-development purposes, the LAFCo may oppose the project for fear of losing open space. In many cases there are workable compromises that can be found if these goals and constraints are clearly communicated, for example pursuing an Extraterritorial Service Agreement (also called Out-of-Agency, Out-of-Boundary or Outside Service Agreements depending on the county).¹¹

Unclear roles and responsibilities

While the SWRCB is committed to stopping and reversing the proliferation of small water systems as part of advancing the Human Right to Water (AB 685), precisely because of the planning and local government implications, there are practical and political limits to their ability to do this work on their own. Yet there is ambiguity, and even disagreement, regarding what the role and responsibilities of local planners such as LAFCos is, or should be, with respect to advancing the same mission.

Generally, LAFcos rely on the SWRCB to flag struggling systems and initiate consolidation processes rather than do so themselves (although in certain counties, LAFcos do sometimes play a more central role in promoting projects). However, LAFcos do not necessarily view this as a positive from a local policy standpoint. Several LAFcos indicated that state-level policymakers and agencies generally lacked an understanding of the intricacies of local implementation of consolidations. Some also regarded state-initiated projects without adequate state financial support as unfunded burdens for the affected communities and for LAFcos themselves.

But locally initiating projects has its own challenges. California state law is clear that, in some circumstances, LAFcos have the power to initiate water system consolidations through district dissolution, even without the consent of targeted district.¹² These types of consolidations are rare, however, for several reasons. Perhaps unsurprisingly, LAFco commissioners are often reluctant to go against locally elected political leaders—some of whom may even sit on the LAFco commission themselves. Second, such actions are subject to public hearings and can be blocked by formal protests from residents, an outcome which is more likely because the threshold for popular motions to block the action is lower in LAFco-initiated proceedings. Third, LAFcos are generally reluctant to force other systems to take

Nearly 40% of LAFcos report facilitating or supporting local consolidation projects whereas less than 9% report initiating consolidation projects.

on new customers, even if the receiving system is best suited to serve those communities. LAFcos generally operate under tight budgets and with limited staff, and thus generally require a project proponent to fund any necessary studies to proceed with a dissolution rather than take on the cost from their own budget. Additionally, LAFcos are prohibited from initiating certain consolidation pathways, such as annexations. Thus, even if a LAFco knows consolidation is the best choice, they rarely act as proponents. An exception to this trend is when a local scandal erupts, either around system governance or water quality.

This does not mean, however, that LAFcos do not view themselves as having any role in consolidations. For some LAFcos, considering consolidation options is already a part of their standard operations. Thirty-two percent of surveyed LAFcos reported assessing the feasibility of consolidations as part of MSRs for drinking water service providers. Sixty percent reported recommending system consolidation as part of

Consolidating Sativa County Water District Post-Scandal

When some Compton residents began to notice discolored water in their taps in the spring of 2018, popular protests erupted. One entity was not surprised. Los Angeles (LA) LAFco had flagged the water provider, the Sativa County Water District, as struggling in multiple categories as early as 2005, and staff had recommended outright dissolution of the agency to the commission in 2012. However, despite these red flags, the agency continued to operate, and no consolidation efforts were formally initiated, either locally or by the SWRCB. When the protests began, however, LA LAFco was prepared to spring into action. With the changed political winds following the fallout from the scandal, the commission was able to initiate a dissolution process for Sativa just two months after complaints first arose and soon thereafter work with the state to allow the county to temporarily takeover operations while all parties looked for a new permanent provider.

The case of Sativa highlights just how effective a well-resourced LAFco can be in dealing with a local crisis. But the case also provides an example of how a lack of coordination around system dissolution priorities and political inertia can lead to a crisis in the first place. A more aggressive approach locally, or better coordination from the SWRCB, might have dealt with the issues at Sativa before brown water flowed out of residents' taps. Nonetheless, LA LAFco's quick response and effective collaboration between local and state regulators headed off the problem before things got worse.

MSRs based on assessments of water supply, governance, proximity to other systems, or other factors. In these cases, our interviews reveal that most LAFCoS view the initiative to then fall on the individual system boards to explore possible options for consolidations or alternatively, for the SWRCB to intervene if a system is underperforming to such a degree to require consolidation.

As a result, most consolidation projects in California are initiated by, or in partnership with, the SWRCB. Due to the SWRCB's responsibilities under the Safe Drinking Water Act, these consolidations tend to target existing or imminent health and safety concerns. A more proactive approach to other types of potentially challenged systems — such as small systems with governance issues, those unable to raise capital or with retiring staff or those particularly vulnerable to climate disasters — has so far not been on the agenda for lack of a clear responsible party or champion.

Gaps in relevant authorities

In addition to ambiguity about the role of LAFCoS in reversing water system fragmentation, the fact that not all water systems are subject to the jurisdiction of LAFCoS limits even the potential for LAFCoS to support consolidation projects. Water systems are regulated by a patchwork of state and local agencies, depending on the structure of the system and other key factors. Because of this, some of the systems most suitable for consolidation fall between the cracks.

LAFCoS only regulate and review cities and special districts, not private firms. Yet many struggling water systems are private systems, like mobile home parks or mutual water companies, which unlike Investor-Owned Utilities, are not regulated by the CPUC. State policymakers have noticed this oversight and granted LAFCoS the ability to include information for private water systems operating in their county in MSRs. However, doing so is optional, and often inhibited by resource and information constraints. Because most LAFCoS have their hands full performing MSRs for the public agencies under their jurisdiction, very few have included mutual water companies, mobile home parks, or other small systems in their MSR cycles, and most do not anticipate doing so in

Resident Support Is Often Non-Negotiable

Most LAFCo actions, such as district dissolutions and annexations, are subject to protest by registered voters and landowners in the affected territory. Generally, if more than 25% of the voters or landowners representing 25% of the assessed value of land in the area submit written protests, the change must then be approved by voters in an election which is a costly and time-consuming undertaking. In some instances, namely if LAFCo initiates the boundary change itself, this threshold is lowered to 10%. Moreover, some LAFCo actions that can be needed for a consolidation project, like the creation of new special district, always require a local election. This means that regardless of whether a consolidation project is initiated by the state or a local proponent, resident support is usually critical to successful implementation.

the future. While LAFCoS might seem to be natural agencies to promote consolidation for these types of systems, they ultimately do not have either the statutory mandate, funding, or powers to do so.

Competing local priorities

LAFCoS are political organizations primarily composed of elected officials. As such, local politics matter a lot. If a local agency's board does not favor consolidation, even for a consolidation that is logical and feasible, LAFCo commissioners may be reluctant to force the issue to avoid controversy or protect local relationships. The same can be true for supporting new development. To the extent that a new water system is tied to a politically favored development project or powerful local interests, LAFCoS may be subject to significant political pressure to support the preliminary technical report required by the SWRCB.

County specific priorities and policies can also impede consolidation efforts. One such example is the issue of limiting urban sprawl. If a consolidation project is seen to have the potential for increasing development in an area the county has earmarked for light or no development, a LAFCo might be unlikely to approve the consolidation. Notably, such concerns are county specific. Only 48% of survey respondents listed preventing sprawl as a factor for approving consolidation-related

applications. However, it is increasingly common for municipalities or special districts to implement their own moratoriums on new connections. Such moratoriums serve to arrest new development, but they can also prevent the consolidation of water services for existing peripheral residents.

Importantly, local priorities and interests can also have positive effects on efforts to increase water system consolidation. When locals identify system fragmentation as a major concern, LAFCo staff can work effectively to foster consolidation in unique ways. Tulare County, for example, has completed more than 16 consolidations since 2015, in part due to the active involvement and support from the Board of Supervisors.

Limited and uneven LAFCo resources

LAFCos have uneven funding levels across the state. Because represented agencies are a primary source of funds, counties with small numbers of cities,

special districts, or both, typically have small LAFCo budgets. In some of these counties, LAFCo work may be handled on a contract basis by the county planning department or be contracted out to a private firm. By contrast, counties with large amounts of regulated agencies, like San Diego or Los Angeles, often have relatively large LAFCo budgets.

In many cases, funding levels can directly correspond to staffing levels. LAFCos in counties with low staffing levels may be harder to contact and necessary procedures may take longer, especially if there is no full-time staff. MSRs in such counties may also be updated less frequently than would be preferred if local capacity was higher. Limited resources can also lead to over-reliance on fees associated with studies and applications, which can in turn increase costs and impede a county's ability to offer fee waivers. As previously mentioned, only about two-thirds of the 23 LAFCos who responded to our survey offered fee waivers for studies.

Section III: Recommendations

Based on the challenges outlined in the previous section, the following recommendations highlight potential pathways for addressing the existing gaps and improving alignment between local and state regulators organized around three key themes: Improving information sharing and communication between regulators; Identifying consolidation opportunities; and Advancing locally-driven consolidation projects.

Improving information sharing and communication between regulators

- **Ensure regular, sustained communication between LAFCos and state drinking water regulators:** Locally, LAFCo, the SWRCB, and the CPUC (as applicable) should routinely meet to discuss failing and at-risk systems within each county. Such meetings would present the opportunity for each party to share the information on specific systems as well as identify promising partnerships across a range of system types that are consistent with local plans and policies. When distinct from LAFCo staff, county planners

should also be included. At the state-level, biannual LAFCo conferences and SWRCB's internal staff training programs present opportunities for cross-learning on relevant topics with the potential to increase collaboration. Regular communication would go a long way to increasing mutual understanding of relevant priorities and limitations as well as overcoming terminology and other barriers.

- **Transmit and connect information from MSRs and the annual state drinking water needs assessment:** Currently, both MSRs and the annual SWRCB drinking water needs assessments contain information helpful for assessing the functioning and sustainability of community water systems operated by cities and special districts. Systematically sharing these findings would help connect relevant knowledge from the local and state agencies and align with the Open and Transparent Water Data Act. At a minimum, MSRs should be readily accessible online and county-level meetings can support their use by the SWRCB. Most LAFCos that responded to the

survey support this type of information sharing (See Figure 2). In the future, the SWRCB could create formal pathways for integrating MSR data and/or the state legislature could consider changes to require information sharing and coordination.

- **Clarify and message relevant state goals:** Many LAFCoS are eager to support state efforts for advancing safe, accessible, and affordable drinking water and climate resilience but do not have a clear understanding of state priorities on these topics nor the type of performance metrics they could use to assess and advance these goals locally. The state should develop clear resources that can guide LAFCoS in the development of MSRs and inform local decision-making about service boundaries.
- **Ensure early coordination on system consolidation projects:** For project proponents, ensuring early coordination between communities, the SWRCB, technical assistance providers and LAFCo staff is essential. Consolidation can be accomplished through many potential pathways that must be matched with local conditions. It is therefore important to learn what pathways are preferred or even possible locally and why. If a LAFCo has formal or informal policies related to consolidation, they should be shared as soon as possible. Having this information as a project is developed will help ensure alignment with local planning and promote success. Early communication can also help avoid unnecessary delays in planning or implementation by anticipating fees, processing times, etc.
- **Ensure early coordination on proposals that implicate new public water systems:** State regulators, LAFCoS, and counties should communicate as early as possible about development proposals that explicitly or implicitly could lead to the creation of a new public water system. Early coordination on priorities and limitations at both levels will help prevent inconsistencies that could lead to conflict and delay.

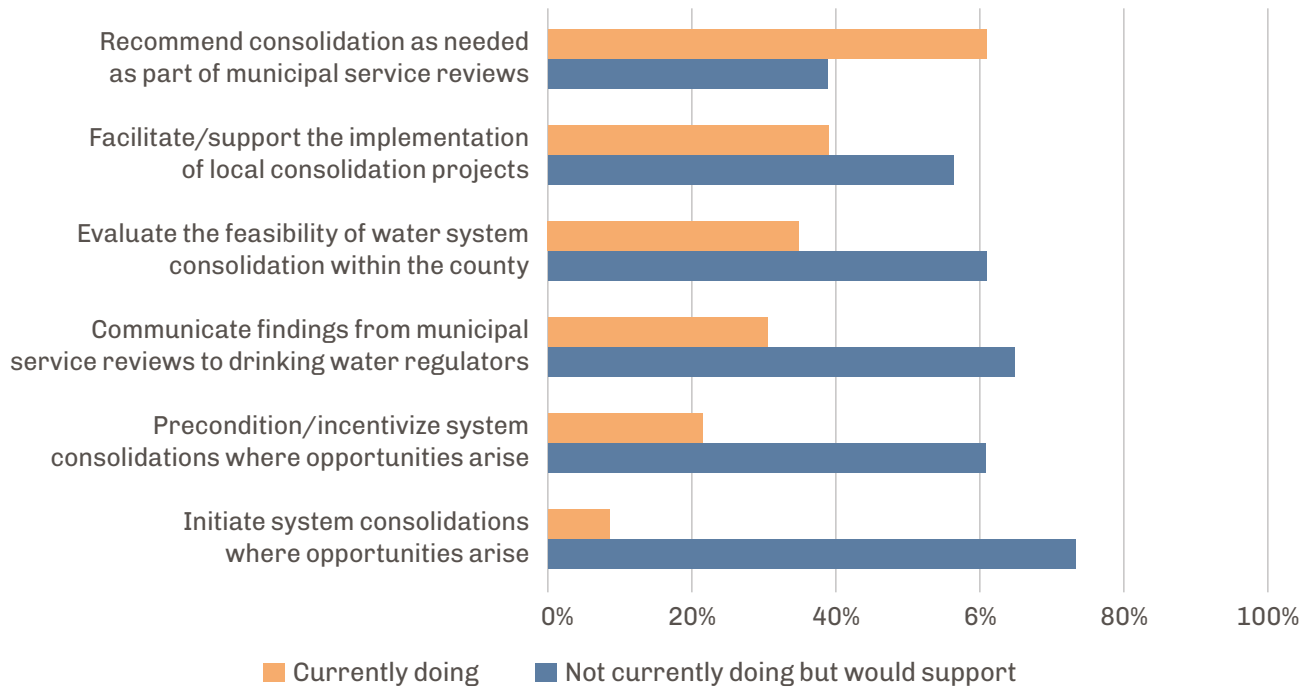
Identifying consolidation opportunities

- **Ensure robust and regular MSRs for drinking**

water service providers: Municipal Service Reviews (MSRs) are a valuable opportunity to both assess the functioning of local service providers and make recommendations for improvements. Ensuring that thorough MSRs are conducted regularly throughout the state could go a long way towards identifying and advancing consolidations. Importantly, identifying funding sources to support this work is likely key to achieving this goal.

- **Standardize assessment of consolidation feasibility as a part of the MSR process and recommend consolidation, as appropriate, in the findings:** California state law requires that LAFCoS explore “opportunities for shared facilities” for public water systems as a part of their MSR process. Some LAFCoS go beyond this requirement to assess consolidation opportunities for some or all systems under their jurisdiction. All LAFCoS should do so with an eye not only for physical consolidations but also managerial consolidations and water system partnerships (e.g., shared staff). Where appropriate based on these findings, LAFCoS should make formal recommendations for consolidation as part of their MSR findings. While not all counties responded to our survey, the results demonstrate unanimous support for both actions among those who did.
- **Fill data and oversight gaps for under-regulated water systems:** LAFCoS collect and maintain important information about the water systems operated by municipalities and special districts in their jurisdictions. The CPUC maintains similar information for the state’s Investor-Owned Utilities. For other private water systems like mutual water companies and mobile home parks data collection is limited to the drinking water needs assessment which necessarily provides very limited insights on system governance and management. Figuring out how to fill this gap should be a state priority. For example, these systems could be subject to reporting and oversight by the CPUC or included in MSRs.
- **Proactively identify priority consolidations and tie these into other opportunities for boundary expansion:** Some systems are reluctant to receive

Figure 2. Existing practices and policy preferences among surveyed LAFCoS for addressing local water challenges.



customers from struggling systems but are happy to expand with greenfield development. Working with both state drinking water regulators and local water managers (e.g. Groundwater Sustainability Agencies), LAFCoS should develop and maintain a list of priority consolidation projects in their county. LAFCoS should then use their existing authorities to tie these projects to locally promoted boundary changes, for example, annexations or sphere of influence updates, when feasible. More than 80% of LAFCoS that responded to the survey support this type of approach.

- **Clarify roles for identifying and promoting potential consolidations:** Currently the SWRCB is the primary entity identifying potential consolidation projects and initiating conversations with a particular focus on “failing systems” with pressing health and safety concerns and those at-risk of failing. There is a need to clarify who else, if anyone, should take responsibility for identifying and initiating potential consolidations among different subsets of systems such as

privately-owned non-Investor-Owned Utilities and low-hanging fruit consolidations (e.g., based on proximity or where system managers wish to retire).

Advancing locally-driven consolidation projects

- **Reduce financial impediments to locally-driven consolidations:** Proposed consolidations entail LAFCo related costs to be borne by a project proponent and/or the LAFCo itself. As such, promising projects can languish if they are not financially supported by the SWRCB and/or a local government proponent. Establishing a funding source to support LAFCoS or other local proponents to advance consolidation projects could help increase the number of locally initiated projects. Similarly, state and federal funding and technical assistance is often essential to make consolidation feasible. Creating clear pathways for accessing these resources for locally-initiated projects could similarly increase local leadership on the issue.

- ***Reduce administrative and procedural hurdles to implementing consolidations:*** Consolidation is a complicated and difficult process constrained by convoluted statutes with significant limitations and even contradictions. Often a single consolidation project may trigger several concurrent actions which only further increases the administrative burden and associated costs. To every extent possible, the associated statutory requirements should be clarified and streamlined.
- ***Create local pathways for consolidation of mutual water companies, mobile home park systems, and other small private systems:*** LAFcos do not have authority over private water systems and therefore cannot initiate consolidation among them. Thus, the state must explore possibilities to promote the consolidation of small private systems that are not Investor-Owned Utilities.
- ***Allow LAFcos to initiate annexations:*** Currently LAFcos can initiate dissolutions but not annexations. Given that annexation is a common and often preferred mechanism for consolidating water systems, granting LAFcos the ability to initiate annexations could increase the number of projects advanced locally.
- ***Ensure technical assistance providers working on consolidations have a clear understanding of work plan elements and project requirements related to LAFCo:*** The SWRCB should provide technical assistance providers clear guidance for addressing the local planning dimensions of consolidations including working with LAFCo. Ensuring that LAFCo tasks and expenses are accounted for in work plans and budgets will streamline implementation.

Resources and Further Reading

Assembly Committee on Local Government. (2023). Guide to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000. <https://alcl.assembly.ca.gov/system/files/2024-01/ckh-local-goverment-reorganization-act-of-2000-2023.pdf>

Bui, T. & Ihrke, B. (2003). It's time to draw the line: A citizen's guide to LAFCos. https://humboldtLAFCo.org/wp-content/uploads/TimetoDrawLine_LAFCos.pdf

Dobbin, K., McBride, J. & Pierce, G. (2022). Designing Water Systems Consolidation Projects. <https://innovation.luskin.ucla.edu/wp-content/uploads/2022/10/Designing-Water-System-Consolidation-Projects.pdf>

Senate Governance and Finance Committee. (2013). 50 Years of LAFCos: A guide to LAFCos. https://caLAFCo.org/sites/default/files/resources/50%20Years%20of%20LAFCos%20%282013%29%20-%20A%20guide%20to%20LAFCos_0.pdf

State Water Resources Control Board (SWRCB). (2021). Permits for Water Systems. https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/Permits.html

State Water Resources Control Board (SWRCB). (2023). Drinking water system partnerships and consolidations. https://www.waterboards.ca.gov/drinking_water/certlic/drinkingwater/waterpartnership.html

US Water Alliance. (2022). Catalyzing Community-Driven Utility Consolidations and Partnerships. https://uswateralliance.org/wp-content/uploads/2023/09/Catalyzing-Community-Driven-Utility-Consolidations-and-Partnerships-PAGES_0.pdf

Appendix

LAFCo information and select survey results by county

County	# of Staff	Offers Fee Wavers?	Approx. Range for Consolidation-Related Fees
Alameda	2	N	\$6,500 - \$13,000
Alpine	1	Did not respond to survey	Did not respond to survey
Amador	4	Did not respond to survey	Did not respond to survey
Butte	4	Y	\$1,000 – \$25,000
Calaveras	2	Did not respond to survey	Did not respond to survey
Colusa	2	Did not respond to survey	Did not respond to survey
Contra Costa	2	Y	\$4,000 - \$8,500
Del Norte	2	Did not respond to survey	Did not respond to survey
El Dorado	2	Y	\$1,000 – \$50,000
Fresno	5	Did not respond to survey	Did not respond to survey
Glenn	1	Did not respond to survey	Did not respond to survey
Humboldt	3	Did not respond to survey	Did not respond to survey
Imperial	4	Did not respond to survey	Did not respond to survey
Inyo	2	Did not respond to survey	Did not respond to survey
Kern	3	Did not respond to survey	Did not respond to survey
Kings	2	Did not respond to survey	Did not respond to survey
Lake	2	Did not respond to survey	Did not respond to survey
Lassen	3	Did not respond to survey	Did not respond to survey
Los Angeles	7	Y	\$6,000 - \$30,000
Madera	2	N	\$3,000 - \$6,000
Marin	2	Did not respond to survey	Did not respond to survey
Mariposa	1	Did not respond to survey	Did not respond to survey
Mendocino	2	Did not respond to survey	Did not respond to survey
Merced	2	N	\$2,000 - \$5,000
Modoc	2	Did not respond to survey	Did not respond to survey
Mono	1	Did not respond to survey	Did not respond to survey
Monterey	4	Did not respond to survey	Did not respond to survey
Napa	2	Y	\$8,500 - \$34,000

ATTACHMENT 1

County	# of Staff	Offers Fee Waivers?	Approx. Range for Consolidation-Related Fees
Nevada	2	Did not respond to survey	Did not respond to survey
Orange	5	N	\$10,000 - \$30,000
Placer	2	Y	\$20,000 - \$40,000
Plumas	2	Did not respond to survey	Did not respond to survey
Riverside	5	Did not respond to survey	Did not respond to survey
Sacramento	2	Y	\$3,000 - \$10,000
San Benito	2	Did not respond to survey	Did not respond to survey
San Bernardino	4	Did not respond to survey	Did not respond to survey
San Diego	10	Y	\$6,500 - \$25,000
San Francisco	1	Did not respond to survey	Did not respond to survey
San Joaquin	3	N	\$2,000 - \$2,500
San Luis Obispo	3	Y	\$3,000 - \$7,500
San Mateo	3	Y	\$2,000 - \$10,000
Santa Barbara	2	Y	\$2,000 - \$6,000
Santa Clara	2	Y	\$4,000 - \$8,500
Santa Cruz	2	Y	\$1,000 - \$2,000
Shasta	2	Did not respond to survey	Did not respond to survey
Sierra	1	Did not respond to survey	Did not respond to survey
Siskiyou	2	Did not respond to survey	Did not respond to survey
Solano	3	N	\$7,500 - \$35,000
Sonoma	3	Y	\$4,000 - \$6,000
Stanislaus	3	Y	\$500 - \$3,500
Sutter	3	Did not respond to survey	Did not respond to survey
Tehama	1	Did not respond to survey	Did not respond to survey
Trinity	2	Did not respond to survey	Did not respond to survey
Tulare	3	Y	\$3,500 - \$4,000
Tuolumne	2	Did not respond to survey	Did not respond to survey
Ventura	3	Did not respond to survey	Did not respond to survey
Yolo	2	Y	\$1,500 - \$6,500
Yuba	2	Did not respond to survey	Did not respond to survey

References and Notes

- 1 Dobbin, K. B., McBride, J., & Pierce, G. (2023). Panacea or placebo? The diverse pathways and implications of drinking water system consolidation. *Water Resources Research*, 59(12), <https://doi.org/10.1029/2023WR035179>.
- 2 CALAFCo website, What Are LAFCos responsibilities? Accessed 11/6/23. <https://caLAFCo.org/LAFCo-law/faq/what-are-LAFCos-responsibilities>
- 3 CA Government Code §56000 et seq.
- 4 CA Government Code §54950 et seq.
- 5 A consolidating water system is a system that will stop providing drinking water service after a consolidation is completed. In contrast, a receiving water system is a system that continues to provide drinking water service including to new customers/territory added through the consolidation.
- 6 CA Government Code §56133(c)
- 7 CA Government Code §56425(g); A sphere of influence or SOI is a planning boundary outside of an agency's jurisdictional boundary (such as the city limit line or water service area) that designates the agency's probable future boundary and service area.
- 8 Countywide Water Service and Sphere Review. Local Agency Formation Commission of Santa Cruz County. Accessed 01/22/24. <https://santacruzlafco.org/wp-content/uploads/2022/09/Countywide-Water-MSR-Adopted-Version.pdf>
- 9 CA Government Code §56430(7)(d)
- 10 A public water system is a water system serving at least 15 connections or 25 people for a minimum of 60 days per year. This is the body of water systems that is regulated by the SWRCB under the Federal Safe Drinking Water Act.
- 11 Extraterritorial, Out-of-Agency, Out-of-Boundary or Outside service agreements all refer to situations where a city or special district extend services outside of their jurisdictional boundaries. For drinking water service this means outside of their approved service area. Prior to 1994 service extensions only required LAFCo approval if they involved annexation. Since 1994 service extensions always require approval by LAFCo (with some exceptions such as the transfer of non-treated water).
- 12 CA Government Code §56035; For a LAFCo, a dissolution entails the “disincorporation, extinguishment, or termination of the existence of a district and the cessation of all its corporate powers.”