

CASITAS MUNICIPAL WATER DISTRICT
PERSONNEL COMMITTEE

Brennan/Word

January 14, 2020 - 4:30 p.m.

District Office

Board Room

1055 Ventura Ave.
Oak View, CA 93022

1. Roll Call
2. Public Comments
3. Board/Manager Comments
4. Review of Updated Casitas Policies:
 - a. CMWD Policy 02-2020 Safe and Secure Workplace
 - b. CMWD Policy 03-2020 Equal Employment Opportunity Policy
 - c. CMWD Policy 04-2020 Policy Against Discrimination, Harassment, and Retaliation; Complaint Procedure
 - d. CMWD Policy 05-2020 Reasonable Accommodation and Interactive Process
 - e. CMWD Policy 06-2020 Whistleblower Protection

Right to be heard: Members of the public have a right to address the Committee direction on any item of interest to the public which is within the subject matter jurisdiction of the Committee. The request to be heard should be made immediately before the Committee's consideration of the item. Not action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of 54954.2 of the Government Code.

If you require special accommodations for attendance at or participation in this meeting, please notify our office in advance (805) 649-2251 ext. 113. (Govt Code Section 65954.1 and 54952.2(a)).

Please be advised that members of the Board of Directors of Casitas who are not members of the this standing committee may attend the committee meeting referred to above only in the capacity of observers, and may not otherwise take part in the meeting. (Govt. Code Sections 54952.2(c)(6)).

CMWD Policy 02-2020

Safe and Secure Workplace

Once adopted by the Board of Directors all previous policies, handbook references, or MOU references will be null and void and replaced by this updated policy. All policy changes will be presented to the SEIU Union and will be bargained, to impasse, if necessary prior to being brought forth for adoption by the Board of Directors.

Casitas is committed to providing a safe and secure workplace and will not tolerate acts or threats of violence in the workplace. (Labor Code § 6400.) The workplace includes any location where Casitas business is conducted, including vehicles and parking lots. Any violation of this Policy may lead to criminal prosecution, and/or disciplinary action, up to and including termination.

02.1 Prohibited Behavior

Employees are prohibited from participating in or promoting acts of intimidation, violence, threats, coercion, assault and/or abusive behavior toward any person while in the course of Casitas employment. Casitas has zero tolerance for any conduct that references workplace violence, even if it was intended to be harmless, humorous, a prank, blowing off steam, or venting.

02.2 Workplace Violence

“Workplace violence” is defined as any conduct that causes an individual to reasonably fear for his or her personal safety or the safety of his or her family, friends, and/or property. Specific examples of workplace violence include, but are not limited to, the following:

- (a) Threats or acts of physical harm directed toward an individual or his/her family, friends, associates, or property.
- (b) The destruction of, or threat of destruction of Casitas property or another employee’s property.
- (c) Fighting, challenging another person to fight, or participating in dangerous or threatening horseplay.
- (d) Striking, punching, slapping, or assaulting another person.
- (e) Grabbing, pinching, or touching another person in an unwanted way whether sexually or otherwise.
- (f) Harassing or threatening phone calls.

- (g) Surveillance.
- (h) Stalking.
- (i) Possessing a weapon(s) during work hours unless Casitas issues the weapon(s) for performance of the job. "Weapon" is defined as a firearm, chemical agent, club or baton, knife, or any other device, tool, or implement that can cause bodily harm if used as a weapon or displayed in such a manner to cause harm or threaten a person with harm.

02.3 Workplace Violence

- (a) Employees must immediately report to their supervisor or department director whether they have been a victim of, or have witnessed, workplace violence. The supervisor or department manager will immediately report the matter to the Human Resources Manager.
- (b) The Human Resources Manager or designee will document the incident, including the employee names(s), date/time, location, incident description, witness names and statements, description of unidentified parties, description of the act(s) and/or behavior arising from the incident, action taken, and provide any other relevant information regarding the incident.
- (c) The Human Resources Manager or designee will take appropriate steps to provide security, such as:
 - 1) Placing the employee alleged to have engaged in workplace violence on administrative leave, pending investigation;
 - 2) Asking any threatening or potentially violent person to leave the site; or
 - 3) Immediately contacting an appropriate law enforcement agency.

02.4 Investigation

The Human Resources Manager will see that reported violations of this Policy are investigated as necessary.

02.5 Prevention

Each department manager has authority to enforce this Policy by:

- (a) Training supervisors and subordinates about their responsibilities under this Policy;
- (b) Assuring that reports of workplace violence are accurately and timely documented and addressed;
- (c) Notifying the Human Resources Manager and/or law enforcement authorities of any incidents;
- (d) Making all reasonable efforts to maintain a safe and secure workplace; and
- (e) Maintaining records and follow up actions as to reports of workplace violence.

CMWD POLICY 03-2020

Equal Employment Opportunity Policy

Once adopted by the Board of Directors all previous policies, handbook references, or MOU references will be null and void and replaced by this updated policy. All policy changes will be presented to the SEIU Union and will be bargained, to impasse, if necessary prior to being brought forth for adoption by the Board of Directors.

Casitas affords equal employment opportunity for all qualified employees and applicants as to all terms of employment, including compensation, hiring, training, promotion, transfer, discipline and termination. Casitas prohibits discrimination against employees or applicants for employment on the basis of race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, wage differentials based on gender, race or ethnicity, or military and veteran status or any other basis protected by law. (Gov. Code § 12940(a).) Employees, volunteers, or applicants who believe they have experienced any form of employment discrimination or abusive conduct are encouraged to report the conduct immediately by using the complaint procedures provided in these Policies, or by contacting the U.S. Equal Employment Opportunity Commission, or the California Department of Fair Employment and Housing.

CMWD POLICIES 04-2020, 05-2020, 06-2020 relate to the Equal Employment Opportunity Policy.

CMWD POLICY 04-2020

Policy Against Discrimination, Harassment, and Retaliation; Complaint Procedure

Once adopted by the Board of Directors all previous policies, handbook references, or MOU references will be null and void and replaced by this updated policy. All policy changes will be presented to the SEIU Union and will be bargained, to impasse, if necessary prior to being brought forth for adoption by the Board of Directors.

04.1 Purpose

Casitas has a strong commitment to prohibiting and preventing discrimination, harassment and retaliation in the workplace. Casitas has zero tolerance for any conduct that violates this policy. Conduct need not arise to the level of a violation of state or federal law to violate this Policy. Instead a single act can violate this Policy and provide grounds for discipline or other appropriate sanctions. This Policy establishes a complaint procedure for investigating and resolving internal complaints of discrimination, harassment and retaliation. Casitas encourages all covered individuals to report any conduct they believe violates this Policy as soon as possible. Any retaliation against an employee because they filed or supported a complaint or because they participated in the complaint resolution process is prohibited. Individuals found to have retaliated in violation of this Policy will be subject to appropriate sanction or disciplinary action, up to and including termination.

04.2 Covered Individuals and Scope of Policy

The individuals covered by this Policy are: applicants, employees regardless of rank or title, elected or appointed officials, interns, volunteers, and contractors. This Policy applies to all terms and conditions of employment, internships, and volunteer opportunities, including, but not limited to, selection, hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

04-3 Definitions - Protected Classification

This Policy prohibits harassment, discrimination or retaliation because of an individual's protected classification. "Protected Classification" includes race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age (40 and over), sexual orientation, or military and veteran status, or any other basis protected by law. (Gov. Code § 12940(a).) This Policy prohibits discrimination, harassment or retaliation because: 1) of an individual's protected classification; 2) the perception that an individual has a protected classification; or 3) the individual associates with a person who has or is perceived to have a protected classification.

04-4 Definitions - Protected Activity

This Policy prohibits discrimination, harassment or retaliation because of an individual's protected activity. Protected activity includes: making a request for or receiving an accommodation for a disability; making a request for or receiving accommodation for religious beliefs or practices; making or supporting a complaint under this Policy; opposing violations of this Policy; or participating in an investigation pursuant to this Policy.

04.5 Definitions – Discrimination

This Policy prohibits treating covered individuals differently and adversely because of the individual's protected classification, actual or perceived; because the individual associates with a person who is member of a protected classification, actual or perceived; or because the individual participates in a protected activity as defined in this Policy. (Gov. Code § 12926(o).)

04.6 Definitions - Harassment

Harassment includes, but is not limited to, the following types of behavior that are taken because of a covered individual's actual or perceived protected classification:

- A. Speech, such as epithets, derogatory comments or slurs, and propositioning on the basis of a protected classification. This includes inappropriate comments about appearance, dress, physical features, gender identification, or race, ethnic or sexually-oriented stories and jokes.
- B. Physical acts, such as assault, impeding or blocking movement, offensive touching, or physical interference with normal work or movement. This includes pinching, grabbing, patting, or making explicit or implied job threats or promises in return for submission to physical acts.
- C. Visual acts, such as derogatory gestures, posters, cartoons, emails, pictures or drawings related to a protected classification.
- D. Sexual advances, requests for sexual favors and other acts of a sexual nature, where submission is made a term or condition of employment, where submission to or rejection of the conduct is used as the basis for employment decisions, or where the conduct is intended to or actually does unreasonably interfere with an individual's work performance or create an intimidating, hostile, or offensive working environment. (Gov. Code § 12940(j); 2 Cal.Code Regs § 11091(b)(1).)

04.07 Guidelines for Identifying Harassment

Harassment includes any conduct which would be unwelcome or unwanted to an individual of the recipient's same protected classification. The following guidelines to determine if conduct is unwelcome or unwanted should be followed:

- A. It is no defense that the recipient "appears" to have consented to the conduct at issue by failing to protest about the conduct. A recipient may not protest for many legitimate reasons, including the need to avoid being insubordinate or to avoid being ostracized or subjected to retaliation.
- B. Simply because no one has complained about a joke, gesture, picture, physical contact, or comment does not mean that the conduct is welcome. Harassment can evolve over time. Small, isolated incidents might be tolerated up to a point. The fact that no one has yet complained does not preclude someone from complaining if the conduct is repeated in the future.
- C. Even visual, verbal, or physical conduct between two people who appear to welcome the conduct can constitute harassment of a third person who witnesses the conduct or learns about the conduct later. Conduct can constitute harassment even if it is not explicitly or specifically directed at a particular individual.
- D. Conduct can constitute harassment even if the individual has no intention to harass. Even well-intentioned conduct can violate this Policy if the conduct is directed at, or implicates a protected classification, and if an individual would find it offensive (e.g., gifts, over-attention, endearing nicknames, hugs).

04.08 Definitions - Retaliation

Retaliation occurs when adverse conduct is taken against a covered individual because of the individual's protected activity as defined in this Policy. "Adverse conduct" may include but is not limited to: disciplinary action, counseling, taking sides because an individual has reported harassment or discrimination; spreading rumors about a complainant or about someone who supports or assists the complainant; shunning or avoiding an individual who reports harassment or discrimination; or making real or implied threats of intimidation to prevent or deter an individual from reporting harassment or discrimination.

04.09 Proactive Approach

Casitas takes a proactive approach to potential Policy violations and will conduct an investigation if its supervisory or management employees become aware that harassment, discrimination or retaliation may be occurring, regardless of whether the recipient or third party reports a potential violation.

04.10 Complaint Procedure

A covered individual who believes he or she has been subjected to discrimination, harassment or retaliation may make a complaint -- orally or in writing -- to any supervisor or manager, without regard to any chain of command. Any supervisory or management employee who receives a harassment complaint should immediately notify the Human Resources Manager. Upon receiving notification of a harassment complaint, the Human Resources Manager will complete and/or delegate the following steps. If the Human Resources Manager is accused, or a witness to the events at issue, an individual with higher authority will complete and/or delegate the following steps.

- A. Authorize and supervise the investigation of the complaint and/or investigate the complaint. The investigation will usually include interviews with: 1) the complainant; 2) the accused; and 3) other persons who have relevant knowledge concerning the allegations in the complaint.
- B. Review the factual information gathered through the investigation to determine whether the alleged conduct violates the Policy giving consideration to all factual information, the totality of the circumstances, including the nature of the conduct, and the context in which the alleged incidents occurred.
- C. Report a summary of the determination as to whether this Policy has been violated to appropriate persons. If discipline or sanctions are imposed, the level of discipline or sanctions will not be communicated to the complainant.
- D. If conduct in violation of this Policy occurred, take or recommend to the appointing authority prompt and effective remedial action. The remedial action will be commensurate with the severity of the offense.
- E. Take reasonable steps to protect the complainant from further harassment, discrimination or retaliation.

04.11 Option to Report to Outside Administrative Agencies

An individual has the option to report harassment, discrimination or retaliation to the U.S. Equal Employment Opportunity Commission (EEOC) or the California Department of Fair Employment and Housing (DFEH). These administrative agencies offer legal remedies and a complaint process. The nearest offices are listed on the Internet, in the government section of the telephone book or employees can check the posters that are located on Casitas bulletin boards for office locations and telephone numbers.

04.12 Confidentiality

Every effort will be made to assure the confidentiality of complaints made under this Policy to the greatest extent allowed by law. Complete confidentiality cannot occur, however, due to the need to fully investigate and the duty to take effective remedial action. An employee who is interviewed during the course of an investigation is prohibited from attempting to influence any potential witness while the investigation is ongoing. An employee may discuss his or her interview with a designated representative. Casitas will not disclose a completed investigation report except as it deems necessary to support a disciplinary action, to take remedial action, to defend itself in adversarial proceedings, or to comply with the law or court order.

04.13 Responsibilities

1. Each non-manager or non-supervisor is responsible for:
 - A. Treating all individuals in the workplace or on worksites with respect and consideration.
 - B. Modeling behavior that conforms to this Policy.
 - C. Participating in periodic training.
 - D. Cooperating with Casitas investigations by responding fully and truthfully to all questions posed during the investigation.
 - E. Taking no actions to influence any potential witness while the investigation is ongoing.
 - F. Reporting any act he or she believes in good faith constitutes harassment, discrimination, or retaliation as defined in this Policy, to his or her immediate supervisor, or manager or Human Resources Officer.
2. In addition to the responsibilities listed above, each manager and supervisor is responsible for:
 - A. Informing employees of this Policy.
 - B. Taking all steps necessary to prevent harassment, discrimination and, retaliation from occurring, including monitoring the work environment and taking immediate appropriate action to stop potential violations, such as removing inappropriate pictures or correcting inappropriate language.
 - C. Receiving complaints in a fair and serious manner, and documenting steps taken to resolve complaints.

- D. Following up with those who have complained to ensure that the behavior has stopped and that there are no reprisals.
 - E. Informing those who complain of harassment or discrimination of his or her option to contact the EEOC or DFEH regarding alleged Policy violations.
 - F. Assisting, advising, or consulting with employees and the Human Resources Manager regarding this Policy.
 - G. Assisting in the investigation of complaints involving employee(s) in their departments and, when appropriate, if the complaint is substantiated, recommending appropriate corrective or disciplinary action in accordance with these Policies, up to and including termination.
 - H. Implementing appropriate disciplinary and remedial actions.
 - I. Reporting potential violations of this Policy of which he or she becomes aware to the Human Resources Manager, regardless of whether a complaint has been submitted.
3. Participating in periodic training and scheduling employees for training.

CMWD POLICY 05-2020

Reasonable Accommodation and Interactive Process

Once adopted by the Board of Directors all previous policies, handbook references, or MOU references will be null and void and replaced by this updated policy. All policy changes will be presented to the SEIU Union and will be bargained, to impasse, if necessary prior to being brought forth for adoption by the Board of Directors.

05.01 Reasonable Accommodation

Absent undue hardship or direct threats to the health and safety of employee(s), Casitas provides employment-related reasonable accommodations to:

1. Qualified individuals with disabilities, both applicants and employees, to enable them to perform essential job functions (Gov. Code § 12940(m)); and
2. Employees with conditions related to pregnancy, childbirth, or a related medical condition, if she so requests, and with the advice of her health care provider (Gov. Code § 12945(3)(A)); and
3. Employee victims of domestic violence, sexual assault, or stalking to promote the safety of the employee victim while at work (Labor Code § 230(f)(4)); and
4. Employees who request reasonable accommodation to address a conflict between religious belief or observance and any employment requirement (Gov. Code § 12940(l)).

05.02 Reasonable Medical Documentation of Disability

If the disability or the need for reasonable accommodation is not obvious, Casitas may require the individual to provide reasonable medical documentation confirming the existence of the disability and the need for reasonable accommodation, along with the name and credentials of the individual's health care provider. If the individual provides insufficient documentation, the agency will: 1) explain the insufficiency; 2) allow the employee or applicant to supplement the documentation; and 3) pursue the interactive process only to the extent that the request for reasonable accommodation is supported by the medical documentation provided. (2 Cal.Code Regs § 11069(c)(2) & (d).)

05.03 Medical Certification Indicating the Need for a Reasonable Accommodation or Transfer Due to Pregnancy or Related Conditions

If a pregnant employee, or an employee with a pregnancy-related condition, requests a reasonable accommodation or transfer due to pregnancy, Casitas will provide the employee with notice of the need for a medical certification within two business days after the employee's request for accommodation. A medical certification confirming the need for a reasonable accommodation, including transfer, is sufficient if it contains: a description of the requested accommodation or transfer; a statement describing the medical advisability of the accommodation or transfer due to pregnancy; and the date that the need for the accommodation or transfer will become necessary and the estimated duration of the accommodation or transfer. (2 Cal.Code Regs § 11050(b)(3).)

05.04 Certification of Victim Status

An employee who is a victim of domestic violence, sexual assault, or stalking and who requests an accommodation to provide for his or her safety while at work must provide both of the following:

1. A written statement signed by the employee or an individual acting on the employee's behalf, to certify that the accommodation is to address victim-safety concerns while at work; and
2. A certification demonstrating the employee's status as a victim of domestic violence, sexual assault, or stalking, which can be in the form of: a police report indicating the employee's victim status; a court order separating the perpetrator from the employee or that the employee has appeared in court for that purpose; or documentation from a medical professional or counselor that the employee is undergoing treatment for physical or mental injuries or abuse resulting from an act of domestic violence, sexual assault, or stalking. (Labor Code § 230(f)(7).)

05.06 Fitness for Duty Examinations: Authorization for Use of Medical Information

During the course of a fitness for duty examination, Casitas will not seek or use information regarding an employee's medical history, diagnoses, or course of treatment without an employee's written authorization.

05.07 Fitness for Duty Examinations: Applicants

After a conditional offer of employment has been extended to an applicant, Casitas may require the applicant to submit to a fitness for duty examination that is job-related; necessary for efficient operations of the agency; and required of all applicants for the job classification. (Gov. Code § 12940(e) &(f).) An applicant or employee who is required to pass a medical and/or psychological examination will be notified of his/her right to obtain a second opinion at his/her expense and that he/she may submit such second opinions for consideration. (2 Cal.Code Regs § 11071(b)(2).)

05.08 Fitness for Duty Examinations: Current Employee

The Human Resources Manager may require an employee to submit to a fitness for duty examination to determine if the employee has a disability and is able to perform the essential functions of his or her job when there is significant evidence that:

1. The employee's ability to perform one or more essential functions of his or her job has declined; or
2. Could cause a reasonable person to question whether an employee is still capable of performing one or more of his or her essential job duties, or is still capable of performing those duties in a manner that does not harm him or herself or others. (Gov. Code § 12940(e) &(f).)

05.09 Fitness for Duty Examinations: Role of Health Care Provider

Casitas may request the applicant's or employee's health care provider to conduct a fitness for duty exam on the applicant or employee, or may request a Casitas selected health care provider to do so at Casitas expense. Casitas will allow an employee paid time off to attend the exam. Casitas will provide the health care provider with a letter requesting a fitness for duty examination and a written description of the essential functions of the job. The examination will be limited to determining whether the applicant or employee can perform the essential functions of his/her position and any work

restrictions and/or functional limitations that apply to the applicant or employee. The health care provider will examine the employee and provide Casitas with non-confidential information regarding whether:

1. The applicant or employee has a disability within the meaning of the California Fair Employment and Housing Act;
2. The applicant or employee is fit to perform essential job functions;
3. Workplace restrictions or functional limitations apply to the applicant or employee, and the duration of the work restrictions or functional limitations;
4. There are any reasonable accommodations that would enable the employee to perform essential job functions; and
5. The employee's continued employment poses a threat to the health and safety of him or herself or others.

Should the health care provider exceed the scope of Casitas request and provide confidential health information, without valid consent of the applicant or employee, Casitas will return the report to the health care provider and request another report that includes only the non-confidential fitness for duty information that was requested. (2 Cal.Code Regs § 11069(c) & (d).)

05.10 Fitness for Duty Examinations: Medical Information from the Employee or Applicant

If an employee or applicant submits medical information to Casitas from his or her own health care provider, the Human Resources Manager will not forward that information on to the health care provider who conducted the examination for Casitas, without the employee or applicant's written authorization. Upon receipt of the written authorization, the Human Resources Manager will request the Casitas paid health care provider to determine whether the information alters the original fitness for duty assessment.

05.11 When to Initiate the Interactive Process

The Human Resources Manager will initiate the interactive process when:

1. An applicant or employee with a known physical or mental disability or medical condition requests reasonable accommodation(s) (2 Cal.Code Regs § 11069(b)(1)); or

2. Casitas otherwise becomes aware of the need for an accommodation through a third party (e.g. a doctor's note requesting an accommodation), or by observation of the employee's work (2 Cal.Code Regs. § 11069(b)(2)); or
3. Casitas becomes aware of the possible need for an accommodation because the employee with a disability has exhausted workers' compensation leave, Family and Medical Act leave, or other leave rights, but the employee and/or the employee's health care provider indicate that further accommodation is still necessary for recuperative leave or other accommodation (2 Cal.Code Regs. § 11069(b)(3)); or
4. An employee disabled by pregnancy, childbirth or related medical conditions requests a reasonable accommodation or transfer based on the advice of her health care provider (2 Cal.Code Regs § 11040(a)(1)); or
5. An employee with a physical or mental disability, regardless of cause, fails to return to work following pregnancy disability leave (2 Cal.Code Regs § 11047); or
6. An employee-victim of domestic violence, sexual assault, or stalking requests a reasonable accommodation(s) for his or her safety at work (Labor Code § 230(f)(1)); or
7. An employee requests an accommodation to address a conflict between religious belief, observance, or practice and any employment requirement (Gov. Code § 12940(l)); or
8. An employer is aware of the need for a reasonable accommodation for an employee's or applicant's religious beliefs, observance or practices. (2 Cal.Code Regs § 11060(b).)

05.12 Interactive Communication

After the occurrence of any of the above-stated circumstances that trigger the need to conduct an interactive process meeting, the Human Resources Manager will promptly arrange for a discussion or discussions, in person or via conference telephone call, with the applicant or employee and his or her designated representative, (if any). The purpose of the interactive communications will be to discuss in good faith all feasible potential reasonable accommodations. The Human Resources Managers will document these communications in writing. (Gov. Code 12940(n); 2 Cal.Code Regs § 11069(a).)

05.13 Potential Accommodations for Applicants or Employees with Disabilities

Depending on the facts of each case, the interactive process analysis will generally begin with a review of possible reasonable accommodations that would enable the

individual to retain his or her current job. The process will generally then move on to possible reasonable accommodations in other vacant jobs, for which the individual is qualified, if there is no reasonable accommodation in the current job that does not cause undue hardship, or that does not present a risk of harm to the individual or others. Casitas will consider accommodations that the applicant or employee suggests, but has the right to select and implement any reasonable accommodation that it deems effective. The range of potential reasonable accommodations includes, but is not limited to:

- making existing facilities used by employees readily accessible to, and usable by, individuals with disabilities, including: acquisition or modification of equipment or devices, adjustment or modifications of examinations, training materials or policies, and/or the provision of qualified readers or interpreters;
- job restructuring;
- part-time or modified work schedules (Gov. Code § 12926(p));
- paid or unpaid leave of absence of a finite duration that is likely to enable the employee to return to work at the end of the leave (2 Cal.Code Regs § 11068(c));
- preferential consideration to reassignment to a vacant, comparable position, except when such preference would violate a bona fide seniority system (2 Cal.Code Regs § 11068(d)(5));
- reassignment to a vacant lower-paid position if there is no funded, vacant comparable position for which the individual is qualified for (2 Cal.Code § 11068(d)(2)); or
- reassignment to a temporary position, if the individual agrees. (2 Cal.Code Regs § 11068(d)(3).)

05.14 Potential Accommodations for Employees Affected by Pregnancy and Related Medical Conditions

Depending on the facts of each case, the interactive process will attempt to identify and implement a reasonable accommodation that is consistent with the medical certification applicable to the applicant or employee. Whether an accommodation is reasonable is a case-by-case analysis that takes into account several factors, including, but not limited to: the employee's medical needs; the duration of the needed accommodation; and the employer's legally permissible past and current practices. (2 Cal.Code Regs. § 11040(a)(2)(A).) The range of potential accommodations includes, but is not limited to:

- transfer to a less strenuous or hazardous position for the duration of the pregnancy (Gov. Code § 12945(a)(3)(C));
- change in or restructuring of work duties, such as modifying lifting requirements (2 Cal.Code Regs § 11040(b));
- providing more frequent breaks;
- providing seating;
- time off for medical appointments;
- transfer temporarily to a job with equivalent pay and benefits that the employee is qualified to perform in order to accommodate reduced work schedule or intermittent leave. (2 Cal.Code Regs. § 11041(c).) (However, a reduction in work hours may be considered a form of pregnancy disability leave and deducted from the employee's four month pregnancy disability leave entitlement.) (2 Cal.Code Regs § 11040(b).)

05.15 Potential Accommodations for Employee-Victims of Domestic Violence, Sexual Assault, or Stalking

Depending on the facts of each individual case, the interactive process analysis will review all possible accommodations that would enhance the safety of the employee victim at work. In determining what accommodation is reasonable, Casitas will consider the exigent circumstance or danger facing the employee. Casitas will consider the preferences of the employee to be accommodated, but has the right to select and implement any accommodation that it deems effective. The range of potential safety measure accommodations includes, but is not limited to:

- transfer, reassignment, modified schedule;
- change in work telephone number;
- change in location of work station;
- installation of locks;
- assistance in documenting domestic violence, sexual assault, or stalking that occurs in the workplace;
- the implementation of a safety procedure(s);
- adjustment to job structure, workplace facility, or work requirement; and
- referral to a victim assistance organization. (Labor Code § 230(f)(2).)

05.16 Potential Accommodations for Religious Creed, Religious Dress Practice, or Religious Grooming Practice

Depending on the facts of each case, the interactive process analysis will review all possible accommodations that would resolve the conflict between the religious belief or observance and any employment requirement. Casitas will consider the preference of the employee or applicant, but has the right to select and implement any accommodation that it deems effective. The range of potential accommodations includes, but is not limited to:

1. Job restructuring or job reassignment (but not segregation from other employees or the public) (Gov. Code § 12940(l)(2));
2. Modification of work practices, including dress or grooming standards (2 Cal.Code Regs § 11062(c)(2));
3. Allowing time off in an amount equal to the amount of non-regularly scheduled time the employee has worked in order to avoid a conflict with his or her religious observances (2 Cal.Code Regs § 11062(a));
4. Allowing alternatives to union membership or payment of union dues (2 Cal.Code Regs § 11062(c)(3)).

“Religious creed,” “religion,” “religious observance,” “religious belief,” and “creed” include all aspects of religious belief, observance, and practice, including religious dress and grooming practices. “Religious dress practice” is construed broadly to include the wearing or carrying of religious clothing, head or face coverings, jewelry, artifacts, and any other item that is part of the observance by an individual of his or her religious creed. “Religious grooming practice” is construed broadly to include all forms of head, facial, and body hair that are part of the observance by an individual of his or her religious creed. (Gov. Code § 12926(q).)

05.17 Determination

After the interactive process communications, the Human Resources Manager will review the information received, and determine: whether all available information has been reviewed; whether all potential accommodations that the applicant or employee has suggested have been considered; whether additional discussions with the applicant or employee would be helpful; whether the applicant’s or employee’s preferences have been taken into account; if there is a reasonable accommodation that would enable the applicant or employee to perform essential job functions without harming him or herself

or others; and if the accommodations would pose an undue hardship on Casitas finances or operations. The Human Resources Manager will inform the applicant or employee of his or her determination in writing. The Human Resources Officer will use his or her discretion based upon the particular facts of each case.

05.18 Access to Medical Information Regarding Fitness for Duty

Medical records and information regarding fitness for duty, or the need for an accommodation, will be maintained separately from non-medical records and information. Medical records and information regarding fitness for duty and the need for accommodation will be accessible only by the Human Resources Manager, Casitas legal counsel, first aid and safety personnel in case of emergency, and supervisors who are responsible for identifying reasonable accommodations. Medical records and information contained therein may be released pursuant to state and federal law. (2 Cal.Code Regs § 11069(g).)

CMWD POLICY 06-2020

Whistleblower Protection

Once adopted by the Board of Directors all previous policies, handbook references, or MOU references will be null and void and replaced by this updated policy. All policy changes will be presented to the SEIU Union and will be bargained, to impasse, if necessary prior to being brought forth for adoption by the Board of Directors.

06.01 Policy

Casitas prohibits all of the following:

- A. Taking any retaliatory adverse employment action against an employee because the employee has or is believed to have disclosed information to any government or law enforcement agency, including to Casitas, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(b));
- B. Preventing an employee from disclosing information to a government agency, including to Casitas, if the employee has reasonable cause to believe that the information discloses a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(a));
- C. Retaliating against an employee for refusing to participate in any activity that would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation (Labor Code § 1102.5(c)); and
- D. Retaliating against an employee because the employee's family member has, or is perceived to have engaged in any of the protected activities listed in (a)-(c) above.

06.02 Policy Coverage

This Policy governs and protects Casitas officials, officers, employees, (seasonal/temporary/extra help employees), or applicants for employment.

06.03 Definitions

(a) "Protected activity" includes any of the following:

- Filing a complaint with a federal or state enforcement or administrative agency that discloses any information that the employee has reasonable cause to believe violates state or federal law or a violation or noncompliance with a local, state, or federal rule or regulation.

- Participating in or cooperating in good faith with a local, federal or state enforcement agency that is conducting an investigation in to alleged unlawful activity.
- Testifying in good faith and with reasonable cause as a party, witness, or accused regarding alleged unlawful activity.
- Associating with another covered individual who is engaged in any of the protected activities enumerated here.
- Making or filing in good faith and with reasonable cause an internal complaint with Casitas regarding alleged unlawful activity.
- Providing informal notice to Casitas regarding alleged unlawful activity.
- Calling a governmental agency's "Whistleblower hotline" in good faith.
- Filing a written complaint under penalty of perjury that Casitas has engaged in gross mismanagement, a significant waste of public funds, or a substantial and specific danger to public health or safety. (Labor Code §§ 53296(c) & 53297(d).)
- Refusing to participate in any activity that the employee reasonably believes would result in a violation of state or federal law, or a violation or noncompliance with a local, state, or federal rule or regulation. (Labor Code § 1102.5(c).)

(b) "Adverse action" may include, but is not limited to, any of the following:

- Real or implied threats of intimidation to attempt or prevent an individual from reporting alleged wrongdoing or because of actual or potential protected activity.
- Refusing to hire an individual because of actual or potential protected activity.
- Denying promotion to an individual because of actual or potential protected activity.
- Taking any form of disciplinary action because of actual or potential protected activity.
- Extending a probationary period because of actual or potential protected activity.
- Altering work schedules or work assignments because of actual or potential protected activity.
- Condoning hostility and criticism of co-workers and third parties because of actual or protected activity.
- Spreading rumors about a person because of that person's actual or perceived protected activity.
- Shunning or unreasonably avoiding a person because of that person's actual or perceived protected activity.

06.04 Complaint Procedure

An applicant, employee, or (seasonal/ temporary/ extra help employee) who feels he or she has been retaliated against in violation of this Policy should immediately report the conduct according to the complaint procedure in the Casitas' Policy Against Discrimination, Harassment or Retaliation so that the complaint can be resolved fairly and quickly. Supervisors and Managers have the same responsibilities as defined in the Policy Against Discrimination, Harassment or Retaliation.