



New Bedford Port Authority Employee Handbook

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I. **INTRODUCTORY INFORMATION**

Section 1: Welcome

In order to maintain state of the art facilities and create a strong customer and business-friendly Port, employees of the New Bedford New Bedford Port Authority (hereinafter the agency will be referred to as the “NBPA”) need to work to their full potential. To support its employees in this goal, this NBPA Employee Handbook sets forth personnel rules to guide employees and managers. By establishing clear expectations for employee conduct and by administering these rules in a consistent manner, NBPA hopes to provide the support necessary for its employees to operate and enhance New Bedford Harbor.

This Handbook provides guidelines for managing employees and is not intended to create any contractual relationship between NBPA and its employees. **It should not be considered a contract between NBPA and its employees.** In order to maintain necessary flexibility to operate, NBPA reserves the right to amend these guidelines at any time with or without notice.

All NBPA employees are expected to be familiar with the information contained in this Handbook. To the extent that a particular question is not answered by this Handbook, employees are encouraged to bring questions to the Port Director or In-House Counsel.

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Section 2: NBPA Employees Are At-Will Employees

Unless noted otherwise in writing, all NBPA employees are at-will employees. Neither the at-will employee nor NBPA is bound to continue the employment relationship if either chooses to end the employment relationship at any time. Only the Commission, or the Port Director in consultation with the Commission, has the authority to enter employment contracts.

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Section 3: Equal Employment Opportunity

NBPA believes in providing equal treatment and opportunity to all its employees based upon merit, qualifications, and abilities. NBPA further believes that a diverse workforce is essential to providing the highest level of professionalism and customer service to its clients and the public. NBPA prohibits discrimination based upon race, gender, age, color, religion, creed, national origin, ancestry, disability, veteran status, military obligations, sexual orientation, gender identity or expression, or genetic information, in all employment practices, including hiring, firing, promotions, discipline, assignment, compensation, training, benefits, and all other terms, privileges, and conditions of employment.

Any employee with concerns or questions about discrimination in the workforce is encouraged to bring these issues to the attention of the In-House Counsel, or the Port Director. Employees raising concerns or questions about discrimination will not be retaliated against or punished in any manner as a result of bringing these matters to the attention of management.

Anyone found to be engaging in discrimination or retaliation will be subject to appropriate discipline which could include suspension or termination.

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Section 4: Americans with Disabilities Act

NBPA supports the principles and policies of the Americans with Disabilities Act (“ADA”) and is committed to opening opportunities for persons with disabilities. Whether in NBPA’s facilities or its employment practices, NBPA will take reasonable efforts to eliminate barriers to participation by persons with disabilities.

In order that NBPA can provide reasonable accommodations to persons with disabilities, NBPA encourages individuals to request accommodations where necessary to allow full participation in NBPA programs and practices. NBPA will address questions related to disability and accommodation with discretion and will safeguard the privacy of individual medical information.

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Section 5: Role of NBPA Commissioners

The Commission, pursuant to its authority under Chapter 762 of the Acts of 1957, approved this Employee Handbook. Per Rules and Regulations, Section 19.1, NBPA Commissioners (hereinafter referred to as the “Commission” or the “Commissioners”) are the final authority on all NBPA personnel matters.

The Commissioners charge NBPA’s Port Director with managing the workforce in all day-to-day activities with ultimate authority and approval resting with the Commission.

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II. THE EMPLOYMENT RELATIONSHIP

Section 6: Hiring Process

All positions are classified into four categories listed in Section 8. Except in certain circumstances discussed below, all open positions will be announced under a fair and open process. All applicants for open positions must complete or have completed a job application. The selection process and whether candidates are interviewed will be determined by the Commissioners of the NBPA as outlined herein and attached hereto.

All new hires shall be subject to a 90-day probationary period. A letter outlining such shall be given to the employee and is required to be acknowledged by signature and placed in the personnel file.

NBPA considers honesty and integrity to be pillars of its workforce and reserves the right to terminate any employee, or stop considering any candidate, discovered to be untruthful on a job application or as part of the hiring process.

In situations where operational needs require a Category 4 position be filled quickly, the Port Director may expedite the hiring process or fill a position without following the standard process.

As part of the hiring process, or when a current employee receives a promotion, NBPA may conduct background checks, including criminal background, driving record, sex offender registry, employment and educational history verification, social security verification, credit reports, reference verification, social media review, and other background research deemed appropriate by NBPA. Prior to conducting a background check, each person to be screened will be notified that a background check will be performed and asked to provide written assent to the background check.

After the background check is performed, and if the background check leads to concerns that might cause NBPA to reject the person for the job in question, the person will be given an opportunity to review the background check, as required by law, and discuss the results before any final decision is made. If the background check is conducted by an outside agency, the rejected candidate will be given:

- a copy of the report generated,
- “*A Summary of Your Rights Under the Fair Credit Reporting Act,*” and
- The opportunity to provide information to dispute or explain what was in the report.

If a person is rejected for a position as a result of a background check completed by an outside agency, the person will also be given:

- the name and contact information of the background check company,

- a statement that the background check company did not make any NBPA hiring decision and is unable to explain why NBPA made its decision, and
- A notice that the person has the right to dispute the accuracy of the information in the report and to get an additional free report from the company if requested within 60 days.

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Section 7: Criminal Offender Record Review Policy

A. Introduction

NBPA will perform a Criminal Offender Record Information (“CORI”) check on final candidates for employment. In addition, NBPA may perform a CORI check on current employees, subcontractors, or potential subcontractors if NBPA has concern about the suitability of these individuals. CORI checks will only be conducted as authorized by the Massachusetts Department of Criminal Justice Information Services (“DCJIS”) and MGL c. 6, § 172.

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

When NBPA performs CORI checks, or takes steps to review criminal history information brought to its attention through other means, the following practices and procedures will be followed.

B. Conducting CORI Screening

Each person being screened with a CORI check will be given a CORI Acknowledgement Form and will complete the form before the CORI check is performed. While a CORI Acknowledgement Form is valid for one year, the person being screened must be notified in writing of any new CORI check after the initial check is completed. Once notified of a new CORI check, the person must be allowed seventy two (72) hours in case the person wishes to revoke his or her consent to the check.

NBPA will verify the identity of the person completing the Acknowledgement Form using:

- (a) a state-issued driver's license;
- (b) a state-issued identification card with a photograph;
- (c) a passport; or
- (d) a military identification.

If a subject does not have one of these four documents, NBPA will contact the DCJIS to determine if other forms of documentation are acceptable.

If a person refuses to complete a CORI Acknowledgement Form or refuses to authorize a CORI check, NBPA will remove the person from consideration for employment or contracting opportunities.

C. Procedure Once CORI Report Is Received

Any person being screened for a position or opportunity with NBPA shall be provided with a copy of the criminal history record obtained, whether obtained from the DCJIS or from any other source, prior to questioning the subject about his or her criminal history. If a criminal record is obtained from another source, NBPA will disclose the source(s) of the criminal history record to the applicant.

If a criminal record is returned from the DCJIS, the information must be closely compared with the information on the CORI Acknowledgement Form and any other identifying information provided to ensure the record belongs to the person being screened. If the information in the CORI record provided does not match the identification information provided, NBPA will attempt to determine if the record applies to the person being screened. If such a determination cannot be made, the person being screened will be asked whether the criminal record belongs to him or to her. If the record does not apply, NBPA will seek a new CORI request using more detailed information about the person being screened.

If the person being screened states that the criminal record obtained using the person's information is incorrect, the person will be given an opportunity to correct the criminal record and will be provided with the form "Information Concerning The Process In Correcting A Criminal Record" found at <http://www.mass.gov/eopss/docs/chsb/cori-process-correcting-criminal-record-2012.pdf>. The hiring or contracting process will not be indefinitely suspended while the person resolves the discrepancy in his or her reported criminal record. NBPA reserves the right to reject a candidate or contractor who is in the process of correcting his or her record but will encourage the person to re-apply for a different opportunity once his or her criminal record is corrected.

D. Asking About Individual's Criminal History and Determining Suitability

Having a criminal record will not automatically disqualify a person from consideration. If NBPA received a criminal record and the applicant agrees that the record is accurate, NBPA will have to determine whether the person is suitable for the position or contract under consideration. The subject will be provided a copy of the criminal information relied upon by NBPA, a copy of NBPA's CORI policy, and the opportunity to submit information to address the criminal record. At the discretion of NBPA, the person will submit information either in writing or in person.

Factors considered in determining suitability may include, but not be limited to, the following:

- (a) relevance of the record to the position or contract sought;
- (b) the nature of the work to be performed;

- (c) time since the conviction or release from incarceration;
- (d) age of the person at the time of the offense;
- (e) seriousness and specific circumstances of the offense;
- (f) the number of offenses;
- (g) whether the person has pending charges;
- (h) any relevant evidence of rehabilitation or lack thereof; and
- (i) any other relevant information, including information submitted by the person or requested by NBPA.

NBPA will notify the person of its final decision and the basis for the decision in a timely manner. NBPA reserves the right to reject a person who has pending charges but will encourage the applicant to re-apply once the criminal charges are resolved.

E. Adverse Decisions Based On CORI Results

If NBPA decides to reject a candidate or refuse to enter a contract based on the results of a criminal history background check or other criminal information brought to its attention, the rejected party will be notified immediately. The person will be provided with a copy of NBPA's CORI policy and a copy of the criminal history relied upon in making the decision. The source(s) of the criminal history will also be revealed. If the person wishes to challenge the adverse decision, he or she will be allowed to submit written information in response to NBPA's decision.

NBPA will document the steps taken to comply with this policy any time an adverse decision is made based upon CORI.

As discussed above, persons disputing the accuracy of the record shall also be provided a copy of DCJIS's "Information Concerning the Process in Correcting a Criminal Record."

F. Access To CORI And Destruction Of CORI

All CORI obtained from the DCJIS is confidential, and access to the information must be limited to those individuals who have a "need to know." Individuals who have a need to know may include, but not be limited to, the Port Director, the Deputy Port Director, the In-House Counsel, hiring managers, staff submitting the CORI requests, and staff charged with processing job applications.

All CORI information will be maintained in locked cabinets or password protected electronic folders. CORI information should be maintained for the duration of employment, or volunteer/contract service, and then for seven years thereafter. CORI information must be shred or similarly destroyed prior to disposal. Electronic CORI information must be deleted from a hard drive, removed from backup files, and the hard drive must be appropriately cleansed of CORI information prior to disposal of the drive or repurposing.

NBPA will 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 DCJIS at any time.

G. CORI Training

In order to properly review a criminal record, an individual must be trained. Accordingly, all personnel authorized to review or access CORI at NBPA will be thoroughly familiar with this policy and the educational and relevant training materials regarding CORI laws and regulations made available by the DCJIS.

H. Secondary Dissemination Logs

All CORI obtained from the DCJIS is confidential and can only be disseminated as authorized by law and regulation. All CORI will be maintained securely. 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.

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Section 8: Employment Classifications

Unless noted otherwise in writing, all NBPA employees are at-will employees. Neither the at-will employee nor NBPA is bound to continue the employment relationship if either chooses to end the employment relationship at any time.

NBPA employees are separated into the following four categories.

Category 1: Contracted Employees

The Contracted Employees category represents those employees employed by NBPA under a negotiated contract. All terms and conditions of a Contracted Employee's employment are set forth in the negotiated contract. The position of Port Director and In-House Counsel shall be a Category 1 employee.

Category 2: Full Time Salary

The Full Time Salary category requires a minimum workweek of 40 hours and also provides a 30 minute unpaid lunch break. Category 2 employees are at-will employees and can be terminated at any time by NBPA. Category 2 employees do not receive financial compensation for working more than their scheduled work week. Salaries for Category 2 employees are negotiated at the time of hire and will be presented to the Commission when the Commission is notified of the hiring.

Category 3: Full Time Hourly Pay Rate

The Full Time Hourly Pay Rate category requires a usual workweek of 37.5 hours and also provides a 30 minute unpaid lunch breaks each day. Category 3 employees are at-will employees and can be terminated at any time by NBPA. Hourly pay rates are negotiated at the time of hire and will be presented to the Commission when the Commission is notified of the hiring. If approved in advance by the Port Director, Category 3 employees can receive their regular hourly rate for working hours in excess of 37.5 and one and one half of his/her regular rate of pay for work performed in excess of 40 hours per week. Category 3 employees must complete and sign a time sheet each week.

Category 4: Part-time / Seasonal / Interns

Employees in the Part-time/Seasonal/Intern employment category will have specific hours, unpaid lunch break, and period of employment negotiated for their position. Category 4 employees are at-will employees and can be terminated at any time by NBPA. Hourly pay rates are negotiated at the time of hire. If approved in advance by the Port Director, Category 4 employees can receive one and one half of his/her regular rate of pay for work performed in excess of 40 hours per week. Category 4 employees must complete and sign a time sheet each week.

Volunteer Interns can be hired at the discretion of the Port Director. The Port Director may authorize a stipend for interns to offset expenses.

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Section 9: Job Responsibilities and Performance Goals

The duties and performance criteria of Category 1 employees are fixed under contract.

The Port Director shall provide all employees, other than seasonal employees and interns, with a written job description and a set of performance goals. Job descriptions are intended to help identify basic job duties and establish company expectations. Job descriptions should not, however, be viewed as establishing a fixed set of duties. All employees are expected to demonstrate flexibility in accepting duties necessary to promote the best interest of NBPA. Additional responsibilities may be assigned to employees by supervisors or the Port Director as necessary. Employees with concerns about their job description or additional duties should contact the Port Director or In-House Counsel.

The Port Director and In-House Counsel at Port Director's discretion will meet regularly with all employees other than seasonal employees and interns to ensure performance goals are being achieved with input for supervisors.

Performance goals will be based on achieving job responsibilities and developing employee skills and competencies. These goals will help the employee improve his/her performance in his/her current position and will also prepare the employee for future assignments and greater responsibilities. Performance goals will be updated annually as appropriate and as

part of the annual performance review. A written summary of the goal evaluations will be delivered to the Commissioners.

Job descriptions and performance goals are subject to change based upon the needs of NBPA and the increased competency of the employee. Changes in job descriptions that do not impact payroll can be made at the discretion of the Port Director.

Seasonal employees and interns will be hired to meet seasonal and temporary needs of NBPA. Job responsibilities for these positions will reflect those needs but these positions do not require job descriptions and goals.

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Section 10: Annual Performance Reviews

On an annual basis, the Port Director and In-House Counsel at Port Director's Discretion will prepare a documented evaluation of all employees other than seasonal employees and interns. Employees will be asked to sign the evaluation to indicate its receipt. Each employee has the right to write a response to the evaluation. All evaluations and employee responses will be filed in the employee's personnel file.

The Commission evaluates the performance of the Port Director and In-House counsel to ensure contract obligations are upheld.

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Section 11: Cost of Living Adjustments

Category 1 employees are subject to the terms and conditions of their negotiated contract and receive pay increases as structured in their contract. Category 1 employees are exempt from pay freezes approved by the Commission. The terms of the contract apply under all circumstances.

In its discretion, NBPA may offer cost of living adjustments ("COLA") to NBPA employees. If NBPA wishes to provide a COLA increase it will obtain the expected year's COLA from an appropriate index, and adjust as appropriate based on factors determined by the NBPA.

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Section 12: Salary Increases/Promotions

Salary increases for a Category 1 employee are fixed under the employee's contract.

In appropriate circumstances, the Commissioners may approve an employee for a salary increase and/or a promotion. Salary increases and promotions for Category 2, 3, and 4

employees shall not be automatic, but shall depend upon the employee demonstrating increased service value to NBPA. Examples of increased service value include length of service, a record of excellent performance, receipt of special training pertinent to employment, a demonstrated ability to exceed performance goals, a demonstrated ability to accept new job responsibilities, or other relevant evidence. NBPA salaries may also be adjusted to reflect market factors and to ensure NBPA can attract and retain talented employees. The Commission must approve all promotions and salary increases.

In the event of a promotion, the Port Director shall provide the employee with a new job description and a revised set of performance goals.

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Section 13: Pay Deductions and Salary Corrections

NBPA takes reasonable steps to ensure that employees receive correct pay in each paycheck and that employees are paid promptly. If an employee believes there has been a mistake in his or her paycheck, the employee is encouraged to bring this to the attention of the Director of Administration and Finance and In-House Counsel immediately.

By law, NBPA is required to deduct certain amounts, like taxes, from each employee's compensation. Other deductions can be made for things like child support, voluntary repayment plans, and leave without pay. NBPA strives to ensure that all deductions are accurate, permitted by law, and consistent with the Fair Labor Standards Act and Department of Labor regulations.

If any employee believes that an improper deduction has been made from his or her salary, the employee should immediately contact the In-House Counsel and/or Director of Administration and Finance. Any issues will be investigated promptly, and the employee shall be informed of the results of the investigation. If it is determined that an improper deduction has been made, the affected employee will be reimbursed for the amount of the improper deduction.

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Section 14: Corrective Actions - Salary Decreases, Demotion, Discipline, and Termination

Termination policies for Category 1 employees are fixed under contract.

If a Category 2, 3, or 4 employees fails to meet his or her performance goals, or displays misconduct, the employee may be demoted, disciplined or terminated. The Commission will be briefed on all demotions, terminations, and salary decreases.

NBPA seeks to treat employees needing correction in a fair and consistent matter. Accordingly, in the appropriate circumstances, NBPA will follow a policy of progressive discipline or probation in order to provide employees with corrective action and the chance to improve performance and behavior. At the same time, NBPA recognizes that certain

behavior is unacceptable and will respond with significant consequences. Therefore, NBPA reserves the right to suspend or terminate an employee even if the employee has had no prior discipline.

If an employee is failing to meet expectations, NBPA will meet with the employee so that the employee has the opportunity to discuss why he or she is not performing to expectations. Where NBPA determines that a probationary period may help manage an employee who is not performing to expectations, the employee may be placed on a 90 day probationary period with specific goals to meet. While the purpose of the probationary period is to provide the employee with an opportunity to succeed, any employee placed on probation who fails to demonstrate an immediate commitment to improvement can be terminated prior to the completion of the probationary period.

If allegations of misconduct are brought against an employee, NBPA will interview appropriate witnesses and the employee charged with misconduct. NBPA is not required to explain the purpose of the meeting if the investigation requires the employee be questioned before being notified of the allegations. Prior to taking any corrective action, however, NBPA will provide the employee with specific information concerning the alleged misconduct and an opportunity to dispute the allegations. Any employee refusing such a meeting will have the matter determined without the employee's input.

Employees shall have no right to be represented by an attorney when meeting with NBPA. At the discretion of the Port Director, or In-House Counsel, however, an employee may be allowed to bring a representative to a meeting but the representative will have no right to address the charges directly. Even if represented, the employee is expected to respond to all questions.

In the event of a demotion, the Port Director shall provide the employee with a new job description and a revised set of performance goals.

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I. TIME AND ATTENDANCE

Section 15: Attendance and Tracking Time

NBPA's administrative office is open from 8:00 a.m. to 4:00 p.m. Monday through Friday. While NBPA employees work different schedules depending on assignment, they are expected to work a minimum of 37.5 hours each week. Each employee receives a 30 minute unpaid lunch break and should schedule lunch to ensure appropriate coverage is available for NBPA business.

NBPA employees are paid weekly. Employees are expected to record and sign weekly time sheets showing actual hours worked each day (calculated in 15 minute increments) and obtain approval from their supervisor. Approved timesheets are due in the NBPA office by 10:00 a.m. Monday morning (Tuesday morning if Monday holiday). Any employee

submitting their timesheet after payroll has been run will be paid those hours in the subsequent week's payroll processing. Often notices will be attached to paystubs to inform employees of important information. For this reason, it is the employee's responsibility to pick up his or her paystub every week to stay informed of important information.

All employees are expected to be at work for their full schedule each week or use appropriate paid time off to ensure all hours are accounted for and recorded each week. Falsifying time records will be grounds for significant discipline or termination.

Employees are expected to maintain a regular schedule. Attendance and punctuality are important to NBPA's ability to serve its customers. Accordingly, all employees are expected to be at work at the employee's designated time ready to begin work. If an employee must be late, the employee should contact his or her supervisor at least one hour prior to the start of the employee's work day. Repeated instances of unexcused absence or tardiness will be grounds for corrective action.

To the extent an employee needs to vary his or her hours in any week, the employee must receive supervisor permission in advance. Supervisors are encouraged to provide employees some flexibility in completing their work hours as long as the flexibility will not hurt NBPA's operations or provision of customer service. In addition, the supervisor must be confident that the employee will be able to complete his or her duties effectively during the schedule proposed by the employee. All employees, however, must accurately account for hours worked each week and cannot "make-up" hours in one week to be applied in a different week. Employees found to be abusing schedule flexibility may be denied future requests to flex their work hours. Employees seeking to alter a work schedule on a regular basis need permission of the In-House Counsel, in consultation with the Port Director, prior to making any regular schedule alteration.

Employees wishing to extend the 30 minute lunch break, with advance permission, may take a longer lunch. Employees extending their lunch break may be allowed to extend their regular day if necessary to complete assigned tasks. Employees are not permitted to waive their 30 minute lunch break in order to alter their schedule unless they receive advance permission and complete a lunch break waiver.

Non-exempt employees (Category 3 & 4) are not authorized to work in excess of 37.5 hours each week without prior approval of the employee's supervisor.

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Section 16: Holidays

Category 1 employees are subject to the terms and conditions of their negotiated contract.

Category 2 and 3 employees receive thirteen and one-half paid holidays per year:

New Year's Day
Martin Luther King Birthday
Presidents' Day
Patriots' Day
Memorial Day
Independence Day
Labor Day
Columbus Day
Veterans' Day
Thanksgiving Day
Friday after Thanksgiving
Christmas Day

Good Friday afternoon and the half workdays before Christmas and New Year's Day shall be paid half holidays.

In order to receive a paid holiday, an employee must work or have advance permission to take a paid day off on the work day before and/or the work day after the holiday. Employees who take unapproved time off on the day before or after a holiday will not be paid for the holiday.

Category 4 employees do not receive paid holidays. Category 4 employees may take unpaid holidays if approved by the Port Director. Category 4 employees who work on NBPA holidays will be paid time and one half of his/her regular rate of pay.

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Section 17: Vacation Accrual and Use

All vacation is accrued on January 1 of each year. Employees shall be entitled to a payout of any unused vacation time existing at the time of their termination or retirement.

A Category 1 employee's vacation accrual and use are subject to the terms and conditions of the employee's negotiated contract.

Category 2 and Category 3 employees have no vacation time for their first six months of service. After this, these employees will earn annual vacation time based upon years of service according to the following schedule. After they have worked:

- six months of consecutive service they will earn 10 days vacation;
- five consecutive years of service they will earn 15 days vacation;
- ten consecutive years of service they will earn 20 days vacation; and
- twenty consecutive years of service they will earn 25 days vacation.

Employee will begin accruing vacation according to this schedule on an employee's NBPA hiring anniversary date. On the employee's anniversary date, the employee will receive additional vacation according to the schedule but it will be pro-rated for the remainder of the year. For example, an employee who was hired on July 1 will accrue 2.5 extra vacation days (one-half of the five day increase) on July 1 of the employee's five year anniversary with NBPA and will then accrue 15 vacation days on the first day of January.

Category 4 employees do not receive paid vacation.

If approved by the Port Director, any employee may take unpaid vacation.

The Port Director, in consultation with the Commission, may alter the vacation vesting schedule as an incentive to attract senior level candidates to work for NBPA.

Employees must seek advance approval of the In-House Counsel or the Port Director and their supervisor to take vacation days. To schedule a vacation, an employee must complete an Employee Request for Time Off form and then receive approval of the employee's supervisor. Once supervisor approval is obtained, the form should be submitted to the In-House Counsel or Port Director for final approval before it goes to Director of Administration and Finance for record keeping. NBPA expressly reserves the right to approve or reject requests for vacation dates when it is in the best interest of NBPA.

As a general matter, waterfront personnel are limited to five vacation days during the busy season unless circumstances warrant use of additional vacation time. Waterfront personnel seeking to take more than five vacation days must first request approval from their supervisor, in writing, and obtain approval of the In-House Counsel or the Port Director.

Employees are encouraged to take vacation during the year. Employees will forfeit all but ten days of accrued vacation time at the end of each calendar year. Employees may carry ten days of vacation time from one calendar year to the next. In rare circumstances, an employee may carry over more than 10 days of vacation time with written permission of the In-House Counsel or Port Director in order to carry over more than 10 days, the employee must demonstrate why he or she could not use his or her vacation that year and must indicate when the employee intends to use vacation in the coming year.

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Section 18: Overtime

NBPA provides overtime pay to Category 3 and 4 employees who are classified as non-exempt by the Fair Labor Standards Act. Non-exempt employees will be paid their regular hourly wage for all hours worked up to 40 hours in a week. Non-exempt employees will be paid overtime (1.5 times their regular rate of pay) for any work in excess of 40 hours actually worked in a week. Vacation, sick, holidays, and personal days do not count towards hours worked when calculating eligibility for overtime.

Employees are expected to be able to perform their regular workload in the course of their regular week. No employee may work overtime hours without prior approval of his or her supervisor and the Port Director or In-House Counsel. Employees seeking permission to work extra hours will be expected to demonstrate why additional hours are necessary to complete their work. Working extra hours without prior approval will be grounds for discipline.

Category 3 and Category 4 employees will be required to work overtime as necessary to meet the needs of the NBPA.

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Section 19: Personal Days

Category 1 employees are subject to the terms and conditions of their negotiated contract.

Category 2 and Category 3 employees receive 5 personal days per year.

Category 4 employees do not receive paid personal days but may take unpaid personal days as approved by the Port Director or In-House counsel.

Employees must seek advance approval of the In-House Counsel or Port Director for final approval of personal days before it goes to Director of Administration and Finance for record keeping . To schedule a personal day, an employee must complete an Employee Request for Time Off form and then receive approval of the employee's supervisor. Once supervisor approval is obtained, the form should be submitted to the In-House Counsel or Port Director for final approval. NBPA expressly reserves the right to approve or reject requests for personal days when it is in the best interest of NBPA.

No employee may carry unused personal days from one year to the next. Personal days not used by the end of the calendar year will be converted to sick leave and added to an employee's accrued sick time. Employees will not receive payment for unused Personal Days when leaving employment with NBPA.

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Section 20: Sick Time Accrual

Category 1 employees receive sick time subject to the terms and conditions of their negotiated contract.

Category 2 and Category 3 employees accumulate sick leave credit with pay at a rate equivalent to 1-¼ workdays for each full calendar month of employment. Sick leave credit begins the first day of the month in which a new employee is employed. Employees may accumulate sick leave and carry over no more than 180 days of sick time from one year to the next. If an employee accrues 180 days sick time during the year, the employee may continue to accrue sick time at his or her regular rate, but the employee will only be able to

carry over 180 days of sick time at the end of the year. At the end of the year, the employee will forfeit any accrued sick time in excess of 180 days.

Category 4 employees do not receive paid sick days but may take unpaid sick if needed.

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Section 21: Sick Leave and Family and Medical Leave

A. Introduction

All medical information submitted under this policy should be given to the Director of Administration and Finance. Medical information should not be given to other supervisors. Supervisors receiving medical information should not read the information and should provide it to Director of Administration and Finance. This policy describes when, and under what conditions, employees can use sick time and/or take a leave of absence from work under the Family and Medical Leave Act (“FMLA”)

B. Use of Sick Time

Sick time can be used to cover absences from work due to the employee’s illness, injury, disability, or need to attend medical appointments. Employees can also use sick time to take a family member to a medical appointment or to provide necessary care to a family member who is ill. “Family member” is defined as an employee’s mother or father (including a person who served in the role of parent when the employee was a minor), spouse, child, step-child, step-mother, step-father, and legal guardian. In appropriate circumstances, an employee can receive permission to use sick time to care for a relative not covered by this definition if the employee can demonstrate a close connection to the family member and the absence of another available care-giver for this family member.

Sick time cannot be used for any purpose other than those outlined in this policy. Inappropriate use of sick time will be grounds for discipline. If an employee has taken sick time in violation of this policy, and in addition to being disciplined, the employee may be required to submit a doctor's certificate to justify any future period of sick leave or to prove attendance at a medical appointment.

C. Requirement to Submit Proof of Illness or Appointments

An employee who is absent for more than three days is required to submit appropriate documentation concerning the absence to the In-House Counsel. If such documentation is sufficient, the employee will be approved to use accrued sick leave to cover the absence. At the discretion of the Port Director, the absent employee may be required to submit to an independent medical evaluation prior to the approval of an extended sick leave.

Employees who are absent for more than three days, or employees whose absence gives rise to concerns about their fitness for duty, may be required to provide a fitness for duty certification from a health care provider prior to returning to work. A fitness for duty certification must make clear that the reviewing health care professional is familiar with the requirements of the employee's position. If a fitness for duty certification is requested, an employee cannot return to work until NBPA has reviewed and approved the fitness for duty certification.

If NBPA believes an employee has violated this policy, the employee can be required to submit evidence of all medical appointments and evidence to justify any use of sick time.

Supervisors must notify the Port Director on the fourth successive day an employee has been absent due to illness so that NBPA can determine if it needs to send the employee appropriate paperwork.

D. Extended Absence

Employees requiring an extended absence from work (any non-FMLA absence greater than 14 days or leave continuation once FMLA leave has expired) will be required to submit additional medical documentation justifying the leave and identifying a return to work date. If such documentation is not sufficient, NBPA may require the employee to submit to an independent medical examination, with a doctor chosen by NBPA, to verify the need for leave and the expected return to work date. All costs associated with the independent examination will be paid by NBPA. The results of the independent medical examination will be provided to NBPA and the employee for review.

E. Leave under the Family and Medical Leave Act

The Family and Medical Leave Act ("FMLA") provides qualifying employees with up to 12 weeks of job-protected, unpaid leave under certain conditions discussed below. If an employee's leave qualifies under the FMLA, NBPA requires such time to be designated as FMLA leave and the employee must use accrued paid time off. Once an employee exhausts his or her accrued paid time off or compensatory time, the FMLA leave will be unpaid. If an employee exhausts his or her 12 weeks of FMLA, NBPA will determine if additional leave can be granted based upon a review of the individual circumstance and NBPA's operational needs.

i. Who is Eligible for FMLA Leave

An employee will be eligible for leave under the FMLA if:

- the employee has worked for NBPA for at least 12 months (not required to be 12 consecutive months);
- the employee has actually worked 1,250 hours (not counting paid time off but counting overtime hours worked) during the 12 months immediately preceding the start of leave; and

- The employee has not taken 12 or more weeks of FMLA leave in the preceding 12 months.

When calculating the first two bullets above for military members (active duty and reserves), all hours missed from work because of military service should be counted along with hours actually worked to determine FMLA eligibility.

ii. Types of Family and Medical Leave Available To Employees

Employees may qualify for four types of leave under the FMLA:

a. Family Leave

An employee may take leave for the birth, placement leading to final adoption, or foster care placement of a child. The leave must be completed within 12 months of the child's birth, adoption, or foster care placement.

b. Medical Leave

An employee may take medical leave if the employee has a serious health condition that makes the employee unable to perform his or her job.

An employee also may take leave to care for a “family member” who has a serious health condition. “Family member” is defined as an employee’s mother or father (including a person who served in the role of parent (“in loco parentis”) when the employee was a minor), spouse, child, step-child, step-mother, step-father, and legal guardian. A “child” is defined any child or step-child that is (1) under 18 years of age or (2) 18 years or older if the child is incapable of self-care because of a mental or physical disability. If an employee has a question as to whether an illness or injury constitutes a “serious health condition,” he or she should contact NBPA.

c. Workers’ Compensation Leave

If a work related injury qualifies as a “serious health condition,” an employee on workers’ compensation leave will be placed on FMLA leave at the same time that the employee is on workers’ compensation leave.

d. Military Family Leave

Employees who are in the military or have a family member in the military may be eligible for “Military Caregiver Leave” and “Qualifying Exigency Leave.”

An employee who is a family member, or who is next of kin, to a covered service member or veteran, including National Guard and Reserves, will be able to take up to 26 weeks of Military Caregiver Leave in a 12 month period to care for a covered service member or

veteran with a serious illness or injury incurred or aggravated in the line of duty on active duty.

An employee may take up to 12 weeks of Qualifying Exigency Leave to address a “qualifying exigency” that occurs because a family member in the military, including National Guard and Reserves, is on active duty, is called to covered active duty status, or is notified of an impending call or order to covered active duty.

For purposes of this section, “active duty” indicates deployment outside the United States or any United States territory.

For purposes of this section a “qualifying exigency” includes planning issues arising from a short notice deployment, attending military related events that are related to deployment, addressing childcare matters caused by active duty, caring for the military member’s parent if the parent is incapable of self-care, making financial and legal arrangements to address a military member’s absence, attending counseling when the need for counseling arises because of the active duty, taking up to 15 days leave to spend time with military member who is on short-term temporary Rest and Recuperation leave during deployment, addressing post-deployment activities within 90 days of the end of the military member’s covered active duty, and addressing matters related to the death of a military member. “Qualifying exigency” also can include other matters if agreed upon by NBPA and employee.

iii. Notice and Scheduling of FMLA Leave

Where a need for FMLA leave is foreseeable, an employee must give the Port Director 30 days’ written notice before taking FMLA leave and submit a completed Certification of Need For Leave. This 30-day notice requirement may be waived if NBPA determines that an employee’s failure to give notice was a result of an emergency or other unforeseeable circumstance. Where the need for leave is not foreseeable, oral or written notice of the need for leave should be given as soon as practicable.

Employees who are absent from work for more than three days because of an illness or injury may be eligible for leave under the FMLA. Employees who want their leave to be protected by the FMLA must submit a Certification of Need For Leave substantiating the need for leave. Employees on a qualifying leave of absence caused by a workplace injury will be provisionally placed on leave and will have their FMLA leave run concurrently with their injured on duty leave.

When an employee provides notice that the employee will take leave, the employee must provide NBPA with an expected return to work date. An employee who cannot return on his or her return to work date must provide medical justification to extend his or her leave. An employee who fails to provide records supporting an extension of leave and fails to return to work will be considered absent without authorization and will be subject to discipline up to and including suspension and termination.

iv. Certification of Need for Leave

Employees must provide NBPA with a certification by a health care provider if the employee has a serious health condition, or a family member has such a condition, requiring leave under the FMLA. An employee must provide the medical certification of a serious health condition before a leave starts if the leave is foreseeable or as soon as practicable when a leave is unforeseen. In appropriate circumstances, NBPA may request that an employee who is on leave submit a Certification and the employee must do so within 15 days of NBPA requesting a Certification. Employees who fail to provide a valid and complete certification will have their request for leave denied and will be considered absent without leave unless they receive approval for their absence.

NBPA may also require that an employee provide periodic updates of the employee's health status and intent to return to work. At its discretion, NBPA may also require medical recertification of a serious health condition if, for example, passage of time or other circumstances indicate that the condition may have improved to the point that leave is no longer necessary.

In circumstances where NBPA has reason to challenge the need for leave, NBPA may also require a second opinion from a health care provider of its choosing who does not regularly contract with NBPA, to determine if the employee has a serious health condition prohibiting the employee from working. If the first and second opinions differ, NBPA may require the employee to undergo a third review from a health care provider jointly agreed upon by NBPA and the employee. The third opinion will be controlling.

If NBPA requires that an employee obtain a second or third opinion, NBPA will pay the costs associated with obtaining that opinion.

NBPA may require an employee who takes leave as a result of his or her own serious illness to provide a fitness for duty certification signed by a health care provider before returning to work. If required, an employee may not resume work until he or she provides such a fitness for duty certification and NBPA has approved the return to work.

Employees seeking Military Leave under this policy will be required to submit appropriate certification to establish all qualifications for the leave.

v. Length of Leave and Extension of Leave

Under the FMLA an employee is entitled to a maximum of 12 weeks of family and medical leave during any calendar year or 26 weeks of Military Caregiver Leave. Any request for leave beyond these limits will be granted at NBPA's discretion based upon a review of individual circumstances and NBPA's operational needs. An employee taking leave beyond that allowed under the FMLA will not have the right to automatic reinstatement and job protection that the employee had during the period of FMLA protected leave.

vi. Rights and Requirements Specific to Qualified FMLA Leave

a. Intermittent Leave

Where an employee qualifies for leave under the FMLA and requires an intermittent leave of absence as a result of a medical condition, the employee may take leave through either a reduced working schedule or intermittently if such an arrangement is certified to be medically necessary by a health care provider. Employees needing intermittent leave must attempt to schedule leave so as not to disrupt NBPA's operations. If an employee is entitled to a reduced or intermittent leave, NBPA may transfer the employee temporarily to a position for which he or she is qualified if the alternative position would better accommodate the recurring leaves. The employee will be restored to his or her original position upon the completion of qualified intermittent leave.

b. Leave For Birth, Adoption, or Foster Care

FMLA leave for the birth, placement leading to final adoption, or foster care placement of a child cannot be taken intermittently, without advance permission from NBPA, and must be taken at one time. If spouses both work at NBPA, NBPA will only allow the two spouses to take a total of 12 weeks of leave between them, during a 12 month period, for the purposes of birth, placement leading to final adoption, or foster care placement of a child. Both spouses will be entitled to full 12 weeks of leave, however, if the leave is necessary to address their own serious health condition or the serious health condition of the other spouse or the child. Massachusetts law also provides for 8 weeks (per child) of unpaid maternity leave. Depending on the circumstances, this leave may run concurrent with FMLA leave or may be in addition to FMLA leave.

c. Reinstatement/Transfer To Alternate Position

Any employee who takes qualified leave under the FMLA will be restored to the same or equivalent position upon his or her return from leave provided that the employee's job still exists and the employee would have continued to be employed in that job had employee not taken leave. If an employee advises NBPA that the employee does not intend to return to work, the employee's employment will end and the employee will receive no restoration rights. An employee who cannot return to work after 12 weeks of leave under the FMLA or who is granted leave beyond 12 weeks will not have the right to be restored to the same or equivalent position upon his or her return to work.

d. Adverse Actions during FMLA Leave

An employee taking leave under the FMLA will not receive any punishment for taking leave. An employee on FMLA leave, however, will not be entitled to more favorable employment terms as a result of taking family and medical leave than he or she would have had if no leave was taken. Thus, an employee on leave will be subject to any pay or benefit

reductions or other adverse actions, including layoff that the employee would have experienced had him or her not taken leave.

e. Use of Paid Time During FMLA Leave

NBPA is not required to pay employees who take leave under the FMLA. When an employee is on qualified FMLA leave, however, NBPA will allow an employee to continue receiving pay using accrued sick (if the leave is because of the sickness of an employee or a family member of an employee), personal, compensatory, or vacation time. NBPA requires employees to use any accrued paid time off before the employee goes on the unpaid portion of his or her leave.

An employee may, however, hold up to five vacation days during a family and medical leave for use when the employee returns to work. If a leave is for pregnancy or the birth of a child, an employee may use accrued sick time only during a period of disability (normally eight weeks after delivery, but such period may vary as required by a physician).

F. Benefits While On Sick Leave

NBPA will continue to pay its portion of the employee's health insurance coverage while the employee is on qualified FMLA leave or on a paid non-FMLA sick leave. An employee will continue coverage by paying the same share for such coverage as is charged to active employees. During any paid portion of the leave, the employee share will be deducted from the employee's pay, in the same manner as it is for active employees. During any unpaid portion of FMLA leave, the employee will be required to pay the employee's share for coverage directly to NBPA. If an employee fails to pay the employee's share of coverage, the employee may lose health insurance coverage.

If an employee fails to return to work after his or her twelve weeks of FMLA leave expire, NBPA may be entitled to recover from the employee the medical and dental insurance premiums paid during the unpaid portion of the leave. NBPA will be entitled to recover these amounts unless the employee's failure to return is a result of circumstances beyond the employee's control or the result of the continuation, recurrence, or onset of a serious health condition. In such a situation, NBPA will require the employee to provide certification concerning any medical reason related to the decision not to return. In the event NBPA is legally authorized to recover payments made on behalf of the employee, it may deduct its costs via legally permissible deductions from sums owed the employee by NBPA or through legal action.

If an employee exhausts his or her leave entitlement under the FMLA and remains on unpaid leave, NBPA will not be required to continue paying the employer share of employee health care coverage.

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Section 22: Small Necessities Leave

An employee who has worked for NBPA for a period of at least twelve months (whether consecutive or non-consecutive) and performed at least 1,250 hours of service within the immediately preceding twelve-month period is eligible for leave under the Small Necessities Leave Act.

If eligible, an employee may take a total of twenty-four (24) hours unpaid leave during a twelve-month period to (1) participate in school or day care activities that are directly related to the educational advancement of his or her child, (2) accompany his or her child to routine medical or dental appointments, or (3) accompany an elderly relative (age 60 years or older and related by blood or marriage) to routine medical or dental appointments or other appointments for the elder's care.

The twenty-four hour leave may be taken intermittently or on a reduced leave schedule. If an employee wishing to take Small Necessities Leave is entitled to take paid leave (for example, vacation, sick, or personal), NBPA will require that all available paid leave be taken and exhausted before unpaid necessities leave may be used.

Employees must seek advance approval of the Port Director to take Small Necessities Leave. To schedule leave, an employee must complete an Employee Request for Time Off form and then receive approval of the employee's supervisor. Once supervisor approval is obtained, the form should be submitted to the In-House Counsel for final approval.

If the necessity for the leave is foreseeable, an employee is required to provide at least seven (7) days' notice before the date the leave is to begin. If the necessity for the leave is not foreseeable, then the employee must provide such notice as is practicable. NBPA reserves the right to request written verification to support any leave request.

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Section 23: Bereavement Leave

Category 1 employees are subject to the terms and conditions of their negotiated contract related to bereavement leave.

Category 2 and Category 3 employees shall receive bereavement leave, as follows. A maximum of three (3) working days leave of absence, with pay, may be taken as a result of the death and funeral/memorial service of an employee's family member. If the memorial service/funeral for the family member is scheduled more than five (5) days after the death, two (2) of the three days must be used within five (5) days of the death and a third day may be used to attend the service.

For purposes of this Bereavement Leave policy, "family" is to be considered: the employee's father, mother, step-parent, spouse, child, brother, sister, grandparent,

grandchild, mother-in-law, father-in-law, daughter-in-law, son-in-law, adopted child, stepbrother, stepsister, any stepchildren living within the household of the employee, or a live-in companion of the employee who has lived with the employee for twelve (12) consecutive months before the death of the companion and is acknowledged to be a live-in companion.

One day's leave of absence, with pay, will be authorized for the death of any of the following:

- employee's aunt, uncle, niece or nephew;
- the spouse of an employee's sibling;
- the employee's spouse's brother, sister, aunt, uncle, grandparent, or grandchild,
- the employee's stepchild if the stepchild resides outside the employee's household.

The employee must attend the funeral to be entitled to the above one-day payment.

No payment shall be made for any days of absence during the bereavement period in which the employee is not regularly scheduled to work, Saturdays and Sundays, or holidays. No employee shall lose pay to which he or she is normally entitled while on leave of absence under this policy nor will the absence be charged to sick leave or vacation pay.

Category 4 employees can receive unpaid bereavement time as approved by the Port Director.

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II. BENEFITS

Section 24: Insurance

Category 1 employees are subject to the terms and conditions of their negotiated contract.

Category 2 and Category 3 employees are entitled to family or other membership in the City of New Bedford's health and life insurance plans effective upon date of employment at the same level of contribution as established for all City employees.

Category 4 employees do not receive an insurance package.

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Section 25: Retirement

Category 1 employees are subject to the terms and conditions of their negotiated contract.

Category 2 and Category 3 employees shall be required to participate in the City's retirement program effective upon date of employment at the same level of contribution as established for all City employees.

Category 4 employees who do not work more than 7 months per year do not pay into the City's retirement program.

Employees who are not eligible for the Retirement Program are required by law to contribute to NBPA's OBRA plan.

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Section 26: Longevity Incentive

Category 1 employees are subject to the terms and conditions of their negotiated contract.

Category 2 and Category 3 employees will be entitled to the following annual payment based on continuous length of service:

- 10 through 14 years of service as of November 30 of the calendar year: \$450.00
- 15 through 19 years of service as of November 30 of the calendar year: \$550.00
- 20 through 29 years of service as of November 30 of the calendar year: \$650.00
- 30 through 34 years of service as of November 30 of the calendar year: \$850.00
- More than 35 years of service as of November 30 of the calendar year: \$1,000.00

Category 4 Employees do not receive longevity payments.

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Section 27: Sick Leave Incentive

A Category 1 employee's ability to partake in the Sick Leave Incentive is subject to the terms and conditions of the employee's contract. Category 2 & Category 3 employees will be provided with an incentive for annual attendance each year as follows:

0 Days Sick Leave:	\$300.00
1 Days Sick Leave:	\$200.00
2 Days Sick Leave:	\$150.00
3 Days Sick Leave:	\$100.00
4 Days Sick Leave:	\$50.00
> 5 Days Sick Leave:	\$0.00

The sick leave incentive will be calculated based upon sick days taken during the entire calendar year. The incentive will be paid to eligible employees after the beginning of the calendar year based upon the employee's usage in the previous year.

Category 4 employees cannot receive sick leave incentive payments.

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III. CODE OF CONDUCT

Section 28: Grooming and Dress Code

Employees are expected to dress appropriately for their position and location of employment. All employees representing NBPA should be hygienically clean, well groomed and appropriately dressed for the work being performed. Suitable health and safety standards are to be adhered to and all required safety gear should be worn when appropriate. Port Director and In-House Counsel is responsible to see that all employees observe reasonable standards of dress and grooming. Employees who fail to meet these standards will be asked to go home, using their own accrued time off, and return to work appropriately dressed.

The following items are examples of what is not acceptable dress for NBPA employees:

- Clothing that is worn inappropriately (i.e. jeans with holes, clothing that is not clean)
- Clothing that might be too revealing, including halter tops, see-through blouses, tube tops, body suits, muscle shirts, novelty and skimpy sun dresses, or short shorts.

NBPA strives to ensure the comfort and safety of staff and visitors by encouraging a limited fragrance environment. Individuals who are sensitive to perfumes and chemicals may suffer potentially serious health consequences if exposed. NBPA desires to minimize, to the extent possible, the barriers and difficulties experienced in the workplace by individuals subject to chemical/fragrance sensitivities.

Therefore, NBPA requests that employees refrain from wearing or using overly scented products, including but not limited to colognes, after-shave lotions, perfumes, deodorants, body/face lotions, hair sprays, or similar products. NBPA also prohibits the use of scented candles, perfume samples from magazines, spray or solid air fresheners, room deodorizers, plug-in wall air fresheners, scented cleaning compounds, or similar products at work if the scent is indicated to be bothersome to others.

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Section 29: Cell Phone Use Policy

Cell phones issued by NBPA are considered the property of NBPA and are for official use unless needed for emergency purposes, reasonable personal use, or otherwise allowed by the Port Director. Any expenses incurred by the cell phone user that exceed base costs are reviewed by the Financial Manager and the Port Director. If the expenses incurred are not from official use, payment, in the form of a check made payable to NBPA, will be the responsibility of the cell phone user.

NBPA employees should be aware that all data sent or received on a cell phone issued by NBPA is the property of NBPA. Employees have no privacy interest or expectation of privacy in the content of text messages, telephone numbers, contact information, e-mails, telephone messages, internet usage, or other data stored on or sent from NBPA cell phones.

NBPA employees should be aware that recipients of communications from an NBPA cell phone can identify NBPA as the sender of the communication. Therefore, all employees are expected to communicate in a professional manner when using an NBPA cell phone. Any use of an NBPA cell phone to harass, discriminate, threaten, gamble, or perform any other conduct in violation of these policies or state/federal law, will be considered a separate violation of this policy and will be grounds for serious discipline up to and including termination.

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Section 30: Drug Free Workplace Policy

NBPA is a drug free workplace. All employees are prohibited from possessing, using, distributing or manufacturing illicit drugs or alcohol on NBPA property or while working for NBPA at any location. This policy does not prohibit the moderate consumption of alcohol at appropriate work related social functions or events occurring outside of regular working hours like a holiday party, fundraising event, or conference. Employees who violate this policy will be subject to appropriate personnel action with disciplinary sanctions up to and including termination of employment and referral for prosecution.

Illicit drugs are defined as controlled substances under Massachusetts General Laws, Chapter 94C, and include narcotics, cannabis, stimulants, depressants, and hallucinogens.

Employees who are concerned that they or a family member are using or abusing drugs or alcohol are encouraged to seek assistance in addressing the problem. Employees are encouraged to contact the Employee Assistance Program, Outlook E.A.P., Inc. at 508-990-0777 or 1-800-327-2723 for confidential assistance. Employees seeking treatment for drug or alcohol problems are encouraged to seek a leave of absence if necessary.

Use of drugs and alcohol while at work could be a significant safety and security problem. Employees who are concerned that a co-worker is working while impaired by drugs or

Alcohol is required to notify a supervisor immediately so that appropriate actions can be taken to ensure the safety and security of all employees at NBPA.

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Section 31: Alcohol and Controlled Substances Testing Policy

A. Introduction

NBPA is a Drug Free Workplace. NBPA employees work in dangerous environments, operate heavy equipment, drive vehicles, and interact with the public. Because of this, NBPA cannot accept any employee who is impaired by alcohol or using any controlled substances other than those prescribed by a doctor. As part of its commitment to maintaining a workplace that is free from drugs and the influence of alcohol, NBPA will test all finalists for positions, will test current employees where there is reasonable suspicion to believe the employee is intoxicated or under the influence of drugs, and will test employees involved in serious accidents while at work.

This policy applies to all NBPA employees. In addition to the testing set forth in this policy, NBPA also randomly tests employees who hold Commercial Driver's Licenses ("CDL"). The random testing policy for CDL holders is discussed in a separate policy but the random testing program will follow this policy's rules for testing and consequences.

B. Prohibitions

i. Prohibited Misuse of Alcohol

NBPA Employees are prohibited from: (1) reporting for duty, or remaining on duty, while having an alcohol concentration that would yield a positive test result under this policy; (2) using alcohol prior to post-accident testing; (3) using alcohol while at work unless alcohol is served at an official work related function; or (4) refusing to submit to an alcohol test required under this Policy.

ii. Prohibited Misuse of Controlled Substances

NBPA Employees are prohibited from: (1) using any controlled substance except pursuant to a physician's prescription, or (2) refusing to submit to a controlled substances test required under this Policy. While individuals in Massachusetts may be able to obtain marijuana without violating state criminal laws, any positive test for marijuana will be considered a violation of NBPA's policy and the "medical certification" required to obtain marijuana will not provide a defense to discipline.

iii. Prohibition On Reporting To Work Impaired by Medication

Employees are further prohibited from reporting to work impaired by, or under the influence of, any prescription or over the counter medication that could affect the

Employee's safety or job performance. If an employee reports to work impaired by, or under the influence of, any over the counter medication or prescription drug for which the employee has a valid, current prescription, the employee will be sent home and required to use paid time-off for that day.

iv. Requirement to Report

Employees are required to report the use of any prescription or therapeutic drug that could affect performance of their jobs to the Port Director or In-House Counsel by providing documentation of their prescription, including the length of time the medication is prescribed. This documentation will be filed in the employee's confidential medical folder. If requested by NBPA, the employee will provide a statement from the prescribing doctor indicating whether the employee can safely perform the functions of his or her position while taking the drug.

C. Tests And Procedures

i. Alcohol Testing

NBPA will contract with an organization to conduct "breath testing" for the presence of alcohol. A result of less than 0.04 alcohol concentration will be considered negative. If the concentration of alcohol is 0.04 or greater, the result is positive and a confirmation test must be conducted to confirm the initial results.

However, an employee with an alcohol test result above 0.02 will be retested within 15-20 minutes. If the results of the confirmation alcohol test show a 0.02 - 0.039 breathalyzer reading, the employee will be removed from safety sensitive duties for that day. The employee will be allowed to use any available accumulated sick, vacation, or personal leave during the removal period and is subject to a return to duty test before returning to work.

ii. Controlled Substances Testing

NBPA will contract with an organization to conduct urine tests for controlled substances. The analysis will take place at a drug testing laboratory, utilizing strict chain of custody procedures to ensure that test results are properly attributed to the correct employee. Specimens will be sub-divided into two samples, a primary and split specimen.

If the screening test of the primary sample is positive for one or more of the drugs, then a confirmation test will be performed using gas chromatography/mass spectrometry (GC/MS) analysis. All such tests will be reviewed by a physician (the "Medical Review Officer") before they are reported to NBPA. If the result is positive, the Medical Review Officer will contact the employee to determine whether there may be an alternative medical explanation for the positive result. If the employee provides documentation and the MRO believes that there is a legitimate use for the prohibited drug, then the test result will be reported as negative to NBPA. If the primary specimen is positive, the employee has 72

hours from the time the MRO contacts the employee to request that the split specimen be analyzed by a different laboratory.

iii. Retesting As A Result Of Collection or Testing Error

Employees may be required to provide a second testing sample or undergo a retest if either collector error or laboratory error makes the sample untestable or if the sample collected is insufficient for testing.

D. Consequences Of Alcohol Misuse Or Controlled Substance Use

i. Positive Test Results for Alcohol Misuse

Following a determination that an employee has engaged in conduct prohibited by this Policy involving alcohol testing, the employee shall be removed from the performance of all job functions. Further, such employee may not be returned to duty until (1) the employee undergoes evaluation by a Substance Abuse Professional (“SAP”) and, if determined to be necessary by the SAP, rehabilitation; (2) a SAP determines that the employee has successfully complied with any required rehabilitation, and such SAP confirms such compliance in writing to NBPA, and (3) an employee successfully passes a return-to-duty test, including an alcohol test with a result of less than 0.02. The SAP will determine the type of test or tests the employee will be required to take, for return-to-duty and follow up testing.

Any employee whose breath testing result indicates a concentration of alcohol of 0.04 or greater shall also be subject to disciplinary action, up to and including discharge.

If an employee has positive results on the alcohol test, the employee should not be allowed to drive home or back to the workplace. The employee must call someone for transportation, take a taxi, or take public transportation. Another NBPA employee will not be required to drive someone home if the person has tested positive for alcohol.

ii. Positive Test Results for Controlled Substances Use

Following a determination that an employee has engaged in conduct prohibited by this Policy involving controlled substance testing, the employee shall be removed from the performance of all job functions. Further, such employee may not be returned to duty until (1) the employee undergoes evaluation by a SAP and, if determined to be necessary by the SAP, rehabilitation; (2) a SAP determines that the employee has successfully complied with any required rehabilitation, and such SAP confirms such compliance in writing to NBPA and (3) the employee successfully passes a return-to-duty test, including a controlled substance test, with negative results. The SAP will determine the type of test or tests the employee will be required to take for return-to-duty and follow up testing.

Observers will be present in all follow-up and return-to-duty direct observation collections to check employees for the presence of prosthetic and other devices used to cheat on tests,

by having employees raise and lower their clothing. All follow-up and return-to-duty tests for controlled substances will be directly observed by a witness of the same gender.

If an employee who tests positive requests the split sample to be tested, the employee will remain suspended without pay pending the results of the split sample test. If the split sample test is negative, the employee will be reinstated and reimbursed for any lost base pay.

Any employee covered by this Policy who tests positive for controlled substances shall also be subject to disciplinary action, up to and including discharge.

If an employee has positive results on the controlled substance test and is showing signs of being under the influence, the employee will not be allowed to drive home or back to the workplace. The employee must call someone for transportation, take a taxi, or take public transportation. Another NBPA employee will not be required to drive someone home if the person has tested positive for controlled substances.

iii. Refusal to Submit to Testing

Any employee who fails or refuses to submit to an alcohol or controlled substances test, on a timely basis as directed, will be deemed to have tested positive and will be immediately suspended without pay pursuant to this Policy. Failure or refusal to submit to such tests as directed includes, but is not limited to: the failure to proceed directly to the testing facility as directed, failure to provide adequate amount of breath or urine for alcohol or controlled substances testing, intentional attempts to alter or invalidate test results, or failure to complete all of the necessary paperwork. Additionally, such employee shall be deemed insubordinate and subject to disciplinary action, up to and including discharge.

To the extent that the failure to provide adequate breath or urine is a result of a medically documented disability, NBPA will take steps to determine whether a reasonable accommodation can be provided to the disabled employee.

E. When Testing Will Be Required

i. Pre-Employment Testing

The NBPA will require pre-employment drug testing based upon job duties. Where testing is required, offers of employment will be conditioned on passing the pre-employment drug test.

ii. Post-Accident Testing

Employees must submit to testing as soon as practicable following a work related accident during business hours: (1) if the accident involves loss of human life, serious injury, or significant vehicle or property damages; (2) if the employee receives a citation under state or local law for a moving traffic violation arising from the accident; or (3) if circumstances

of the accident give rise to a reasonable suspicion that the employee was impaired by alcohol or controlled substances. If an employee is subject to post-accident testing, NBPA will arrange for transportation to the testing facility and will not allow the employee to transport himself or herself to the testing facility.

iii. Reasonable Suspicion Testing

Whenever a supervisor or manager has reasonable suspicion to believe that the actions, appearance, speech or body odors of an on-duty employee are indicative of the use of alcohol or controlled substance, the employee will be required to submit to a drug and/or alcohol test and will be suspended from work without pay pending the results of the test. Whenever possible, the supervisor or manager will consult with a second supervisor or manager in making the decision to request a reasonable suspicion test. If an employee is subject to reasonable suspicion testing, NBPA will arrange for transportation to the testing facility and will not allow the employee to transport himself or herself to the testing facility.

iv. Return to Duty Testing

Any employee who is suspended as a result of having been determined to have engaged in prohibited alcohol use or use of controlled substances in accordance with this Policy must submit to testing prior to returning to duty. Employees who have tested positive for alcohol use must have an alcohol concentration of less than 0.02 before returning to duty. Employees must test negative for controlled substances use prior to returning to duty.

All return-to-duty tests for controlled substances must be directly observed by a witness of the same gender.

v. Follow-Up Testing

As determined by an SAP, an employee that has been suspended as a result of testing positive for alcohol or controlled substances, and has been identified as being in need of assistance in resolving problems associated with misuse of alcohol or controlled substances use, must submit to unannounced "follow-up" testing.

All follow-up tests for controlled substances must be directly observed by a witness of the same gender.

Once the employee returns to duty, the frequency of testing will be directed by a SAP, and shall not be less than 6 tests in the first 12 months following return to duty. Follow-up testing may be extended for up to 60 months following return to duty by NBPA at the recommendation of the SAP. The SAP will be required to certify that the employee is participating in treatment and is testing negatively in the follow-up testing program. Treatment plans will remain confidential.

F. General Information

i. Training

NBPA will provide supervisors and managers with alcohol abuse and controlled substance abuse training as requested.

ii. Expenses

All NBPA required alcohol and controlled substances testing will be performed at NBPA's expense. All employees who are required to submit to random and follow-up alcohol or controlled substances testing will be paid the appropriate hourly rate for the time required in traveling to and from, and spent at, the collection site.

If a controlled substance test result comes back as positive, the employee has the right to request another test with what remains from the split sample that was originally collected. The second test will be at the employee's expense if it is positive. If the second test results are negative, the original results will be changed to reflect the negative result, and the test will be paid for by NBPA.

iii. Employee Assistance Program ("EAP")

Employees are strongly encouraged to take advantage of NBPA's confidential Employee Assistance Program by calling 508-990-0777 or 1-800-327-2723. Employees are encouraged to seek assistance for alcohol or controlled substances abuse problems before their employment is jeopardized.

iv. Confidentiality of Records

Employee alcohol misuse and controlled substances use records are strictly confidential. Test results and other confidential information shall only be released to the employee, a SAP, and NBPA personnel requiring access to the information to perform their jobs.

v. Retaliation Prohibited

It shall be a violation of this policy for any employee to retaliate against any person who, in good faith, reports a possible violation of this policy or who participates in an investigation related to this policy. Any employee found to be engaging in prohibited retaliation will be subject to discipline up to and including suspension and termination.

G. Glossary Of Terms

Controlled Substances: The term “controlled substances” refers to marijuana (“THC”), cocaine, opiates, phencyclidine (“PCP” or “Angel Dust”), and amphetamines (including methamphetamine).

Medical Review Officer (MRO): A physician (M.D.) employed by an approved drug and alcohol testing organization who reviews all drug testing results generated through the drug and alcohol testing program. The MRO is a licensed physician with knowledge of substance abuse disorders and is able to interpret and evaluate drug test results in conjunction with an employee's medical history and any other relevant biomedical information.

Substance Abuse Professional (SAP): The SAP is a clinical specialist in substance abuse evaluation and treatment. It is the responsibility of the SAP to recommend rehabilitation programs, return to duty and follow up testing. The SAP coordinates scheduling for follow-up testing and certifies that an employee is participating in a rehabilitation program and is drug and alcohol free. The SAP maintains confidentiality of individual treatment plans.

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Section 32: Commercial Driver’s License (CDL) Random Testing Policy

A. INTRODUCTION

All employees of NBPA who hold a Commercial Driver’s License and who may be called upon to use that license at any time for NBPA (“CDL employees”) are subject to random testing for controlled substances and alcohol pursuant to the Federal Highway Administration (“FHWA”) rules and regulations.

In addition to random testing, all CDL employees are subject to reasonable suspicion testing, post-accident testing, and return to duty/follow-up testing. All persons making application with NBPA for positions which require a CDL, whether as a new employee or through a promotion, will be required to submit to drug and alcohol testing as part of the application process. The policy and procedure for these types of testing are found in NBPA’s Alcohol and Controlled Substances Testing Policy.

This policy identifies the specific rules and processes for random testing applicable to CDL employees. These employees are tested for five controlled substances (marijuana, cocaine, opiates, amphetamines and phencyclidine) and breath-tested for alcohol. All testing procedures and consequences for positive tests are set forth in NBPA’s Alcohol and Controlled Substances Testing Policy.

B. PROHIBITED CONDUCT

CDL employees are prohibited from the following conduct:

- Reporting for duty or remaining on duty with an alcohol concentration of 0.04 or greater.
- Possessing alcohol while on duty.
- Using alcohol while on duty.
- Using alcohol within four hours prior to reporting for duty.
- Using alcohol within eight hours following an accident or prior to post-accident testing.
- Using or possessing a controlled substance at any time except when the use is pursuant to a physician's prescription and the use of the prescription medication does not adversely affect the employee's ability to safely perform the functions of his or her position.
- Refusing to promptly submit to a required alcohol or controlled substance test or tampering with samples offered at such a test. Refusal to submit to such tests as directed includes, but is not limited to: the failure to proceed directly to the testing facility as directed, failure to provide adequate amount of breath or urine for alcohol or controlled substances testing, or failure to complete all of the necessary paperwork. To the extent that the failure to provide adequate breath or urine is a result of a medically documented disability, NBPA will take steps to determine whether a reasonable accommodation can be provided to the disabled employee.

C. TESTING PROCEDURES FOR RANDOM TESTING

Testing is mandatory. The refusal to submit to any of the tests identified above when called upon will be considered a positive test result and result in discipline.

CDL employees will be subject to random alcohol and controlled substances testing as required by the FHWA rules. Employees will be randomly selected from a pool. The testing dates will not be announced and will be conducted with unpredictable frequency throughout the year. Employees selected for testing are required to immediately present themselves for testing. When reporting for the testing employees must present their CDL license as their identification.

As required by federal law, NBPA will contract with an approved organization to conduct breath testing for the presence of alcohol. In addition, NBPA will contract with an approved organization to conduct tests for controlled substances by analyzing the employee's urine specimen. The procedures that will be used to test for the presence of alcohol and controlled substances will be established to protect employee privacy to the extent possible, to protect the integrity of the testing process, to safeguard the validity of the test results, and to ensure that those results are attributed to the correct employee.

NBPA is required by the FHWA Rules to conduct random alcohol tests of at least 25% of CDL employees. FHWA Rules require that NBPA must randomly test at least 50% of employees in the CDL pool for controlled substances during each year the Policy is in

effect. All employees in the CDL pool are subject to being randomly selected each time random testing is carried out. An employee may be requested to submit to a random alcohol test just before, during or after the employee's performance of job functions. Random testing for controlled substances is not required to be done in close proximity to the performance of safety-sensitive functions, because the use of controlled substances is prohibited both on and off-duty.

If an employee subject to random testing has positive results on the alcohol test, the employee is not to be allowed to drive to their home or back to the workplace.

D. RECORDS AND TREATMENT

Records gathered under this policy and maintained by NBPA will remain confidential and only accessed by supervisors who have a business reason to review the records. Records may be accessed and used in legal proceedings if necessary.

Employees are encouraged to seek treatment for substance abuse problems through NBPA's EAP or through their health care provider. If participation in a substance abuse treatment program is recommended by the EAP or other health care provider, full participation by the employee in a substance abuse treatment program will be viewed favorably. Employees may be eligible for FMLA leave or other leave to participate in substance abuse treatment.

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Section 33: Policy Against Violence In The Workplace

A. Prohibited Conduct

The safety and security of its employees is of primary concern to NBPA. All employees should be able to work in an environment that is free of threats and violence. Therefore, NBPA will not tolerate any form of violence or threat of violence in its facilities, on its properties, or between employees. Violation of this policy will lead to corrective action, which may include discipline up to and including suspension and termination.

Conduct that injures, threatens, or intimidates another person will not be tolerated at NBPA. Violent behavior includes, but is not limited to, actions or communication in person, in writing, or through electronic communication. Workplace violence may occur with one person acting alone or it can occur between multiple persons. Workplace violence may involve employees or persons who do not work for NBPA if that violence affects the ability of employees to feel safe at work. Incidents of workplace violence can take place on NBPA property or they may occur off NBPA property between individuals whose relationship arises from working at NBPA.

Examples of prohibited workplace violence

- Physically injuring another person, intentionally damaging property, or threatening to do either act;
- Engaging in behavior that creates extreme emotional distress or a reasonable fear of injury in another person;
- Possessing, brandishing, or using a weapon while on NBPA premises or engaged in https://tpl.quickbase.com/db/bcstwv3d3?a=API_GetRecordAsHTML&key=42459NBPA business;
- Using any object to threaten or injure someone while on NBPA premises or engaged in NBPA business;
- Violating a restraining order or other type of written directive which prohibits an individual from entering NBPA's facilities or from being within a prescribed number of feet of a NBPA employee;
- Committing harassing or harmful acts motivated by, or related to, domestic violence, sexual harassment or discrimination; or
- Any other physical or verbal act that NBPA determines is a form of violence, and act of intimidation, or a threat of violence.

Failure to Report. It shall be a violation of this policy for any supervisor or manager to fail to report to the Port Director or In-House Counsel any conduct prohibited by this policy or any incident of violent behavior or threat of violence that he or she knew of or should have known about.

Failure to Cooperate. It shall be a violation of this policy for an employee to refuse to cooperate in the investigation of workplace violence. Witnesses and relevant parties may be interviewed and asked to sign written statements. Employees are expected to report the facts known to them to management.

Retaliation. It shall be a violation of this policy for any employee to retaliate against any person who files a complaint relating to workplace violence or who participates in any workplace violence investigation.

B. Response Procedures When An Act of Violence Occurs

1. Employees should not place themselves at risk if a situation appears dangerous. Employees who have concerns for their safety due to a threat at work should remove themselves from the threatening environment and contact a supervisor or call 911 if appropriate. After attending to their own safety needs and contacting 911, if appropriate, employees should report such concerns immediately to the In-House Counsel or the Port Director.

2. Supervisors and managers are expected to take whatever action is reasonable and appropriate to establish a safe working environment and defuse or mitigate a violent situation. When a physical act of violence occurs, supervisors and department heads must immediately remove the violent individual from the premises. If required, supervisors should call 911 for police assistance.

Supervisors should not place themselves in peril if a situation appears dangerous.

3. Once the immediate situation is under control, supervisors should determine whether the violent person should be suspended and immediately removed from NBPA property pending the outcome of an investigation. Suspension and removal are appropriate if necessary to defuse the situation and ensure the safety of employees. Supervisors should contact the In-House Counsel, or Port Director to discuss this decision. In no case should people involved in the dispute be left together without supervision. If the person threatened is unable to continue working, supervisors can send the person home with pay for the remainder of the work day.

4. If a person who makes threats, exhibits threatening behavior, or engages in violent acts as described above is removed from NBPA property the person should be suspended and barred from NBPA property pending the outcome of the investigation. A written “no trespass” warning should be issued. If the decision is made to suspend an employee, the employee will be required to temporarily surrender his/her work keys, NBPA ID, and other equipment. NBPA will temporarily suspend the person’s access to NBPA’s computers and other relevant systems. At the completion of the investigation, should it determine that this policy has been violated, NBPA should impose corrective action as warranted by the facts and circumstances.

5. After a violent act or threat of violence occurs or is reported, supervisors should order employees who witness the incident to make a written report of the incident before the end of the day.

C. Procedures For Threat Containment and Investigation

1. The In-House Counsel or Port Director will meet with the supervisors who witnessed or who reported the threat or act of violence to determine the appropriate steps to be taken. This group, along with any other persons the In-House Counsel or Port Director invites to join, will become the Threat Assessment Team for this incident.

2. The Threat Assessment Team should first determine if there remains a current threat to any employee that must be addressed. This analysis may require meeting with the person who received the threat or act of violence. The Team should determine if greater security or response capability is required to ensure all employees are safe at work and implement appropriate steps for greater security. If an employee has a greater concern for his or her safety outside of work, NBPA will recommend that the person seek a restraining order from the local court and speak to the police.

3. The Threat Assessment Team will decide whether the situation warrants further monitoring, suspending the employee (if he or she has not already been suspended), commencing an internal investigation, and/or referral to the police. The Threat Assessment Team will appoint investigators to interview witnesses and collect data.

4. To the extent possible, investigators will meet with all relevant witnesses. Consistent with the requirements of the investigation, and to the extent permitted by state law, the information received by witnesses and victims shall be considered confidential during the investigation. However, witnesses should be informed that the information provided might be used as part of a disciplinary or criminal proceeding.

5. Investigators should interview and obtain written statements from witnesses regarding the situation, which should include:

- (a) who made the threat or acted violently;
- (b) who was the target of the threat or violent act;
- (c) what specific language was used or actions taken;
- (d) where and when the incident took place;
- (e) whether there was any physical conduct which would tend to substantiate that the individual intends to follow through on the threat;
- (f) the names of any other witnesses;
- (g) whether the individual has prior incidents of threats or violence;
- (h) any other information which will help management ensure that the threat will not be carried out or that violent conduct will not be repeated.

6. After all the relevant information is collected, the investigators will present the Threat Assessment Team with their findings so that the Team can determine what actions are appropriate. Potential actions include, but are not limited to, requirement of counseling, a return to work clearance by an appropriate medical care provider, reassignment, suspension, or termination of the violent employee.

7. If the Threat Assessment Team determines that termination is not the appropriate course of action, the Threat Assessment Team will develop a plan to continue to monitor and control the situation, in addition to whatever corrective action is decided upon. As necessary, the Threat Assessment Team will meet periodically to review the implementation of the monitoring plan.

8. If appropriate, the Threat Assessment Team will also implement an employee debriefing plan to deal with other work issues affecting the unit in which the incident took place. Employees will be reminded that they have access to NBPA's EAP program should they need additional counseling after the incident.

9. If appropriate, the Threat Assessment Team will meet after all plans have been implemented for a Team debriefing to review the effectiveness of the response to the incident and to make recommendations to improve the procedures in the future.

10. The In-House Counsel and Director of Administration and Finance will ensure that records are maintained relating to the actions of the Threat Assessment Team and will be responsible for ensuring debriefing and follow-up occur where necessary.

D. Preventive Measures

NBPA will conduct Workplace Violence Prevention training for all employees and supervisory staff as needed.

Any employee who has applied for and obtained a protective or restraining order which designates NBPA facilities as protected areas is strongly encouraged to provide copies of the order to the In-House Counsel who will coordinate NBPA's actions, and notify the appropriate law enforcement agency, so that NBPA can take appropriate steps to enforce the order.

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Section 34: Policy Against Harassment and Discrimination

A. Introduction

NBPA is committed to maintaining a working environment that is free from discrimination, harassment – including sexual harassment – and retaliation. NBPA's commitment begins with the recognition that harassment, discrimination, and retaliation are unlawful, will be investigated, and will not be tolerated. To that end, NBPA has adopted this policy to identify prohibited activity and identify reporting and investigation procedures for employees who have been subjected to or have witnessed harassment, discrimination, or retaliation. The Policy applies to all employees, student interns, temporary employees, independent contractors, and contract employees. The Policy is in effect at all on-site and off-site work-related settings, activities, and property (e.g., telephones, copy machines, facsimile machines, computers, and other forms of electronic communication).

Because NBPA takes allegations of harassment and discrimination seriously, NBPA will respond promptly to evidence of, or complaints of, inappropriate conduct. Where NBPA determines that inappropriate conduct has occurred, it will act promptly to eliminate the conduct and impose such corrective and disciplinary action as is necessary and appropriate.

NBPA recognizes that it is illegal to retaliate against persons complaining of harassment and discrimination or persons cooperating in investigations into complaints of harassment and discrimination. NBPA will not tolerate any such retaliation. NBPA will investigate and respond to any allegation of retaliation and will act promptly to eliminate retaliation and impose corrective and disciplinary action as is necessary and appropriate.

This Policy covers conduct that a person directs at a person of the opposite sex or a person of the same sex. It also covers employee conduct directed at, or conduct received from, third parties, including without limitation customers, the public, vendors, and businesses operating on our properties. While this Policy sets forth NBPA's goals of promoting a workplace that is free of harassment, discrimination, and retaliation, it is not designed or intended to limit NBPA's authority to discipline or take remedial action for conduct which management deems unacceptable, regardless of whether such conduct is considered discrimination or harassment as described below.

B. Statement Against Discrimination

As part of its commitment to maintain a workplace that is free of discrimination, NBPA states that it will not discriminate against any person, employee, or applicant for employment because of that person's membership in any legally protected class, including but not limited to the person's race, color, gender, religious creed, national origin, ancestry, age being 40 years or greater, sexual orientation, handicap, gender-related identity or expression, genetic information, or veteran status. In addition, NBPA shall not discriminate against any person, employee, or applicant for employment who is a member of, or applies to perform service in, or has an obligation to perform service in, a uniformed military service of the United States, including the National Guard, on the basis of that membership, application, or obligation. These categories will be referred to as a person's "protected class."

C. Prohibition Against Sexual Harassment And Discussion of Scope

1. No supervisor or manager will engage in or condone any act of sexual harassment or retaliation. All supervisors and managers are **required** to report all instances of perceived sexual harassment and/or retaliation of which they become aware by any means whatsoever in accordance with the reporting procedures outlined in this Policy.
2. No employee will engage in or condone any act of sexual harassment or retaliation. All employees are encouraged to report all instances of perceived sexual harassment and/or retaliation of which they become aware by any means whatsoever in accordance with the reporting procedures outlined in this Policy.
3. "Sexual harassment" is broadly defined as sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment.
4. Examples of behavior that may constitute sexual harassment include, but are not limited to, the following:
 - Sexual advances or touching deemed by the recipient to be unwelcome.
 - Sexually-oriented comments about the body, appearance or life-style.
 - Discussion of sexual activity, sexual name calling, or sexual jokes.
 - Non-verbal behavior such as leering, staring, sexual gestures, or touching.

- Showing, displaying and/or disseminating sexually explicit voice mails, e-mails, texts, graphics, cartoons, pictures, photographs, objects or computer downloaded material or websites in the workplace.
- Requests for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, or other benefits.
- Statements or threats which imply, or could be reasonably construed to imply, a link, between an employee's sexual conduct and his or her employment status, advancement potential, salary treatment or other employment action.

Employees should be aware that statements or conduct overheard or witnessed by someone can be harassment even if that person is not the intended recipient of the statements or conduct.

5. Retaliation against an employee who files a complaint of sexual harassment and/or participates in an investigation of such a complaint is prohibited.

D. Prohibition Against Harassment And Discussion of Scope

1. No supervisor or manager will engage in or condone any act of harassment or retaliation. All supervisors and managers are **required** to report all instances of perceived harassment and/or retaliation of which they become aware by any means whatsoever in accordance with the reporting procedures outlined in this Policy.
2. No employee will engage in or condone any act of harassment or retaliation. All employees are encouraged to report all instances of perceived harassment and/or retaliation of which they become aware by any means whatsoever in accordance with the reporting procedures outlined in this Policy.
3. "Harassment" is defined as verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his or her race, color, gender, religion, creed, sexual orientation, gender-related identity or expression, age being greater than forty, ancestry, national origin, handicap, disability, veterans' status, genetic information, or status as someone who has an obligation to perform service in a uniformed military service of the United States, or any other legally protected status when: (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; (2) submission to or rejection of such conduct by an individual is used as a basis for employment decisions affecting such individual; or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or offensive work environment.
4. Depending on the circumstances, the following are some, but certainly not all, examples of behavior NBPA will consider harassment:
 - Epithets, slurs, negative stereotyping, jokes, or threatening, intimidating, or hostile acts that relate to a person's protected class.

- The presence and/or dissemination anywhere in the workplace (including without limitation on voice mail, e-mail, the internet and/or computers) of audio, video, written or graphic material that denigrates or shows hostility toward an individual or group because of protected class.
5. Retaliation against an employee who files a complaint of harassment and/or participates in an investigation of such a complaint is prohibited.

E. Reporting Procedures

1. Employees are encouraged to report allegations of discrimination, sexual harassment, harassment, retaliation or other violations of this Policy as soon as possible after their occurrence. Employees can report these allegations to any manager or supervisor. Employees can also report these allegations directly to the In-House Counsel or the Port Director.
2. When an allegation that could give rise to a violation of this Policy is brought to a manager's or supervisor's attention by an employee, the manager or supervisor shall immediately report the allegation to the In-House Counsel. A manager or supervisor has a duty to report all allegations of harassment, retaliation, or discrimination even if the complaining person requests that no action be taken.
3. Employees with questions about this policy should speak with the In-House Counsel. Complaints to the In-House Counsel alleging any violation of this Policy can be filed in person, mailed, or made over the telephone.
4. In addition to complaining to NBPA, Employees may also bring complaints to the following government agencies that enforce the laws against workplace discrimination and harassment:
 - (a) The Massachusetts Commission Against Discrimination ("MCAD") has offices in Boston (One Ashburton Place, Room 601, Boston, Massachusetts 02108) and New Bedford (800 Purchase Street, Rm 501, New Bedford, MA 02740). The contact info for the New Bedford office is Tele (508) 990-2390 and Fax (508) 990 4260. The telephone number for the Boston office is 617-994-6000 and the fax number is (617) 994- 6024.
 - (b) The United States Equal Employment Opportunity Commission ("EEOC") is located at the John F. Kennedy Federal Building, Suite 475, Government Center, Boston, Massachusetts 02203. The telephone number is 1-800-669-4000, TTY 1-800-669-6820, Fax 617-565-3196.

Both the MCAD and the EEOC require that a person who believes his or her rights have been violated contact the agency within 300 days of the violation.

F. Procedures For Investigating Complaints

1. When NBPA receives a complaint alleging that a violation of this Policy has occurred, the complaint will be promptly investigated.
2. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. The investigation typically will include a private interview with the person filing the complaint and with witnesses and will also generally include an interview with the person alleged to have engaged in conduct prohibited by this Policy. Where appropriate, each person interviewed during the investigation will be asked to keep the investigation confidential.
3. When the investigation is complete, the person filing the complaint and the person alleged to have violated this Policy, to the extent that person is aware of the investigation, will be informed of the conclusion reached by the investigation.
4. All persons are expected to conduct themselves honestly, cooperatively, and in good faith in connection with the filing and processing of any complaint pursuant to this Policy. No person should interfere with or obstruct any investigation into a violation of this Policy.

G. Penalty For Violation Of Policy Against Harassment

1. If it is determined that any employee or third party has engaged in inappropriate conduct, NBPA will take such action(s) as deemed appropriate under the circumstances to eliminate the offending conduct.
2. Depending on the facts found in its investigation, NBPA may take disciplinary or remedial action, which may include but not be limited to, training, counseling, a deficient performance evaluation, loss of pay, probation, demotion, transfer, suspension, or termination. NBPA may also take action against non-employees who have violated this policy, and such action may include, among other things, suspension of operating privileges on NBPA property.
3. If, after completing an investigation of a complaint, NBPA determines that no violation of this Policy has occurred but finds other misconduct or personnel-related issues warranting further review, NBPA may take any action(s) it deems appropriate to address such findings.

H. Educating Employees Regarding Harassment And Discrimination

1. NBPA provides education about harassment, discrimination, and the requirements of this Policy as part of its employee training programs to ensure that employee conduct complies with the standard set forth in this Policy.

2. This Policy is distributed to each employee during orientation at the time of hire and on an annual basis thereafter.
3. NBPA encourages employees who want counseling with respect to issues of harassment to utilize services available through the Employee Assistance Program (EAP). The EAP may be reached by calling 508-990-0777 or 1-800-327-2723.

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Section 35: Computer, Electronic Communication, and Internet Policy

A. Introduction

NBPA provides employees (“Users”) with computers and electronic communication devices for NBPA business. All Users have responsibility to use NBPA’s electronic equipment and the Internet in a professional, lawful, and ethical manner. Abuse of the computer network, use of NBPA’s electronic equipment to harass or threaten anyone, or use to violate any NBPA policy or the law, may result in disciplinary action, including possible termination and civil and/or criminal liability.

B. Activity Monitoring and No Expectation of Privacy

The computers, electronic devices, software, and networks they connect to are the property of NBPA and may only be used for legitimate business purposes, which includes reasonable personal use. Employees should have no expectation of privacy in anything (even if encrypted) they create, store, send, or receive using NBPA’s electronic equipment or networks. NBPA has the right to view and access any information stored, accessed, or transmitted on NBPA computers, on NBPA electronic devices, or through NBPA’s networks, including information accessed through personal accounts.

Users expressly waive any right of privacy in anything they create, store, send or receive using NBPA’s computer equipment, electronic equipment, or networks. Users consent to allow NBPA personnel access to and review of all materials created, stored, sent or received by Users through any NBPA network, over NBPA Internet connection, or on any NBPA computer or electronic equipment. User also agrees to allow NBPA to disseminate any materials obtained on its networks, computers, or electronic equipment.

NBPA has the right to monitor and log any and all use of its computer systems, networks, and electronic equipment, including, but not limited to, monitoring Internet sites visited by Users, monitoring communications, monitoring file downloads or files created, and monitoring all communications sent and received by Users including e-mail and texts.

C. Permitted and Prohibited Use of Internet and NBPA’s Computer Network

NBPA provides computers, electronic devices, and Internet network access to its employees to help them efficiently perform the duties of their positions. While it is understood that some incidental non-business use of this equipment and systems will occur

(for example brief e-mails to family members, brief telephone call for personal activity, checking weather, or checking news), Users understand that such incidental use should not affect work productivity. Excessive personal use of computers, telephones, or other devices will be grounds for discipline.

Users are not to use NBPA's computers, electronic devices, and internet networks in any manner that could compromise the systems, violate NBPA policies, or violate state and federal law. Examples of prohibited conduct include:

- Writing personal blogs, commenting on blogs, or posting any comments on-line unless you have received prior permission from NBPA and the comments are related to your position at NBPA.
- Use in any manner that sexually harasses, discriminates against, or threatens any person.
- Use for non-NBPA related solicitations like chain letters, letters related to personal business, political materials, or charitable activities.
- Use to access, download, review, or store any materials that reasonably could be considered pornographic or inappropriate at work because of its sexual nature.
- Use for gambling.
- Use to download games from the Internet or play games on the Internet.
- Use to access, download, or share copyrighted materials (e.g. music and movies).
- Use to upload or download any software onto systems or computers without authorization from management. This prohibition does not bar employees from downloading updates and patches to software that has already been approved for business use.

Any employee receiving or discovering information or materials that could violate this policy should notify the employee's supervisor immediately.

D. Composing Electronic Communications

NBPA employee communications will be easily identified as originating from NBPA. In addition, communications from NBPA computers, electronic devices, or networks may be subject to disclosure under the Massachusetts Public Records Law. Accordingly, all such communications should be composed with the same level of professional care exercised with respect to any written communication.

E. System Tampering

Under no circumstances are Users authorized to modify the configuration of any components of NBPA's computer network. This includes, but is not limited to, hardware installation, modification to configuration settings, installation of peripherals (i.e. printers, scanners etc.), software installation, equipment relocation, etc. Beyond basic equipment troubleshooting, such as removal of paper jams, no equipment should ever be opened or dismantled in any way by Users and no software should ever be installed or uninstalled by Users without advance permission.

F. Password Management

Passwords related to NBPA's computers and systems are NBPA property and are used to safeguard access to NBPA's computers, networks, and information. Passwords also identify the User responsible for computer activity. Under no circumstances should an employee share a password or use another person's password without permission from the Port Director or In-House Counsel. If so authorized by the In-House Counsel or Port Director, a person may use another person's password or access a system assigned to another person without the person's permission.

G. Accessing Data from E-Mails and the Internet

To ensure security and avoid the spread of viruses, Users accessing the Internet through a computer attached to NBPA's network must do so through an approved Internet firewall or other security device. Users may not bypass NBPA's computer network security by accessing the Internet directly by modem or other means.

In order to avoid downloading viruses onto NBPA's systems, Users should not download materials or open connections from websites or from e-mails unless the user is certain that the materials are secure. For example, Users should not open questionable attachments to e-mails unless the User has verified from the sender that the attachment was purposefully sent and is safe.

Files obtained from sources outside NBPA, including disks or drives brought from home, files downloaded from the Internet, newsgroups, bulletin boards, or other online services; files attached to e-mail, and files provided by customers or vendors, may contain dangerous computer viruses that may damage NBPA's computer network. Users should never download files from the Internet, accept e-mail attachments from outsiders, or use disks from non-NBPA sources, without first scanning the material with approved virus checking software. If you suspect that a virus has been introduced into the network, notify the Director of Administration and Finance immediately.

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Section 36: Use of NBPA Equipment and Property

A. Use and Maintenance of Equipment

NBPA provides employees with the equipment that is necessary for the successful completion of their job duties. While this equipment is owned by NBPA, it is the responsibility of every employee to make sure that assigned equipment is maintained in proper working order. At the end of every shift, employees are expected to return equipment to storage so that it is ready and available for use unless that equipment will

Continue to be used by another employee. If NBPA equipment is not working, the employee discovering the malfunction is responsible for reporting so that NBPA can repair the equipment.

Employees should not use NBPA equipment for a personal business or use it for work that is unrelated to NBPA business. This prohibition applies to all NBPA equipment including, but not limited to, vehicles, computers, copy machines, and tools. NBPA equipment cannot be loaned to other organizations without permission of the In-House Counsel or Port Director. NBPA has the right to reassign or inspect equipment at any time.

No employee should consider his or her employee work space, locker, desk, or equipment to be private. NBPA reserves the right to enter any work space, open any locker, inspect any desk, or inspect any equipment as is necessary to the proper functioning of NBPA. The right to enter includes the right to remove locks and open locked spaces when necessary. Employees should not assume any privacy interest in their assigned work area or equipment.

B. Use of NBPA Property

NBPA property (either owned by NBPA or managed by NBPA) is only to be used for functions related to NBPA business. Outside groups are not to use NBPA property without following applicable NBPA procedures for access and use of property. Employees are not allowed to use NBPA property, including conference rooms, to promote private activities, charitable activities, or outside business activities unless these activities are officially sanctioned by NBPA and permission has been obtained from the In-House Counsel or Port Director.

C. Distribution of NBPA Souvenirs

From time to time, NBPA purchases NBPA clothing or other NBPA items to distribute to customers, visiting dignitaries, and the public in order to spread good will and promote the Port of New Bedford. Employees wishing to distribute souvenirs must seek approval from the In-House Counsel or Port Director and must initial a log indicating what items are being distributed, the quantity distributed, and to whom they are distributed.

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Section 37: No Smoking in NBPA Buildings or Vehicles

NBPA prohibits smoking in all NBPA buildings and vehicles. Employees and the public are prohibited from smoking in any building owned, operated, leased and/or under the control of NBPA, or *within 15 feet* of any point of entry of such buildings. NBPA employees are also prohibited from smoking in *any vehicle* owned, operated, leased and/or under the control of NBPA. NBPA employees are prohibited from smoking in their personal vehicles if using the vehicle for NBPA business and transporting other people. Individuals smoking outside of an NBPA building must be far enough away to ensure that smoke does not migrate back into the building. Employees smoking outside of NBPA

buildings are to ensure cigarette butts are properly disposed of and not left on the ground.

NBPA will ensure that “No Smoking” signs are clearly posted in all NBPA buildings.

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Section 38: NBPA Resources Cannot Be Used For Political Campaigns

Public employees who take part in political campaigns should be aware M.G.L. Chapter 55, the Campaign Finance Law, regulates political activity by public employees and the use of public buildings and public resources in campaigns.

No NBPA employee may directly or indirectly solicit or receive a contribution or anything of value for any political purpose (e.g., candidates, parties, PACs, ballot question committees). Specifically, a public employee may not:

- sell tickets to a political fundraiser or otherwise solicit or collect political contributions in any manner, including in person, by phone, by e-mail or by conventional mail;
- sponsor or host a political fundraising event;
- allow his or her name to be used in a fundraising letter, advertisement, phone call or e-mail;
- help identify people to be targeted for political fundraising; or
- serve as treasurer of a political committee.

However, a public employee may:

- contribute to candidates and attend fundraisers;
- run for office; or
- work for campaigns and committees in a non-fundraising capacity, such as holding signs, stuffing envelopes, hosting coffees or other meetings, or being a member of a committee.

State law prohibits NBPA property or buildings from being used to soliciting or receiving campaign contributions. No one (not just public employees) may:

- sell tickets to a fundraiser or otherwise solicit or collect political contributions in a public building.
- send a solicitation into a government building, such as by phone, mail, or e-mail.
- use a public building as the site of a fundraiser, the return address for contributions or the contact phone number for buying tickets to a fundraiser.
- post in a public building any advertisement for a fundraiser.

NBPA resources (NBPA vehicles, office equipment and supplies, computers, and the paid time of NBPA employees) may not be used for political campaign purposes, such as the election of a candidate or the passage or defeat of a ballot question. For example, an NBPA employee may not, during his or her work day, work for a candidate or ballot question committee or use office postage, e-mail, or equipment to distribute campaign material.

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Section 39: Whistleblower Protection Law (M.G.L. c. 149, §185)

NBPA encourages employees to raise questions and concerns if the employee believes an act of NBPA might violate the law or pose a threat to public health, safety, or the environment. To raise such a concern, the employee should bring the activity, policy, or practice in question to the attention of the In-House Counsel.

NBPA, as employer, shall not take retaliatory action against an employee because the employee does any of the following:

- Discloses or threatens to disclose an activity, policy, or practice which the employee reasonably believes is a violation of the law, or which the employee believes poses a risk to public health, safety, or the environment.
- Provides information or testifies before a public body conducting an investigation into any violation of the law or risk to public health, safety, or environment.
- Objects to or refuses to participate in activity which the employee reasonably believes is a violation of a law or which the employee reasonably believes poses a risk to public health, safety, or the environment.

An employee who believes NBPA has violated M.G.L. c. 149, sec. 185 has the right to bring an action in the Superior Court in accordance with M.G.L. Chapter 149 Section 185 (d). By law, failure to bring concerns to NBPA's attention in writing, before filing suit, may waive your rights under M.G.L. c. 149, sec. 185 unless: (a) you are reasonably certain that the activity, policy, or practice is known to one or more supervisors and the situation is emergency in nature; or (b) you reasonably fear physical harm as a result of reporting your concerns.

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Section 40: Data Privacy Protection

For business purposes, NBPA must collect some data about individuals that is considered private. Examples of this private data include: medical information about employees, credit/debit card or banking information, social security or driver's license numbers, criminal history information, and other private information that can be readily associated with a person. In order to provide maximum privacy protection:

- NBPA will only collect and store private data that it requires to operate,

- NBPA will maintain private data in locked containers or, if on a computer, in encrypted or secure files,
- NBPA will only allow access to private data to those employees or vendors who require access to perform job functions,
- NBPA will ensure all vendors receiving private data have policies in place to meet the standards of Mass. Gen. L. ch. 93H and the regulations beginning at 201 CMR 17.00,
- NBPA will destroy private data consistent with M.G.L. c. 93I when it is no longer needed and can be destroyed under the Commonwealth's records retention policy, and
- before throwing out, selling, or returning any computers, copy machines, printers, or other devices that store digital information, NBPA will ensure there is no private information remaining on the equipment and/or that all private information has been sufficiently destroyed so that a subsequent user will not be able to access or reconstruct the data.

All NBPA employees are required to take steps to identify and protect private data as part of their job duties. Private data should not be left accessible at the end of the work day. Rather, it should be locked-up or secured at the end of each work day.

All NBPA employees must take steps to maintain the security of NBPA computers. NBPA computers require individual passwords for access and employees are prohibited from sharing passwords or accessing a computer under another person's password. NBPA computers should be turned off at night and have functioning lock-out so that users must enter a password to continue working on the computer after a period of inactivity, usually 5 or 10 minutes.

NBPA employees should not take private data home or out of NBPA offices without business need and permission of a supervisor. All portable devices like laptops, USB drives, or memory sticks that contain private data must be encrypted. When transferring digital private data outside of NBPA networks, the data should be encrypted to protect it from being accessed inappropriately.

NBPA employees are prohibited from disseminating private data from NBPA or using any private data from NBPA for purposes other than NBPA business. NBPA employees are prohibited from discussing private data outside of work, on-line, in blogs, or in any non-work forum.

If NBPA employees identify private data that NBPA currently collects but may not need, employees should notify the so that NBPA can determine whether it no longer needs to collect this data. For example, social security numbers should never be used as individual identifiers if another system of identification would work (like last four digits of the social security number). If an employee realizes that NBPA is using social security numbers as identifiers, the employee should notify the Director of Administration and Finance.

Further, all employees are required to notify the In-House Counsel or Port Director if the employee believes that any unauthorized person has acquired or used private data from NBPA or if the employee is aware that NBPA has lost control of private data by, for example, e-mailing private data to a person who was not the intended recipient, losing a computer or data storage device, losing paper files containing private data, or being subject to an external computer attack (being “hacked”).

Private data on paper documents should be redacted, shredded, or burned when the papers are discarded so that private data cannot be read or reconstructed. Electronic data containing private data should be destroyed or erased so that private data cannot be read or reconstructed. If an outside party is hired to dispose of paper or electronic records, NBPA will ensure that the outside party takes sufficient steps to ensure private data will be destroyed.

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Section 41: Conflict of Interest Law (M.G.L. c. 268A)

A. Principles And Purposes

The Massachusetts Conflict-Of-Interest Law (M.G.L. c.268A), also known as the ethics statute, is designed to help public employees function with the best interest of their public employer in the forefront of their minds at all times. This statute applies to all NBPA employees. The statute identifies some circumstances where a public employee’s personal interests could conflict with his or her public duties and offers guidance for how to resolve or avoid these conflicts. In order to help employees understand the ethics statute, NBPA has written this policy to address certain ethical situations that could confront NBPA employees.

Many of the provisions of the conflict law address obvious situations where an employee’s business judgment could be clouded the desire to benefit personally or to help another party. For example, an NBPA employee may not accept or request a bribe. An NBPA employee may not have a financial interest in any NBPA contract. An NBPA employee may not represent a party in any matter where NBPA is involved. An NBPA employee cannot make official decisions that might affect the employee, a family member, a friend, or a business associate without disclosing the situation to his or her appointing authority in writing and receiving written permission to make the decision. The law even requires that public employees avoid or disclose situations where there is an *appearance* of a conflict.

NBPA will investigate and discipline employees when it becomes aware of violations of the ethics statute. In addition to any action taken by NBPA, the State Ethics Commission and the Attorney General's Office are authorized to investigate violations of the ethics statute.

The policy is intended to provide guidance to help employees recognize and avoid an actual conflict or an appearance of conflict in the performance of their job duties. In multiple places, this policy references employees making a disclosure to the Port Director.

For each place, if the Port Director is faced with the ethical dilemma, the Port Director must make a disclosure to the Commission. This policy is intended to be consistent with M.G.L. c 268A in all respects.

B. Training And Education

By law, the NBPA must provide each employee with a summary of the conflict of interest law for municipal employees prepared by the Massachusetts Ethics Commission. In addition, every two years each employee must complete the Ethics Commission on-line training program. Therefore, the NBPA requires all employees to take the computer training required by the Ethics Commission which can be found at <http://www.muniprogram.eth.state.ma.us/>. Each employee must print the certificate of completion and provide it to the NBPA to be kept in the employee's personnel file. Employees who do not print the certificate will be expected to retake the training and print a new certificate.

For additional information about how the ethics laws affect you, employees should review the explanatory documents published by the State Ethics Commission available on its website (www.mass.gov/ethics/). The Ethics Commission regulations (starting at 930 CMR 1.00) also provide good explanations of the law with examples and can be found on the Commission's website. Finally, the Ethics Commission offers free consultation through the Lawyer of the Day program (617-371-9500) if you have a question about a matter that you believe might be governed by the ethics statute

C. Definitions

For the purpose of this policy:

"Confidential" or "Inside Information" means information not generally available to the public because it is exempt from disclosure under the Public Records Law, G.L.C. 4, s.7 that is intended to be available to NBPA employees only for NBPA purposes and not for anyone's personal benefit.

"Gift" means anything received or purchased at less than fair market value. It includes loans, advances, the use of credit cards, travel and other reimbursement, entertainment, tickets to any event, meals, outings, and goods and services supplied at less than market value.

"Immediate Family" for purposes of the ethics statute means NBPA employee's spouse and the parents, children, brothers and sisters of NBPA employee and those of his or her spouse.

"Outside Employment" means any work, service or other activity performed with or without compensation by a NBPA employee other than in the performance of official duties. It includes, but is not limited to, self-employment, consulting, teaching, lecturing and writing.

D. Rules For Refusing or Accepting Gifts

An NBPA employee shall not solicit or accept, directly or indirectly, any gift of cash or any gift with a fair market value of \$50.00 or more from a person or organization that does business with NBPA, seeks to do business with NBPA, or could be trying to influence the official actions of an NBPA employee. In addition, an employee will not accept a series of gifts, for example lunches, that are valued at less than \$50 but when totaled over a period of one year are valued at \$50 or more. This prohibition applies to immediate family members of NBPA employees. They are not allowed to accept any gifts that an NBPA employee would be barred from accepting unless family member has an independent relationship with the gift giver, the gift giver does not seek to influence NBPA employee, and NBPA employee informs the Port Director of the gift, in writing, immediately upon learning of it.

Any gift received in violation of this section shall be returned to the donor. If return is not possible, the employee shall donate the item to the public or a charitable institution, and shall report the incident to the Port Director, explaining why return was impossible. When possible, the donor shall also be informed of this action.

NBPA is not prohibited as an agency from receiving gifts. If an NBPA employee receives a gift of perishable items, like a holiday fruit basket, the employee will not violate this section as long as the gift basket is offered to all NBPA employees and the public to share. Such a gift, if shared, will be deemed an acceptable gift to NBPA as opposed to a gift to the specific employee.

E. Outside Employment/Second Jobs

NBPA employees may engage in outside employment provided that such activity is compatible with the full and proper discharge of the duties and responsibilities of their NBPA employment. Compatible activity may include paid work completely unrelated to the operations of NBPA, as well as civic, charitable, religious, and community undertakings. It may also include some paid or unpaid outside activities which would contribute to technical or professional development.

Certain types of employment activity, however, give rise to conflicts or the appearance of a conflict. For example, an NBPA employee should usually not work for a second employer who has any involvement with NBPA (other than as a tenant) because the NBPA employee could be accused of using his or her NBPA job to obtain the second job or to benefit the second employer. Outside employment is generally prohibited as incompatible if it involves:

- (a) employment during your regular NBPA working hours or that requires you to leave your NBPA position early or come in late;
- (b) the use of NBPA facilities like office machines, computers, supplies, equipment, office space, telephones and secretarial or other support services;
- (c) work for a person or organization which:

- has a contract with NBPA, seeks to enter into a contract with NBPA, or could reasonably be expected to enter into a contract in the future or other direct or indirect business or financial relations with NBPA unless the contract is merely a contract to lease or use NBPA property;
- holds interests that may be affected by an NBPA employee's performance or non-performance of official duties; or
- Is in any way attempting to affect an NBPA employee's official actions.

In addition, NBPA employees may not engage in outside activities which could:

- impair their independence of judgment in the exercise of their public duties;
- give a reasonable basis for the impression that their outside employment can affect the performance of their official duties or raise suspicion that they are likely to be engaged in acts that violate the trust placed in them as NBPA employees unless appropriate disclosure and permission are obtained.

NBPA employees who have or who may accept outside employment must disclose the arrangement to the Port Director and may be required to seek permission from the Massachusetts Ethics Commission.

F. Looking For A New Job While Working At NBPA

If an employee is considering leaving his or her job with NBPA, future employment may be negotiated with any employers. An NBPA employee, however, may not have any official involvement with the prospective employer while he or she is negotiating future employment or after receiving a job offer unless the employee makes a written disclosure of the situation to the Port Director and receives written permission to continue acting as an NBPA employee with the prospective employer. This prohibition and requirement of disclosure also applies if an employer makes an unsolicited offer of employment to an NBPA employee.

If an NBPA employee and the prospective employer are unable to agree on terms of employment and the negotiations stop, the NBPA employee must still disclose the facts of the relationship to the Port Director prior to taking any action, either positive or negative, as an NBPA employee involving the prospective employer. Disclosure of the situation avoids the appearance that the NBPA employee is favoring a potential employer or punishing an employer that refused to hire the NBPA employee.

An NBPA employee may not, directly or indirectly, negotiate employment on behalf of a family member with a person or firm that does business with NBPA. Such a situation would create a conflict of interest or appearance of a conflict because the public could think that NBPA employee was favoring a particular vendor in hopes of securing employment for a family member.

G. Activities Of Family Members And Business Partners

An NBPA employee shall disclose to the Port Director those situations where an employee's immediate family member or an employee's business partner has a financial interest in any company doing business with, or seeking to do business with, NBPA. For example, an employee must disclose if a family member is employed by a company doing business with NBPA or is employed by a company bidding on a contract with NBPA. Further, an employee must disclose if a business partner has any financial ties to a company doing business, or seeking to do business, with NBPA. Disclosure shall be made in writing as soon as possible, but in no event later than seven days after NBPA employee has reason to know of the existence of such a financial relationship.

H. Use of Confidential And Inside Information

A NBPA employee shall not directly or indirectly use confidential or inside information to further his or her own personal interests or those of immediate family members, NBPA business associates, or friends. For example, an NBPA employee shall not use NBPA information to give anyone an advantage in bidding of contracts, the purchase of real estate, or for other speculative or investment purposes. Even if there is a legal right for a member of the public to receive certain confidential or inside information, an NBPA employee must not disclose it unless the requestor follows the proper procedure for requesting publicly available information.

I. Duty of Employees to Ask About Potential Ethics Issues

NBPA employees have an affirmative duty to seek guidance before getting involved with a situation that might be a conflict or create the appearance of a conflict. For example, before accepting outside employment from any person or organization associated with NBPA or soliciting or accepting a gift from such a person or organization, the NBPA employee should determine if a conflict of interest exists or if the relationship could cause the appearance of a conflict. Employees are encouraged to speak with a supervisor about this matter or seek guidance directly from the Massachusetts Ethics Commission.

J. Option To Seek An Advisory Opinion From The Ethics Commission

NBPA views actual and potential violations of the Conflict of Interest Law as serious matters which harm NBPA, the public, and the businesses associated with the Port of New Bedford. Accordingly, any time NBPA becomes aware of a potential violations of the Conflict of Interest law by a current employee, it may require that the employee, as a condition of continued employment, seek and obtain a verbal or written opinion from the State Ethics Commission regarding the legality of the employee's conduct. NBPA may also require that the employee provide NBPA with a copy of both the employee's written request for an opinion and the written opinion issued by the State Ethics Commission. In the event of a verbal opinion or if there is a need to clarify a written opinion issued by the State Ethics Commission, employees may also be required to authorize NBPA to speak with the Ethics Commission about the employee's situation.

In circumstances where a formal opinion from the Ethics Commission would benefit NBPA

or a larger group of NBPA employees, NBPA may be willing to assist the employee in drafting a request for a written opinion or participate in conversation with the Ethics Commission in order to obtain a ruling that would clarify an important question of law.

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Section 42: Vehicle Use And Mileage Reimbursement Policy

A. Scope

NBPA owns and maintains pool vehicles for employee use. Employees are encouraged to use pool vehicles for NBPA business as opposed to using their personal vehicles. This policy sets forth the rules governing the use of NBPA pool vehicles and the use of personal vehicles for NBPA business.

B. Use Of Pool Vehicles

Pool Vehicles may be used for official business only. Individuals using a pool vehicle should sign out the vehicle and identify the purpose of the vehicle's use. The person using the vehicle should also indicate the mileage traveled when returning the vehicle. When returning a car, employees should note any defects or problems in the vehicle's operation. Employees should fill a pool vehicle with gas at the City of New Bedford vehicle yard and are encouraged to keep the pool cars full of gas so they are always ready for use.

Pool Vehicles may not be used for commuting purposes or personal errands. Pool vehicles may not be used to go to lunch unless the lunch is an officially sanctioned event. Pool vehicles may not be used outside of regular business hours or parked overnight off NBPA property without advance permission of the Port Director.

C. General Provisions For Use Of A Pool Vehicle

Safe Operations and Passengers. All NBPA pool vehicles must be operated at a safe speed, with proper care and caution, and in accordance with all applicable municipal, state, and federal laws. Operators and passengers must wear seatbelts. Operators of pool vehicles may not accept passengers other than people traveling on NBPA business. Pool vehicles should not be used to transport friends or family members.

Traffic Violations and Accidents. All traffic or parking violations committed by operators of pool vehicles are the personal responsibility of the operators. Operators of NBPA vehicles must personally and promptly respond to all summonses, parking tickets, and citations and shall be personally liable for all fines, penalties, or judgments. Operators must provide NBPA with proof that they have made payment of fines, penalties, or judgments.

Operators must immediately report to their supervisor and the In-House Counsel and Port Director all accidents, summonses, parking tickets and citations received in connection with their use of a pool vehicle. For each situation, the operator should provide a written report detailing what caused the accident, summons, ticket, or citation.

Requirement of Valid License. Operators of NBPA vehicles must have in their possession a valid Massachusetts license, or other state driver's license issued by the state in which they reside, whenever operating a pool vehicle. If an NBPA employee has his or her driver's license revoked or restricted, the employee must notify his or her supervisor and is barred from driving any NBPA vehicle until the license is returned. Loss of license may be grounds for termination if an employee's job cannot be performed without a driver's license.

Electronic Communication While Driving.

- No operator of an NBPA vehicle shall use a mobile telephone, or any handheld device capable of accessing the internet, to manually compose, send or read an electronic message ("texting") while operating a motor vehicle;
- Employees driving an NBPA vehicle should limit hand held cell phone use to necessary conversations to ensure they are not distracted while driving;
- Employees driving Commercial Motor Vehicles are prohibited from using any hand-held mobile telephone (but not a two-way radio used for business purposes) while operating the vehicle; and
- Employees operating a vehicle or vessel used for public transportation are prohibited from using any mobile telephone, hands-free mobile telephone, or other mobile electronic device while operating such vehicle or vessel.

Smoking: Smoking is prohibited in all NBPA vehicles.

D. Use Of Personal Vehicles for NBPA Business And Mileage Reimbursement For Personal Vehicles

NBPA employees are encouraged to use pool vehicles whenever they must travel on NBPA business. On rare occasions, employees will be allowed to use personal vehicles for NBPA travel. Employees that choose to use a personal vehicle for NBPA business when a pool vehicle is available will not be reimbursed for mileage unless the employee meets the terms and conditions of this policy.

In order to use a personal vehicle for NBPA business, the employee must seek pre-approval from their supervisor and Port Director. Examples of circumstances when an employee can use a personal vehicle include: times when a pool vehicle is not available, travel in excess of 1 hour (one-way) where the employee would prefer to use a personal vehicle, if the employee has a special need that cannot be fulfilled with a pool vehicle, or if the employee needs to leave for a trip early in the morning or return late in the evening when it would be difficult to obtain or return a pool vehicle.

In order to obtain permission to use a personal vehicle for NBPA travel, the employee must provide the Port Director with a written statement explaining where the person will travel and why a pool vehicle is insufficient.

When using a personal vehicle for NBPA business, employees are prohibited from reading or writing text messages while driving and are expected to follow all state laws concerning use of electronic communication devices. When using a personal vehicle on NBPA business, a driver may only transport individuals working on NBPA business. If transporting other people on NBPA business, an NBPA employee may not smoke in his or her personal vehicle.

In the rare case when an employee must use his or her personal vehicle for NBPA business, NBPA will reimburse the employee on a per mile basis for the use of the personal vehicle and will reimburse for tolls. NBPA will follow the IRS regulations pertaining to mileage reimbursement. Employees seeking reimbursement will be required to have had prior permission to use a personal vehicle for NBPA business and will be required to submit a written, signed statement identifying where they traveled, for what purpose they traveled, the number of miles traveled for NBPA business, and any tolls paid while traveling.

NBPA employees will not be reimbursed for mileage for their regular commute or for running personal errands

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Section 43: Amendment to NBPA Employee Handbook

The Commission reserves the right, by majority vote of the Commission, to amend this Employee Handbook.

Employees with suggestions for new policies or policy edits should make a written recommendation to the In-House Counsel or Port Director **(PRINT, SIGN & SUBMIT THIS PAGE TO PERSONNEL)**

EMPLOYEE RECEIPT OF HANDBOOK

I acknowledge receipt of the New Bedford New Bedford Port Authority Employee Handbook. I understand that I am responsible for being familiar with the information in this handbook.

I understand that the Handbook does not create a contract between me and the NBPA. I further understand that I am an employee at-will.

Employee signature

Date

Employee name (printed)