

**Cape Light Compact JPE
Board of Directors Meeting**

DATE: August 2, 2017
LOCATION: Innovation Room, Open Cape Building
3195 Main Street, Barnstable County Complex
TIME: 2:15 p.m. – 4:45 p.m.

AGENDA

1. Public Comment
2. Approval of Minutes
3. Organizational Items for Discussion and Potential Vote. July 2017 – January 2018 Term
 - a. Election of Chairman
 - b. Election of Vice Chairman
 - c. Election of Secretary
 - d. Election of Executive Committee
 - e.
4. Potential vote to ratify setting the amount of the Treasure's Bond at \$250,000.00
5. Discussion and Potential Vote on CLCJPE Policies and Procedures Manual and the following policies:
 - a. CLCJPE CORI Policy
 - b. CLCJPE Sexual Harassment Policy
 - c. CLCJPE Harassment of Individuals in Protected Classes: Policies and Procedures
 - d. CLCJPE Americans with Disabilities Act Policy
 - e. CLCJPE Americans with Disabilities Act Reasonable Accommodations Policy: Policy and Procedures
6. Administrator's Report
 - a. Upcoming Eversource Rate Case Public Hearing: 7:00 PM Tonight
 - b. 2019-2021 Energy Efficiency Plan – Planning Discussion
 - c. Discussion and Potential Vote on Appointments to Cape Cod Municipal Heath Group
7. Board Member Update (Reserved for Updates on Member Activities the Chair Did Not Reasonably Anticipate Would be Discussed – No Voting)

Draft Minutes subject to correction, addition and Committee/Board Approval

**Cape Light Compact, JPE
Board of Directors Meeting
Open Session Meeting Minutes
Wednesday, June 14, 2017**

The Cape Light Compact JPE Board of Directors met on Wednesday, June 14, 2017, in the Innovation Room, Open Cape Building, Barnstable County Complex, 3195 Main Street, Barnstable, MA 02630 at 2:30pm.

PRESENT WERE:

1. Colin Odell, Chair, Brewster
2. Robert Schofield, Vice-Chair, Bourne
3. Peter Cocolis, Chatham
4. Valerie Bell, Harwich
5. Thomas Donegan, Provincetown
6. Sue Hruby, West Tisbury
7. Paul Pimentel, Edgartown
8. Richard Toole, Member at Large, Oak Bluffs – by phone
9. Wayne Taylor, Mashpee – at 2:50PM
10. Richard Elkin, Wellfleet
11. Fred Fenlon, Eastham
12. Joyce Flynn, Yarmouth
13. Dan Knapik, Yarmouth Alternate

ABSENT WERE:

15. Michael Hebert, Aquinnah
16. Julian Suso, Falmouth
17. Tim Carroll, Chilmark
18. Bud Dunham, Sandwich
19. Jarrod Cabral, Truro
20. Robert Hannemann, Dukes County
21. Martin Culik, Orleans
22. Jay Grande, Tisbury
23. Brad Crowell, Dennis

Members/Alternates physically present:

12

Members present by phone: 1

LEGAL COUNSEL

Jeff Bernstein, Esq., BCK Law, PC

STAFF PRESENT

Maggie Downey, Administrator
Joanne Nelson, Comptroller
Austin Brandt, Power Supply Planner
Phil Moffitt, Residential Program Manager
Margaret Song, Commercial and Industrial Program Manager
Briana Kane, Planning and Evaluation Manager
Jacob Wright, Special Projects Coordinator

TREASURER

David Anthony, Interim Treasurer, Barnstable

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Chr. Odell opened the meeting at 2:34 P.M and recognized that one member was participating remotely due to geographic distance.

Joyce Flynn introduced Dan Knapik, the Town Administrator for the Town of Yarmouth and alternate for the Board of Directors.

PUBLIC COMMENT

There were no members of the public present.

CONSIDERATION OF MEETING MINUTES

The Board considered the May 12, 2017 Meeting Minutes. *Robert Schofield moved the board to accept the amended minutes, seconded by Peter Cocolis and voted by roll call as follows:*

- | | |
|-------------------------------|-----|
| 1. R. Schofield - Bourne | yes |
| 2. Colin Odell – Brewster | yes |
| 3. Peter Cocolis – Chatham | yes |
| 4. Fred Fenlon – Eastham | yes |
| 5. Valerie Bell – Harwich | yes |
| 6. Richard Toole – Oak Bluffs | yes |
| 7. Tom Donegan - Provincetown | yes |
| 8. Richard Elkin – Wellfleet | yes |
| 9. Sue Hruby – West Tisbury | yes |
| 10. Joyce Flynn – Yarmouth | yes |

Motion carried in the affirmative (10-0-0)

POTENTIAL VOTE ON TREASURER

David Anthony explained that three quotes were requested, two were received, and given the breadth, scope of work, qualifications and background presented in her proposal, Tammy Glivinski of Glivinski & Associates was selected.

Tom Donegan moved the CLCJPE Board of Directors vote to appoint Tammy Glivinski of Glivinski & Associates to serve as the Cape Light Compact Joint Powers Entity Treasurer from July 1, 2017 through December 31, 2017. At the end of this period, the CLCJPE Board may elect to reappoint the Treasurer. The cost of Treasury services for this 6 month period is \$16,080.

The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Joyce Flynn and voted by roll call as follows:

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1. R. Schofield - Bourne yes
2. Colin Odell - Brewster yes
3. Peter Cocolis - Chatham yes
4. Fred Fenlon - Eastham yes
5. Valerie Bell - Harwich yes
6. Richard Toole - Oak Bluffs yes
7. Tom Donegan - Provincetown yes
8. Richard Elkin - Wellfleet yes
9. Sue Hruby - West Tisbury yes
10. Joyce Flynn - Yarmouth yes

Motion carried in the affirmative (10-0-0)

DISCUSSION AND POTENTIAL VOTE TO DESIGNATE CLCJPE CHIEF PROCUREMENT OFFICER

Joyce Flynn moved the CLC Board of Directors vote to appoint the CLCJPE Administrator to serve as the Chief Procurement Officer for the Cape Light Compact Joint Powers Entity.

The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Valerie Bell and voted by roll call as follows:

1. R. Schofield - Bourne yes
2. Colin Odell - Brewster yes
3. Peter Cocolis - Chatham yes
4. Fred Fenlon - Eastham yes
5. Valerie Bell - Harwich yes
6. Richard Toole - Oak Bluffs yes
7. Tom Donegan - Provincetown yes
8. Richard Elkin - Wellfleet yes
9. Sue Hruby - West Tisbury yes
10. Joyce Flynn - Yarmouth yes

Motion carried in the affirmative (10-0-0)

DISCUSSION AND POTENTIAL VOTE TO JOIN MASSACHUSETTS STATE PUBLIC RETIREMENT SYSTEM

Wayne Taylor, Mashpee Director, arrived at 2:50PM. Wayne introduced himself and was recognized by the Board.

Maggie Downey explained that it was necessary to officially join the retirement system on January 1, 2018 due to the way the Retirement System takes on new members, and the JPE fell outside the summer window, due to a need for a 90 day notice. Deductions will carry on as normal and all employees will roll over Jan 1.

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Sue Hruby moved the Cape Light Compact Joint Powers Entity (CLCJPE) Board of Directors vote to join the Massachusetts State Retirement System and accept the provisions of Massachusetts General Laws Chapter 32 Sections 1-28 inclusive.

This vote will establish a contributory retirement system for the employees of the CLCJPE. A letter shall be submitted to the Massachusetts State Retirement System requesting official acceptance effective January 1, 2018.

The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Robert Schofield and voted by roll call as follows:

- | | | | |
|-------------------------------|-----|----------------------------|-----|
| 1. R. Schofield - Bourne | yes | 11. Wayne Taylor – Mashpee | yes |
| 2. Colin Odell – Brewster | yes | | |
| 3. Peter Cocolis – Chatham | yes | | |
| 4. Fred Fenlon – Eastham | yes | | |
| 5. Valerie Bell – Harwich | yes | | |
| 6. Richard Toole – Oak Bluffs | yes | | |
| 7. Tom Donegan - Provincetown | yes | | |
| 8. Richard Elkin – Wellfleet | yes | | |
| 9. Sue Hruby – West Tisbury | yes | | |
| 10. Joyce Flynn – Yarmouth | yes | | |

Motion carried in the affirmative (11-0-0)

DISCUSSION AND POTENTIAL VOTE TO DESIGNATE THE CLCJPE ADMINISTRATOR AS THE APPOINTING AUTHORITY RELATIVE TO HIRING CLC STAFF

Tom Donegan moved the Cape Light Compact Joint Powers Entity (CLCJPE) Board of Directors vote to designate the CLCJPE Administrator as the Appointing Authority for the CLCJPE.

The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Robert Schofield and voted by roll call as follows:

- | | | | |
|-------------------------------|-----|----------------------------|-----|
| 1. R. Schofield - Bourne | yes | 11. Wayne Taylor – Mashpee | yes |
| 2. Colin Odell – Brewster | yes | | |
| 3. Peter Cocolis – Chatham | yes | | |
| 4. Fred Fenlon – Eastham | yes | | |
| 5. Valerie Bell – Harwich | yes | | |
| 6. Richard Toole – Oak Bluffs | yes | | |
| 7. Tom Donegan - Provincetown | yes | | |
| 8. Richard Elkin – Wellfleet | yes | | |
| 9. Sue Hruby – West Tisbury | yes | | |

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10. Joyce Flynn – Yarmouth yes

Motion carried in the affirmative (11-0-0)

DISCUSSION AND POTENTIAL VOTE TO CARRY OVER COMPACT STAFF ACCRUAL BENEFITS AS OF JUNE 30, 2017 TO THE CLCJPE AS OF JULY 1, 2017

Joyce Flynn moved the Cape Light Compact Joint Powers Entity (CLCJPE) Board of Directors vote to carry-over all Compact staff accrual benefits as of June 30, 2017 to the CLCJPE as of July 1, 2017.

The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Wayne Taylor and voted by roll call as follows:

- | | | | |
|-------------------------------|-----|----------------------------|-----|
| 1. R. Schofield - Bourne | yes | 11. Wayne Taylor – Mashpee | yes |
| 2. Colin Odell – Brewster | yes | | |
| 3. Peter Cocolis – Chatham | yes | | |
| 4. Fred Fenlon – Eastham | yes | | |
| 5. Valerie Bell – Harwich | yes | | |
| 6. Richard Toole – Oak Bluffs | yes | | |
| 7. Tom Donegan - Provincetown | yes | | |
| 8. Richard Elkin – Wellfleet | yes | | |
| 9. Sue Hruby – West Tisbury | yes | | |
| 10. Joyce Flynn – Yarmouth | yes | | |

Motion carried in the affirmative (11-0-0)

DISCUSSION AND POTENTIAL VOTE ON COST OF LIVING INCREASE FOR STAFF AND BUY BACK OF COMPENSATORY TIME EFFECTIVE JULY 1, 2017

Robert Schofield moved the CLCJPE Board of Directors vote to approve a July 1, 2017 – December 31, 2017 employee cost of living adjustment (COLA) in the amount of 2%.

The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Tom Donegan and voted by roll call as follows:

- | | | | |
|-------------------------------|-----|----------------------------|-----|
| 1. R. Schofield - Bourne | yes | 11. Wayne Taylor – Mashpee | yes |
| 2. Colin Odell – Brewster | yes | | |
| 3. Peter Cocolis – Chatham | yes | | |
| 4. Fred Fenlon – Eastham | yes | | |
| 5. Valerie Bell – Harwich | yes | | |
| 6. Richard Toole – Oak Bluffs | yes | | |
| 7. Tom Donegan - Provincetown | yes | | |
| 8. Richard Elkin – Wellfleet | yes | | |

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- 9. Sue Hruby – West Tisbury yes
- 10. Joyce Flynn – Yarmouth yes

Motion carried in the affirmative (11-0-0)

Robert Schofield moved the Board of Directors vote to pay out all compensatory time for eligible staff.

The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Tom Donegan and voted by roll call as follows:

- | | | | |
|-------------------------------|-----|----------------------------|-----|
| 1. R. Schofield - Bourne | yes | 11. Wayne Taylor – Mashpee | yes |
| 2. Colin Odell – Brewster | yes | | |
| 3. Peter Cocolis – Chatham | yes | | |
| 4. Fred Fenlon – Eastham | yes | | |
| 5. Valerie Bell – Harwich | yes | | |
| 6. Richard Toole – Oak Bluffs | yes | | |
| 7. Tom Donegan - Provincetown | yes | | |
| 8. Richard Elkin – Wellfleet | yes | | |
| 9. Sue Hruby – West Tisbury | yes | | |
| 10. Joyce Flynn – Yarmouth | yes | | |

Motion carried in the affirmative (11-0-0)

DISCUSSION AND VOTE TO OFFER BASIC LIFE INSURANCE TO CLCJPE EMPLOYEES

Maggie Downey explained that the County had dropped the Cape Light Compact from its Life Insurance policy with Boston Mutual effective June 30th. As a result, Maggie Downey had solicited quotes from AFLAC to allow for a continuation of the coverage that had been provided to employees previously.

Valerie Bell moved the Cape Light Compact Joint Powers Entity (CLCJPE) Board of Directors vote to authorize Basic Life Insurance to all CLCJPE employees through AFLAC. The CLCJPE shall pay 75% of the cost of the premium and the employee shall pay 25% of the cost of the premium.

The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Robert Schofield and voted by roll call as follows:

- | | | | |
|-------------------------------|-----|----------------------------|-----|
| 1. R. Schofield - Bourne | yes | 11. Wayne Taylor – Mashpee | yes |
| 2. Colin Odell – Brewster | yes | | |
| 3. Peter Cocolis – Chatham | yes | | |
| 4. Fred Fenlon – Eastham | yes | | |
| 5. Valerie Bell – Harwich | yes | | |
| 6. Richard Toole – Oak Bluffs | yes | | |

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- | | |
|-------------------------------|-----|
| 7. Tom Donegan - Provincetown | yes |
| 8. Richard Elkin - Wellfleet | yes |
| 9. Sue Hruby - West Tisbury | yes |
| 10. Joyce Flynn - Yarmouth | yes |

Motion carried in the affirmative (11-0-0)

DISCUSSION AND VOTE TO AUTHORIZE CLCJPE TO REVIEW AND APPROVE CLCJPE ADMINISTRATOR'S EXPENSE REPORTS AND TIMESHEETS

Peter Cocolis move the Cape Light Compact Joint Powers Entity (CLCJPE) Board of Directors vote to authorize the CLCJPE Chair to review and approve the CLCJPE Administrator's expense reports and submit the expense report for payment, and to review and ratify the CLCJPE Administrator's submission of a bi-weekly timesheet.

The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Robert Schofield and voted by roll call as follows:

- | | | | |
|-------------------------------|-----|----------------------------|-----|
| 1. R. Schofield - Bourne | yes | 11. Wayne Taylor - Mashpee | yes |
| 2. Colin Odell - Brewster | yes | | |
| 3. Peter Cocolis - Chatham | yes | | |
| 4. Fred Fenlon - Eastham | yes | | |
| 5. Valerie Bell - Harwich | yes | | |
| 6. Richard Toole - Oak Bluffs | yes | | |
| 7. Tom Donegan - Provincetown | yes | | |
| 8. Richard Elkin - Wellfleet | yes | | |
| 9. Sue Hruby - West Tisbury | yes | | |
| 10. Joyce Flynn - Yarmouth | yes | | |

Motion carried in the affirmative (11-0-0)

DISCUSSION AND POTENTIAL VOTE REGARDING IMPLEMENTATION DATE AND RELATED MATTERS REGARDING CLCJPE ACCOUNTS PAYABLE/TREASURY FUNCTIONS

Richard Elkin moved the Cape Light Compact Joint Powers Entity (CLCJPE) Board of Directors vote to ratify the actions of the CLCJPE Administrator regarding contacting Eversource to direct the Systems benefit charge and the Energy Efficiency Reconciliation factor funds to the CLCJPE bank account established for this purpose, and to direct the CLCJPE Administrator to contact NextEra Energy, and all other funding sources associated with operating the CLCJPE, and to request that they direct their funds to the CLCJPE bank accounts identified by the CLCJPE Treasurer.

The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Robert Schofield and voted by roll call as follows:

Draft Minutes subject to correction, addition and Committee/Board Approval

- | | | | |
|-------------------------------|-----|----------------------------|-----|
| 1. R. Schofield - Bourne | yes | 11. Wayne Taylor – Mashpee | yes |
| 2. Colin Odell – Brewster | yes | | |
| 3. Peter Cocolis – Chatham | yes | | |
| 4. Fred Fenlon – Eastham | yes | | |
| 5. Valerie Bell – Harwich | yes | | |
| 6. Richard Toole – Oak Bluffs | yes | | |
| 7. Tom Donegan - Provincetown | yes | | |
| 8. Richard Elkin – Wellfleet | yes | | |
| 9. Sue Hruby – West Tisbury | yes | | |
| 10. Joyce Flynn – Yarmouth | yes | | |

Motion carried in the affirmative (11-0-0)

Robert Schofield move the Board vote that Compact JPE Administrator, consistent with Article VII(K) of the Compact's Inter-Governmental Agreement and the Transition, Asset Transfer and Succession Plan, is authorized and empowered and directed to any and all acts and things, and to make and execute any and all instruments, papers and documents which shall be or become necessary, proper, or convenient on behalf of the Compact JPE to transfer management of the Compact's fiscal affairs to the Cape Light Compact JPE.

The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote. Seconded by Robert Schofield and voted by roll call as follows:

- | | | | |
|-------------------------------|-----|----------------------------|-----|
| 1. R. Schofield - Bourne | yes | 11. Wayne Taylor – Mashpee | yes |
| 2. Colin Odell – Brewster | yes | | |
| 3. Peter Cocolis – Chatham | yes | | |
| 4. Fred Fenlon – Eastham | yes | | |
| 5. Valerie Bell – Harwich | yes | | |
| 6. Richard Toole – Oak Bluffs | yes | | |
| 7. Tom Donegan - Provincetown | yes | | |
| 8. Richard Elkin – Wellfleet | yes | | |
| 9. Sue Hruby – West Tisbury | yes | | |
| 10. Joyce Flynn – Yarmouth | yes | | |

Motion carried in the affirmative (11-0-0)

ADMINISTRATOR'S REPORT

Maggie Downey stated that Compact staff will be out of the County office space on the third floor of the Open Cape building on June 30, 2017. She noted that the contractors working on preparing the new office space were behind schedule. The Cape Light Compact Board and JPE Board of Directors will meet in the public meeting space, Innovation Room for their July 12 board meetings.

a. Update on Personnel Policies for CLCJPE Employees

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Maggie Downey asked for volunteers to review the proposed Cape Light Compact Joint Powers Entity Human Resources Policies and Procedures Manual to look over for any issues. David Anthony, Sue Hruby, and Colin Odell all volunteered to assist.

b. **Discuss Policies and Procedures for Board Consideration**

Maggie Downey distributed the information she has gathered from other towns on the Cape. She deferred the decision to the Board, on how best to proceed. She also said she had obtained a copy of a model code of ethics prepared for nonprofit organizations by the Internal Revenue Service that the JPE might want to consider.

David Anthony stated that due to the regulatory nature of the Energy Efficiency budget, and the narrow scope by which the Board must then necessarily operate, he didn't see a tremendous need for a seriously involved set of rules, but agreed that some sort of structure is needed. Jeff Bernstein suggested that major policy votes be codified in a centralized place for ease of reference.

Maggie Downey requested that some members join on a conference call to advise her on drafting a policy to bring before the board. Tom Donegan, Richard Elkin, and Peter Cocolis all volunteered to help advise on the Policies and Procedures for the Board.

c. **Reminder to Submit OML Certifications**

Maggie Downey requested that everyone finish OML Certification and submit it to their appointing authority, and also provide a copy to the Compact.

Board adjourned at 3:59 PM.

Respectfully submitted,

Jacob Wright

LIST OF DOCUMENTS AND EXHIBITS:

- Meeting Notice / Agenda
- April 12, 2017 Minutes
- Scope of Services, Cape Light Compact Treasurer
- Cape Light Compact Joint Powers Agreement

Agenda Action Request

Cape Light Compact JPE Governing Board

Meeting Date: 8/2/17

- Aquinnah*
- Barnstable*
- Bourne*
- Brewster*
- Chatham*
- Chilmark*
- Dennis*
- Dukes*
- County*
- Eastham*
- Edgartown*
- Falmouth*
- Harwich*
- Mashpee*
- Oak Bluffs*
- Orleans*
- Provincetown*
- Sandwich*
- Tisbury*
- Truro*
- Wellfleet*
- West Tisbury*
- Yarmouth*

VOTES ON ELECTION OF OFFICERS

Proposed Motion(s)

- 1) *I move that the Board of Directors vote to elect _____ as chairman of the Cape Light Compact JPE to serve until the first CLCJPE Board meeting in 2018.*
- 2) *I move that the Board of Directors vote to elect _____ as vice chairman of the Cape Light Compact JPE to serve until the first CLCJPE Board meeting in 2018.*
- 3) *I move that the Board of Directors vote to elect Tammy Glivinksi as treasurer of the Cape Light Compact JPE to serve until the first CLCJPE Board meeting in 2018.*
- 4) *I move that the Board of Directors vote to elect _____ as secretary of the Cape Light Compact JPE to serve until the first CLCJPE Board meeting in 2018.*
- 5) *I move that the Board of Directors vote to elect Joanne Nelson as business officer of the Cape Light Compact JPE to serve until the first CLCJPE Board meeting in 2018.*
- 6) *I move that the JPE Administrator is authorized and directed to take all actions necessary or appropriate to implement the forgoing vote, and to execute and deliver all documents as may be necessary or appropriate to implement the forgoing votes.*

Consistent with the Cape Light Compact JPE (CLCJPE) April 12, 2017 vote appointing officers, the CLCJPE agreed to vote on its officers all of the members had joined the CLCJPE.

Record of Governing Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

Agenda Action Request

Cape Light Compact JPE Governing Board

Meeting Date: 8/2/17

- Aquinnah*
- Barnstable*
- Bourne*
- Brewster*
- Chatham*
- Chilmark*
- Dennis*
- Dukes*
- County*
- Eastham*
- Edgartown*
- Falmouth*
- Harwich*
- Mashpee*
- Oak Bluffs*
- Orleans*
- Provincetown*
- Sandwich*
- Tisbury*
- Truro*
- Wellfleet*
- West Tisbury*
- Yarmouth*

Vote to Ratify Amount of Treasurer's Bond

Proposed Motion(s)

- 1) *I move that the Board of Directors vote to ratify the action of the CLCJPE Administrator to set the amount of the Treasurer's Bond at \$250,000.00, and that the JPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote.*

The CLCJPE's auditor recommended that the Treasurer's bond be set at \$250,000.00. The bond needed to be in place prior to the August Board meeting resulting in the CLCJPE Administrator communicating this information to the Treasurer in advance of the August meeting.

Record of Governing Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

Agenda Action Request

Cape Light Compact JPE Governing Board

Meeting Date: 8/2/17

Vote to Adopt the Cape Light Compact JPE Policies and Procedures Manual

- Aquinnah*
- Barnstable*
- Bourne*
- Brewster*
- Chatham*
- Chilmark*
- Dennis*
- Dukes County*
- Eastham*
- Edgartown*
- Falmouth*
- Harwich*
- Mashpee*
- Oak Bluffs*
- Orleans*
- Provincetown*
- Sandwich*
- Tisbury*
- Truro*
- Wellfleet*
- West Tisbury*
- Yarmouth*

Proposed Motion(s)

- 1) *I move that the Board of Directors vote to adopt the Cape Light Compact Policies and Procedures Manual, and that the JPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote.*

The CLCJPE Administrator met with CLCJPE members David Anthony, Sue Hruby and Colin Odell to review a draft of the Policies and Procedures Manual. The document reflects their edits. They, and the CLCJPE Administrator recommend adoption of the Cape Light Compact JPE Policies and Procedures Manual, as presented.

The Manual was reviewed/approved by labor counsel, Regina Ryan.

Record of Governing Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

**CAPE LIGHT COMPACT JPE
POLICIES AND
PROCEDURES MANUAL**

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CHAPTER 1
GENERAL PROVISIONS

1.1 AUTHORIZATION The CLCJPE (Cape Light Compact Joint Powers Entity) Policies and Procedures are adopted pursuant to Massachusetts General Laws and the Joint Powers Agreement of the Cape Light Compact Joint Powers Entity. These policies and any subsequent amendments are intended to be in compliance with all applicable State and Federal laws which prevail in the event of inconsistencies.

1.2 PURPOSE The purpose of these policies is to establish a system of human resources administration governing the terms and conditions of employment within the Cape Light Compact Joint Powers Entity (CLCJPE) or legal successors. The purpose of the policies and procedures for human resources administration set forth herein is to promote the efficiency and economy of government, to promote the morale and well-being of CLCJPE employees, to promote equitable employment opportunities for employees and candidates for employment, and to facilitate operations.

The policies and procedures have been written to provide information and guidance to all employees of the CLCJPE, though it does not represent an exhaustive list of each of the employment practices. This manual, and its provisions, do not constitute a contract of any kind and make no guarantees or promises of employment, compensation, or benefits. It is not possible to anticipate every situation that may arise in the workplace, or to provide answers to every possible question. Policies and procedures listed in this manual may change from time to time. The CLCJPE, at its sole discretion and from time to time, reserves the right to modify, supplement, rescind or revise any provisions of the manual. Employees will be advised of any changes in published procedures and policies.

1.3 PRINCIPLES The policies are based on the following principles:

- (a) Recruiting, selecting, and developing employees is done on the basis of their abilities, knowledge, and skills required to fulfill the work requirements of the CLCJPE.
- (b) Equitable compensation is provided.
- (c) Employees are trained as needed to assure high quality performance in delivering quality services to the public to fulfill the work requirements of the CLCJPE.
- (d) Employees are retained on the basis of their performance.
- (e) Equal treatment of applicants and employees is assured in all aspects of human resource. See the CLCJPE's EEO policy.

- (f) Employees are protected against coercion and are prohibited from using their official duties and responsibilities in their positions in CLCJPE government for political purposes.

1.4 EQUAL EMPLOYMENT OPPORTUNITY

The CLCJPE is an equal opportunity employer. It is the policy of the CLCJPE to prohibit discrimination in hiring, promotion, discharge, compensation, benefits, job training or any other terms and conditions of employment on the basis of race, color, religion, gender, gender identity, national origin or ancestry, veteran status and national guard or reserve unit obligations, handicap, disability, age, sexual orientation, criminal history, genetics, or any other basis protected by applicable, federal, state or local laws. All employees, interns and volunteers shall not demonstrate any discrimination in any activity associated with the CLCJPE. In addition, in accordance with applicable federal, state and local law protecting qualified individuals with known disabilities, the CLCJPE will attempt to reasonably accommodate those individuals unless doing so would create an undue hardship on the CLCJPE. Any qualified applicant or employee with a disability who requires an accommodation in order to perform the essential functions of their job should contact the CLCJPE Administrator to request an accommodation.

- 1.5 DISCRIMINATION** No person, on the basis of age, race, color, religion, gender, marital status, sexual orientation, national origin, disability, or veteran status shall be denied the benefits of or be subject to discrimination under any activity provided by the Cape Light Compact Joint Powers Entity (CLCJPE) unless based upon a bona fide occupational qualification.

- 1.6 HARASSMENT** See Appendix A.

- 1.7 SEXUAL HARASSMENT** See Appendix B.

- 1.8 APPLICATION OF POLICIES** The provisions of these policies and procedures apply to every CLCJPE employee except, elected, or appointed officials, unless stated otherwise.

- 1.9 AMENDMENT OF POLICIES** The Board of the CLCJPE can, from time to time, issue, amend, or revoke the policies, regulations, procedures and sections of these policies and procedures.

CHAPTER 2

ADMINISTRATION OF POLICIES

2.1 CLCJPE BOARD The CLCJPE Board are responsible for the following:

- (a) amending and revoking policies and procedures;
- (b) providing general direction of the administration of the policies and procedures;
- (c) appropriating all funds necessary to implement the human resources policies and procedures;
- (d) provides general direction on the employee performance appraisal system;
- (e) hiring, evaluating and terminating the CLCJPE Administrator.

2.2 CLCJPE ADMINISTRATOR The CLCJPE Administrator is responsible for the day-to-day administration of the policies and procedures. The CLCJPE Administrator may delegate the day to day administration of the policies and procedures.

The CLCJPE Administrator:

- (a) enforces provisions of the policies and procedures.
 - (b) reports, upon request, human resources actions human resources to the CLCJPE Board.
 - (c) manages the hiring process, supervising and directing the work of all staff consistent with the human resources policies and procedures.
 - (d) makes recommendations to the CLCJPE Board on matters relating to human resources policies.
 - (e) establishes and maintains an employee Performance Appraisal System, and upon request, shall report to the CLCJPE on the results of the employee appraisal system.
 - (f) performs any other acts necessary to carry out the purpose of the human resources system and the provisions of the human resources policies and procedures.
 - (g) directs staff and consultants to implement specific human resources functions.
 - (h) conducts required employee performance evaluations for all direct reports
-

- 2.3 COMPTROLLER** The Comptroller maintains financial records in accordance with State statutes and CLCJPE policies and ensures compliance with financial standards and requirements.
- 2.4 PROGRAM MANAGERS** Program Managers are expected to effectively supervise their employees, evaluate performance of their staff, notify the CLCJPE Administrator of changes in duties of their employees in order that the classification plan will be maintained, and to recommend salary actions to be acted upon by the CLCJPE Administrator.
- 2.5 EMPLOYEES** All employees will be provided with a copy of the Policies and Procedures Manual. It is the responsibility of all employees to acquaint themselves thoroughly with the material in these human resources policies and any subsequent revisions. Employees are also encouraged to submit suggestions for changes in human resources policies and procedures to the CLCJPE Administrator.
- 2.6 HUMAN RESOURCES RECORDS** The CLCJPE Administrator is responsible for maintaining the official human resources files for employees. Any employee may arrange to review his/her human resources and financial records. Information in an employee's human resources file is subject to Massachusetts General Laws, Chapter 149, Section 52C (Personnel Records Statute) and Chapter 66, (the Public Records Law), and is maintained in a manner consistent with these statutory provisions.
- 2.7 RETENTION OF RECORDS** Records are maintained on a current basis for each active employee and in accordance with Massachusetts General Laws.
- 2.8 PUBLIC REVIEW OF RECORDS** Information in an employee's human resources file is subject to Massachusetts General Laws, Chapter 149, Section 52C (Human resources Records Statute) and Chapter 66, the Public Records Law.

CHAPTER 3

DEFINITIONS

Americans with Disabilities Act (ADA) Coordinator - The Comptroller is the ADA Coordinator for Barnstable CLCJPE.

Anniversary Date - Date used to determine eligibility for step increases and certain benefits. An employee's anniversary date is defined as the first day of the same month of the date of hire or date of reclassification in the following year, provided that the employee served a minimum of ten (10) working days in that month. If fewer than ten (10) working days were served, the anniversary date is effective on the first day of the following month and this day becomes the "anniversary date" of the employee.

Appointing Authority - The CLC JPE Administrator is the appointing authority. The appointing authority was delegated to the CLCJPE Administrator, as voted by the Board of the CLCJPE on June 14, 2017.

Applicant - a person who applies for a specific employment vacancy.

Compensation - The salary or wages earned by any employee by reason of service in the position, but excluding allowances for expenses authorized and incurred as incidents to employment.

Contractor - A person or business entity providing services to the CLCJPE other than as an employee.

Department - A major functional unit of CLCJPE.

Disciplinary Action - An oral warning, written reprimand, suspension, demotion or dismissal taken for cause by the appropriate authority.

Emergency Employee

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Employee, With Contract - An employee subject to the terms and conditions of a written agreement in addition to the provisions of these policies and procedures. Where provisions may conflict, employee will be subject to terms of written agreement.

Employee, Part-time - A person who regularly works fewer than 37.5 hours per week in a 75 hour pay period or a person who regularly works fewer than 40 hours per week in a 80 hour pay period.

Employee, Probationary - An employee who has not completed his or her probationary period. CLCJPE.

Employee, Full-time - A person who is occupying a position and who regularly works a minimum of 37.5 hours per week.

Employee, On Call – A person employed from a maintained reserve list on an as needed basis to fill an existing regular or part-time position.

Employee, Regular – A person employed for a specific position greater than six months.

Employee, Seasonal/Casual - A person who works limited periods of time (i.e. summer counselors.)

Employee, Temporary - A person employed for a specific position which is time limited not to exceed six (6) months.

Exempt Employee - An employee who is exempt from certain provisions of the Fair Labor Standards Act. Exempt employees generally fall into one of three major categories: executive, administrative or professional.

Grievance - A misunderstanding or disagreement with respect to the interpretation or meaning of an express provision of these human resources policies and procedures.

Non-Exempt Employee - An employee covered by the provisions of the Fair Labor Standards Act. (That is "not exempt" from certain provisions of the Act.)

Probationary Period - A working test period of six (6) months, following a hire date and/or transfer, during which an employee is required to demonstrate, by conduct and actual performance of the duties, fitness for the position to which assigned. The probationary period can be extended at the discretion of the appointing authority.

Week - Unless otherwise stated, week means work week, or 5 calendar days. (within the 7 day period from Sunday to Saturday)

CHAPTER 4
CLASSIFICATION SYSTEM

- 4.1 POLICY** The policy of CLCJPE is to provide a uniform system to classify all CLCJPE positions into groups and classes doing substantially similar work or having substantially equal responsibilities; and to establish salary ranges to be paid to employees in positions so classified. Grades are allocated to positions in accordance with the approved job evaluation system.
- 4.2 JOB DESCRIPTIONS** Each position has a written description approved by the CLCJPE Administrator. The CLCJPE Administrator job description shall be approved by the CLCJPE Board. The job description consists of a statement of the nature of the work, the duties and responsibilities of the position, the required minimum education requirements, knowledge, skills, training, abilities, experience and information directly related and essential to job performance.
- Job descriptions are intended to be representative of the positions in a class and provide illustrations of the type of work performed, and do not necessarily include all duties performed. Job descriptions are not intended to be restrictive or to limit the power of the administrative authority to appoint, to assign duties to, or to direct and control the work of any employee under the jurisdiction of such authority.
- 4.3 GRADE LEVELS** A grade level is assigned to one or more positions so similar in level of duties and responsibilities that the same pay scale and minimum qualification requirements can be applied and the positions can be treated equivalently for all human resources purposes. Grade levels are determined in accordance with the approved job evaluation system.
- 4.4 CLASSIFICATION PLAN** The classification plan is a list of positions by grade level supported by job descriptions, and subject to periodic audits for equity.
- 4.5 ADMINISTRATION OF CLASSIFICATION PLAN** Each classified position is allocated a grade. The CLCJPE Administrator is responsible for maintaining an official copy of the position classification plan. The official copy includes a schematic list of class titles and specifications.
- (a) **New position** Creation of a new job requires justification, budgetary authorization, and the development of a job description. The job will then be internally evaluated for the recommendation and assignment of a job grade and salary range for the new job. New jobs must have an approved job grade before recruitment.

- (b) **Reclassification** When a position has changed substantially in the kind and/or level of work, the Program Manager, may initiate a request for reclassification by submitting a written request to the CLCJPE Administrator accompanied by a new job description. The CLCJPE Administrator will document any changes in the position, its duties and/or responsibilities. If the reclassification results in an increase in salary for the position, the CLCJPE Administrator shall present the reclassification and request for funds to the CLCJPE Board.

In a reclassification there is a recognition that duties and responsibilities, as defined within the current job description, are no longer current or accurate. A reclassification either adds to or changes the employee's duties in addition to changing the employee's title. If an employee is reclassified to a higher grade, no pay diminution will occur. The employee will be placed in the step in the higher job grade which is closest to, but not less than, the total of the employee's current annual salary plus the increment between step 1 and 2 in the job grade to which the employee is being advanced.

A reclassification changes the anniversary date of an employee. The employee's new anniversary date will be determined by the effective date of the reclassification.

- (c) **Regrade** When the duties and responsibilities of a position warrant or dictate a new salary, the Program Manager may submit a request for a regrade of an existing position to the CLCJPE Administrator with supporting documentation. If the regrade results in an increase in salary for the position, the CLCJPE Administrator shall present the regrade and request for funds to the CLCJPE Board.

The actual title and duties of the position do not necessarily change. The regrade of a position is the determination that the position itself as defined by its current duties, should be assigned to a different salary range.

A regrade does not change the employee's anniversary date.

- (d) **Promotion** Elevation of an incumbent employee from an established position within a job grade to an established position within a higher job grade. If an employee is promoted to a higher grade, no pay diminution will occur. The employee will be placed in the step in the higher job grade which is closest to, but not less than, the total of the employee's current annual salary plus the increment between step 1 and 2 in the job grade to which the employee is being advanced.

A promotion does change the employee's anniversary date.

- (e) **Other** Changes including but not limited to title change do not affect the anniversary date or salary.

4.6 AUTHORIZATION OF CLASSIFICATION No employee is paid under the classification plan until the CLCJPE Administrator has authorized, and the CLCJPE Board has appropriated funds for the position.

CHAPTER 5

COMPENSATION PLAN

5.1 POLICY The CLCJPE Administrator is responsible for maintaining a uniform and equitable compensation plan which consists, for each grade or positions, of minimum and maximum rates of pay and such intermediate steps as are deemed appropriate.

5.2 MAINTENANCE OF COMPENSATION PLAN The wage and salary structure will be reviewed annually by the CLCJPE Administrator. An independent/external wage and salary audit will be conducted periodically. Where survey data and analysis of the current pay levels indicate a revision is in order, a recommended, revised plan of action will be developed and will be submitted to the CLCJPE Board.

The recommendation to modify or retain the existing structure will be approved in sufficient time each year so that any change can be reflected in budget planning for the following fiscal year. This does not preclude the presentation of such recommendations at other times during the year if required.

5.3 APPROPRIATION All compensation provided under this Chapter is subject to the availability of appropriated funds by the CLCJPE Board. If a grant, the granting authority.

5.4 APPOINTMENT RATES Persons appointed to positions are generally paid at the minimum rate of pay assigned to that grade, however, the Program Managers may recommend compensation at a higher step rate within the grade level. With the approval of the CLCJPE Administrator and before an offer is made, new hires may be employed above the minimum of the range based on the following factors:

- (a) The degree to which the candidate's skills and qualifications exceed that of the minimum requirements of the position.
- (b) An analysis of the pay level of current employees in positions with similar skills and experience.
- (c) Market conditions which may be affecting the CLCJPE's ability to recruit for the position.
- (d) The candidate's previous pay.

5.5 MERIT PAY After reaching the top range of the salary schedule, an employee shall be eligible for merit pay based on their previous year's performance as follows:

1. Unsatisfactory rating - 0% merit pay, requires an additional performance review in six months. If performance is improved, a merit increase may be awarded for remaining six months;
2. Less than satisfactory - 0% merit pay, requires an additional performance review in six months. If performance is improved, a merit increase may be awarded for the twelve-month period;
3. Completely satisfactory - 1.0% merit pay based on salary from previous fiscal year;
4. More than satisfactory - 1.5% merit pay based on salary from previous fiscal year;
5. Outstanding - 2% merit pay based on salary from previous fiscal year.

Merit pay will not impact base pay.

5.6 ANNUAL INCREASES Employees are eligible to receive an annual increase of up to 4% based on performance on their anniversary date provided that an employee has been on the payroll for ten (10) days in that month. Employees shall advance up to the maximum approved salary for his/her position based on this performance increase.

NOTE--The following factors affect the employee's eligibility for a step increase:

- (a) Availability of funding.
- (b) Satisfactory job performance in the previous 12 months served.
- (c) Regrading of a position to a higher job grade.
- (d) Promotion to a higher job grade.
- (e) Leave without pay for twenty (20) working days or more. (The anniversary date of an employee who remains on leave without pay for twenty (20) working days or more is set back one month for every twenty (20) working days off the payroll without pay.)

5.7 REAPPOINTMENT RATE Persons receiving re-employment or reinstatement to the same position may be paid at any step within the pay range contingent upon qualifications. If the returning employee's qualifications have been measurably strengthened during absence, he or she may be paid at a higher step with the approval of the CLCJPE Administrator.

5.8 TRANSFER A position may be filled by transferring an employee from another position of the same or similar grade having the same maximum pay rate, involving the performance of

similar duties, and requiring essentially the same basic qualifications. The CLCJPE reserves the right to transfer employees.

Temporary Transfer When the CLCJPE Administrator determines it is necessary to temporarily, more than 5 consecutive work days, fill a higher position while the incumbent of the position is on leave or while the position is vacant, the employee assigned to the position will be placed in the step in the higher job grade which is closest to, but not less than, the total of the employee's current annual salary plus the increment between step 1 and 2 in the job grade to which the employee is being advanced.

Upon completion of a temporary transfer, the employee will return to his/her former position without loss of benefits. A temporary transfer does not serve as a claim for upgrading a regular position.

5.9 PART-TIME EMPLOYEES A part-time employee is compensated at the proper hourly rate for the appropriate classification.

5.10 SEPARATION FROM SERVICE An employee may be separated from service by any of the following methods:

- (a) **Retirement** is the separation of an employee in accordance with the provisions of the designated CLCJPE Retirement System under which the employee is eligible to receive benefits.
- (b) **Resignation** is the separation of any employee by his/her voluntary act. An employee may resign in good standing by submitting in writing the reasons therefore and the effective date to the Program Manager at least fourteen (14) calendar days in advance. The Program Manager may permit a shorter period of notice due to extenuating circumstances. The resignation is forwarded to the CLCJPE Administrator with pertinent information concerning the reason for resignation. Every effort will be made to conduct an exit interview with each employee who resigns and will verify the employee's reasons for leaving if possible. Copies of any letter of resignation will be placed in the employee's human resources record.
- (c) **Failure to report to work** without valid reason for three consecutive workdays may cause the employee to be separated from service. It is the employee's responsibility to notify their CLCJPE Immediate Supervisor of absence from work.
- (d) **Layoff** is any involuntary removal from employment not involving delinquency, misconduct, inefficiency, or on the job injury.

When, for any reason, it becomes necessary to reduce the work force in a department, the laying off of employees within each job title in that department is determined first by

type of appointment in the following order: emergency, temporary, probationary, regular part-time and then regular full-time. Within the type of appointment, the order of layoff in the department is determined by job performance. (Employees who are laid off will be given first consideration for subsequent vacancies in the same or lower grade from which laid off for a period of six (6) months. A layoff re-employment list will be maintained in the CLCJPE Administrator.)

If an employee is scheduled to be laid-off, the employee may be offered a transfer to a position of the same or lower grade if a vacancy exists and the employee is qualified to fill the position involved. An employee to be laid off is notified in writing by the CLCJPE Administrator consistent with the process identified below in Section 5.11.

- (c) **Loss of job requirements** Any employee who is unable to perform his/her job adequately because of loss of a necessary license or other requirement, may be terminated or transferred to a lower classification if a vacancy exists and the employee is qualified for the position.
- (f) **Dismissals** are discharges or separations made for good cause as outlined in Chapter 13.3 (e).
- (g) **Death** When an employee dies while on the payroll or approved leave of CLCJPE, the employee's estate receives the decedent's: (1) accrued pay; (2) accrued vacation pay; (3) pay for accrued compensatory time; (4) pay for personal time; (5) 20% of the value of unused sick leave, up to a maximum of \$5,000; and (6) any other benefits due the employee.
- (h) **Involuntary Retirement** Employees who are involuntarily retired are subject to Massachusetts General Laws Chapter 32, Section 16.

5.11 DISMISSAL PROCESS Any non-probationary employee may be dismissed from duty by the appointing authority subject to the provisions of Massachusetts General Law, if applicable. The appointing authority, when acting to lay off or dismiss an employee will:

- (a) Send a written notice of the intent to dismiss an employee. The notice will include a statement of the cause or causes for dismissal. The notice will be delivered in hand to the employee or mailed by registered or certified mail to the employee's last known address.
- (b) Within five (5) calendar days of the date of the notice, the employee may request a hearing with the appointing authority. The request for a hearing must be submitted in writing to the appointing authority.
- (c) The appointing authority will hold a hearing not less than seven (7) calendar nor more than fourteen (14) calendar days following the receipt of the request. The employee will be provided at least five (5) calendar days written notice of the hearing. The employee shall

have the right to be represented by counsel at the hearing, call witnesses, examine witnesses, and introduce evidence at the hearing.

- (d) No more than fourteen (14) calendar days following the hearing the appointing authority shall take final action on the dismissal and immediately notify the employee of the decision.
- (e) If a hearing is not requested by the employee, the appointing authority shall take final action on the dismissal within fourteen (14) calendar days of the delivery of the original notice of intent. The employee will be notified immediately of the decision.

5.12 SEPARATION PAY All accrued and accruing time, except sick leave, remuneration due upon separation is determined as of the last day worked. Such remuneration is paid to the employee on the scheduled pay date following his/her termination date.

Employees are not credited with any additional earned benefits after the last day worked.

CHAPTER 6

EMPLOYEE BENEFITS

- 6.1 POLICY** The CLCJPE intends to provide employee benefits that are comparable to those in the public sector on Cape Cod. Such benefits are an important part of the job package and merit careful review and understanding by employees. Employees are responsible for notifying the CLCJPE Administrator regarding changes (i.e. marriage, divorce, birth of a child) that may impact his/her insurance coverage. Notification should occur as soon as there is a change.
- 6.2 HEALTH INSURANCE** Full time, part-time, and temporary employees of the CLCJPE who regularly provide services for twenty (20) hours or more per week are eligible to participate in the CLCJPE Group Insurance Plans in accordance with the provisions of Chapter 32B of the General Laws of the Commonwealth of Massachusetts. New employees must enroll within 30 days of date of hire or at open enrollment period. If such employee does not wish to participate, an official waiver must be filed with the CLCJPE Administrator within 30 days of the date of hire. Insurance coverage will take effect sixty (60) days from the date of hire, unless the employee is enrolled in a "group" insurance benefits under MGL Chapter 32B at the time of hire. Participating employees will be required to contribute a percentage of the premium cost of health, dental and basic life insurance plan, based on the rates in effect. Seasonal and casual employees are not benefit eligible.
- 6.3 LIFE INSURANCE** Full time and part-time employees of the CLCJPE who regularly provide services for twenty (20) hours or more per week are eligible to participate in the CLCJPE Group Life Insurance Plan in accordance with the provisions of Chapter 32B of the General Laws of the Commonwealth of Massachusetts. New employees must enroll or, if such employee does not wish to participate, an official waiver must be filed with the CLCJPE Administrator within 30 days of the date of hire. Insurance coverage will take effect sixty (60) days after the date of enrollment. Participating employees will be required to contribute 25% of the premium cost of the basic plan as approved by the CLCJPE. Additional voluntary coverage up is available at full cost to the employee. Part-time, seasonal and casual employees are not eligible for life insurance.
- 6.4 PENSION BENEFITS** Full-time employees and regular employees working 25 or more hours per week are required by Massachusetts General Law, Chapter 32 to become members of the Barnstable County Retirement Association and as such are eligible for retirement benefits under these policies and procedures. Information on pension benefits is obtained from the Barnstable County Retirement Board. Seasonal, temporary and casual employees are not eligible for these pension benefits.

In accordance with the Omnibus Budget Reconciliation Act (OBRA) of 1990, part-time (less than 25 hour per week), temporary, seasonal and casual employees are required to participate in a

deferred compensation plan in lieu of participation in the Barnstable CLCJPE Contributory Retirement Plan

CLCJPE employees are not contributors to nor beneficiaries of the Federal Insurance Contributor's Act - the Social Security Law; however, employees hired after April 1986 are required to contribute a percentage of their total gross pay toward the Medicare portion. Any person who has retired from certain public service employment in the Commonwealth and returns to active service is subject to the provisions of M.G.L. Ch.32, s. 91(b).

6.5 OPTIONAL DEFERRED COMPENSATION Employees may participate in any of the CLCJPE optional deferred compensation plans.

A deferred compensation program permits an employee to set aside a portion of current earnings into an account for retirement. This reduces the amount of current taxable income, deferring taxes until earnings are withdrawn.

6.6 UNEMPLOYMENT COMPENSATION Employees of the CLCJPE are covered under state statute which provides for the payment of unemployment compensation in the event of termination from work.

6.7 OTHER INSURANCE COVERAGE The CLCJPE and a local insurance agent have arranged for voluntary payroll deductions for other insurance programs. Employees interested in participating in this program should contact the selected provider.

6.8 EMPLOYEE ASSISTANCE PROGRAM Employees and their families may participate in the CLCJPE Employee Assistance Program. Information on the EAP is included in the Employee Handbook.

6.9 WORKERS COMPENSATION Workers Compensation coverage is provided by the CLCJPE for all of its employees.

CHAPTER 7

HOURS OF WORK, MINIMUM AND OVERTIME COMPENSATION

7.1 WORK WEEK The work week for employees is established by the CLCJPE Administrator.

Regular hours of operation are Monday through Friday, 8:00 a.m. to 4:30 p.m., unless otherwise approved by an employee's immediate supervisor. Regular work week for full time employees shall consist of thirty seven and a half (37.5) hours per week. Employees are required to report to work during regular business hours, or be on leave consistent with Chapter 8. Unapproved absences shall lead to disciplinary actions consistent with Chapter 13.

The CLCJPE recognizes that due to the nature of work performed by its various departments, it is often necessary for employees to work hours other than regular hours of operation.

The workday includes 1 hour of unpaid break, unless modified schedule has been approved by the Supervisor.

7.2 FLEXIBLE WORK SCHEDULES The CLCJPE provides services to the public as its primary mission. At the same time the CLCJPE encourages Program Managers to develop work schedules that allow employees to balance their personal/family obligations with the need to serve the citizens. It is the responsibility of Program Managers to develop appropriate work schedules for their employees.

7.3 STRAIGHT OVERTIME All non-exempt employees, who are approved to work more than thirty seven and a half (37.5) hours a week and up to forty (40) hours per work week will be compensated at their regular hourly rate.

7.4 PAID OVERTIME It is the responsibility of the Program Manager to use judgement in authorizing overtime work by employees. Overtime must be authorized by the CLCJPE Administrator in advance, and kept within the appropriated funds. An employee who fails to obtain prior approval for overtime worked is subject to disciplinary action.

When overtime pay is granted by the CLCJPE Administrator, the following conditions apply:

a) All non-exempt employees, who are approved to work more than forty (40) hours during a work week shall be compensated at one and one-half (1 ½) times their regular hourly rate for said work. In lieu of monetary payment a Department Manager may grant compensatory time at the rate of one and one-half times the number of hours worked over 40.

b) A non-exempt employee who worked over thirty seven and a half (37.5) hours and shall be **required** to work by his/her Immediate Supervisor, on a Saturday, is compensated at one and one half times his/her regular hourly rate; a non-exempt employee who worked over thirty seven and

half (37.5) hours and is required, by his/her Immediate Supervisor, to work on a Sunday shall be compensated at two times his/her regular hourly rate.

A non-exempt employee who worked over thirty seven and a half (37.5) hours and voluntarily works, with department manager's prior approval, on a Saturday or Sunday, shall be compensated at their regular rate up to forty (40) hours and one and one half times his/her regular hourly rate after forty (40) hours.

c) A non-exempt employee required to work, by his/her Immediate Supervisor, on a designated holiday, that is not a regularly scheduled work day is compensated at two times his/her normal hourly rate.

d) Unless specifically stated in a written agreement, paid leave hours (i.e. sick leave, vacation, holiday, personal and compensatory leave) are not included as hours worked in the calculation of overtime.

7.5 COMPENSATORY TIME - Non-exempt employees who are approved to work more than 37.5 hours during the 7 day work period may be granted compensatory time off in lieu of overtime pay at the discretion of the Program Manager at the rate of one hour (1) for each hour worked over 37.5 hours up to forty (40) hours per week and at the rate of one and one-half (1½) hours for each hour worked in excess of forty (40) hours. For the purpose of calculating earned compensatory time, hours worked includes all paid leave, except sick and earned compensatory leave.

- (a) Compensatory time must be authorized by the CLCJPE Administrator in advance, and may accrue up to a maximum of two hundred and forty (240) hours. It is the Program Manager's decision as to whether an employee accrues compensatory time or is required to adjust his/her work week to avoid accruing compensatory time. In conjunction with the CLCJPE Administrator, Program Managers are responsible for managing their employees' accruals and usage of compensatory time.
- (b) The accrued compensatory time shall be used within three (3) months of the time it was earned. The Program Manager is responsible for enforcement of this requirement. Compensatory time off must be scheduled in advance subject to approval by the Program Manager or his/her designee so that it will not interfere with department operations.
- (c) Upon termination of employment, an employee will receive compensation for accrued compensatory time at the current rate of pay up to a maximum of 240 hours.
- (d) Accrued compensatory time is to be used before the use of vacation or personal time, provided that the employee is still able to use the vacation or personal leave before the end of the fiscal year.
- (e) The Program Manager or his/her designee is responsible for submitting to the CLCJPE Administrator for each pay period (i) the number of hours of compensatory time earned each week by each employee; and (ii), the number of hours of compensatory time used each week by each employee.

7.6 EXEMPT EMPLOYEES Managerial and supervisory employees and employees in other positions qualifying for executive, administrative, or professional exemption, are not entitled to overtime compensation consistent with the Fair Labor Standards Act (FLSA). The CLCJPE Administrator and Program Managers are expected to use their discretion and good judgement in the management of their exempt employees' time consistent with the intent of the FLSA.

If an employee's status is transitioned from a non-exempt position to an exempt position, all accrued compensatory time must be paid out before the transition takes place and at the current non-exempt status salary rate,

7.7 EMERGENCY CLOSURE In the event of a weather or other emergency, the CLCJPE Administrator may cease/suspend or delay CLCJPE operations. All nonessential employees will be compensated for their regular workday.

Non-exempt Employees who are required to report to work by their Department Manager (essential employees) will be paid overtime or credited compensatory time for hours worked as outlined in sections 7.4 and 7.5.

Employees who are not required to report to work by their Manager (nonessential employees) should not report to work and will not be compensated for hours worked in the event of the emergency closure.

No compensation will be provided for employees who are on any leave (paid or unpaid) in the event of emergency closure.

CHAPTER 8

LEAVE

8.1 POLICY Leave is any authorized absence during regularly scheduled work hours that is approved by the proper authority. Leave may be authorized with or without pay and is granted in accordance with applicable laws, on the basis of the work requirements of the departments and, whenever possible, the personal wishes of the employee.

8.2 HOLIDAY LEAVE The following days are recognized as legal holidays. Employees not required to maintain essential CLCJPE services as determined by the CLCJPE Administrator Manager are excused from all duties:

New Year's Day	Patriot's Day	Labor Day	Christmas Day
Martin Luther King Day	Memorial Day	Columbus Day	
President's Day		Veteran's Day	
	Independence Day	Thanksgiving Day	
Day After Thanksgiving*			

Limited Service Days

A limited service day shall be defined as a day during which all CLCJPE offices are open and all CLCJPE services are provided. The CLCJPE Administrator shall ensure minimum staffing is available to carry out necessary functions. Employees required to work on a limited service day shall be entitled to another day off which shall be taken within 100 calendar days of a limited service day or it will be forfeited.

If a Limited Service Day does not fall on an Employee's regular scheduled day, the Employee will not be granted a day off that is otherwise provided to the qualified employees.

An employee is entitled to these designated holidays on the following terms:

(a) Eligibility for holiday pay:

- (i) Full-time employees - Full holiday pay.
- (ii) Part-time employees – with varied work schedules – For part-time employees with varied work schedules that are scheduled to work on a legal holiday, holiday pay shall be prorated based on the ratio of the average hours worked per week relative to the total number of full time work week hours, for the previous 60 days, regardless of which days are worked during the week.

- (iii) Part-time employees –with fixed work schedules – For part-time employees with fixed work schedules that are scheduled to work on a legal holiday, holiday pay shall be prorated based on the ratio of the average hours worked per week relative to the total number of full time work week hours for the previous 60 days— for the holidays that fall on the regularly scheduled work day. The floating holiday may be taken within 100 calendar days of the holiday.
- (iv) On-Call Employees are not entitled to Holiday Pay
- (b) An employee who is on paid leave for any portion of the workday immediately preceding or immediately following a holiday on which he/she is scheduled to work does receive holiday pay.
- (c) An employee who is on unpaid family leave or is absent without pay for any part of the workday immediately preceding or immediately following a holiday does not receive holiday pay or a compensatory day for the holiday.
- (d) Whenever any of the above named holidays falls on a Sunday, the holiday is observed on the following Monday. If the holiday falls on a Saturday, The holiday is observed on the preceding Friday.
- (e) Exempt employees who are required to work on holidays are given an alternate day off within one hundred (100) days. Non-exempt employees who are required to work by their Department Manager on a holiday are compensated at two times their normal hourly rate of hours worked on that day.
- (f) Employees who are terminated or who resign will receive payment for floating holidays and/or limited service days earned, but not taken.

8.3 VACATION LEAVE The CLCJPE provides vacation leave to full-time and regular part-time employees based on length of service and in accordance with the following policies:

- (a) Full-time employees in continuous employment accrue vacation leave based on length of service as of January 1st of each calendar year as follows:

<u>Service</u>	<u>Vacation</u>
Less than 1 year	1 day for each month employed, not to exceed ten days.
1 - 4 1/2 years	Two weeks, 10 days
4 1/2 - 9 1/2 years	Three weeks, 15 days
9 1/2 - 19 1/2 years	Four weeks, 20 days
19 1/2 or more years	Five weeks, 25 days

Accrued vacation time is available on January 1st.

Vacation time is cumulative and accumulates on the basis of:

- a. a 1,950 hour work year for a 75 hour pay period or a 2080 hour work year for a 80 hour pay period;
 - b. a five day work week (unless working a condensed work week)
 - c. and from January 1st of every year
- (b) Part-time employees in continuous employment accrue vacation as outlined in 8.3 (a) prorated based upon the proportion their hours worked relative to full-time employment for the same position.
- (c) Temporary, seasonal, casual and on call employees are not eligible for vacation leave.
- (d) Vacation leave will accrue in the first month of employment if the new employee has actually worked ten (10) days or more.
- (e) For the purpose of computing vacation status, "service" also means service in the Commonwealth or in any political subdivision thereof, excluding service as an elected official, before being employed by the CLCJPE, provided that no break in service of three (3) years or more occurred between such termination of employment and entrance into CLCJPE service. In order to credit such prior service a person must, (1) be employed by the CLCJPE for six months, and (2) submit to the CLCJPE Administrator a sworn statement of such service, executed by the appropriate official of the Commonwealth or any of its political subdivisions.
- (f) Employees must request vacation leave in writing, subject to prior approval of his/her immediate supervisor. Where multiple requests are made for the same vacation period and only one employee can be absent, the employee who submitted the earlier request has preference. Where the requests are received on the same date, the more senior employee is given preference.
- Program Managers' requests for vacation leave require prior approval by the CLCJPE Administrator.
- (g) Vacation leave should be taken within the calendar year. Full time employees may carry over up to 10 vacation days from one calendar year to the next, part-time employees' vacation carry-over will be calculated on a prorated basis. Any additional carry over beyond the 10 days must be submitted for approval first by the Program Manager and then to the CLCJPE Administrator for final approval. Carry-over requests must be presented in writing. Any additional carry over vacation must be used within the approved time-frame, or will be forfeited.

- (h) Employees who are terminated or who resign will receive payment for vacation time accrued but not taken and for vacation time accruing but not yet allocated. The last actual work day will be the last day for which leave may be accrued.
- (i) Upon the death of an employee who is eligible for vacation under this plan, payment is made to the estate of the deceased.
- (j) An employee on unpaid leave (i.e. Family Leave) or absent without pay is not eligible to accumulate vacation leave until he/she returns to continuous employment.
- (k) Employees are not entitled to vacation accrual and/or leave during their probationary period. The earned time will be available upon completion of probationary time.
- (l) At the beginning of each calendar year, the CLCJPE, subject to annual appropriation, provides a vacation buy-back program to eligible employees in accordance with the following:
 - (1) An employee with fifteen years of continuous full time service with the CLCJPE, may exchange up to 5 days of vacation days for a day's pay per day exchanged. The total days exchanged to the CLCJPE will be deducted from the employee's total accumulated vacation days.
 - (2) An employee with twenty years, or more, of continuous full time service with the CLCJPE, may exchange up to 10 of these days to the CLCJPE for a day's pay per day exchanged. The total days exchanged to the CLCJPE will be deducted from the employee's total accumulated vacation days.

8.4 SICK LEAVE Sick leave is not considered a privilege which an employee may use at the employee's discretion, but may be allowed only in case of actual sickness or disability or for sickness prevention measures. In no event are earned days for illness or accident construed as additional vacation allowance.

- (a) **Eligibility.** A full-time employee is eligible for one and one-quarter (1 1/4) days of sick leave, with pay, for each month of continuous employment during each fiscal year. Part-time employees accrue sick leave time based on a percentage of time prorated in accordance with hours or days worked. An employee is entitled to leave with pay for sickness or accident only after such leave has been earned. An employee must notify their immediate supervisor on the day when sick leave is being requested.
- (b) Temporary, seasonal and casual employees are not eligible for sick leave.
- (c) Sick leave will accrue in the first month of employment if the new employee has worked ten (10) days or more.
- (d) **Certification of Illness.** The CLCJPE Administrator may require a certification from the attending physician for sick leave in excess of three (3) consecutive work days stating that

such illness prevented the employee from working. Certification of illness shall include: explanation of why employee is unable to perform the essential functions of the job and anticipated duration of illness. The employee may not use sick time if certification is not provided. Leave without pay will be granted after all accrued time has been exhausted (including sick time). Where there is a pattern of excessive use of sick leave, as determined by the CLCJPE Administrator, an employee may be required to submit documentation from their medical provider. If the CLCJPE Administrator determines there is an abuse of sick leave, disciplinary action may be taken against the employee. In the event of absence due to accident or sickness, prior to the employee's return to work, the CLCJPE reserves the right to require a doctor's certification to confirm the employee's ability to perform the essential functions of the job.

- (e) When necessary, the CLCJPE Administrator with the concurrence of the Program Manager, may allow use of sick leave in case of illness in the immediate family of the employee which requires the presence of such employee. Use of sick leave for a family emergency is limited to seven days, need not be consecutive calendar days, is allowed on an annual calendar year basis and may not be accumulated if not used. Immediate family includes, spouse, domestic partner, children, step-children, parents, grand-parents, parent of a spouse, brothers or sisters, grandchildren, or other relatives with whom the employee is living in the same house.
- (f) Sick leave earned in public service other than CLCJPE government is not transferable.
- (g) For employees recalled to service or rehired by CLCJPE within a period of six (6) months after being laid off will be credited with the balance of accrued sick leave as of their separation date.
- (h) Sick leave not used in the year in which it accrued is accumulated for use in a subsequent year.
- (i) Employees are expected to give notice of sick leave absence whenever possible on the first day of such absence, or otherwise at the earliest possible date.
- (j) An employee on unpaid Family Leave or absent without pay is not eligible to accumulate sick leave until he/she returns to continuous employment.
- (k) The CLCJPE will keep a record of all sick leave granted to each employee.
- (l) The CLCJPE, subject to annual appropriation, provides a sick-time buy back program to eligible employees in accordance with the following:
 - (1) An employee who, at the time of completion of five years of continuous full time service with the CLCJPE, has accumulated at least 50 days of sick time, may exchange up to 5 of these days to the CLCJPE for one half day's pay per day exchanged. The total days exchanged to the CLCJPE will be deducted from

the employee's total accumulated sick days.

- (2) An employee who, at the time of completion of ten years of continuous full time service with the CLCJPE, has accumulated at least 100 days of sick time, may exchange up to 10 of these days to the CLCJPE for one half day's pay per day exchanged. The total days exchanged to the CLCJPE will be deducted from the employee's total accumulated sick days.
- (3) An employee who, at the time of completion of fifteen years of continuous full time service with the CLCJPE, has accumulated at least 120 days of sick time, may exchange up to 10 of these days to the CLCJPE for two thirds day pay per day exchanged. The total days exchanged to the CLCJPE will be deducted from the employee's total accumulated sick days.
- (4) An employee who, at the time of completion of twenty years of continuous full time service with the CLCJPE, has accumulated at least 150 days of sick time, may exchange up to 10 of these days to the CLCJPE for a day's pay per day exchanged. The total days exchanged to the CLCJPE will be deducted from the employee's total accumulated sick days.
- (5) An employee who, at the time of completion of twenty-five years of continuous full time service with the CLCJPE, has accumulated at least 150 days of sick time, may exchange up to 10 of these days to the CLCJPE for a day's pay per day exchanged. The total days exchanged to the CLCJPE will be deducted from the employee's total accumulated sick days.
- (6) An employee who, at the time of completion of thirty years of continuous full time service with the CLCJPE, has accumulated at least 150 days of sick time, may exchange up to 10 of these days to the CLCJPE for a day's pay per day exchanged. The total days exchanged to the CLCJPE will be deducted from the employee's total accumulated sick days.
- (7) Upon reaching thirty-five years of continuous full time service to the CLCJPE, and every five years thereafter, an employee may buy back sick time under the same terms and conditions as defined in Chapter 8, Section 8.4(1)(6).
- (8) An employee wishing to sell sick time to the CLCJPE under the provisions of this section must give the CLCJPE Administrator written notice of the employee's intention within 30 calendar days before the applicable eligibility date, i.e. the 5, 10, 15 or 20 year anniversary date. Failure to give the proper notice will constitute a waiver of the right to sell the sick time at the particular eligibility date. An employee is eligible to participate in one sick leave buy back option for each defined anniversary.

- (m) Upon retirement, employees are eligible for payment of twenty percent (20%) of the dollar value of unused sick leave, up to a maximum of \$5,000. Payment is based upon the daily rate of compensation received by the employee at the time of retirement.

8.5 INJURY LEAVE An employee injured on the job, however slightly, must report the injury to his/her immediate supervisor immediately, and in no event later than twenty-four (24) hours after the occurrence of said injury. The supervisor or Program Manager must file a report of injury within forty-eight (48) hours to the CLCJPE Administrator.

- (a) Injury leave is granted due to absence from duty caused by an accident, injury or occupational disease sustained directly in the performance of the employee's work. Accounting for time and payment of wages is determined by the provisions of Massachusetts General Laws.
- (b) Accrued personal time and/or sick leave credits, if available are used for the first five days of injury leave or until lost wages are covered by Worker's Compensation Insurance. If it is determined that lost wages for the first five days will be paid through Worker's Compensation Insurance, an adjustment to restore used personal time and/or sick leave credits is made after the employee returns to his/her full regularly scheduled work time.
- (c) Compensation for lost wages due to a work related injury is paid by the Department of Finance on regularly scheduled pay dates, and is not subject to tax assessments and payroll deductions. The employee is responsible for his/her share of group health, dental, and life insurance premiums. The CLCJPE's obligation for payment of insurance will cease if the employee is more than thirty (30) days late with his/her monthly premium.
- (d) An employee absent due to a work related injury accrues vacation and sick leave credits for the first ninety (90) days of leave.

8.6 BEREAVEMENT LEAVE This benefit enables an employee to take care of personal arrangements and problems caused by death of a member of his/her immediate family. Employees other than those scheduled for another type of leave are eligible for bereavement leave for the death of a spouse, domestic partner, child, step child, parent, parent of a spouse, grandparents, brother or sister, grandchild, or a person living in the immediate household of the employee, for a period not exceeding four consecutive work days without loss of pay.

Part-time, temporary, and seasonal/casual employees are eligible for bereavement leave on a pro-rated basis for leave taken on their regular scheduled work day.

8.7 MILITARY LEAVE The CLCJPE provides military leaves of absence to all regular and part-time employees in compliance with the Uniformed Services Employment and Re-employment Rights Act ("USERRA") and all other applicable federal and state laws..

8.9 CIVIC DUTY LEAVE An employee summoned as a juror on behalf of the Commonwealth or any town, city or CLCJPE of the Commonwealth or on behalf of the Federal government, will be granted a leave of absence with pay during the period of his/her jury duty upon submission of substantiating documentation. An employee summoned as a witness as a result of employment with the CLCJPE will be granted a leave of absence with pay during the period of his/her witness duty upon submission of substantiating documentation. An employee summoned as a witness not related to his/her of employment with the CLCJPE shall use his/hers accrued time. This does not apply to employees who are also in the employ of the Federal government or any private employer and who is summoned on a matter arising from that employment. Employees who receive their regular weekly salary from the CLCJPE during the period of their jury/witness duty must remit to the CLCJPE, immediately upon receipt, compensation for services (exclusive of pay for jury/witness duty on off-duty days.)

8.10 FAMILY AND MEDICAL LEAVE All employees who have been employed for at least one year, have completed at least 1,250 hours of service during the 12-month period immediately preceding the commencement of leave are eligible for leave under the Family and Medical Leave Act (FMLA). An eligible employee may request an FMLA leave of up to 12 weeks on a fiscal year basis (July 1 - June 30) for any of the following reasons:

1. The birth or adoption of a child or the placement of a foster child with the employee, or to care for the employee's child during the first 12 months after birth or placement.
2. To care for the "serious health condition" of an employee's spouse, domestic partner (does not apply to MA residents), child, or parent. For purposes of this policy, a "serious health condition" is an illness, injury, impairment or physical or mental condition that involves either an overnight stay in a medical care facility or continuing treatment by a health care provider for a condition that either prevents the employee from performing the functions of the employee's job or prevents the qualified family member from participating in school or other daily activities. Subject to certain conditions, the "continuing treatment" requirement may be met by a period of incapacity of more than three (3) consecutive calendar days combined with at least two (2) visits to a health care provider; or one (1) visit and a regimen of continuing treatment; or incapacity due to pregnancy; or incapacity due to a chronic condition. Other conditions may meet the definition of "continuing treatment."
3. The "serious health condition" of an employee that causes the employee to be unable to perform the functions of his or her position, including incapacity due to pregnancy, prenatal medical care, or child birth.
4. Any "qualifying exigency" arising out of the fact that the spouse, son, daughter, or parent of the employee is on covered duty in the Armed Forces or National Guard or

Reserves in support of a contingency operation. A "qualifying exigency" includes: (1) short notice deployment (limited to seven calendar days from date notified of deployment); (2) military events and related activities; (3) childcare and school activities; (4) financial and legal arrangements; (5) counseling; (6) rest and recuperation (limited to five days of FMLA leave); (7) post-deployment activities; and (8) additional activities, only as mutually agreed to by employee and the CLCJPE.

Special leave entitlement relating to an employee's family member in the Armed Forces:

A spouse, son, daughter, parent, or "next of kin" may request up to 26 workweeks of leave in a single 12-month period to care for a covered service member. A covered service member is: (a) a current member of the Armed Forces (including a member of the National Guard or Reserves) who has a serious injury or illness incurred in the line of duty on active duty that may render the service member medically unfit to perform his or her duties for which the service member is undergoing medical treatment, recuperation, or therapy; in outpatient status; or on the temporary disability retired list; or (b) a veteran who: (i) has a serious injury or illness incurred in the line of duty on active duty (or existed before the beginning of the member's active duty and was aggravated by service in the line of duty on active duty) for which the veteran is undergoing medical treatment, recuperation, or therapy and (ii) was a member of the Armed Forces (including a member of the National Guard or Reserves) at any time during the period of 5 years preceding the date on which the veteran undergoes that medical treatment, recuperation, or therapy.

Use of Leave

The leave may be taken in one block of twelve (12) weeks, or if required, employees may take FMLA leave on an intermittent or reduced leave schedules (select days or hours, for example) when medically necessary to care for a seriously ill family member or a covered service member, because of the employee's own serious health condition, or due to a qualifying exigency. Employees needing intermittent leave for planned medical treatment must make reasonable efforts to schedule the leave so as to not to unduly disrupt the CLCJPE's operations.

Employee Responsibilities

Employees must provide 30 days advance notice of the need to take FMLA leave when the need is foreseeable. Such notice must be submitted in writing to the CLCJPE Administrator. When 30 days notice is not possible, the employee must give notice of the need for such unforeseeable leave as soon as practicable under the facts and circumstances of the situation and generally must comply with CLCJPE normal call-in procedures for an absence or tardiness. Employees must provide sufficient information for the CLCJPE to determine if the leave may qualify for FMLA protection and the anticipated timing and duration of the leave. Sufficient information may include that the employee is unable to perform job functions, the family member is unable to perform daily activities, the need for hospitalization or continuing treatment by a health care

provider, or circumstances supporting the need for military family leave. Employees also must inform the CLCJPE if the requested leave is for a reason for which FMLA leave was previously taken or certified. Employees also may be required to provide a certification and periodic recertification supporting the need for leave.

Cape Light Compact Joint Powers Entity Responsibilities

Employees requesting leave will be advised whether they are eligible under FMLA. If they are, the CLCJPE will provide notice of any additional information the employee needs to provide, as well as the employee's rights and responsibilities under the FMLA. If the employee is not eligible for the leave, the CLCJPE will inform the employee and provide a reason for his/her ineligibility. The employee will also be informed if leave will be designated as FMLA-protected and the amount of leave that will be counted against the employee's leave entitlement, if possible. If it is determined that the leave is not FMLA-protected, the CLCJPE will notify the employee of this fact, as well. An employee's failure to comply with the CLCJPE's FMLA leave procedures can be grounds for delaying or denying an employee's request for FMLA-qualifying leave.

Use of Sick/Personal/Vacation Time

In order to use paid benefit time during an approved FMLA leave, employees must comply with the CLCJPE's normal paid leave policies. Earned and accrued sick, personal and vacation time must be used during an approved FMLA leave prior to taking any unpaid leave.

Benefits and Protections

During an approved FMLA leave, the employee's position will be held open to the extent required by the FMLA, and the CLCJPE will maintain the employee's health coverage under any group health plan (if there is such coverage) on the same terms as if the employee had continued to work. Upon returning from FMLA leave, employees will be restored to their original or equivalent positions with equivalent pay, benefits, and other employment terms. Use of FMLA leave will not result in the loss of any available employment benefit that accrued prior to the start of the leave.

Unlawful Acts and Enforcement

FMLA makes it unlawful for any employer to: interfere with, restrain, or deny the exercise of any right provided under the FMLA; or discharge or discriminate against any person for opposing any practice made unlawful by the FMLA or for involvement in any proceeding under or relating to the FMLA. An employee may file a complaint with the US Department of Labor or may bring a private lawsuit against an employer. (DOL contact information is: 1-866-487-9243; TTY 1-877-889- 5627; www.wagehour.dol.gov.) FMLA does not affect any federal or state law prohibiting discrimination, or supersede any State or local law or collective bargaining agreement which provides greater family or medical leave rights.

8.11 PERSONAL LEAVE Full time employees are credited annually with paid personal leave days on January 1st of each year in accordance with the schedule listed below. Part-time employees are credited with a pro-rated share determined by their work schedule. Personal leave shall be taken during the following, with the approval of the Department Manager. Personal days are not cumulative:

On the payroll January 1 – April 30	Four (4) days
On the payroll May 1 – August 31	Two (2) days
On the payroll September 1 – December 31	One (1) day

Only regular employees are entitled to personal leave.

8.12 LEAVE OF ABSENCE WITHOUT PAY An employee who has completed one year of employment may be granted a leave of absence without pay for a specified period of time. Leave without pay must be recommended by the Program Manager to the CLCJPE Administrator and approved by the CLCJPE Administrator.

During such leave, the employee will be eligible, at his/her own expense, to continue to participate in the Group Insurance Plan. Should the employee accept other employment during such leave, the balance of the leave is forfeited and the employee terminated. Failure of the employee to report promptly at the expiration of such leave is considered a resignation. Leave without pay does not constitute a break in service. However, during leave without pay, vacation and sick leave do not accrue and the employee's anniversary date may change as defined in 5.6 (e). A copy of any such approved leave is to be submitted to the CLCJPE Administrator.

8.13 SMALL NECESSITIES LEAVE ACT

CLCJPE employees who have been employed by the CLCJPE for at least 12 months (July 1 - June 30) and for at least 1,250 hours in the previous 12 months may take up to a total of 24 hours of unpaid leave during any 12-month period.

This leave may be taken intermittently or on a reduced leave schedule. If the leave is foreseeable, the CLCJPE employee must put the request in writing to his/her supervisor at least seven (7) days prior. If the leave is not foreseeable, written notice as soon as practical is required. The request for leave is in addition to the leave provided under the Federal Family and Medical leave Act, to engage in such activities as:

1. participating in school activities directly related to the educational advancement of the employee's children, such as parent-teacher conferences; or

2. accompanying children to routine medical or dental appointments; or
3. accompanying elderly relatives to routine medical or dental appointments or appointments for other professional services related to the elder's care.

8.14 DOMESTIC VIOLENCE LEAVE CLCJPE employees are eligible for domestic violence leave upon beginning employment.

An employee may take up to a maximum of 15 days of time off in a 12 month period, if either the employee or their family member as described below is:

- the victim of abusive behavior (such as domestic violence, stalking, sexual assault, or kidnapping);
- seeking medical attention, counseling, legal or other victim services directly related to the abusive behavior against the employee or family member of the employee.

For purposes of this policy, a family member includes not only legally married spouses but also:

- Persons "in a substantive dating or engagement relationship" AND who reside together;
- Persons having a child in common regardless of whether they have ever married or resided together;
- A parent, step-parent, child, step-child, sibling, grandparent or grandchild; or
- Persons in a guardianship relationship.

Employees must use accrued vacation, family medical and excused time to remain in paid status during a covered leave under this policy, and use of such leave will run concurrently with leave under this policy. If no accrued time is available, leave under this policy will be unpaid.

The CLCJPE may request that advance notice of this leave (as required by the current leave policy) be made, unless there is an imminent danger or immediate health and safety risk to the employee (in which case - notification within 3 workdays that the leave was taken or is being taken must be provided). In the event that an employee takes this leave, documentation evidencing that the employee or family member has been a victim of domestic violence or abusive behavior must be provided within 30 days (reasonable amount of time) of the leave request. Such forms of documentation may include:

- A court issued protective order

- An official document from a court, provider or public agency
- A police report or statement of a victim or witness provided to the police
- Official legal documentation attesting to the adjudication of the perpetrator
- Medical documentation of treatment for the abusive behavior
- A sworn statement from the employee attesting to being a victim of abusive behavior
- A sworn statement from a professional who has assisted the employee or the employee's family, for example, a counselor, a social worker or a member of the clergy.

Alleged perpetrators of domestic violence are not entitled to leave under this statute.

8.15 PARENTAL LEAVE Requests for parental leave must be submitted in writing to the CLCJPE Administrator, indicating the date the employee wishes to begin leave and expected date of return. Regular fulltime employees are eligible for an unpaid parental leave upon completion of 90 days of employment.

Eligible employees are entitled to a leave of up to eight (8) weeks for the birth of his or her child, adopting a child under age 18 or adopting a person under age 23 who is mentally or physically disabled. This leave may run concurrently with any other leave where permitted by state and federal law. The Massachusetts Maternity Leave Act requires that employees be provided the option to use paid or take unpaid leave.

Eligible employees are required to provide two weeks' notice of their expected departure date and intention to return to their job.

Employees may be required to provide proof of birth or adoption. Employees will be expected to return to work on the date indicated on their leave of absence request. If employees wish to seek an extension in their leave of absence, they must send a written request to CLCJPE Administrator two weeks before the expiration of their leave.

While out on parental leave, employees may be required to pay their portion of health insurance co-payment. After 90 days, employees may be required to pay full health insurance premium.

If an employee should fail to return to work on scheduled date of return from parental leave, or work for another employer during leave, it will be deemed as a voluntary resignation from the CLCJPE. However, the CLCJPE will hold the same or equivalent position for an employee to return to, provided the employee returns to work at the conclusion of the eight-week parental leave.

CHAPTER 9

RECRUITMENT AND SELECTION OF EMPLOYEES

- 9.1 POLICY** As an equal opportunity employer, see Section 1.4, to assure a high quality of service to the public, selection will be from the most competent individuals. Selection and appointment to all positions will be based solely upon job-related requirements and the applicant's demonstration that he/she possesses the skills, knowledge, abilities and other characteristics necessary for successful job performance, with reasonable accommodation in the case of disability. Employees who are laid off are given first consideration for subsequent vacancies for a period of six months provided their qualifications fulfill the requirements of the vacant position.

Employees may apply for any vacant position for which they meet the requirements. No manager may prevent an employee from applying for a vacancy.

9.2 RECRUITMENT PROCEDURES

- (a) When a vacancy occurs, the Program Manager will review the functions, duties, responsibilities, and minimum qualifications of the position to ascertain whether the job description is still accurate or the job description needs to be updated. Any subsequent changes in the description or special qualification requirements for that position will be reported to the CLCJPE Administrator along with a revised job description.
- (b) The Program Manager will determine if an employee within the department has the necessary qualifications to be promoted into the vacancy. If so, a recommendation of appointment will be forwarded to the CLCJPE Administrator for approval. Recruitment procedures will then be followed for the vacancy created by the promotion.
- (c) The Program Manager submits a Notice of Job Vacancy to the CLCJPE Administrator for approval.
- (d) The CLCJPE Administrator posts the Notice of Job Vacancy in the CLCJPE designated posting area, distributes to Program Managers for posting in each department and representatives of minority groups in Barnstable County. The CLCJPE Administrator is responsible for directing the publication of the vacancy in such a manner as to ensure all interested and qualified individuals are informed of the title, duties and responsibilities, and salary range; minimum and special qualifications for the job; the time, place and manner of making application; and any other information which may be useful to applicants.

New positions and vacancies will be advertised at least once in a newspaper whose circulation area includes all Cape Cod and when appropriate, be advertised in professional journals and newspapers with broader circulation.

9.3 TEMPORARY EMPLOYMENT Employees needed to meet conditions caused by seasonal workloads, special projects, illness, or absence of a regular employee may be hired on a temporary basis, not to exceed six (6) months. Temporary employees are released at the earliest possible time but no later than the return of the regular employee.

9.4 EMERGENCY EMPLOYMENT In times of emergency, the CLCJPE Administrator, or his/her designee, is authorized to hire emergency employees necessary to prevent the interruption of essential services of the department. The length of employment for an employee hired under this status will not exceed three (3) months.

9.5 APPLICATION FOR EMPLOYMENT Deliberately false or misleading statements and deception in attempting to secure employment will be grounds for rejecting an applicant and/or dismissal of an employee.

9.6 SELECTION PROCEDURES The Program Manager will review the applications of all candidates who have applied for the position and will interview those candidates deemed best qualified to meet the established requirements.

The Program Manager will document the recommendation for selection and complete a Report of Filling a Position. No selection and/or starting salary may be announced and no employee may begin work before approval and appointment by the CLCJPE Administrator.

If a retired CLCJPE employee is selected for a position, his/her starting salary will be the first step within the grade for the position, unless otherwise determined by the CLCJPE Administrator.

Every effort will be made to inform the unsuccessful candidates within 30 days of filling a position.

A record of the recruiting and appointing process will be retained by the CLCJPE Administrator after the vacancy is filled. This record will include: the job description; vacancy announcements; a listing of the source and methods of recruitment. The resumes received as part of the recruiting and appointing process will be kept on file for three years and for a period of six months to be used for a vacant position with the same or similar job title.

Certain positions may require a criminal history screening of the applicant. A Criminal Offender Record Information (CORI) check screening may be conducted in compliance with the Massachusetts Department of Criminal Justice Information Systems (DCJIS) regulations. Guidance on conducting a CORI screening is describe in Appendix C.

9.7 PROBATIONARY PERIOD The probationary period is an integral part of the selection procedure allowing the supervisor, Program Manager and appointing authority to train,

observe, and evaluate an employee's work in order to determine fitness for continuing in the position.

Each person promoted or appointed to a position is required to successfully complete a probationary period to enable the Program Manager to observe the employee's ability to perform the various principal duties of the position. The probationary period begins immediately upon original appointment and continues for six (6) months or, in the case of promotion, continues for three (3) months from the date of the appointment. The probationary period may be extended up to six (6) months. The probationary period is used to evaluate the employee's performance, conduct and work habits.

Before expiration of the probationary period the Program Manager notifies the CLCJPE Administrator in writing that:

- (a) the employee's performance is satisfactory and the individual should be retained as a regular employee in the position; or
- (b) the employee's performance, due to extenuating circumstances, requires additional observation and the probationary period should be extended an additional six months; or
- (c) the employee's performance, conduct, and/or work habits are unsatisfactory, and his/her removal is proposed as of a specific date.

9.8 REMOVAL OF A PROBATIONARY EMPLOYEE At any time during the probationary period the Program Manager may recommend to the CLCJPE Administrator the termination of a probationary employee. The employee will be notified of termination in writing stating the effective date of termination. An employee may be discharged during the probationary period at the will of the employer, with or without cause. The employee may not appeal this decision.

An employee may also be removed at any time if it is determined that information submitted before appointment was falsified.

CHAPTER 10

PERFORMANCE APPRAISAL

10.1 PURPOSE The CLCJPE recognizes the need for an operating performance appraisal system to:

- (a) assess fairly and accurately an employee's strengths, weaknesses, and potential for growth;
- (b) encourage and guide development of employee's special skills and work interests;
- (c) assure the granting of salary increases and consideration for more complex work based on merit;
- (d) provide a method of improving operational programs through employee input; and
- (e) identify training needs.

10.2 PROCEDURES The CLCJPE Administrator is responsible for maintaining the employee performance appraisal system. The CLCJPE Administrator and Program Managers are responsible for conducting a performance appraisal for his/her employees, before granting a salary increase. The CLCJPE Administrator is responsible for reviewing each appraisal form to ensure consistency with the overall appraisal system.

- (a) **Annual Employee Performance Appraisal** The annual appraisal is the summary of the supervisor's observations of the employee during the past year and a summary of the performance in terms of a variety of job-related factors. The appraisal will also include a plan to develop strengths, identify and improve weak areas, and record the employee's observations of work assignments in the last year. Proper use of the performance appraisal serves as a means of identifying training needs, helping improve individual performance, recognizing outstanding accomplishments, helping to strengthen employee/supervisor relationships, emphasizing the employee's contribution to the CLCJPE's programs, and helping to identify strengths and weaknesses in the CLCJPE's programs.
 - (1) The supervisor will make a written evaluation of the employee's job performance considering any changes that have occurred in the job or other factors which might affect job performance and noting strengths and/or capabilities worthy of special mention and areas where improvement is needed. The written evaluation will also certify that the employee is performing either at an acceptable level or unacceptable level of competence for his/her position.
 - (2) Employee-Supervisor discussion - The employee and supervisor will begin the discussion with a review of the employee's current job description to review and

clarify job requirements and duties assigned, and to note any major changes which have taken place in the employee's job. The supervisor and employee should also discuss the employee's career development plans, special work interests, projects or assignments of interest, and particular training interests or needs. The employee's general observations of the department's programs and especially suggestions for improving assignments, functions, and work procedures should be encouraged. The employee should take the opportunity to discuss any other points and may attach comments to the supervisor's evaluation. The employee will then certify that he/she has reviewed the appraisal and that it has been discussed with him/her.

- (3) In some instances another supervisor may also review the written evaluation, sign it, and make comments if desired. The employee will have the opportunity to review and comment.
- (4) The evaluation will then be forwarded to the CLCJPE Administrator to become a part of the employee's human resources record. Supervisors are encouraged to bring significant program observations and career development plans of employees to the attention of the appropriate Manager or Administrator.
- (5) The CLCJPE Administrator may also review the written evaluation before review with the employee and make comments if desired.
- (6) Regular employees who receive a less than satisfactory performance rating will not be eligible for a salary increase. Employee may be eligible for salary increase effective six months from their anniversary date if performance is brought up to a satisfactory level, or denied if performance remains below satisfactory. The original anniversary date remains the same.
- (7) The CLCJPE Administrator will make a written evaluation of Program Managers in accordance with the Performance Appraisal System following the procedures listed above. The Managers will have the opportunity to attach comments to the Administrator's appraisal.

(b) Performance Appraisal Process

- (1) **CLCJPE Administrator:** The CLCJPE Administrator will be evaluated by the Chairman of the CLCJPE Board on an annual basis. The CLCJPE Administrator's salary increase is determined through his/her annual evaluation.
- (2) **Department Managers:**
 - (a) The CLCJPE Board may advise the CLCJPE Administrator of priority objectives to implement in the upcoming year.
 - (b) The CLCJPE Administrator conducts a Program Manager's performance evaluation approximately forty-five (45) calendar days before to his/her

scheduled step increase/ anniversary date, which includes the establishment of priority objectives to be accomplished during the next 12 months.

- (c) A Program Manager may have a mid-year evaluation. The purpose of the mid-year evaluation is to identify any/all corrective action, if needed.
 - (d) Annual salary increases are based on the Program Manager's performance for the previous 12-month period and are based on a range of 0 to 4%.
 - (e) If a Program Manager receives a completely satisfactory performance evaluation or higher, he/she is eligible for his/her 2% salary increase on his/her anniversary date.
 - (f) If a Program Manager receives a less than satisfactory performance evaluation, he/she may not be eligible for a salary increase. Employee may be eligible for an increase effective six months from their anniversary date if the performance is brought up to a completely satisfactory level or denied if performance remains below satisfactory. The original anniversary date remains the same.
 - (g) If a Program Manager receives an unsatisfactory performance evaluation, he/she is not eligible for his/her increase on his/her anniversary date.
 - (h) Appeals process for the Program Managers is defined in Chapter 14.3.
- (3) Program Managers under an Acting or Interim CLCJPE Administrator: The Acting or Interim CLCJPE Administrator conducts performance evaluations and mid-year evaluations.
- (4) CLCJPE Employees:
- (a) Employees are evaluated approximately forty five (45) calendar days before their anniversary date. This will allow for adequate time to appeal any decision.
 - (b) Employees are evaluated by their immediate supervisor. The evaluation includes a signature/comments from the Program Manager.
 - (c) Annual salary increases of 0 to 4% are based on the employee's performance for the previous 12 month period.
 - (d) If an employee receives an outstanding evaluation rating, he/she is eligible for a 4% salary increase on his/her anniversary.
 - (e) If an employee receives a more than satisfactory evaluation rating, he/she is eligible for a 3% salary increase on his/her anniversary.
 - (f) If an employee receives a completely satisfactory evaluation rating, he/she is eligible for a 2% salary increase on his/her anniversary.

(g)

(h) If any employee receives a less than satisfactory evaluation, his/her salary increase is delayed for six months, at which time it will be granted if brought up to a completely satisfactory level or denied if performance remains below completely satisfactory.

(i) If an employee receives an unsatisfactory performance evaluation, he/she is not eligible for his/her salary increase on his/her anniversary date.

(j) Appeals process for employees is defined in Chapter 14.3.

10.3 PERFORMANCE IMPROVEMENT PLAN (PIP) Any employee who exhibits substandard work performance shall be subjected to a Performance Improvement Plan (PIP) that may be included in the evaluation form or appended to it and shall include:

- (i) the specific deficiencies observed in the employee's performance;
- (ii) the necessary improvement;
- (iii) the period of time in which improvement must occur; and
- (iv) what further action will result if the employee fails to show satisfactory improvement.

The Performance Improvement Plan should be signed by both the employee and the supervisor and be maintained in the employee's personnel file. If the employee refuses to sign, the supervisor should document this for the file.

If an employee continues to exhibit substandard work performance beyond the established time limits and below expected level, the options available to the supervisor include reassignment or termination.

CHAPTER 11

PROFESSIONAL DEVELOPMENT

11.1 POLICY It is the joint responsibility of the Program Manager and the CLCJPE Administrator to foster and promote training programs, contingent upon funding, for the purpose of improving the quality of performance and aiding employees to equip themselves for advancement in CLCJPE Service. Employees have the ultimate responsibility to seek and use appropriate development options to enhance their own career progress.

11.2 IDENTIFYING TRAINING NEEDS At the time of the supervisor-employee appraisal discussion, the supervisor and employee should discuss areas where training is needed or desirable for performance in the employee's present job or would be helpful in developing additional skills for growth into other positions in the CLCJPE. The Program Manager should forward a written report of training needs to the CLCJPE Administrator and include a request for funding these needs in the annual operating budget. Department Managers should keep themselves apprised of training programs that may be of help or interest both to themselves and their employees.

11.3 ADMINISTRATION OF EMPLOYEE TRAINING PROGRAMS The CLCJPE Administrator coordinates information on training programs, provides assistance to departments in meeting their specific needs, develops supervisory and management training programs and assists in developing methods of evaluating training programs.

The CLCJPE Administrator is responsible for keeping records of all approved training courses and programs and a record of employees who successfully complete such courses and programs.

11.4 TUITION REIMBURSEMENT

In order to encourage CLCJPE employees to further their educational, professional, and vocational development, the CLCJPE may provide up-to 100% reimbursement of tuition and course related non-refundable registration fees for job related educational courses at the College Level and/or Graduate Level for full-time employees contingent on the following:

1. The employee must have worked on a full-time basis at least six (6) months prior to starting the course;
2. The employee must have the approval of the Program Manager prior to registering for the course;
3. The course must be taken from an accredited college, university, or technical school;

4. A passing grade, of 2.5 or the equivalent of a C grade, must be achieved;
5. The employee must remain with the CLCJPE on a full-time basis at least twelve (24) months after the completion of the course. If an employee leaves CLCJPE service or is no longer a full-time employee, within this 24 month window, the employee must reimburse the CLCJPE in full for the cost of the course;
6. Availability of funds for the course;
7. Attendance of the course does not require time off from the job, which adversely affects the operation of the department;
8. The CLCJPE will not reimburse an employee for his/her time or travel expenses to attend courses under this policy.

The CLCJPE Administrator has the discretion to limit an employee's eligibility for reimbursement to one class per semester/quarter.

11.5 TUITION REIMBURSEMENT PROCEDURES In order to effectively and equitably implement the CLCJPE's tuition reimbursement policy, awards will be made based on the availability of funds on a per semester basis. Requests for tuition reimbursements are submitted to the CLCJPE Administrator. In order to allow for an equitable allocation between semesters, employees who plan on enrolling in a spring course should indicate their intentions during fall enrollment. All requests to attend classes on a reimbursement basis will include a course description.

All tuition reimbursement requests are approved by the Program Manager and submitted in writing to the CLCJPE Administrator.

11.6 OTHER TRAINING Other training opportunities, such as workshops, day long training or seminars, are encouraged. In these cases, Section 11.4 will not apply.

CHAPTER 12
CONDUCT OF EMPLOYEES

12.1 POLICY All persons employed by the CLCJPE hold positions of public trust and must present themselves in a professional and appropriate manner. Employees are prohibited from engaging in any conduct which would reflect unfavorably upon the CLCJPE. Employees who act in a manner not consistent with the standards described above will be subject to discipline.

If an investigation is warranted due to the conduct of an employee, the employee may be suspended with or without pay at the discretion of the CLCJPE Administrator upon recommendation by the Program Manager.

12.2 ETHICS CLCJPE employees must avoid any action which may result in or create the appearance of using public office for private gain, giving preferential treatment to any person, or losing impartiality in conducting CLCJPE business. Employees are expected to adhere to conduct established by state law, M.G.L. 268A. Copies of M.G.L. 268A are available from the CLCJPE Administrator.

12.3 RECEIPT OF GIFTS Employees are expressly prohibited from soliciting or accepting gifts, gratuity, favors, entertainment, loans, or any other item of monetary value of \$50.00 or more from any person who has or may be seeking to obtain business with or privilege with the CLCJPE, or from any person within or outside CLCJPE employment whose interests may be affected by the employee's performance or nonperformance of official duties.

Acceptance of nominal gifts in keeping with special occasions, such as marriage, retirement, or illness; food and refreshments in the ordinary course of business meetings; or unsolicited advertising or promotional material, e.g., pens, notepads, calendars of nominal intrinsic value is permitted.

12.4 BUSINESS ACTIVITIES AND SOLICITATION Employees are prohibited from engaging in any business other than their regular duties during working hours; this policy specifically forbids such activities as solicitation of fellow employees, lending of money for profit or any similar activity.

12.5 OUTSIDE EMPLOYMENT The CLCJPE views a full-time employee's position with the CLCJPE as his/her primary employment and any other employment as secondary. Such outside

employment cannot in any manner interfere with proper and effective job performance, result in conflict of interest, or subject the CLCJPE to public criticism or embarrassment.

12.6 PRIVILEGED INFORMATION Employees may deal with plans and programs of significant public interest. Employees must not use this privileged information for their own financial advantage or to provide friends and acquaintances with financial advantages, or with information which could be used for financial advantage. If an employee finds that he/she has an outside financial interest which could be affected by CLCJPE plans or activities, he/she must immediately report the situation to his/her supervisor. Each employee is charged with the responsibility of insuring that he/she releases only information that should be made available to the general public. Violation of privileged information or use for private gain is just cause for discharge of the employee.

12.7 USE OF PROPERTY Employees, supervisors and Program will not, directly or indirectly, use or allow the use of CLCJPE property of any kind for other than official activities.

12.8 POLITICAL ACTIVITY All employees are entitled to exercise their rights as citizens to express their opinions and to cast their votes.

Employees, Supervisors and Department Managers may not:

- (a) Engage in political activity during their working hours.
- (b) Use official authority or influence for the purpose of interfering with or affecting the result of an election or nomination for office;
- (c) Directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend or contribute anything of value to a party, committee, organization, agency or person for political purposes.

12.9 DRUG FREE WORKPLACE The CLCJPE recognizes and acknowledges that the abuse of alcohol and controlled substances is a serious and complex disease/condition which has a detrimental effect on the professional and personal lives of its employees, the CLCJPE and the community. Because the CLCJPE is committed to being part of the solution to such problems in order to ensure the safety of the workplace, its employees and the public, this policy is hereby established.

The unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in all CLCJPE work places. The CLCJPE, from time to time, distributes to all employees, drug awareness and education materials which the employee must read and acknowledge. These materials will describe the dangers of substance abuse, the state-wide policy

of a drug free workplace, available substance abuse counseling, and rehabilitation and assistance programs. The CLCJPE, from time to time, distributes to all supervisors similar materials which include education specifically addressing the supervisor's role in maintaining a drug free workplace. As a condition of employment, the terms of this policy must be adhered to, and the violation of the prohibition will result in the following human resources actions against the violator:

- a) Mandatory participation and successful completion of an approved drug rehabilitation or assistance program.
- b) Unpaid leave of absence pending successful completion of a program described under a) above, or
- c) Discipline up to and including termination.

The severity of any human resources action is decided upon recommendation of the supervisor of such employee to the CLCJPE Administrator. The Administrator either approves, modifies or denies such recommendation in accordance with established human resources policies. Any employee who violates these prohibitions will also risk legal prosecution.

As a further condition of employment, employees must notify their supervisor of any criminal drug statute conviction for a violation occurring within the workplace no later than five days after such conviction.

The CLCJPE will, from time to time, update, amplify and reinforce its policy set out above through the dissemination of drug education and awareness material and programs which may necessitate attendance at lectures, seminars, or films.

CHAPTER 13

DISCIPLINE

13.1 POLICY All CLCJPE employees are responsible for observing the policies and regulations set by the CLCJPE for the efficient operation of CLCJPE. Failure to comply with standards of conduct or CLCJPE rules and policies may result in discipline.

13.2 DISCIPLINE The CLCJPE Administrator, Program Managers, and Supervisors are responsible for the proper and efficient operation of CLCJPE and for enforcing all policies and regulations. Discipline will be carried out with the utmost concern for individuals involved and avoid intentionally embarrassing the employee being disciplined. The purpose of the procedure is to correct negative situations and enable the employee to achieve success on the job.

13.3 PROCEDURES FOR DISCIPLINE

- (a) **Oral Reprimand** A Program Manager, or Supervisor, observing the action of an employee warranting discipline, may reprimand the employee. The warning is given with regard for minimizing embarrassment to the employee and includes suggestions as to how the behavior or performance can be improved. An oral reprimand is noted in the employee's human resources file.
- (b) **Written Reprimand** After an oral warning, or as otherwise warranted, the Program Manager or supervisor can issue a written warning to the employee including reasons for the warning and an offer of assistance in correcting the unsatisfactory situation. A copy of the reprimand is placed in the employee's human resources file and carries a specified period in which the behavior will be improved. The employee may prepare his/her written response to accompany the written reprimand in the employee's human resources file. If the situation is improved, the employee will be notified in writing.
- (c) **Suspension** A Program Manager may temporarily suspend an employee without pay for a maximum of five (5) days. All suspensions will be reviewed by the CLCJPE Administrator, or designee, within one business day for affirmation of the department manager's decision. The purpose of a suspension is to serve as a final warning to an employee that continued misbehavior or poor performance may result in discharge. Suspension is generally imposed only when prior warnings or reprimands have not caused the employee to bring his/her performance or behavior up to the expected standard. In some cases involving serious misconduct, suspension may be the first disciplinary action taken.

A Program Manager will document a suspension in writing and forward to the CLCJPE Administrator for retention in the employees' human resources file.

- (d) Dismissal The CLCJPE Administrator, may terminate an employee for good cause after due consultation with the department manager recommending dismissal. The employee must be given a written notice signed by the appointing authority specifying the effective date of termination, the charge, the specific behavior and the dates (where appropriate) that support the charge, and any circumstances affecting the severity of the discipline. The employee is eligible for a hearing before the CLCJPE Governing Board within fourteen (14) days of the date of dismissal. Employees having rights under M.G.L. Ch. 35, s.51 or under Ch. 32, S.16, are not to be dismissed except in accordance with the procedures of the applicable statute. See Attachment A.
- (e) Discipline is generally a progressive procedure; however, suspension or dismissal may be the initial step taken depending upon the severity of the offense.

13.4 PRIVACY OF INFORMATION In all instances both the employee's right to privacy and the right of the public to have access to public information are preserved by the observance of the appropriate statutes and laws governing both.

CHAPTER 14

GRIEVANCE AND DISCRIMINATION COMPLAINT PROCEDURES

14.1 COMPLAINT POLICY A discrimination or harassment complaint will be kept confidential to the maximum extent possible. If an employee is found responsible for harassing another employee, appropriate discipline will be taken against the offending employee.

The CLCJPE prohibits any form of retaliation against an employee for filing a complaint under this policy or for assisting in a complaint investigation. However, if after investigating a complaint of harassment or unlawful discrimination, the CLCJPE determines that the employee has knowingly provided false information regarding the complaint, discipline may be taken against the individual who filed the complaint or who knowingly gave false information.

14.2 GRIEVANCE AND DISCRIMINATION COMPLAINT RIGHTS An employee who feels aggrieved by an action taken under the provisions of these policies; who feels he/she has been discriminated against on the basis of age, race, color, religion, sex, marital status, sexual orientation, national origin, disability, or veteran status, or any other non-merit factor (except where such a factor is a bona fide occupational requirement); or who has experienced job-related harassment or intimidation based on sex, race, or another factor, may personally, or through his/her representative, appeal for relief from that condition. It is understood that issues involving increase or decrease of general wage rates or salaries shall not be considered the subject of a grievance.

14.3 GRIEVANCE PROCEDURE All grievances are handled in accordance with the following procedures:

- (a) The employee or representative presents in writing his/her grievance to the Program Manager within ten (10) calendar days of the action being grieved or the employee's knowledge of the grieved action. The Program Manager responds in writing to the employee within five (5) calendar days.
- (b) If such grievance is not resolved by the Program Manager to employee's satisfaction, within ten (10) calendar days, the employee or representative presents, in writing, to the CLCJPE Administrator, information pertaining to the specific section of the policies and procedures which has been misapplied, the date and time, and any other pertinent facts or circumstances. The CLCJPE Administrator responds within fourteen (14) days of the presentation of the grievance.
- (c) If the grievance remains unsettled, the employee must submit in writing to a hearing officer, within ten (10) days from the date of the CLCJPE Administrator's decision, his/her request for a hearing. The hearing officer shall be chosen by the CLCJPE Administrator.

The hearing officer will respond to the grievance within fourteen (14) days of the date of the hearing. This decision is final.

- (d) If the grievance is against the CLCJPE Administrator, the employee or representative presents in writing his/her grievance to the Chair of the CLCJPE Board within ten (10) calendar days of the action being grieved or the employee's knowledge of the grieved action. The Chair of the CLCJPE responds in writing to the employee within five (5) calendar days. The decision of the CLCJPE Chair is final.
- (d) Failure by the employee to respond within the listed time frames is deemed an acceptance of the decision of the previous level.

14.4 DISCRIMINATION AND HARASSMENT COMPLAINT PROCEDURE

The CLCJPE expressly prohibits any form of employee harassment or discrimination based on race, color, religion, gender, sexual orientation, national origin, age, disability, marital status or veteran status. Improper interference with the ability of employees to perform their expected job or duties shall not be tolerated. Discrimination and harassment complaints will be addressed in accordance with procedures set forth in Chapter 14, Section 3.

For complaints involving sexual harassment: See Appendix B.

All discrimination and harassment complaints are handled in accordance with the following procedure.

- (a) The employee must submit a written statement of the discrimination and/or harassment complaint as soon as he/she becomes cognizant of the discrimination. The complaint must be submitted to the Program Manager or CLCJPE Administrator. The complaint must state the basis of the discrimination, the actions giving rise to the discrimination, and the remedy requested.
- (b) The CLCJPE Administrator shall designate an investigator to conduct an investigation and will require all employees of the department to cooperate with the investigation. The investigation will be completed within fifteen (15) days of receipt of the complaint, and forwarded to the CLCJPE Administrator within fourteen (14) days of completing the investigation.

The investigation includes a thorough review of the circumstances under which the alleged discrimination and/or harassment occurred, and any policies and practices related to the work situation which may constitute, or appear to constitute, discrimination and/or harassment even though they have not been expressly cited by the complainant.

- (c) The CLCJPE Administrator will consider the results of the investigation and will render a written decision to the complainant and other involved parties within ten (10) days of receipt of the investigator's findings.

(e) If the complaint is not resolved, the complainant may appeal to the Massachusetts Commission against Discrimination and/or the Equal Opportunity Commission, in accordance with approved procedures of such agency.

14.5 ADA GRIEVANCE PROCEDURE See Appendix D.

14.6 REASONABLE ACCOMODATION POLICY Is maintained by the ADA Coordinator as designated by the CLCJPE Administrator.

Appendix A
CAPE LIGHT COMPACT JOINT
POWERS ENTITY
HARASSMENT OF INDIVIDUALS IN PROTECTED CLASSES¹:
POLICY AND PROCEDURES

I. **Policy**

A. **Introduction**

Cape Light Compact Joint Powers Entity (the "Cape Light Compact Joint Powers Entity") depends upon a work environment of tolerance and respect for the achievement of its goals. The Cape Light Compact Joint Powers Entity is committed to providing a working environment that is free of all forms of abuse, harassment, or discrimination. The Cape Light Compact Joint Powers Entity recognizes the right of all employees to be treated with respect and dignity.

Harassment on the basis of race, religion, creed, color, national origin, sex/gender, gender identity, age, physical or mental disability, sexual orientation, criminal record (inquires only), ancestry, retaliation, sexual harassment or genetic information (hereafter referred to as "protected class harassment") is a form of behavior that adversely affects the employment relationship. It is prohibited by federal and/or state law. Protected class harassment of individuals occurring in the workplace or in other settings in which individuals of the Cape Light Compact Joint Powers Entity may find themselves in connection with their employment is unlawful and will not be tolerated by the Cape Light Compact Joint Powers Entity. The Cape Light Compact Joint Powers Entity also condemns and prohibits protected class harassment by any applicant, client, vendor or visitor.

Because the Cape Light Compact Joint Powers Entity takes allegations of protected class harassment seriously, it will respond promptly to complaints of protected class harassment and where it is determined that inappropriate conduct has occurred, it will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate, including discharge.

It is important to note that while this policy sets forth our goals of promoting a workplace that is free of protected class harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of protected class harassment.

B. **Definition of Protected Class Harassment**

Protected class harassment refers to behavior, which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/or interferes with the ability of the employee to work effectively. While it is not possible to list all of the circumstances that may constitute protected class harassment, depending upon the totality of the facts, including the severity of the conduct and its pervasiveness, following is a list of situations that could constitute protected class harassment. The list of situations is non-exhaustive:

- verbal abuse on the basis of any protected status;
- use of words that degrade a protected class or person because of his/her protected class status;

- jokes or language about a protected class;
- obscene or suggestive gestures or sounds intended to relate to the protected class;
- teasing related to the protected class;
- verbal comments of a nature about an individual's appearance or terms used to describe an individual that are related to the individual's protected class;
- verbal abuse, comments, jokes, teasing or threats directed at a person because of his/her

¹ Sexual harassment is covered by a separate policy, which has been issued to all employees

- protected class status;
- posting or distributing objects, pictures, cartoons or other materials degrading to the protected class or a person because of his/her protected class status;
- letters or notes that degrade the protected class or a person because of his/her protected class status;
- sending offensive or discriminatory messages or materials through the use of electronic communications (e.g., electronic mail, including the Internet, voice mail and facsimile) which are degrading to the protected class or a person because of his/her protected class status;
- condoning harassment on the basis of protected class.

Harassment on the basis of protected class status is not limited to behavior by a non-member of the protected class. Protected class harassment can occur in a variety of circumstances. Here are some things to remember:

- The harasser does not have to be the victim's supervisor;
- A member of the protected class may be victimized by another member of the protected class;
- The victim does not have to be the person at whom the unwelcome protected class harassment is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the co-worker or interferes with the co-worker's work performance.

Individual Responsibilities

Each individual of the Cape Light Compact Joint Powers Entity is personally responsible for:

- ensuring that his/her conduct does not harass any other employee or person with whom the employee comes in contact on the job, such as an outside vendor;
- cooperating in any investigation of alleged protected class harassment by providing any information he/she possesses concerning the matter being investigated;
- actively participating in efforts to prevent and eliminate protected class harassment and to maintain a working environment free from such discrimination; and
- ensuring that an employee who files a protected class harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

C. The Rule

It is, therefore, against the policy of the Cape Light Compact Joint Powers Entity for any individual, whether a member of a protected class or not, whether an employee or supervisor, to harass another individual on the basis of protected class status by:

- making submission to such conduct is made either implicitly or explicitly a term or condition of an employee's employment;
 - making submission to, or rejection of, such conduct by an individual is made the basis for employment decisions affecting the employee;
 - intending to or having the effect of interfering with an individual's work performance;
- or
- by creating a hostile or intimidating work environment for the employee.

It is also against the policy of the Cape Light Compact Joint Powers Entity for an individual to harass any person with whom the employee comes in contact on the job or to engage in any protected class harassment or inappropriate or unprofessional conduct in the workplace.

D. Retaliation

Retaliation against an individual for filing a complaint of protected class harassment or discrimination, or against any individual for assisting another file a complaint of protected class harassment or discrimination, or for cooperating in an investigation of a protected class harassment or discrimination complaint, is against the law, and will not be tolerated by the Cape Light Compact Joint Powers Entity.

II. Violation of Policy

Any individual violating this policy will be subject to disciplinary action, up to and including immediate

discharge.

III. Procedures for Complaints

A. Complaint

The Cape Light Compact Joint Powers Entity has designated Assistant Human Resources Director to address any complaints by mail at 3195 Main Street, Barnstable, MA 02630 or by calling (508) 375-6646.

If any individual believes he or she has been subjected to harassment on the basis of his/her protected class, the individual should initiate a complaint by contacting the Assistant Human Resources Director. The individual should file the complaint promptly following any incident of protected class harassment. The individual will be asked to write out his or her complaint to document the charge.

If an employee prefers to discuss a possible protected class harassment problem with his or her supervisor, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting protected class harassment and may go directly to Human Resources.

B. Investigation

On receiving the complaint, it will promptly be investigated. This process will be confidential to the extent consistent with an effective investigation, subject to the business needs of the Count.

C. Decision

After the response of the charged individual has been made, and any further investigation that may be warranted has been carried out, the Cape Light Compact Joint Powers Entity will make a final decision. If the Cape Light Compact Joint Powers Entity finds that the allegations in the complaint have been established by the investigation, the Cape Light Compact Joint Powers Entity will initiate discipline of the charged individual. Discipline will be appropriate to the offense and employees involved, and may include discharge.

IV. State and Federal Agencies

The Massachusetts Commission Against Discrimination ("MCAD"), located at One Ashburton Place, Boston, MA 02108, and 436 Dwight Street, Springfield, MA 01103, is responsible for enforcing the Massachusetts discrimination and protected class harassment law. The U.S. Equal Employment Opportunity Commission ("EEOC"), located at JFK Federal Office Building, Government Center, Room 475, Boston, MA 02203, is responsible for enforcing the federal law prohibiting protected class harassment. The MCAD and EEOC may be contacted at the above addresses. A complaint to the MCAD or EEOC may be filed within 300 days of the last date of discrimination.

Adopted by the Board of Cape Light Compact Joint Powers Entity on:

V. Acknowledgment of Receipt of Policy

ACKNOWLEDGMENT OF RECEIPT

I, _____, an employee at _____, hereby

PRINT NAME

PRINT DEPARTMENT

acknowledge receipt of this Protected Classes Harassment Policy from the Cape Light Compact Joint Powers Entity, and I have read its contents.

Signature

(date)

APPENDIX B

CAPE LIGHTCOMPACT JOINT POWERS ENTITY SEXUAL HARASSMENT POLICY

I. Introduction

It is the goal of Cape Light Compact Joint Powers Entity to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

Because Cape Light Compact Joint Powers Entity takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

II. Definition of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is this: "sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- a. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- b. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

Unwelcome sexual advances -- whether they involve physical touching or not

Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life, comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess

Displaying sexually suggestive objects, pictures, cartoons

Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments

Inquiries into one's sexual experiences, and

Discussion of one's sexual activities

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

III. Complaints of Sexual Harassment

If any of our employees believes that he or she has been subjected to sexual harassment, the employee has the right to file a complaint with the Cape Light Compact Joint Powers Entity. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting the Cape Light Compact Joint Powers Entity Administrator who is also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

IV. Sexual Harassment Investigation

When we receive the complaint we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed sexual harassment. The results of the investigation will be documented.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action.

V. Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

VI. State and Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 300 days; MCAD - 300 days).

The United States Equal Employment Opportunity Commission ("EEOC")

The Massachusetts Commission Against Discrimination ("MCAD")

Adopted by the Cape Light Compact Joint Powers Entity Governing Board on

ACKNOWLEDGMENT OF RECEIPT

I, _____, an employee at _____, hereby

PRINT NAME

PRINT DEPARTMENT

acknowledge receipt of this Sexual Harassment Policy from the Cape Light Compact Joint Powers Entity, and I have read its contents.

Signature

(date)

APPENDIX C
CAPE LIGHT COMPACT JOINT POWERS ENTITY CORI POLICY

**MASSACHUSETTS DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SYSTEMS
(DCJIS): MODEL CORI POLICY**

When conducting criminal background investigations, whether criminal offender record information is obtained from the Department of Criminal Justice or any other source, Cape Light Compact Joint Powers Entity shall maintain a written offender record information policy providing that, in addition to any obligations required by the commissioner by regulation, it will;

1. Notify the applicant of the potential adverse decision based on the criminal offender record information.
2. Provide a copy of the criminal offender record information and the policy to the applicant.
3. Provide information concerning the process for correcting a criminal record.

Any Cape Light Compact Joint Powers Entity employee authorized to conduct criminal background investigations must first complete ICORI training through the Massachusetts Executive Office of Public Safety and Security (EOPSS). This training is available online under the EOPSS website. The criminal offender record information is confidential and must be handled in a discreet manner. Copies of this information must be provided to Human Resources and maintained in a confidential and secure location.

This policy is applicable to the criminal history screening of prospective and current employees, subcontractors, volunteers and interns, professional licensing applicants, and applicants for the rental or leasing of housing.

Where Criminal Offender Record Information (CORI) and other criminal history checks may be part of a general background check for employment, volunteer work, licensing purposes, or the rental or leasing of housing, the following practices and procedures will be followed.

I. CONDUCTING CORI SCREENING

CORI checks will only be conducted as authorized by the DOIS and MGL c. 6, §.172, and only after a CORI Acknowledgement Form has been completed.

With the exception of screening for the rental or leasing of housing, if a new CORI check is to be made on a subject within a year of his/her signing of the CORI Acknowledgement Form, the subject shall be given seventy two (72) hours' notice that a new CORI check will be conducted.

If a requestor is screening for the rental or leasing of housing, a CORI Acknowledgement Form shall be completed for each and every subsequent CORI check.

II. ACCESS TO CORI

All CORI obtained from the DOIS is confidential, and access to the information must be limited to those individuals who have a "need to know". This may include, but not be limited to, hiring managers and staff submitting the CORI requests and staff charged with processing job applications. (Requestor Organization Name) must maintain and keep a current list of each individual authorized to have access to or view CORI. This list must be updated every six (6) months and is subject to inspection upon request by the DOIS at any time.

III. CORI TRAINING

An informed review of a criminal record requires training. Accordingly, all human resources authorized to review or access CORI at (Requestor Organization Name) will review, and will be thoroughly familiar with the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

Additionally, if (Requestor Organization Name) is an agency required by MGL c. 6, s. 171A, to maintain a CORI Policy, all human resources authorized to conduct criminal history background checks and/or to review CORI information will review, and will be thoroughly familiar with the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

IV. USE OF CRIMINAL HISTORY IN BACKGROUND SCREENING

CORI used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied.

Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

V. VERIFYING A SUBJECT'S IDENTITY

If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant.

If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual

authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.

VI. INQUIRING ABOUT CRIMINAL HISTORY

In connection with any decision regarding employment, volunteer opportunities, housing, or professional licensing, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

VII. DETERMINING SUITABILITY

If a determination is made, based on the information as provided in section V of this policy, that the criminal record belongs to the subject, and the subject does not dispute the record's accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:

- a) Relevance of the record to the position sought
- b) the nature of the work to be performed;
- c) Time since the conviction:
- d) Age of the candidate at the time of the offense;
- e) Seriousness and specific circumstances of the offense;
- f) The number of offenses;
- g) Whether the applicant has pending charges;
- h) Any relevant evidence of rehabilitation or lack thereof; and
- i) Any other relevant information, including information submitted by the candidate or requested by the organization.

The applicant is to be notified of the decision and the basis for it in a timely manner.

VIII. ADVERSE DECISIONS BASED ON CORI

If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified immediately. The subject shall be provided with a copy of the organization's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy of the CORI record. Subjects shall also be provided a copy of DOIS' *Information Concerning the Process for Correcting a Criminal Record*.

IX. SECONDARY DISSEMINATION LOGS

All CORI obtained from the DOIS is confidential and can only be disseminated as authorized by law and regulation. A central secondary dissemination log shall be used to record any dissemination of CORI outside this organization, including dissemination at the request of the subject.

X. CORI INFORMATION REQUEST EXCLUSIONS (MGL c. 151b, Subsection 4(9))

1. An arrest that did not result in a conviction
2. A criminal detention or disposition that did not result in a conviction
3. A first conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray, or disturbance of the peace
4. A conviction of a misdemeanor where the date of the conviction predates the inquiry by more than 5 years
5. Sealed records and juvenile offenses

**APPENDIX D
CAPE LIGHT COMPACT JOINT POWERS ENTITY
AMERICANS WITH DISABILITIES ACT
POLICY AND ACCOMMODATION REQUESTS PROCEDURES**

Adopted on:

Policy Cape Light Compact Joint Powers Entity does not discriminate based upon disability and provides reasonable accommodations for qualified individuals with disabilities in a fair and equitable manner, and in accordance with applicable federal and state law.

This policy applies to employees of Cape Light Compact Joint Powers Entity, applicants for employment, volunteers and users of services in Cape Light Compact Joint Powers Entity.

Federal and State Regulations

The Rehabilitation Act of 1973. Section 504 of the Rehabilitation Act makes it illegal for any entity receiving federal financial assistance to discriminate on the basis of disability. Section 504 obligates local governments to ensure that people with disabilities have equal access to any programs, services, or activities. Covered entities, such as local governments, are also required to ensure that employment practices do not discriminate based upon disability.

The Americans with Disabilities Act (ADA) requires that state and local governments provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden.

Massachusetts General Law c 93 section 103 and Article CXIV of the Amendments to the Massachusetts Constitution prohibits discrimination, exclusion from participation, and denial of benefits on the basis of disability in any program or activity in the Commonwealth.

Definitions

ADA: Americans with Disabilities Act

Disability: According to the Americans with Disabilities Act (ADA), a disability is defined as a physical or mental impairment that substantially limits one or more of a person's major life activities (for example, walking, standing, or breathing).

Essential Functions: Job duties considered so fundamental that the individual cannot do the job without performing them.

Interactive Process: The interactive process is when an employer and an individual with a documented disability work together to identify what barriers exist to the individual's performance of a particular job function. This analysis often includes a review of the individual's abilities and limitations and which factors or job tasks pose difficulties.

Qualified Persons with Disabilities: An employee or applicant with a disability who satisfies skill, experience, education and other job-related requirements for the position and who can perform the essential functions of the job in question with or without reasonable accommodations. This includes part-time, full-time, probationary, non-career status and temporary employees.

Undue Hardship: An action requiring significant difficulty, expense or disruption, or an action that would fundamentally alter the nature of an operation at Cape Light Compact Joint Powers Entity

Reasonable Accommodations A copy of the ADA Procedure for Handling Reasonable Accommodations can be obtained from the ADA Coordinator.

Grievance Procedure If discrimination based upon disability has occurred, Cape Light Compact Joint Powers Entity will take immediate action to eliminate the discrimination and resolve the grievance in accordance with the ADA Grievance Procedure. The ADA Grievance Procedure may be used by anyone who wishes to file a grievance alleging discrimination on the basis of disability in employment practices and policies or the provision of services, activities, programs, and benefits by Cape Light Compact Joint Powers Entity. A complete copy of the ADA Grievance Procedure is publically posted and can be obtained from the ADA Coordinator. A copy of the ADA Grievance Procedure is attached as Addendum A.

Remedies In addition to the above, if an employee or member of the public believes she/he has been discriminated against due to his/her disability; he/she may file a formal complaint with either or both of the following Governmental Agencies:

Massachusetts Commission Against Discrimination
One Ashburton Plaza – Room 601
Boston, MA
(617) 994-6000

U.S. Department of Justice
Civil Rights Division

950 Pennsylvania Avenue, NW
Disability Rights Section - NYAV
Washington, DC 20530
800 - 514 - 0301 (voice)
800 - 514 - 0383 (TTY)

PROCEDURE FOR HANDLING REASONABLE ACCOMMODATION REQUESTS

This procedure outlines how department heads and/or hiring officials should respond to requests for reasonable accommodations in accordance with federal and state laws pertaining to qualified individuals with disabilities as well as the instructions for individuals on how to request accommodations.

The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act require Cape Light Compact Joint Powers Entity to provide appropriate employment accommodations to employees with documented disabilities unless doing so would create an undue hardship, compromise the health and safety of staff of the County, or fundamentally alter the nature of the County's employment mission.

All requests for reasonable accommodations will be handled by the Department Head or his/her designee. Department Heads may request the assistance of the County ADA Coordinator (Director of Department of Human Services) in the event the request cannot be accommodated within the Department easily.

Training Requirements

1. Department Heads and Hiring Officials are expected to be familiar with the laws and statutes relating to the Americans with Disabilities Act and the Rehabilitation Act that apply to employment and provision of services to the public.
2. The ADA Coordinator will provide annual information to employees regarding compliance with the ADA and other disability laws and statutes. County employees will receive information and instruction on:
 - how to request communication access for individuals who are Deaf or hard of hearing and have requested accommodation
 - how to operate the TTY in the Department of Human Services as well as the procedure for instructing staff in the process for retrieving calls
 - accessible print and web guidelines
 - conducting an accessible meeting or event
 - other emerging topics

Guidelines for Job Applicants

The ADA prohibits employers from asking job applicants about the existence, nature, or severity of a disability. Applicants for employment at Cape Light Compact Joint Powers Entity should inform the hiring official or the Department of Human Resources of the need for any reasonable accommodation. Upon receiving an accommodation request, hiring officials and Human Resources designees should do one of the following:

1. Engage the job applicant in an interactive process to determine whether the individual qualifies as an individual with a disability and if so, determine what reasonable accommodation can be offered, or
2. Contact the ADA Coordinator for assistance, if needed, at (508) 375-6626.

As part of the interactive process, the hiring official may ask the applicant to provide medical and other documentation to support his/her request. All medical documents will be handled confidentially. Once the required documentation has been submitted, the requested accommodation(s) will be discussed with the applicant, and if necessary, possible alternatives may be suggested.

The Human Resources Department is responsible for implementing all approved accommodations during the interview process.

Guidelines for Employees

Upon receiving an accommodation request, the Department Head/Supervisor should engage the employee in an interactive dialogue to clarify the type of accommodation(s) needed. The Department Head/Supervisor with assistance of HR and ADA Coordinator, if needed, should determine, among other things:

- whether the employee qualifies as an individual with a disability,
- the essential functions of the employee's job,
- whether the accommodation(s) being sought is "reasonable" and/or to identify alternative accommodation(s).

As part of the interactive process, the Department Head/Supervisor may ask the employee to provide medical and other documentation to support his/her request for reasonable accommodation. All medical documents will be handled confidentially. After submission of all required documentation, the Department Head/Supervisor may confer with the ADA coordinator, employee, the employee's supervisor and may also confer with Human Resources (HR) to discuss the requested accommodation(s), and if necessary, possible alternatives. After making a final determination on the matter, the Department Head/Supervisor will communicate the decision to the employee, the employee's supervisor and appropriate HR personnel.

Employees who are in disagreement with the outcome of their request for an accommodation may address their concerns by following the ADA Grievance Procedure.

Guidelines for Public Requests

Any eligible person with a disability who desires access to services provided by Cape Light Compact Joint Powers Entity may request a reasonable accommodation from the program. If the person is not provided an accommodation, said person may file a grievance by following the ADA Grievance Procedure.

Requirements for posting of ADA Public Notice and ADA Grievance Procedure

The Cape Light Compact Joint Powers Entity ADA Public Notice and Grievance Procedure are posted in a location accessible to the public and on the County website.

Reporting Requirements

All requests for accommodation and their disposition must be forwarded to the ADA Coordinator within five working days of disposition.

The ADA Coordinator will file requests/dispositions in a locked file for seven years. Only authorized employees will have access to this information. It will not be filed with personnel records.

Each employee will receive training on disability issues, laws and compliance annually as part of the requirements for employment. A record of employee training will be maintained in the HR office and a copy to the ADA Coordinator.

Any grievances related to a request for reasonable accommodations filed by an employee shall immediately be reported to the ADA Coordinator and the Department Head who will collaborate on a resolution of the grievance.

Rights and Responsibilities of Cape Light Compact Joint Powers Entity Employees

Duty to Cooperate

Department heads, supervisors, and other agents of the county have a duty to engage employees and applicants in an interactive process in response to requests for reasonable accommodations. Anyone who feels uncomfortable initiating the interactive

process is encouraged to contact ADA Coordinator at 508-375-6628 as soon as they have notice of a possible need for an accommodation.

Freedom from Retaliation

Any eligible member of the County has the right to request a reasonable accommodation. It is a violation of County policy to retaliate against an individual for requesting an ADA accommodation. Any person who retaliates against an individual is subject to disciplinary action up to and including termination by the County.

Confidentiality

In accordance with the ADA, Cape Light Compact Joint Powers Entity will protect and maintain the privacy and confidentiality of medical information of its employees obtained in connection with the reasonable accommodation process. All medical information will be treated confidentially and maintained securely and separately from personnel files.

Frequently Asked Questions

1. What is a disability?

According to the Americans with Disabilities Act (ADA), disability is defined as a physical or mental impairment that substantially limits one or more of a person's major life activities (for example, walking, standing, or breathing).

2. What is the interactive process?

The interactive process is when an employer and an individual with a documented disability work together to identify what barriers exist to the individual's performance of a particular job function. This analysis often includes a review of the individual's abilities and limitations and which factors or job tasks pose difficulties. Fundamental to the process is ensuring that the employee provides sufficient documentation to enable the County to determine if the condition substantially limits a major life activity, and if so, what accommodation(s) may be reasonable but still permit the employee to meet the essential functions of the employee's position.

3. How are reasonable accommodations made?

Accommodations are provided through an interactive process between the applicant or employee and Hiring Official. The individual requesting the accommodation may be asked to obtain documentation from his/her health care provider to be forwarded to Hiring Official. Supporting documentation from a qualified clinician may include:

- a diagnosis of the impairment and any accompanying test results,

- a detailed description of the specific impairment, functional limitations (with and without the use of mitigating measures such as treatment, aids, and medication), functional need, and the medical justification for such need, and
- a recommendation for the type and duration of the accommodation needed, as well as the rationale underlying the request.

Assistance of the ADA Coordinator may be requested by the hiring official/department head and/or the applicant/employee.

Upon receiving and reviewing the appropriate documentation, a determination will be made regarding the individual's disability status as well as his/her essential job functions as they relate to the accommodation being requested.

4. What should I do if I feel as though I've been discriminated against or harassed because of my disability?

Individuals may report alleged acts of discrimination or harassment on the basis of disability by contacting the ADA Coordinator at 508-375-6628.

Agenda Action Request

Cape Light Compact JPE Governing Board

Meeting Date: 8/2/17

- Aquinnah
- Barnstable
- Bourne
- Brewster
- Chatham
- Chilmark
- Dennis
- Dukes County
- Eastham
- Edgartown
- Falmouth
- Harwich
- Mashpee
- Oak Bluffs
- Orleans
- Provincetown
- Sandwich
- Tisbury
- Truro
- Wellfleet
- West Tisbury
- Yarmouth

Vote to Cape Light Compact JPE CORI Policy

Proposed Motion(s)

- 1) *I move that the Board of Directors vote to adopt the Cape Light Compact JPE CORI Policy, and that the JPE Administrator is authorized and directed to take all action necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote.*

The CLCJPE Administrator met with CLCJPE members David Anthony, Sue Hruby and Colin Odell to review the policy as part of the Policies and Procedures Manual. They, and the CLCJPE Administrator recommend adoption, as presented.

The Policy was prepared by labor counsel, Regina Ryan.

Record of Governing Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

**APPENDIX C
CAPE LIGHT COMPACT JOINT POWERS ENTITY CORI POLICY**

**MASSACHUSETTS DEPARTMENT OF CRIMINAL JUSTICE INFORMATION SYSTEMS
(DCJIS): MODEL CORI POLICY**

When conducting criminal background investigations, whether criminal offender record information is obtained from the Department of Criminal Justice or any other source, Cape Light Compact Joint Powers Entity shall maintain a written offender record information policy providing that, in addition to any obligations required by the commissioner by regulation, it will;

1. Notify the applicant of the potential adverse decision based on the criminal offender record information.
2. Provide a copy of the criminal offender record information and the policy to the applicant.
3. Provide information concerning the process for correcting a criminal record.

Any Cape Light Compact Joint Powers Entity employee authorized to conduct criminal background investigations must first complete ICORI training through the Massachusetts Executive Office of Public Safety and Security (EOPSS). This training is available online under the EOPSS website. The criminal offender record information is confidential and must be handled in a discreet manner. Copies of this information must be provided to Human Resources and maintained in a confidential and secure location.

This policy is applicable to the criminal history screening of prospective and current employees, subcontractors, volunteers and interns, professional licensing applicants, and applicants for the rental or leasing of housing.

Where Criminal Offender Record Information (CORI) and other criminal history checks may be part of a general background check for employment, volunteer work, licensing purposes, or the rental or leasing of housing, the following practices and procedures will be followed.

I. CONDUCTING CORI SCREENING

CORI checks will only be conducted as authorized by the DOIS and MGL c. 6, §.172, and only after a CORI Acknowledgement Form has been completed.

With the exception of screening for the rental or leasing of housing, if a new CORI check is to be made on a subject within a year of his/her signing of the CORI Acknowledgement Form, the subject shall be given seventy two (72) hours' notice that a new CORI check will be conducted.

If a requestor is screening for the rental or leasing of housing, a CORI Acknowledgement Form shall be completed for each and every subsequent CORI check.

II. ACCESS TO CORI

All CORI obtained from the DOIS is confidential, and access to the information must be limited to those individuals who have a "need to know". This may include, but not be limited to, hiring managers and staff submitting the CORI requests and staff charged with processing job applications. (Requestor Organization Name) must maintain and keep a current list of each individual authorized to have access to or view CORI. This list must be updated every six (6) months and is subject to inspection upon request by the DOIS at any time.

III. CORI TRAINING

An informed review of a criminal record requires training. Accordingly, all human resources authorized to review or access CORI at (Requestor Organization Name) will review, and will be thoroughly familiar with the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

Additionally, if (Requestor Organization Name) is an agency required by MGL c. 6, s. 171A, to maintain a CORI Policy, all human resources authorized to conduct criminal history background checks and/or to review CORI information will review, and will be thoroughly familiar with the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

IV. USE OF CRIMINAL HISTORY IN BACKGROUND SCREENING

CORI used for employment purposes shall only be accessed for applicants who are otherwise qualified for the position for which they have applied.

Unless otherwise provided by law, a criminal record will not automatically disqualify an applicant. Rather, determinations of suitability based on background checks will be made consistent with this policy and any applicable law or regulations.

V. VERIFYING A SUBJECT'S IDENTITY

If a criminal record is received from the DCJIS, the information is to be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided by the applicant to ensure the record belongs to the applicant.

If the information in the CORI record provided does not exactly match the identification information provided by the applicant, a determination is to be made by an individual

authorized to make such determinations based on a comparison of the CORI record and documents provided by the applicant.

VI. INQUIRING ABOUT CRIMINAL HISTORY

In connection with any decision regarding employment, volunteer opportunities, housing, or professional licensing, the subject shall be provided with a copy of the criminal history record, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history. The source(s) of the criminal history record is also to be disclosed to the subject.

VII. DETERMINING SUITABILITY

If a determination is made, based on the information as provided in section V of this policy, that the criminal record belongs to the subject, and the subject does not dispute the record's accuracy, then the determination of suitability for the position or license will be made. Unless otherwise provided by law, factors considered in determining suitability may include, but not be limited to, the following:

- a) Relevance of the record to the position sought
- b) the nature of the work to be performed;
- c) Time since the conviction;
- d) Age of the candidate at the time of the offense;
- e) Seriousness and specific circumstances of the offense;
- f) The number of offenses;
- g) Whether the applicant has pending charges;
- h) Any relevant evidence of rehabilitation or lack thereof; and
- i) Any other relevant information, including information submitted by the candidate or requested by the organization.

The applicant is to be notified of the decision and the basis for it in a timely manner.

VIII. ADVERSE DECISIONS BASED ON CORI

If an authorized official is inclined to make an adverse decision based on the results of a criminal history background check, the applicant will be notified immediately. The subject shall be provided with a copy of the organization's CORI policy and a copy of the criminal history. The source(s) of the criminal history will also be revealed. The subject will then be provided with an opportunity to dispute the accuracy of the CORI record. Subjects shall also be provided a copy of DOIS' *Information Concerning the Process for Correcting a Criminal Record*.

IX. SECONDARY DISSEMINATION LOGS

All CORI obtained from the DOIS is confidential and can only be disseminated as authorized by law and regulation. A central secondary dissemination log shall be used to record any dissemination of CORI outside this organization, including dissemination at the request of the subject.

X. CORI INFORMATION REQUEST EXCLUSIONS (MGL c. 151b, Subsection 4(9))

1. An arrest that did not result in a conviction
2. A criminal detention or disposition that did not result in a conviction
3. A first conviction for any of the following misdemeanors: drunkenness, simple assault, speeding, minor traffic violations, affray, or disturbance of the peace
4. A conviction of a misdemeanor where the date of the conviction predates the inquiry by more than 5 years
5. Sealed records and juvenile offenses

Agenda Action Request
Cape Light Compact JPE Governing Board
Meeting Date: 8/2/17

- Aquinnah*
- Barnstable*
- Bourne*
- Brewster*
- Chatham*
- Chilmark*
- Dennis*
- Dukes County*
- Eastham*
- Edgartown*
- Falmouth*
- Harwich*
- Mashpee*
- Oak Bluffs*
- Orleans*
- Provincetown*
- Sandwich*
- Tisbury*
- Truro*
- Wellfleet*
- West Tisbury*
- Yarmouth*

Vote to Cape Light Compact JPE Sexual Harassment Policy

Proposed Motion(s)

1) *I move that the Board of Directors vote to adopt the Cape Light Compact JPE Sexual Harassment Policy, and that the JPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote.*

The CLCJPE Administrator met with CLCJPE members David Anthony, Sue Hruby and Colin Odell to review the policy as part of the Policies and Procedures Manual. They, and the CLCJPE Administrator recommend adoption, as presented.

The Policy was prepared by labor counsel, Regina Ryan.

Record of Governing Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

APPENDIX B
CAPE LIGHTCOMPACT JOINT POWERS ENTITY SEXUAL HARASSMENT POLICY

I. Introduction

It is the goal of Cape Light Compact Joint Powers Entity to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

Because Cape Light Compact Joint Powers Entity takes allegations of sexual harassment seriously, we will respond promptly to complaints of sexual harassment and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this policy sets forth our goals of promoting a workplace that is free of sexual harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of sexual harassment.

II. Definition of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is this: "sexual harassment" means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- a. submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- b. such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- ⑤ Unwelcome sexual advances -- whether they involve physical touching or not
- Sexual epithets, jokes, written or oral references to sexual conduct, gossip regarding one's sex life; comment on an individual's body, comment about an individual's sexual activity, deficiencies, or prowess
- Displaying sexually suggestive objects, pictures, cartoons
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments
- Inquiries into one's sexual experiences, and
Discussion of one's sexual activities

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

III. Complaints of Sexual Harassment

If any of our employees believes that he or she has been subjected to sexual harassment, the employee has the right to file a complaint with the Cape Light Compact Joint Powers Entity. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting the Cape Light Compact Joint Powers Entity Administrator who is also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

IV. Sexual Harassment Investigation

When we receive the complaint we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed sexual harassment. The results of the investigation will be documented.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where it is appropriate we will also impose disciplinary action.

V. Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such action may range from counseling to termination from employment, and may include such other forms of disciplinary action as we deem appropriate under the circumstances.

VI. State and Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC - 300 days; MCAD - 300 days).

The United States Equal Employment Opportunity Commission ("EEOC")

The Massachusetts Commission Against Discrimination ("MCAD")

Adopted by the Cape Light Compact Joint Powers Entity Governing Board on

ACKNOWLEDGMENT OF RECEIPT

I, _____, an employee at _____, hereby

PRINT NAME

PRINT DEPARTMENT

acknowledge receipt of this Sexual Harassment Policy from the Cape Light Compact Joint Powers Entity, and I have read its contents.

Signature

(date)

Agenda Action Request

Cape Light Compact JPE Governing Board

Meeting Date: 8/2/17

- Aquinnah
- Barnstable
- Bourne
- Brewster
- Chatham
- Chilmark
- Dennis
- Dukes County
- Eastham
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- Provincetown
- Sandwich
- Tisbury
- Truro
- Wellfleet
- West Tisbury
- Yarmouth

**Vote: Cape Light Compact JPE Harassment of Individuals in Protected Classes:
Policies and Procedures**

Proposed Motion(s)

- 1) *I move that the Board of Directors vote to adopt the Cape Light Compact JPE Harassment of Individuals in Protected Classes: Policies and Procedures, and that the JPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote.*

The CLCJPE Administrator met with CLCJPE members David Anthony, Sue Hruby and Colin Odell to review the policy as part of the Policies and Procedures Manual. They, and the CLCJPE Administrator recommend adoption, as presented.

The Policy was prepared by labor counsel, Regina Ryan.

Record of Governing Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

Appendix A
CAPE LIGHT COMPACT JOINT
POWERS ENTITY
HARASSMENT OF INDIVIDUALS IN PROTECTED CLASSES¹:
POLICY AND PROCEDURES

I. **Policy**

A. **Introduction**

Cape Light Compact Joint Powers Entity (the "Cape Light Compact Joint Powers Entity") depends upon a work environment of tolerance and respect for the achievement of its goals. The Cape Light Compact Joint Powers Entity is committed to providing a working environment that is free of all forms of abuse, harassment, or discrimination. The Cape Light Compact Joint Powers Entity recognizes the right of all employees to be treated with respect and dignity.

Harassment on the basis of race, religion, creed, color, national origin, sex/gender, gender identity, age, physical or mental disability, sexual orientation, criminal record (inquires only), ancestry, retaliation, sexual harassment or genetic information (hereafter referred to as "protected class harassment") is a form of behavior that adversely affects the employment relationship. It is prohibited by federal and/or state law. Protected class harassment of individuals occurring in the workplace or in other settings in which individuals of the Cape Light Compact Joint Powers Entity may find themselves in connection with their employment is unlawful and will not be tolerated by the Cape Light Compact Joint Powers Entity. The Cape Light Compact Joint Powers Entity also condemns and prohibits protected class harassment by any applicant, client, vendor or visitor.

Because the Cape Light Compact Joint Powers Entity takes allegations of protected class harassment seriously, it will respond promptly to complaints of protected class harassment and where it is determined that inappropriate conduct has occurred, it will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate, including discharge.

It is important to note that while this policy sets forth our goals of promoting a workplace that is free of protected class harassment, the policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the definition of protected class harassment.

B. **Definition of Protected Class Harassment**

Protected class harassment refers to behavior, which is not welcomed by the employee, which is personally offensive to him or her, and which undermines morale and/or interferes with the ability of the employee to work effectively. While it is not possible to list all of the circumstances that may constitute protected class harassment, depending upon the totality of the facts, including the severity of the conduct and its pervasiveness, following is a list of situations that could constitute protected class harassment. The list of situations is non-exhaustive:

- verbal abuse on the basis of any protected status;
- use of words that degrade a protected class or person because of his/her protected class status;

- jokes or language about a protected class;
- obscene or suggestive gestures or sounds intended to relate to the protected class;
- teasing related to the protected class;
- verbal comments of a nature about an individual's appearance or terms used to describe an individual that are related to the individual's protected class;
- verbal abuse, comments, jokes, teasing or threats directed at a person because of his/her

¹ Sexual harassment is covered by a separate policy, which has been issued to all employees

- protected class status;
- posting or distributing objects, pictures, cartoons or other materials degrading to the protected class or a person because of his/her protected class status;
- letters or notes that degrade the protected class or a person because of his/her protected class status;
- sending offensive or discriminatory messages or materials through the use of electronic communications (e.g., electronic mail, including the Internet, voice mail and facsimile) which are degrading to the protected class or a person because of his/her protected class status;
- condoning harassment on the basis of protected class.

Harassment on the basis of protected class status is not limited to behavior by a non-member of the protected class. Protected class harassment can occur in a variety of circumstances. Here are some things to remember:

- The harasser does not have to be the victim's supervisor;
- A member of the protected class may be victimized by another member of the protected class;
- The victim does not have to be the person at whom the unwelcome protected class harassment is directed. The victim may be someone who is affected by the harassing conduct, even when it is directed toward another person, if the conduct creates an intimidating, hostile, or offensive working environment for the co-worker or interferes with the co-worker's work performance.

Individual Responsibilities

Each individual of the Cape Light Compact Joint Powers Entity is personally responsible for:

- ensuring that his/her conduct does not harass any other employee or person with whom the employee comes in contact on the job, such as an outside vendor;
- cooperating in any investigation of alleged protected class harassment by providing any information he/she possesses concerning the matter being investigated;
- actively participating in efforts to prevent and eliminate protected class harassment and to maintain a working environment free from such discrimination; and
- ensuring that an employee who files a protected class harassment claim or cooperates in an investigation may do so without fear of retaliation or reprisal.

C. The Rule

It is, therefore, against the policy of the Cape Light Compact Joint Powers Entity for any individual, whether a member of a protected class or not, whether an employee or supervisor, to harass another individual on the basis of protected class status by:

- making submission to such conduct is made either implicitly or explicitly a term or condition of an employee's employment;
- making submission to, or rejection of, such conduct by an individual is made the basis for employment decisions affecting the employee;
- intending to or having the effect of interfering with an individual's work performance;
- or
- by creating a hostile or intimidating work environment for the employee.

It is also against the policy of the Cape Light Compact Joint Powers Entity for an individual to harass any person with whom the employee comes in contact on the job or to engage in any protected class harassment or inappropriate or unprofessional conduct in the workplace.

D. Retaliation

Retaliation against an individual for filing a complaint of protected class harassment or discrimination, or against any individual for assisting another file a complaint of protected class harassment or discrimination, or for cooperating in an investigation of a protected class harassment or discrimination complaint, is against the law, and will not be tolerated by the Cape Light Compact Joint Powers Entity.

II. Violation of Policy

Any individual violating this policy will be subject to disciplinary action, up to and including immediate

discharge.

III. Procedures for Complaints

A. Complaint

The Cape Light Compact Joint Powers Entity has designated Assistant Human Resources Director to address any complaints by mail at 3195 Main Street, Barnstable, MA 02630 or by calling (508) 375-6646.

If any individual believes he or she has been subjected to harassment on the basis of his/her protected class, the individual should initiate a complaint by contacting the Assistant Human Resources Director. The individual should file the complaint promptly following any incident of protected class harassment. The individual will be asked to write out his or her complaint to document the charge.

If an employee prefers to discuss a possible protected class harassment problem with his or her supervisor, the employee may always do so, but employees do not have to go through the regular chain of supervision when reporting protected class harassment and may go directly to Human Resources.

B. Investigation

On receiving the complaint, it will promptly be investigated. This process will be confidential to the extent consistent with an effective investigation, subject to the business needs of the Count.

C. Decision

After the response of the charged individual has been made, and any further investigation that may be warranted has been carried out, the Cape Light Compact Joint Powers Entity will make a final decision. If the Cape Light Compact Joint Powers Entity finds that the allegations in the complaint have been established by the investigation, the Cape Light Compact Joint Powers Entity will initiate discipline of the charged individual. Discipline will be appropriate to the offense and employees involved, and may include discharge.

IV. State and Federal Agencies

The Massachusetts Commission Against Discrimination ("MCAD"), located at One Ashburton Place, Boston, MA 02108, and 436 Dwight Street, Springfield, MA 01103, is responsible for enforcing the Massachusetts discrimination and protected class harassment law. The U.S. Equal Employment Opportunity Commission ("EEOC"), located at JFK Federal Office Building, Government Center, Room 475, Boston, MA 02203, is responsible for enforcing the federal law prohibiting protected class harassment. The MCAD and EEOC may be contacted at the above addresses. A complaint to the MCAD or EEOC may be filed within 300 days of the last date of discrimination.

Adopted by the Board of Cape Light Compact Joint Powers Entity on:

V. Acknowledgment of Receipt of Policy

.....

ACKNOWLEDGMENT OF RECEIPT

I, _____, an employee at _____, hereby

PRINT NAME

PRINT DEPARTMENT

acknowledge receipt of this Protected Classes Harassment Policy from the Cape Light Compact Joint Powers Entity, and I have read its contents.

Signature

(date)

Agenda Action Request

Cape Light Compact JPE Governing Board

Meeting Date: 8/2/17

- Aquinnah
- Barnstable
- Bourne
- Brewster
- Chatham
- Chilmark
- Dennis
- Dukes County
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- Orleans
- Provincetown
- Sandwich
- Tisbury
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- Wellfleet
- West Tisbury
- Yarmouth

Vote: American with Disabilities Act Policy

Proposed Motion(s)

1) *I move that the Board of Directors vote to adopt the Cape Light Compact JPE Americans with Disabilities Act Policy, and that the JPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, or to execute and deliver all documents as may be necessary or appropriate to implement this vote.*

The CLCJPE Administrator met with CLCJPE members David Anthony, Sue Hruby and Colin Odell to review the policy as part of the Policies and Procedures Manual. They, and the CLCJPE Administrator recommend adoption, as presented.

The Policy was prepared by labor counsel, Regina Ryan.

Record of Governing Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

**APPENDIX D
CAPE LIGHT COMPACT JOINT POWERS ENTITY
AMERICANS WITH DISABILITIES ACT
POLICY AND ACCOMMODATION REQUESTS PROCEDURES**

Adopted on:

Policy Cape Light Compact Joint Powers Entity does not discriminate based upon disability and provides reasonable accommodations for qualified individuals with disabilities in a fair and equitable manner, and in accordance with applicable federal and state law.

This policy applies to employees of Cape Light Compact Joint Powers Entity, applicants for employment, volunteers and users of services in Cape Light Compact Joint Powers Entity.

Federal and State Regulations

The Rehabilitation Act of 1973. Section 504 of the Rehabilitation Act makes it illegal for any entity receiving federal financial assistance to discriminate on the basis of disability. Section 504 obligates local governments to ensure that people with disabilities have equal access to any programs, services, or activities. Covered entities, such as local governments, are also required to ensure that employment practices do not discriminate based upon disability.

The Americans with Disabilities Act (ADA) requires that state and local governments provide qualified individuals with disabilities equal access to their programs, services, or activities unless doing so would fundamentally alter the nature of their programs, services, or activities or would impose an undue burden.

Massachusetts General Law c 93 section 103 and Article CXIV of the Amendments to the Massachusetts Constitution prohibits discrimination, exclusion from participation, and denial of benefits on the basis of disability in any program or activity in the Commonwealth.

Definitions

ADA: Americans with Disabilities Act

Disability: According to the Americans with Disabilities Act (ADA), a disability is defined as a physical or mental impairment that substantially limits one or more of a person's major life activities (for example, walking, standing, or breathing).

Essential Functions: Job duties considered so fundamental that the individual cannot do the job without performing them.

Interactive Process: The interactive process is when an employer and an individual with a documented disability work together to identify what barriers exist to the individual's performance of a particular job function. This analysis often includes a review of the individual's abilities and limitations and which factors or job tasks pose difficulties.

Qualified Persons with Disabilities: An employee or applicant with a disability who satisfies skill, experience, education and other job-related requirements for the position and who can perform the essential functions of the job in question with or without reasonable accommodations. This includes part-time, full-time, probationary, non-career status and temporary employees.

Undue Hardship: An action requiring significant difficulty, expense or disruption, or an action that would fundamentally alter the nature of an operation at Cape Light Compact Joint Powers Entity

Reasonable Accommodations A copy of the ADA Procedure for Handling Reasonable Accommodations can be obtained from the ADA Coordinator.

Grievance Procedure If discrimination based upon disability has occurred, Cape Light Compact Joint Powers Entity will take immediate action to eliminate the discrimination and resolve the grievance in accordance with the ADA Grievance Procedure. The ADA Grievance Procedure may be used by anyone who wishes to file a grievance alleging discrimination on the basis of disability in employment practices and policies or the provision of services, activities, programs, and benefits by Cape Light Compact Joint Powers Entity. A complete copy of the ADA Grievance Procedure is publically posted and can be obtained from the ADA Coordinator. A copy of the ADA Grievance Procedure is attached as Addendum A.

Remedies In addition to the above, if an employee or member of the public believes she/he has been discriminated against due to his/her disability; he/she may file a formal complaint with either or both of the following Governmental Agencies:

Massachusetts Commission Against Discrimination
One Ashburton Plaza – Room 601
Boston, MA
(617) 994-6000

U.S. Department of Justice
Civil Rights Division

Agenda Action Request

Cape Light Compact JPE Governing Board

Meeting Date: 8/2/17

- Aquinnah
- Barnstable
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- Orleans
- Provincetown
- Sandwich
- Tisbury
- Truro
- Wellfleet
- West Tisbury
- Yarmouth

**Vote: American with Disabilities Act Reasonable Accommodations
Policy: Policy and Procedures**

Proposed Motion(s)

1) *I move that the Board of Directors vote to adopt the Cape Light Compact JPE Americans with Disabilities Act Reasonable Accommodations Policy: Policy and Procedures, and that the JPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and delive all documents as may be necessary or appropriate to implement this vote.*

The CLCJPE Administrator met with CLCJPE members David Anthony, Sue Hruby and Colin Odell to review the policy as part of the Policies and Procedures Manual. They, and the CLCJPE Administrator recommend adoption, as presented.

The Policy was prepared by labor counsel, Regina Ryan.

Record of Governing Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

950 Pennsylvania Avenue, NW
Disability Rights Section - NYAV
Washington, DC 20530
800 - 514 - 0301 (voice)
800 - 514 - 0383 (TTY)

PROCEDURE FOR HANDLING REASONABLE ACCOMMODATION REQUESTS

This procedure outlines how department heads and/or hiring officials should respond to requests for reasonable accommodations in accordance with federal and state laws pertaining to qualified individuals with disabilities as well as the instructions for individuals on how to request accommodations.

The Americans with Disabilities Act (ADA) and Section 504 of the Rehabilitation Act require Cape Light Compact Joint Powers Entity to provide appropriate employment accommodations to employees with documented disabilities unless doing so would create an undue hardship, compromise the health and safety of staff of the County, or fundamentally alter the nature of the County's employment mission.

All requests for reasonable accommodations will be handled by the Department Head or his/her designee. Department Heads may request the assistance of the County ADA Coordinator (Director of Department of Human Services) in the event the request cannot be accommodated within the Department easily.

Training Requirements

1. Department Heads and Hiring Officials are expected to be familiar with the laws and statutes relating to the Americans with Disabilities Act and the Rehabilitation Act that apply to employment and provision of services to the public.
2. The ADA Coordinator will provide annual information to employees regarding compliance with the ADA and other disability laws and statutes. County employees will receive information and instruction on:
 - how to request communication access for individuals who are Deaf or hard of hearing and have requested accommodation
 - how to operate the TTY in the Department of Human Services as well as the procedure for instructing staff in the process for retrieving calls
 - accessible print and web guidelines
 - conducting an accessible meeting or event
 - other emerging topics

Guidelines for Job Applicants

The ADA prohibits employers from asking job applicants about the existence, nature, or severity of a disability. Applicants for employment at Cape Light Compact Joint Powers Entity should inform the hiring official or the Department of Human Resources of the need for any reasonable accommodation. Upon receiving an accommodation request, hiring officials and Human Resources designees should do one of the following:

1. Engage the job applicant in an interactive process to determine whether the individual qualifies as an individual with a disability and if so, determine what reasonable accommodation can be offered, or
2. Contact the ADA Coordinator for assistance, if needed, at (508) 375-6626.

As part of the interactive process, the hiring official may ask the applicant to provide medical and other documentation to support his/her request. All medical documents will be handled confidentially. Once the required documentation has been submitted, the requested accommodation(s) will be discussed with the applicant, and if necessary, possible alternatives may be suggested.

The Human Resources Department is responsible for implementing all approved accommodations during the interview process.

Guidelines for Employees

Upon receiving an accommodation request, the Department Head/Supervisor should engage the employee in an interactive dialogue to clarify the type of accommodation(s) needed. The Department Head/Supervisor with assistance of HR and ADA Coordinator, if needed, should determine, among other things:

- whether the employee qualifies as an individual with a disability,
- the essential functions of the employee's job,
- whether the accommodation(s) being sought is "reasonable" and/or to identify alternative accommodation(s).

As part of the interactive process, the Department Head/Supervisor may ask the employee to provide medical and other documentation to support his/her request for reasonable accommodation. All medical documents will be handled confidentially. After submission of all required documentation, the Department Head/Supervisor may confer with the ADA coordinator, employee, the employee's supervisor and may also confer with Human Resources (HR) to discuss the requested accommodation(s), and if necessary, possible alternatives. After making a final determination on the matter, the Department Head/Supervisor will communicate the decision to the employee, the employee's supervisor and appropriate HR personnel.

Employees who are in disagreement with the outcome of their request for an accommodation may address their concerns by following the ADA Grievance Procedure.

Guidelines for Public Requests

Any eligible person with a disability who desires access to services provided by Cape Light Compact Joint Powers Entity may request a reasonable accommodation from the program. If the person is not provided an accommodation, said person may file a grievance by following the ADA Grievance Procedure.

Requirements for posting of ADA Public Notice and ADA Grievance Procedure

The Cape Light Compact Joint Powers Entity ADA Public Notice and Grievance Procedure are posted in a location accessible to the public and on the County website.

Reporting Requirements

All requests for accommodation and their disposition must be forwarded to the ADA Coordinator within five working days of disposition.

The ADA Coordinator will file requests/dispositions in a locked file for seven years. Only authorized employees will have access to this information. It will not be filed with personnel records.

Each employee will receive training on disability issues, laws and compliance annually as part of the requirements for employment. A record of employee training will be maintained in the HR office and a copy to the ADA Coordinator.

Any grievances related to a request for reasonable accommodations filed by an employee shall immediately be reported to the ADA Coordinator and the Department Head who will collaborate on a resolution of the grievance.

Rights and Responsibilities of Cape Light Compact Joint Powers Entity Employees

Duty to Cooperate

Department heads, supervisors, and other agents of the county have a duty to engage employees and applicants in an interactive process in response to requests for reasonable accommodations. Anyone who feels uncomfortable initiating the interactive

process is encouraged to contact ADA Coordinator at 508-375-6628 as soon as they have notice of a possible need for an accommodation.

Freedom from Retaliation

Any eligible member of the County has the right to request a reasonable accommodation. It is a violation of County policy to retaliate against an individual for requesting an ADA accommodation. Any person who retaliates against an individual is subject to disciplinary action up to and including termination by the County.

Confidentiality

In accordance with the ADA, Cape Light Compact Joint Powers Entity will protect and maintain the privacy and confidentiality of medical information of its employees obtained in connection with the reasonable accommodation process. All medical information will be treated confidentially and maintained securely and separately from personnel files.

Frequently Asked Questions

1. What is a disability?

According to the Americans with Disabilities Act (ADA), disability is defined as a physical or mental impairment that substantially limits one or more of a person's major life activities (for example, walking, standing, or breathing).

2. What is the interactive process?

The interactive process is when an employer and an individual with a documented disability work together to identify what barriers exist to the individual's performance of a particular job function. This analysis often includes a review of the individual's abilities and limitations and which factors or job tasks pose difficulties. Fundamental to the process is ensuring that the employee provides sufficient documentation to enable the County to determine if the condition substantially limits a major life activity, and if so, what accommodation(s) may be reasonable but still permit the employee to meet the essential functions of the employee's position.

3. How are reasonable accommodations made?

Accommodations are provided through an interactive process between the applicant or employee and Hiring Official. The individual requesting the accommodation may be asked to obtain documentation from his/her health care provider to be forwarded to Hiring Official. Supporting documentation from a qualified clinician may include:

- a diagnosis of the impairment and any accompanying test results,

- a detailed description of the specific impairment, functional limitations (with and without the use of mitigating measures such as treatment, aids, and medication), functional need, and the medical justification for such need, and
- a recommendation for the type and duration of the accommodation needed, as well as the rationale underlying the request.

Assistance of the ADA Coordinator may be requested by the hiring official/department head and/or the applicant/employee.

Upon receiving and reviewing the appropriate documentation, a determination will be made regarding the individual's disability status as well as his/her essential job functions as they relate to the accommodation being requested.

4. What should I do if I feel as though I've been discriminated against or harassed because of my disability?

Individuals may report alleged acts of discrimination or harassment on the basis of disability by contacting the ADA Coordinator at 508-375-6628.

Agenda Action Request

Cape Light Compact JPE Governing Board

Meeting Date: 8/2/17

**Vote to Appoint Cape Light Compact JPE Representatives to the
Cape Cod Municipal Health Group**

- Aquinnah*
- Barnstable*
- Bourne*
- Brewster*
- Chatham*
- Chilmark*
- Dennis*
- Dukes County*
- Eastham*
- Edgartown*
- Falmouth*
- Harwich*
- Mashpee*
- Oak Bluffs*
- Orleans*
- Provincetown*
- Sandwich*
- Tisbury*
- Truro*
- Wellfleet*
- West Tisbury*
- Yarmouth*

Proposed Motion(s)

- 1) *I move that the Board of Directors vote to appoint the JPE Administrator as the Cape Light Compact JPE representative to the Cape Cod Municipal Health Group, and the Cape Light Compact JPE Comptroller to serve as the alternate representative. The CLCJPE Administrator is authorized and directed to take all actions necessary or appropriate to implement this vote, and to execute and deliver all documents as may be necessary or appropriate to implement this vote.*

The CCMHG Agreement requires each entity to appoint a representative and an alternate to represent the entity. CCMHG has quarterly Board meetings.

Record of Governing Board Action

Motion by:	Second by:	# Aye	# Nay	# Abstain	Disposition

DPU 17-05 EVERSOURCE RATE CASE

- January 17, 2017: Eversource files for a general increase in base distribution rates and for approval of performance based ratemaking plan (“PBR”). This is the first fully adjudicated rate case since 1986 for NSTAR (and since 2010 for WMECo). The filing requests, among other things:
 - An initial increase in total revenue requirements (combined for NSTAR Electric and WMECo) of approximately \$96 million on January 1, 2018, based on Eversource’s calculations of capital investments it made in the test year, including depreciation expense, property tax, and operating and maintenance expense.
 - Additional annual revenue increases through the PBR formula.
 - 10.5 % authorized return on equity.
 - Revenue decoupling mechanism (decoupling is a process to purposefully separate a utility’s revenue from its sales of the energy commodity).
 - A PBR formula for increasing its revenue requirements annually tied to a \$400 million spending commitment proposed to be allocated to 6 categories of capital investments intended to advance grid modernization. Most of these investments were originally proposed in Eversource’s Grid Modernization docket. The Grid Modernization Base Commitment (“GMBC”) proposed by Eversource includes investments in electric vehicle (“EV”) infrastructure and grid-scale battery storage.
 - Changes in rate classifications and rate designs implemented January 1, 2018 and January 1, 2019 for recovering the total revenue target from customers (rate consolidation and alignment, proposed tariff changes, minimum monthly reliability charges for new net metered customers, allocated cost of service studies, marginal cost of service studies, etc.)
- June 1, 2017: Eversource files revised rate design in part to shift costs from Western Massachusetts to Eastern Massachusetts:
 - DPU deemed this an alternative proposal subject to new notice and public hearing – effectively creating Phase I and Phase II of the rate case. All rate design considerations moved to Phase II.
- June - August 2017: Phase I hearings and briefings (see page 2 for a summary of the Compact briefing points on Phase I issues); Phase II discovery on both rate design proposals (January 2017 and June 2017).
- July 25, 2017: Eversource files a mitigation plan, bill impacts, and revised consolidated tariffs for commercial and industrial (“C&I”) rate classes.
- September 11-15, 2017: Phase II hearings, followed by briefings (+ 42 days). The Compact filed testimony on the January 2017 rate design issues (e.g., the proposed customer charge, demand charge for new net metered customers, bill impacts) and is now working on testimony to file in August on the June 2017 alternative (e.g., cost shifting across Massachusetts, cost shifting onto residential ratepayers, the effect of the alternative proposal on the proposed customer and demand charges, bill impacts and proposed new transmission charges). The Department will issue a decision on Phase II issues by December 29, 2017.

DPU 17-05 EVERSOURCE RATE CASE

Main Compact Arguments in Phase I brief:

- **Grid Modernization Base Commitment.** The Grid Modernization Base Commitment is not a grid modernization plan that complies with past DPU orders, because it has no cost-benefit analysis and does not propose Advanced Metering Functionality (“AMF”). Eversource's primary goal seems to be to spend exactly \$400 million without clear customer benefit objectives. It has not shown that the investments are incremental and will accelerate progress towards grid modernization objectives.
- **Performance Based Ratemaking Mechanism.** Performance based ratemaking (“PBR”) is a regulatory framework that is an alternative to cost of service ratemaking. It is supposed to provide benefits to customers through efficient utility operation, stronger utility incentives for cost control and enhanced opportunities for lower rates. Eversource’s proposal has not been designed to ensure savings are shared fairly with customers. It places too much risk on customers and gives too much reward to shareholders rather than balancing the interests of customers and shareholders. Basically, it would give Eversource annual increases to do more to achieve less for customers. The performance metrics should be improved through a stakeholder process.
- **Storage.** Eversource proposes to spend \$100 million on four or more grid scale battery projects, but did not provide sufficient project detail in its filing. Two are on Cape Cod and Martha's Vineyard, and the Compact is concerned that grid-scale batteries would reduce the market value of energy efficiency and would replace distributed storage (e.g., AC units that can shift load, customer owned batteries, etc.). Eversource also indicates that it will be bidding the stored energy into wholesale markets and collecting revenue from that energy, which is contrary to its role as a distribution company (i.e., not the intent of the Restructuring Act).
- **Electric Vehicles.** This is primarily a "make ready" infrastructure program that has potential to enable markets. The Compact recommended improvements to the program. The Compact wants to ensure that Eversource does not discriminate in the siting of this infrastructure (e.g., not site in communities where municipalities are opt-out aggregators or where there is an aggregator acting as Program Administrators). Eversource’s proposal should enable municipalities to offer demand response programs that incorporate electric vehicles.
- **Return on Equity.** The Compact requested that the Department reduce Eversource's proposed rate of return (no more than 8.75%) and begin to shift to performance incentives that would award revenue for achieving the DPU’s goals instead of focusing primarily on capital expenditures.
- **Tariffs.** The Compact is opposing certain tariff changes that would (a) increase fees for accessing customer usage data and would (b) prohibit the use of external metering equipment on Eversource-owned meters even if the equipment does not interfere with the meters.
- **Vegetation management.** The Compact is advocating for Eversource to improve communications with municipal officials in advance of road clearing work. The Compact is supporting concerns of residents about Eversource's use of herbicide glyphosate in its rights of way and thus advocating for alternative methods of vegetation clearing.