DATE       June 3, 2015
TO         GCTD Board of Directors
FROM       Alex Zaretsky, Human Resources and Risk Manager
SUBJECT    Consider Adoption of Resolution Number 2015-09 to Implement Revisions to Gold Coast Transit District Personnel Rules effective July 1, 2015

I. EXECUTIVE SUMMARY

Periodically GCTD’s personnel rules are subject to an update. This update is based on important changes to California employment law. The last legal update was completed in May 2014 and approved by GCTD’s Board of Directors on July 2, 2014.

This report provides an update to the personnel rules adding the new law on paid sick leave, Assembly Bill 1522 (Paid Sick Leave Law) to the personnel rules. Assembly Bill 1522 provides employees, including temporary and per diem employees paid sick leave. The new law provides limits on paid sick leave accruals for temporary and per diem employees for up to 6 days (48 hours). All regular (non-union represented) employees will accrue 1 hour of paid sick leave for every 30 hours they work to an accrual limit of 1440 hours. Union represented employees are exempt from this update because of the current Memorandum of Understanding.

Staff along with employment counsel updated the applicable sections in the personnel rules on paid sick leave, and additionally updated other relevant sections in the personnel rules to comply with California employment laws.

Below is a summary of the significant changes to the personnel rules including the statutory regulations that apply to the following recommended changes:

1. Personnel Rules, Section 10: Paid Sick Leave: Changed in accordance to AB 1522.


3. Personnel Rules, Section 11: Paid Industrial Injury Leave: Added in accordance to California Code of Regulations, title 2, section 7294.0 “Interactive Process”. Added: Statement on reasonable accommodations for any disability an employee may have in accordance with applicable laws.

5. **Anti-Harassment Policy and Complaint Procedure**: Added: Statement about filing procedures with the California Department of Fair Employment and Housing. Also a simple clean-up was completed by adding the word “District” to the policy, e.g., Gold Coast Transit District.

II. **ADDITIONAL INFORMATION**

GCTD’s other long standing employment policies are compliant. A simple clean-up is needed by adding the word “District”, e.g., Gold Coast Transit District to the following policies: (1). Zero Tolerance Policy for Workplace Violence, (2). Computer Use Policy, (3). Expense /Travel Reimbursement Policy and the (4). Substance Abuse & Employee Assistance Program Policy.

III. **RECOMMENDED ACTION**

It is recommended that the Board adopt Resolution 2015-09 to implement the revised Gold Coast Transit District Personnel Rules, effective July 1, 2015.

_______________________
General Manager's Concurrence
RESOLUTION NO. 2015-09

A RESOLUTION OF THE BOARD OF DIRECTORS OF GOLD COAST TRANSIT DISTRICT
PROVIDING FOR THE REVISIONS TO THE PERSONNEL RULES

WHEREAS, Gold Coast Transit had in effect a Resolution providing for employment terms and conditions, amended by Resolution 2014-03 adopted on May 7, 2014; and

WHEREAS, Gold Coast Transit District adopted said employment terms and conditions amended by Resolution 2014-102 on July 2, 2014; and

WHEREAS, Gold Coast Transit District adopted said employment terms and conditions amended recently by Resolution 2014-110 on October 1, 2014; and

WHEREAS, it has been determined that sections of the Personnel Rules require modifications to include important changes to California employment law.

1. Personnel Rules, Section 10: Paid Sick Leave: Changed in accordance to AB 1522.
3. Personnel Rules, Section 11: Paid Industrial Injury Leave: Added in accordance to California Code of Regulations, title 2, section 7294.0 “Interactive Process”. Added: Statement on reasonable accommodations for any disability an employee may have in accordance with applicable laws.
5. Anti-Harassment Policy and Complaint Procedure: Added: Statement about filing procedures with the California Department of Fair Employment and Housing. Also a simple clean-up was completed by adding the word “District” to the policy, e.g., Gold Coast Transit District.

NOW, THEREFORE, BE IT RESOLVED by the Board of Directors of Gold Coast Transit District that the attached revised Personnel Rules replace and supersede the rules as adopted by Resolution 2014-110 on October 1, 2014;

PASSED AND ADOPTED THIS 3RD DAY OF JUNE, 2015

________________________________
Paul Blatz
Board Chair

ATTEST:
I HEREBY CERTIFY that the foregoing Resolution 2015-09 was duly adopted by the Board of Directors of Gold Coast Transit District at a regular meeting thereof held on the 3rd day of June 2015.

________________________________
Steven P. Brown
Secretary of the Board
F. **Vacation Redemption:** Upon using a minimum of eighty (80) hours of vacation, or forty (40) hours for part-time bus operators, during the past twelve months and with two years of service, an employee may receive pay in lieu of up to one hundred and fifty (150) hours of vacation at the employee's current hourly salary rate. Such employee must have a minimum of forty (40) hours accrued vacation leave after payment. The provisions of this sub-section apply to all employees, whether represented or non-represented.

**SECTION 10: PAID SICK LEAVE:**

Unless otherwise indicated, the provisions contained in this section apply to all GCT personnel. Exceptions are from agreements made in memoranda of understanding entered into by and between the Board of Directors of Gold Coast Transit and Service Employees International Union Local #721.

An employee compelled to be absent from duty because of illness or off-duty injury, shall be allowed sick leave with full pay up to the amount of sick leave that such employee has accrued. Any such paid sick leave time shall be deducted from the employee's accrued sick leave. All full-time employees hired on or before December 1, 1981 will accrue sick leave entitlement at the rate of 3.693 hours per biweekly pay period (equivalent of 6 hours per month). Part-time workers that work less than thirty-two (32) hours per week shall accrue a sick leave entitlement at the rate of 1.486 hours per biweekly pay period. Part-time workers must work a minimum of 20 hours per week to accrue a sick leave entitlement. Certain part-time positions may be approved to be excluded from receiving benefits.

All employees hired after December 1, 1981, who become full-time employees, will accrue sick leave at the rate of 2.769 hours per biweekly pay period (equivalent to 6 hours per month). Part-time workers that work less than thirty-two (32) hours per week shall accrue a sick leave entitlement at the rate of 1.385 hours per biweekly pay period. Part-time workers must work a minimum of 20 hours per week to accrue a sick leave entitlement. Certain part-time positions may be approved to be excluded from receiving benefits.

Effective July 1, 2015, in accordance with California’s Paid Sick Leave Law (AB 1522). All employees who become full-time or part-time regular employees, earn 1 hour of sick leave for every thirty (30) hours worked and shall accrue a sick leave entitlement.

Also effective July 1, 2015, in accordance with California’s Paid Sick Leave Law (AB 1522). A temporary or per diem employee shall accrue paid sick leave by working on or after January 1, 2015 for at least 30 days within a year and by satisfying a 90 day employment (probationary) period before a temporary or per diem employee can actually take sick leave. Starting July 1, 2015, GCTD’s part-time or full-time temporary or per diem employees earn 1 hour of sick leave for every thirty (30) hours worked. All temporary or per diem employees shall accrue to a maximum of 48 hours in a 12 month period. Once a part-time or full-time temporary employee has reached the maximum cap (48 hours), that employee will not earn any additional paid sick leave until the employee has used enough sick leave to fall below the cap.

A. The maximum sick leave which may be accumulated by any employee is 1,440 hours as of January 1 of each year. If an employee of long tenure is absent from duty due to illness and has exhausted his/her accumulated sick leave, the employee may request that the General Manager, or designee, approve a special leave of absence with pay. Long tenure employee shall be defined as having ten (10) years of continuous service with Gold Coast Transit. The request will be considered based upon such factors as length and nature of illness, length of tenure, accrual balances at the onset of the illness, quality of performance, etc.

B. An employee absent because of illness is required to notify the employee’s immediate supervisor of the illness at least one hour before scheduled to work. The General Manager, or designee, may require verification in the form of a note from a medical physician confirming treatment. When absences are properly scheduled with the employee’s supervisor, leaves of absence for dental, optical or other medical attention shall be defined as sick leave.

C. An employee who is required to be absent for physical examination for possible induction
into military service through draft may be allowed up to one day of paid leave.

D. GCT will pay fifty percent (50%) of accumulated sick leave upon death, retirement or other voluntary employment separations as determined by GCT’s General Manager or designee, to those employees with a minimum of ten (10) years of service.

E. All regular employees who have accrued sick leave for one full calendar year and use sixteen (16) hours or less of accrued sick leave in a calendar year may elect to convert eight (8) hours of accrued sick leave to eight (8) hours of vacation. Such election shall be made in January of the following calendar year.

F. Sick leave is an employee’s privilege and not an absolute right. Violations of overuse of sick leave privileges may result in disciplinary action and loss of pay.

G. An employee may use up to one-half the annual accrual rate for the care of his or her child (biological, foster, or adopted child, a stepchild, a legal ward, or a child of a person standing in loco parentis), parent (biological, foster, or adoptive parent, a stepparent, or a legal guardian), spouse, or registered domestic partner of the employee. This section does not extend the maximum period of leave to which an employee is entitled under Section 12945.2 of the Government Code or under the federal Family and Medical Leave Act, the California Family Rights Act, or any other statutory leave, regardless of whether the employee receives sick leave compensation during the leave (California Labor Code Sec. 233).

SECTION 11: PAID INDUSTRIAL INJURY LEAVE

Unless otherwise indicated, the provisions of this section apply to all employees. Exceptions are from agreements made in a memoranda of understanding entered into by and between the Board of Directors of Gold Coast Transit and Service Employees International Union Local #721

Any employee incapacitated to work because of injury or disease “arising out of and in the course of employment,” or caused by a worker’s job and occurring while working at GCT are entitled to industrial injury leave, medical care and other Workers’ Compensation benefits.

In some circumstances, the realities of business or business necessity might require GCT to hire a replacement on a permanent basis and that in the event the position is not available if and when the employee is released to return to work, GCT may not be able to reinstate that employee. To clarify GCT may consider allowing the employee to transfer to other positions for which he or she is qualified and where required, Gold Coast Transit will consider making reasonable accommodations for any disability an employee may have in accordance with applicable laws.

A. Worker’s Compensation Benefits: If the injury or disease is covered by the Worker’s Compensation Insurance and Safety Act, the employee is entitled to the benefits provided under the Act including:

1. Related medical expenses; and
2. Temporary and permanent disability indemnity benefit payments.
III. PERSONNEL RULES

SECTION 21: GENERAL PROVISIONS

A. Violation of Personnel Rules: Violation of the provisions of these personnel rules and regulations shall be grounds for employee discipline, which may include a verbal reprimand, a written warning, demotion, suspension, either paid or unpaid administrative leave, and dismissal.

A. Fair Employment Practices: Gold Coast Transit is an equal employment opportunity employer. At GCT, all persons shall be employed, promoted, demoted or discharged without favor or discrimination because of race, color, ancestry, national origin (including language use restrictions), religion, religious creed, disability (mental and physical, including HIV and AIDS or impairments that substantially limit one or more major life activities or major bodily functions), medical condition (cancer/genetic characteristics), age (forty and above), marital status, political opinions or affiliations, sex (pregnancy, gender or gender identity and gender expression), sexual orientation or denial of Family and Medical Leave, California Family Rights Act, or Military Family Leave entitlements, or Pregnancy Disability Leave or reasonable accommodation, union membership or activity. GCT reserves its right to update the protected categories where such is required and allowed by law.

The Board of Directors has adopted a GCT Anti-Harassment Policy and Complaint Procedure.

C. Political Activity: The political activity of a GCT employee shall conform to pertinent provisions of state and federal law. An officer or employee of GCT shall enjoy freedom from interference for engaging in political activity, provided, however, an employee shall refrain from:

1. Partisan political activity which disrupts or adversely affects the efficiency and integrity of the administration or operation of GCT.

2. Using the employee’s official position or influence to coerce the political actions of others.

3. Knowingly soliciting political contributions or services from GCT employees or from persons on an employment eligibility list of GCT.

4. Engaging in political activities during working hours or while wearing a GCT uniform.

D. Disclosure of Political Affiliation: No information concerning political affiliation of an applicant or employee shall appear on any personnel forms or records, nor shall such information be solicited. No appointments to, or removal from, a position in the competitive service shall be affected or influenced in any manner by any political opinion or affiliation.

This section does not give immunity to those who become knowingly affiliated with political parties or organizations whose purposes are designed to undermine or overthrow the government of the United States.

E. Competitive Service System: The competitive service system shall include all appointive officers and employees of GCT except the position of the General Manager.
I. PURPOSE

The purpose of this Policy is to establish a strong commitment to prohibit and prevent harassment in employment, to define harassment, and to set forth a procedure for investigating and resolving internal complaints of harassment. A violation of this policy may not be a violation of state and/or federal law, although discriminatory harassment is prohibited by both.

II. POLICY

Harassment of an applicant, independent contractor, or employee by a supervisor, management employee, or co-worker on the basis of race, religious creed, sex, national origin, ancestry, disability, medical condition, marital status, age, sexual orientation or any other category protected by law will not be tolerated.

This policy applies to all terms and conditions of employment including, but not limited to hiring, placement, promotion, disciplinary action, layoff, recall, transfer, leave of absence, compensation, and training.

Any retaliation against a person for filing a harassment charge, making a harassment complaint or participating in a harassment investigation is prohibited.

Employees who violate this policy may be subject to disciplinary action up to and including termination.

III. DEFINITION

Harassment includes, but is not limited to the following misconduct:

1. Verbal: Inappropriate or offensive remarks, slurs, jokes, nicknames or innuendoes based upon sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age, sexual orientation or any other category protected by law. This may include, but is not limited to, inappropriate comments regarding an individual's body, physical appearance, attire, sexual prowess, marital status or sexual orientation; unwelcome flirting or propositions; demands for sexual favors; verbal abuse, threats or intimidation of a sexual nature; or sexist, patronizing or ridiculing statements that convey derogatory attitudes about a particular gender.

2. Physical: Inappropriate or offensive touching, assault, or physical interference with free movement when directed at an individual on the basis of race, sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age, sexual orientation or any other category protected by law. This may include, but is not limited to kissing, patting, lingering or intimate touches, grabbing, massaging, pinching, leering, staring, unnecessarily brushing against or blocking another person, whistling or sexual gestures.

3. Visual or Written: The display or circulation of offensive visual or written material related to race, sex, religious creed, national origin, ancestry, disability, medical condition, marital status, age, sexual orientation or any other category protected by law. This may include, but is not limited to, posters, cartoons, drawings, and graffiti, reading materials, computer graphics or electronic media transmissions.

4. Environmental: A work environment that is permeated with sexually-oriented talk, innuendo, insults or abuse not relevant to the subject matter. A hostile environment can arise from an unwarranted focus on sexual topics or sexually suggestive statements. An environment may be hostile if unwelcome sexual behavior is directed specifically at an individual or if the individual
merely witnesses unlawful harassment in his or her immediate surroundings. The determination of whether an environment is hostile is based on the totality of the circumstances, including such factors as the frequency of the conduct, the severity of the conduct, whether the conduct is humiliating or physically threatening, and whether the conduct unreasonably interferes with an individual’s work.

Romantic or sexual relationships between supervisors and employees are discouraged. There is an inherent imbalance of power and potential for exploitation in such relationships. The relationship may create an appearance of impropriety and lead to charges of favoritism by other employees. Co-worker romantic relationships may disrupt the workplace. A welcome sexual relationship may change, with the result that sexual conduct that was once welcome becomes unwelcome and harassing.

By definition, sexual harassment is not within the course and scope of an individual’s employment with GCTD.

IV. PROHIBITED SUPERVISORY OR MANAGERIAL BEHAVIOR

1. No supervisor, manager, or other authority figure may condition any employment, employee benefit or continued employment at GCTD on an applicant’s, independent contractor’s or employee’s acquiescence to any of the behavior defined above.

2. No supervisor, manager, or other authority figure may retaliate against any applicant, independent contractor or employee, because that person has opposed a practice prohibited by this policy or has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or hearing conducted by an authorized investigator.

3. No person shall destroy evidence relevant to an investigation conducted under this policy.

V. BEHAVIOR PROHIBITED BY ALL PERSONS

1. No supervisor, manager or any other person at GCTD shall create a hostile or offensive work environment for any other person by engaging in any harassment or by tolerating it on the part of any employee.

2. No supervisor, manager or any other person at GCTD shall assist any individual in doing any act which constitutes harassment against any employee of GCTD.

VI. OBLIGATIONS OF SUPERVISORS/MANAGERS

Preventive Action

1. A copy of this policy shall be provided to all employees and independent contractors at GCTD, as well as being displayed in prominent locations throughout GCTD.

2. A copy of the information sheet on this policy prepared by the Department of Fair Employment and Housing will be available to all GCTD employees and independent contractors.

3. All supervisors and managers shall make available to any new employees and independent contractors a copy of this policy within one week of their employment.

4. GCTD shall periodically notify employees and independent contractors of the procedures for registering a complaint as well as available redress. Such notification shall occur through the normal channels of written communication.
5. The Human Resources Department shall make available information from the Department of Fair Employment and Housing and the Equal Employment Opportunity Commission about filing claims with these entities.

6. A copy of this policy shall appear in any publication of GCTD which sets forth the comprehensive rules, regulations, procedures and standards of conduct for GCTD.

7. Employees of GCTD shall receive periodic training on the policy.

VII. OBLIGATIONS OF ALL EMPLOYEES AND INDEPENDENT CONTRACTORS

1. All employees and independent contractors shall report any conduct which fits the definition of this policy to their immediate supervisor or appropriate authority figure with whom the employee or independent contractor feels comfortable. This includes conduct of non-employees, such as sales representatives, independent contractors or service vendors.

2. All employees and independent contractors shall cooperate with any investigation of any alleged violation of this policy conducted by GCTD.

3. Any person who violates this policy will be subject to disciplinary action, up to and including discharge, suspension, or other appropriate disciplinary measures.

VIII. COMPLAINT PROCEDURE

Investigative/Corrective Action

1. All persons shall immediately report any evidence of harassment or complaints regarding harassment made to them to their supervisor, manager, or to the Director of Human Resources. Any supervisor or manager who receives a complaint regarding harassment shall immediately report it to the Human Resources Department.

2. If the complaint involves the Director of Human Resources, an appropriate alternative investigative procedure shall be established by the General Manager.

3. The Director of Human Resources shall authorize the investigation or conduct the investigation of any incident of reported alleged harassment. The investigation shall be conducted in a way which ensures, to the extent feasible, the privacy of the parties involved.

4. The investigation will include interviews with (1) the complainant; (2) the accused harasser; and (3) any other persons the Director of Human Resources has reason to believe have relevant knowledge concerning the complaint.

5. The person designated to investigate shall immediately report in writing the results of any investigation of harassment to the Director of Human Resources, to the complainant and to the department head. If discipline is imposed, the discipline will not be communicated to the complainant.

6. Disciplinary action taken by GCTD shall be decided in accordance with GCTD policy and after consultation with the Director of Human Resources.

7. Under no circumstances shall an employee of GCTD who believes that he or she has been the victim of harassment be required to first report that harassment to a supervisor or other authority figure if that person or authority figure is the individual who has done the harassing.
8. Under no circumstances shall a supervisor, manager, or other authority figure retaliate in any way against an employee who has provided information as a witness to an incident of alleged sexual harassment.

9. All supervisors and managers are required to maintain confidentiality to the extent possible in investigating any claims of alleged harassment.

10. If it is determined that harassment occurred, GCTD shall take prompt and effective remedial action against the harasser and take reasonable steps to protect the complainant from further harassment. All supervisors and managers shall follow-up any reported incident of harassment to determine if the victim has been subjected to any further prohibited conduct.

Any employee who believes that he or she has been the victim of sexual or other prohibited harassment can also file a complaint with the California Department of Fair Employment and Housing. Contact information for the DFEH can be obtained at www.dfeh.ca.gov.

IX. DISSEMINATION OF POLICY

All employees, independent contractors, supervisors and managers shall receive a copy of this policy when they are hired and periodically thereafter.

Employees and independent contractors who have questions about their rights and obligations set forth herein should contact the Human Resources Department.

Adopted by the South Coast Area Transit Board of Directors on August 12, 1998.

Revised by the South Coast Area Transit Board of Directors on August 6, 2003.

Revised by the Gold Coast Transit District Board of Directors on June 3, 2015.