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California Department of Fish & Wildlife
Information Technology Policy Letter

Policy ID	CDFW ITPL 16-01
Date Issued:	January 1, 2016
Addendum Date	
Expires:	Until Rescinded

INFORMATION TECHNOLOGY POLICY LETTER	
Policy Name	Acceptable Use Policy
Applicable To	All CDFW employees, contractors, students, retired annuitants, and all other non-department personnel regardless of classification or job assignment authorized to access the Department's information assets.
Purpose	To establish a Department-wide policy that defines computer, network, email and internet use guidelines and best practices for state information assets.
Effective Date	January 1, 2016
References	Government Code Sections 8314, 11531, 11545-11548.5, 19572 Comprehensive Computer Data Access and Fraud Act (Penal Code 502) California Penal Code Sections 502 and 631 State Administrative Manual 4500-4550 and 5300-5360.1 National Institute of Standards and Technology (NIST) 800-53 CP California Information Security Office SIMM 5305-A CDFW Employee Electronic Data Request Policy
Policy Contact	For questions regarding this Policy, please contact the CDFW Information Security Officer at (916) 445-5158 or email at iso@wildlife.ca.gov.

Introduction

The California Department of Fish and Wildlife's Acceptable Use Policy (Policy) recognizes that use of the Internet, computers, and e-mail has many benefits for the Department and its employees. They can make communication more efficient and effective. Therefore, employees are encouraged to use these resources, albeit appropriately. Unacceptable usage can place the user, Department, and others at risk. This Policy discusses acceptable usage of computers, the Internet, and e-mail.

Background

This standard defines the boundaries of "acceptable use" of CDFW's information assets, including computers, networks, electronic mail services and electronic information sources. This standard will be reviewed regularly and modified as new technologies emerge and/or are implemented within Department electronic information assets.

Scope

This policy applies to all CDFW employees, contractors, students, retired annuitants, and all other non-department personnel regardless of classification or job assignment authorized to access the Department's information assets. This includes business partners, contractors, subcontractors, vendors and/or volunteer staff. This policy also supersedes all previous electronic mail, computer, and internet usage policies.



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Policy

The use of Department information assets, which include computers, smart phones, networks, servers, e-mail, and all forms of Internet/intranet access, is for Department business and for authorized purposes only. Access may be revoked at any time for inappropriate conduct carried out on such systems, including, but not limited to:

- Defeating or attempting to defeat security controls on Department systems and applications.
- Engaging in private or personal business activities;
- Accessing any resources to which the employee has not been granted privileges from someone with the right to make such a grant;
- Making unauthorized copies of Department files or other Department data;
- During normal work hours, personal, confidential or sensitive information shall not be left unattended. If the area will be unattended, even for a few minutes, confidential information shall be locked up in a file cabinet, file room, desk, or office. Unattended means that information is not being observed by an employee authorized to access the information.
- During non-working hours, personal, sensitive and confidential information shall be kept in a locked office, desk, file, or cabinet, even if the building is secured.
- Destroying, deleting, erasing, or concealing Department files or other Department data, or otherwise making such files or data unavailable or inaccessible to the Department or other authorized users of Department systems;
- Causing congestion, disruption, disablement, alteration, or impairment of Department networks or systems;
- Store, send, distribute or make available indecent, obscene, offensive, pornographic, illegal or confidential material;
- Propagating any malware, virus, worm, Trojan horse, trap-door program code, or other code or file which disrupts, disables, impairs, or otherwise harms the Department's systems or those of another individual or entity;
- Violating city, state, or federal laws or regulations in any way;
- Using abusive, profane, threatening, racist, sexist, or otherwise objectionable language in either public or private messages;
- Sending chain letters or participating in any way in the creation or transmission of unsolicited commercial e-mail ("spam") that is unrelated to legitimate Department purposes;
- Maintaining, organizing, or participating in non-work-related Web logs ("blogs"), Web journals, "chat rooms", or private/personal/instant messaging;
- Failing to log off or lock any computer or other form of electronic data system to which you are assigned, do not leave your computer or any other electronic system unattended/unsecured;
- Using recreational games; and/or
- Misrepresenting oneself or the Department;

Using the Department's systems for any of the aforementioned purposes is strictly prohibited.

The Department's electronic mail system, Internet access, and computer systems must not be used to harm others or to violate city, state, or federal laws and regulations in any way. The Department will comply with reasonable requests from law enforcement for logs, archives, or files on individual Internet activities, e-mail use, and/or computer use.



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Employees are prohibited from sharing their personal password and will be held responsible for unauthorized or improper use of Department information assets resulting from unauthorized disclosure of their password.

Employees must report any weaknesses in the Department's computer security to the appropriate security staff. Weaknesses in computer security include unexpected software or system behavior, which may result in unintentional disclosure of information or exposure to security threats. Employees must also report any incidents of possible misuse or violation of this Acceptable Use Policy to iso@wildlife.ca.gov.

Brief and incidental personal use of e-mail or the Internet is acceptable as long as it is not excessive or inappropriate, occurs during personal time (lunch or other breaks), does not result in expense or harm to the State, or otherwise violate this policy. Use is defined as "excessive" if it interferes with job functions, responsiveness, or the ability to perform daily job activities. Electronic communication should not be used to solicit or sell products or services that are unrelated to the Department's business; distract, intimidate, or harass coworkers or third parties; or disrupt the workplace.

Unless specifically authorized in this policy, any non-business use of the Department's systems is expressly forbidden.

Use of Department resources for illegal activity or violation of this Policy can result in disciplinary action, up to and including dismissal and criminal prosecution.

Department Data

It is the obligation of every employee to maintain the integrity of the Department's data. This includes, but is not limited to: data entered into web sites, databases, file servers, desktop computers, or mobile devices.

Failure to backup Department data due to neglect or intentional destruction will result in disciplinary action, up to and including dismissal.

No Expectation of Privacy: Computer Files, Electronic Mail, and Internet Access

The Department has the right to access all data and files on any computer, network, or other information system used in the Department and to all data and files sent or received using any Department system or using the Department's access to any computer network. The Department reserves the right to monitor electronic mail messages and their content, as well as any and all use by employees of the Internet and of computer equipment used to create, view, or access e-mail and Internet content. Employees must be aware that the electronic mail messages sent and received using Department equipment or Department-provided Internet access, including web-based messaging systems, are not private and are subject to review, including downloading, inspection, release, and archiving by the Department at all times. The Department has the right to inspect any and all files stored on the network or on individual computers or storage media in order to assure compliance with Department policies and state and federal laws. No employee may access another employee's computer, computer files, or electronic mail messages without prior authorization from



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either the employee or an appropriate Department official.

The Department uses software in its electronic information systems that allows monitoring by authorized personnel and that creates and stores copies e-mail, files, and other information that is created, received by, sent, or viewed on such systems. There is no expectation of privacy in any information or activity conducted, sent, performed, or viewed on or with Department equipment or Internet access. Accordingly, employees should assume that their activities on Department electronic information systems are electronically stored and subject to inspection, monitoring, evaluation, and Department use at any time.

It is a violation of Department policy for any employee, including system administrators and supervisors, to access electronic mail and computer system files unless such access is directly related to a request in conjunction with the Employee Electronic Data Request Policy.

Violation of this policy can lead to disciplinary action, up to and including dismissal.

Electronic Mail Tampering

Fraudulently altering the meta data or content of an original electronic mail is not permitted. Additionally, sending email as another person or impersonating another person is prohibited without their express permission.

Software Licenses

The Department has licensed the use of software applications for business purposes. Third parties may retain the ownership and distribution rights to such software. No employee may create, use, or distribute copies of such software that violates the license agreements for the software.

Employees may be held individually liable for damages incurred as a result of violating Department security policy, copyright, or license agreements per Government Code Section 8314.

All Department policies and procedures apply to employees' conduct on the Internet, especially, but not exclusively, relating to: confidentiality, Department information dissemination, standards of conduct, misuse of Department resources, anti-harassment, and information and data security.

Video Conferencing & Messaging

State video conference and messaging services, on computers or mobile devices, may be used by CDFW staff for the following purposes:

- Send business related messages;
- Conduct business related audio or video chats;
- Allow authorized staff to connect to employee computers for the purposes of troubleshooting an issue or conducting training;
- Distribute or download files for the purposes of conducting lawful business or information exchange;



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Profile Photo/Avatar Guidelines

Profile photos/avatars should be set by default by Microsoft Office as a simple person silhouette. Use of a photo of yourself is optional. Headshot photos are preferred but not required. If using a headshot, you should be the only person in the photo. Photos should be square in dimension to avoid distortion. Photos should be clear, not blurry or pixelated, as this will make the image difficult to see. Photos may not contain celebrities, nudity, artwork, copyrighted images or any mature/offensive content.

IT Operations Branch reserves the right to remove any profile photos that do not meet the guidelines above.

Personal Electronic Equipment

Employees should not connect personal computers or data storage devices (such as floppy disks, CDs/DVDs, external hard drives, flash drives, "smart" phones, iPods/iPads/iTouch or similar devices, mobile computing devices, or other data storage media) to Department electronic systems unless expressly permitted to do so by the Department Information Security Officer. Any employee connecting a personal computing device, data storage device, or image-recording device into Department resources thereby gives permission to the Department to inspect and analyze the personal computer, data storage device, or image-recording device at any time by personnel of the Department's choosing. Employees who do not wish such inspections to be done on their personal electronic devices should not connect such items to Department systems.



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Acknowledgement of CDFW IT Policy Letter 16-01

I acknowledge that on _____, I received a copy of CDFW ITPL 16-01, "Computer, Internet, and E-Mail Acceptable Use Policy". I also acknowledge that I have read CDFW ITPL 16-01.

Employee Name (Please Print)

Division/Region/Branch

Employee Signature

Date

Employee Behavior: Incompatible Activities Policy 12635 and Political Activities Policy 12641

The attached Incompatible Activities and Political Activities policies ensure that officers and employees of the Department do not engage in any situation where prejudice, bias, or opportunity for personal gain that is the motivating force in the conduct of State business. These policies supersede the Incompatible Activity Policy issued on June 29, 2004. As these policies cannot cover all examples, you should contact your supervisor if you have questions about activities that might be considered inconsistent, incompatible, or in conflict with your duties.

Every Department employee is required to abide by these policies. **Please sign the attached acknowledgement form and return it to your supervisor.** Supervisors will forward the forms to the Administrative Officer/Personnel Liaison who will then forward them to the appropriate Personnel Specialist. The acknowledgement form will be retained in each employee's Official Personnel File.

Incompatible Activities Policy 12635

Officers and employees of the Department of Fish and Wildlife (Department) are prohibited from engaging in any situation where prejudice, bias, or opportunity for personal gain are the motivating force in the conduct of State business. State business must be conducted in an impartial manner for the good of the people of the State of California.

The following policy applies to each officer and employee of the Department regardless of tenure or pay status, including exempt appointees and civil servants. All management personnel are responsible for ensuring that their staff members are informed of this policy and that all prospective employees are informed that they must abide by this policy.

The following statements, examples, and guidelines are not an attempt to specify every situation that may constitute an incompatible activity, but rather are intended solely to illustrate general principles of avoiding incompatible activities.

Incompatible Activities Prohibited

Government Code Section 19990 provides that:

"A State officer or employee shall not engage in any employment, activity, or enterprise which is clearly inconsistent, incompatible, in conflict with, or inimical to his/her duties as a State officer or employee.

Each State officer and employee shall during his/her hours of duty as a State officer or employee and subject to such other laws, rules, or regulations as pertain thereto, devote his/her full time, attention, and efforts to his/her State office or employment."

"State officer or employee" includes all civil service employees, civil service exempt officers, retired annuitants and appointed officials in the Department."

Employees and State Officers may not

1. Use, for private gain, purpose or advantage, State time, facilities, equipment, supplies, prestige, or influence of a State employee or State employment.
2. Use, for private purpose, State postage, even though reimbursement is made before or after use.
3. Use, for private gain, advantage, or purpose, any departmental symbol, badge, uniform or identification card.
4. Solicit, receive, or accept, directly or indirectly, any gift (including entertainment, loan, favor, money, service, gratuity, hospitality, etc.) or any other thing of value from any person or organization under circumstances from which any party could reasonably infer that the gift was a reward for any official action. Gifts delivered to or left for the employee must be returned if the donor is known. If the donor is unknown, the employee must deliver the gift to a State or charitable institution and must file a report with the Personnel Officer, Human Resources Branch in writing, through normal channels.
5. Solicit, receive, or accept money or other consideration from anyone other than the State:
 - a. For an act required in the regular hours of State employment as part of their duties as a State officer or employee, or for the performance of such an act outside the regular hours of State employment,
 - b. For performing an act either in or outside of the regular course of hours of State employment which the Department would be required or expected to render in the regular course of State business,
 - c. For giving oral or written advice or assistance to any person not connected with the Department on any matter relating to the Fish and Game Code, or on any matter which will later be subject to review or control by the Department (e.g., outside consulting contracts.)
6. Endorse or recommend to the public the use of a commercial product or service, either in their official capacity or in the name of the Department.
7. Engage in any of the following actions:
 - a. Perform any work for private gain or profit, or have any direct or indirect financial, managerial, or other interest¹ in any organization, law firm, or consulting firm engaged in matters relating to the interpretation, application, and/or enforcement of the Fish and Game Code.
 - b. Perform any work for, or have any direct or indirect financial, managerial, or other interest in, any organizations representing persons before the Department or the Commission.
 - c. Use any information developed in connection with any investigation, project, or contained in departmental records or files to perform any statistical research or other similar informational services outside the course of their work assignment.
 - d. Use confidential information for private gain or to the advantage of another; provide confidential information to unauthorized persons; or

- provide or use the names of persons from Department records for an unauthorized mailing list.
- e. Perform any act in other than his/her capacity as a State officer or employee, knowing that such action may later be subject, directly or indirectly, to control, inspection, review, audit, or enforcement by the employee, officer, Department, or the Commission. This subdivision does not apply to recreational activities (e.g., fishing, hunting, etc.) that are generally available to the public.
 - f. No employee or officer who has been given authority to make purchases for materials or services for the Department shall make such purchases from any business entity in which they have a financial interest.
8. Engage in an employment activity or enterprise which involves such time demands as would render performance of his/her duties as a State officer or employee less efficient.

The Department does not wish to unnecessarily inquire into the private affairs of its employees. It does, however, require their cooperation in avoiding activities that will cause embarrassment to it and the State of California. An employee must contact his/her supervisor if he/she plans to undertake any activity that might be considered clearly inconsistent, incompatible, or in conflict with his/her duties as a State employee or officer. If the supervisor is unable to make a determination, he/she shall refer the matter to the Office of General Counsel.

Employees may be subject to adverse action, including reprimand, suspension, demotion, or termination of employment, depending on the severity of the violation. (see Gov. Code Section 19572, subd. (r).)

Appeal Procedures

Employees have the right to appeal the application of this policy to their individual situation. Represented employees should follow the appeal process stated in their applicable Memorandum of Understanding (MOU). If there is no process in the MOU, the employee may file a written appeal with the Personnel Officer. All nonrepresented employees may file a written appeal with the Personnel Officer. The written appeal should include the reason(s) the employee disagrees with the application of this policy to their individual situation.

An employee in Bargaining Units # 1 and # 4 may request that the Department grant an exception to the prohibition of outside employment contained in the applicable incompatible activity statement. If the exception is denied it shall be reviewed, upon written request by the employee, by a committee composed of two representatives of the Department and two representatives of the Union. The committee, within fifteen (15) calendar days of the date the committee is convened for the review process, will issue a recommendation to the Director or his/her designee for decision. The Director or designee shall issue a written decision within fifteen (15) calendar days of the date the committee submits its recommendation to the Director or designee.

An employee in Bargaining Unit # 2 may request that the Department grant an exception to the prohibitions on outside employment contained in the applicable

incompatible activity statement. If the exception is denied, upon written request by the employee, it shall be reviewed by a committee composed of two representatives of the Department and two representatives of California Association of State Attorneys and Administrative Law Judges (C.A.S.E.). The committee will issue a recommendation to the Director or designee for decision.

Political Activities Policy 12641

Officers and employees of the Department of Fish and Wildlife (Department) are prohibited from engaging in any situation where prejudice, bias, or opportunity for personal gain are the motivating force in the conduct of State business. State business must be conducted in an impartial manner for the good of the people of the State of California.

The following policy applies to each officer and employee of the Department regardless of tenure or pay status, including exempt appointees and civil servants. All management personnel are responsible for ensuring that their staff members are informed of this policy and that all prospective employees are informed that they must abide by this policy.

The following statements, examples, and guidelines are intended solely to illustrate general principles of avoiding prohibited political activities.

Political Activities

Employees may not engage in any of the political activities prohibited by Government Code sections 3201-3209, or by the Hatch Act¹ (5 U.S.C., § 1502(a).)

a. Under the California Government Code, employees may not:

1. Solicit or receive any assessment, subscription, contribution, or service for any political purpose from anyone on an employment list, or any State officer or employee.
2. Permit entry onto State premises under, his/her control by any person whose purpose is to make, collect, receive, or give notice of any political assessment, subscription, or contribution. No person may send any letter of notice to a State premise for these purposes nor may any person on a State premise perform such activities.
3. Promise to use their official authority or influence to obtain civil service benefits for any person on the condition that such person or anyone else aid any candidate, officer, or party, if such employees have been nominated for or are seeking any elective office. Such employees may not promise or threaten to use their official power in order to coerce or persuade the vote or political action of a State officer or employee.

b. Under the Hatch Act, employees may not:

¹ The Hatch Act restricts the political activities of public employees. It applies to federal employees, as well as to employees of state and local agencies that receive federal funds.

1. Use official authority or influence for the purpose of interfering with, or affecting the result of, an election or a nomination for office.
2. Directly or indirectly coerce, attempt, command, or advise a State or local officer to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes.
3. Be a candidate for partisan elective offices.

c. Under the Hatch Act, employees may:

1. Be a member of such organizations as the Mexican-American Political Association, Young Democrats, Young Republicans, etc.
2. Express opinions on political subjects and candidates.²
3. Attend and participate in political rallies and conventions.
4. Sign nominating petitions in support of individuals who wish to become candidates for office.
5. Make voluntary contributions to regularly constituted political organizations, provided such contributions are not made in a State or Federal building or to some other officer or employee of the Department or Commission, or to any other officer or employee who is subject to the Hatch Act, wear political badges or buttons or display political stickers on private automobiles. However, to assure that no member of the public will believe political bias is being exercised for or against him/her, employees who have direct contact with the public are prohibited from making any partisan display such as wearing a political badge or button during working hours.
6. Participate in nonpartisan political activities, such as supporting or opposing a candidate for, or becoming a candidate for, nonpartisan office.

All employees are responsible for adhering to these restrictions on political activities. Any employee in doubt as to whether any particular activity is prohibited should contact his/her supervisor in writing and request a decision prior to engaging in the activity. Any employee violating these restrictions on political activity may be subject to adverse action and to criminal penalties, as applicable.

² A public employee's right to free speech is not absolute. Controversial parts of speech advancing only private interests do not necessarily invoke First Amendment protection. (*Dambrodt v. Central Michigan University* (6th Cir. 1995) 55 F.3d 1177, 1187.) The law requires a balancing between the interests of the employee, as a citizen, in commenting upon matters of public concern and the interests of the state, as an employer, in promoting the efficiency of the public services it performs through its employees. (*Rankin v. McPherson* (1987) 483 U.S. 378.)

Appeal Procedures

Employees have the right to appeal the application of this policy to their individual situation. Represented employees should follow the appeal process stated in their applicable Memorandum of Understanding (MOU). If there is no process in the MOU, the employee may file a written appeal with the Personnel Officer. All nonrepresented employees may file a written appeal with the Personnel Officer. The written appeal should include the reason(s) the employee disagrees with the application of this policy to their individual situation.

Contact

For more information regarding this policy, contact the Human Resources Branch.

This Policy was previously distributed as Departmental Bulletin 2009-05 (issued October 27, 2009). It supersedes Sections 12635 and 12641 of the FGOM 2000 edition.

Please sign the attached acknowledgement form (next page) and return it to your supervisor.

NOTICE OF RECEIPT BY EMPLOYEE

DEPARTMENT OF FISH AND WILDLIFE
INCOMPATIBLE ACTIVITIES POLICY AND POLITICAL ACTIVITIES POLICY
NOTICE OF RECEIPT BY EMPLOYEE

This is to acknowledge that I have received and will abide by the Department of Fish and Wildlife Incompatible Activities and Political Activities policies

Employee's Name (Please Print)

Division/Region/Branch

Employee's Signature

Date

Please return this form to your **Supervisor** who will forward it to the respective Administrative Officer/Personnel Liaison. The Administrative Officer/Personnel Liaison will then forward it to the appropriate Personnel Specialist.

Protection of Social Security Number and Other Personal Data 12862

In accordance with the Department of Finance Management Memo 06-12, *Protection of Information Assets*, the Department of Fish and Wildlife (CDFW) has implemented additional guidelines regarding the protection of personal, sensitive and confidential information. To reduce the risks to individuals of the inappropriate disclosure and misuse of their Social Security Number (SSN), CDFW does not require the full SSN on administrative forms submitted to the Human Resources Branch (HRB), Accounting Services Branch, Budget Branch and Regional personnel offices. Only the last four digits of the SSN are required on all administrative forms. Some examples of administrative forms are Attendance and Labor Distribution Reports, Requests for Personnel Action, Examination/Employment Applications, and Travel Expense Claims.

To fulfill our responsibilities towards the individuals who entrust us with their personal information, all branches within the Administrative Division will review their practices for protecting the confidentiality of SSNs and other personal data (e.g., driver's licenses, home addresses) and make improvements as necessary. These practices should be consistent with the Policy for Protecting the Confidentiality of Social Security Numbers and Other Personal Data, which can be found on the HRB intranet home page in the Personnel section. These practices should be reviewed by CDFW staff who use, or have access to, personal information about CDFW employees or the public. Staff is required to use security safeguards to protect personal information against unauthorized access, use, disclosure, modification or destruction.

If you have any questions about these practices, please contact your Personnel Specialist or Administrative Officer.

Contact

For more information regarding this policy, contact the Human Resources Branch..

This Policy was previously distributed as Departmental Bulletin 2010-04 (issued March 3, 2010).

Memorandum

To: Department of Fish and Game
All Candidates for Employment

Date: February 18, 2011

From: **Department of Fish and Game**
Human Resources Branch

Subject: Federal Firearms Prohibitions

As a result of federal legislation, the department requires all candidates for employment with the department to complete the attached Self-Certification and Certification of Receipt of Memorandum form (FG-HRB-2026) as part of the job application process. On September 30, 1996, Congress enacted the Omnibus Consolidated Appropriations Act of 1997 entitled the "Gun Ban for Individuals Convicted of a Misdemeanor Crime of Domestic Violence," which amended the Gun Control Act of 1968. The law prohibits any person who has been convicted of "misdemeanor crime of domestic violence" from shipping, transporting, possessing, or receiving firearms or ammunition. In addition, the law prohibits any person who is currently the subject of a court order that restrains the person from harassing, stalking, or threatening an "intimate partner" or child of the "intimate partner" or the person, or engaging in conduct that would place an "intimate partner" in reasonable fear of bodily injury to the partner or child, from shipping, transporting, possessing, or receiving firearms or ammunition, *except* firearms or ammunition which are imported for, sold or shipped to, or issued for the use of any federal, state or local agency. This law applies to all persons, including peace officers.

The department employs a number of persons who ship, transport, possess, receive, use, or otherwise have access to firearms and ammunition in the course and scope of their duties. For example, department wardens are required to possess, receive, and transport firearms and ammunition in the course and scope of their duties. Other employees may or may not be required to possess, receive, or transport firearms and ammunition, but their duties may include such actions or otherwise having access to firearms and ammunition. These employees would include those who administer firearms auctions, those who have the key or access to the key to storage facilities containing department-owned or confiscated firearms or ammunition, those who receive, unload, or store shipments of firearms or ammunition to the department, those who use cannon nets for trapping, explosives for habitat work, net guns, certain charge fired dart guns, and the like, and those who may use flare guns on vessels. As such, the department must ensure that if your duties will require or otherwise involve shipping, transporting, possessing, or receiving firearms or ammunition, that you are not prohibited from doing so under the federal law.

In addition, should you accept employment with the department, it will be your continued responsibility to notify the department immediately if you become adversely affected by this law in the future. Please complete and return the attached Self-Certification and Certification of Receipt of Memorandum to your designated Personnel Specialist in the Regional Personnel Office or the Human Resources Branch. Should you accept employment with the department, the completed form will be kept in your personnel file.

February 18, 2011
Federal Firearms Prohibitions
Page Two

If you have any questions, please contact your designated Personnel Specialists for assistance.

Karen Wroten, Chief
Human Resources Branch

Attachment:

1. Self-Certification and Certification of Receipt of Memorandum

California Department of Fish and Game
Self-Certification and
Certification of Receipt of Memorandum
For Candidates for Employment

Subject: FEDERAL FIREARMS PROHIBITIONS

This certification shall be signed and dated by all candidates for employment with the Department of Fish and Game (DFG). The Human Resources Branch is responsible for ensuring completion of this certification, and if a candidate accepts employment with the department for ensuring that the original copy is inserted into the new employee's official personnel file, and for providing a copy to the new employee.

Federal law prohibits any person who has been convicted of a "misdemeanor crime of domestic violence" from shipping, transporting, possessing or receiving firearms or ammunition. (18 U.S.C. § 922(g)(9).

A "firearm" is defined as "any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive: the frame or receiver of any such weapon; any firearm muffler or firearm silencer; or any destructive device." (18 U.S.C. § 921 (a)(3). Examples of a "destructive device" are "any explosive, incendiary, or poison gas bomb, grenade, rocket having a propellant charge of more than four ounces, missile, mine or similar device." (18 U.S.C. § 921(a)(4). The term "firearm" does not include an antique firearm. (18 U.S.C § 921 (a)(3). "Ammunition" is defined as "ammunition or cartridge cases, primers, bullets, or propellant powder designed for use in any firearm." (18 U.S.C. § 921 (a)(17)(A).) "Possession" means actual or constructive possession. A person is in actual possession of a firearm or ammunition if he or she has direct physical control of a firearm or ammunition. A person is in constructive possession of a firearm or ammunition if he or she is not in actual possession, but has both the power and the intention to later take control over the firearm or ammunition. (United States v. Winchester (1990) 916F.2d601.)

In addition, federal law prohibits any person who is currently the subject of a court order that restrains that person from harassing, stalking, or threatening an "intimate partner" (which is defined as "the spouse of the person, a former spouse of the person, an individual who is the parent of a child of the person, and an individual who cohabitates or has cohabitated with the person") or child of such "intimate partner," or engaging in other conduct that would place an "intimate partner" in reasonable fear of bodily injury to the "intimate partner" or child (hereinafter referred to as "domestic violence restraining order"), from shipping, transporting, possessing, or receiving firearms or ammunition, except firearms or ammunition "imported for, sold or shipped to, or issued for the use of any federal, state or local agency. (18 U.S.C §§ 922 (g)(8), 921 (a)(32), and 925(a)(I).) Therefore, any department employee, including a peace officer, who is the subject of a "domestic violence restraining order" may ship, transport, possess, and receive firearms and ammunition owned by the department or issued for the use of the department, including but not limited to, handguns, shotguns, cannon nets for trapping, explosives for habitat work, net guns, certain charge fired dart guns, and flare guns. However, such employee, including a peace officer, may not lawfully ship, transport, receive, or possess seized or confiscated firearms and ammunition that are neither owned by the department, nor issued for the use of the department. A "domestic violence restraining order" may include a court order arising from a dissolution proceeding if the court order includes language that the restrained person shall not or the parties agree to not "contact, molest, attack, strike, threaten, sexually or otherwise assault, batter, telephone, or otherwise disturb the peace of the other party." This language is standard in family law temporary restraining order legal forms.

PERSONAL AND CONFIDENTIAL INFORMATION
(Government Code §§6254(c), 6255; Penal Code § 832.7)

A "misdemeanor crime of domestic violence" is defined as any state or federal misdemeanor that has as an element "the use or attempted use of physical force or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim." (18 U.S.C. § 921(a)(33)(A).) This definition has been interpreted to include specific domestic violence offenses, such as California Penal Code Section 237.5; in addition, the Bureau of Alcohol, Tobacco and Firearms has interpreted it to include all misdemeanors that involve the use or attempted use of physical force (e.g., simple assault, assault and battery) if the offense is committed by one of the defined parties regardless of whether law specifically defines the offense as a domestic violence misdemeanor. This federal law applies to all persons, including peace officers.

PART I

All candidates for employment, please complete the following:

1. Will you be expected to ship, transport, possess, receive, or have access to (i.e., the power to take control of) firearms or ammunition in the course and scope of your employment with the department? (This would include peace officers, and *may* include pilots, biologists, clerical staff, administrative staff and others.)

YES

NO

If your answer is "NO" to question 1, PART I above, you are not in a prohibited class. Please complete the certification on this page below by signing and dating this form as indicated. Please return this form to the department's Human Resources Branch.

If your answer is "YES" to question 1, PART I above, you are in a prohibited class. Please complete PART II of this form, sign and date the last page, and return this form to the department's Human Resources Branch.

Certification

I certify that I received a copy of the subject memorandum regarding federally legislated firearms prohibitions, which may relate to my eligibility to perform peace officer or other duties related to possession or handling of firearms. I understand that I am responsible for determining if I am in a prohibited class pursuant to this legislation. If my position with the department or my duties should change, I understand that I will be responsible at that time for determining and notifying my immediate supervisor in writing whether I am in a prohibited class pursuant to this legislation.

PERSONAL AND CONFIDENTIAL INFORMATION
(Government Code §§6254(c), 6255; Penal Code §832.7)

I declare that I am not covered by the restrictions described above. If I am a peace officer, I further declare that I may possess firearms or ammunition on or off duty.

Signature

Date

Print Name

Immediate Supervisor's Verification

Date Received: _____

Employee Classification: _____

Employee's Reporting Unit: _____

Supervisor's Name (Print)

Supervisor's Signature

Date

Human Resources Branch Verification

Date Received: _____

HRB Personnel's Name (Print)

Signature

Date

Original – (If hired) Employee's Official Personnel File

Copy – (If hired) Employee

PERSONAL AND CONFIDENTIAL INFORMATION
(Government Code §§6254 (c), 6255; Penal Code §832.7)

PART II

If you answered "YES" to question 1 in PART I above, you are in a prohibited class. You must complete this PART II, sign and date the last page, and return this form to the department's Human Resources Branch.

Please initial the following, as indicated:

— As a candidate for employment with the department, I understand that it is my current responsibility to notify the department if I have ever been convicted of a "misdemeanor crime of domestic violence." If I accept employment with the department, I understand that it will be my continued responsibility to notify the department if I am ever convicted of a "misdemeanor crime of domestic violence." With regard to any conviction(s) in the future, I understand that I must notify the department by informing my immediate supervisor in writing as soon as possible after such conviction(s), or if my immediate supervisor is unavailable, I must notify the next person in my chain of command.

— As a candidate for employment with the department, I understand it is my current responsibility to notify the department if I am the subject of a court order that restrains me from harassing, stalking, or threatening an "intimate partner" or child of such "intimate partner", or engaging in other conduct that would place an "intimate partner" in reasonable fear of bodily injury to the "intimate partner" or child. If I accept employment with the department, I understand that it will be my continued responsibility to notify the department if I become the subject of a court order that restrains me from harassing, stalking or threatening an "intimate partner" or child of such "intimate partner", or engaging in other conduct that would place an "intimate partner" in reasonable fear of bodily injury to the "intimate partner" or child. With regard to any restraining order(s) in the future, I understand that I must notify the department by informing my immediate supervisor in writing as soon as possible after the issuance of such restraining order(s), or if my immediate supervisor is unavailable, I must so notify the next person in my chain of command.

— I understand that I **must** complete this Self-Certification and Certification of Receipt of Memorandum, and that refusal to respond or failure to respond truthfully to the questions herein, may affect my eligibility for employment with the department. If I accept employment with the department, I understand that failure to disclose any such future conviction(s) or restraining order(s) or submittal of any false information concerning such conviction(s) or restraining order(s) may be grounds for appropriate corrective action up to and including termination from state service.

— I understand that the Department of Justice will be conducting a criminal history check on me for the sole purpose of verifying my responses to this Self-Certification, and that if I accept employment with the department these documents will be placed in my personnel file.

— *(If applicable)* I understand that if I respond "YES" or "MAYBE" to any of the questions below **and** I am applying for a peace officer position or other position that is **required** to possess or to use a firearm in the course and scope of my employment with the department, I will not be eligible for employment for this position. However, I may be eligible for a position that does not have access to firearms or ammunition.

— *(If applicable)* I understand that if I respond "YES" or "MAYBE" to any of the questions below **and** I am applying for a position that is **not required** to possess or to use a firearm or ammunition, but the duties may involve shipment, transportation, receipt, possession, use, or access to firearms or ammunition, I will not be eligible for employment for that position. However, I may be eligible for a position with duties that do not involve access to firearms or ammunition.

PERSONAL AND CONFIDENTIAL INFORMATION
(Government Code §§ 6254(c), 6255; Penal Code §832.7)

— I understand that if I respond “NO” to any of the questions below and the department subsequently learns through a background check, or otherwise, that the answer to the question(s) is/are “YES,” I will not be eligible for employment with the department. If I accept employment with the department and the department subsequently learns through a background check, or otherwise, that the answer to the question(s) is/are “YES,” I may be subject to appropriate corrective action up to and including termination from state service.

— *(If applicable)* I understand that if I accept employment with the department for a position that **requires** possession or use of a firearm or ammunition, **and** I subsequently notify the department that I have been convicted of a “misdemeanor crime of domestic violence” or that I have been made the subject of a court order that restrains me from harassing, stalking, or threatening an “intimate partner” or child of such “intimate partner”, or engaging in other conduct that would place an “intimate partner” in reasonable fear of bodily injury to the “intimate partner” or child, I may be temporarily reassigned to a position that does not have access to firearms or ammunition, temporarily reassigned to a position that does not have access to firearms or ammunition, or put on administrative time off until such time as the department reviews the facts and circumstances of my case and makes a final determination as to whether I am prohibited from possessing or receiving firearms or ammunition.

— *(If applicable)* I understand that if I accept employment with the department for a position that does **not require** the possession or use of a firearm or ammunition, but my duties may involve shipment, transportation, receipt, possession, use, or access to firearms or ammunition, **and** I subsequently notify the department that I have been convicted of a “misdemeanor crime of domestic violence” or that I have been made the subject of a court order that restrains me from harassing, stalking, or threatening an “intimate partner” or child of such “intimate partner”, or engaging in other conduct that would place an “intimate partner” in reasonable fear of bodily injury to the “intimate partner” or child, I may be temporarily reassigned to a position that does not have access to firearms or ammunition, or temporarily restricted in my duties to not have access to firearms or ammunition until such time as the department reviews the facts and circumstances of my case and make a final determination as to whether I am prohibited from possessing or receiving firearms or ammunition.

— *(If applicable)* I understand that if the department makes a final determination after reviewing the facts and circumstances of my case that I have been convicted of a misdemeanor crime of domestic violence **and** I am a peace officer or other employee who is **required** to possess or to use a firearm in the course and scope of my employment with the department, I will be subject to non-punitive separation. I will have permissive reinstatement privileges, and I will be able to compete for positions that do not have access to firearms or ammunition.

— *(If applicable)* I understand that if the department makes a final determination after reviewing the facts and circumstances of my case that I have been convicted of a misdemeanor crime of domestic violence **and** I am an employee who is **not required** to possess or to use a firearm or ammunition, but I ship, transport, receive, possess, use or otherwise have access to firearms or ammunition in the course and scope of my employment with the department, the department will restrict my duties or reassign me as appropriate so I will not have access to firearms or ammunition.

— I understand that if I am non-punitively separated and I subsequently get my conviction set aside (for example, pursuant to Penal Code Section 1203.4) **and** I am not otherwise prohibited from possession of firearms or ammunition, I may apply for permissive reinstatement. Any permissive reinstatement will be made pursuant to the requirements set forth in the Fish and Game Operations Manual.

PERSONAL AND CONFIDENTIAL INFORMATION
(Government Code §§ 6254(c), 6255; Penal Code §832.7)

— (If applicable) I understand that if the department makes a final determination after review of the facts and circumstances of my case that I am the subject of a court order that restrains me from harassing, stalking, or threatening an “intimate partner” or child of such “intimate partner”, or engaging in other conduct that would place an “intimate partner” in reasonable fear of bodily injury to the “intimate partner” or child, **and** I am a peace officer or other employee who is **required** to possess or to use a firearm in the course and scope of my employment with the department, the department will immediately rescind my authority to possess or use firearms or ammunition while in the course and scope of my employment, and will temporarily reassign me to a position that does not have access to firearms or ammunition, temporarily restrict my duties to not have access to firearms or ammunition, or put me on administrative time off for as long as the restraining order is in force.

— (If applicable) I understand that if the department makes a final determination after review of the facts and circumstances of my case that I am the subject of a court order that restrains me from harassing, stalking, or threatening an “intimate partner” or child of such “intimate partner”, or engaging in other conduct that would place an “intimate partner” in reasonable fear of bodily injury to the “intimate partner” or child, **and** I am an transport, receive, possess, use or otherwise have access to firearms or ammunition in the course and scope of my employment with the department, the department will temporarily restrict my duties or reassign me as appropriate so I will not have access to firearms or ammunition for as long as the restraining order is in force.

Please complete the following:

2. Have you ever been convicted of a “misdemeanor crime of domestic violence?” (This term is defined as “a misdemeanor under federal or state law and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.”)

YES

NO

MAYBE

If yes, please complete the following:

- 1) Were you represented by counsel, or did you knowingly and intelligently waive your right to counsel in the case?

YES

NO

MAYBE

- 2) Was the case tried by a jury, or did you knowingly and intelligently waive your right to have the case tried by a jury, by guilty plea or otherwise?

YES

NO

MAYBE

PERSONAL AND CONFIDENTIAL INFORMATION
(Government Code §§ 6254(c), 6255; Penal Code §832.7)

3) Has the conviction been expunged, or set aside, or pardoned or have you had your civil rights restored?

YES

NO

MAYBE

4) Does the expungement, pardon, or restoration of civil rights expressly provide that you may not ship, transport, possess or receive firearms?

YES

NO

MAYBE

3. Are you currently subject to a court order that restrains you from harassing, stalking, or threatening an "intimate partner" (which is defined as "the spouse of the person, a former spouse of the person, an individual who is the parent of a child of the person, and an individual who cohabits or has cohabited with the person") or child of such "intimate partner," or engaging in other conduct that would place an "intimate partner" in reasonable fear of bodily injury to the "intimate partner" or child?

YES

NO

MAYBE

If YES, please complete the following:

1) Was the restraining order issued after a hearing of which you received actual notice and in which you had the opportunity to participate?

YES

NO

MAYBE

2) Does the restraining order find that you represent a credible threat to the physical safety of an "intimate partner" or child?

YES

NO

MAYBE

3) Do the terms of the restraining order explicitly prohibit the use, attempted use, or threatened use of physical force against an "intimate partner" or child, that would reasonably be expected to cause bodily injury?

YES

NO

MAYBE

Certification

I certify that I received a copy of the subject memorandum regarding federally legislated firearms prohibitions, which may relate to my eligibility to perform peace officer or other duties related to possession or handling of firearms. I understand that I am responsible for determining if I am in a prohibited class pursuant to this legislation. I understand I must report any such convictions and restraining orders to upon the application to the department for employment for any position that requires possession or use of a firearm or ammunition, or for any position that does not require the possession or use of a firearm or ammunition, but the duties of which may involve shipment, transportation, receipt, possession, or access to firearms or ammunition. If I accept employment with the department, I understand that I must report any such future convictions or restraining orders to my supervisor even if I have previously reported such convictions and restraining orders and/or have been previously disciplined.

PERSONAL AND CONFIDENTIAL INFORMATION
(Government Code §§ 6254(c), 6255; Penal Code §832.7)

Check One Box Only

— I declare that I AM covered by the restrictions described above, and I may not possess, ship, transport, or receive firearms or ammunition. If I am a peace officer, I further declare that I may not possess firearms or ammunition on or off duty.

— I declare that I MAY BE covered by the restrictions described above.

— I declare that I AM NOT covered by the restrictions described above, and I may possess, ship, transport, or receive firearms or ammunition. If I am a peace officer, I further declare that I may possess firearms or ammunition on or off duty.

Signature

Date

Print Name

Last 4 digits of Social Security Number

Date of Birth

Drivers License Number

Immediate Supervisor's Verification

Date Received: _____

Employee Classification: _____

Employee's Reporting Unit: _____

Supervisor's Name (Print)

Supervisor's Signature

Date

Human Resources Branch Verification

Date Received: _____

HRB Personnel's Name (Print)

Signature

Date

Original – (If hired) Employee's Official Personnel File

Copy – (If hired) Employee

PERSONAL AND CONFIDENTIAL INFORMATION
(Government Code §§ 6254(c), 6255; Penal Code §832.7)

Equal Employment Opportunity Policy 12591

POLICY

It is the policy of the Department of Fish and Wildlife (Department) to provide equal employment opportunity (EEO) to its employees, job applicants, volunteers/unpaid interns, and contractors, and promote a work environment in which all individuals are treated with respect and professionalism. Consistent with this commitment, it is the policy of the Department to provide a workplace free from discrimination, harassment (including sexual harassment), workplace violence/bullying, and retaliation.

These commitments must be exemplified in all of our management practices and decisions including recruitment and hiring practices, appraisal systems, promotions, training, and career development programs.

Accordingly, the Department has adopted a Zero Tolerance Policy, which applies to all aspects of employment as stated above, including any other terms, conditions, and benefits of employment. A “zero tolerance” policy means that violations of this policy will not be tolerated. When policy violations are found to have occurred, appropriate corrective action and/or discipline, up to and including dismissal, depending on the severity of the violation, will be taken.

This policy applies to conduct that occurs in any location operated by the Department or is considered a workplace by the Department, as well as any location that can reasonably be regarded as an extension of the workplace, such as an off-site business or social function, State owned housing, or any other facility where departmental business is being conducted. This policy also applies to conduct that occurs off-duty and brought back to the workplace, when such conduct adversely affects an individual in a manner otherwise prohibited by this policy.

The Department also recognizes and asserts the rights of the public to non-discriminatory or harassing treatment and access to equal opportunity for services, programs, and facilities.

PURPOSE

The purpose of this policy is to prevent misconduct before a violation of the law occurs and to define the roles and responsibilities of management and employees within the Department relative to the EEO policy and the discrimination complaint process.

DEFINITION OF DISCRIMINATION

Discrimination is defined as any unfair employment practice or behavior that treats individuals differently on the basis of their protected status. Current California law defines “Protected Status” to include: age (over 40), ancestry, color, disability (physical or mental), exercising the right to family care and medical leave, gender, gender expression, gender identity, genetic information, marital status, medical condition (including but not limited to cancer or genetic characteristics), military or veteran status, national origin, political affiliation or opinion, race, religious creed, sex (including pregnancy, childbirth, breastfeeding, and related medical conditions), and sexual orientation.

The protected bases listed above include the perception that the individual has any of these characteristics or that the individual is associated with a person who has or is perceived to have any of these characteristics.

For purposes of this definition, "Discrimination" includes harassment based on a protected group (listed above). "Unfair employment practices" is defined as discriminating in recruiting, testing, hiring, firing, and promoting; transfers, or layoffs; training and apprenticeship programs; compensation, assignment or classification of employees; fringe benefits or privileges of employment; pay, retirement plans; disability leave; use of company facilities; and all terms and conditions of employment based on a person's protected status.

Examples of the type of prohibited discriminatory or harassing behavior which may be found to constitute a violation of the Department's policy includes, but is not limited to:

- Making employment decisions based on an individual's protected characteristics.
- Changing the terms, conditions, or privileges of employment of an employee in retaliation for filing a discrimination complaint or participating in the complaint process.
- Denying or failing to provide reasonable accommodation for a disability, pregnancy, or a bona fide religious practice.
- Denying a leave request for which an employee is eligible.
- Using discriminatory terms or telling discriminatory jokes based on an individual's protected status.
- Displaying objects, cartoons, pictures, or posters that are derogatory or discriminatory based on an individual's protected status.
- Posting, sending, uploading/downloading messages with discriminatory, harassing, or retaliatory content in any form via electronic mail, the intranet/internet websites, cell phone, interoffice mail, or public or private mail.
- Discriminating against any employee in violation of this policy so as to create a hostile work environment.
- Engaging in any unwanted physical contact or leering.
- Making harassing telephone calls to a coworker, or sending harassing correspondence to an individual by means including, but not limited to, public or private mail, interoffice mail, facsimile, electronic mail, or text messaging.
- Abusive conduct which may include repeated infliction of verbal abuse such as the use of derogatory remarks, insults or epithets, verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating, or the gratuitous sabotage or undermining of a person's work performance.

RETALIATION

All employees are prohibited from retaliating against any person because that person has opposed any practices forbidden under this policy or because the person has filed a complaint, testified, or assisted in any proceeding related to this policy. Employees will

be held accountable for retaliation and will be subject to inquiry or investigation and immediate and appropriate corrective action if it is determined that retaliation has occurred. All employees are prohibited from aiding or coercing any acts forbidden under this policy.

COMPLAINANT'S RIGHTS

Every employee, job applicant, volunteer/unpaid intern, and contractor has the following rights:

- The right to a discrimination-free work environment.
- The right to file a discrimination complaint, freedom from influence to refrain from filing a complaint, and freedom from retaliation after filing a complaint (see filing a complaint below).
- The right to file a complaint directly with EEO.
- The right to have their complaint promptly reported, objectively reviewed, and investigated when appropriate.
- The right to be informed of the determination/disposition of the complaint. However, any disciplinary action the Department may take against any parties is strictly confidential and the Department is not at liberty to discuss.
- The right to be represented by a person of the complainant's choosing at each and all steps of the process, providing that person could not potentially be a witness or party to the actions/evidence giving rise to the complaint.
- The right to file a complaint with the California Department of Fair Employment and Housing (DFEH), Equal Employment Opportunity Commission (EEOC), and other appropriate State and federal compliance agencies.

An employee, job applicant, volunteer/unpaid intern, or contractor is not required to confront the person(s) engaged in the conduct believed to be in violation of the Department's policy at any time before or after filing a complaint. If the complaint involves supervisor(s) or manager(s) in the employee's direct chain-of-command, the employee may report the behavior to any uninvolved supervisor, manager, EEO Analyst/Counselor, or the EEO Officer.

RESPONSIBILITIES

Employees

All departmental employees are expected to:

- Adhere to a standard of conduct, and understand their responsibility under the Department's EEO policy and procedures, applicable State and federal laws, and the discrimination complaint process.
- Be aware of the seriousness of violations under the EEO policy.
- Not engage in, condone, tolerate, or leave uncorrected conduct that violates the EEO policy.

- Avoid imposing or threatening to impose reprisals against complainants and/or individuals participating in an inquiry or legal proceeding concerning matters of discrimination.
- Report any EEO policy violations to a supervisor, manager, or EEO.
- Cooperate with any investigation conducted by EEO.

Failure by an employee to adhere to the above responsibilities may result in corrective and/or disciplinary action, up to and including dismissal from the Department, regardless of rank, level, or classification.

Managers and Supervisors

All managers and supervisors are in key positions to make an impact in terms of correcting inappropriate behavior in the workplace and ensuring that a discrimination free workplace is maintained. Managers and supervisors are expected to:

- Maintain and promote a work environment free from discrimination, harassment, retaliation, and unprofessional, abusive, or disrespectful conduct related to this policy.
- Adhere to the policy and procedures, applicable State and federal laws, discrimination complaint process, and ensure that they are communicated to all employees under their supervision.
- Ensure that all employees are informed of the Department's complaint process prior to the need to know, and again if a complaint is brought forth.
- Take all complaints seriously. Do not shrug off, minimize the complaint, or otherwise discourage employees from reporting such complaints, even if the occurrence is not directly within their line of supervision or responsibility.
- Immediately inform EEO of any discrimination, harassment, or retaliation complaints received, or anything observed. EEO will act as lead for the Department on any allegations brought forward, and provide assistance to resolve the issue or determine if other action is necessary. Direction from EEO is to be strictly followed. Do not investigate any such complaints.
- Immediately inform EEO of any discrimination, harassment, or retaliation complaints received, even if the occurrence is not directly within their line of supervision or responsibility
- Be responsible for acts of any discrimination, harassment, or retaliation between employees in the workplace where the managers and supervisors know or should have known of the conduct, unless they can show that they took timely and appropriate action. Ignorance is not an acceptable defense for inaction of a manager or supervisor if, through reasonable care, they should have been aware of the conduct.
- Be responsible for acts of any discrimination, harassment, or retaliation by non-employees where the manager, supervisor, or lead person knew or should have known of the conduct, and failed to take timely and appropriate action. In reviewing these cases, the extent of the manager, supervisor, or lead person's

control and any other legal responsibility which they have with respect to the conduct of such employees, will be taken into consideration.

- Ensure that employees under their supervision annually receive a copy of this policy and sign the attached acknowledgment form. Copies of the acknowledgement form are to be placed in each employee's official personnel file.

Failure by a manager or supervisor to adhere to the above responsibilities may result in corrective and/or disciplinary action, up to and including dismissal from the Department, regardless of rank, level, or classification.

PREVENTION

Prevention is the best tool to ensure a work and business environment free from discriminatory and/or harassing behavior or retaliation. All employees, especially supervisors and managers, must understand the seriousness and consequences of discriminatory and/or harassing misconduct and retaliation and refrain from such activity. It is expected that all departmental managers and supervisors will ensure that employees behave in a professional manner at all times and the work environment is free of any discriminatory, harassing, or retaliatory behavior toward coworkers, job applicants, or members of the public.

COMPLAINT PROCESS

The Department will attempt to resolve discrimination complaints at the lowest level possible. Complaints will be handled in an impartial and confidential manner in compliance with departmental policy and State and federal law.

An employee, job applicant, volunteer/unpaid intern, contractor, or member of the public who believes his or her rights have been violated, may file an internal discrimination complaint directly with EEO. The Discrimination Complaint Form can be found on the Department's intranet by visiting:

<http://dfgintranet/portal/DirectorsOffice/EEO/tabid/85/Default.aspx> , or you may contact EEO at 1416 9th Street, 12th Floor, Sacramento, CA 95814, or at the below number.

AUTHORITY

- Title VII of the Civil Rights Act of 1964 (including amendments)
- California Fair Employment and Housing Act (FEHA) of 1959 (including amendments)
- California Code of Regulations, Title 2
- Other California and federal EEO laws
- Departmental EEO policies and procedures

Contact

If you have any questions regarding this policy, please contact Glenda Ulmer, EEO Officer, at (916) 653-9089.

Please sign and submit the ACKNOWLEDGMENT OF POLICY 12591 on the following page.

This Policy was previously distributed as Departmental Bulletin 2015-03 (issued June 30, 2015).

This policy supersedes Sections 12591-12591.1 of the FGOM 2000 edition.

This policy also supersedes the Equal Employment Opportunity portion of Director's Bulletin 2008-06 (issued August 1, 2008) titled "Equal Opportunity and Sexual Harassment Prevention Policies".

DEPARTMENT OF FISH AND WILDLIFE
ACKNOWLEDGMENT OF POLICY 12591

DEPARTMENT OF FISH AND WILDLIFE
ACKNOWLEDGMENT OF POLICY 12591

I acknowledge that on _____, I received a copy of Policy 12591 "Equal Employment Opportunity Policy." I also acknowledge that I have read Policy 12591.

Employee's Name (Please Print) Division/Region/Branch

Employee's Signature Date

Please submit the completed Acknowledgment to your supervisor/manager. Your supervisor/manager will ensure that it is placed in your official personnel file.

Sexual Harassment Prevention Policy 12592

POLICY

In accordance with State and federal laws, it is the policy of the Department of Fish and Wildlife (Department) to provide its employees, job applicants, and members of the public with a work and business environment free from sexual harassment. Sexual harassment is a form of discrimination and is against the law.

During the course of employment, regardless of their position within the Department, employees are expected to interact with all persons in a professional manner and avoid any behavior that could be construed as being of a sexual nature. Sexually harassing conduct and/or behavior can negatively impact work productivity, diminish morale, inflict emotional or physical harm, and/or cause other disruptive conditions in the workplace. Managers and supervisors are expected to ensure a workplace that is free of sexual harassment.

PURPOSE

The purpose of this policy is to provide all employees, job applicants, and members of the public with a uniform method of addressing allegations and complaints of sexual harassment in the workplace. The Department affirms its moral and legal obligation to ensure that all employees, job applicants, and members of the public are provided a harassment free work and business environment to achieve their goals and function effectively in the workplace.

The purpose of this policy is also to prevent misconduct before a violation of the law occurs and to define the roles and responsibilities of management and employees within the Department relative to the Sexual Harassment Prevention Policy and the discrimination complaint process described below.

All employees should be made aware of the seriousness of violations of the Sexual Harassment Prevention Policy. All employees are expected to adhere to a standard of conduct, and understand their responsibility to maintain an environment free from sexual harassment. Managers and supervisors will understand their responsibility to enforce conduct that is respectful of all persons within the work environment.

DEFINITION OF SEXUAL HARASSMENT

Sexual harassment is defined as unsolicited and/or unwelcome sexual advances, requests for sexual favors, and other verbal, physical, or written conduct of a sexual nature directed to persons of the same or opposite sex, whether motivated by sexual desire or otherwise. Such conduct has the purpose or effect of substantially interfering with a person's work performance or creating an intimidating, hostile, or otherwise offensive environment.

Examples of sexual harassment include, but are not limited to:

- Implication that submission to such conduct is a condition of employment, advancement, or receipt of any other privilege or benefit;

- Leering, making or sending sexual jokes or sexually suggestive remarks, or making sexual gestures;
- Making offensive, negative or demeaning remarks about a person's gender or physical appearance;
- Deliberate and unwelcome touching, hugging, and patting or blocking a person's movement;
- Displaying offensive sexual illustrations or pictures in the workplace;
- Unwelcome pressure for dates or sex (this may include situations that began as reciprocal relationships, but which later ceased to be reciprocal).

The intent of the person accused of sexual harassment is of secondary importance: the impact of the offensive behavior on the offended person is the primary factor in determining if sexual harassment occurred.

The individual does not necessarily have to be the one to whom the remark or conduct is directed, but may be someone in the same room who overhears and is offended by the comment or behavior.

RETALIATION

The Department prohibits employees from imposing (changing the terms, conditions, or privileges of employment of an employee) or threatening to impose reprisals against complainants for exercising their rights, and/or individuals participating in an inquiry or legal proceeding concerning sexual harassment matters. Employees will be held accountable for retaliation and will be subject to inquiry or investigation and immediate and appropriate corrective action if it is determined that retaliation has occurred. Managers and supervisors are expected to ensure a workplace that is free of retaliation.

ZERO TOLERANCE

As part of the commitment to providing an environment free from harassment and retaliation, the Department will maintain a zero tolerance policy against sexually harassing conduct and/or behavior. Employees do not necessarily need to violate State or federal sexual harassment laws, regulations, rules, guidelines, or executive orders to be in violation of the Department's Sexual Harassment Prevention Policy. Employees will be held accountable for their conduct and any employee that fails to adhere to the Department's policies will be subject to inquiry or investigation and, if it is determined through the investigatory process that a violation has occurred, the Department will take immediate and appropriate corrective action.

ROLES AND RESPONSIBILITIES

Employees

All Department employees are expected to:

- Adhere to the Department's Sexual Harassment Prevention Policy and procedures, applicable State and federal laws, and the discrimination complaint process.

- Not engage in, condone, tolerate, or leave uncorrected conduct that violates the Sexual Harassment Prevention Policy.
- Avoid imposing or threatening to impose reprisals against complainants and/or individuals participating in an inquiry or legal proceeding concerning sexual harassment matters.
- Report any Sexual Harassment Prevention Policy violations to a supervisor, manager, or the Office of Equal Employment Opportunity (EEO).
- Cooperate with any investigation conducted by EEO.

Failure by an employee to adhere to the above responsibilities may result in corrective and/or disciplinary action, up to and including dismissal from the Department, regardless of rank, level, or classification.

Managers and Supervisors

Managers and supervisors are in key positions to make an impact in terms of correcting inappropriate behavior in the workplace and ensuring that a discrimination free workplace is maintained.

All Department managers and supervisors are expected to:

- Maintain and promote a work environment free from harassment, retaliation, and unprofessional or disrespectful conduct related to this policy.
- Adhere to the policy and procedures, applicable State and federal laws, discrimination complaint process, and ensure that they are communicated to all employees under their supervision that sexual harassment in the workplace will not be tolerated.
- Inform employees about how to pursue their rights if harassed, promptly notifying EEO for guidance and assistance in the proper handling of the complaint.
- Take all complaints seriously. Do not shrug off, minimize the complaint, or otherwise discourage employees from reporting such complaints.
- Immediately inform EEO of any sexual harassment complaints you have received, or any sexual harassment you have observed. EEO will act as the lead for the Department on any allegations of sexual harassment, and directions from EEO are to be strictly followed. Do not investigate any such allegations.
- Immediately report and forward all sexual harassment complaints to EEO, even if the occurrence is not directly within their line of supervision or responsibility.
- Be responsible for acts of sexual harassment between employees in the workplace where the managers and supervisors know or should have known of the conduct, unless they can show that they took timely and appropriate action. Ignorance is not an acceptable defense for inaction of a manager or supervisor if, through reasonable care, they should have been aware of the conduct.
- Be responsible for sexual harassment by non-employees where the manager, supervisor, or lead person knew or should have known of the conduct, and failed to take timely and appropriate corrective action. In reviewing these cases, the

extent of the manager's and supervisor's control and any other legal responsibility which they have with respect to the conduct of such non-employees, will be taken into consideration.

- Ensure that employees under their supervision annually receive a copy of this policy, read it, and then sign the attached acknowledgment form. Copies of the acknowledgement form are to be placed in each employee's official personnel file.
- Attend mandated sexual harassment prevention training.

Failure by a manager or supervisor to adhere to the above responsibilities may result in corrective and/or disciplinary action, up to and including dismissal from the Department, regardless of rank, level, or classification.

PREVENTION

Prevention is the best tool to ensure a work and business environment free from harassment or retaliation. All employees, especially managers and supervisors, must understand the seriousness and consequences of sexual misconduct and retaliation, and refrain from such activities.

COMPLAINT PROCESS

An employee, job applicant, or member of the public is not required to confront the person(s) engaged in the conduct believed to be in violation of the Department's policy at any time before or after filing a complaint. If the complaint involves manager(s) or supervisor(s) in the employee's direct chain-of-command, the employee may report the behavior to any uninvolved manager, supervisor, or directly to EEO.

The Department will attempt to resolve sexual harassment complaints at the lowest level possible. Complaints will be handled in an impartial and confidential manner in compliance with Departmental policy and State and federal law.

An employee, job applicant, or member of the public who believes his or her rights have been violated, may file an internal discrimination complaint directly with EEO. The Discrimination Complaint Form can be found on the Department's intranet by visiting: <http://dfgintranet/portal/DirectorsOffice/EEO/tabid/85/Default.aspx>, or you may contact EEO at 1416 9th Street, 12th Floor, Sacramento, CA 95814, or at the below number.

Please sign and submit the ACKNOWLEDGMENT OF POLICY 12591 on the following page.

Contact

If you have any questions regarding this policy or require additional information, please contact the [Office of Equal Employment Opportunity](#) at (916) 653-9529.

This Policy was previously distributed as Departmental Bulletin 2014-06 (issued September 17, 2014). Also, this policy supersedes the Sexual Harassment Prevention portion of the August 21, 2008 Director's Bulletin titled "Equal Opportunity and Sexual Harassment Prevention Policies".

DEPARTMENT OF FISH AND WILDLIFE
ACKNOWLEDGMENT OF POLICY 12592

I acknowledge that on _____, I received a copy of Policy 12592 "Sexual Harassment Prevention Policy." I also acknowledge that I have read Policy 12592.

Employee's Name (Please Print)

Division/Region/Branch

Employee's Signature

Date

Please submit the completed Acknowledgment to your supervisor/manager. Your supervisor/manager will ensure that the Acknowledgment is placed in your official personnel file.

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE



WORKPLACE VIOLENCE AND BULLYING PREVENTION PROGRAM

**Executive Branch
Office of Equal Employment Opportunity**

June 1, 2014

Policy

The Department of Fish and Wildlife (DFW) strives to provide all employees with a healthy, safe, and secure work environment. It shall be the policy of DFW to provide all employees, members of the public, and constituents with a safe and healthful work environment.

It shall be the policy of DFW to take appropriate actions to protect, as fully as possible, State employees, members of the public, and constituents from bullying, threats, harassment, intimidation, stalking, and/or acts of violence which may occur at State workplaces, and during the performance of State duties.

The DFW shall also take action, including involving State or local law enforcement, in pursuing through judicial or other appropriate administrative remedies when such incidents occur.

Workplace violence or bullying, whether implied or direct, made by a DFW employee, a member of the public, or constituent, must be taken seriously, reported immediately, documented, and investigated if necessary. No employee shall experience retaliation for reporting any type of bullying or workplace violence.

Purpose

The purpose of the Workplace Violence and Bullying Prevention Program (WVBPP) is to ensure that DFW provides employees, members of the public, and constituents with a place to conduct the business of this Department free of bullying, threats, harassment, intimidation, stalking, and/or acts of violence.

Legal Authority

California Labor Code Section 6400 requires that every employer furnish a safe and healthful place of employment.

California Government Code Section 19572 prohibits workplace violence, discourteous treatment, willful disobedience, insubordination, and other failure of good behavior, and constitutes cause for discipline.

California Penal Code Section 71 prohibits any person from threatening or inflicting unlawful injury upon any public officer or employee, which would cause the public officer, or employee to refrain from doing any act in the performance of his/her duties.

California Penal Code Section 171b prohibits any person from bringing or possessing within any state or local public building firearms and other weapons as described in the section. There are exceptions for peace officers, holders of CCW permits, and personnel who have permission to possess the weapon in writing by a duly authorized official in charge of security of the building. Any person who brings or possesses any of these items is guilty of a public offense punishable by imprisonment in a county jail for not more than one year, or in the state prison.

Definitions

Act of Violence - An act of violence is the attempt (coupled with the ability), or actual use of force of violence with the intent to threaten, harass, intimidate, commit a violent injury, or damage/destroy property.

Bullying - Unwanted offensive and malicious behavior which undermines an individual or group through persistently negative attacks. There is typically an element of vindictiveness and the behavior is calculated to undermine, patronize, humiliate, intimidate, or demean the recipient.

Cyberbullying - The use of Information Technology to harm or harass other people in a deliberate, repeated, and hostile manner.

Harassment - The creation of a hostile work environment that includes, but is not limited to, the following types of behavior:

- a. Verbal harassment such as making or using derogatory comments, epithets, slurs, or jokes.
- b. Physical harassment such as battery, assault, impeding or blocking another person's movement in and about the workplace or unwelcome touching of an individual.
- c. Visual harassment such as derogatory gestures, posters, cartoons, or drawings.

Hostile Work Environment – When the conduct is either sufficiently severe or pervasive that the conduct would create an intimidating, oppressive, hostile, or offensive work environment or otherwise interfere with that person's emotional well-being or ability to perform his or her work duties.

Intimidate - To make afraid, to frighten, alarm, annoy, or scare. To force a person to do, or deter them from, some action by inducing fear by, or as if by, threats.

Stalking - Stalking occurs when any person willfully, maliciously and repeatedly follows or harasses another and makes a credible threat with the intent to place that person in reasonable fear for his/her safety or the safety of his/her immediate family.

State Workplace - A State workplace shall be anywhere a State employee is conducting authorized State business, including wildlife areas, or enroute to and from (excluding normal commute) a location where State business is, will be, or has been, conducted.

Threat - A threat is an act (verbal, written, or physical) which is intended to intimidate by expressing the intent to harass, harm, or damage property. This includes threats made in jest but which others could perceive as serious.

Workplace Violence - The three major types of workplace violence are:

Type I - The aggressor has no legitimate business relationship to the workplace and usually enters the affected workplace to commit an act not in compliance with the law.

Type II - The aggressor is a customer, current or former client, or criminal suspect that is unhappy with the services provided and expresses their disagreements through hostility and/or aggression.

Type III - The aggressor has some employment-related involvement with the affected workplace such as a current or former employee, supervisor, manager, a current/former spouse or partner, a relative, friend, or some other person who has a dispute with an employee of the affected workplace (i.e. contractors, vendors, constituents).

This third type of workplace violence can also involve domestic violence, which is abusive behavior that is physical, sexual, and/or psychological and used to maintain control over a domestic partner(s). This sometimes affects the workplace and may have the potential to become workplace violence.

Examples of Workplace Violence

- Hitting or shoving an individual;
- Verbal harassment, directly or indirectly, in person or by phone;
- Threatening an individual or his/her family, friends, associates, or property with harm;
- The intentional destruction or threat of destruction of State property;
- Harassing surveillance or stalking;
- The suggestion or intimation that violence is appropriate;
- Unauthorized possession or inappropriate use of firearms or weapons; and
- Terrorist threats.

Examples of Workplace Bullying

- Constant threats of dismissal or intimidation;
- Attempts to destroy or harm the person's self-esteem or confidence;
- Constant negative remarks or repeated criticism or sarcasm;
- Consistent over time, unrealistic work demands, or work overloading;
- Isolating or systematically isolating the person;
- Spreading false information or rumors;
- The use of Information Technology to harm or harass other people in a deliberate, repeated, and hostile manner;
- Tasks that are ambiguous, contradictory, or that are deprived of purpose;
- False insinuations, attacks to the individual's dignity, integrity, or self-image; and
- Attempts to humiliate or public humiliation.

Responsibilities

It is up to each employee to help make DFW a safe workplace for all of us. The expectation is that each employee will treat all other employees, constituents, and the public that DFW serves with dignity and respect. It is also expected that management is to provide a safe working environment by putting preventative measures into place and to take immediate action towards threatening and potentially violent situations.

Incident Reporting Procedures

Immediate Danger:

- Call the CHP for emergency assistance at 9-1-1 (or (9) 9-1-1 if your telephone system requires you to dial a 9 first). In addition to the CHP, you may contact DFW peace officers in the vicinity of your facility; and
- Report all threats or acts of workplace violence to your supervisor/manager.

No Immediate Danger:

- Report the incident to your supervisor/manager and/or the Department's Workplace Violence and Bullying Prevention Program Coordinator in the Office of Equal Employment Opportunity (OEEO), at (916) 651-7559.
- Complete the Workplace Violence and Bullying Incident Report (CDFW-EEO-265) (**see Appendix A**), which is available in OEEO, (916) 653-9529, or can be found on the intranet at <http://dfgintranet/portal/DirectorsOffice/EEO/tabid/85/Default.aspx>. You may submit the information anonymously if you believe that is necessary.

**CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
WORKPLACE VIOLENCE AND BULLYING PREVENTION PROGRAM**

NOTICE OF RECEIPT BY EMPLOYEE

I have read the California Department of Fish and Wildlife's Workplace Violence and Bullying Prevention Program and have received a copy.

Employee's Name (Please Print)

Date

Division/Region/Branch

Employee's Signature

Once the acknowledgement form is completed and signed, please return it to your supervisor/manager. Your supervisor/manager will ensure that the form is placed in your personnel file.

Family and Medical/Pregnancy Disability Leave 12440-12440.11

It is the policy of the California Department of Fish and Wildlife (CDFW) to provide unpaid job-protected family and medical leave to eligible employees in compliance with the Family and Medical Leave Act (FMLA), including Military Caregiver Leave (MCL) and Qualifying Exigency Leave (QEL), the California Family Rights Act (CFRA), and Pregnancy Disability Leave (PDL).

The following policy provisions do not supersede any Memoranda of Understanding that may provide employees greater family or medical leave benefits.

FMLA/CFRA Leave Entitlement

12440.1

FMLA/CFRA leave entitles an eligible employee up to 12 workweeks of unpaid job-protected leave in a 12-month period (January 1 through December 31) and the continuation of health benefits for one or more of the following reasons:

- The birth and care of a newborn child of the employee.
- Placement of a child in the employee's family for adoption or foster care.
- To care for a spouse, son, daughter, or parent with a serious health condition.
- To take medical leave when the employee is unable to work because of a serious health condition.
- To take leave for a qualifying exigency (QEL) arising out of the foreign deployment of the employee's spouse, son or daughter of any age, or parent who is a member of the Armed Forces (including the National Guard and Reserves) to manage their affairs while the military member is on covered active duty.
- To take Military Caregiver Leave (MCL) up to 26 workweeks in a 12 month period, to care for a covered military servicemember who is undergoing medical treatment, recuperation, or therapy, who is otherwise on outpatient status, or is on a temporary disability list for a serious injury or illness.

Typically, FMLA/CFRA are concurrent leave except during PDL, when a family member is ineligible for CFRA or taking FMLA Qualifying Exigency Leave (QEL) and Military Caregiver Leave (MCL).

Twelve workweeks of leave entitlement equals twelve (12) of the employee's normally scheduled workweeks. When an employee's schedule varies from week to week, to such an extent that an employer is unable to determine with any certainty how many hours the employee would have worked, the employer uses a weekly average of the hours scheduled over the prior 12 months to calculate the their leave entitlement. CFRA regulations state that for eligible employees who work more or less than five days a week, or who work an alternative work schedule, the number of working days that constitutes 12 workweeks is calculated on a pro rata or proportional basis.

Military Family Leave Entitlement

12440.11

FMLA provides two types of Military Family Leave entitlements. The first is Military Caregiver Leave (MCL) and the second is Qualifying Exigency leave (QEL). Eligible criteria is the same as FMLA with the following exceptions:

Employees who are eligible for MCL include: the servicemember's parent, spouse, or child and next of kin. Confirmation of the employee's relationship to the covered servicemember must be provided to the Human Resources Branch (HRB) Medical Disability Services Unit (MDSU). Where a covered servicemember has a sibling and designates a cousin as their next of kin for FMLA purposes, then only the designated cousin is eligible as the covered servicemember's next of kin.

The 26 workweeks of MCL is not in addition to the 12 workweeks of FMLA leave normally available to eligible employees but is aggregated with all other types of FMLA qualifying leave during the applicable 12 month period. The 12-month period begins on the day the employee begins caregiver leave and ends 12 months after.

Due to MCL being available on a per service member per injury basis, an eligible employee may be entitled to take more than one such leave during the course of his or her employment to care for different servicemembers or for the same servicemember with a subsequent injury or illness. In such circumstances, leave is still limited to no more than 26 weeks during the applicable period. In addition, spouses who are FMLA eligible and work for the State may be limited to a combined total of 26 workweeks' caregiver leave.

Qualifying Exigency Leave (QEL) is for eligible family members needing leave up to 12 workweeks for "a qualifying exigency" arising out of a covered military member's active duty status or call to active duty in support of a contingency operation or deployment to a foreign country. It is available only to the family members of regular Armed Forces, National Guard or Reservists called to federal active duty. QEL does not include military members who are retired members of the regular Armed Forces, a state Reserve or National Guard unit, or those called to active duty by a State rather than the Federal Government.

QEL includes the following eight events:

- Issues arising from short-notice deployment (i.e., deployment to active duty seven or less days prior to the date of deployment)
- Military events, ceremonies, or programs related to active duty or related activities
- Childcare and school activities
- Financial or legal appointments
- counseling
- Rest and recuperation
- Post-deployment activities (e.g., arrival ceremonies and reintegration briefings)
- Additional activities agreed upon by the employer and employee

PDL Entitlement and Duty to Accommodate

12240.12

As outlined in the Department of Fair Employment and Housing (DFEH) regulations, an employee disabled by pregnancy is entitled to take up to four months of unpaid PDL. PDL regulations clarify that disabled by pregnancy includes the following conditions/situations: severe morning sickness, gestational diabetes, pregnancy induced hypertension, preeclampsia, post-partum depression, prenatal or postnatal care, bed rest, childbirth, loss or end of pregnancy, recovery from childbirth or loss/end of pregnancy, and lactation (a medical condition related to pregnancy).

In addition, the employee is entitled to a reasonable accommodation, or a transfer to a less strenuous position, as prescribed by the health care provider. Leave can be taken during any time the employee is physically unable to work because of pregnancy or a pregnancy related condition. Leave can be taken before or after birth, intermittently, or continuously.

FMLA and PDL are concurrent leave. When PDL ends, the eligible employee may request CFRA leave up to 12 workweeks for the birth of the child. There is no requirement that either the employee or child have a serious health condition nor a disability related to pregnancy, childbirth, or medical condition before taking CFRA leave for the birth of the child. For example, if the employee takes 14 weeks of PDL (FMLA equals 12 of the 14 weeks of PDL) the employee may have up to 12 workweeks of CFRA leave to bond with the baby.

If CFRA leave entitlement for baby bonding crosses two calendar years, the employee is entitled to the maximum benefit in each calendar year. For example, if the employee started baby bonding leave on December 15, 2018, they would take two weeks of their 12 workweek entitlement in calendar year 2018. Then on January 1, 2019, the clock would reset and the employee is entitled to another 12 workweeks (total of 14 workweeks). Bonding leave occurs within one year of the child's birth. Bonding leave is not limited to female employees. Eligible male employees may take up to 12 workweeks of bonding leave under CFRA.

Spouses employed by the State are jointly entitled to a combined total of 12 workweeks of bonding leave. CDFW may not limit the employee's entitlement to CFRA leave for any other qualifying purpose. If the parents are unmarried, they may have different rights under FMLA.

Employees may take leave intermittently, which means taking leave in separate periods of time, or by reducing their normal weekly or daily work schedule. If leave is for bonding with a child, the basic minimum leave duration is two weeks. However, the employer must grant a request for leave of less than two weeks on any two occasions.

Definitions

12440.2

Definitions for the following can be found in the Code of Federal Regulations, under Title 29 § 825.102 and § 825.122 (Military). Definitions for CFRA are in the California Code of Regulations, under Title 2 § 11087:

- Spouse
- Son or daughter
- Parent

- Servicemember
- Serious health condition
- Health care provider
- Military definitions: Covered servicemember, active duty, spouse, parent, son, daughter, next of kin of a covered service member, etc.

Eligibility Criteria

12440.3

FMLA/CFRA Eligibility Criteria

12440.31

An employee is eligible for FMLA/CFRA leave when they have worked for the State for a total of 12 months following their date of hire, even with a break in service after the date of hire. In addition, the employee must have physically worked at least a minimum of 1,250 hours in the preceding 12 months.

The statutory requirement is that employee eligibility determinations be made “as of the date leave commences.” If an employee reaches the 12-month eligibility requirement while on leave, the leave period prior to meeting the requirement is non-FMLA leave, and the leave period *after* the requirement is fulfilled would then be considered FMLA leave. With the exception of administrative time off (ATO), periods of leave, including paid leave due to job-related accidents or injuries, do not count towards the 1,250 hours requirement. However, they do count towards the 12 months of employment requirement.

Example: An employee requests and is denied FMLA/CFRA leave because they have only worked 11 months for the State and do not meet the 12 month requirement. The employee is allowed to take a non-FMLA/CFRA leave. During the time taken for the non-FMLA/CFRA leave, the employee meets the 12-month requirement and is now eligible for FMLA/CFRA leave from that point forward. The FMLA/CFRA approved leave counts against the employee’s FMLA/CFRA entitlement.

PDL Eligibility Criteria

12440.32

Unlike FMLA/CFRA, to be eligible for PDL the employee is only required to submit a certification substantiating a medical condition related to pregnancy as noted above. The employee is *not* required to meet FMLA/CFRA’s 12 months or the 1,250 physical hours worked requirements.

During the disabled pregnancy period, the employee is entitled to a reasonable accommodation, or a transfer to a less strenuous position, as prescribed by the healthcare provider. Likewise, the employee may be entitled to additional leave in accordance with CDFW’s Reasonable Accommodation Policy and Procedures.

Notice Requirements

12440.4

Effective January 16, 2009, amended Department of Labor (DOL) regulations created three new employer and/or employee notice responsibilities.

CDFW Notice Requirements

12440.41

1. General Notice (FMLA): DOL has published a new general notice poster entitled "Employee Rights under the FMLA" (WH Publication 1420). Both the FMLA and CFRA's notices are electronically posted on the Human Resources Branch (HRB) Medical Disability Services Unit (MDSU) intranet and included in the new employee hire packet.
2. Notice of Eligibility and Rights and Responsibilities (FMLA/CFRA): HRB MDSU provide employees the notice within five business days after receiving a request for FMLA/CFRA leave or becomes aware that the leave may qualify for FMLA/CFRA. The notice informs the employee whether or not they are eligible and includes important information regarding their rights and responsibilities, certification requirements, and the consequences for not meeting those requirements, as well as information regarding the return-to-work release. In addition, the employee is informed of the consequences if they fail to return to work after FMLA/CFRA leave.

When a represented employee is denied eligibility based solely on a lack of 1,250 hours of service, there may be a union noticing requirement. Eligibility does not mean the leave has been approved for FMLA/CFRA at this point.

3. Designation Notice (FMLA/CFRA): After HRB MDSU receives the certification form (see below) the employee, supervisor and Personnel Specialist is informed within five business days whether the leave is approved, delayed, or denied in writing and if applicable, the consequence for failing to provide a complete certification.

CDFW employees under the California Department of Human Resources' (CalHR) [safety sensitive designated classifications](#) requiring a commercial driver license, including non-sworn and sworn peace officers, shall provide a medical release certifying their ability to perform the essential job functions or meet Peace-Officer Standards and Training (POST) requirements with or without the need for a Reasonable Accommodation.

With the exception of amendments and/or extensions, only one Designation Notice is required for each FMLA/CFRA qualifying reason, per leave year, regardless of whether the leave is taken as a continuous block of leave or on an intermittent or reduced leave schedule basis. A retroactive notice is permissible if it does not cause employee harm or injury. CDFW may not retroactively designate leave after the employee has returned to work.

Employee Notice and Certification

12440.42

Employees seeking to use FMLA/CFRA/PDL are required to provide a 30-day advance notice of their need to take a foreseeable leave by submitting the "Family & Medical Leave Request & Fact Sheet" form DFW 1067. This form includes leave for a planned birth, adoption, foster care placement, or medical treatment. If it is not possible to give such advance notice, the employee must provide notice as soon as practicable (on the same or next business day). When intermittent leave is needed for planned medical treatment, the employee must try to schedule treatment so as not to unduly disrupt CDFW operations.

Eligible Military Qualified Exigency Leave (QEL) employees are obligated to provide notice of leave due to a qualifying exigency when they first seek to take the leave.

Certification of a serious health condition, pregnancy disability, and military deployment, are required and maintained as confidential documents. Employees must submit a certification within 15 calendar days of their Notice of Eligibility.

- CalHR 754 form: "Certification of Health Care Provider for Employee's Serious Health Condition;" or
- CalHR 755 form: "Certification of Health Care Provider for Family Member's Serious Health Condition;" or
- CalHR 756 form: "Certification of Qualifying Exigency for Military Family Leave (FMLA)" As part of the certification process, the employee is required to provide copies of the military member's orders or other military documentation, facts regarding the exigency, and dates of the military member's active duty service and beginning of the exigency; or
- CalHR 757 form: "Certification for Serious Injury or Illness of Covered Service Member for Military Caregiver Leave (FMLA)." The certification form is completed by an authorized health care provider of the covered servicemember, such as the Department of Defense (DOD), Veteran Affairs (VA), DOD Tricare, DOD non-network Tricare, and DOD authorized representative.

If CDFW has a good faith, objective reason, to doubt the validity of a certification for the employee's own medical condition (FMLA), the HRB MSDU may require a second or third medical opinion at the department's expense, in addition to periodic re-certification. CFRA regulations provide the HRB MDSU authority to only contact the health care provider for the limited purpose of authenticating a certification.

Accordingly, if the HRB MDSU receives a deficient or incomplete certification, the employee will be provided a written explanation of the deficiency, given seven calendar days to submit the necessary information, and advised of the consequence of failing to timely provide a completed certification.

Job Restoration

12440.5

Regulation stipulates that, upon return from FMLA/CFRA/PDL leave, an employee must be restored to their original job, or to an equivalent job with equivalent pay, benefits, and other terms and conditions of employment. In addition, the employee's use of FMLA/CFRA/PDL cannot result in the loss of any employment benefit that the employee earned or was entitled to before using leave.

If an employee accepts light duty work while recovering from their own serious health condition, the period on light duty assignment will not be counted as FMLA/CFRA/PDL. Employees are not required to work light duty jobs in lieu of taking leave, and those who do so voluntarily are not on FMLA/CFRA/PDL. At the end of the assignment, the employee has the right to be reinstated to the same or equivalent position.

Under specified and limited circumstances, where restoration to employment will cause substantial and grievous economic injury to its operations, an employer may refuse to reinstate certain highly-paid "key" employees after using FMLA/CFRA leave during which health coverage was maintained. In order to do so, the employer must:

- Notify the employee of their status as a key employee in response to the employee's notice of intent to take leave.
- Notify the employee as soon as the employer decides it will deny job restoration, and explain the reasons for this decision.
- Offer the employee a reasonable opportunity to return to work from leave after giving this notice.
- Make a final determination as to whether reinstatement will be denied at end of the leave period, if the employee then requests restoration.

A "key" employee is a salaried eligible employee who is among the highest paid 10 percent of employees within 75 miles of the work site.

Under CFRA regulations, "an employee who fraudulently obtains or uses CFRA leave from an employer is not protected by CFRA's job restoration or maintenance of health benefits provisions.

Benefit Coverage

12440.6

CDFW is required to maintain group health insurance coverage for an employee on FMLA/CFRA/PDL whenever such insurance was provided before the leave commenced and on the same terms as if the employee had continued to work. If applicable, employees need to arrange payment of their health insurance premiums while on leave. CDFW may recover employee health premiums paid for an employee who fails to return to work from FMLA/CFRA and PDL, and through payroll deductions.

The continuation of health benefits for FMLA are separate from CFRA and PDL regulations. The maximum continuation of health benefits (concurrent FMLA and PDL, and consecutive CFRA) is 29.33 weeks.

Disability Insurance-(Wage Benefit Replacement)

Pursuant to the Employment Development Department (EDD), which administers the State Disability Insurance (SDI), applicable to bargaining units (BU) 1, 4, 11 and 14), and Nonindustrial Disability Insurance (NDI), applicable to excluded employees and rank-and-file employees in BU's 2, 7, 9, 10, and 12, the employer will pay the employer's portion of the health benefits premium for up to 26 weeks.

FlexElect

The reimbursement account and/or cash option (Flex or CoBen) enrollment will stop while the employee is on an unpaid leave of absence. If the employee returns to pay status in the same plan year, the enrollment will resume. Reimbursement account deductions will continue for employees who have sufficient pay issue to cover the deduction during any given pay period. Pay may issue for time worked, leave credits used to cover the FMLA/CFRA/PDL absence, NDI or ENDI payments, or supplementing SDI with the use of leave credits.

If an employee is enrolled in the medical reimbursement account and wishes to continue to submit claims for services provided during the leave of absence, the employee may elect to continue making their contributions through COBRA.

Call-in and Reporting Procedures

12440.7

Employees are required to follow their standard operating call-in procedures when approved for intermittent FMLA/CFRA/PDL leave. When approved for continuous leave, employees are not required to call in daily during the approved leave period. Employees should inform their supervisor how they want to charge leave (e.g. FMLA/CFRA/PDL sick).

Appeals and Complaints

12440.8

Employees may exercise their right to appeal the FMLA/CFRA/PDL determination to the HRB Chief, CDFW's Equal Employment Opportunity (EEO) Office, the U.S. Department of Labor's (DOL) Employment Standards Administration, Wage and Hour Division, and/or the California Department of Fair Employment and Housing (DFEH) without fear of reprisal, interference, or retaliation. DOL administers and enforces FMLA whereas; DFEH administers and enforces CFRA and PDL.

Violations

12440.9

An employee who fraudulently obtains or uses FMLA/CFRA/PDL is not entitled to the provisions' protection, reinstatement, and continuation of group health benefits. Failure to follow any of the provisions of this policy will result in corrective and/or disciplinary action, which may include termination of employment. Violation of this policy does not pertain to an employee who does not wish to request FMLA/CFRA/PDL.

Managers and supervisors shall engage in the interactive process timely and in good faith and may be subject to disciplinary action for any unlawful act or policy violation. It is unlawful to interfere with, restrain, or deny the exercise of any right provided by FMLA/CFRA/PDL. It is also unlawful to discharge or discriminate against any individual for opposing any practice, or because of involvement in any proceeding related to FMLA/CFRA/PDL.

Authorities

12440.10

- [Family and Medical Leave Act](#)
- [California Family Rights Act](#)
- [Pregnancy Disability Leave](#)
- [California Department of Human Resources' \(CalHR\) Manual section 2107-Family Medical Leave Act / California Family Rights Act](#)
- [CalHR's Manual section 2120-Pregnancy Disability Leave](#)

Forms

12440.11

- [DFW 1067](#): Family & Medical Leave Request
- [CalHR 754](#): Certification of Health Care Provider for Employee's Serious Health Condition
- [CalHR 755](#): Certification of Health Care Provider for Family Member's Serious Health Condition
- [CalHR 756](#): Certification of Qualifying Exigency for Military Leave (FMLA)
- [CalHR 757](#): Certification for Serious Injury or Illness of Covered Service Member for Military Caregiver Leave (FMLA)
- [DFEH-E10P](#): Certification for Pregnancy Disability Leave

Contact

For more information regarding this policy and to report any broken links, contact the [Human Resources Branch](#).

This Policy was previously distributed as CDFW Operations Manual Policy 12440, Family and Medical Leave Policy (issued April 29, 2010). Updates to this policy were approved by HRB acting Branch Chief Padma Linker (September 20, 2018).

Personal Use of State-Owned or Leased Vehicles 12840

State-owned or leased vehicles are provided to conduct official State business. Use of a State vehicle incidental to State business for personal reasons may constitute taxable income and be subject to Federal/State income taxes and applicable Social Security/Medicare taxes. Under Internal Revenue Code (IRC) Section 61(a), any fringe benefit provided to an employee in connection with the performance of service is considered income, unless a specific exclusion applies.

Although State-owned or leased vehicles are not to be used for personal business¹, incidental use is sometimes unavoidable. Misuse of a State vehicle occurs when it is driven or used other than in the conduct of State business, which includes carrying any persons not directly involved with official State business.

The most common taxable use occurs when an employee uses a State vehicle more than once per month to "commute" between home and his/her regular place of work (per IRS definition of a "fringe benefit"). Please note that possession of a Home Storage Permit does not automatically exempt employees unless a specific exclusion applies as explained below.

There are three exclusions to the taxability of personal use of a State-owned or leased vehicle:

1. De Minimis Fringe Benefit
2. Working Condition Fringe Benefit
3. Employee's Home/Headquarters.

De Minimis Fringe Benefit

If an employee uses a State vehicle to commute between home and his/her regular place of work no more than once a month, its value is exempt from gross income (no reporting requirement). This does not mean that an employee can receive excludable reimbursement for commuting 12 days a year.

The general definition of a normal commute is from home to headquarters/work office (Office) and Office to home. However, if a person whose home has not been designated his/her headquarters, routinely leaves from home to work at multiple sites, this is not a commute for tax purposes. If an employee leaves home to conduct business at a destination other than Office and the worksite is not on the way to the Office, that is not a commute for tax purposes. However, if the worksite is on the way to the Office, that is a commute for tax purposes.

If areas have no secure parking at the work site and have a history of vehicle vandalism, State vehicles are taken home overnight for security purposes. Please note that these trips home and to the office the next day are commutes for tax purposes. An employee who uses a State vehicle to go into the office on a day off is also conducting a commute for tax purposes, regardless of whether it is required by the Department.

¹ California Government Code Section 8314 and California Code of Regulations, Title 2, Section 599.802

However, if this were an unusual situation for the employee, generally occurring no more than once a month, the commute could be considered a nontaxable de minimis fringe benefit.

Working Condition Fringe Benefit

The value of using a specialized State-owned or leased vehicle is excluded from gross income if designated as a "qualified nonpersonal use vehicle" (any vehicle not likely to be used more than minimally for personal purposes because of the way it is designed). Included in this provision are:

- clearly marked police and fire vehicles
- vehicles designed to carry cargo over 14,000 pounds
- school buses
- unmarked vehicles used by law enforcement officers, if the vehicle use is officially authorized

Please note that the personal use of a clearly marked police vehicle when the officer is not on a regular shift or on-call at all times, is limited to the police officer's arrest powers and/or obligation to respond to an emergency. For the vehicle use to be exempt from gross income, it must also be incidental to law-enforcement functions, such as reporting directly from home to a stakeout or surveillance site.

Employee's Home/Headquarters

To exclude the use of a State-owned or leased vehicle from taxable income for an employee whose home has been designated as his/her headquarters, all the following conditions must be met:

1. The employer must designate the employee's home as his/her headquarters. The Department of Personnel Administration (DPA) requires that a Headquarters be established for each State officer and employee and is defined as the place where the officer or employee spends the largest portion of his/her regular workdays or working time or the place to which he/she returns upon completion of special assignments.
2. The employee's home/headquarters must meet the conditions of IRC 280A(c) as the employee's "principal place of business", defined as a place of business where the employee conducts substantial administrative activities² of such business. To qualify, the employee must perform his/her primary administrative activities at home. Administrative activities are defined as those activities not performed in the field but in an office setting.

² Such activities include, but are not limited to, preparing reports, completing time sheets/travel expense claims, returning telephone calls, preparing correspondence (either hard copy or e-mail), evaluating and making recommendations on Fish and Game Regulations, reviewing research material, providing consultation to regional staff, other State agencies, and/or members of the public, and developing and maintaining a library of technical and informational documents pertaining to wildlife restoration and protection.

3. The designation of the home/headquarters as the "principal place of business" must be for the convenience of the employer versus the convenience of the employee. This means that the employer has a substantial non-compensatory business reason for requiring this designation.
4. The employee must be able to demonstrate that the home/headquarters assignment qualifies as a legitimate tax deduction.
5. To qualify vehicle use as nontaxable, the employee must substantiate that the vehicle is not used for personal purposes and answer certain questions about the use of the vehicle mileage (total business, commuting, and other personal mileage), percentage of business use, dates placed in service, use of other vehicles, after work use, and whether the employee has evidence to support the business use claimed). The IRS states a trip-log showing all use, not just the first and last trip of the day, may provide the necessary substantiation.
6. The work locations where the employee routinely travels cannot be a single location.

To determine if the value of personal use of a State-owned or leased vehicle is nontaxable income, each employee with a home/headquarters designation must complete the Employee's Designated Headquarters Form, FG-HRB-202 (copy attached), and submit it to his/her immediate supervisor for approval. Once approved, the original form is placed in the employee's official personnel file for IRS auditing purposes. In order for the value of the personal use of a State-owned or leased vehicle to qualify as nontaxable income, the employee must respond "Yes" to all of the questions on page two of this form and be able to substantiate each response.

If all the conditions listed above (items 1 through 6) are not met, the personal use of a State-owned or leased vehicle is considered a "fringe benefit" and constitutes taxable income.

Special Value Rules

Requirements for reporting the personal use of State-owned or leased vehicles are adjusted annually by the IRS. In accordance with IRS guidelines, the following Special Valuation Rule will be used by the Department of Fish and Wildlife:

Commuting Valuation Rule - Under this rule, the value of personal use is \$1.50 per one-way commute and \$3.00 per round trip. This rule cannot be used by a "control employee." A control employee is any elected official or an employee whose compensation equals or exceeds \$143,500.00 annually.

NOTE: For further information of the special valuation rules and values for determining personal use of a State vehicle, IRS Publications #535, Business Expenses, and #917, Business Use of a Car, are available by calling 1-800-829-3676.

Reporting Requirements

Employees earning a "fringe benefit" from the personal use of a State-owned or leased vehicles (as defined by IRS regulations) are required to complete and submit the Personal Use of State-Owned Vehicle Monthly Certification Form, FG-PERS-299

(Rev. 9/08) (copy attached), to the Regional Personnel Office or to HRB for processing by the fifth of each month.

Personnel Specialists will complete the Non-USPS Adjustment Request - Value Form, STD. 676V, and submit it to the State Controller's Office for processing the tax adjustments for the personal use of State-owned vehicles.

The tax withholding adjustment will be identified on the employee's Earnings Statement or Direct Deposit Advice as additional taxes (included with any additional taxes already taken).

Contact

For more information regarding this policy, contact your Personnel Specialist.

This Policy was previously distributed as Departmental Bulletin 2010-03 (issued February 7, 2010).

Human Resources Memorandum

SUBJECT: Wounded Warriors Transitional Act Sick Leave	NUMBER: HR 16-019
	DATE ISSUED: July 13, 2016
DISTRIBUTION: CDFW Employees Hired on or after January 1, 2016	EXPIRES: N/A

This memorandum notices the Department of Fish and Wildlife (CDFW) employees who are military veterans hired on or after January 1, 2016, that Senate Bill 221 enacted the Wounded Warrior Transitional Leave Act and amended Government Code section 19859.

This law grants eligible state officers or employees, hired on or after January 1, 2016, 96 hours of sick leave to be used for the treatment of a military service-connected disability. To qualify, the employee must be a military veteran with military service-connected disability rated at 30 percent or more by the United States Department of Veterans Affairs.

Eligible employees are required to submit a verification letter to their Personnel Specialist in order to receive the sick leave credit. A verification letter may be requested from any United States Department of Veterans Affairs office by calling (800) 827-1000 or accessing a Veterans Affairs e-Benefit account.

Upon eligibility verification the 96 hours of sick leave shall be credited and available for use by the qualifying employee on their first day of employment, and is not prorated based on the employee's time base. The sick leave shall remain available for use for the following 12 months, and any unused hours will expire thereafter. For example, a qualifying employee hired on July 1, 2016, may use the sick leave entitlement on July 1, 2016, and will forfeit any unused hours effective July 1, 2017. Employees should track their own leave usage in addition to the assigned Personnel Specialist using the following link: <http://www.calhr.ca.gov/Documents/form-ca-wounded-warriors-transitional-leave-act.pdf>.

Should you have any questions, please contact your assigned Personnel Specialist or Transaction Manager, Catherine SooHoo at (916) 653-9075.

Human Resources Branch Memorandum

SUBJECT: 2018 Anti-Nepotism Policy	NUMBER: HRB 18-007
	DATE ISSUED: August 10, 2018
DISTRIBUTION: All CDFW Employees	EXPIRES: n/a

Action Required Informational Only Control Agency Directive

Purpose

The purpose of this memorandum is to inform all employees of the California Department of Fish and Wildlife (CDFW) Anti-Nepotism policy. All CDFW employees are required to review the policy and submit Anti-Nepotism Policy Acknowledgement and Self-Reporting Form (DFW 1024) to their immediate supervisor **within 30 days** of receiving this policy.

Authorities

[California Department of Human Resources \(CalHR\) Manual Section 1204 Nepotism](#)

Government Code Section 12940 (a)(3)(A)

California Code of Regulations Title 2, section 11057

California Constitution Article VII, Government Code section 18500

Policy

Nepotism is prohibited at CDFW. Nepotism is favoritism by those with power or influence to appoint, employ, promote, advance, or advocate for relatives or persons with whom they have a personal relationship in an employment setting. Nepotism is antithetical to a merit-based personnel system, and CDFW is committed to the state policy of recruiting, hiring and assigning employees on the basis of merit.

Nepotism may exist when personal relationships give rise to the perception of favoritism, bias, or partiality to persons with whom they have a personal relationship; it may also exist when those relationships give rise to the perception of inequity or partiality to other employees. Nepotism may exist when one employee may be perceived to affect another employee's work assignments, job duties, performance reviews, or promotional opportunities, or where the relationship may impact the integrity, morale, operational functioning, safety, or security of the workplace. As such, two employees with a personal relationship may not have a reporting relationship within the direct chain of command, nor may they sign or approve the other's expense advances or reimbursements.

Other situations may also constitute nepotism, including two employees with a personal relationship within the same chain of command (although not direct) or within the same division or office. Furthermore, employees of CDFW may not attempt to exert any influence over CDFW personnel matters involving relatives or

persons with whom they have a personal relationship as defined herein. This prohibition shall apply to matters involving hiring, promotion, discipline, performance reviews, time approval, and any other personnel action.

Personal Relationships Defined

Personal relationship means any relationship so personal that other CDFW employees may reasonably perceive that one of the employees may be motivated to treat the other one more favorably than other employees. That includes, but is not limited to, any familial relationship established by blood, adoption, marriage, or registered domestic partnership. For the purposes of this policy, personal relationships are not limited to familial relationships but also include employees who reside together or have other close personal bonds.

Implementation and Documentation

Prospective Hires, Promotions, and Transfers - All prospective hires, prior to employment and during the interview process, including transfers and reinstatements, must complete, sign, and submit to their hiring supervisor an Anti-Nepotism Policy Acknowledgement and Self-Reporting Form (DFW 1024). The prospective hire must certify whether they have a personal relationship with a current CDFW employee or not. Administrative clearance to hire will not be granted without an approved form DFW 1024. The hiring supervisor will promptly submit a prospective hire's completed form to the Chief, Human Resources Branch (HRB).

If the prospective hire does not have personal relationships with any current CDFW employees, then the hiring supervisor will promptly move forward through the normal hiring process. If a prospective hire discloses a personal relationship on form DFW 1024, the hiring supervisor must immediately notify the HRB Chief. The HRB Chief will prepare a recommendation for the Director's approval with respect to whether the relationship will violate the Policy. Whenever the Director approves the HRB Chief's recommendation that a personal relationship of a prospective employee will violate this Policy, CDFW will refuse to hire, reinstate, or transfer that prospective employee. If a previously undisclosed personal relationship involving a prospective hire is discovered, management may take remedial action to ensure compliance with this Policy. A failure to disclose a personal relationship may result in disciplinary action up to and including dismissal.

Current CDFW Employees - In implementing this Policy, current employees are required to complete and sign form DFW 1024 annually and provide it to their immediate supervisor. Employees must also immediately complete, sign, and submit to their immediate supervisor a new form DFW 1024 any time circumstances in their personal lives change (such as new or different personal relationships) in a way that could violate this Policy.

Upon receipt of an employee's form DFW 1024, a supervisor will promptly submit the completed form to the HRB for inclusion in the employee's Official Personnel File (OPF). When an employee submits a form DFW 1024 to a supervisor disclosing a personal relationship, or when a supervisor learns through other means of a

relationship that may violate this policy, that supervisor must immediately notify their chain of command. The Branch Chief or Regional Manager will promptly report this information to the HRB Chief. If information regarding an employee's personal status is reported to the HRB Chief, he/she will discuss the information with the affected employee(s) and determine whether or not the relationship violates the policy. If the relationship violates the Policy, the HRB Chief will provide a recommendation to the Director for approval. If the HRB Chief determines there is no violation, he/she will notify the Branch Chief or Regional Manager who reported the relationship.

Whenever the HRB Chief makes a recommendation that personal relationships of employees violate the Policy, and the Director approves that recommendation, management will work with the parties and take actions to remediate noncompliance, which may include involuntary transfer of employees, in accordance with applicable state employment laws and collective bargaining agreements. Director review and approval is not required if HRB Chief determines there is no violation of Policy.

Guidelines for Managers and Supervisors

Managers and supervisors are required to report known familial or personal relationships that may violate the Anti-Nepotism Policy to their chain of command, who will then inform the HRB Chief. Working relationships are to be arranged in a manner that prevents nepotism and the perception of nepotism in all business functions. All hiring, promotions, compensation, and any other employee decisions shall be based on the merit of the employees' qualifications, knowledge, abilities, and performance.

Managers and supervisors that have familial or personal relationships with an employee(s) are prohibited from engaging in activities that may result in a perceived favoritism by those with power or influence to appoint, employ, promote, advance, or advocate for relatives or persons with whom they have a personal relationship in an employment setting. These activities may include, but are not limited to:

- Preparing, reviewing or approving performance evaluations, merit salary adjustments, adverse actions and/or grievance responses;
- Making discretionary appointments (i.e. lateral transfers or T&D assignments);
- Granting special privileges or influencing the appointment, promotion, work assignments, discipline or corrective action of the other;
- Working in each other's chain-of-command (any level of supervisory authority over one another. For example, personal relationship between an employee and his/her second line supervisor/Branch Chief is prohibited);
- Participating in the development or administration of an examination;
- Participating on an interview panel or influencing the hiring or interview process; or
- Performing tasks where separation of duties is required and independence of judgement may be compromised.

Evaluation and Determination

When a personal relationship is disclosed on the DFW 1024, the HRB Chief will:

- Review the reported relationship, organizational chart(s), and any other related documents to determine if there is an Anti-Nepotism Policy violation;
- Make a recommendation to the Director regarding appropriate resolution if there is a violation up to and including:
 - Change in Duties;
 - Change in Reporting Structure;
 - Geographical Relocation; and/or
 - Involuntary Transfer;
- Work with the affected employees and program area(s) to remediate non-compliance within 90 days of receipt of the DFW 1024; and
- Document findings and provide a written response to the affected employees.

Complaint Process

Alleged violations of this policy should be reported to the HRB. To file a nepotism complaint, represented and nonrepresented employees shall initiate the complaint process by reporting the complaint to HRB's Labor Relations Officer.

Form

1. [Anti-Nepotism Policy Acknowledgement and Self-Reporting Form \(DFW 1024\)](#)

Contacts

If you have any further questions, please contact the Anti-Nepotism Coordinator, Leo Lam, at 916-651-7803 or Leo.Lam@Wildlife.ca.gov.