

<b>Complaint Description</b>	
<div>Respondent: Roy Keck</div> <div><u>Kitty Thomas</u> (Mon, 9 Dec 2019 at 8:17 AM)</div> <div>A complaint against a political candidate or elected official.</div>	
<b>What impact does the alleged violation(s) have on the public?</b>	
Miss-use of public funds, one political candidate endorsing another or an employee to gain public votes.	
<b>List of attached evidence or contact information where evidence may be found.</b>	
Third Party Investigation, Employee filed grievance and supporting attachments for the findings.	
<b>List of potential witnesses with contact information to reach them.</b>	
Stuart Dezember 509-430-9215, John Haakenson 509-539-3813, Teresa Hancock 509-430-1674, Lucinda Luke 206-622-8020, Sarah Wixson 509-895-0065, Kelly Thompson 509-551-9934	
<b>Complaint Certification:</b>	
I certify (or declare) under penalty of perjury under the laws of the State of Washington that information provided with this complaint is true and correct to the best of my knowledge and belief.	

*Confidential*

**SUMMARY OF INVESTIGATIVE FINDINGS**

**Date:** November 15, 2019  
**To:** Port of Benton  
**From:** Sarah Wixson  
**Re:** Investigation of Grievance Filed October 17, 2019

**I. Introduction**

I was retained to investigate a grievance submitted by Port of Benton staff on October 17, 2019. The grievance listed six issues:

1. Violation of the Open Public Meetings Act-Commissioner by traveling together for Port business constitutes public meeting;
2. Commissioner Keck's threatening behavior toward staff relating to his re-election campaign;
3. Hostile and intimidating treatment of Port staff by Commissioner Keck and Interim Executive Director Howard;
4. Public shaming of Port staff by Commissioner Keck and Interim Executive Director Howard;
5. Port's use of consultant services without following proper contracting process;
6. Commissioner Keck and Interim Executive Director Howard statements and behavior indicate a predetermination of Executive Director selection.

The grievance also asserted that the search for the new Executive Director should be halted because it had been tainted by Commissioner Keck's actions.

## **II. Evidence Relied Upon**

I interviewed the following people:

- Commissioners: Roy Keck, Jane Hagarty, and Robert Larson;

- Port of Benton staff members: [REDACTED]

[REDACTED] Personally Identifiable Information [REDACTED]  
[REDACTED]

- Others: Independent contractor [REDACTED] and former employee [REDACTED]

I also reviewed documents, including the following which are attached as exhibits to this report:

1. Grievance submitted October 18, 2019;
2. Port of Benton Employee Handbook;
3. Port of Benton Mission Statement;
4. E-mail dated September 1, 2019 from Peggy Douglas to [REDACTED]
5. E-mail summarizing statements to staff from Diahann Howard, sent September 9, 2019;
6. Power point presentation, "What's Trust Got to Do with It?" distributed to staff in September 9, 2019.

## **III. SUMMARY OF FINDINGS**

Based on my interviews, and review of documents, I reach the following findings. All findings are made on a preponderance of the evidence basis, also known as a more probable than not basis.

- A. Janice Corbin, Sound Employment Solutions, was hired without a contract.

- B. Commissioners traveling, dining, or otherwise gathering together, in and of itself, does not constitute a violation of the Open Public Meetings Act, RCW 42.30.020.
- C. Commissioner Keck disclosed statements made in executive session to Port staff who were not in attendance at the executive session. The legal impact of the statement is subject to debate and beyond the scope of this investigation.
- D. The evidence does not show on a more probable than not basis that Ms. Howard's management style or the changes implemented as interim executive director were hostile or intimidating.
- E. The evidence shows on a more probable than not basis that Ms. Howard's actions, after learning that complaints were made by staff, were designed to stifle further complaints and were therefore, retaliatory.
- F. The evidence shows on a more probable than not basis that Commissioner Keck engaged in retaliatory behavior toward staff relating to his re-election campaign.
- G. The evidence reflects on a more probable than not basis that the selection process of the executive director has been tainted by retaliation for perceived political allegiance.

#### **IV. SUMMARY OF PERTINENT EVENTS**

##### **A. General Background**

The Port of Benton is a public agency. Its purpose is "to foster economic development, trade and tourism by providing quality infrastructure and multimodal

transportation at a variety of sites.” It is responsible for development and maintenance of numerous properties including two airports and Crow Butte Park.

The Port is governed by three commissioners: Jane Hagarty, Robert (Bob) Larson, and Roy Keck. The commissioners set policy and oversee the performance of the executive director. The Commission President is typically tasked with communicating with the executive director outside of commission meetings. The Commission President typically serves a two-year term. However, Commissioner Roy Keck has served two successive terms as Commission President due to personal circumstances of the other two commissioners.

### **B. Transition of Executive Director**

Scott Keller was the Executive Director of the Port of Benton for thirty years. He retired in May 2019. Prior to his retirement, Scott Keller and Commissioner Keck had a disagreement regarding who would succeed Keller as the Port’s executive director. Mr. Keller believed that [Redacted] should be the next Executive Director. [Redacted] has been the [Personally Identifiable Information] for the Port. [Redacted] obtained his PPM (Professional Port Manager) credentialing and had been involved in many of the day to day dealings with the Port.

Commissioner Keck believed that Diahann Howard should be the next executive director. Ms. Howard served as the Director of Economic Development. She was often the public face of the Port, collaborating with Port partners to further the Port’s goals. She frequently travels with the commissioners to conferences and meetings. She also obtained her PPM.

This disagreement came to a head during an executive session on May 8, 2019. Commissioner Keck told [Redacted] at the spring Washington Public Ports Association conference, which was held on May 15-17, 2019, that Scott Keller had called Ms. Howard inappropriate names during the executive session.

Commissioner Keck did not say what Scott Keller said, but did say that the language was so inappropriate that all three commissioners were “appalled” and that their “jaws dropped.” Scott Keller was still Executive Director and still Ms. Howard’s boss at the time; learning what he had said about her made her uncomfortable.

The disagreement between Mr. Keller and Commissioner Keck persisted even after Mr. Keller’s retirement. Commissioner Keck was up for re-election in November 2019. In approximately May of 2019 William (“Bill”) O’Neil indicated that he was running against Commissioner Keck. No commissioner had been challenged for their position for as long as anyone could remember. Commissioner Keck is certain that Scott Keller encouraged Bill O’Neil to run. Mr. O’Neil, who began appearing at public Port Commission meetings, indicated that Scott Keller was his campaign manager.

After Mr. Keller retired, the Commission appointed Diahann Howard as the interim Executive Director. There are many long-time Port employees who are loyal to Scott Keller. Any transition under a long-tenured director was going to be difficult. A host of factors made this transition particularly difficult.

### **C. Interim Executive Director**

Even though Ms. Howard was the “interim” executive director, she quickly began to make permanent changes. She told staff that these changes were “what the commissioners wanted.” However, the commissioners did not expressly direct Ms. Howard to make changes. Rather, Ms. Howard said that when she accepted the interim position, she read the newly created job description and took action accordingly. When Ms. Howard indicated that a particular action was “what the commissioners wanted,” it was based solely on her reading of the expectations set forth in the job description.

One of Ms. Howard’s first acts as interim executive director was to tell staff members that there would be “no more overtime.” She then began reviewing maintenance

staff performance and salary. Much of Ms. Howard's attention focused upon Crow Butte Park.

Crow Butte Park is a 275-acre park on an island along the Columbia River. It has 50 full-service campsites, restrooms and showers, a playground, and three boat launches. It is managed and maintained by the Port. By the summer of 2019, it appeared that maintenance of the park and its facilities had fallen behind. In a full staff meeting, Ms. Howard expressed dismay about the state of Crow Butte Park. Several witnesses felt that Ms. Howard had berated maintenance staff in a very public way. Ms. Howard disagreed and said that if anyone felt bad as a result of that meeting it was because they were not doing their job. Ms. Howard proposed a demotion of two maintenance supervisors and terminated two long term employee caretakers from the Crow Butte Park.<sup>1</sup>

In June, a newly hired [Redacted] resigned after only two weeks on the job. He left because there were too many unknowns. Shortly thereafter Maintenance Director, Kevin Howard, who had been with the Port for more than twenty-years, resigned.

The Port had lost five employees in less than three months. Nearly every employee had taken on additional duties. The state of Crow Butte Park also required additional effort and man hours. Ms. Howard had proposed closing the park until it could be re-staffed and rehabilitated; however, this would mean that the many summer reservations would not be honored. [Redacted] who works in the Port's [Redacted] volunteered to staff the park on the weekends. Ms. Howard did not approve overtime for [Redacted] but rather authorized comp time.<sup>2</sup>

<sup>1</sup> The supervisors were not demoted. [Redacted] said that he persuaded Ms. Howard to give them an opportunity to meet expectations. Ms. Howard said that she recommended, and the commissioners approved, the termination of the Crow Butte caretakers.

<sup>2</sup> [Redacted] stated that overtime is paid at a rate of 1.5 hours for every hour of overtime whereas comp time is earned at a lesser rate of 1.25 hours for every hour of would-be overtime (time exceeding forty hours in one workweek).

The Port of Benton's mission, vision, and values statement has hung in the Port of Benton office for many years. **Exhibit 5.** The framed statement was signed by members of the staff and each of the commissioners. Ms. Howard took it down, saying that she was in the process of rewriting the statement. When staff protested, Ms. Howard said that they were "just words."

In early August, several employees complained to Commissioner Hagarty about the changes being made by Ms. Howard. Not only did they not like the changes, but they believed that the changes were inconsistent with someone acting in an "interim" capacity. During the next week or so, Commissioner Hagarty spoke to nearly all of the staff individually to understand their concerns. The Commissioners told Ms. Howard that she should slow down with the changes; she was making staff nervous and there had been complaints.

On August 21, 2019, approximately a week after Commissioner Hagarty spoke with the staff individually, Ms. Howard also spoke with staff in a series of one on one meetings. She told staff that it was time to get back to work and that there "would be no undermining."

On September 1, 2019, long time Crow Butte camper, Peggy Douglas, e-mailed **Redacted** at the Port to express her support for Crow Butte and its now former caretakers. **Exhibit 7.** **Redacted** asked Ms. Howard how she should respond to Ms. Douglas's e-mail. Ms. Howard told her not to respond. When Ms. Douglas reached out directly to Commissioner Hagarty and Commissioner Hagarty questioned why there had been no response from the Port, Ms. Howard did not tell Commissioner Hagarty that she had instructed **Redacted** to not respond.

On September 9, 2019 there was an all-staff meeting. Ms. Howard told staff that Scott Keller was gone. She likened his departure to a death. Ms. Howard said that everyone had an opportunity to "grieve," but that time was over. They needed to "get over it" and move forward. Ms. Howard followed up the staff meeting with a power point presentation e-mailed to the entire staff. The power point presentation, prepared by Janice Corbin of



Sound Employment Solutions, was titled "What's Trust Got to Do with It?" **Exhibit 4.** It contained statements such as:

- Once trust is broken, there is no coming back!
- Overcoming betrayal: own your deficiencies in the relationship; stop wasting time blaming yourself or others.
- If an individual isn't able to re-engage in the professional relationship and establish basic trust, the employer may consider performance improvement and/or discipline.

The power point presentation was not prepared specifically for the Port, but rather was something that Ms. Corbin had provided to other clients in the past. Ms. Corbin and Ms. Howard discussed using the power point approximately the last week of August. Ms. Corbin spoke to much of the staff about their job duties. She told [Redacted] that she heard he was retiring; he is not.

Ms. Howard had hired Ms. Corbin as a human resources consultant. The Port did not go through a contracting process, which involves a public posting seeking interested service providers, with Ms. Corbin.

Ms. Howard said that she did not know she needed to go through the contracting process to hire Ms. Corbin and that she relied upon her staff to tell her what she needed to do. [Redacted] who often prepares the postings that go with the contract process, said she asked Ms. Howard if Ms. Corbin had gone through the process but Ms. Howard assured her that it wasn't needed.

During the course of this investigation, the contracting process with regard to Ms. Corbin has been completed.

#### **D. Commissioner Keck's re-election campaign**

More than five employees, some (but not all) of whom signed the grievance, believed that because they had supported Scott Keller as the Port's executive director, that

Commissioner Keck believed they were supporting Mr. Keller's candidate for Port Commissioner, Bill O'Neil. On the other hand, Commissioner Keck stated that many employees loyal to Mr. Keller had benefitted under what he viewed as a "good old boys' network." Commissioner Keck believed that they were resistant to a more merit-based system and were attempting to undermine Diahann Howard in her role as interim Executive Director.

On August 17, 2019 the Port of Benton hosted an annual event at the Richland Airport called Wings and Wheels. The event featured classic airplanes and cars, motorcycles, and military vehicles, as well as food vendors in a fair-like atmosphere.

Bill O'Neil leases a hangar at the Richland Airport. He had campaign signs for the Port of Benton Commissioner seat on his hangar and several attendees wore Bill O'Neil t-shirts. Local news coverage mis-identified Bill O'Neil as a current Port Commissioner rather than as a candidate for the position.

Commissioner Keck in an open meeting accused Port staff working the event of supporting Bill O'Neil at the event. Commissioner Keck indicated that staff should have known that it was inappropriate for campaign materials to be displayed at a Port event. In addition, he accused staff members of openly campaigning against him and wearing a "Bill O'Neil" t-shirt. None of the staff interviewed who attended the event could recall seeing any staff member wearing a Bill O'Neil shirt. None of the staff had ever been through a contested commissioner race and did not know of anything that prohibited Mr. O'Neil from leaning signage against his leased hangar. Ms. Howard did not attend the event.

Redacted is the Port's Redacted. Amongst other duties, Redacted is in charge of the commissioners' calendars. Redacted sends meeting requests and reminders by e-mail. On September 5, 2019, Commissioner Keck told Redacted that the e-mails he was receiving from her regarding the Commission's calendar included the names of people who were not commissioners. Redacted told him that she did not know the people who were included in his message and that they were not even in her

contact list [Redacted] e-mailed [Redacted] and asked him for assistance. [Redacted] and [Redacted] said that Commissioner Keck accused them both of hacking his phone.

Unable to resolve the issue to Commissioner Keck's satisfaction, the information and technology contractor [Redacted] was contacted. [Redacted] went to Commissioner Keck's home to inspect his phone. [Redacted] said that Commissioner Keck told him that his phone had been hacked and that [Redacted] were involved. [Redacted] found no evidence of hacking. It is unclear how the contacts had been added to the message group on Commissioner Keck's phone only, but it appears to have been an accidental "hold and swipe." Commissioner Keck denies that he accused anyone of hacking his phone.

[Redacted] is a candidate for the interim executive director position. He was also Scott Keller's pick for interim executive director. Commissioner Keck not only accused [Redacted] of tampering with his phone, but several witnesses were of the opinion that Commissioner Keck was actively trying to make [Redacted] look bad or give "his" candidate Diahann Howard an advantage during the executive director consideration and deliberation process.

[Redacted] typically attended most Commissioner meetings and executive sessions. However, once Ms. Howard became the interim executive director, [Redacted] was excused by the commissioners from meetings, giving Ms. Howard sole access to the commission as well as greater visibility. Ms. Howard said that she believed that [Redacted] was excused so that he could get things done. She said it had not occurred to her that [Redacted] exclusion from meetings would be seen as giving her a competitive advantage.

A platform of Bill O'Neil's campaign was the preservation of the Richland airport. Commissioner Keck and staff attended the Washington Airport Management Association, where an area of focus was FAA compliance. Shortly thereafter, on or about July 24, 2019

Commissioner Keck accused [Redacted] of being out of FAA compliance and of failing to keep the commissioners informed regarding compliance issues. Commissioner Keck told [Redacted] that if the Port loses FAA funding or has to re-pay any grant funds that he would hold [Redacted] personally responsible.

Approximately 45 minutes later Kevin Latschaw of the FAA called [Redacted] and said the FAA had an additional million dollars of funds available and because the Port of Benton had done such a good job with its projects in the past, offered the additional funding to the Port of Benton.

The Port also underwent a state audit during this period. Commissioner Keck admitted that he told the auditor to take a "close look" at Crow Butte and the Airport. [Redacted] [Redacted] stated that no Commissioner had ever asked that the auditor scrutinize the Port's financials in that way. Commissioner Keck admitted that he had never previously asked an auditor to scrutinize anything. He said that given the maintenance issues at Crow Butte, he believed there may be a problem there with the finances as well. He also wanted to make sure that the Richland Airport had no issues. The audit resulted in no findings.

Commissioner Keck admitted that he had already made his decision for executive director: Diahanne Howard. At the time of their interviews, the other two commissioners had not yet decided.

#### **IV. DISCUSSION AND CONCLUSIONS**

##### **A. Janice Corbin, Sound Employment Solutions, did not have a contract.**

It is undisputed that Ms. Corbin of Sound Employment Solutions did not have a contract in place when she began to perform services for the Port of Benton. This was rectified before this investigation began.

## **B. Commissioners traveling together is not a violation of the Open Public Meetings Act**

The written complaint asserts that the Commissioners had violated the Open Public Meetings Act (OPMA) by traveling together. Commissioners frequently travel to conferences both locally and abroad. Commissioner Haggarty indicated that the three commissioners almost always travel in separate cars and that while they sometimes travel on the same flights, they are typically seated separately. However, the commissioners often will attend the same conferences and dine together at various events.

Although the scope of this investigation is largely factual, a brief discussion of the OPMA is necessary. “[A]ll public commissions, boards, councils, committees, subcommittees, departments, divisions, offices, and all other public agencies of this state” must have open meetings. RCW 42.30.010. A “meeting” means gathering of a majority of the members and at which “action” is taken. RCW 42.30.020 (4). An “action” means the transaction of the official business of a public agency by a governing body including, but not limited to receipt of public testimony, deliberations, discussions, considerations, reviews, evaluations, and final actions.” *Id.* at (3).

Of note, the OPMA Act at RCW 42.30.070 states that “[i]t shall not be a violation of the requirements of this chapter for a majority of the members of a governing body to travel together or gather for purposes other than a regular meeting or a special meeting...” Therefore, merely traveling together or gathering together outside the door of an open meeting does not violate the OPMA.

## **C. Conversations between council members did not violate the OPMA.**

Witnesses interviewed also recounted several other incidents that they believed were violations of the OPMA. For example, witnesses indicated that Commissioner Keck and Interim Director Diahann Howard often met together in private. However, a meeting involving only one commissioner is not a meeting under the OPMA.

Witnesses also recounted incidents when either before or after open meetings or at meals during conferences or other events Port business was the topic of conversation. All three commissioners adamantly deny that Port business is ever discussed outside of meetings. Nonetheless, Interim Executive Director Diahann Howard indicated that at a dinner or an event she would respond to one commissioner's question about a Port issue and then another commissioner would turn and listen in.

However, under the *Citizens Alliance for Property Rights Legal Fund v. San Juan County*, 184 Wn.2d 428 (2015), members of a governing body "must collectively intend to meet to transact the governing body's official business" for their communications to constitute a meeting. This passive receipt of information or one-way forms of communication is not a meeting.

Witnesses testified that conversations of the commissioners included where to have dinner after a conference, local election issues, and Commissioner Keck's re-election. No witness identified a conversation where the purpose was for the purpose of transacting the Port's official business. There is insufficient evidence to support a conclusion that a majority of commissioners "collectively intend[ed] to meet to transact the governing body's official business" on issues that "may or will come before the [commission] for a vote." *Wood v. Battle Ground School District*, 107 Wn. App. 550 (2001).

**D. Repeating an executive session comment may violate the OPMA.**

Commissioner Keck told [Redacted] that Scott Keller had said "appalling" and shocking things about Ms. Howard during an executive session. Participants in an executive session have a legal duty under the OPMA to hold in confidence information that they obtain in the course of a properly convened executive session, but only if the information at issue is within the scope of the statutorily authorized purpose for which the executive session was called. The purpose of the executive session in question was in part, to discuss personnel matters. Whether name calling or foul language is "within the scope of the statutorily authorized purpose" is a purely legal

question. The evidence on a more probable than not basis supports a finding that Commissioner Keck made the comment, but the legal impact of that statement is subject to debate and beyond the scope of this investigation.

**E. Ms. Howard's management style and the changes she implemented were not hostile or intimidating.**

The majority of complaints lodged against Ms. Howard stem from her rapidly implemented changes-changes that Ms. Howard believed were requested by the commissioners in their written job description. Ms. Howard's management style and changes were not well received by some of the staff, but they do not, on a more probable than not basis, constitute harassment or intimidation.

**F. Ms. Howard's actions, after learning that complaints were made by staff, were retaliatory.**

After staff complained to Commissioner Hagarty, Ms. Howard attempted to put an end to the complaints. She told staff that they needed to "get over it" and "move on." Immediately after complaints were lodged, Ms. Howard had conversations with staff in which she told them "there will be no undermining." The power point presentation sent to staff entitled "What's Trust Got to Do with It?" stated, "If an individual isn't able to re-engage in the professional relationship and establish basic trust, the employer may consider performance improvement and/or discipline."

The determination of whether these statements are retaliatory turns largely upon their timing and not upon the comments themselves. In isolation, the comments are not retaliatory, intimidating, or harassing. However, Ms. Howard's communications were made shortly after she learned of complaints and days after Commissioner Hagarty had spoken with individual staff members. This strongly suggests that Ms. Howard's communications were an attempt to put an end to complaints. Employees viewed these comments as threatening. Implied and express threats of discipline is retaliation.

**G. The evidence shows that Commissioner Keck's re-election campaign impacted his treatment of staff.**

The determination that Commissioner Keck's perceived political allegiances impacted his treatment of staff also turns largely upon timing. Commissioner Keck clearly favored Diahann Howard as the executive director candidate. She was his favored successor before Scott Keller retired and before Bill O'Neil entered the race for Port of Benton commissioner. Commissioner Keck also believed that certain staff members, including [Redacted] had unfairly benefitted from a "good old boy" network that rewarded loyalty over merit. Those beliefs standing alone could explain why Commissioner Keck questioned [Redacted] regarding FFA compliance, why he asked the state auditors to scrutinize the Port's books, and why [Redacted] was excluded from commission meetings. Even if the result of Commissioner Keck's actions were to diminish [Redacted] in the eyes of the other commissioners and give an advantage to his favored candidate, it would not be improper.

However, there was also a contested commissioner race. Scott Keller was Bill O'Neil's campaign manager. Commissioner Keck believed that members of his staff were undermining him in his campaign for re-election. This led Commissioner Keck to openly accuse staff of campaigning for his opponent. This led Commissioner Keck to accuse [Redacted] of tapping his phone. The evidence strongly suggests that [Redacted] perceived political allegiance, while not the sole reason, was a substantial factor in Commissioner Keck's treatment of staff- particularly [Redacted] [Redacted]

**H. The executive director selection process has been impacted by perceived political allegiances.**



Commissioner Keck, as Commission President, is in a unique position among the commissioners. As president he is responsible for managing the Executive Director and to some extent Personally Identifiable Information Information about the day to day operation of the Port comes through the Commission President to the other commissioners.

As noted above, Commissioner Keck had already made Diahann Howard his choice for executive director long before Bill O'Neil announced his candidacy. The candidacy did not likely impact Commissioner Keck's decision-making process. However, Commissioner Keck's actions, which were motivated in part by perceived political allegiances, has on a more probable than not basis impacted the way in which the other two commissioners view the candidates.

October 17, 2019

Commissioner Roy D. Keck  
Commissioner Jane F. Hagarty  
Commissioner Robert Larson  
Port of Benton  
3250 Port of Benton Boulevard  
Richland, WA 99354

RE: Port of Benton – Staff Grievance

Dear Commissioners:

The undersigned Port staff members have previously reported their concerns directly to individual members of the Port Commission, to Port counsel, and their individual immediate supervisors. These reports should have resulted in triggering the Rule VI – Grievance Procedure under the Port of Benton Personnel Policy. Further, eighty percent of the Port admin staff and several maintenance staff have reported their concerns to Port counsel. However, no grievance procedure has been undertaken by the Port. Therefore, the undersigned Port staff members hereby file their grievance against the Port. The Port staff members submit the following complaints against the Port, Commissioner Keck, and the Interim Executive Director Diahann Howard:

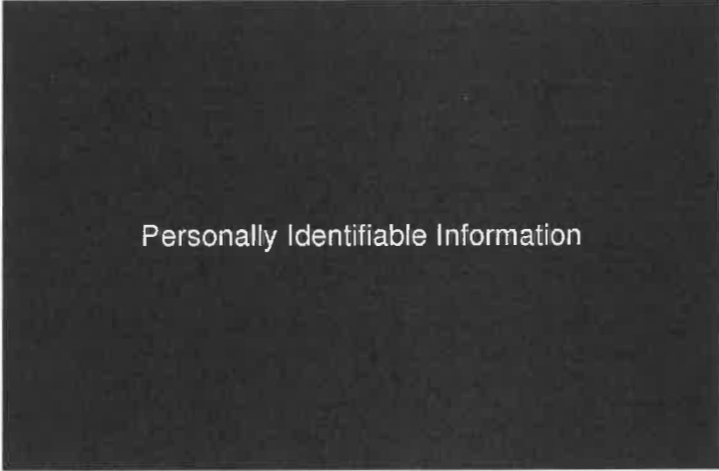
- Violation of the Open Public Meetings Act – Commissioners traveling together for Port business constitutes public meeting
- Commissioner Keck threatening behavior toward staff relating to his re-election campaign
- Hostile and intimidating treatment of Port staff by Commissioner Keck and Interim Executive Director Howard
- Public shaming of Port staff by Commissioner Keck and Interim Executive Director Howard
- Port's use of consultant services without following proper contracting process
- Commissioner Keck and Interim Executive Director Howard statements and behavior indicate a predetermination of Executive Director selection

The above list is not exhaustive but is intended to provide you with sufficient information of the serious nature of our concerns. We request that the Port take immediate action to retain a neutral third party to investigate our grievance. We request that the Port immediately stop the executive director search process as it has been tainted by the actions of Commissioner Keck.

We love our jobs and have previously been honored to be part of the Port team. However, as a result of the actions set forth above and other day-to-day behaviors that we have witnessed and/or been subjected to, we fear for our jobs and our financial security. There are additional Port employees that were too scared to sign this letter, as they also fear for their jobs and financial security. However, they are willing to express their personal grievances to a neutral third party.

We have lost trust in the Port as an institution and in the Commission and Interim Executive Director.

Sincerely,



Personally Identifiable Information

cc: David Billetdeaux, Port Counsel

**PORT OF BENTON  
PERSONNEL POLICY AND PROCEDURES**

---

**STATEMENT OF GENERAL POLICY**

NO POLICY OR PROVISION IN THIS HANDBOOK IS INTENDED TO CREATE A CONTRACT BINDING THE EMPLOYEE OR THE EMPLOYER TO AN AGREEMENT OF EMPLOYMENT FOR A SPECIFIC PERIOD. A WORKER'S EMPLOYMENT CAN BE TERMINATED BY EITHER THE EMPLOYEE OR THE EMPLOYER AT ANY TIME, FOR ANY REASON, WITH OR WITHOUT NOTICE. NO REPRESENTATIVE OR AGENT OF THE EMPLOYER, OTHER THAN THE EXECUTIVE DIRECTOR CAN AUTHORIZE OR SIGN AN EMPLOYMENT AGREEMENT CONTRARY TO THE ABOVE TERMS OR OTHERWISE MAKE ANY BINDING OFFER OF EMPLOYMENT FOR A SPECIFIC TERM.

THE POLICIES AND PROCEDURES IN THIS HANDBOOK ARE DESIGNED TO SERVE AS GUIDELINES FOR MANAGEMENT ACTION. THEY ARE NOT INTENDED TO CREATE ANY CONTRACT OR BINDING AGREEMENT BETWEEN THE EMPLOYER AND ANY EMPLOYEE. ALL POLICIES AND PROCEDURES OUTLINED IN THIS HANDBOOK ARE SUBJECT TO CHANGE OR MODIFICATION AT THE EMPLOYER'S DISCRETION AT ANY TIME THAT CIRCUMSTANCES WARRANT.

THIS HANDBOOK IS PROVIDED FOR INFORMATIONAL PURPOSES ONLY. NO PROVISION OR PORTION OF THE HANDBOOK CONSTITUTES ANY IMPLIED OR EXPRESSED CONTRACT, GUARANTEE, OR ASSURANCE OF EMPLOYMENT OR ANY RIGHT TO AN EMPLOYMENT-RELATED BENEFIT OR PROCEDURE. EMPLOYER RESERVES THE RIGHT TO CHANGE, MODIFY, ELIMINATE, OR DEVIATE FROM ANY POLICY OR PROCEDURE IN THIS HANDBOOK AT ANY TIME AND TO HIRE, TRANSFER, PROMOTE, DISCIPLINE, TERMINATE, AND OTHERWISE MANAGE ITS EMPLOYEES AS IT DEEMS APPROPRIATE. IF YOU HAVE QUESTIONS CONCERNING THESE GUIDELINES, PLEASE CONSULT WITH YOUR SUPERVISOR, THE EXECUTIVE DIRECTOR OR THE ASSISTANT EXECUTIVE DIRECTOR.

THE PORT OF BENTON IS AN EQUAL OPPORTUNITY EMPLOYER. IT IS THE POLICY OF THE PORT OF BENTON NOT TO DISCRIMINATE AGAINST ANY PERSON BASED ON AGE, SEX, GENDER IDENTITY, RACE, CREED, COLOR, RELIGION, NATIONAL ORIGIN, CITIZENSHIP STATUS, MARITAL STATUS, SEXUAL ORIENTATION, THE PRESENCE OF A PHYSICAL, SENSORY OR MENTAL DISABILITY, STATUS AS A REGISTERED DOMESTIC PARTNER, HONORABLY DISCHARGED VETERAN OR MILITARY STATUS, OR THE USE OF A TRAINED DOG GUIDE OR SERVICE ANIMAL BY A PERSON WITH A DISABILITY. THE PORT OF BENTON WILL COMPLY WITH ALL APPLICABLE STATE AND FEDERAL LAWS, RULES AND REGULATIONS GOVERNING THE EMPLOYMENT RELATIONSHIP. NO EMPLOYEE OR OTHER PERSON ACTING FOR THE PORT SHALL HAVE THE AUTHORITY TO WAIVE COMPLIANCE WITH ANY

SUCH LAW OR RULE, OR TO OBLIGATE THE PORT TO WITH RESPECT TO AN ACT IN VIOLATION THEREOF.

**RULE I - DEFINITIONS:** The following terms, whenever used in these Rules, shall be construed as follows:

1. Appoint: The act of the Commission or the Executive Director in assigning an applicant (for employment) to a position.
2. Employee: A person receiving a wage from the Port of Benton for services performed under its supervision. The Commissioners, the Executive Director and leased or loaned employees obtained on a contract basis from others, whether or not such persons are "employees" under any statute, rule or regulation, are not included in this definition and this procedure does not apply to them, except as expressly provided herein.
3. Grievance: A request by a regular full-time or part-time employee for resolution of a work related complaint or dispute. The term does not include complaints or disputes arising from the discharge of an employee for any reason.
4. Position: A job description which has a title and specified wage or salary range.
5. Regular full-time employee: An employee who works in a position on a regularly scheduled shift of forty (40) hours per workweek.
6. Regular part-time employee: An employee who works in a position on a regularly scheduled shift of not less than fifteen (15) nor more than thirty-seven and one-half (37-1/2) hours per workweek.
7. Temporary employee: Any seasonal, limited term (notwithstanding "project" or funding term limitations) or emergency employee.
8. Vacancy: An authorized position which is not occupied and for which funds are available.
9. Workweek: A period of 168 consecutive hours beginning at 6:00 a.m. on Monday and ending at 6:00 a.m. the following Monday.
10. Workday: A period of consecutive hours which the employee is regularly scheduled to work during a period beginning at 12:00 a.m. on any day and ending at 12:00 a.m. of the following day.

## **RULE II— ATTENDANCE, LEAVE, AND HOLIDAYS**

1. Attendance: An employee must be in attendance during regularly scheduled work

hours, unless he or she is absent on approved leave. All employees are required to submit to the Auditor or his/her deputy a signed time sheet reflecting the actual hours worked. It is presumed by the Port that the time sheets submitted by the employee are accurate. The Port will maintain records showing the hours actually worked by each employee in each workweek. Such records will be retained for a period of not less than three years.

2. Hours of work: Regular full time employees shall work 40 hours per week. The standard work day shall be from 7:00 a.m. to 5:00 p.m. Monday through Thursday and 8:00 a.m. to Noon on Friday for the administrative staff and from 6:30 a.m. to 4:00 p.m. Monday through Thursday and 6:30 a.m. to 10:30 a.m. for the maintenance staff. The Port may arrange with the employee a flexible schedule for his/her standard work day so long as the needs of the Port are met. If an employee knows that he or she will be late for work or absent, it is the employee's responsibility to contact his or her supervisor as soon as possible to enable the necessary arrangements to be made to continue the employee's functions. Regular employees who are designated by the Executive Director as exempt employees" may, with the permission of the Executive Director, vary and adapt their hours of work as required by the nature of their duties. The employee will be allowed to take a one (1) hour period after working four consecutive hours for a lunch break. This lunch break will not be compensated by the Port.
3. Absence: Absence from scheduled work without authorized leave or notice to the appropriate supervisor is not permitted. An employee who thus absents himself for two consecutive working days shall be deemed to have resigned from the Port service, unless excused by the Executive Director. If an employee must leave his place of duty during the regularly scheduled workday, he must notify his immediate supervisor or his designee prior to leaving. Any such absence shall be charged to available leave.
4. Rest Breaks: Rest breaks must be arranged so as not to interfere with Port business. Employees are entitled to one 15-minute rest break at least once during each consecutive four (4) hours of work. Rest breaks in excess of 15 minutes are authorized only when Port business is conducted coincident with the break.
5. Leave of Absence (without pay): A regular Port employee may request a leave of absence without pay. The disposition of such a request shall be obtained by the employee prior to the beginning of a leave period.
6. Paid Time Off Bank: The purpose of Paid Time Off (PTO) is to provide employees with flexible paid time off from work that can be used for such needs as vacation, personal or family illness, doctor appointments, school, volunteerism, and other activities of the employee's choice. The Port's goal is to reduce unscheduled absences and the need for supervisory oversight.

The PTO days an employee will accrue, **effective January 1, 2018** replace all existing vacation, sick time, and personal business days that had been allotted under prior policies. Time that is not covered by the PTO policy, and for which separate guidelines and

policies exist, include company paid holidays, bereavement time off, required jury duty, FMLA, and military service leave.

The vacation time an employee accrued in the past will carry over, in excess of the PTO policy, at the time this PTO policy is made effective.

#### Guidelines for PTO Use

Each full-time employee will accrue PTO based on their length of service as defined below. PTO is prorated based on the number of hours worked on an employee's regular schedule. PTO taken will be subtracted from the employee's accrued time bank in half-hour increments. Temporary employees, contract employees, and interns are not eligible to accrue PTO.

Eligibility to accrue PTO is contingent on the employee either working or utilizing accrued PTO for each pay period. PTO is not earned in pay periods during which unpaid leave, short or long term disability leave or workers' compensation leave are taken.

To take PTO requires verbal notice to the employee's supervisor two days beforehand, unless the PTO is used for legitimate, unexpected illness or emergencies. The employee shall also place their planned absence on the staff calendar. In all instances, PTO must be approved by the employee's supervisor in advance. The Port appreciates as much notice as possible when an employee expects to miss work for a scheduled absence. PTO in excess of seven (7) days requires approval of the Executive Director (Use the Paid Time Off form, **Attachment D**, to request PTO in excess of seven days).

#### **Paid Time Off (PTO) Exceptions**

- Employees who miss more than five consecutive unscheduled days may be required to present to the Executive Director a doctor's release that permits them to return to work.
- PTO taken in excess of the PTO accrued can result in disciplinary action up to and including employment termination. This time off will be unpaid.
- Under the company's Family and Medical Leave Act (FMLA) policy, all accrued PTO time is taken before the start of the unpaid FMLA time.
- Per state law, employees may utilize their allowances of leave when the employee's work or the employee's child's school or place of care has been closed by order of a public official for any health-related reason. An employee may also use leave for absences that qualify for leave under the state's Domestic Violence Leave Act, RCW 49.76.
- As a condition of taking leave for any purpose described in RCW 49.76.030, an employee shall give an employer advance notice of the employee's intention to take leave. When advance notice cannot be given because of an emergency or unforeseen circumstances due to domestic violence, sexual assault, or stalking, the employee or his or her designee must give notice to the employer no later than the end of the first day that the employee takes such leave.

- The Executive Director may grant exceptions to this policy.

Specific Eligibility for Paid Time Off: PTO is earned on the following schedule based on a 40 hour work week. PTO is prorated based on the number of hours worked on an employee's regular schedule.

The PTO Accrual Schedule is as follows:

Completed Years of Service	PTO Days Per Year (8hr/day)
01	24
02, 03, 04	28
05, 06, 07	32
08, 09, 10	34
11, 12, 13	36
14, 15, 16	38
17, 18, 19, 20	40
21, 22, 23, 24, 25	42
26+	44

Each employee may carry 120 days or 960 hours of accrued PTO over into a new calendar year. Employees are responsible for monitoring and taking their PTO over the course of a year so that they do not lose time accrued when the current calendar year ends (PTO is subject to supervisory approval).

Upon separation from Port service, a maximum of thirty (30) days or 240 hours at the employee's current salary rate, along with a maximum of sixty (60) days or 480 hours at 50% of the employee's current salary rate, as well as a maximum of thirty 30 days or 240 hours at 25% of the employee's current salary rate, will be paid to the employee. Employees with fewer than 240 hours of accrued PTO at time of separation will only be able to cash out their total accrued PTO, i.e., employees are not guaranteed 240 hours of PTO upon separation.

Employees shall have the option to cash out their accrued PTO and receive monetary compensation up to a maximum of eighty (80) PTO hours in a calendar year. Written requests must be given to the Executive Director before December 15<sup>th</sup> of the current year. No more than four PTO cash out requests shall be permitted per year. In accordance with RCW 41.50.150, vacation cash out may not be reportable for retirement purposes. Buy-back requests shall be made in increments of (20), (40), (60), and (80) hour blocks. No buy-back will be allowed if the remaining accrued PTO of the employee would be less than (80) hours after the buy-back is complete.



7. Illnesses and Medical Records: Illnesses were previously covered by “sick leave” but are now rolled into the PTO Bank policy. For illnesses that last longer than seven (7) days, the Executive Director may require certification of the attending physician to substantiate that an illness or injury prevents the employee from working. “Immediate family” for the purposes of this section is: husband, wife, registered domestic partner, father, mother, son, daughter, sister, brother, grandparent, mother-in-law or father-in-law.

Upon application of an employee, time off without pay up to 90 calendar days may be granted by the Executive Director for the remaining period of disability after earned PTO has been exhausted. In the event such leave exceeds 90 calendar days, an extension must be approved by the Board of Commissioners. The Executive Director may require that the employee submit a certificate of disability from the attending physician.

Employees injured in the course of their work duties may file an application for worker's compensation in accordance with state law for a period of absence from work due to a compensable work-related injury or disease. An employee so reimbursed may elect to receive time loss compensation from the Department of Labor and Industries rather than utilize any available PTO. Should the employee elect to receive both time loss compensation and PTO, PTO may be used only to the following extent:

The total number of hours which would have been charged to PTO, minus number of hours of regular salary for which payment was made by workmen's compensation fund.

Example: An employee is absent for one eight-hour day, and normally earns \$10 per hour (\$80 per day). Employee receives \$60 time loss compensation (equal to six hours sick leave at \$10/hour); employee may then use two hours of PTO (at \$10/hour) for a total of \$80.

Should any employee apply for time loss compensation and the claim is then or later denied, PTO hours may be used for the absence. Until eligibility for worker's compensation is determined by the Department of Labor and Industries the Port may pay full PTO, provided that upon receipt by the employee of worker's compensation, the employee shall return to the Port the portion of PTO pay which was reimbursed by the Department of Labor and Industries.

If the employee elects to receive short-term disability through the Port's medical insurance carrier, he or she is not eligible for time loss compensation for any period during which the employee receives short-term disability. In such a situation, short-term disability benefits will be treated in the same manner as time loss compensation.

An employee shall be entitled to use accumulated PTO to care for a child of the employee under the age of eighteen with a health condition that requires medical treatment or supervision.

Paid holidays occurring during an authorized PTO shall not be counted as a day of

## PTO.

8. **Family Leave Policy:** Employees with at least one year of service who have worked at least 1,250 hours in the past year can request up to 12 weeks of job-protected leave:

- For the birth and to care for a newborn child;
- For the placement of a child or adoption or foster care;
- To care for a parent, spouse, or child who have serious health conditions;
- Because of employees' own serious health conditions that prevent them from performing their job duties; or
- Because employees' circumstances (as defined by the Federal Department of Labor) qualify for leave due to a spouse, child, or parent being called up for or on active duty in the Armed Forces during a war or national emergency declared by the President or Congress.

Employees with at least one year of service who have worked at least 1,250 hours in the past year can request up to 26 weeks of job-protected leave for servicemember family leave to care for a servicemember who is a spouse, child, parent, or next of kin and becomes seriously ill or injured while serving on active duty in the Armed Forces. Employees can use accumulated PTO during their family leave. Otherwise, leave is unpaid, and employees must arrange to continue their health plan coverage during their absence. For serious health conditions, employees must provide a physician's verification of the medical need for leave. On return from family leave, employees are placed in their former or comparable jobs. "Serious health condition" means an illness, injury, impairment, or physical or mental condition that involves:

- any period of incapacity or treatment connected with inpatient care (i.e., an overnight stay) in a hospital, hospice, or residential medical care facility; or
- a period of incapacity requiring absence of more than three calendar days from work, school, or other regular daily activities that also involves continuing treatment by (or under the supervision of) a health care provider; or
- any period of incapacity due to pregnancy, or for prenatal care; or
- any period of incapacity (or treatment therefore) due to a chronic serious health condition (e.g., asthma, diabetes, epilepsy, etc.); or
- a period of incapacity that is permanent or long-term due to a condition for which treatment may not be effective (e.g., Alzheimer's, stroke, terminal diseases, etc.); or,

- any absences to receive multiple treatments (including any period of recovery therefrom) by, or on referral by, a health care provider for a condition that likely would result in incapacity of more than three consecutive days if left untreated (e.g., chemotherapy, physical therapy, dialysis, etc.).

Medical Certification: The leave required due to the serious health condition of the employee or the employee's immediate family member must be supported by a certification issued by a health care provider. **See Attachment C.** The Port will allow the employee at least 15 calendar days to obtain the medical certification. The Port may, at its own expense, require the employee to obtain a second medical certification from a health care provider. The Port may choose the health care provider. If the opinions of the employee's and the Port's designated health care providers differ, the Port may require the employee to obtain certification from a third health care provider, again at the Port's expense. This third opinion shall be final and binding. The third health care provider must be approved jointly by the Port and the employee.

Family and Medical Leave Policy: The Port is covered by the Federal Family and Medical Leave Act and has adopted this policy to administer the FMLA for Port eligible employees.

Employee Eligibility: To be eligible for FMLA leave, employees must have worked for the Port for 12 months and have worked at least 1,250 hours in the 12 months prior to taking FMLA leave.

Reasons for and Amount of FMLA Leave: Eligible employees can take up to 12 weeks of FMLA leave in a 12-month period because:

- Of the birth and to care for their newborn child;
- Of the placement with them of a child for adoption or foster care;
- They want to care for their spouse, child, or parent who has a serious health condition;
- Their own serious health condition prevents them from performing their job duties; or
- Their spouse, child, or parent is called up for or is on active duty in the Armed Forces and employees' circumstance justify their need to leave. Note: The Department of Labor will issue regulations defining qualifying "exigent" circumstances that support this reason for FMLA leave. Until the regulations are issued, employers have discretion to permit this type of leave.

Employees can take FMLA leave for their biological children, adopted children, foster children, stepchildren, legal wards, or children from whom employees have day-to-day and financial responsibility. Children must be under age 18, or over 18 and incapable of self-care because of a physical or mental disability.

The Port designates the calendar year, January 1 to December 31, as the 12-month period in which employees can take FMLA leave.

**Servicemember Family Leave:** Eligible employees can take up to 26 weeks of FMLA leave in a single 12-month period because their spouse, child, parent, or next of kin (nearest blood relative) is seriously ill or injured as a result of serving on active duty in the Armed Forces.

**Married Co-Workers:** If two spouses both work for the Port, they are limited to a combined total of 12 weeks of FMLA leave because of the birth, adoption, or foster care placement of a child, or to care for a parent with a serious health condition. If the spouses have taken less than the full 12 weeks of FMLA leave during the 12-month period, they are each entitled to take the difference between 12 weeks and the amount of FMLA leave they took individually due to their own serious health condition, or to care for a child or spouse with a serious health condition. If two spouses both work for the Port, they are limited to a total of 26 weeks for servicemember family leave and all other FMLA-qualifying reasons in a single 12-month period.

**Requesting FMLA Leave:** Employees requesting FMLA leave must give 30 days' advance notice to their supervisors. If the need for leave is unforeseeable, such as in the case of medical emergencies, employees must inform their supervisors as soon as they are aware of the need to leave.

Employees will receive a Request for Family and Medical Leave Form to complete and submit to their supervisors. If FMLA leave is taken because of employees' or their family members' serious health condition or for servicemember family leave, employees will receive a Certification of Health Care Provider Form to complete and submit before the leave begins or within 15 days if advance notice is not provided. Employees who request FMLA leave because their spouse, parent, or child is called up for or is on active duty in the Armed Forces will receive an Active Duty Certification Form to complete and submit.

After employees submit all of the required forms, they will be notified in writing whether their request for FMLA leave is approved. During leave, employees must keep their supervisors informed of the estimated duration of leave and their intended date to return from leave.

**Scheduling FMLA Leave:** FMLA leave can be taken all at once or, under certain circumstances, on an intermittent or reduced leave schedule. Intermittent leave is leave taken in separate blocks of time for a single FMLA-qualifying reason. An FMLA reduced leave schedule is a work schedule that reduces employees' usual number of working hours per workday or workweek. Employees will be informed whether they can take intermittent leave or a reduced leave schedule when they apply for FMLA leave.

**Pay and Benefits During FMLA Leave:** FMLA leave is unpaid. The Port requires employees to substitute all their accrued PTO before FMLA unpaid leave may begin.

FMLA leave taken after employees' accrued vacation, sick, and personal time is exhausted is unpaid. Holidays that occur during FMLA leave will not be paid. Employees will not accrue PTO during FMLA leave.

The Port maintains group health plan benefits for employees on FMLA leave. Employees are required to pay their premium co-payment while they are on FMLA leave and are notified how to make the payments for their share of their group health plan premiums during leave.

Concurrent use of short-term disability and workers' compensation with FMLA leave. Employees on short-term disability or workers' compensation are required to take FMLA leave concurrently. For example, employees who are absent from work for four months due to a workers' compensation injury will have the first 12 weeks of that absence applied to FMLA leave.

Return from Leave: Employees returning from FMLA leave will be reinstated to their former positions or to positions with equivalent pay, benefits, and other employment terms and conditions. Certain "key" employees, who are among the highest paid employees of the Port, might not be reinstated to any position; "key" employees will be notified of their status when they apply for FMLA leave.

Employees returning from FMLA leave retain all benefits they accrued prior to the start of leave. Taking FMLA leave does not count as a break in service for pension or retirement plan purposes.

Maintenance and Disclosure of Records Containing Personal Medical Information: Records containing personal medical information about Port employees, including copies of email, shall not be placed in the regular personnel files of employees or former employees. Records containing personal medical information such as applications for leave for family or personal medical reasons, requests for reasonable accommodation of disabilities, fitness for duty certifications, worker's compensation records, insurance claims and litigation records must be maintained in a record system separate from personnel employment records. Access to such files is restricted to Port employees requiring use of the records in the performance of job duties. Records containing medical information shall not be disclosed without the express written consent of the employee or former employee. Records containing personal medical information may be used by the appropriate Port personnel to process requests for reasonable accommodation of disabilities, determine necessary actions for the health or safety of employees, investigate claims of disability-related discrimination, for group insurance purposes and as required for worker's compensation or litigation purposes.

Employees and former employees have the right to examine files containing medical information about them to the extent provided in RCW 49.12.250. Each file containing personal medical information shall contain a log sheet upon which each person examining the file shall note the date name of the person examining the file, and the date and reason for the examination. Disputes regarding the use or disclosure of records

containing medical information shall be subject to the grievance procedure set forth in these Policies. The Executive Director shall designate an employee as the Privacy Officer. The Privacy Officer shall be responsible for maintaining the files containing personal medical information and for administering this policy.

9. Donation of PTO: The Port has authorized a donated leave program to assist employees that have exhausted all PTO caused by a catastrophic illness or injury. In order for an employee to be eligible for donated time, the following conditions must be met and the proper procedure outlined herein be followed:

Donated leave may be acquired once an employee exhausts all paid PTO by suffering from a catastrophic illness or injury or by providing care to an immediate family member who has suffered from a catastrophic illness or injury.

A "catastrophic illness or injury" means a life-threatening illness or injury of an employee or a member of an employee's immediate family which total incapacitates the employee from work, which is verified by a licensed physician, and forces the employee to exhaust all paid leave earned by that employee, resulting in a loss of compensation from the Port for that employee.

Conditions that are short-term in nature including, but not limited to, common illnesses such as influenza, measles, common injuries, broken bones, strained ligaments, uncomplicated pregnancy, and the like are not catastrophic. Chronic illnesses or injuries such as cancer, major surgery, unresponsive syndromes and the like which result in intermittent absences from work and which are long-term in nature and require long recuperation periods may be considered catastrophic.

The meaning of "employee" for purposes of this donated leave policy is a person employed by the Port for a minimum of 12 consecutive months prior to requesting donated leave and who has worked a minimum of 1250 hours during the 12 months immediately preceding the date of the request for donated leave and satisfy the requirements set forth in this policy. Donated leave may not be used in lieu of disability retirement.

"Immediate family" is defined for purposes of this policy as a spouse, registered domestic partner, parent, step-parent, child or step-child.

Any employee may donate a portion of his or her accrued PTO in the Port's donated PTO pool. The maximum amount of PTO that an employee can donate to the PTO leave pool may not exceed a number of hours that would leave the donor with fewer than 80 hours of accrued PTO. A leave donor may not revoke the leave donation.

Before an employee may receive donated PTO, he or she submit a request form for donated leave and provide the Auditor with sufficient documentation to recommend approval to the Executive Director. Such documentation, at a minimum, must include a physician statement that states the beginning date of the catastrophic illness or injury, a

prognosis for recovery, and the anticipated date that the employee will be able to return to work, or if the illness or injury requires the use of intermittent leave, the physician's statement must include an adequate description of the intermittent time off needed by the employee.

A leave recipient shall receive no more than 180 days of donated leave and shall not receive any such days on a retroactive basis. While using donated leave, the leave recipient shall accrue PTO and be entitled to retain such leave upon his or her return to work. Any unused donated leave shall be returned to the PTO pool.

All donations shall remain confidential and employees shall refrain from discussing PTO donations or the requests for or use of donated leave.

10. Maternity/Paternity Leave: Female employees will be granted leave for pregnancy, childbirth and related medical conditions on the same terms as those specified in Rule II, Paragraph 8.

Leave may be granted to an employee to care for a newly-born child residing with the employee. Such leave will be granted to male employees on the same terms as those for female employees. The employee may use accumulated PTO or may take unpaid leave.

The duration of leave to care for a newly-born child, whether paid or unpaid, shall not exceed a total of 90 days from the date of birth of such child.

11. Parental Leave: Adoptive and step-parents will be granted leave at the time of birth or initial placement of a child under the age of six and living with them, on the same terms as allowed for biological parents. Such leave will be granted to male employees on the same terms as for female employees.
12. Jury Duty Leave: It is the civic obligation of each Port employee to serve on a jury if he or she is called. While on jury duty or while appearing in response to a subpoena, an employee will receive full pay from the Port but the Port shall deduct there from an amount equal to jury or witness fees actually received by the employee.
13. Military Leave: Workers who have short-term (no longer than 31 days) military reserve training obligations are paid the difference between their military pay and the regular pay rate for their positions. Otherwise, an employee's status and benefits are not affected by short-term military leave.

Employees on military leave for longer periods (normally, up to five years) continue to accrue benefit and seniority rights and are entitled to their former or comparable positions on return from leave. Employees on military leave can elect to purchase up to 24 months' continue coverage for themselves, registered domestic partner, or their family members in employer's health plan.

14. Bereavement Leave: Port employees will be granted up to seven (7) working days with pay for a death in the immediate family, defined as a spouse or registered domestic partner, child, mother, father, sister, brother, grandparent, grandchild, spouse's parent, or step relationship.

15. Holidays: Legal holidays to be observed by the Port are:

First day of January (New Year's Day)  
Third Monday of January (Martin Luther King Day)  
Third Monday of February (President's Day)  
Last Monday of May (Memorial Day)  
Fourth day of July (Independence Day)  
First Monday in September (Labor Day)  
Eleventh day of November (Veteran's Day)  
Fourth Thursday in November (Thanksgiving Day)  
The day immediately following Thanksgiving Day  
Twenty-fifth day of December (Christmas Day)

Employees shall also be entitled to one paid holiday per calendar year in addition to those specified in this section. Each employee may select the day on which the employee desires to take the additional holiday provided for herein after consultation with the employer pursuant to guidelines to be promulgated by rule of the appropriate personnel authority. Eleven holidays per year maximum are allowable for Ports.

### **RULE III - NONDISCRIMINATION, SEXUAL HARASSMENT, AND SUBSTANCE ABUSE**

1. Nondiscrimination Policy: The Port is committed to providing equal employment opportunity for all persons regardless of age, sex or gender identification, race, creed, color, religion, national origin, citizenship status, marital status, sexual orientation, status as a registered domestic partner, honorably discharged veteran or military status, the presence of a physical, sensory or mental disability, or the use of a trained dog guide or service animal by a person with a disability.

Equal opportunity extends to all aspects of the employment relationship, including hiring, transfers, promotions, training, terminations, working conditions, compensation, benefits, and other terms and conditions of employment.

The Port complies with federal and state equal employment opportunity laws and strives to keep the workplace free from all forms of harassment, including, but not limited to, harassment based on: age, sex or gender identification, race, creed, color, religion, national origin, citizenship status, marital status, sexual orientation, status as registered domestic partner, honorably discharged veteran or military status, the presence of a physical, sensory or mental disability, or the use of a trained dog guide or service animal by a person with a disability.



Some examples of conduct that might be considered harassment include ethnic slurs, racist jokes, pornographic e-mail, unwelcome touching, display of offensive pictures, or any other verbal or physical conduct that has the purpose or effect of creating an intimidating, hostile, or offensive work environment. The Port considers harassment in all forms to be a serious offense.

Employees who have been subject to prohibited discrimination or harassment should immediately report the incident to their supervisor, the executive director, or the assistant executive director. Complaints are investigated immediately and handled as confidentially as possible. The Port ensures that employees following this complaint procedure are protected against illegal retaliation.

Any reported violations of EEO law or this policy are investigated. Any employee found to have engaged in discriminatory conduct or harassment are subject to immediate disciplinary action, ranging from sensitivity training to possible termination of employment.

2. Sexual Harassment Policy: Sexual harassment includes any unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature where tolerance of such actions is made a condition of employment, interferes with an individual's work performance, or creates an intimidating, hostile or offensive work environment.

It is illegal and against the Port's policy for any worker of any sex to harass another worker or create a hostile working environment by committing or encouraging:

- physical assaults on another employee, including rape, sexual battery, molestation, or attempts to commit these assaults;
- intentional physical conduct that is sexual in nature, including touching, pinching, patting, or brushing up against another employee's body;
- unwanted sexual advances, propositions, or sexual comments, including sexual gestures, jokes, or comments made in the presence of any employee who has indicated that such conduct is unwelcome; and
- posting or displaying pictures, posters, calendars, graffiti, objects, or other materials that are sexual in nature or pornographic.

The creation of an intimidating, hostile, or offensive working environment includes such actions as persistent sexual comments or the display of obscene or sexually oriented photographs or drawings. However, conduct or actions that arise out of a personal or social relationship and are not intended to have a discriminatory employment effect might not be viewed as harassment.

The Port will determine whether such conduct constitutes sexual harassment, based on a review of the facts and circumstances of each situation. The Port does not condone any sexual harassment of its employees. All employees will be subject to severe discipline, up to and including discharge, for any action of sexual harassment they commit. Employees

subject to sexual harassment should immediately report the harassment to their supervisor, the executive director, or the assistant executive director.

Supervisors, managers, and directors who receive a sexual harassment complaint should carefully investigate the matter. Both the complaint and the investigative steps and findings should be thoroughly documented. To the extent possible, confidentiality of all parties involved in a sexual harassment complaint will be maintained and information will be released only to those who need to know.

Employees dissatisfied with the resolution of the investigation of a sexual harassment complaint should utilize the grievance procedure set forth at Rule VI. No employee will be subject to any form of retaliation or discipline for pursuing a sexual harassment complaint.

3. **Substance Abuse Policy:** See Attachment A. The Port is committed to maintaining a safe, healthy, and efficient working environment. The use, sale, possession, purchase, or transfer of drugs or the use of alcohol in the workplace poses unacceptable risks to safe and efficient operations. This policy prohibiting workplace substance abuse is designed to ensure employee safety, reduce absenteeism and tardiness, improve productivity, and protect the company's status and reputation. The policy applies to all employees (including contracted employees) and job applicants.

Employees are expected and required to report to work on time and in appropriate mental and physical condition. The unlawful use, possession, manufacture, distribution, or dispensation of drugs on company premises or while conducting company business off premises is strictly prohibited.

Possession or use of alcohol on company premises, except in connection with company authorized events, is prohibited. Employees whose absenteeism or tardiness results from off-duty use of alcohol or drugs will be instructed to seek rehabilitation or face termination.

The undisclosed use of legal drugs by employees while on the job is prohibited; however, employees can use prescribed medications while performing their jobs if the Port determines that such use does not pose a safety risk. Employees whose physicians have prescribed medications that might adversely affect their ability to perform their work must provide a written statement from their doctors.

Employees needing help in dealing with substance abuse problems are encouraged to use our employee assistance program. Conscientious efforts to seek and use such help will not jeopardize employees' jobs and will not be a part of any personnel record. Records of absences to seek treatment or insurance claims for covered treatment will be maintained, however, although the reasons for the absences or claims will be kept confidential and disclosed only on a need-to-know basis.

Violation of this policy will result in disciplinary action, up to and including termination, as well as possible criminal consequences.

#### **RULE IV - CLASSIFICATION AND SALARY**

1. Classification: The Executive Director shall classify each employment position as exempt or non-exempt, for the purpose of assuring compliance with the overtime pay requirements of applicable law. The Executive Director is authorized to obtain the assistance of counsel, the United States Department of Labor and the State of Washington, Department of Labor and Industries, as needed. The Executive Director shall recommend annually to the Commission the salary ranges for each such position, and shall establish a regular rate of pay for each employee occupying a position. No employee may be paid a regular wage or salary in excess of the amount budgeted, without the express approval of the Commission.
2. Pay Period: Employees of the Port shall be paid on the fifteenth of each month and the last working day of the month. If the fifteenth falls on a Saturday, Sunday or holiday, then employees of the Port shall be paid on the next preceding workday.
3. Overtime: It is the policy of the Port to reduce to a minimum the necessity for authorized overtime work. Non-exempt employees shall be paid one and one-half times their hourly base rate of pay for each hour in excess of forty (40) actually worked in a workweek. The workweek is Sunday through Saturday. No overtime will be allowed for any employee except in an emergency, without the prior written approval of his/her supervisor. Approved paid absences shall be included as hours "actually worked".

#### **RULE V - PERSONNEL ACTIONS**

1. Appointment: Appointments and promotions to vacant positions will be made by the Executive Director, unless otherwise provided by resolution of the Commission. All appointments and promotions shall be made on the basis of merit.
2. Promotion: The Executive Director will fill vacant positions by promotion if qualified persons are available. A promoted employee may be returned to the previous position if the employee's performance following a promotion is unsatisfactory.
3. Resignation: An employee wishing to leave the Port service in good standing, shall at least two weeks before leaving, file a written statement as to the reasons for leaving and the effective date.
4. Demotion; Suspension; Discharge - Personnel Files: An employee may be demoted, suspended or discharged, with or without cause or notice. The Executive Director will notify an employee in writing of (a) a demotion two weeks prior to its effective date, if possible, (b) a suspension, the reasons therefore, and the duration thereof, if known, and (c) a discharge, the reasons therefore, and its effective date. An employee who is suspended for non-disciplinary reasons (i.e. furloughed) will be given two weeks notice,

if possible. A suspension may be paid or unpaid. An employee who is demoted or discharged for poor performance or misconduct will be allowed to prepare and place in his or her personnel file a written rebuttal statement, not to exceed one page in length. A rebuttal statement will be retained in the personnel file as a permanent record, and will be disclosed to prospective employers of a demoted or discharged employee or to others on the same basis as any other document in a personnel file.

An employee may examine his personnel, payroll or benefit files, including any separate files containing medical information, upon request at any time during regular business hours. A former employee may examine his or her personnel files once during regular business hours in each of the two calendar years following separation from employment. An employee may obtain one copy of his personnel file in each calendar year without charge.

## **RULE VI- GRIEVANCE PROCEDURE**

An employee having a grievance as defined against the Port may resort to the following procedure:

If an employee feels that he or she has a justified complaint or problem, they must discuss this problem with the immediate supervisor. If within three working days after receiving an answer from the supervisor, the employee feels that their problem has not been satisfactorily resolved, the employee and the supervisor shall both submit to the Executive Director a report outlining the complaint, and the circumstances surrounding it.

The Executive Director shall reply in writing to both parties regarding the complaint within five working days. If the employee feels that the grievance is not fairly resolved by the Executive Director he or she may then, within five days, submit a written complaint to the Port Commission. The Commission shall make a judgment as to the final resolution of the grievance. No retaliatory action shall be carried out against any employee for utilizing the grievance procedures contained herein.

The grievance procedure may only be used by a regular full-time or part-time employee to contest the propriety of a demotion or disciplinary action, or to obtain a solution to a work-related problem. The procedure is not available to contest the discharge of any employee. The grievance procedure is not available to seasonal or temporary employees, the Executive Director, or leased or loaned employees.

## **RULE VII- WORK-RELATED SEMINARS AND CLASSES – TUITION REIMBURSEMENT FOR COLLEGE COURSES**

### **SEMINARS AND CLASSES**

Port employees may be reimbursed for continuing education or seminars directly related to the employee's duties or ability to maintain a license upon which their work duties pertain, if (a) enrollment in the class has been approved in writing by the Executive Director, and (b) the

class is successfully completed. Such training is to include continuing legal education (CLE) courses and continuing professional education (CPE) courses.

Port employees and Port Commissioners shall make every effort to attend any event or class that they have signed up and paid for. Should a cancellation occur within a time period that reimbursement may not be obtained from the class/venue, the employee/Commissioner shall reimburse the Port for the costs paid, unless a legitimate health issue for themselves or a family member may be proved via doctor's note.

## **TUITION REIMBURSEMENT**

The Port recognizes the value of well-educated and well-trained employees and supports the tuition reimbursement program with available funds. Employees are encouraged to further their personal and professional development goals through appropriate formal education programs.

### **General Requirements**

Tuition reimbursement is available for live or online courses offered by institutions accredited by the following accrediting organizations: Middle States Commission on Higher Education, New England Association of Schools and Colleges' Commission on Institutions of Higher Education, North Central Association of Colleges and Schools' Higher Learning Commission, Northwest Commission on Colleges and Universities, Southern Association of Colleges and Schools' Commission on Colleges, and Western Association of Schools and Colleges' Senior College and University Commission. Accreditation information is available directly from the school.

Tuition Reimbursement is available only to full-time employees who are in good standing and have successfully completed 1 year of service with the Port. Employees whose official work schedule is part-time will receive reimbursement relative to their work schedule (e.g. half-time employees received 50 percent of allowable reimbursement).

Employees who intend to apply for tuition reimbursement must obtain approval from the Executive Director and the Director of Finance prior to registering for the class(es). Employees who do not obtain approval prior to taking the class will not be eligible for reimbursement.

If the employee leaves Port services before completing the entire reimbursement process, the Port will not provide reimbursement. Any reimbursement provided must be paid back to the Port.

To qualify for reimbursement for a college course, the employee must receive a grade of "C" or (2.0) or better. Classes may only be taken on a pass/fail basis if the class is only offered on a pass/fail basis. For pass/fail classes, the class must be passed for reimbursement. Official grade reports must be submitted with the request for tuition reimbursement. Should an employee "fail" a pass/fail class, or fail to obtain a "C" or "2.0" in a course, that employee must reimburse

the Port any monies already paid by the Port in full, within thirty (30) days of receiving their grade.

Participation must not interfere with scheduled work or negatively affect work performance. There must be a relationship between the course(s) and the employee's projected career path within the Port, or attainment of a degree that benefits the employee and the Port.

The reimbursement rate will be 100 percent of the tuition cost and mandatory fees. Maximum tuition reimbursement for an employee will not exceed the full-time Washington resident undergraduate tuition rate for the Washington State University Tri-Cities Branch Campus in a calendar year. Costs of textbooks will also be reimbursed. However, textbooks are to remain Port property and are to be provided to the Port upon completion of a course. Other costs (e.g. supplies, travel, parking, extracurricular clubs, etc.) are not reimbursable.

In some situations, reimbursement may be approved for courses that do not meet the above descriptions. These situations may include courses like a preparation class for a certification examination or a job-related course provided by a non-academic institution. Reimbursement for special courses shall be at a rate determined by the Executive Director on a case-by-case basis.

Employees who receive financial assistance for their education from another source must disclose the source and amount when seeking reimbursement. If employees are receiving 100% funding for their education from another source, the Port will not provide reimbursement. Under certain circumstances, it is possible that the tuition reimbursement program can be coordinated with other funding sources (e.g. GI Bill benefit, grant, scholarship). In all instances, total financial assistance and tuition reimbursement will not exceed the educational expenditures incurred.

**Reimbursement process:**

- A. Employee shall turn in Reimbursement form **Attachment E**.
- B. Employee will pay for the course prior to reimbursement.
- C. Upon course completion, employees will provide the Finance Director:
  1. A copy of the unofficial course transcript
  2. A copy of the receipt for tuition payment that shows the course title, number of credit hours, tuition costs, and fees,
  3. Documentation from the college's website or course catalog showing the cost per credit for the timeframe of the course, and
  4. A copy of the class syllabus noting the required textbook must be submitted with the textbook receipt
- D. Documentation for payment must be submitted within 90 days following the course end date.

**Advance Tuition Reimbursement:** Requests may be submitted up to forty-five (45) days in advance of the start date of the course in the event the employee requests advance reimbursement due to financial hardship. Requests approved in advance are subject to the policy in effect at the time the class starts, not at the time of approval.

**Advance reimbursement process:**

- A. Employee shall turn in Reimbursement form **Attachment E**
- B. Employee will submit for reimbursement up to forty-five (45) days prior to the course start date. This shall include:
  - 1. A copy of the receipt for tuition payment that shows the course title, number of credit hours, tuition costs, and fees,
  - 2. Documentation from the college's website or course catalog showing the cost per credit for the timeframe of the course, and
  - 3. A copy of the class syllabus noting the required textbook must be submitted with the textbook receipt
- C. Within thirty days (30) of course completion, employees will provide the Finance Director:
  - 1. A copy of the unofficial course transcript

**Tax implications:** Depending on the IRS tax codes in effect, employee reimbursement may be subject to income and FICA tax withholding. For guidance on the laws related to tuition reimbursement, employees should contact their accountant or tax advisor.

**RULE VIII- DISCLOSURE STATEMENTS, CONFLICTS OF INTEREST AND DISCLOSURE OF INFORMATION**

A disclosure statement regarding outside employment, business interests or ownership will be required of each new employee at time of hire, and annually thereafter. The disclosure statement must disclose the existence of any financial interest of the employee, and his or her spouse, or registered domestic partner which may be affected by an activity of the Port.

A conflict of interest occurs when (a) an employee, spouse or registered domestic partner has a private financial interest which may be affected by an activity of the Port, or (b) the employee, spouse or registered domestic partner has a legal duty to a third party which conflicts with a duty owed to the Port because of employment. Ownership of stock in a listed and publicly traded company that does business with the Port need not be reported. Any activity which could be a conflict of interest between the employee and the Port will require a plan to eliminate any conflict of interest and approval by the Board of Commissioners.

Commissioners or employees of the Port shall not accept gratuities, gifts or free services from any person or organization that conducts business with the Port. This provision does not prohibit the exchange of inexpensive gifts, food or beverages of the value of \$25.00 or less that are by custom exchanged at holiday seasons or at social functions organized for the enjoyment of Commissioners or employees.

Commissioners and employees shall maintain the confidentiality of information obtained during the conduct of Port business, unless disclosure is required by law or compelled by subpoena. Care should be exercised where the disclosure of information about Port business could result in a significant compromise of the Port's position in the negotiation of leases, land sales or acquisitions, the encouragement and support of new businesses, or the Port position in litigation or regulatory matters.

## **RULE IX - USE OF PORT ASSETS AND TIME**

Any use of Port assets or time by an employee for private personal benefit is prohibited. Employees will be disciplined or discharged for:

- a. use of Port vehicles for private purposes, unless expressly authorized by the Board of Commissioners; provided, however, that incidental use of a vehicle owned by the Port for incidental personal purposes such as meals, errands and personal needs which coincide with an employees performance of official Port duties is approved.
- b. use of Port computers for private correspondence, business activities or personal entertainment; provided, however, that incidental use of email for reasonable and necessary communication with members of the employee's immediate family is authorized if the communications are properly stored in the permanent Port email cache;
- c. theft or unauthorized use of property, materials, tools, equipment, telephones or fax machines or facilities owned by the Port; provided, however, that reasonable use of telephones owned by the Port for reasonable local communication for personal or immediate family matters; and
- d. conducting personal business for profit while being paid for work by the Port, or unreasonable use of work time for personal or family matters.

## **RULE X - DRUG FREE WORKPLACE PROGRAM - See Attachment A.**

## **RULE XI - REPORTING IMPROPER GOVERNMENTAL ACTION AND PROTECTING EMPLOYEES AGAINST RETALIATION - See Attachment B.**

## **RULE XII - INTERNET AND EMAIL POLICY AND PROCEDURES**

The Port of Benton provides both internal and external communications networks in order to provide an efficient means of communication with fellow employees, persons outside the Port, and remote computer systems. Networks also provide a means of retrieving and communicating other business related information. Internal and external networks provide many business benefits. However, there are also legal, security, productivity and privacy issues related to how networks are properly used. Employees are required to become familiar with, and adhere to the following guidelines and information regarding use of Port network resources.

1. Privacy: All data and voice processing equipment, software, Internet accounts, and data residing within or on those devices are the property of the Port of Benton.

Communication over networks should not be considered private. Employees of the Port have no expectation of privacy in Port correspondence, in records created for use in Port



activities, or in email sent or received over the Port's email systems. Network administration and maintenance may require review and inspection of directories, files or messages. Messages may sometimes be diverted accidentally to a destination other than the one intended. Privacy of these communications is not guaranteed. The Port reserves the right to access stored records for any reason. Deleting e-mail may not necessarily destroy the record within the system.

Generally, computer files, voice mail, and e-mail are considered "documents" under the Washington State Public Disclosure Act (RCW 42.17). As such, it should be assumed that this information may be subject to release to any member of the general public upon request to the Port of Benton.

Email directly or indirectly related to activities or business of the Port, which is unprivileged, and which is sent or received by a Commissioner or employee, shall be saved and stored electronically in an electronic file.

The use of the email system for communications unrelated to Port business is discouraged.

2. **Port-Owned Electronic Devices:** Employees have no right to privacy with respect to the use of Port-Owned Electronic Devices. This includes any and all voicemails, social media messaging, emails, text messages, call history and/or any other information stored on a cell phone, regardless of whether stored in the device or in remote sites and/or with remote services. The Port has the right to inspect any and all Port-Owned Electronic Devices used by employees for such information at any time and without notice.

In addition, employees have the following responsibilities regarding Port-Owned Electronic Devices:

- b. Protect the Port-owned electronic device from theft, loss or damage.
  - c. Immediately report loss or theft of a Port-owned electronic device to your supervisor.
  - d. As cell phone calls and other electronic devices are not secure, use discretion while making calls of a sensitive or confidential nature.
  - e. Immediately return the electronic device to your supervisor if it is determined that the electronic device is no longer necessary for your job or upon leaving employment with the Port.
3. **Personal Cell Phones and Text Message Policy:** Employees should be aware that work-related texts and voice messages on cell phones may be public records subject to the Public Records Act. These text and voice messages are subject to the Public Records Act so long as one party to the conversation is a Port employee, regardless of who the other party is, i.e. friend, family, business associate. Employees have a duty to maintain such

records in accordance with the Washington Local Government Record Retention Schedules.

Records created related to Port business—including text messages, voicemail messages, and other electronic communications—are Port records. These records therefore (1) should be managed according to the applicable retention schedule, and (2) may be subject to disclosure under the Public Records Act. The following is intended to help manage the business-related messages you send or receive on smart phones, tablets, or similar devices (iPhone, iPad, Blackberry, Android, etc.)

- a. With supervisor authorization, employees may use text messaging only for routine or transitory messages that don't need to be retained by the Port. Examples include informal notices of meetings, directions, scheduling information, and other routine messages that would not be kept in a file if it were a paper communication.
- b. Text messages may not be used to send policy, contract, formal correspondence, or personnel related data. Sensitive information should not be sent by text message, including social security numbers, credit card numbers, and passwords.
- c. If the electronic record is transitory in nature with no administrative, legal, fiscal, or archival value, then the record can be deleted at the discretion of the user. Examples include secondary copies of memos, general office notices, general information, working copies, transmittal memos, meeting announcements, invitations to retirement parties, drafts.
- d. If a text message is not transitory in nature and needs to be retained, employees must transfer the messages to the Port's network and/or devices.

#### 4. Network Usage Guidelines:

##### a. Network Access:

A. Employee access to internal and external networks, including the Internet, is granted as a Port business resource. "Loaning" of user IDs and passwords or failure to logoff during non-work hours are considered breaches of security. Employees must use networks in accordance with Port guidelines, and local, state, and federal laws. Employees who misuse this privilege will have their access revoked, and are subject to disciplinary measures.

B. Access to networks through any means other than Port authorized methods is prohibited. This is necessary to insure proper network usage, maintain operating efficiency, and insure network security.

C. Management approval is required for all employees to access authorized

internal computing resources: Access to external computing resources must be coordinated with the Director of Finance/Auditor to determine if existing resources will support the request connection.

b. Network Use. Electronic data processing and telecommunications (such as Microsoft Exchange, Voice Mail, and Internet access) are provided for the conduct of Port business. Employees who use these resources are responsible for doing so in an ethical, legal and professional manner. Further, they may not be used to support activities for personal gain, solicitation, or to support any illegal purposes. They may not be used to send or post messages that are in support of any religious, political, or non-business related outside organization or activity. Messages must not contain harassing, obscene, profane, or otherwise offensive language. Storage of personal files on Port networks is prohibited. E-mail and bulletin board services may be used to support Port sponsored education, professional organizations, or community activities, if this usage is approved by the Executive Director. Non-employee access to internal and external network systems, software and telecommunications shall be specifically limited to the conduct of official Port business.

5. Violations: Suspected violations of these policies shall be reported to the Executive Director. Violations of this policy may result in disciplinary action up to and including termination.
6. Downloading and Network Connections: The Port of Benton internal computer and voice networks are vulnerable (to unauthorized intrusion, viruses, etc.) at the point of interface with any external network connections. Computer systems residing on or connected to the internal network will use external connections only through Port approved and managed network interfaces. Any connection not meeting these requirements will be subject to disconnection until it is reviewed by the Information Systems Administrator/Director of Finance/Auditor and approved for use.
7. Virus Screening: Software may not be downloaded from external sources (e.g. bulletin board services, the Internet, etc.) and/or used without screening through a virus control utility.
8. External Disks: Binary (non-text, e.g. graphics) files, executable (program) files (including those attached to email), and removable computer media (e.g., diskettes, CD-ROM discs, DVD-ROM discs, and flash/usb drives) can contain computer viruses or other malicious code. No executable information (e.g. binary files, macros, etc.) obtained from external sources may be executed prior to virus checking with an appropriate utility.
9. Copyrights: Copyright laws must be adhered to. Copyrights and contractual agreements may prohibit the duplication of material without authorization. Do not include published material in email or file transfers without proper authorization. All licenses and copyrights associated with electronic material must be adhered to. Required copyright notices must be included in any use of such material.

10. Network Housekeeping: Electronic files must be reviewed periodically and purged if no longer needed. The Information Systems Administrator has established thresholds for monitoring network traffic and the volume of files and messages that an individual can accumulate. The Director of Finance/Auditor has established a schedule to complete a backup of all network files. Backup files are retained off-site.
11. Preservation And Storage Of Electronic Mail: "Electronic mail," hereinafter referred to as "email," means communications to or from Commissioners and employees which are directly or indirectly related to the business, operation, meetings or official activities of the Port. Email transmissions are "documents" which may be discoverable in litigation, or may be subject to the retention and disclosure requirements of RCW 42.17. Every email document sent or received by Commissioners or an employee of the Port, and which is or may be subject to the disclosure requirements of RCW 42.17, shall be stored electronically in a permanent cache and retained for a minimum period of three years. (Email which is related to an activity for which a longer record retention period is required, such as leases and contracts and some personnel records, shall be reduced to written form and stored in the appropriate paper files. If an email document is filed in written form, it may be deleted from the electronic storage file).

Email which contains significant information about a project or activity of the Port, such as bids, proposals, unprivileged legal documents, notices of claims, appraisals of property to be leased, sold or purchased, and similar matters, for which maintenance of a permanent record is of importance, should be copied and placed in the appropriate paper files. Duplication of records is not required; records reduced to written form and appropriately filed may be deleted from the email files. Email sent to or received by a Commissioner, including communications between Commissioners, regarding official Port business or any activity of the Port, must be stored in the email cache or reduced to written form and filed in the appropriate paper files.

Email which is determined to be exempt from public disclosure under RCW 42.17 shall not be stored in the email files. Such documents include, but are not limited to, mail containing significant personal or medical information about Commissioners or employees of the Port, financial or business information received from vendors, bidders or persons conducting business with the Port, matters involving litigation, appraisals and similar information related to the sale or acquisition of property, applications for employment, grievances and disciplinary matters.

Current and newly-hired employees will be given a copy of this policy and be required to sign a statement that they have read and understand it. Every email message sent by Commissioners or employees of the Port using Port email equipment shall contain the following statement: "This e-mail may contain privileged or confidential information disclosable only to the addressee. If you have received this e-mail in error, do not copy or distribute it to other persons not authorized to receive it. Please call the sender at 509-375-3060 to make arrangements for the document to be retrieved or destroyed."

12. Privileged Electronic Correspondence: It is important to be very careful to preserve the attorney–client privilege in email correspondence. The general rule is that the privilege applies to communications between an attorney and client, and once a third party is included in that communication, the privilege may be waived. Port policy and best practices dictate that whenever an email is received from Port counsel, the recipient shall not forward the email on or reply and add on additional employees or third parties to the communication, without the express consent of Port counsel or the Executive Director.

### **RULE XIII - TRAVEL EXPENSE REIMBURSEMENT**

Commissioners and employees who are required to travel to engage in activities directly related to the business of the Port shall be reimbursed for the reasonable and necessary expenses incurred. Reasonable and necessary expenses shall include:

1. Lowest available round-trip airfare from the Pasco airport to the destination and return, and all reasonable and necessary connecting transportation costs, such as bus, taxi, Uber/Lyft or equivalent, and car-rental expenses.
2. Mileage, if a private automobile is used, at the rate allowed by the United States Internal Revenue Service for mileage reimbursement. Employees receiving a vehicle allowance shall not receive mileage or use Port vehicles for travel, unless travel is required of two or more Port employees, in which case the use of Port vehicles is allowed for travel.
3. Lodging, meals (other than alcohol) and reasonable tips, local public transportation, parking, laundry expense (for absences in excess of one week), reasonable telephone expense for Port business and family communication, and necessary incidental expenses.
4. Cost of internet and communication services directly related to Port activities incurred during the travel period.
5. Commissioners and employees using credit or debit cards of the Port shall submit a complete written voucher of expenses incurred, together with receipts, for each item of expense. Valid receipts shall be submitted within fourteen (14) days of the last day of the month in which the travel occurred. If valid receipts are not submitted within fourteen days following the end of the travel month, the Commissioner or employee shall reimburse the Port for the expense. Reimbursement claims for items paid in cash shall be supported by a written receipt and explanation of the claim.

Reimbursement will be allowed only for expenses related to Port purposes. Employees are not to use Port credit or debit cards for personal or non-reimbursable expenses. The Director of Financer/Auditor shall withhold any amounts due from the Commissioner or employee from the next paycheck due, as provided in RCW 42.24.115.

If approved by the Director of Finance/Auditor, the Port may make a cash advance for reasonably expected travel and living expenses to be incurred in business travel, from a revolving fund established for that purpose; provided, that a full accounting for advanced cash

shall be completed before the payday next occurring after the person returns from travel. Such an accounting shall include a written voucher for all expenses claimed, with receipts, and shall be submitted under oath. Cash advanced for travel purposes will not be treated as a personal loan. If a proper accounting is not presented, the advance will be deducted from the employee's next paycheck.

#### **RULE XIV - PATENTS**

At the time an employee is hired, he or she shall be required to disclose in writing any project then being pursued by the employee which may result in the issuance of a patent to the employee. Such disclosures shall be maintained in a separate and secure file by the Port, and access to such documents is limited to Director of Finance/Auditor. The Port shall own any invention patented by an employee during his or her employment, unless the employee has previously notified the Port in writing of his work on a potential invention and establishes that no equipment, supplies, facilities or trade secret information belonging to the Port were used in its development, and that the invention does not relate to (a) the business of the Port, (b) an actual or demonstrably anticipated research or development project of the Port, or (c) the work of the employee for the Port.

#### **RULE XV - SAFETY GLASSES**

Protective, non-prescription safety glasses will be provided in the shop areas and for all work of Port employees who are engaged in activities during which facial or eye injury is a reasonably foreseeable risk. Safety glasses are provided without cost to the employee. Use of safety glasses or full face masks is required when mandated by rules of the Washington Department of Labor and Industries, or when work presents a risk of eye injury.

#### **RULE XVI- SMOKING IN PORT FACILITIES**

Smoking is prohibited in all facilities of the Port, including shops, rest rooms, offices, hallways, common areas, entrance vestibules and sidewalks. Employees wishing to smoke during rest breaks or lunch hours must do so off premises under control of the Port.

#### **RULE XVII— CELL PHONE/INTERNET REIMBURSEMENT**

Port employees and Commissioners can choose to own their own cell phone or continue to have the Port of Benton own them. If a port employee or Commissioner chooses to own their own phone they may receive an allowance of may receive \$100 a month to cover combined business related cell phone and data plan expenses for personally owned cell phones. All employees and Commissioners participating in the cell phone allowance program will receive \$100 annually towards the purchasing of a cell phone and related equipment.

If an employee or Commissioner can provide sufficient evidence that the business use of their cell phone is in excess of \$50 or \$100 on a three-month average, they should address the issue with the Port Auditor for a change in the allowance. Otherwise, no further reimbursement

for cell phone costs is available. In the event of excess data usage, at the discretion of the Executive Director, an employee may lose their data plan reimbursement privileges.

**Responsibilities:** Employees and Commissioners will be responsible for entering into a contract for cellular service with the provider of their choice. Employees are encouraged to have their cell phone provider apply the Government discount to their primary phone line. The Port will not be responsible, in any way, for employee's personal cellular phone and/or associated services, regardless of the type of use, including inappropriate charges, a lost/stolen phone or delinquent payments.

Each employee or Commissioner will immediately report the number of the cellular phone to the Port Auditor. The employee or Commissioner will carry the phone during business hours and when it is reasonably determined that there is a business need, or when normal communication links are not available.

The Port retains the right to periodically review the employee's or Commissioner's need for a cellular phone allowance and may cancel the allowance due to lack of business usage, changes in employee work-related responsibilities, or absences exceeding one month, such as employee leave, Short Term Disability or extended leave under the Family and Medical Leave Act if applicable.

Port employees and Commissioners may receive up to \$75 a month to cover internet service provider charges for work-related business conducted at home.

**Responsibilities:** Employees and Commissioners will be responsible for entering into a contract for internet service with the provider of their choice. The Port will not be responsible, in any way, for employee's internet services, regardless of the type of use, including inappropriate charges or delinquent payments.

**ATTACHMENT A**  
**PORT OF BENTON PERSONNEL POLICY & PROCEDURES**  
**DRUG FREE WORKPLACE PROGRAM**

**I. Statement of Policy:**

- A. Introduction and Background: The Port of Benton's responsibilities for protection of the health and safety of the public and of its employees require that actions be taken to assure that employees at Port of Benton facilities in positions with the potential for causing serious harm to the health and safety of employees or the public meet the highest standards of reliability. Among the actions deemed necessary is that the Port of Benton develop and maintain drug free workplace programs. This document provides criteria to be followed by the Port of Benton in developing and implementing a drug free workplace program.
- B. Purpose: This document establishes Port of Benton policies and criteria for developing and implementing programs that facilitate the maintenance of a drug free workplace, including detection of the use of illegal drugs by current or prospective employees.
- C. Scope: All current and prospective employees of the Port of Benton are required to participate fully in the Drug Free Workplace Program, including urine drug analysis as specified in subsequent sections of this document.
- D. Policy: The Port of Benton policy regarding protection of employee and public health and safety requires that the Port of Benton assure that its employees who occupy positions with the potential to cause damage, are free of the effects of the use of illegal drugs. In order to accomplish this, it shall be the Port of Benton's policy to:
  - a. Prohibit the use, possession or sale of illegal drugs at any Port of Benton facility.
  - b. Instruct supervisors and employees concerning substance abuse problems and the availability of assistance.
  - c. Conduct urine drug analysis of employees and applicants on the basis of reasonable suspicion or in connection with an occurrence.
  - d. Provide employees with the opportunity for rehabilitation under certain circumstances.
  - e. Take disciplinary action as appropriate, up to and including termination.
- E. Definitions:
  - a. "Confirmed Positive Test" means a finding based on an initial test with a positive result followed by a confirmatory test on the same sample using a more sensitive, drug-specific test with a positive result.
  - b. "Employee Assistance Program" means a system of counseling and referral services for the prevention, treatment and rehabilitation of employees who have substance abuse and other medical behavioral problems.



- c. "Illegal Drugs" means controlled substances as defined by Section 802(6) of Title 21 of the United States Code, the possession of which is unlawful under Chapter 13 of that Title. The term "illegal drugs" does not apply to the use of a controlled substance pursuant to a valid prescription or other uses authorized by law.
- d. "Reasonable Suspicion" means an articulable belief that an employee uses illegal drugs drawn from particularized facts and reasonable inferences from those facts.
- e. "Occurrence" means any untoward accident, incident, or event which results in personal injury, property damage or monetary loss; or a significantly increased probability of injury, loss, or damage. An automobile accident with a government vehicle, an error in administration, or misappropriation of company funds are examples of occurrences.

## II. Procedures

- A. Employee Assistance Program: In appropriate circumstances, the Port of Benton shall refer employees to qualified professionals for treatment of drug or alcohol related problems.
- B. Federal contract or grant: As a condition of employment on any Federal contract or grant, the employee must abide by the terms of this policy statement and is required to notify the Port, within five calendar days, if he or she is convicted of a criminal drug violation. Failure to notify the Port is grounds for automatic termination.
- C. Testing as a Result of an Occurrence: When there is an occurrence involving Port of Benton employees, the Executive Director may direct that all involved employees be tested for illegal drug use with 48 hours.
- D. Testing for Reasonable Suspicion: Any employee whose behavior creates the basis for reasonable suspicion on the part of a responsible person will be tested for illegal drug use. Testing for reasonable suspicion shall be recommended by the responsible person observing the suspicious activity but shall be ordered by the Executive Director. Such suspicion must be based on one or more of the following:
  - a. Observable phenomena, such as direct observation of drug use and/or the physical symptoms of being under the influence of a drug;
  - b. A pattern of abnormal conduct or erratic behavior;
  - c. Arrest or conviction for a drug-related offense, or the identification of an employee as the focus of a criminal investigation into illegal drug possession, use or trafficking; or
  - d. Information provided by reliable and credible sources and independently corroborated, or evidence that an employee has tampered with a drug test.

- E. Drugs for Which Testing is Performed: Testing will routinely be performed to identify the following drugs, classes of drugs, or metabolites thereof, and at the assay cut off levels indicated:

A POSITIVE DRUG RESULT MEANS THAT THE AMOUNT DETECTED MEETS OR EXCEEDS THE ASSAY CUT-OFF

Assay Cut-Off Levels:

Urine Ethanol	25 mg/dl
Amphetamines	1000 ng/ml
Barbiturates	300 ng/ml
Benzodiazepines	300 ng/ml
Cannabinoid	150 ng/ml
Cocaine Metabolite	150 ng/ml
Methadone	300 ng/ml
Methaqualone	300 ng/ml
Opiates	1000 ng/ml
Phencyclidine	25 ng/ml
Propoxyphene	300 ng/ml
MDMA	500 ng/ml
Methamphetamine	1000 ng/ml

Testing may also be performed for other drugs or classes of drugs if deemed necessary and so directed by the Executive Director of the Port of Benton. Drugs tested for and cut-off levels may be changed as necessary to maintain compliance with state or federal law, directives or recommendations.

- F. Specimen Collection, Handling and Laboratory Analysis: All specimens shall be collected by a physician or a drug testing laboratory at a time and place to be specified by the Port of Benton. Procedures for providing urine specimens must allow individual privacy, unless there is reason to believe that a particular individual may alter or substitute the specimen to be provided. The Laboratory Contractor shall utilize a chain of custody procedure for maintaining control and accountability from point of collection to final disposition of specimens, and shall use cut-off levels as specified in Section E in screening specimens to determine whether they are negative or positive for a specific drug.
- G. Medical Review of Test Results: When a positive test result has been obtained, and confirmed by another test made on the same sample using a more sensitive, drug-specific test, the confirmed positive test result will be reviewed by a physician designated by the Executive Director of the Port of Benton considering the medical history of the employee or applicant and other relevant biomedical information. If the physician determines that there is a legitimate medical explanation for the confirmed positive test result consistent with legal drug use, the physician will certify that the

test results do not meet the conditions for a determination of illegal drug use. If no such certification can be made, the physician will make a determination of illegal drug use.

H. Action Pursuant to Determination of Illegal Drug Use:

- a. When an applicant has been tested and determined to be an illegal drug user, processing for employment will be terminated and the applicant will be so notified.
- b. When an employee has been tested and determined to be an illegal drug user, the employee shall be immediately removed from all duties. If this is the first determination of illegal drug use by that employee, the employee will be offered a reasonable opportunity for rehabilitation. Failure to take advantage of the opportunity for rehabilitation or a second determination of illegal drug use will be the basis for disciplinary action up to and including termination of employment.

I. Records:

- a. Port of Benton shall maintain maximum confidentiality of records related to substance abuse, to the extent possible consistent with state law. All drug testing records shall be maintained separately and independently of medical records and shall not be considered to constitute a portion of the employee medical record.
- b. All records, including initial test records and chromatographic tracings, shall be retained by the contract urine drug testing laboratory in such a manner as to allow retrieval of all information pertaining to the individual urine specimens for a minimum period of two years after completion of testing of any given specimen. Frozen duplicate samples of all urines testing positive for drug use shall be maintained for a minimum period of two years.

- J. Refusal to Provide a Specimen or Participate in the Program: Refusal to provide a specimen or participate in the program will be considered equivalent to a positive test. Appropriate action will be taken as if a positive test had been found. A second refusal will result in disciplinary action up to and including termination of employment.

**ATTACHMENT B**  
**PORT OF BENTON PERSONNEL POLICY & PROCEDURES**

**POLICY FOR REPORTING IMPROPER GOVERNMENTAL ACTION AND  
PROTECTING EMPLOYEES AGAINST RETALIATION POLICY STATEMENT**

It is the policy of the Port of Benton (1) to encourage reporting by its employees of improper governmental action taken by the Port of Benton's officers or employees and (2) to protect the Port of Benton's employees who have reported improper governmental actions in accordance with the Port of Benton's policies and procedure(s).

**DEFINITIONS:** As used in this policy, the following terms shall have the meanings indicated:

1. "Improper governmental action" means any action by a Port of Benton officer or employee:
  - a. That is undertaken in the performance of the officer's or employee's official duties, whether or not the action is within the scope of the employee's employment; and
  - b. That (i) is in violation of any federal, state, or local law or rule, (ii) is an abuse of authority, (iii) is of substantial and specific danger to the public health or safety or (iv) is a gross waste of public funds.

"Improper governmental action" does not include personnel actions, including employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations, reductions in pay, dismissals, suspensions, demotions, violations of collective bargaining or civil service laws, alleged violations of labor agreements or reprimands.

2. "Retaliatory action" means any adverse change in the terms and conditions of a Port of Benton employee's employment.
3. "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.

**PROCEDURES FOR REPORTING:**

Port of Benton employees who become aware of improper governmental actions should raise the issue first with the Executive Director. If requested by the Executive Director, the employee shall submit a written report to the Executive Director, or to some person designated by the Executive Director, stating in detail the basis of the employee's belief that an improper governmental action has occurred. Where the employee reasonably believes the improper governmental action involves the Executive Director, the employee may raise the issue directly with the President of the Commission of the Port of Benton or such other person as may be designated by the President to receive reports of improper governmental action.

In the case of an emergency, where the employee believes that damage to persons or property may result if action is not taken immediately, the employee may report the improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action.

The Executive Director or the President of the Commission of the Port of Benton or the President's designee shall take prompt action to assist the Port of Benton in properly investigating the report of improper governmental action. Port of Benton officers and employees involved in the investigation shall keep the identity of reporting employees confidential to the extent possible under law, unless the employee authorizes the disclosure of his or her identity in writing. After an investigation has been completed, the employee reporting the improper governmental action shall be advised of a summary of the results of the investigation, except that personnel actions taken as a result of the investigation may be kept confidential.

Port of Benton employees may report information about improper governmental action directly to the appropriate government agency with responsibility for investigating the improper action if the Port of Benton employee reasonably believes that an adequate investigation was not undertaken by the Port of Benton to determine whether an improper governmental action occurred, or that insufficient action has been taken by the Port of Benton to address the improper governmental action or that for other reasons the improper governmental action is likely to recur. Port of Benton employees who fail to make a good-faith attempt to follow the Port of Benton's procedures in reporting improper governmental action shall not receive the protection provided by the Port of Benton in these procedures.

#### PROTECTION AGAINST RETALIATORY ACTIONS:

Port of Benton officials and employees are prohibited from taking retaliatory action against a Port of Benton employee because he or she has in good faith reported an improper governmental action in accordance with these policies and procedures.

Employees who believe that they have been retaliated against for reporting an improper governmental action should advise the Port of Benton Executive Director, the President of the Commission of the Port of Benton, or the President's designee. Port of Benton officials and supervisors shall take appropriate action to investigate and address complaints of retaliation.

If the Executive Director, the Port of Benton President, or the President's designee does not satisfactorily resolve a Port of Benton employee's complaint that he or she has been retaliated against in violation of this policy, the Port of Benton employee may obtain protection under this policy and pursuant to state law by providing a written notice to the Port of Benton commission that specifies the alleged retaliatory action and specifies the relief requested.

Port of Benton employees shall provide a copy of their written charge to the Port of Benton Executive Director no later than thirty (30) days after the occurrence of the alleged retaliatory action. The Port of Benton shall respond within thirty (30) days to the charge of retaliatory action.

After receiving either the response of the Port of Benton or thirty (30) days after the delivery of the charge to the Port of Benton, the Port of Benton employee may request a hearing before a state administrative law judge to establish that a retaliatory action occurred and to obtain appropriate relief provided by law. An employee seeking a hearing should deliver the request for hearing to the Port of Benton manager within the earlier of either fifteen (15) days of delivery of

the Port of Benton's response to the charge of a retaliatory action, or forty-five (45) days of delivery of the charge of retaliation to the Port of Benton for response.

Upon receipt of the request for hearing, the Port of Benton shall apply within five (5) working days to the State Office of Administrative Hearings for an adjudicative proceeding before an administrative law judge:

Office of Administrative Hearings  
PO Box 42488  
Olympia, WA 98504-2488  
(360) 407-2700  
(360) 664-8721 (Fax)

The Port of Benton will consider any recommendation provided by the administrative law judge that the retaliator be suspended with or without pay, or dismissed.

#### RESPONSIBILITIES:

The Executive Director is responsible for implementing the Port of Benton's policies and procedures (1) for reporting improper governmental action and (2) for protecting employees against retaliatory actions. This includes ensuring that this policy and these procedures (1) are permanently posted where all employees will have reasonable access to them, (2) are made available to any employee upon request and (3) are provided to all newly-hired employees.

Officers, managers and supervisors are responsible for ensuring the procedures are fully implemented within their areas of responsibility. Violations of this policy and these procedures may result in appropriate disciplinary action, up to and including dismissal.

#### LIST OF AGENCIES:

Following is a list of agencies responsible for enforcing federal, state and local laws and investigating other issues involving improper governmental action. Employees having questions about these agencies or the procedures for reporting improper governmental action are encouraged to contact the manager.

#### BENTON COUNTY:

Benton County Prosecutor (Criminal and Civil Divisions)  
7122 W Okanogan Pl # A  
Kennewick, WA 99336  
(509) 786-5621

Benton-Franklin Health District  
7122 W Okanogan Pl  
Kennewick, WA 99336  
(509) 460-4200

Benton Clean Air Agency

526 S Clodfelter Rd  
Kennewick, WA 99336  
(509) 783-1304

Benton County Sheriffs Department  
7122 W Okanogan Pl # B  
(509) 786-5615

STATE OF WASHINGTON:

Attorney General's Office  
1125 Washington Street SE  
PO Box 40100  
Olympia, WA 98504-0100  
(360) 753-6200

UNITED STATES OF AMERICA:

General Services Administration  
915 Second Avenue  
Seattle, WA

Office of Inspector General  
Audits Investigations (206)931-7650  
Law Enforcement (206) 553-0290

Department of Health & Human Services  
Food & Drug Administration  
22201 23rd Drive S.E. Bothell, WA  
Trade Complaints (206)483-4949

Office of the Regional Secretary  
General Counsel's Office, Inspector General  
Audits (206) 553-0452  
Investigations (206) 553-0229

Department of Housing and Urban Development  
Office of Counsel  
1321 Second Avenue Seattle,  
WA (206)553-4976

Office of Inspector General  
Audits (206) 553-0270  
Investigations (206) 553-0272

Interstate Commerce Commission  
915 Second Avenue, Room 1894  
Seattle, WA 98174 (206)553-5421

Department of Interior  
U.S. Fish & Wildlife Services Division of Law Enforcement  
121 107th N.E.  
Bellevue, WA (206)553-5543

Department of Justice  
Drug Enforcement Administration  
220 West Mercer, Suite 300  
Seattle, WA  
(206)553-5443

Department of Labor  
Occupational Safety & Health (OSHA)  
1111 Third Avenue, Suite 715  
Seattle, WA 98101-3212  
(206)553-5930

Office of Inspector General  
Audits  
1111 Third Avenue, Suite 780  
Seattle, WA 98101-3212  
(206) 553-4880

Office of Inspector General  
Investigations  
1111 Third Avenue, Suite 785  
Seattle, WA 98101-3212

Office of Women's Bureau  
1111 Third Avenue, Suite 885  
Seattle, WA 98101-3212

Mine Safety & Health Administration  
117 107th N. E.  
Bellevue, WA (206)553-7037

National Transportation Safety Board  
19518 Pacific Highway South  
Seattle, WA  
(206) 764-3782



**Nuclear Regulatory Commission  
510-975-0200**

**Securities and Exchange Commission  
915 Second Avenue  
Seattle, WA 98174 (206) 553-7990**

**Department of Transportation Office of Inspector General  
915 Second Avenue  
Seattle, WA 98178  
(206) 553-5720**

**Department of Treasury  
Bureau of Alcohol, Tobacco & Firearms Law Enforcement Division  
915 Second Avenue, Room 806  
Seattle, WA 98174**

**Department of Veterans Affairs  
Office of Inspector General  
915 Second Avenue  
Seattle, WA 98174  
Fraud/Waste/Abuse Hot Line 800-488-8244**

**ATTACHMENT C**  
**PORT OF BENTON PERSONNEL POLICY & PROCEDURES**

**Certification of Health Care Provider for Employee's Serious Health Condition  
(Family and Medical Leave Act)**

DO NOT SEND COMPLETED FORM TO THE PORT OF BENTON; RETURN TO THE PATIENT

**SECTION I: For Completion by the EMPLOYER**

**INSTRUCTIONS to the EMPLOYER:** The Family and Medical Leave Act (FMLA) provides that an employer may require an employee seeking FMLA protections because of a need for leave due to a serious health condition to submit a medical certification issued by the employee's health care provider. Please complete Section I before giving this form to your employee. Your response is voluntary. While you are not required to use this form, you may not ask the employee to provide more information than allowed under the FMLA regulations, 29 C.F.R. §§ 825.306-825.308. Employers must generally maintain records and documents relating to medical certifications, recertifications, or medical histories of employees created for FMLA purposes as confidential medical records in separate files/records from the usual personnel files and in accordance with 29 C.F.R. § 1630.14(c)(1), if the Americans with Disabilities Act applies, and in accordance with 29 C.F.R. § 1635.9, if the Genetic Information Nondiscrimination Act applies.

Employer name and contact: \_\_\_\_\_

Employee's job title: \_\_\_\_\_ Regular work schedule: \_\_\_\_\_

Employee's essential job functions: \_\_\_\_\_

Check if job description is attached: \_\_\_\_\_

**SECTION II: For Completion by the EMPLOYEE**

**INSTRUCTIONS to the EMPLOYEE:** Please complete Section II before giving this form to your medical provider. The FMLA permits an employer to require that you submit a timely, complete, and sufficient medical certification to support a request for FMLA leave due to your own serious health condition. If requested by your employer, your response is required to obtain or retain the benefit of FMLA protections. 29 U.S.C. §§ 2613, 2614(c)(3). Failure to provide a complete and sufficient medical certification may result in a denial of your FMLA request. 29 C.F.R. § 825.313. Your employer must give you at least 15 calendar days to return this form. 29 C.F.R. § 825.305(b).

Your name: \_\_\_\_\_  
First Middle Last

**SECTION III: For Completion by the HEALTH CARE PROVIDER**

**INSTRUCTIONS to the HEALTH CARE PROVIDER:** Your patient has requested leave under the FMLA. Answer, fully and completely, all applicable parts. Several questions seek a response as to the frequency or duration of a condition, treatment, etc. Your answer should be your best estimate based upon your medical knowledge, experience, and examination of the patient. Be as specific as you can; terms such as "lifetime," "unknown," or "indeterminate" may not be sufficient to determine FMLA coverage. Limit your responses to the condition for which the employee is seeking leave. The Genetic Information Nondiscrimination Act of 2008 (GINA) prohibits employers and other entities covered by GINA Title II from requesting or requiring genetic information of an individual or family member of the individual, except as specifically allowed by this law. To comply with this law, we are asking that you not provide any genetic information when responding to this request for medical information. "Genetic Information" as defined by GINA includes an individual's family medical history, the results of an

individual's or family member's genetic tests, the fact that an individual or an individual's family member sought or received genetic services, and genetic information of a fetus carried by an individual or an individual's family member or an embryo lawfully held by an individual or family member receiving assistive reproductive services. **Please be sure to sign the form on the last page.**

Provider's name and business address: \_\_\_\_\_  
Type of practice / Medical specialty: \_\_\_\_\_  
Telephone: (\_\_\_\_\_) \_\_\_\_\_ Fax: (\_\_\_\_\_) \_\_\_\_\_

**PART A: MEDICAL FACTS**

1. Approximate date condition commenced: \_\_\_\_\_

Probable duration of condition: \_\_\_\_\_

**Mark below as applicable:**

Was the patient admitted for an overnight stay in a hospital, hospice, or residential medical care facility?

\_\_\_ No \_\_\_ Yes. If so, dates of admission: \_\_\_\_\_

Date(s) you treated the patient for condition: \_\_\_\_\_

Will the patient need to have treatment visits at least twice per year due to the condition? No \_\_\_ Yes \_\_\_

Was medication, other than over-the-counter medication, prescribed? \_\_\_ No \_\_\_ Yes.

Was the patient referred to other health care provider(s) for evaluation or treatment (e.g., physical therapist)? \_\_\_ No \_\_\_ Yes. If so, state the nature of such treatments and expected duration of treatment: \_\_\_\_\_

2. Is the medical condition pregnancy? \_\_\_ No \_\_\_ Yes. If so, expected delivery date: \_\_\_\_\_

3. Use the information provided by the employer in Section I to answer this question. If the employer fails to provide a list of the employee's essential functions or a job description, answer these questions based upon the employee's own description of his/her job functions.

Is the employee unable to perform any of his/her job functions due to the condition: \_\_\_ No \_\_\_ Yes.

If so, identify the job functions the employee is unable to perform: \_\_\_\_\_

4. Describe other relevant medical facts, if any, related to the condition for which the employee seeks leave (such medical facts may include symptoms, diagnosis, or any regimen of continuing treatment such as the use of specialized equipment): \_\_\_\_\_

**PART B: AMOUNT OF LEAVE NEEDED**

5. Will the employee be incapacitated for a single continuous period of time due to his/her medical condition, including any time for treatment and recovery? \_\_\_ No \_\_\_ Yes.

If so, estimate the beginning and ending dates for the period of incapacity: \_\_\_\_\_

6. Will the employee need to attend follow-up treatment appointments or work part-time or on a reduced schedule because of the employee's medical condition? \_\_\_\_ No \_\_\_\_ Yes.

If so, are the treatments or the reduced number of hours of work medically necessary? \_\_\_\_ No \_\_\_\_ Yes.

Estimate treatment schedule, if any, including the dates of any scheduled appointments and the time required for each appointment, including any recovery period: Estimate the part-time or reduced work schedule the employee needs, if any: \_\_\_\_\_ hour(s) per day; \_\_\_\_\_ days per week from \_\_\_\_\_ through \_\_\_\_\_

7. Will the condition cause episodic flare-ups periodically preventing the employee from performing his/her job functions? \_\_\_\_ No \_\_\_\_ Yes.

Is it medically necessary for the employee to be absent from work during the flare-ups? \_\_\_\_ No \_\_\_\_ Yes .

If so, explain: \_\_\_\_\_

Based upon the patient's medical history and your knowledge of the medical condition, estimate the frequency of flare-ups and the duration of related incapacity that the patient may have over the next 6 months (e.g., 1 episode every 3 months lasting 1-2 days):

Frequency : \_\_\_\_\_ times per \_\_\_\_\_ week(s) \_\_\_\_\_ month(s)

Duration: \_\_\_\_\_ hours or \_\_\_\_\_ day(s) per episode

ADDITIONAL INFORMATION: IDENTIFY QUESTION NUMBER WITH YOUR ADDITIONAL ANSWER.

\_\_\_\_\_  
Signature of Health Care Provider

\_\_\_\_\_  
Date

#### PAPERWORK REDUCTION ACT NOTICE AND PUBLIC BURDEN

STATEMENT If submitted, it is mandatory for employers to retain a copy of this disclosure in their records for three years. 29 U.S.C. § 2616; 29 C.F.R. § 825.500. The Department of Labor estimates that it will take an average of 20 minutes for respondents to complete this collection of information, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. DO NOT SEND COMPLETED FORM TO THE DEPARTMENT OF LABOR or THE PORT OF BENTON; RETURN TO THE PATIENT.

**ATTACHMENT D**  
**EMPLOYEE TIME-OFF REQUEST FORM**  
**FOR ABSENCES LONGER THAN SEVEN (7) DAYS**

Date: \_\_\_\_\_

Employee's Name: \_\_\_\_\_

Time Off Requested: \_\_\_\_\_

Reason for Time Off: \_\_\_\_\_

Comments: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Employee's Signature: \_\_\_\_\_

- ☐ Time off granted from employee's PTO bank.
- ☐ Time off granted without pay.
- ☐ Time off granted with pay.
- ☐ Time off not granted.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**ATTACHMENT E  
TUITION REIMBURSEMENT FORM**

Employee's Name: \_\_\_\_\_

Amount of  
Reimbursement  
Requested: \_\_\_\_\_

Names of Course(s): \_\_\_\_\_

Course  
start date: \_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Employee's Signature: \_\_\_\_\_

**TO THIS FORM, PLEASE ATTACH:**

1. A copy of the receipt for tuition payment that shows the course title, number of credit hours, tuition costs, and fees,
2. Documentation from the college's website or course catalog showing the cost per credit for the timeframe of the course, and
3. A copy of the class syllabus noting the required textbook must be submitted with the textbook receipt

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

## **Appendix 'A' – Code of Conduct, Ethics Policy, and Procedures**

### **Code of Conduct**

**Regulations:** 2 CFR Part 200.318, formerly 7 CFR Part 3016.36(b)(3), State Procurement Code and Regulations

**Procedures:** The Port of Benton seeks to conduct all procurement procedures:

- In compliance with stated regulations; and
- To prohibit conflicts of interest and actions of employees engaged in the selection, award and administration of contracts.

No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal, State, or local award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

Port officers, employees, and agents may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. To that end, the Port has adopted the following Ethics Policy and Procedures.

### **Ethics Policy and Procedures**

#### **Section 1.0 – Policy**

The Port of Benton maintains a Code of Ethics to guide employees against improper activities that could damage the Port's reputation and otherwise result in serious adverse consequences to the Port and to the individuals involved. This code's purpose is the establishment of ethical standards of conduct for all Port of Benton employees.

#### **Section 1.1 – Guidelines**

An employee's actions under this policy are significant indications of the individual's judgment and competence. Accordingly, insensitivity to or disregard of the principles of this policy will be grounds for appropriate disciplinary action.

Employees must be committed and bound by the following guidelines:

- Public belief in the integrity of government based on the actions of the government's employees
- Independent, impartial, accountable and responsible behavior in duty to the Port and its' citizens
- Governmental decisions and policies made within the proper channels of the governmental structure
- Public office is not to be used for personal gain

#### **Section 2.0 – Definitions**

The following definitions will be used for the purposes of these policies and procedures:

**Business entity:** Any corporation, general or limited partnership, sole proprietorship or individual (including a private consulting firm), joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not organized for profit

**Complainant:** The individual bringing a complaint

**Confidential information:** All information, whether transmitted or transcribed orally, written or encoded electronically, which is of such a nature that it is not, at that time, a matter of public record or public knowledge

**Departmental Director:** An elected official, manager or supervisor directly in charge of a specific department

**Family member:** Includes spouse, father, mother, brother, sister, son, daughter, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, persons living in the same household, or anyone otherwise financially dependent upon an employee

**Gift:** A voluntary transfer of any item of economic value from one person or entity to another made without cost and does not result in any kind of legally enforceable contract. It does not include the acceptance, receipt or regulation of political campaign contributions regulated in accordance with provisions of federal, state or local laws governing campaign finances

**Interest:** Direct or indirect monetary or material benefit accruing to an employee as a result of a contract, transaction, zoning decision or other matter that is, or may be the subject of, an official act or action by or with the Port except for such contracts, transactions, zoning decisions, or other matters that by their terms and by the substance of their provisions confer the opportunity and right to realize the accrual of similar benefits to all other persons and/or property similarly situated

**Nominal Retail Value:** A value of less than \$50.00 (fifty dollars)

**Official act or action:** Any legislative, administrative, appointive or discretionary act of any employee of the Port or any agency, board, committee or commission thereof

**Public employee:** Any person, holding a position by appointment or employment in the service of the Port, whether paid or unpaid, including members of any board, committee or commission thereof

**Public official:** Any person holding a position by election, whether paid or unpaid, including members of any board, committee or commission thereof

**Remote Interest:** An interest that is: (1) That of a non-salaried officer of a nonprofit corporation; (2) That of an employee or agent of a contracting party where the compensation of such employee or agent consists entirely of fixed wages or salary; (3) That of a landlord or tenant of a contracting party; or (4) That of a holder of less than one percent of the shares of a corporation or cooperative which is a contracting party

**Respondent:** The individual named in a complaint allegedly causing harm.

### **Section 3.0 – Affected Parties**

This policy shall be applicable to all employees and quasi employees of the Port. (Elected Officials and qualifying Public Officials refer to RCW 42.23 and 42.52.)



#### **Section 4.0 – Conflicts of Interest Defined**

Generally, employees are expected to use good judgment, adhere to high ethical standards, and avoid situations that create an actual or perceived conflict between their personal interests and those of the Port. The Port of Benton requires that the transactions employees participate in are ethical and within the law, both in letter and in spirit. Whenever employees are in doubt, they should consult with their supervisor, Departmental Director or In-House Legal Counsel. The Port of Benton recognizes that different organizations have different codes of ethics. However, just because a certain action may be acceptable by others outside of Port of Benton as “standard practice” that is by no means sufficient reason to assume that such practice is acceptable as an employee of the Port of Benton.

While it is not possible to develop a comprehensive detailed set of rules to cover every situation, the Port does adhere to and will strictly enforce any and all state laws or regulations relating to conflicts of interest, appearance of fairness and ethics that are applicable to the employees and officials of this Port.

The statutes provide detailed outlines of what constitutes ethical and appropriate behavior while employed with the Port. If an employee, or someone with whom the employee has a close personal relationship, has a financial or employment relationship with a vendor, potential vendor, or any person or business entity doing business or wishing to do business with the Port, then the employee has an “interest,” as that term is defined in Section 2.0.

In such circumstances the employee is considered to have an “interest” that mandates disclosure of that “interest” and eventual resolution in accordance with this Code. For purposes of this policy, an employee shall be deemed to have an interest in the affairs of:

- The employee's spouse or domestic partner, or dependent children
- Any person or business entity with which a contractual relationship exists with the employee
- Any business entity in which the employee is an officer, director, member or employee
- Any business entity in which the employee owns or controls an interest either directly or indirectly.

The employee must disclose this “interest” in writing to their Departmental Director. The Departmental Director with the help of the Port’s In-House Legal Counsel will determine what course of action, if any, must be taken to resolve any conflict he or she believes may exist.

#### **Section 4.1 – Examples of Conflict of Interest**

A conflict of interest may arise, by way of example only, if an employee:

- Accepts non-nominal (greater than \$50 in value) gifts from vendors, potential vendors or any third-party who does business with the Port;
- Accepts ANY form of remuneration or non-business-related entertainment from a third-party who does business with the Port;
- Sells to third parties any information, products, or materials acquired from the Port;
- Engages in outside business activities in such a way or to such an extent that the outside business activities adversely affect the Port or the employees’ job performance;

- Performs outside work for a vendor of the Port or any third-party that does business with the Port;
- Engages in any outside employment or any other business undertaking to his or her personal gain that is, or can ALSO be, perceived to be prejudicial to the best interest of the Port;
- Uses proprietary and/or confidential information for personal gain or to the Port's detriment;
- Uses assets or labor for personal use.

If the conflict is severe enough, the Port of Benton may be forced to ask the employee to tender his or her resignation or may, at its sole discretion, no longer transact business with that third-party. Port of Benton has the sole discretion to:

- determine whether such a conflict of interest exists, and
- determine the course of action to be taken to remove or end the conflict.

Employees are encouraged to seek assistance from their supervisor or Departmental Director with any legal or ethical concerns. However, the Port of Benton realizes this may not always be possible. As a result, employees may contact the Port's In-House Legal Counsel to report anything that they cannot discuss with their supervisor or Departmental Director.

#### **Section 4.2 – Procedures**

Current employees are annually provided with the opportunity to disclose any potential conflicts of interest and sign a conflict of interest statement. New hires are presented with this same documentation at the time of hire. All employees are required to annually review this Appendix and sign a statement recognizing that they have received this Policy.

Upon the awarding of any grant, a document will be drafted by the Director of Finance and the Port Executive Director that assigns specific personnel to the grant procurement process. Each individual assigned will perform a conflict of interest review to determine if there are any present or anticipated conflicts.

If it is verified that an employee must be removed from participation after identification of a conflict, a letter or memo from the Port's Legal Counsel will be distributed to the employee and a signed copy placed in their personnel file. The awarding grant agency will be contacted by the Port's Executive Director to discuss the circumstance of the conflict within 5 business days of the Port learning of the potential conflict to allow the Port to conduct an internal investigation.

#### **Section 4.3 – Acceptance of Gifts**

**A. Gifts Prohibited.** An employee may not receive, accept, take, seek, or solicit, directly or indirectly, any Gift if it could be reasonably expected that the Gift would influence the action or judgment of the employee, or be considered as part of a reward for action or inaction.

**B. Acceptance on Behalf of Port of Benton.** An Employee may accept a Gift of any value for and on behalf of the Port. Any Gift so accepted shall become the property of the Port and not of the Employee. An Employee shall report the acceptance of any Gift under this Section to the Port's Legal Counsel within ten (10) days of receipt.

**C. Limitation on Gifts.** An Employee may not accept gifts, other than those specified in Section 4.3(E), with an aggregate value in excess of fifty dollars (\$50.00) from a single source in a calendar year or a single Gift from multiple sources with a value in excess of fifty dollars (\$50.00). For purposes of this section, "single source" means any person, whether acting directly or through any agent or other intermediary, and "single Gift" includes any event, item or group of items used in conjunction with each other or any trip including transportation, lodging, and attendant costs, not excluded from the definition of Gift in section 4.3(D). The value of Gifts given to an employee's family member or guest shall be attributed to the employee for the purpose of determining whether the limit has been exceeded, unless an independent business, family, or social relationship exists between the donor and the family member or guest.

**D. Items Not Considered Gifts.** The following items are excluded from the definition of Gift and may be accepted by an Employee or member of his/her Immediate Family without constituting a violation of the Code:

1. Items from family or friends where it is clear beyond a reasonable doubt that the item was not given as part of any design to gain or maintain influence in the Port;
2. Items related to the outside business of the Employee that are customary and not related to the employee's performance of his/her official duties;
3. Items exchanged among Employees or among Employees and Port Commissioners, or a social event hosted or sponsored by an Employee or Port Commissioner for co-workers;
4. Payments by a governmental or nongovernmental entity of reasonable expenses incurred in connection with a speech, presentation, appearance, or trade mission made in the Employee's official capacity. As used in this Section 4.3(D)(4), "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
5. Items an Employee is authorized by law to accept, including, but not limited to, items accepted in accordance with RCW 53.36.120-150 (promotional hosting) and applicable Port policies/procedures;
6. Payment of enrollment and course fees and reasonable travel expenses attributable to attending seminars and educational programs sponsored by a bona fide governmental or nonprofit professional, educational, trade or charitable association or institution. As used in this Section 4.3(D)(6), "reasonable expenses" are limited to travel, lodging, and subsistence expenses incurred the day before through the day after the event;
7. Items returned by the Employee to the donor within thirty (30) days of receipt or donated to a charitable organization within thirty (30) days of receipt;
8. Campaign contributions reported under chapter 42.17 RCW;
9. Discounts available to an Employee as a member of an employee group, occupation, or similar broad-based group;
10. Awards, prizes, scholarships, or other items provided in recognition of academic or scientific achievement; and
11. Unsolicited tokens or awards of appreciation in the form of a plaque, trophy, desk item, wall memento or similar item.

**E. Exceptions.** The following Gifts are presumed not to influence an employee's action or non-action on any matter and, subject to the provisions of Section 4.3(F), may be accepted without regard to the fifty dollar (\$50.00) limit established by Section 4.3(B) above, without constituting a violation of the Code, in conjunction with RCW 42.52.150:

1. Unsolicited flowers, plants, and floral arrangements;

2. Unsolicited advertising or promotional items of nominal value, such as pens and note pads;
3. Unsolicited items received by an Employee for the purpose of evaluation or review, if the Employee has no Financial or Beneficial Interest in the eventual use or acquisition of the item by the Port;
4. Informational material, publications, or subscriptions related to the recipient's performance of official duties;
5. Food and beverages consumed at hosted receptions where attendance is related to the Employee's official duties, including admission to, and the costs of food and beverages consumed at, events sponsored by or in conjunction with a civic, charitable, governmental, or community organization. Provided, that where the Gift exceeds fifty dollars (\$50.00) on a single occasion, it shall be reported to the Port's Legal Counsel;
6. Unsolicited Gifts from dignitaries from another state or a foreign country and intended to be personal in nature.

**F. Rebuttable Presumption.** The presumption that acceptance of the Gifts listed in Section 4.3(E) above does not to influence an employee's action or non-action on any matter is rebuttable and may be overcome based on the circumstances surrounding the giving and acceptance of the Gift.

**G. Impartiality in Performing Official Duties.** There may be circumstances other than those covered above in which employees should not perform official duties in order to avoid an appearance of loss of impartiality. Employees should obtain specific authorization before participating in certain matters where their impartiality is likely to be questioned. The matters specifically covered by this standard include those:

- Involving specific parties, such as contracts, grants, or investigations, that are likely to affect the financial interests of members of employees' households; or
- In which persons with whom employees have specific relationships are parties or represent parties. This would include, for example, matters involving recent employers, employers of spouses or minor children, or anyone with whom the employees have or seek a business or financial relationship; or
- Involving an "Extraordinary payments from former employers." Employees' participation in certain matters involving former employers may be restricted if a former employer gave an employee an "extraordinary payment" in excess of \$10,000 prior to entering service with the Port. If so, that employee is barred from participating for two years in matters in which that former employer is a party or represents a party. A \$25,000 payment voted on an ad hoc basis by a board of directors would be an "extraordinary payment." A routine severance payment made under an established employee benefit plan would not.

#### **Section 4.4 – Disciplinary Actions**

What is the disciplinary action when an employee does not remove themselves from the selection, award and administration of contracts when a conflict of interest occurs? At a minimum:

- **1<sup>st</sup> violation: 3 days suspension, 1 day without pay, and review of policy with individual and Port counsel**
- **2<sup>nd</sup> violation: 1 week without pay, 1 week suspension, and review of policy with individual and Port counsel**
- **3<sup>rd</sup> violation: Termination**

The Executive Director has the ability to pursue harsher actions for a first or second offense depending on the circumstances and the severity of the conflict.

#### **Section 4.5 – Political Activities**

Employees shall comply with provisions of RCW 41.06.250 as the same exists or is hereafter amended, which generally prohibits compulsory assessment or involuntary contributions and solicitation on public property for any part is any partisan political purposes. If an employee, an employee's spouse, or the parent or guardian of an un-emancipated minor employee is elected to the Board of Port Commissioners, the employee shall be deemed to have resigned from Port employment upon the date of certification of the results of the election, if required by State law. This provision shall not apply to persons employed as unskilled day laborers earning less than \$100.00 (one hundred dollars) per month or to public officers exempt from prohibition of RCW 42.23.

Adopted: November 7, 2018.

## **Diahann Howard**

---

**From:** Diahann Howard  
**Sent:** Monday, September 9, 2019 1:17 PM  
**To:** Roy Keck; Jane Hagarty; Robert Larson  
**Cc:** David Billetdeaux  
**Subject:** FW: Follow up from All Staff  
**Attachments:** What's Trust Got to Do With it.pptx

Commissioners,

I wanted to provide you information that was shared this morning during our all staff meeting in case you receive any feedback or comments from staff.

The following is what was stated by myself:

*We have each had our one on one, thank you for your input..it is clear that*

*It has been a scary and uncertain time, some may feel like a death or betrayal..its been a big change but here is where we are heading. We are going to continue to serve our customers it about Customer Service #1, becoming more efficient, more effective..continue to better the port, and our teams growth and development. Why? We exist because of our customers-tenants, public at large..their revenues and taxes. It's not about us, it's about the people we serve.*

*To get to our goals we are going to continue to increase our revenues, grants are limited, fully maximize and leverage our assets, expand our business customer base (not just doing business with the same people, being fair and consistant)..become the port they think of when they think economic development, partners. This type of change is not an event it is constant..its being more strategic and competitive, its business.*

*This is why your efforts around facilities, grounds, tenant relations and contractors is so important. We are here to build relationships, support each other and our customers. Our investments need to be based on strategic priorities that lead to something bigger than ourselves..i.e. WSC & Clore*

*We need to have trust, integrity, respect and professionalism to fully get us there. Janice has a presentation on trust that we will send out to you..(attachment)*

A good discussion followed, again this is to keep you informed on what is being discussed with staff.

Please let me know if you have any comments or concerns.

Thank you,

Diahann

Diahann Howard, PPM®  
Interim Executive Director  
Port of Benton  
3250 Port of Benton Blvd.

Richland, WA 99354  
509-375-3060  
e: [dhoward@portofbenton.com](mailto:dhoward@portofbenton.com)

Tri-Cities Research District, IPZ .....*What's Next, Starts Here*  
[www.tricitiesresearchdistrict.org](http://www.tricitiesresearchdistrict.org)

This email may contain privileged or confidential information disclosed only to the addressee. If you have received this email in error, do not copy or distribute it to other persons not authorized to receive it. Please call the sender at 509.375.3060 to make arrangements for the document to be retrieved or destroyed. Any use, copying, retention or disclosure by any person other than the intended recipient's designee is strictly prohibited. Warning: Although the Port of Benton has taken reasonable precautions to ensure no viruses are present in this email, the Port shall not accept responsibility for any loss or damage arising from the use of this email or attachments.

Disclaimer: Public documents and records are available to the public as provided under the Washington State Public Records Act (RCW 42.56). This e-mail may be considered subject to the Public Records Act and may be disclosed to a third-party requestor.

**From:** Kelly Thompson

**Sent:** Monday, September 9, 2019 9:16 AM

**To:** David Billetdeaux <[david@portofbenton.com](mailto:david@portofbenton.com)>; Kelly Thompson <[Kelly@portofbenton.com](mailto:Kelly@portofbenton.com)>; Sheri Collins <[collins@portofbenton.com](mailto:collins@portofbenton.com)>; Veronica Serna <[Serna@portofbenton.com](mailto:Serna@portofbenton.com)>; Kitty Thomas <[Thomas@portofbenton.com](mailto:Thomas@portofbenton.com)>; David Bender <[Res@portofbenton.com](mailto:Res@portofbenton.com)>; Christy Bender <[christy@portofbenton.com](mailto:christy@portofbenton.com)>; Summer Helper 2 <[summerhelper2@portofbenton.com](mailto:summerhelper2@portofbenton.com)>; Sydney Howard <[sydney@portofbenton.com](mailto:sydney@portofbenton.com)>; Diahann Howard <[dhoward@portofbenton.com](mailto:dhoward@portofbenton.com)>; John Haakenson <[Johnh@portofbenton.com](mailto:Johnh@portofbenton.com)>; Stuart Dezember <[Dezember@portofbenton.com](mailto:Dezember@portofbenton.com)>; Teresa Hancock <[teresah@portofbenton.com](mailto:teresah@portofbenton.com)>; Wally Williams <[williams@portofbenton.com](mailto:williams@portofbenton.com)>; Alley, John <[alley@portofbenton.com](mailto:alley@portofbenton.com)>; Corey Roemeling <[corey@portofbenton.com](mailto:corey@portofbenton.com)>; Dan Davis <[Davis@portofbenton.com](mailto:Davis@portofbenton.com)>; Edward Stearns <[edward@portofbenton.com](mailto:edward@portofbenton.com)>; Jeff Moore <[Jeffm@portofbenton.com](mailto:Jeffm@portofbenton.com)>; John Haakenson <[Johnh@portofbenton.com](mailto:Johnh@portofbenton.com)>; Kyle Dempsey <[Kyle@portofbenton.com](mailto:Kyle@portofbenton.com)>; Robert Jackson <[Robertj@portofbenton.com](mailto:Robertj@portofbenton.com)>; Trevor Thompson <[thompson@portofbenton.com](mailto:thompson@portofbenton.com)>

**Subject:** Follow up from All Staff

KT

Kelly Thompson  
Port of Benton  
3250 Port of Benton Boulevard  
Richland, Washington 99354  
Telephone: 509 375 3060  
Fax: 509 375-5287  
Email: [kelly@portofbenton.com](mailto:kelly@portofbenton.com)

This email may contain privileged or confidential information disclosed only to the addressee. If you have received this email in error, do not copy or distribute it to other persons not authorized to receive it. Please call the sender at 509.375.3060 to make arrangements for the document to be retrieved or destroyed. Any use, copying, retention or

disclosure by any person other than the intended recipient's designee is strictly prohibited. Warning: Although the Port of Benton has taken reasonable precautions to ensure no viruses are present in this email, the Port shall not accept responsibility for any loss or damage arising from the use of this email or attachments.

Disclaimer: Public documents and records are available to the public as provided under the Washington State Public Records Act (RCW 42.56). This e-mail may be considered subject to the Public Records Act and may be disclosed to a third-party requestor.

**From:** Diahann Howard <[dhoward@portofbenton.com](mailto:dhoward@portofbenton.com)>

**Sent:** Monday, September 9, 2019 9:13 AM

**To:** Kelly Thompson <[Kelly@portofbenton.com](mailto:Kelly@portofbenton.com)>

**Subject:** Follow up from All Staff

Kelly,

Please forward to all staff as follow up from this morning's conversation.

Thank you,

*Diahann*

Diahann Howard, PPM®  
Interim Executive Director  
Port of Benton  
3250 Port of Benton Blvd.  
Richland, WA 99354  
509-375-3060  
e: [dhoward@portofbenton.com](mailto:dhoward@portofbenton.com)

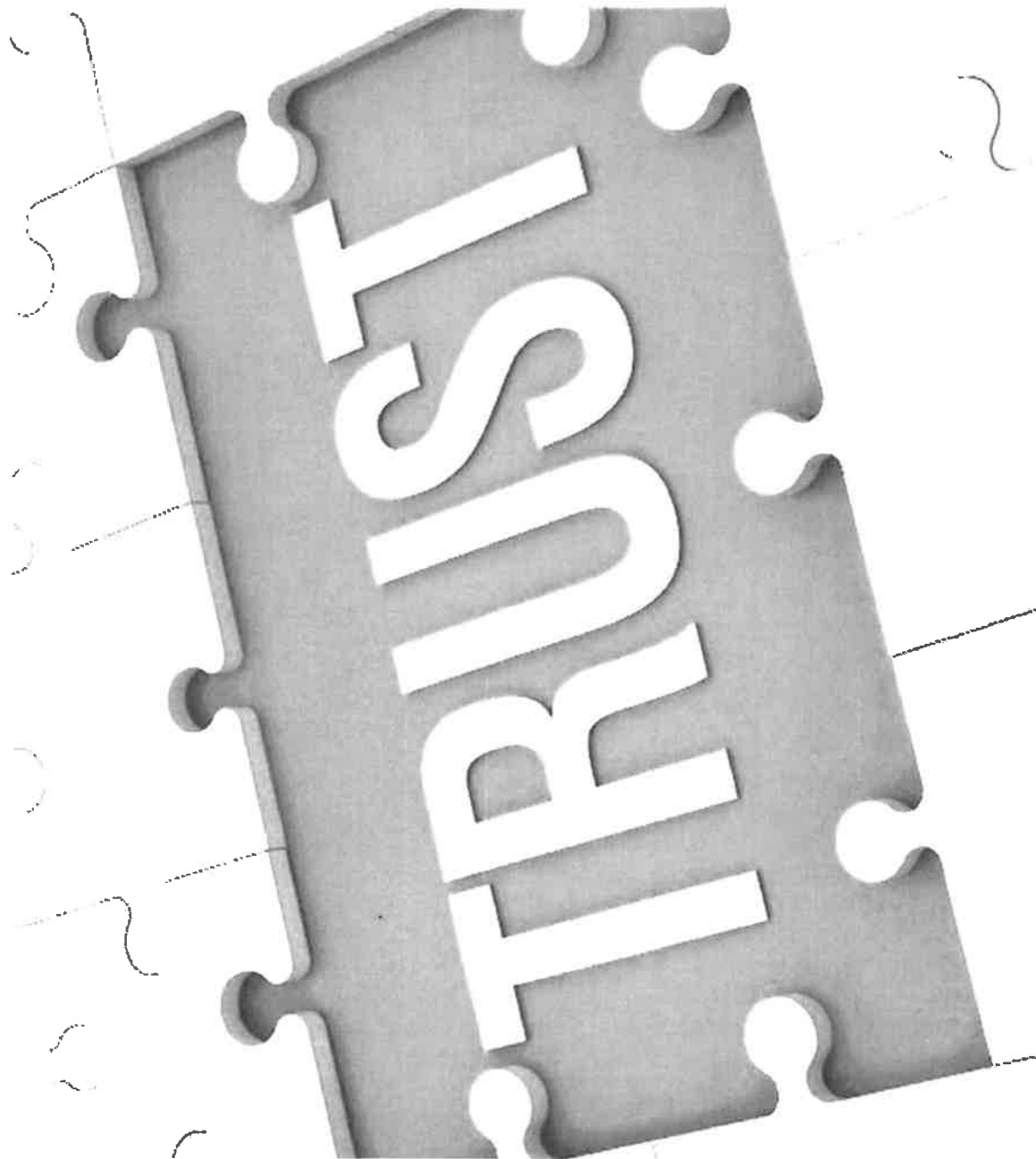
Tri-Cities Research District, IPZ .....*What's Next, Starts Here*  
[www.tricitiesresearchdistrict.org](http://www.tricitiesresearchdistrict.org)

This email may contain privileged or confidential information disclosed only to the addressee. If you have received this email in error, do not copy or distribute it to other persons not authorized to receive it. Please call the sender at 509.375.3060 to make arrangements for the document to be retrieved or destroyed. Any use, copying, retention or disclosure by any person other than the intended recipient's designee is strictly prohibited. Warning: Although the Port of Benton has taken reasonable precautions to ensure no viruses are present in this email, the Port shall not accept responsibility for any loss or damage arising from the use of this email or attachments.

Disclaimer: Public documents and records are available to the public as provided under the Washington State Public Records Act (RCW 42.56). This e-mail may be considered subject to the Public Records Act and may be disclosed to a third-party requestor.



9/9/



WHAT'S  
TRUST  
GOT TO  
DO WITH  
IT?

Janice Corbin

Sound Employment  
Solutions



## HOW IMPORTANT IS TRUST?

- How important is trust in the workplace?
- How is trust demonstrated in the workplace?
- What happens when there is not trust?

## WHAT'S TRUST ANYWAY?



- Trust is extended to someone in which faith or confidence is placed in one's ability or word in some a specific instance. (*Faith refers to a belief or a commitment.*)



## WHAT'S TRUST ANYWAY?

- Trust is a dependent on something in the future – it is a sense of hopefulness
- Trust depends on the actions or words of others

## WHAT'S TRUST ANYWAY?

- Trust includes the degree to which one person believes another person has their best interest at heart





## WHAT'S TRUST ANYWAY?

- You care about the welfare or success of another person
- Trust is not given to another person unconditionally
- Trust is earned ... over time



## HOW DOES TRUST OCCUR?

- Trust comes in different degrees and levels
- Trust can be one-sided, but it is best when trust is mutual – which usually occurs over a period of time



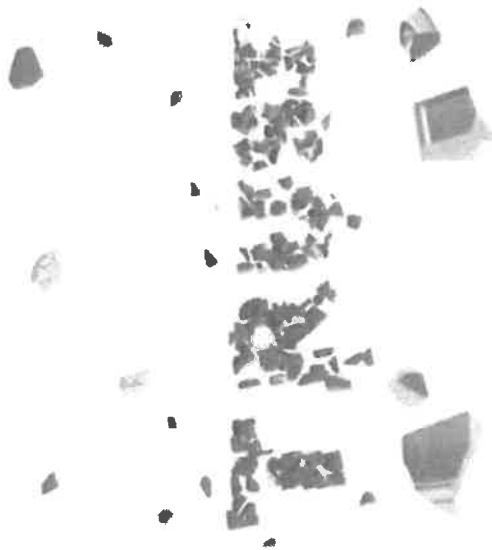
## TRUE, FALSE, IT DEPENDS

- Trust is tangible – it grows, decreases, and erodes
- Trust can be rehabilitated or restored
- Trust must be earned
- Once trust is broken, there is no coming back!





# WHEN TRUST IS BROKEN

- 
- When trust is broken, betrayal is the most often outcome
  - Feeling betrayed when trust has been broken is universal
  - Everyone has felt or experienced betrayal
  - **Getting over betrayal is a choice**



## CONTINUUM OF TRUST

- Trust is on a continuum from minor to major betrayal
  - Minor - white lie
  - Major betrayal – life changing
  - Intentional
  - Unintentional

# CONTINUUM OF TRUST

## Intentional violation of trust

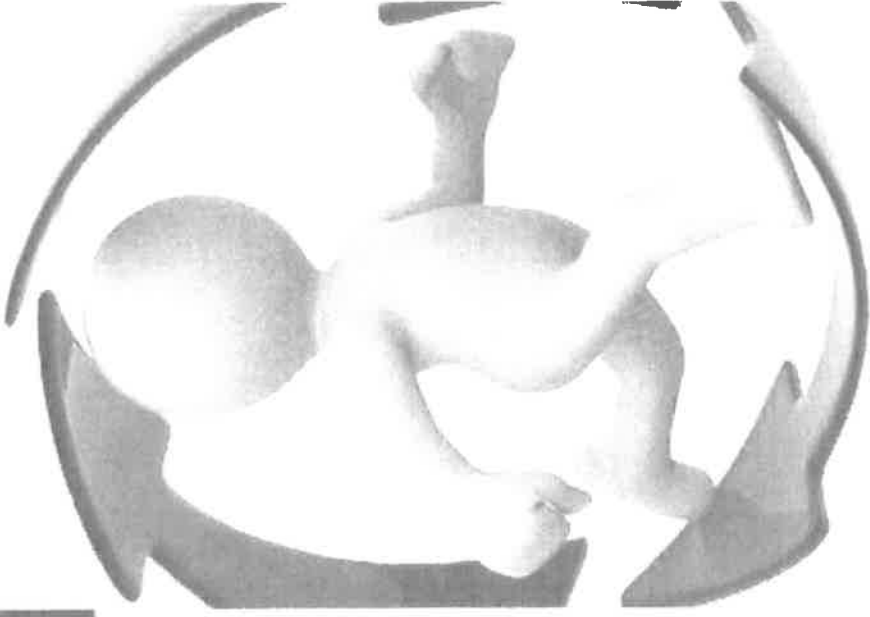
- A self-serving action that is done to hurt, damage, or harm another individual



# CONTINUUM OF TRUST

- Unintentional violation of trust

- A self-serving action that wasn't intended to harm, but the outcome is the same





## THINK ABOUT IT!

- Whether you realize it or not, you have intentionally or unintentionally betrayed others and others have betrayed you
- Acknowledging your role in betrayal balances the impact of the betrayal
- Repeated incidents of betrayal are cumulative



## MAJOR BETRAYAL OF TRUST

- Repeatedly and intentionally violating commitments
- Withholding information
- Being deceitful – knowingly being untruthful
- Sabotaging the work of another person
- The impact is very painful and deep – can be a single incident



## **MINOR BETRAYAL OF TRUST**

- Always late for meetings
- Gossiping
- Pointing fingers and blaming others
- Not openly sharing information
- Not being accountable for personal mistakes
- Being disrespectful and rude
- Taking credit for other people's work



## WHAT IS THE IMPACT OF BETRAYAL?

- It depends on what you decide to do with the betrayal!
- How important is the relationship?
- Are there different degrees or levels of trust within the same relationship?
- What degree of trust is important in the workplace?





## FRAMING BETRAYAL

- Betrayal is energy depleting – the end result is a feeling of victimization
- Reframing how you see the betrayal and what you do with it is a choice which is empowering

## **OVERCOMING BETRAYAL**

- Acknowledge it
- Own your part in it, i.e. was there a misunderstanding, did you not emphasize the importance of the issue
- Acknowledge the relationship is different



## **OVERCOMING BETRAYAL**

- Own your deficiencies in the relationship
- Stop wasting time blaming yourself or another person



## NOT LETTING GO!

- When we can't let go – you give your personal power to the other person
- True or False



## TRUST CAN RETURN?

- Think of the times in your life when you were betrayed, or you betrayed others – what did it take to repair the relationship – at least to the level of being able to work together?



## 5 STEPS TO REBUILDING TRUST

- T - Transparency
- R - Responsive
- U - Use Care
- S - Be Sincere
- T - Be Trustworthy



## TRANSPARENT

- To be transparent means to be open, easily readable and vulnerable – no hidden agenda
- *“When this happened, it hurt my feelings.”*
- *“I feel betrayed – it’s going to take some time to get past it – so, here is what I ...”*



## RESPONSIVE

- To be open to discuss an issue, to be counted on to give honest feedback respectfully, spontaneously and nonjudgement.
- *What gets in the way of giving honest feedback?*





# HONEST FEEDBACK

- 1<sup>st</sup> – the purpose of feedback is to change the outcome – results
- Feedback is not about criticizing or damaging the character of someone
- When we don't talk to the person directly about our concerns – we have betrayed that individual and ourselves – again!
- It's called gossip or backstabbing



## FEEDBACK MODEL

- Describe what happened from your perspective, no blaming or assumptions
- How did it impact the ability to work together or get the job done
- What is needed from each person to get the job done and feel more comfortable
- What happens if either person doesn't deliver



## CARING

- When giving feedback, whatever you say or do must come from your heart, so that your behavior is compassionate, affirming, and understanding.
- *When have you been accused of betraying someone when the issue was simply a miscommunications?*



## BE SINCERE

- Means being accountable for keeping your actions consistent with your words.
- *What workplace behavior may violate being sincere?*



## TRUSTWORTHY

- To be honest, do as you ~~stay~~ words match actions
- Manage differences and conflicts without discrediting others while being accountable for your role in the conflict
- *Are there always two sides to the story?*

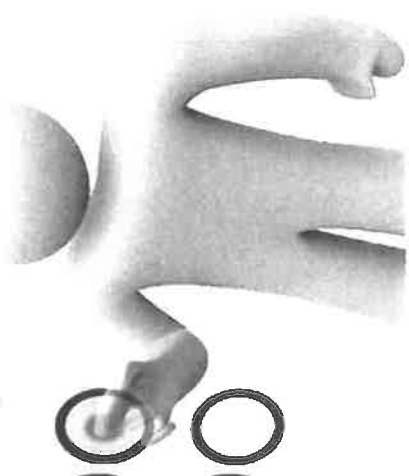
# INCORPORATE CONFLICT RESOLUTION SKILLS

- Parties see the issue from different perspectives;
- Not a mutual agreement on the common goal;
- Parties are offended and can't move on;
- A long history of unresolved differences/conflict

## **CONFLICT:**

RESOLVED ○

CONTINUED ○

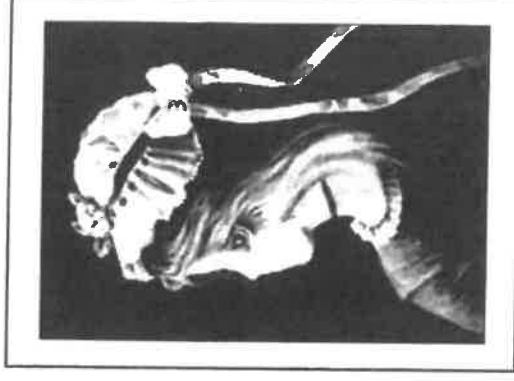
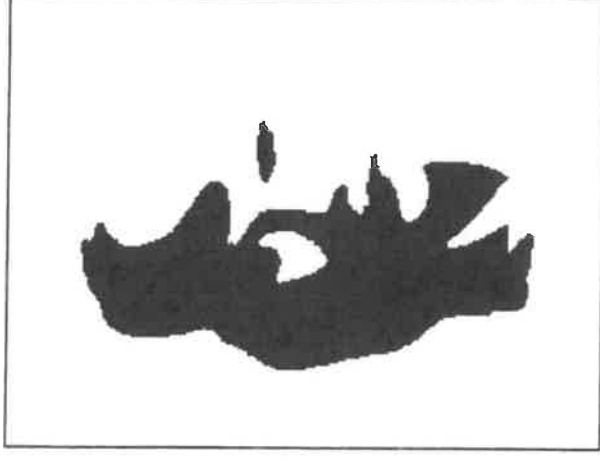


# USE CONFLICT MODEL

- Identify a Common Goal
- Agree to meet and explore coming to a mutual understanding about a common goal;
- Establish guidelines for keeping the behavior on track,
- With a specific conflict in mind, each person identify 5 to 8 questions that each person would like to ask the other person
- Listen to each question while looking for a common goal
- Identify the 2-3 goals that each person would like to achieve by resolving the conflict
- Identify the benefits that each person will receive from resolving the conflict

## • Different Perspectives

- We see things differently, based on our view or perspective and our history
- We make a conclusion about the perspective based on our needs
- We respond to the other person based on that perspective and conclusion







## MUTUAL RELATIONSHIP MOVING FORWARD

### **Step One:**

Everyone tells it like they see it (Describe without judgment or assumptions)

### **Step Two:**

Get everything on the table

### **Step Three:**

Focus on the future (Describe what each person wants and needs to get the work done)



## DEFINE THE REQUIRED BEHAVIORS

- An understanding about what needs to happen and can't happen
- What resources to help the parties – “let go”
- What internal resources are available to monitor the behavior



## **WHAT IS THE OUTCOME IF THINGS DON'T CHANGE**

Unconditional trust is not essential to performing most jobs. Being able to trust that a colleague will not disparage the other person, will work to complete their portion of the work as it impacts the other position, and to work well with coworkers is an essential function of most jobs.

If an individual isn't able to re-engage in the professional relationship and establish basic trust, the employer may consider performance improvement and/or discipline.



## IS IT WORTH IT?

- What are some of the outcomes if at least a basic level of trust does not return to the workplace?
- How much time and money is spent when employees perform or behave with a minimum level of trust?



## TRUST – TRUE OR FALSE

- Trust is the glue in life. It's the most essential ingredient in effective communications. It's the foundation principle that hold all relationships.
- I believe in trusting others, not only once but twice in giving a failure another chance.

• Thank You

• Janice Corbin

• Sound Employment Solutions, LLC

**Mission:** Our mission is to promote economic development within the Port of Benton, Benton County, Richland, Prosser, Benton City and this region.

**Vision:** We aspire to be one of the premier inland port districts in the northwest. We strive to form partnerships with other entities to complete projects that will bring business and development to this region. We would like to be recognized as an aggressive and progressive port district that other economic development entities strive to emulate.

**Values:** Our values include: Integrity, Stewardship and Leadership.

- We will apply the 'Golden Rule' and treat our customers, tenants and associates with integrity.
- We recognize the taxpayers own the Port of Benton. We will be good stewards of their property.
- We will take a leadership role in the economic development community.

## **Port of Benton Commissioners:**

Jane F. Hagarty

Robert D. Larson

Roy D. Keck

## **Port of Benton Staff:**



## Kitty Thomas

---

**From:** Peggy DOUGLAS <margarets.douglas@icloud.com>  
**Sent:** Sunday, September 1, 2019 7:58 PM  
**To:** [REDACTED]  
**Subject:** Fwd: To Benton County Port:

Peggy S. Douglas

Begin forwarded message:

**From:** PeggyD <peggyd@bentonrea.com>  
**Date:** September 1, 2019 at 4:14:31 PM PDT

Personally Identifiable Information

**Cc:** [margarets.douglas@icloud.com](mailto:margarets.douglas@icloud.com)  
**Subject:** To Benton County Port:

To Benton County Port:

My name is Peggy Douglas. My family has enjoyed Crow Butte for many many years, and my husband and I camp at the park for 35-40 days every year. We have enjoyed watching the changes since your organization has taken it over...so THANK YOU! SE Benton County deserves this beautiful park...and the community does too. As the Superintendent of the PATERSON School from 2000-2015 I have always been a strong advocate.

The financial resources you provide are important...but ABSOLUTELY NOTHING has been more important to your success than the people you have working behind the scenes. David and Christie Bender are true ambassadors for CB. Their friendly smiles and helpfulness are what keeps people like us coming back year after year. I hope you agree that they are your most valuable assets to CB and remind them often that they are appreciated for all of the little things they do.

You also have had some wonderful camp hosts down thru the years. Two of the most memorable are Kathy and Jerry, current, and Debbie who passed away recently. They are helpful and friendly and always do well representing the park in a positive manner.

Unfortunately, Tim, who was in space 4, was not so great. He was rude, challenging, and arrogant. Our first nite at CB we were walking and he was loudly yelling at Dave that he would "not come back to this shit hole park again." He also told us he was hired to clean up the mess ...and implied Dave and Christie were the mess. We were greatly offended. He was bad mouthing OUR PARK and people who are OUR FRIENDS. He also was never present when people tried to check in...as we always camp in #6 we had first site view of this many times. The only reason I bring this up is that this is the first, and only, time we had experienced anything negative at CB and we felt you should know.

I hope that my email is taken in the manner it was sent. We ❤️ our park, we appreciate the Port, and you have a strong record of having it well managed and cared for by the Benders. Please feel free to call or text me if you would like any additional feedback. I would also come into talk 1:1 if it is beneficial.

Sincerely, Peggy Douglas.