



## **LRAPA BOARD OF DIRECTORS AGENDA ITEM SUMMARY**

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### **Law Related Personnel Policy Review**

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**Meeting Date: October 13, 2022**

**Agenda Item: 4C**

**Department: Director's Office**

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#### **ISSUE STATEMENT AND SUMMARY**

The last review and update to the policies in the LRAPA Employee Handbook was in 2013. Since that date, many state and federal laws have been updated or implemented. The current policies do not reflect the most current state and federal laws.

#### **BACKGROUND**

**Board Action History.** The last major adoption to the LRAPA Employee Handbook was in 2013. The current version of policies related to laws are now outdated.

#### **Analysis.**

The personnel policy outlines the direction given to the Director regarding organization, staffing and management of the agency. As outlined in the policy, the Director is appointed by the LRAPA Board of Directors to implement the policies, rules, and regulations of the Board. The Director, in turn, employs a staff of technical and professional persons to operate the various programs of the Agency.

As part of the Director's goals, LRAPA is currently reviewing its policies and working through proposed updates. The process for this project includes splitting the current policies into three distinct categories, the working through each category based on priority. The three categories include: Legal, New Finance System, and Other.

- 1. Legal – Identify and update policies directly related to state and federal employment laws.**
2. New Finance System – Identify and update policies directly related to the implementation of the new finance system to align with set-up requirements specifically around personnel, leave, and payroll processing.
3. Other – This category encompasses the remaining policies that will go through a review and, if needed, proposed revision. For example: Technology Policy, Drug Policy, Use of Company Vehicle Policy, etc.

**Category 1 Review:**

Legal: The Agency’s top priority is to ensure current policies reflect current law. Due to updated and/or newly implemented laws at both the state and the federal level, many of the current personnel policies related to laws are outdated. Attached, in legislative form, are the current law-related personnel policies that we are recommending for update. The proposed language (in red) has been through legal review.

**BOARD ACTION**

The Board has several options:

1. Adopt the updated personnel policies as recommended as part of the consent calendar;
2. Adopt the updated personnel policies with revisions;
3. Postpone adoption of the updated personnel policies until a later meeting; or
4. Combination of the above.

**STAFF RECOMMENDATION**

Staff recommends adopting the updated language to these policies as presented.

**SUGGESTED MOTION**

I MOVE ADOPTION OF THE UPDATED PERSONNEL POLICIES.

**ATTACHMENT**

**Note to reviewer:**

**LRAPA recently consulted with the organization's risk management/employee benefit carrier, Citycounty Insurance Services (CIS), to ensure the employee handbook represented the most current laws within its policies. Below, in legislative format, are recommended changes to the current policy manual for policies outlining state and federal laws. The proposed policies were developed by CIS and adapted to LRAPA's need.**

**EQUAL EMPLOYMENT OPPORTUNITY POLICIES**

**EQUAL EMPLOYMENT OPPORTUNITY (EEO) POLICIES**

LRAPA is an equal opportunity employer. ~~In order to remain competitive in an ever-changing world and business environment LRAPA needs the full participation of a diverse workforce. All employees are responsible for cultivating a work environment that encourages the full participation of all employees. LRAPA does not discriminate in recruitment, hiring, job assignment, promotion, discipline, discharge or in any other aspect of employment because of race, color, religion, sex, marital status, national origin, family relationship, sexual orientation or gender identity, political affiliation, disability, veteran status, status, with regard to public assistance or on the basis of any other classification protected by applicable federal, Oregon or local law.~~ **The following EEO Policies apply to all employees, board members, and appointed officials. Members of management, board members, appointed officials and employees alike are expected to adhere to and enforce the following EEO Policies. Failure to follow the EEO Policies may result in discipline, up to and including termination. All employees are encouraged to discuss these EEO Policies with their supervisor if they have questions relating to the issues of harassment, discrimination, or bullying, or what it means to work in a respectful workplace. Any employee who believes that they have ~~he/she has~~ been subjected to discriminatory treatment should report the concern to any supervisor or manager, the Finance/HR Manager, or the Director for appropriate investigation and action.**

**DISCRIMINATION, HARASSMENT AND OFFENSIVE BEHAVIOR PROHIBITED**

~~LRAPA is committed to the concept that each employee is entitled to a working environment that is respectful and which is free of harassment, discrimination and offensive behavior. Harassment, discrimination and offensive behavior are strictly prohibited and will not be tolerated.~~

~~Harassment and discrimination are forms of misconduct that undermine the integrity of the employment relationship, may violate the law and may have serious consequences for the employees involved and LRAPA. Accordingly, it is the responsibility of every employee to~~

cooperate with and assist in the implementation of this policy. Employees who engage in conduct which violates this policy shall be subject to disciplinary action, up to and including termination of employment.

## Definitions

### ❖ ~~Offensive Behavior~~

~~Offensive behavior means verbal or non-verbal conduct that creates an environment that is offensive or intimidating to others or leads employees to believe they must comply in order to retain employment. Offensive behavior includes but is not limited to requests for engagement in illegal, immoral, or unethical conduct, or negative comments or actions related to race, color, religion, sex, age, marital status, national origin, family relationship, sexual orientation or gender identity, political affiliation, disability, veteran status or any other protected classification established by federal, Oregon or local law.~~

### ❖ ~~Harassment~~

~~For purposes of this policy, “harassment” is defined to mean statements or behavior that are unwelcome, personally offensive, or that fail to respect the dignity of co-workers and which are based on race, color, religion, sex, age, marital status, national origin, family relationship, sexual orientation or gender identity, political affiliation, disability, veteran status or any other protected classification established by federal, Oregon or local law.~~

### ❖ ~~Sexual Harassment~~

~~For purposes of this policy, “sexual harassment” is defined to mean harassment based on sex or gender and includes, but is not limited to, sexual advances, requests for sexual favors and other verbal or physical conduct which is of a sexual nature or is based on gender where submission to such conduct is made, or implied to be, a term or condition of employment, submission to, or rejection of, such conduct is used as a basis for employment decisions or such conduct has the effect of interfering with an employee’s work performance or creates a work environment which is hostile, intimidating, uncomfortable or offensive.~~

~~Sexual harassment can include unwelcome jokes, remarks, gestures, epithets or slurs; sexually graphic, suggestive or nude pictures, cartoons or other images; physical contact or graphic communications of a sexual nature; unwelcome flirtation, propositions or sexual advances; gossip or comments about a person’s physical appearance and gossip or comments about a person’s sexual or interpersonal relationships.~~

### ❖ ~~Discrimination~~

~~For purposes of this policy, “discrimination” is defined to mean unequal and unfavorable treatment of an employee which is not permitted by federal and/or Oregon law and which is based on race, color, religion, sex, age, marital status, national origin, family relationship, sexual orientation or gender identity, political affiliation, physical or mental disability, veteran status or~~

any other protected classification established by federal, Oregon or local law.

### Complaint Procedure

All employees have the right to contact or make a complaint with any supervisor or manager, with the Finance/HR Division or with the Agency Director if they feel they have been wrongfully harassed or discriminated against, witnessed behavior they view as harassment or discrimination or if they have questions relating to this policy. If an employee feels that he/she has been subjected to wrongful harassment or discrimination, he/she is expected and required to bring the matter to the attention of their supervisor as soon as the problem arises.

All issues involving potential discrimination or harassment will be investigated in a timely manner by the Agency. Complaints will be kept confidential to the extent practicable, although the Agency cannot promise absolute confidentiality. If it is necessary to make the identity of involved employees known to others, the involved employees will be notified in advance.

LRAPA will take appropriate steps to correct any conduct found in violation of this policy, including the imposition of discipline up to and including termination of the employment of employees found to have violated this policy. The complaining or reporting employee will be advised of the Agency's findings and conclusions.

### Prohibition Against Retaliation

Retaliation against any person who makes a complaint of possible harassment or discrimination or who cooperates with or participates in any investigation of any complaint of possible harassment or discrimination is strictly prohibited. Retaliation may include, but is not limited to, shunning or treating the person in a non-professional manner or otherwise taking action against the person which adversely affects the conditions of the person's employment. If an employee believes he/she has been subjected to any form of retaliation or if an employee believes another employee has been subjected to any form of retaliation, the employee is expected and required to report the matter immediately by using the above complaint procedure. Complaints of retaliation will be investigated as a possible violation of this policy and appropriate remedial action will be taken.

## **ACCOMMODATING EMPLOYEES WITH DISABILITIES**

LRAPA complies with the Americans with Disabilities Act (ADA) and with all applicable state and local laws that forbid discrimination in employment against qualified individuals with disabilities. To this end, LRAPA will do the following:

- Treat qualified individuals with disabilities in a nondiscriminatory manner in all terms, conditions, and privileges of employment by providing qualified individuals with disabilities equal access to jobs, promotions, pay, training, and other terms and conditions of employment.

- ~~Administer medical examinations to employees only when justified by business necessity or as part of a voluntary annual physical examination program.~~
- ~~Maintain all medical-related information in a confidential manner in separate, confidential files.~~
- ~~Provide employees with qualifying disabilities reasonable accommodations, except where making an accommodation would create an undue hardship on the Agency, would result in the elimination of the performance by the employee of essential functions of the employee's position or would be unsafe for the employee, co-workers or members of the public.~~
- ~~Provide notice that LRAPA ensures reasonable accommodation to qualified individuals with disabilities by posting conspicuously in LRAPA's facilities the Equal Employment Opportunity Commission's poster regarding nondiscrimination against the disabled and other protected groups.~~

~~A qualified employee with a disability is someone who satisfies the skill, experience, education and other job-related requirements of the position held or desired, and who, with or without reasonable accommodation, can perform the essential functions of that position. A reasonable accommodation may be necessary to apply for a job, to perform job functions, or to enjoy the benefits and privileges of employment that are enjoyed by people without disabilities.~~

~~Reasonable accommodations include, but are not limited to, acquiring or modifying equipment or devices, adjusting or modifying training materials or policies making existing facilities readily accessible to and usable by persons with disabilities.~~

~~LRAPA is committed to making reasonable accommodations that will allow an individual with a disability to perform the essential job functions of the position. An employee should notify his/her supervisor of the need for an accommodation in writing, and may be required to provide a release to allow LRAPA access to medical information. In determining the feasibility of a requested accommodation, LRAPA will consider the preference of the individual to be accommodated. However, LRAPA will not necessarily grant the specific accommodation requested by the individual. LRAPA may choose another effective accommodation that will better serve the operating needs of the Agency and provide equal opportunity for the employee.~~

## **A. No-Discrimination, No-Retaliation Policy**

LRAPA provides equal employment opportunity to all qualified employees and applicants without unlawful regard to race, color, religion, sex, gender identity, pregnancy (including childbirth and related medical conditions), sexual orientation, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other status protected by applicable federal, Oregon, or local law. LRAPA recognizes an employee's right to engage in protected activity under

Oregon and federal law, as discussed in various policies below, and will not retaliate against an employee for engaging in protected activity.

For purposes of this and all other LRAPA policies, “race” is defined to include physical characteristics that are historically associated with race, including but not limited to natural hair, hair texture, hair type and protective hair styles, defined as “hairstyle, hair color or manner of wearing hair, including braids regardless of whether the braids are created with extensions or styled with adornments, locs, and twists”.

LRAPA’s commitment to equal opportunity applies to all aspects of the employment relationship including but not limited to, recruitment, hiring, compensation, promotion, demotion, transfer, disciplinary action, layoff, recall, and termination of employment.

## **B. Statement Regarding Pay Equity**

LRAPA supports Oregon’s Pay Equity Law and federal and Oregon laws prohibiting discrimination between employees on the basis of a protected class (as defined by Oregon or federal law) in the payment of wages or other compensation for work of comparable character. Employees who believe they are receiving wages or other compensation at a rate less than that at which LRAPA pays wages or other compensation to other employees for work of comparable character are encouraged to discuss the issue with their supervisor.

## **C. No-Harassment Policy**

LRAPA prohibits harassment and sexual assault in the workplace, or harassment and sexual assault outside of the workplace that violates its employees, volunteers, and interns’ right to work in a harassment-free workplace. Specifically, LRAPA prohibits harassment or conduct related to an individual’s race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

Each member of management is responsible for creating an atmosphere free of discrimination, harassment, and sexual assault. Further, all employees are responsible for respecting the rights of other employees and to refrain from engaging in conduct prohibited by this policy, regardless of the circumstances, and regardless of whether others participate in the conduct or did not appear to be offended. All employees are encouraged to discuss this policy with their supervisor, any member of the management team, or with Human Resources, at any time if they have questions relating to the issues of discrimination or harassment.

This policy applies to and prohibits sexual or other forms of harassment that occur during working hours, during LRAPA related or sponsored trips (such as conferences or work-related travel), and during non-working hours when that off-duty conduct creates an unlawful hostile work environment for any of LRAPA’s employees. Such harassment is prohibited whether committed by LRAPA employees or by non-employees including elected officials, members of the community, volunteers, interns, and vendors.

## Sexual Harassment

Sexual harassment includes unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature regardless of whether such conduct is “welcome”, when:

1. Submission to such conduct is made either implicitly or explicitly a term or condition of employment;
2. Submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; or
3. Such conduct has the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive work environment.

Some examples of conduct that could give rise to sexual harassment are unwanted sexual advances; demands for sexual favors in exchange for favorable treatment or continued employment; sexual jokes; flirtations; advances or propositions; verbal abuse of a sexual nature; comments about an individual’s body, sexual prowess, or deficiency; talking about your sex life or asking others questions about theirs; leering or whistling; unwelcome touching or assault; sexually suggestive, insulting, or obscene comments or gestures; displays of sexually suggestive objects or pictures; making derogatory remarks about individuals who are gay, lesbian, bisexual or transgender; or discriminatory treatment based on sex. This is not a complete list.

## Other Forms of Prohibited Harassment

This policy prohibits harassment against an individual based on the individual’s race, color, religion, sex, pregnancy, sexual orientation, gender identity, national origin, age, disability, genetic information, veteran status, domestic violence victim status, or any other protected status or activity recognized under Oregon, federal or local law.

This policy also prohibits harassment such as verbal, written, or physical conduct that denigrates, makes fun of, or shows hostility towards an individual because of that individual’s protected class or protected activity, and can include:

- Jokes, pictures (including drawings), epithets, or slurs;
  - Negative stereotyping;
  - Displaying racist symbols anywhere on LRAPA property;
  - “Teasing” or mimicking the characteristics of someone with a physical or mental disability;
  - Criticizing or making fun of another person’s religious beliefs, or “pushing” your religious beliefs on someone who doesn’t have them;
  - Threatening, intimidating, or hostile acts that relate to a protected class or protected activity;
- or
- Written or graphic material that denigrates or shows hostility or aversion toward an individual or group because of the protected status.
  - Negative comments or teasing a person about their natural hair, hair texture, hair type or hair style (see definition of “race” on page 1). Employees may not touch another employee’s hair without permission to do so, even if the touch is extended out of curiosity or as a compliment.



This is not a complete list. All employees are expected to exercise common sense and refrain from other similar kinds of unprofessional conduct.

### Complaint Procedure

Employees, volunteers, or interns who have experienced a sexual assault, any harassment, discrimination in violation of this policy, who have witnessed such behavior, or who have credible information about such behavior occurring, are expected and should bring the matter to the attention of their supervisor, Human Resources, or the Director as soon as possible. Employees are strongly encouraged to document the information or incident in any written or electronic form, or with a voice mail message (or phone call). An employee who experiences or witnesses harassment is encouraged, but not required, to tell the harasser that the behavior is offensive and unwanted, and that they want it to stop.

### Investigation and Confidentiality

All complaints and reports will be promptly and impartially investigated and will be kept confidential to the extent possible, consistent with LRAPA's need to investigate the complaint and address the situation. If conduct in violation of this policy is found to have occurred, LRAPA will take prompt, appropriate corrective action, and any employee found to have violated this policy will be subject to disciplinary action, up to and including termination of employment.

Employees who have been subjected to harassment, sexual assault, or discrimination are encouraged to use LRAPA's complaint-reporting procedure, described above, to ensure a timely, thorough investigation and handling of the situation. Employees may, however, seek redress from the Oregon Bureau of Labor and Industries (BOLI) pursuant to ORS 659A.820 to 659A.865, or in a court under any other available law, whether criminal or civil. Although LRAPA cannot provide employees with legal advice, employees should be aware of the statute of limitations applicable to harassment or discrimination claims under ORS 659A.030, 659A.082 or 659A.121 (five years). Further, before an employee can take any legal action against LRAPA, the employee must provide written notice of the claim within 180 days of the act or omission the employee claims have caused him/her harm. When an employee can prove harm as a result of unlawful harassment or discrimination in an administrative proceeding or in a court, remedies available to the employee include enforcement of a right, imposition of a penalty, or issuance of an order to the employee's employer (in limited circumstances).

### Protection Against Retaliation

LRAPA prohibits retaliation in any way against an employee because the employee has made a good-faith complaint pursuant to this policy or the law, has reported (in good faith) sexual assault, harassing or discriminatory conduct, or has participated in an investigation of such conduct.

Employees who believe they have been retaliated against in violation of this policy should immediately report it to their supervisor, Human Resources, or the Executive Director. Any employee who is found to have retaliated against another employee in violation of this policy will be subject to disciplinary action up to and including termination of employment.

See also the No-Discrimination, No-Retaliation Policy, above, and the Reporting Improper and Unlawful Activity Policy, below

### **Other Resources Available to Employees**

LRAPA provides an Employee Assistance Program (EAP) through Canopy to employees and dependents who are enrolled in LRAPA's medical coverage. For access to confidential help 24 hours a day, seven days a week, call toll-free: 1-800-433-2320, or go online to [canopywell.com](http://canopywell.com). The EAP program provides confidential counseling services and educational tools such as resources relating to eldercare, childcare, legal consultation, financial coaching, identity theft, and others.

LRAPA cannot provide legal resources to its employees or referrals to specific attorneys. Employees may contact the Oregon State Bar for more information: <https://www.osbar.org/public/>.

### **Other Employee Rights**

Nothing in this policy is intended to diminish or discourage an employee who has experienced workplace harassment or discrimination, or sexual assault, from talking about or disclosing his/her experience.

LRAPA is committed to creating and maintaining a workplace free of sexual assault, harassment, discrimination, and retaliation and it has confidence in the process it has developed for addressing good-faith complaints. However, Oregon law requires LRAPA to inform employees that if they have been aggrieved by workplace harassment, discrimination or sexual assault and want to enter into an agreement with LRAPA regarding their experience and/or employment status, the employee should contact their supervisor. The employee's request to enter into such an agreement must be in writing (email or text is acceptable). Requests of this nature will be considered on a case-by-case basis; such agreements are not appropriate for every situation. If LRAPA and the employee do reach an agreement, LRAPA will not require an employee to enter into a nondisclosure agreement (which would prohibit the employee from discussing or communicating about his/her experiences in the workplace or the terms of the agreement) or a non-disparagement agreement (which would prohibit the employee from speaking slightly about LRAPA or making comments that would lower LRAPA in rank or reputation). If, however, the employee makes a request for an agreement under this paragraph, nondisclosure and non-disparagement are terms that LRAPA and the employee may agree to. The employee will have seven days to revoke the agreement after signing it.

### **D. No-Bullying Policy**

LRAPA strives to promote a positive, professional work environment free of physical or verbal harassment, "bullying," or discriminatory conduct of any kind. LRAPA, therefore, prohibits employees from bullying one another or engaging in any conduct that is disrespectful, insubordinate, or that creates a hostile work environment for another employee for any reason. For purposes of this policy, "bullying" refers to repeated, unreasonable actions of individuals (or a group) directed towards an individual or a group of employees, which is intended to intimidate and that creates a risk to the health and safety of the employee(s). Examples of bullying include:

1. Verbal Bullying: Slandering, ridiculing, or maligning a person or his/her family; persistent name calling that is hurtful, insulting or humiliating; using a person as butt of jokes; abusive and offensive remarks.
2. Physical Bullying: Pushing; shoving; kicking; poking; tripping; assault, or threat of physical assault; damage to a person's work area or property.
3. Gesture Bullying: Non-verbal threatening gestures, glances that can convey threatening messages.
4. Exclusion Bullying: Socially or physically excluding or disregarding a person in work-related activities. In some cases, failing to be cooperative and working well with co-workers may be viewed as bullying.
5. Cyber Bullying: Bullying that takes place using electronic technology, which includes devices and equipment such as cell phones, computers, and tablets as well as communication tools including social media sites, text messages, chat, and websites. Examples of cyberbullying include transmitting or showing mean-spirited text messages, emails, embarrassing pictures, videos or graphics, rumors sent by email or posted on social networking sites, or creating fake profiles on websites for co-workers, managers or supervisors or elected officials.

***NOTE: This is not an all-inclusive list.***

Employees who have experienced bullying in violation of this policy, who have witnessed an incident of bullying, or who have credible information about an incident, are expected and should bring the matter to the attention of their supervisor, Human Resources, or the Director as soon as possible. If conduct in violation of this policy is found to have occurred LRAPA will take prompt, appropriate action, and any employee found to have violated this policy will be subject to disciplinary action, up to and including termination of employment.

## **E. Disability Accommodation Policy**

LRAPA is committed to complying fully with the Americans with Disabilities Act (ADA) and Oregon's disability accommodation and anti-discrimination laws. We are also committed to ensuring equal opportunity in employment for qualified persons with disabilities.

### Accommodations

LRAPA will make reasonable efforts to accommodate a qualified applicant or employee with a known disability unless such accommodation creates an undue hardship on the operations of LRAPA.

### Requesting an Accommodation

A reasonable accommodation is any change or adjustment to a job or work environment that does not cause an undue hardship on the agency and that permits a qualified applicant or employee with a disability to participate in the job application process, to perform the essential functions of a job, or to enjoy benefits and privileges of employment equal to those enjoyed by employees without disabilities. For example, a reasonable accommodation may include providing or modifying equipment or devices, job restructuring, allowing part-time or modified work schedules, reassigning an individual, adjusting or modifying examinations or training materials provided by LRAPA, providing

readers and interpreters, or making the workplace readily accessible to and usable by people with disabilities.

Employees should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to perform the essential duties of a position. All requests for accommodation should be made with the employee's supervisor and should specify which essential functions of the employee's job cannot be performed without a reasonable accommodation. In most cases, an employee will need to secure medical verification of their need for a reasonable accommodation. Both LRAPA and employee must monitor the employee's accommodation situation and consider adjustments as needed.

#### **F. Pregnancy Accommodation Policy**

Employees who are concerned that their pregnancy, childbirth, or a related medical condition (including lactation) will impact their ability to work should contact their supervisor to discuss options for continuing to work and, if necessary, leave of absence options. LRAPA will provide one or more reasonable accommodations pursuant to this policy for employees with known limitations unless such accommodations impose an undue hardship on LRAPA's operations.

##### **Requesting a Pregnancy-Related Accommodation**

Employees who are concerned that their pregnancy, childbirth, or a related medical condition will limit their ability to perform their duties should request an accommodation as soon as it becomes apparent that a reasonable accommodation may be necessary to enable the employee to work. All requests for accommodation should be made with the supervisor and should specify which essential functions of the employee's job cannot be performed without a reasonable accommodation. In most cases, information from the employee's doctor may be needed to assist LRAPA and the employee find an effective accommodation, or to verify the employee's need for an accommodation. Both LRAPA and employee must monitor the employee's accommodation situation and make adjustments as needed.

##### **No Discrimination, No Retaliation**

LRAPA prohibits retaliation or discrimination against any employee who, under this policy: (1) asked for information about or requested accommodations; (2) used accommodations provided by LRAPA; or (3) needed an accommodation.

Employees who ask about, request, or use accommodations under this policy and applicable Oregon law have the right to refuse an accommodation that is unnecessary for the employee to perform the essential functions of the job or when the employee does not have a known limitation. Under Oregon law, an employer cannot require an employee to use sick leave under the Oregon Family Leave Act if a reasonable accommodation can be made that does not impose an undue hardship on the operations of LRAPA. Also, no employee will be denied employment opportunities if the denial is based on the need of LRAPA to make reasonable accommodations under this policy.

##### **Leave of Absence Options for Pregnant Employees**

Employees who are pregnant or experiencing pregnancy-related medical conditions should also be aware of their leave of absence options under Oregon’s sick leave law and the Oregon Family Leave Act. For more information, contact your supervisor or Human Resources.

## **G. Reporting Improper or Unlawful Conduct — No Retaliation**

Employees may report concerns about LRAPA’s compliance with any law, regulation, or policy, using one of the methods identified in this policy. LRAPA will not retaliate against employees who disclose information that the employee reasonably believes is evidence of:

- A violation of any federal, Oregon, or local law, rules, or regulations by LRAPA;
- A violation of law, regulation, or standard pertaining to safety and health in the place of employment;
- Mismanagement, gross waste of funds, abuse of authority;
- A substantial and specific danger to public health and safety resulting from actions of LRAPA or one of its employees; or
- The fact that a recipient of government services is subject to a felony or misdemeanor arrest warrant.

Further, in accordance with Oregon law, LRAPA will not prohibit an employee from discussing the activities of a public body or a person authorized to act on behalf of a public body with a member of the Legislative Assembly, legislative committee staff acting under the direction of a member of the Legislative Assembly, any member of the elected governing body of a political subdivision, or an elected auditor of a city, county, or metropolitan service district.

### **Employee Reporting Options**

Employees who wish to report improper or unlawful conduct should first talk to their supervisor. If you are not comfortable speaking with your supervisor, or you are not satisfied with your supervisor’s response, you are encouraged to speak with Human Resources, or the Director. Further, supervisors and managers are required to inform Human Resources about reports of improper or unlawful conduct they receive from employees. Reports of unlawful or improper conduct will be kept confidential to the extent allowed by law and consistent with the need to conduct an impartial and efficient investigation.

If LRAPA were to prohibit, discipline, or threaten to discipline an employee for engaging in an activity described above, the employee may file a complaint with the Oregon Bureau of Labor and Industries or bring a civil action in court to secure all remedies provided for under Oregon law.

### **Additional Protection for Reporting Employees**

Oregon law provides that, in some circumstances, an employee who discloses a good faith and objectively reasonable belief of LRAPA’s violation of law will have an “affirmative defense” to any civil or criminal charges related to the disclosure. For this defense to apply, the employee’s disclosure must relate to the conduct of their coworker or supervisor acting within the course and scope of their employment. The disclosure must have been made to: (1) a state or federal regulatory agency; (2) a law enforcement agency; (3) a manager or supervisor with LRAPA; or (4) an Oregon-licensed attorney

who represents the employee making the report/disclosure. The defense also only applies in situations where the information disclosed was lawfully accessed by the reporting employee.

### **Policy Against Retaliation**

LRAPA will not retaliate against employees who make reports or disclosures of information of the type described above when the employee reasonably believes they are disclosing information about conduct that is improper or unlawful, and who lawfully accessed information related to the violation (including information that is exempt from disclosure as provided in Oregon law or by LRAPA policy).

In addition, LRAPA prohibits retaliation against an employee for participating in good faith in any investigation or proceeding resulting from a report made pursuant to this policy. Further, no LRAPA employee will be adversely affected because he/she refused to carry out a directive that constitutes fraud or is a violation of local, Oregon, federal or other applicable laws and regulations. LRAPA may take disciplinary action (up to and including termination of employment) against an employee who has engaged in retaliatory conduct in violation of this policy.

This policy is not intended to protect an employee from the consequences of his/her own misconduct or inadequate performance simply by reporting the misconduct or inadequate performance. Furthermore, an employee is not entitled to protections under this policy if LRAPA determines that the report was known to be false, or information was disclosed with reckless disregard for its truth or falsity. If such a determination is made, an employee may be subject to discipline up to and including termination of employment.

## FEDERAL AND OREGON FAMILY LEAVE

**Note: Because CIS members are public governmental employers, all CIS members are “covered employers” under FMLA regardless of size. However, not all CIS members’ employees are “eligible” for a leave of absence under FMLA because the definition of an “eligible employee” under FMLA requires the employee to work at a worksite with 50 or more employees.**

**LRAPA is recommending removing the below policy that is currently in the handbook and replacing with the OFLA policy found below this crossed out section.**

~~**Oregon Family Leave Act (OFLA) and Family and Medical Leave Act (FMLA)** LRAPA provides its employees with family and medical leave in accordance with the federal Family and Medical Leave Act (FMLA) and the Oregon Family Leave Act (OFLA). This policy contains only a brief description of each law. In situations where both FMLA and OFLA apply, the Agency will apply the rules that grant the employee the most favorable benefits. Sometimes more than one type of leave may apply to a situation. Where allowed by federal or state law, leaves will run concurrently.~~

### ~~❖ Family and Medical Leave Act (FMLA)~~

~~1. Employee Eligibility: Employees who have worked for LRAPA for at least 12 months and who have worked at least 1,250 hours during the 12-month period preceding the leave are eligible for FMLA leave.~~

#### ~~2. Definitions:~~

~~2.1 “Serious health condition” includes an illness, injury, impairment, or physical or mental condition that involves:~~

- ~~• Inpatient care;~~
- ~~• Incapacity for more than three consecutive calendar days, which also involves: (a) treatment two or more times by a health care provider; or (b) treatment by a health care provider on at least one occasion which results in a regimen of continuing treatment under the supervision of the health care provider.~~
- ~~• Absences for pregnancy-related disability or for prenatal care.~~
- ~~• Absences for a chronic serious health condition.~~
- ~~• Permanent or long term incapacity due to a condition for which treatment may not be effective.~~
- ~~• Multiple treatments for conditions that if not treated, would likely result in incapacity of more than three days.~~
- ~~• Critical injuries or illnesses diagnosed as terminal or which pose an imminent danger of death.~~

~~2.2 “Family member” is defined as FMLA to include a spouse, parent, and biological,~~

~~adopted, foster or step child under age 18, or age 18 and older and incapable of self care because of a mental or physical disability.~~

### ~~3. Leave Entitlement~~

~~3.1 Eligible employees are entitled to a total of 12 workweeks of leave during any 12-month period for one or more of the following reasons:~~

- ~~• The birth of a child or to care for the child after birth;~~
- ~~• The placement of a child with the employee for adoption or foster care, or to care for the child after placement;~~
- ~~• To care for a family member with a serious health condition;~~
- ~~• When an employee is unable to perform the functions of the position because of the employee's own serious health condition;~~
- ~~• Any qualifying exigency arising out of the fact that the employee's family member is on active duty, or has been notified of an impending call or order to active duty, in the Armed Forces in support of a contingency operation.~~

~~3.2 An eligible employee who is the family member, or next of kin of a covered service member with a serious injury or illness is entitled to a total of 26 work weeks of leave during a 12-month period to care for the service member. The leave described in this paragraph is only available during a single 12-month period. During that period, an eligible employee is entitled to a combined total of 26 work weeks of leave under paragraphs 2.1 and 2.2.~~

### ~~4. Notice~~

~~Employees ordinarily must provide LRAPA at least 30 days advance written notice of the need for FMLA leave, and the anticipated timing and duration of the leave, except when the need for leave is not reasonably foreseeable. If the employee's need is not foreseeable, the employee should give as much notice as is practicable. In case of leave taken under emergency circumstances, the employee must, except in extraordinary circumstances, provide LRAPA with notice of the leave within 24 to 48 hours of learning of the need for leave. An employee's failure to provide the required notice may mean that the employee has no FMLA protection for the absence, and may result in LRAPA's delaying the employee's FMLA leave or the absence being deemed an unauthorized absence subject to discipline.~~

~~Employees requesting FMLA leave or providing notice of intent to take leave under this policy shall submit the notice to the employee's supervisor, with a copy to Finance/HR Manager. The Finance/HR Manager will make the final decision whether the leave qualifies as FMLA leave.~~

### ~~5. Medical Certification~~

~~LRAPA may require certification from a health care provider for leave for an employee, for a family member's serious health condition or for the employee's next of kin. An employee requesting leave for the employee's serious health condition or the serious health condition of the employee's spouse, child or parent must submit a verifying medical certification from a physician within 15 days of LRAPA's written request to do so. Failure to submit certification within 15 days may result in the denial of leave or continued leave, and may result in the employee's absence being deemed an~~



~~unauthorized absence subject to discipline or a voluntary resignation. LRAPA may require additional certifications as permitted by law.~~

~~6. Status Reports~~

~~An employee is generally required to report to his/her supervisor every 30 days regarding his/her status and intent to return to work.~~

~~7. Use of Paid Leave~~

~~Employees must first use accrued paid leave during any period of FMLA leave for any reason before taking any unpaid FMLA leave.~~

~~8. Benefits During FMLA Leave~~

~~Employees taking FMLA leave are entitled to receive health benefits during the leave at the same level and terms of coverage as if they had been working throughout the leave. If applicable, arrangements will be made for employees to pay their share of health insurance premium while on leave. In some instances, LRAPA may recover premiums it paid to maintain health coverage for an employee who fails to return to work from FMLA leave. Paid leave (including holiday leave) will not accrue during any period of unpaid FMLA leave.~~

~~The employee's use of FMLA leave will not result in the loss of any employment benefit that accrued prior to the start of the leave.~~

~~9. Job Restoration After FMLA Leave~~

~~LRAPA will reinstate an employee returning from FMLA leave to the same position held by the employee when the leave started, with equivalent pay, benefits, and other employment terms and conditions, unless the employee's position has been eliminated. An employee on a FMLA leave does not have any greater right to reinstatement or to other benefits and conditions of employment than if the employee had been continuously employed during the FMLA leave period.~~

~~Before an employee who has taken FMLA leave for his/her own serious health condition may return to work, LRAPA may require a certification from the employee's health care provider that the employee is fit to return to his/her work duties.~~

~~10. Failure to Return to Work~~

~~If an employee does not return to work following FMLA leave, LRAPA may terminate the employee's employment in accordance with the law.~~

~~11. Other Provisions~~

~~11.1 Leave is calculated on a rolling 12-month basis, measured backward from the date an employee first uses any family medical leave.~~

~~11.2 LRAPA designates any period of leave taken by an employee as FMLA if the leave~~

qualifies as FMLA in accordance with the law. LRAPA reserves this right even if the employee does not request that a period of leave be designated as FMLA leave, and even if an employee requested that the leave not be designated as FMLA leave.

~~11.3~~ FMLA leave for the care of a newborn, newly adopted or placed foster child must conclude within 12 months of the birth or placement. If FMLA leave is to care for a child after the birth or placement for adoption or foster care, employees may take their FMLA leave intermittently or on a reduced work schedule only with LRAPA's prior permission.

~~11.4~~ When leave is needed to care for an immediate family member or for the employee's own illness and is for planned medical treatment, the employee must try to schedule treatment in order to prevent disruptions of LRAPA's operations.

~~11.5~~ Where both spouses are employed by LRAPA, they are jointly entitled to a combined leave of 12 workweeks of leave (rather than 12 weeks each) for the birth or placement of an adopted or foster child with the employee, and to care for a parent who has a serious health condition, and to a combined leave of 26 workweeks to care for a covered service member.

~~11.6~~ Eligible employees may take FMLA leave intermittently (for example, in blocks of time) or by reducing a work schedule in certain circumstances. If the FMLA leave is because of the employee's serious illness or to care for a seriously ill family member, the employee may take the leave intermittently or on a reduced work schedule if it is medically necessary.

#### ~~❖ Oregon Family Leave Act (OFLA)~~

##### ~~1. Employee Eligibility~~

~~For purposes of parental leave under OFLA, an eligible employee is one who has been employed with LRAPA for at least 180 days immediately preceding the date on which OFLA leave begins. For purposes of all other types of OFLA leave, an eligible employee is one who has worked for LRAPA an average of at least 25 hours per week during the 180 days immediately prior to the date which OFLA leave begins.~~

##### ~~2. Definitions~~

~~2.1 "Family member" means the employee's spouse, same-gender domestic partner, parent (custodial, non-custodial, biological, adoptive, or foster), parent of same-gender domestic partner, parent-in-law, grandparent or grandchild of the employee, or a person with whom the employee is or was in a relationship of *in loco parentis*. It also includes the child (biological, adopted, foster or step) of the employee or of the employee's same-gender domestic partner. For purposes of OFLA, an employee's child may be either a minor or an adult at the time the serious health condition leave is taken.~~

~~2.2 "Serious health condition" has the same definition under OFLA as it does under FMLA.~~

### ~~3. Leave Entitlement~~

~~3.1 Eligible employees may take up to 12 workweeks of OFLA leave during a 12-month period for the following reasons:~~

- ~~• To care for a newborn child, a newly adopted child, or a newly placed foster child;~~
- ~~• To care for a family member with a serious health condition;~~
- ~~• To recover from or seek treatment for the employee's own serious health condition;~~
- ~~• To care for the sick child of the employee when the child requires home care (other than serious health condition).~~

~~3.2 An eligible female employee is entitled to an additional 12 weeks of OFLA leave for pregnancy related disability or for prenatal care.~~

~~3.3 An eligible male or female employee who uses the full 12 weeks of parental leave is entitled to an additional 12 weeks to care for a sick child.~~

### ~~4. Concurrent Leaves~~

~~OFLA leave will not run concurrently with a workers' compensation leave, unless the employee has refused a suitable offer of light duty or modified employment. An employee who refuses such an offer and who is otherwise entitled to OFLA leave automatically commences a period of OFLA leave upon refusing the offer of employment.~~

### ~~5. Failure to Provide Notice~~

~~An employee must provide notice for OFLA leave as he or she would for FMLA leave. (See Part II, paragraph 4, above). Failure to provide the required notice may result in LRAPA deducting up to three weeks from the leave period and may also subject an employee to disciplinary action.~~

### ~~6. Other~~

~~Paragraphs 4 through 11 of the FMLA policy set forth in Part II, apply equally to OFLA leave.~~

### Leave for Victims of Domestic Violence

~~An eligible employee who has worked an average of 25 hours or more per week for at least 180 days immediately before taking leave, and who is the victim of domestic violence, sexual assault or stalking, the parent or guardian of a minor child who is a victim, or has a dependent who is a victim, is entitled to reasonable leave for any of the following reasons:~~

- ~~to seek legal or law enforcement assistance, including preparing for and participating in related civil and criminal proceedings;~~
- ~~to seek medical treatment for or to recover from injuries;~~
- ~~to obtain or to assist a minor child or dependent in obtaining counseling from a licensed mental health professional;~~
- ~~to obtain services from a victim services provider; and~~
- ~~to relocate or take steps to secure an existing home.~~

~~Eligible employees are required to give LRAPA reasonable notice of his/her intention to take leave under this section, unless the need for leave is unforeseeable. LRAPA reserves the right to require employees to submit certification of the need for leave. Certification may be provided in the form of a police report, a protective order, or documentation from an attorney, law enforcement officer, a medical care or victim service provider or a member of the clergy.~~

~~Leave for victims of domestic violence, sexual assault and stalking is unpaid. However, an employee may apply any accrued paid vacation or sick leave to the period of leave provided for under this section.~~

## **A. Family Medical Leave**

### Oregon Family Leave Act (OFLA) Leave Policy

The following is a summary of Family and Medical Leave policy and procedures under the Oregon Family Leave Act (OFLA). Generally, and as will be discussed, eligible employees are entitled to 12 weeks of unpaid leave for the reasons identified below. Oregon law prohibits retaliation against an employee with respect to hiring or any other term or condition of employment because the employee asked about, requested, or used OFLA Leave. In all cases, applicable Oregon laws, rules, policies, and collective bargaining agreements govern the employee's and LRAPA's rights and obligations, not this policy. Due to not employing at least 50 employees, LRAPA does not have any "eligible employees" for purposes of the federal Family Medical Leave Act (FMLA).

Employees seeking further information should contact his/her supervisor or Human Resources. Please also refer to the "Oregon Family Leave Act" notice posted in the break/kitchen area, which is incorporated here by reference.

- Definitions

#### *Family Member*

"Family member" is defined as a spouse (including registered, same-sex domestic partners), parent (biological, adoptive, step, foster, or *in loco parentis*), parent of a registered, same-sex domestic partner, parent-in-law, grandparent, grandchild, or "child" (see definition below).

#### *Child*

“Child” includes a biological, adopted, foster or stepchild, the child of a registered, same-sex domestic partner, or a child with whom the employee is in a relationship of *in loco parentis*. For purposes of Serious Health Condition Leave, the “child” can be any age; for all other types of leave under OFLA, the “child” must be under the age of 18 or over 18 if incapable of self-care because of a mental or physical disability.

#### *Eligible Employee*

OFLA - To qualify for OFLA leave for a Serious Health Condition or Sick Child Leave, an employee must have been employed for at least 180 days and worked an average of at least 25 hours per week.

Parental Leave - To qualify for Parental Leave under OFLA, an employee must have been employed for at least 180 days (no per-week hourly minimum is required).

OMFLA - For purposes of Oregon Military Family Leave Act leave, the employee needs to have only worked 20 hours per week (no minimum length of employment required). A different calculation method applies for reemployed service members under the Uniformed Services Employment and Reemployment Rights Act (USERRA) who seek OMFLA leave.

Public Health Emergency Leave - Employees are eligible to take any OFLA leave during a Public Health Emergency if they have worked: (a) more than 30 days immediately before the date on which the leave would begin; or (b) an average of 25 hours per week in the 30 days immediately before the date on which the leave would begin. See definition of “public health emergency” definition below.

#### *Serious Health Condition*

“Serious health condition” is defined under OFLA as an illness, injury, impairment, or physical or mental condition that, for example: requires inpatient care in a medical care facility such as a hospital, hospice or residential facility such as a nursing home; requires constant or continuing care such as home care administered by a health care professional; or involves either an overnight stay in a medical care facility, or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee’s job, or prevents the qualified family member from participating in school or other daily activities. “Serious health condition” also includes any period of absence for the donation of a body part, organ or tissue, including preoperative or diagnostic services, surgery, post-operative treatment and recovery.

Other conditions may qualify as “serious health conditions;” please see your supervisor for more information. The common cold, flu, earaches, upset stomach, minor ulcers, headaches other than migraine, routine dental or orthodontia problems, periodontal disease, and cosmetic treatments (without complications), are examples of conditions that are not generally defined as “serious health conditions.”

#### *Public Health Emergency*

A “public health emergency” is a public health emergency declared under ORS 433.441 or an emergency declaration declared under ORS 401.165. An example of this is when the State of Oregon

declared a COVID-19 state of emergency in March 2020 and the wildfire state of emergency in June 2021.

- Reasons for Taking Leave

Family Medical Leave is defined to include and may be taken under any of the following circumstances:

1. Employee's Serious Health Condition Leave: To recover from or seek treatment for an employee's serious health condition, including pregnancy-related conditions and prenatal care.
2. Family Member's Serious Health Condition Leave: To care for a Family Member with a serious health condition.
3. Oregon Military Family Leave Act Leave ("OMFLA"): During a period of military conflict, as defined by the statute, eligible employees with a spouse or registered same-sex domestic partner who is a member of the Armed Forces, National Guard, or military reserve forces ("Military Spouse"), and who has been notified of an impending call or order to active duty (or who has been deployed) is entitled to a total of 14 days of unpaid leave per deployment after the Military Spouse has been notified of an impending call or order to active duty and before deployment and when the Military Spouse is on leave from deployment.
4. Parental Leave: For the birth of a child or for the placement of a child under 18 years of age for adoption or foster care. Parental leave must be completed within 12 months of the birth of a newborn or placement of an adopted or foster child.
5. Pregnancy Disability Leave: For incapacity due to pregnancy, prenatal medical care or birth.
6. Sick Child Leave: To care for a child who suffers from an illness or injury that does not qualify as a Serious Health Condition but that requires home care. This type of leave does not provide for routine medical and dental appointments or issues surrounding the availability of childcare when the child is not ill or injured. Sick Child Leave is not available if another family member is able and willing to care for the child.
7. Bereavement Leave. See the Bereavement Leave Policy on page \_\_\_\_ of this handbook.

- Length of Leave

In any One-Year Calculation Period, eligible employees may take:

- Up to 12 weeks of Parental Leave, Serious Health Condition Leave (employee's own or family member), or Sick Child Leave;
- An additional 12 weeks of leave may be available to an eligible employee for an illness, injury or condition related to pregnancy or childbirth that disables the employee ("Pregnancy Disability Leave"); and
- Employees who take the entire 12 weeks of Parental Leave may be entitled to an additional 12 weeks of Sick Child Leave.

- One-Year Calculation Period

The "twelve-month period" during which leave is available (also referred to as the "One-Year Calculation Period") will be determined by a rolling 12-month period measured backward from the date an employee uses any family medical leave. Each time an employee takes Family Medical Leave,

the remaining leave entitlement would be any balance of the 12 weeks which has not been used during the immediately preceding 12 months.

- Intermittent Leave

Intermittent or reduced schedule leave may be taken when medically necessary due to the serious health condition of a covered family member or the employee. Employees must make reasonable efforts to schedule planned medical treatments to minimize disruption of LRAPA operations, including consulting management prior to the scheduling of treatment in order to work out a treatment schedule which best suits the needs of both LRAPA and the employee. Intermittent leave for Parental Leave is not available.

- Employee Responsibilities — Notice

Employees must provide at least 30 days' notice before Family Medical Leave is to begin if the reason for leave is foreseeable based on an expected birth, placement for adoption or foster care, or for planned medical treatment for a serious health condition of the employee or of a family member. If 30 days' notice is not practicable, because of a lack of knowledge of approximately when leave will be required to begin, a change in circumstances, or a medical emergency, notice must be given as soon as practicable. If the situation giving rise to a Sick Child Leave is unforeseeable, an employee must give verbal or written notice to LRAPA within 24 hours of commencement of the leave.

Whether leave is to be continuous or is to be taken intermittently or on a reduced schedule basis, notice need only be given one time, but the employee shall advise the supervisor as soon as practicable if dates of scheduled leave change or are extended or were initially unknown.

If circumstances change during the leave and the leave period differs from the original request, the employee must notify the supervisor within three business days, or as soon as possible.

Regardless of the reason for leave, or whether the need for leave is foreseeable, employees will be expected to comply with LRAPA's normal call-in procedures. Employees who fail to comply with LRAPA's call-in procedures may be disciplined or may have their period of OFLA leave reduced. Contact your supervisor for questions or clarification on the call-in procedure for individual work units.

- Certification

Generally speaking, employees must provide sufficient information for LRAPA to determine if the leave may qualify for OFLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, or the need for hospitalization or continuing treatment by a health care provider.

Additionally:

1. Employees requesting Serious Health Condition leave for themselves or to care for a family member will be required to provide certification from the health care provider of the employee or the covered family member to support the request.

2. Employees requesting Sick Child Leave may be required to submit, at a minimum, a note from a doctor or health care provider if the employee has used more than three days (*i.e.*, one, three-day occurrence or three separate instances) of sick child leave within a One-Year Calculation Period.

Employees must furnish LRAPA's requested medical certification information within 15 calendar days after such information is requested by LRAPA. In some cases (except for leave to care for a sick child), LRAPA may require a second or third opinion, at LRAPA's expense. Employees also may be required to submit subsequent medical verification.

Employees will not be asked for, and they should not provide, any genetic information about themselves or a family member in connection with a medical certification.

- **Medical Certification Prior to Returning to Work**

If family medical leave is for the employee's own serious health condition, the employee must furnish, prior to returning to work, medical certification from his/her health care provider stating that the employee is able to resume work.

- **Substitution of Paid Leave for Unpaid Leave**

Employees are required to use accrued paid leave, including floating holidays, vacation, compensatory time, and sick leave prior to a period of unpaid leave of absence on OFLA leave. Use of accrued paid leaves will run concurrently with OFLA leave.

- **Holiday Pay While on Leave**

Employees receiving short or long-term disability will not qualify for holiday pay. Employees using vacation pay or sick pay during a portion of approved family medical leave in which a holiday occurs will qualify to receive holiday pay. Employees who are on unpaid leave during a holiday will not qualify to receive holiday pay.

- **On-the-Job Injury or Illness**

OFLA leave will not be reduced by and will not run concurrently with any period the employee is unable to work because of a disabling compensable on-the-job injury; however, if the injury or illness is a "serious health condition" as defined by Oregon law and the employee has refused a bona fide offer of light-duty or modified employment, OFLA leave will commence.

- **Benefits While on Leave**

LRAPA will continue the employee's health coverage under any group health plan during a period of approved OFLA leave on the same terms as if the employee had continued to work. The employee must continue to make any regular contributions to the cost of the health insurance premiums during the period of approved OFLA leave. Employees will not accrue vacation, sick leave, or other benefits (other than health insurance) while the employee is on an OFLA leave. The leave period, however, will be treated as continuous service (*i.e.*, no break in service) for purposes of vesting and eligibility to participate in LRAPA benefit plans.



- **Job Protection**

Employees returning to work from OFLA will be reinstated to their former position. If the position has been eliminated, the employee may be reassigned to an available equivalent position. Reinstatement is not guaranteed if the position has been eliminated under circumstances where the law does not require reinstatement.

Employees are expected to promptly return to work when the circumstances requiring OFLA have been resolved, even if leave was originally approved for a longer period. If an employee does not return to work at the end of a designated OFLA period, reinstatement may not be available unless the law requires otherwise.

The use of OFLA cannot result in the loss of any employment benefit that accrued prior to the start of an employee's leave.

Employees who work for other employers during a "serious health condition" leave may be subject to discipline up to and including termination. Additionally, all employees who use OFLA for reasons other than the reason for which leave had been granted may be subject to discipline up to and including termination.

An employee who leaves employment with LRAPA for any reason may be eligible for OFLA leave if they are re-employed by LRAPA within 180 days of the separation and if the employee was eligible for OFLA leave at the time of the separation. Special rules apply to employees who temporarily stop working for LRAPA for 180 days or less; please speak with Human Resources for more information.

## **J. Domestic Violence Leave and Accommodation Policy**

All employees are eligible for reasonable use of PTO or unpaid leave to address domestic violence, harassment, sexual assault, or stalking of the employee or his/her minor dependents.

Reasons for taking leave include the employee's (or the employee's dependent's) need to: seek legal or law enforcement assistance or remedies; secure medical treatment for or time off to recover from injuries; seek counseling from a licensed mental health professional; obtain services from a victim services provider; or relocate or secure an existing home.

Leave is generally unpaid, but the employee may use any accrued PTO leave while on this type of leave.

When seeking this type of leave, the employee should provide as much advance notice as is practicable of his/her intention to take leave, unless giving advance notice is not feasible.

Notice of need to take leave should be provided by submitting a request for leave in writing to the supervisor as far in advance as possible, indicating the time needed, when the time will be needed, and the reason for the leave. LRAPA will then generally require certification of the need for the leave, such as a police report, protective order or other evidence of a court proceeding, or documentation from a law enforcement officer, attorney, healthcare professional, member of the clergy, or victim services provider.

If more leave than originally authorized needs to be taken, the employee should give LRAPA notice as soon as is practicable prior to the end of the authorized leave. When taking leave in an unanticipated or emergency situation, the employee must give verbal or written notice as soon as is practicable. When leave is unanticipated, this notice may be given by any person on the employee's behalf.

Finally, employees who are victims of domestic violence, harassment, sexual assault or stalking are entitled to a "reasonable safety accommodation" that will allow the employee to more safely continue to work, unless such an accommodation would impose an "undue hardship" on LRAPA. Please contact your supervisor immediately with requests for reasonable safety accommodations.

## ETHICAL STANDARDS

### ETHICS POLICY

~~This policy sets forth guidelines and restrictions applicable to all LRAPA employees, Board members and officers. All employees, Board members, and officers are public officials for purposes of this policy and under the Oregon Government Ethics Laws.~~

#### ~~General Policy~~

~~LRAPA affirms that service as a public official is public trust. It is the policy of LRAPA to safeguard that trust and to comply with the requirements of the Oregon Government Ethics Laws by adopting and adhering to this policy. This policy consists of three parts: A. Informal Ethics Guidance; B. General Ethical Standards; and C. Outside Employment and Activities. Violation of any element of this policy may result in discipline, up to and including termination of employment. Employees, Board members, and officers should refer all questions concerning this policy to their supervisor, to the Director, or to the Director or Board Chair under Part A of this policy. All employees of LRAPA must review this policy and acknowledge their review in writing using the attached acknowledgement form.~~

#### ~~Definitions~~

##### ~~❖ ————— Public Official —~~

~~Any person serving as an officer, employee or agent of LRAPA.~~

##### ~~❖ ————— Relative —~~

~~The spouse of the public official, any children of the public official or official's spouse, siblings and parents of the public official or the public official's spouse, brothers and sisters in laws of the public official or the public official's spouse, person for whom the public official has a legal support obligation, person benefiting from the public official when benefits are from the public official's public employment, person who provides benefits to the public official when benefits are from the person's employment. A registered domestic partner is considered equivalent to a spouse for the purpose of this definition. To qualify as a domestic partner for purposes of this Handbook, an employee must be joined in a domestic partnership for which a Declaration of Domestic Partnership has been filed and a Certificate of Registered Domestic Partnership has been issued in accordance with Oregon law by a County Clerk.~~

##### ~~❖ ————— Business~~

~~Any corporation, partnership, proprietorship, firm, enterprise, franchise, association, organization, self-employed individual and any other legal entity operated for economic gain but excluding any income-producing not-for-profit corporation that is tax exempt under section~~

{00025967:1}

~~501(c) of the Internal Revenue Code with which a public official or a relative of the public official is associated only as a member or board director or in a non-remunerative capacity.~~

❖ ~~Associated~~

~~Any private business or closely held corporation of which the person or the person's relative is a director, officer, owner or employee, or agent or any private business closely held corporation in which the person or the person's relative owns or has owned stock, another form of equity interest, stock options or debt instruments worth \$1000 or more at any point in the preceding calendar year; any publicly held corporation in which the person or the person's relative owns or has owned \$100,000 or more in stock or other form of equity interest, stock options or debt instruments at any point in the preceding calendar year; any publicly held corporation of which the person or the person's relative is a director or officer; or for public officials required to file a statement of economic interest under ORS 244.050, any business listed as a source of income as required under ORS 244.060(3).~~

❖ ~~Gift~~

~~Something of economic value given to a public official, a relative or member of the household of the public official where the recipient either makes no payment or makes payment at a discounted price. A gift is not available to members of the general public, under the same terms and conditions as those that apply to the gift offered to the public official, the relative or a member of the household.~~

❖ ~~Outside employment or non-paid activity~~

~~Employment not compensated through LRAPA payroll or a non-paid activity engaged in outside of LRAPA, including but is not limited to, paid or unpaid consulting work, part time and short term employment and other long term employment, and service on boards or commissions or other volunteer work.~~

❖ ~~Actual conflict of interest~~

~~Any action, decision or recommendation by a public official which *would be* to the private pecuniary benefit or detriment of the employee, the employee's relative, or any business with which the employee or a relative of the employee is associated.~~

❖ ~~Potential conflict of interest~~

~~Any action, decision or recommendation by a public official which *could be* to the private pecuniary benefit or detriment of the employee, the employee's relative, or any business with which the employee or a relative of the employee is associated.~~

A. ~~Informal Ethics Guidance~~

~~LRAPA is prohibited by law from providing legal advice to any person, including anyone subject to this policy. All public officials are individually and personally responsible for complying with the requirements of law and with this policy; those duties cannot be transferred to LRAPA. LRAPA is not barred, however, from providing guidance about its interpretation of this policy and about~~

~~the application of this policy to particular or hypothesized circumstances. LRAPA wishes to make accessible to any person subject to this policy a forum for obtaining rapid guidance as to LRAPA's intended application of its own policy to particular or hypothesized circumstances.~~

~~Any public official with a question about the application of this policy to any aspect of the person's conduct or to any aspect of LRAPA's operations may submit a written question to the Director or, if the question concerns the conduct of the Director, then with the Board Chair. The Director may submit questions to the Board Chair. The question must be accompanied by sufficient detail to adequately inform the recipient of the relevant facts or hypothesized facts and should identify the elements of this policy that the submitter believes may be at issue under the facts or hypothesized facts.~~

~~LRAPA will acknowledge receipt of the question and inform the submitter whether LRAPA chooses to provide informal guidance to the requester.~~

~~LRAPA, through the Director or as directed by the Board Chair if the submission was made to the Board Chair, may provide written or oral guidance to the person submitting the question.~~

## **B. ~~General Ethical Standards~~**

~~Like the other two components of this policy, LRAPA's General Ethical Standards supplement rather than supplant requirements of state law administered by the Oregon Government Ethics Commission.~~

~~Every public official subject to this policy is prohibited from using his/her LRAPA position to obtain private gain. The forbidden private gain includes avoidance of personal financial detriment in addition to realization of private net gain.~~

~~Official salaries, reimbursement of travel and other expenses in compliance with LRAPA procedures for reimbursement of such expenses, and unsolicited awards for professional achievement do not constitute private gain. State law allows public officials to accept honoraria (such as nominal payments for speaking engagements relating to an official's public duties); nevertheless, this policy requires persons subject to it to consult with the Director or with the Board Chair before accepting honoraria related to the person's LRAPA responsibilities.~~

~~State law and this policy impose limitations on the solicitation or acceptance of gifts from a source that has a legislative or administrative interest in LRAPA's operations.~~

~~No public official, relative of a public official, member of an official's household, or business associated with a public official may solicit or accept a gift with an aggregate value in excess of \$50 in a calendar year from a source with a legislative or administrative interest in LRAPA. The following are not prohibited by this policy: (a) campaign contributions; (b) gifts from family members of the public official; (c) food, lodging and travel when in conjunction with LRAPA-~~

~~related official appearances; and, (d) outside employment and activities authorized by Part C of this policy. In every other circumstance in which a person subject to this policy is offered something of value because of the person's LRAPA duties, the person is encouraged to seek LRAPA's informal ethics guidance before accepting the offered item.~~

## **F. Ethics**

At LRAPA, we believe in treating people with respect and adhering to ethical and fair business practices. We expect employees, board members, and citizen advisory committee members to avoid situations that may compromise their reputation or integrity, or that might cause their personal interests to conflict with the interests of LRAPA or LRAPA's citizens.

Employees of LRAPA are public employees, and as such, are also subject to the State of Oregon's ethics laws. In some cases, these laws provide additional limitations on employees, such as prohibitions on gifts and strict definitions of conflict of interest. Coming to LRAPA from work in the private sector may be challenging, including considering that some activities that are considered common business practice in the private sector are prohibited in the public sector. Information on these laws is available at the Oregon Government Ethics Commission website: <http://www.oregon.gov/OGEC>.

For questions about whether an activity meets LRAPA's or Oregon's ethical standards, please talk with your supervisor. Employees who violate the Ethics Policy, or who violate Oregon ethics laws, may be subject to disciplinary action up to and including termination.

# WORKPLACE VIOLENCE

## PROHIBITION AGAINST WORKPLACE VIOLENCE

### Definitions

#### ❖ ~~\_\_\_\_\_~~ **Violence**

~~Violence is defined as physical force exerted for the purpose of violating, damaging, injuring, or harming someone by, but not limited to, hitting, striking, pushing, shoving, poking, kicking and/or grabbing.~~

#### ❖ ~~\_\_\_\_\_~~ **Abuse**

~~Abuse is defined as an action that hurts or injures another person or object, or that intends to hurt or injure another person or object through physical force or through the use of insults and/or verbal attacks. Examples of abuse include, but are not limited to, yelling or shouting at a person or making comments that are insulting or demeaning.~~

#### ❖ ~~\_\_\_\_\_~~ **Threat**

~~A threat is defined as an expression of an intention, either verbal or written, to inflict pain, injury, or harm, or an expression of an intention to be violent or abusive towards a person or object.~~

### Policy

~~Violence and abuse create an atmosphere of fear and hostility that is not conducive to effective business. LRAPA is committed to providing a safe workplace that is free from physical or verbal violence and abuse, or threats of violence or abuse, and therefore has a zero tolerance policy towards any violence or abuse or any threat of violence or abuse. Any employee who engages in any form of violence or abuse or any threat of violence or abuse will be subject to disciplinary action, up to and including termination of employment. Additionally, any person who engages in violence or abuse or any threat of violence or abuse, at LRAPA's discretion, may be removed immediately from the Agency's premises and required to remain off of the Agency's premises until permitted to return by LRAPA in its sole discretion.~~

~~Any employee who experiences, witnesses or becomes aware of any violence or abuse or any threat of violence or abuse shall report the incident(s) immediately to a supervisor or to Finance/HR Division. Supervisors who observe, experience, or learn about incidents or threats of violence or abuse, must take immediate action, must immediately, or as soon as reasonably practicable, report the incident or threat to Finance/HR Division and they will be held accountable for not doing so.~~

~~All employees and supervisors are authorized to immediately contact law enforcement authorities or 9-1-1 and/or to take other protective measures in case of an immediate threat of harm and do not need to go through any chain of command or seek permission of management before contacting law enforcement or 9-1-1 or taking other protective measures.~~

~~All complaints will be investigated and will be treated confidentially. If it is determined by LRAPA that a violation of this policy has occurred, LRAPA will take appropriate corrective or disciplinary action, up to and including termination of employment.~~

### **M. Workplace Violence**

LRAPA recognizes the importance of a safe workplace for employees, customers, vendors, contractors, and the public. A work environment that is safe and comfortable enhances employee satisfaction as well as productivity. Therefore, threats and acts of violence made by an employee against another employee, volunteer, elected official, or member of the public with respect to that person's life, health, well-being, family, or property will be dealt with in a zero-tolerance manner by LRAPA.

All employees have an obligation to report any incidents that pose a real or potential risk of harm to employees or others associated with LRAPA, or that threaten the safety, security, or financial interests of LRAPA. Employees are also strongly encouraged to report threats or acts of violence by non-employees, such as vendors or citizens, against any employee, volunteer, or elected official. Employees should make such reports directly to the supervisor.

LRAPA also may conduct an investigation of a current employee where the employee's behavior raises concern about work performance, reliability, honesty, or potentially threatens the safety of co-workers or others. See policy on "Workplace Inspections."